

**BEFORE THE FTAA-2512-1158 – DOWNTOWN CARPARK REDEVELOPMENT -
TE PŪMANAWA O TĀMAKI EXPERT PANEL**

<i>Under</i>	the Fast-Track Approvals Act 2024 (the <i>FTAA</i>).
<i>In the matter of</i>	the deliberations and final decision of the Expert Panel appointed under section 50 and Schedule 3 of the FTAA for the Downtown Carpark Redevelopment - Te Pūmanawa o Tāmaki project requiring: (a) Resource consents under sections 9, 14 and 15 of the Resource Management Act 1991 to enable the comprehensive redevelopment of the Downtown Carpark site in central Auckland; and (b) Authority under section 59 of the Heritage New Zealand Pouhere Taonga Act 2014 (the <i>HNZPTA</i>) to modify or destroy an archaeological site.
<i>Expert Panel</i>	Kitt Littlejohn (<i>Chair</i>) Rebecca Skidmore (<i>Member</i>) Greg Hill (<i>Member</i>)
<i>Comments received under Section 53 FTAA:</i>	7 May 2026
<i>Details of any hearing under Section 57 FTAA:</i>	No hearing was held.

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

Dated 5 August 2026

DECISION: *THE APPLICATION IS APPROVED SUBJECT TO CONDITIONS*

<i>Date of Decision:</i>	5 August 2026
<i>Date of Issue:</i>	5 August 2026

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APPENDIX B: REASONS FOR RESOURCE CONSENT

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**REASONS FOR DECISION MADE BY THE PANEL: FTAA-2512-1158 –
DOWNTOWN CARPARK REDEVELOPMENT - TE PŪMANAWA O TĀMAKI PROJECT**

Opening Whakatauki¹

I maea ake rā te whenua i te mauri o ngā Waitapu e Rua, o Waitematā rāua ko Manukau. Ko Tāmaki te kaupuru i ngā tai, e here nei i ngā wai kia kotahi. Nō konei ka puta mai ko ngā uri o Tuperiri, he iwi i waihangatia e te whenua, te whakapapa me te moana. Nā rātou ka tū tonu te mana me te ahi kā o Ngāti Whātua.

Nā te matakite a Tītai i kite ai i ngā hau e kawē mai ana i ngā wawata hou. Nā taua tohu ka tū ake te pou whakairo ki Waitematā, hei here i te tangata, te whenua me te moana. Nā Te Kawau te tuku ōkawa o te tāone; ka whakaaetia, ka maumaharatia, ā, ka pōhiritia te katoa.

Ināianeī ka ara ake ko Te Pūmanawa o Tāmaki hei whakakaha tonu i taua whakapapa, hei whakahonore i taua hononga tauutuutu mauroa, hei hura, hei whakanui hoki i te iho o tēnei wāhi mō ngā whakatupuranga e heke mai nei.

Born from the life-force of the Twin Sacred Waters, the land emerged. Between the tides lies Tāmaki, binding the waters as one. From this place came the descendants of Tuperiri, a people shaped by land, lineage and sea. Through them, the mana and enduring presence of Ngāti Whātua remain.

The sage Tītai foresaw the winds that would carry new aspirations. From that sign rose the carved post upon Waitematā, creating a bond between people, whenua and moana. The ceremonial gift of the city was made by Te Kawau, accepted, remembered, and all were made welcome.

Now Te Pūmanawa o Tāmaki continues that lineage, emerging with the same promise and potential: to honour that enduring relationship of reciprocity. Through its presence, it will reveal and highlight the essence of this place for generations to come.

¹ Gratefully prepared and provided by Ngāti Whātua Ōrākei.

PART A: EXECUTIVE SUMMARY

- 1 The application is to demolish the Downtown Carpark, and develop that site into an integrated mixed-use precinct (**Application**)². It has been made by Precinct Properties New Zealand Limited (**Precinct** or **the Applicant**), with Ngāti Whātua Ōrākei as a partner. The Application, in summary, comprises the following components³:
 - a. Demolition of the existing carpark building together with the pedestrian bridge over Lower Hobson Street and the vehicle ramp connecting to Fanshawe Street;
 - b. Associated make good works to the heritage building at 204 Quay St (former Auckland Harbour Board Workshops) and the Fanshawe Street retaining wall, landscaping and pavements along the streetscape and alterations to the existing podium buildings of the adjacent Aon and HSBC buildings;
 - c. Excavation for a basement involving land disturbance of appropriately 100,000m³ in volume over an area of 6,442m² and construction of two new tower buildings each with associated podium levels, and a standalone podium, all above four basement levels;
 - d. A range of uses, comprising retail and/or food and beverage tenancies in the ground floor tenancies of the podium buildings, office tenancies from level 3 and upwards on T1, residential activity including up to 160 residential units (dwellings) on the upper floors of T2 and up to 200 hotel guest rooms (visitor accommodation) in T2, retail units, bicycle parking storage, end of trip facilities and plant rooms within P3, basement vehicle and bicycle parking, loading dock, and plant and refuse rooms, including up to 121 parking spaces for the M Social Hotel; and
 - e. A new public space, Te Urunga Hau (The Urban Room), with a pedestrian through site link through Customs Street West and Lower Hobson Street.
- 2 Ngāti Whātua Ōrākei formally supports the project because it aligns with their cultural values, strengthens their role as tangata whenua, provides economic and employment opportunities, and embeds Māori design and identity into a significant part of Auckland's CBD⁴. Ngāti Whātua Ōrākei is a partner with Precinct to deliver the integrated mixed-use development.
- 3 The project is listed in Schedule 2 of the FTAA⁵ as "The Downtown Carpark Redevelopment—Te Pūmanawa o Tāmaki". A substantive application for it was made on 11 November 2025 but subsequently withdrawn by the Applicant on 2 December 2025. A revised (second) substantive application was made on 12 January 2026 and was accepted as complete on 2 February 2026. On 16 March 2026 an expert panel was appointed to determine the Application (**Panel**).

² For the purposes of this decision the 'Application' includes an application for approval to modify or destroy an archaeological site under the Heritage New Zealand Pouhere Taonga Act 2014.

³ Referred to in this decision as the 'development', 'proposal' or 'project' as the context requires.

⁴ Ngāti Whātua Ōrākei letter to the EPA dated 25 November 2025.

⁵ Unless stated otherwise, all references in this decision to Parts, sections, clauses, or schedules are references to Parts, sections, clauses, or schedules in the FTAA.

- 4 The Panel has assessed the Application applying the relevant statutory criteria within the purpose and context of the FTAA⁶.
- 5 The Panel received comments from commentators and a response to those comments from the Applicant. The Panel has carefully reviewed all of that information in evaluating the Application.
- 6 The Panel has applied the statutory tests in the following provisions in determining and approving the Application:
 - a. Schedule 5, clause 17 - criteria and other matters for assessment of resource consent applications.
 - b. Schedule 8, clause 4 - the criteria for assessment of an application for an archaeological authority.
- 7 Having considered all relevant matters the Panel finds that the project meets the purposes of the FTAA and the RMA.
- 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 and covers all the approvals sought under the substantive Application.

PART B: OVERVIEW OF THE APPLICATION

1. Application

- 10 The Application has been made by Precinct Properties New Zealand Limited, the authorised person for the referred project. Precinct is listed on the NZX and is a long-term owner, developer and manager of real estate in New Zealand's largest city centres, Auckland and Wellington. The AEE records that Precinct has delivered approximately \$2.3 billion of mixed-use development projects, including Commercial Bay, Wynyard Quarter and Bowen Campus. The properties subject to the Application are owned by Precinct Properties Holdings Limited, a subsidiary of Precinct Properties New Zealand Limited.
- 11 The Application comprises the following main components⁷:
 - a. Demolition of the existing Downtown Carpark building, together with the Lower Hobson Street pedestrian bridge and the vehicle ramp/bridge connecting the carpark to Fanshawe Street across Customs Street West.
 - b. Make-good and remediation works associated with demolition, including façade works to the former Auckland Harbour Board Workshops at 204 Quay Street, works to the Fanshawe Street retaining wall, streetscape landscaping and pavement works.

⁶ Legislation Act 2019, s 10; and FTAA, ss 10 and Schedules 5 and 7.

⁷ Referred to in this decision as the 'development', 'proposal' or 'project' as the context requires.

- c. Alterations to the podia of the adjacent Aon Centre and HSBC Tower to facilitate the new laneway network and upgrades to the existing service lane.
- d. Excavation and bulk earthworks for a four-level basement, involving land disturbance of approximately 100,000m³ over an area of approximately 6,442m².
- e. Construction of three podium buildings, two tower buildings and four shared basement levels, including:
 - Tower 1, including Podium 1, comprising approximately 55 levels and approximately 227m in height, to accommodate the principal office component.
 - Tower 2, including Podium 2, comprising approximately 45 levels and approximately 162m in height, to accommodate residential apartments and hotel activities.
 - Podium 3, a standalone two-level podium building in the northern part of the Site adjacent to the M Social Hotel.
- f. A mixed-use programme comprising:
 - Retail and/or food and beverage tenancies at ground level within the podium buildings.
 - Office tenancies from Level 3 upwards within Tower 1.
 - Residential activity comprising up to 160 apartments on the upper floors of Tower 2, and visitor accommodation comprising up to 200 hotel guest rooms within Tower 2.
 - Retail units, bicycle parking, end-of-trip facilities and plant rooms within Podium 3.
 - Basement vehicle and bicycle parking, loading, plant and refuse areas, including up to 121 parking spaces allocated to the M Social Hotel.
- g. A new publicly accessible civic space, Te Urunga Hau / The Urban Room, and an associated laneway network providing pedestrian connections between Customs Street West, Lower Hobson Street and the adjacent HSBC and Aon buildings.
- h. A hotel porte cochere / pick-up and drop-off (**PUDO**) area accessed from Customs Street West, with associated valet parking arrangements.
- i. Approximately 127,500m² GFA overall, comprising approximately 87,000m² of office space, 23,200m² of residential space, 14,100m² of hotel space, 1,180m² of retail and food and beverage space and 3,450m² of publicly accessible civic space.
- j. Landscape works, lighting, public realm works and associated wayfinding and activation measures.
- k. Connections to, and any necessary upgrades of, three waters and other servicing infrastructure, including wastewater, stormwater, water supply and other utilities.

- I. An archaeological authority under the HNZPTA, because the proposed works will affect the recorded archaeological site R11/3458 Auckland Graving Dock and a small area of 19th century reclamation.
- 12 The Application was supported by a comprehensive Assessment of Environmental Effects prepared by experienced urban planning consultancy Barker & Associates Limited⁸ (**AEE**). The AEE was accompanied by statutory appendices, a letter of support from Ngāti Whātua Ōrākei, corporate evidence from Precinct, architectural and landscape drawings, cultural design, urban design, CPTED⁹, landscape and visual assessments, transport assessments, construction and environmental management plans, infrastructure and geotechnical reports, archaeology reports, economic assessment material and proposed conditions.

2. Site and surrounding environment

- 13 Development works are to occur primarily at the Downtown Carpark site at 2 Lower Hobson Street, but minor work is also required to the buildings at 29 Customs Street West and 188 Quay Street. We refer to these three properties as the **"Site"** for the purposes of this decision, but the nature of the works proposed on each should be kept in mind (refer Figure 1). The AEE records a total site area of approximately 14,876m² for the relevant allotments and works areas.



Figure 1 Locality plan. Source. Geomaps.

- 14 The property at 2 Lower Hobson Street is generally rectangular and occupies a prominent city-centre block at the western end of Auckland's downtown waterfront. It presently contains the seven-storey Downtown Carpark building on the western part of the Site, with approximately 2,000 carpark spaces used for public and private parking. The HSBC Tower

⁸ Dated 18 December 2025.

⁹ The acronym for "Crime Prevention Through Environmental Design".

at 188 Quay Street is located to the east and the Aon Centre at 29 Customs Street West is located to the north-east. Those two towers sit on a common podium. The Aon and HSBC towers form part of the broader Site, but the works to them are limited to podium modifications and service lane upgrades needed to facilitate the new laneway network and development interfaces.

- 15 The existing carpark has multiple vehicle and pedestrian connections to surrounding streets and buildings. Vehicle access is currently provided from Customs Street West, by a dedicated ramp/vehicle bridge to Fanshawe Street, through the service lane between Quay Street and Customs Street West, and through a connection associated with the M Social Hotel on Quay Street. Pedestrian access includes stairs to Lower Hobson Street, a connection towards Fanshawe Street, and the pedestrian bridge over Lower Hobson Street to the former Auckland Harbour Board Workshops at 204 Quay Street. The Downtown Carpark building and its bridges are not scheduled heritage items¹⁰.
- 16 The Application also includes works at 204 Quay Street, Auckland Central, limited to façade make-good works following removal of the Lower Hobson Street pedestrian bridge, and works within the road reserves of Lower Hobson Street, Fanshawe Street and Sturdee Street associated with removal of the carpark ramp/vehicle bridge and pedestrian bridge.
- 17 The surrounding environment is an intensive, highly modified city-centre environment containing commercial offices, food and beverage, retail, recreation, residential and visitor accommodation activities. It sits close to the Waitematā waterfront, Viaduct Harbour, Quay Street, Lower Hobson Street, Customs Street West and Fanshawe Street. The Site is also close to major public transport nodes, including Waitematā Station, the Lower Albert Street bus interchange and the Downtown Ferry Terminal, and is served by established pedestrian and cycling infrastructure, including the Quay Street cycleway and surrounding city-centre footpath network.
- 18 Immediately north of the Site is the M Social Hotel at 196-200 Quay Street, a 13-storey building of approximately 39m in height. The Site and the hotel are separated by the service lane running along the southern side of the hotel building. That lane currently serves the M Social Hotel, HSBC Tower, Aon Centre and the Downtown Carpark, and is a key access and servicing interface for the proposed development.
- 19 Immediately west of the Site is the former Auckland Harbour Board Workshops at 204 Quay Street. That building is scheduled in the AUP(OP) as a Historic Heritage Overlay Extent of Place (reference 1969) and is classified as a Historic Place Category 2 in the New Zealand Heritage List / Rārangī Kōrero. The pedestrian bridge over Lower Hobson Street connects the existing carpark building to 204 Quay Street, but the bridge itself is not identified as a heritage feature. The Lower Hobson Street flyover/ramp is also a prominent feature of the immediate environment. The AEE records that Auckland Transport has indicated an intention to remove the flyover in the future, although no confirmed timeframe has been identified and the Application assesses effects on the basis that the flyover remains¹¹.

¹⁰ The foot bridge over Lower Hobson Street which connects this site to the Downtown Carpark Building is not identified as a heritage feature.

¹¹ The Applicant noting that the assessments of effects are on the basis that the flyover is retained.

- 20 To the west, south-west, south and south-east are buildings and activities including The Sebel Hotel at 89 Customs Street West, the Tepid Baths Leisure Centre at 86-102 Customs Street West, the Foster & Co. building at 30-36 Fanshawe Street, 22 Fanshawe Street (GroupM), 1 Albert Street (former West Plaza), and other city-centre commercial, visitor accommodation and residential activities. These sites are separated from the Site by the surrounding road network, including Lower Hobson Street, Customs Street West and Fanshawe Street. Beyond the immediate block, the Site is well connected to Victoria Street West, Nelson Street, Fanshawe Street and the motorway network.
- 21 The Site is zoned Business – City Centre Zone on the Auckland Unitary Plan (Operative in Part) (**AUP(OP)**), and is also within the Downtown West sub-precinct B. The City Centre Port Noise Overlay – 58db and 60db, Coastal Inundation 1 per cent AEP Plus 1m Control – 1m sea level rise and Macroinvertebrate Community Index – Urban overlays/Controls also apply to the Site as do the following additional limitations: Overland Flow Path; Flood Plain; Flood Prone Areas; Coastal Inundation; and Contaminated Site. Finally, The Site is also designated “Car Park – Custom Street West” by Auckland Transport Designation – 1550.

3. Resource consent requirements

- 22 The Applicant’s identified reasons for consent under the AUP(OP), including Proposed Plan Change 120 (**PC120**), were set out in section 8.4 of the AEE and comprised some 42 rule infringements over 13 chapters of the AUP(OP)¹². This was subsequently updated to include two further agreed rule infringements¹³.
- 23 The Auckland Council noted in its comments on the Application that the consent triggers identified in the AEE were “for the most part agreed”, but considered four other rule infringement matters arose following its assessment of the proposal against the AUP(OP). We address these below.
- 24 Three of the additional matters arise out of Chapter E Auckland-wide rules:
- E7.4.1(A20) groundwater dewatering: Council noted that the Geotechnical and Groundwater Assessment assessed this matter but that it was not included in the AEE rule table. Council considered the proposal involves both groundwater diversion, already identified under E7.4.1(A28), and dewatering requiring consent under E7.4.1(A20) because the groundwater diversion/take would exceed 30 days and extend beyond the construction phase if a drained basement option were adopted.
 - E25.6.30 construction vibration amenity limits at 29 Customs Street West / Aon Building: Council identified an additional consent matter arising from the Applicant’s Acoustic Assessment Addendum: non-compliance with E25.6.30 construction vibration amenity limits at 29 Customs Street West during vibratory sheet piling works, scheduled for about 1.5 weeks. Council considered this restricted discretionary under E25.4.1(A2).

¹² See Section 8.4, pages 51 to 58.

¹³ Refer B&A Memorandum, 7 April 2026, para 2.1 (Rule E36.4.1A(A68) (PC120) and Rule E27.6.4.1(2) and (3).

- E27.6.4.1(1) / E27.4.1(A8) existing Quay Street service lane crossing: Auckland Transport, adopted through Council's comments, considered that modification/use of the existing Quay Street crossing providing access from the north of the service lane triggered a VAR under E27.6.4.1(1), not otherwise provided for in E27.4.1, and therefore required consent as non-complying under E27.4.1(A8). Council also noted AT accepted the Applicant had comprehensively assessed any resulting adverse transport network impacts.
- 25 Although the Applicant's response to Council's comments accepted the need to address the E25.6.30 construction vibration rule issue, it did not specifically engage with Council's assessment that these additional rule triggers applied. We have therefore included these matters in our Appendix B (see below) as infringement matters for which consent is sought.
- 26 The fourth additional consent item identified by the Council arose from its view that the proposal infringed the General building height (Standard H8.6.2), and therefore also required consent for this activity. The Applicant did not agree. It argued as follows¹⁴:
- *Clause (1) in Standard H8.6.2 states that: "The height of a building must not exceed the limits shown on Map H8.11.3". As it relates to the Site, Map H8.11.3 General height controls does not identify a height and instead the "Special Height Area" applies.*
 - *Clause (2) in Standard H8.6.2 states that: "Where height limits shown on Map H8.11.3 and Map H8.11.4 overlap, the lowest height limit applies as the first level of control." The Special height controls that apply to the site in Map H8.11.4 Special height controls comprise the Quay Street Harbour Edge Height Control Plane and St Patricks Square and Freyberg Place Sunlight Admission Control. There are separate standards in the AUP that address these controls, namely Standard H8.6.5 and H8.6.3 respectively.*
 - *As set out in the lodged documents, consent is sought for infringements to the Quay Street Harbour Edge Height Control Plane and St Patricks Square Sunlight Admission Control. It is noted that the Proposal is compliant with the Freyberg Place Sunlight Admission Control. Accordingly, consent is sought and assessments are provided in the application in terms of Standards H8.6.3 and H8.6.5.*
 - *On the basis that no height limit in Standard H8.6.2 is exceeded, no consent is considered to be required for an infringement of this standard.*
- 27 We prefer the Applicant's interpretation of these provisions and find that infringing the General building height (Standard H8.6.2) is not a matter for consent. Notwithstanding this, the scale of the buildings, including the height, have been fully assessed.
- 28 Our assessment of the relevant AUP(OP) rule infringements for which the Application requires consent is in **Appendix B**, noting, of course, that such a list is not to be treated as limiting the specific activities that can be implemented under an approved resource consent for all time: it is the activity described in the Application and AEE that is

¹⁴ Refer B&A Memorandum, 7 April 2026, para 2.2.

approved¹⁵.

- 29 While the vast majority of consent requirements are for infringements classified as restricted discretionary, the following require consents as discretionary activities
- E30 Contaminated land - The proposal involves discharges of contaminants into air, or into water, or onto or into land not meeting controlled activity Standard E30.6.2.1 as a Detailed Site Investigation is not provided. This is a discretionary activity under rule E30.4.1(A7).
 - E31 Hazardous substances - The Proposal will include the storage of hazardous substances above the thresholds for controlled and restricted discretionary activities in the activity table or are otherwise not provided for. This is a discretionary activity under E31.4.1(A7).
 - Subject to Plan Change 120 the Proposal involves the use of coastal hazard flood protection in the form of flood protection doors and barriers which is subject to E36.4.1D (A142) classified as discretionary activity.
- 30 The proposal also does not comply with Standard H8.6.3 Admission of sunlight to public places (St Patricks Square) and E27.6.4.1(1) existing Quay Street service lane crossing, which are non-complying activities under rule H8.4.1.(A40) and E27.4.1(A8) respectively.
- 31 When the rule infringements under the AUP(OP) are bundled to determine consent status under the RMA as is the convention for consent requirements that overlap¹⁶, the overall status of the Application is non-complying¹⁷. The Applicant accepted that position and no other party contended otherwise. Relevantly though, clause 17(b) of Schedule 5 excludes from consideration section 104D RMA. The effect of that statutory exclusion is that neither of the 'gateway' tests for non-complying activities has to be passed for the application to be considered for approval under section 104B RMA.
- 32 The NES-CS regulates activities on land which are safe for human health and provides national consistency for the assessment and management of soil which may be contaminated as a result of current or past uses. Resource consent is required under the NES-CS regulations as follows:
- A Detailed Site Investigation is not provided as part of this application (but will be provided prior to the works being undertaken). This is a discretionary activity under Regulation 11.
- 33 The Panel, having reviewed all the documentation and the further information provided by the Applicant and the participants and confirms that the application requires: land use, (ground) water diversion and discharge consents under sections 9(1), 9(3), 14 and 15 of the RMA. Consent is also required under the NESCS.

¹⁵ *Arapata Trust Limited v Auckland Council* [2016] NZEnvC 236.

¹⁶ See *South Park Corp Ltd v Auckland City Council* [2001] NZRMA 350; *Newbury Holdings Ltd v Auckland Council* [2013] NZHC 1172.

¹⁷ Although only in relation to the St Patricks Sq sunlight admission non-compliance.

- 34 For these resource consents, Schedule 5, clause 17 sets out the criteria for their consideration namely, the purpose of the FTAA, the provisions of Parts 2, 3, 6, and 8 to 10 of the RMA that direct decision making on resource consent applications (but excluding section 104D), and the relevant provisions of any other related legislation.

4. Approvals relating to an archaeological authority under the Heritage New Zealand Pouhere Taonga Act 2014

- 35 The Application also seeks approval for an archaeological authority (that would otherwise be sought under the HNZPTA) under section 42(4)(i) as the proposed development will affect the recorded archaeological site R11/3458 (Auckland Graving Dock building) and a small area of 19th century reclamation.
- 36 An Archaeological assessment addressing the required information for an approval described in section 43(3)(i) (archaeological authority) clause 2(1) has been prepared by the Applicant (Clough & Associates) in accordance with clause 2(1) of Schedule 8. The application also seeks the approval of a person nominated to undertake the activity under the Archaeological Authority¹⁸. For completeness, the applicant confirmed that the Application complies with section 46(2)(a), (b), and (d).

PART C: PANEL PROCEDURE

- 37 In considering the Application, the Panel records the following procedural events.

5. Meetings and site visits

- 38 The Panel convened a project overview briefing conference with the Applicant and a number of its specialist advisers on 24 March 2026 in person at Precinct Properties New Zealand, 188 Quay Street, Auckland¹⁹. The briefing was very helpful, and the Panel is grateful to the Applicant for arranging it.
- 39 Following the overview conference, the Panel undertook an extensive site visit which included a walkover of key parts of the Site and a walk around its immediate surrounds.
- 40 A summary of the project overview briefing and the site visit undertaken is set out in Minute 2 dated 25 March 2026.
- 41 Much of the Panel's other correspondence, deliberations and decision-making occurred over email following review, drafting and commenting on drafts of further information requests, this decision report and the conditions. Notwithstanding this, the Panel met on the following occasions:
- a. 24 March 2026 to discuss initial minutes to be issued, procedural matters and administration;
 - b. 7 April 2026 to discuss Minute 3 and parties to be invited to comment under section 53;
 - c. 15 May 2026 to discuss the comments made on the application from those parties

¹⁸ The Project Archaeologist proposed is Ellen Cameron of Clough & Associates.

¹⁹ Refer Minute 2 of the Panel dated 25 March 2026.

invited to comment (section 53), and the Applicant's response to those comments (section 55);

- d. 2 June 2026 to review responses to requests for information and related matters;
- e. 22 June 2026 to discuss responses to requests for information and related matters;
- f. 6 July 2026 to discuss responses to RFIs re conditions and Panel draft conditions and decision; and
- g. 31 July 2026 to discuss comments on conditions and final decision.

6. Invitations to comment and response

- 42 The Panel determined the parties from whom comments on the application would be sought in its Minutes 3 and 4²⁰ and the EPA subsequently invited comments on the Application by letter dated 8 April 2026. Responses to this invitation were due on 7 May 2026. A summary of the comments received is included in Part D.
- 43 On 21 May 2026 the Applicant provided a response to the various section 53 comments received. A summary of its response is included in Part D.

7. Further information

- 44 At the Panel's direction the EPA made three requests for further information about the Application under section 67.
- 45 The first, dated 25 March 2026 (**RFI01**), sought additional information on the Applicant's assessment of land "adjacent" to the application site. This was to assist the Panel in its determination for the purposes of sections 53(2)(h) and (i) and who was required to be invited to comment on the Application.
- 46 RFI01 also sought information from the Applicant about unsolicited correspondence to the EPA from two parties requesting that the Panel invite them to comment under section 53(3). Further, it sought the Applicant's view on whether, arising out of its extensive consultation in relation to the Application to date, it considered there were any other persons who it might be appropriate for the Panel to invite comment from under section 53(3).
- 47 The Applicant responded to the RFI01 via Memorandum of Counsel dated 31 March 2026.
- 48 The Panel's analysis of the issues of the definition of "site" and "adjacent", the request by unsolicited parties to be invited to comment, and the Applicant's assessment of that matter are set out in our Minute 3 dated 8 April 2026.
- 49 Our second information request was made via the EPA on 3 June 2026 (**RFI02**) and sought information from Auckland Council as to its position on the draft project conditions and whether any amendments were considered necessary. A response to RFI02 was received from Auckland Council on 11 June 2026.

²⁰ Minutes 3 and 4 dated 8 April 2026 and 22 April 2026 respectively.

- 50 Our third information request was made on 12 June 2026 (**RFI03**) and specifically requested certain parties²¹ to confer on conditions related to construction effects and provide a joint statement of expert evidence on the outcome of that conferencing. Responses to RFI03 were received on 29 June 2026.
- 51 The Panel has been greatly assisted in its task by the timely and detailed responses to the information requests it has made.

8. Conditions

- 52 The AEE included a detailed set of draft conditions for the resource consents sought in the Application²². In its response to comments received, the Applicant provided an updated version of its proposed project conditions, which included various amendments intended to accommodate matters raised by commenting parties.
- 53 As the Panel reached the view early in its consideration of the Application that the nature, scope and detail of the RMA conditions designed to manage the actual and potential effects of the construction works required for the project, it decided to seek further assistance from the relevant parties prior to releasing draft conditions for comment under section 70. RFI02 and RFI03 were the process utilised for this purpose. The responses provided to these information requests enabled the Panel to understand the remaining areas of dispute between the parties with respect to conditions and better inform its draft conditions which were eventually released for comment on 8 July 2026 (see Minute 8).
- 54 Responses to the Panel's draft RMA conditions, were received from parties invited to comment on 16 July 2026. The Applicant responded to both the conditions and the other parties' comments on 23 July 2026.
- 55 The Panel also prepared and circulated for comment at the same time a draft set of conditions for the proposed archaeological authority approval (under the HNZPTA). These draft conditions were those recommended by HNZPT and included as Appendix A to its report provided under section 51(2)(d) dated 3 September 2025.
- 56 The Panel has considered the comments received on the draft conditions in Part M.

9. Hearing

- 57 The Panel determined not to hold a hearing.

10. Approach to determination

- 58 The Panel records that it has been 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 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.

²¹ Millenium & Copthorne Hotels New Zealand Limited; Body Corporate 199380 (The Sebel); Auckland Transport; the Applicant

²² Appendix 24 to the AEE.

- 59 To this end, the Panel has endeavoured to conduct its processes efficiently, focussing on the issues in contention identified through the detailed information exchange process provided under the FTAA. It has also endeavoured to avoid repetition in completing its reasons for this decision, cross referencing and adopting analysis and assessments of others where appropriate and relying on the expert evidence and opinions provided to it in accordance with the Code of Conduct for Expert Witnesses²³.

11. Timing of the Panel decision

- 60 In accordance with the Panel Convenor minute dated 9 March 2026 the time frame for the Panel to issue its decision documents under sections 79 and 88, taking into account Applicant requested (and Panel approved) suspensions of processing of the Application²⁴, is 5 August 2026.

PART D: COMMENTS ON THE APPLICATION

- 61 Comments on the Application were received on time from the following parties:

- a. Auckland Council.
- b. Ngāti Whātua o Ōrākei.
- c. Minister for Arts, Culture and Heritage.
- d. Minister for Economic Growth.
- e. The New Zealand Transport Agency.
- f. Heritage New Zealand Pouhere Taonga.
- g. Body Corporate 199380 (The Sebel Hotel).
- h. Viaduct Harbour Holdings Limited.
- i. Millennium & Copthorne Hotels New Zealand Limited.
- j. Gods in Motion Limited.
- k. City View Investments Limited.
- l. [REDACTED]
- m. [REDACTED].
- n. [REDACTED]
- o. [REDACTED]

²³ Refer Appendix C.

²⁴ See Minutes 5, 6 and 7.

- p. [REDACTED]
- q. [REDACTED], Hauraki Trustee Services (2004) Limited, [REDACTED].
- r. [REDACTED]
- s. Piccadilly Trustee Limited.
- t. Quay Street Investments Limited.
- u. Quattro RE Limited.
- v. Mornington Trustee Limited.
- w. Colliers New Zealand.
- x. Clearcut Consultants Limited.
- y. [REDACTED].
- z. [REDACTED]

12. Summary of comments received

- 62 The comments on the Application were received from three broad groups:
- a. Auckland Council, including comments from Council specialists, Watercare, Healthy Waters and Auckland Transport (**AT**);
 - b. Millennium & Copthorne Hotels New Zealand Limited (**MCK**), as owner/operator of the immediately adjacent MSocial Hotel; and
 - c. Other invited parties and submitters, including Ngāti Whātua Ōrākei, HNZPT, NZTA, Body Corporate 199380/The Sebel, Viaduct Harbour Holdings Limited, Piccadilly Trustee Limited, other adjacent landowners/occupiers, and individual Sebel unit owners: C03. The applicant's response records the full list of commenting parties, including Auckland Council, MCK, Ngāti Whātua Ōrākei, HNZPT, NZTA, The Sebel, Viaduct Harbour Holdings, Piccadilly Trustee, Quay Street Investments, Quattro/Kyndryl, Mornington Trustee, Colliers, individual Sebel owners and several individual commenters.

Auckland Council comments

- 63 Auckland Council's comments were extensive and comprised a planning memorandum supported by 25 specialist annexures. The Council memorandum addressed strategic planning, statutory planning, environmental effects, information gaps, and section 85 proportionality matters. It reviewed matters including national/regional significance, the AUP framework, landscape and visual effects, built form, public realm, wind, trees, heritage, construction traffic, infrastructure, hazardous substances, operational traffic and reverse sensitivity.
- 64 Council's overall position can be summarised as follows.

- a. **Strategic and statutory planning.** Council accepted that the proposal is a major city-centre redevelopment and acknowledged its architectural quality, materiality and potential benefits. However, Council did not provide unqualified support for the Application in its lodged/current form. It considered that the Panel needed to undertake a proportionality assessment under section 85 because some adverse effects, individually or collectively, could potentially be sufficiently significant to be out of proportion to the project's presently evidenced regional or national benefits.
- b. **Economic benefits.** Council's economic specialist agreed there would be some wider economic benefits, but considered that many were marginal or not yet sufficiently evidenced. Council sought further information on iwi benefits, office market assessment, baseline/counterfactual, and cost-benefit analysis/externalities. Council considered limited regional weight could be given to some claimed economic benefits without further substantiation.
- c. **Landscape, visual and waterfront amenity effects.** Council's key substantive concern was the effect of Tower 1 and the proposed built form in relation to the Harbour Edge Height Control Plane, coastal/waterfront context, landscape values, visual permeability and waterfront amenity. Council considered these effects may require proportionality assessment unless design changes or further mitigation resolved the concern.
- d. **Shading and public open space.** Council considered that further comparative shading information was required to understand the incremental effects of infringements and their relationship to affected public spaces.
- e. **Wind.** Council raised concerns about whether wind mitigation was sufficiently resolved, including the feasibility and design parameters for street-tree planting and other mitigation, given constraints such as soil volumes and possible service conflicts.
- f. **Construction traffic.** Council and Auckland Transport raised detailed concerns about construction traffic management, including effects on Lower Hobson Street, the bus network, pedestrian safety, construction staging, use of heavy vehicles, the service lane, and proposed truck movements. Some matters were considered capable of being managed through amended conditions, but Council identified remaining uncertainty and recommended further condition refinement.
- g. **Operational traffic and hotel pick-up/drop-off.** Council and Auckland Transport considered the proposed hotel PUDO unresolved. Key issues were the small and constrained facility, vehicle manoeuvring, pedestrian/vehicle conflict, capacity, safety, and whether the facility could safely and efficiently meet the hotel's operational demands. Council considered this required further design resolution and could not be addressed by management plan alone.
- h. **Noise and vibration.** Council accepted the broad use of the CLG and CNVMP framework, but identified construction noise infringements at MSocial and other buildings, and considered clearer condition controls were needed. Council noted that the applicant and Council acoustic specialists differed on whether likely infringements and duration should be expressly set out in conditions.

- i. **Infrastructure, flooding and resilience.** Council identified unresolved matters relating to infrastructure servicing, construction effects of infrastructure works, and flood barrier design/operation/maintenance. It considered the absence of finalised flood barrier details and a flood hazard management framework created residual risk to property, people and future site infrastructure.
- j. **Conditions.** Council foreshadowed a need for a compiled and amended condition set, drawing together specialist comments. Its proposed condition review later became the subject of RFI02. The Council condition comments included a strengthened CLG, management plan input, construction noise and vibration controls, monitoring, transport, infrastructure and compliance provisions.

MCK comments

- 65 MCK supports redevelopment of the Downtown Carpark site in principle, and wishes the MSocial Hotel to integrate with and complement the completed project. Its concern is not with the end-state redevelopment, but with the demolition, excavation, site preparation and construction phases, which it says may be incompatible with a 24-hour hotel operation over a works period estimated at up to seven years.
- 66 MCK's principal concerns were:
 - a. **Geotechnical, groundwater and structural risk.** MCK's experts considered that the project involves deep excavation in complex reclaimed ground immediately adjacent to the MSocial Hotel. They identified uncertainty about the ground model, retaining wall performance, groundwater behaviour, construction methodology and monitoring/contingency arrangements. MCK sought stronger and more certain consent conditions, including additional site investigation, validation of geotechnical parameters, refined modelling, peer review, detailed construction methodology, continuous monitoring and clear trigger/action thresholds.
 - b. **Structural effects on the MSocial Hotel.** MCK's structural advice was that the potential adverse structural effects on the MSocial building could be considerable if unresolved design and methodology matters are left to later stages. MCK sought binding consent conditions and detailed design requirements at the consent stage rather than deferral to post-consent management plans.
 - c. **Construction noise and vibration.** MCK's acoustic expert considered that the applicant's acoustic report was too brief for a project of this scale and sensitivity. The key criticism was that the proposed conditions and CNVMP could authorise noise and vibration effects greater than those assessed, through a schedule/BPO process that MCK considered too open-ended and largely controlled by the consent holder. MCK sought clearer limits, independent certification, meaningful assessment of worst-case effects, and a condition framework that is certain and enforceable.
 - d. **Hotel operational sensitivity.** MCK emphasised the MSocial Hotel's sensitivity as a high-occupancy, 24-hour hotel, including guests sleeping during the day, airline crews, event-driven high occupancy, reputational risk from complaints and the need for advance warning of high-noise or high-vibration works.

- e. **Construction traffic and access.** MCK acknowledged that engagement had addressed some access and service vehicle concerns, but sought continuing protection for hotel access, servicing and operational continuity.
- f. **Conditions and process.** MCK sought extensive amendments to the conditions. It considered the Panel should be fully informed before granting consent and should not leave core effects, mitigation and methodology decisions to later management-plan processes. MCK also suggested expert conferencing and/or facilitated mediation.

Other comments and materials

- 67 **Ngāti Whātua Ōrākei:** Ngāti Whātua Ōrākei supported the project. Its letter submitted with the Application states that the Project would enhance cultural values in the Auckland CBD and provide tangible and ongoing benefits to the iwi. It emphasised the cultural and historical significance of the site as part of Te Kahu Tōpuni o Tuperiri, its relationship to the former Waitematā seabed, and the importance of the project's cultural narrative and partnership approach.
- 68 Ngāti Whātua Ōrākei also emphasised the importance of recognising tikanga, whakapapa, ahi-kā, mana whenua status and enduring customary relationships to place. It considered that its engagement and input should carry significant weight for applications within Te Kahu Tōpuni o Tuperiri, while also recognising that other iwi and hapū may benefit from the Application.
- 69 **Heritage New Zealand Pouhere Taonga:** HNZPT recommended that the archaeological authority be granted subject to conditions, and that Ellen Cameron be approved as the person to carry out the archaeological work. HNZPT agreed with the applicant's archaeological assessment and proposed conditions addressing the archaeological management plan, landowner consent, site briefing, tikanga, taonga/Māori artefacts, kōiwi discovery and monitoring.
- 70 **Body Corporate 199380 – The Sebel and individual Sebel owners:** The Sebel did not oppose redevelopment of the site. Its concerns focused on construction noise and vibration effects on the hotel/apartment building and access effects from construction traffic management. The Sebel provided a letter from counsel, a statement from its chairperson and acoustic evidence from Jon Styles.
- 71 The acoustic comments for The Sebel were similar in theme to MCK's concerns. They identified hotel/apartment sensitivity to day-time sleeping, high occupancy, event periods, guest complaints and reputational/business effects. The Sebel sought advance notice, clearer control of high-noise and high-vibration works, and stronger condition mechanisms.
- 72 Individual Sebel unit owners and related interests raised similar concerns about construction noise, vibration, disruption, sleep disturbance, access and amenity during the long construction period. Their concerns largely aligned with the Body Corporate's position.
- 73 **Viaduct Harbour Holdings Limited:** Viaduct Harbour Holdings Limited's transport review focused on construction traffic effects on the Viaduct Harbour/Wynyard Quarter network. Its expert considered that operational traffic effects after completion would be minimal. During construction, the key issue was the operation of Lower Hobson Street

and removal of the right turn into Customs Street West from Lower Hobson Street. The reviewer considered that additional delay entering the Viaduct would be minimal, but sought a condition requiring heavy construction vehicles to avoid Viaduct Harbour/Wynyard Harbour streets.

- 74 ***Piccadilly Trustee Limited***: Piccadilly Trustee Limited, owner of 22 Fanshawe Street, focused on construction communication and business continuity for tenants. It did not seek permanent CLG membership, but asked to be a mandatory recipient of CLG minutes and associated reports, to receive those materials within five working days, and to receive at least 10 working days' written notice of high-impact construction activities affecting the Fanshawe Street interface.
- 75 ***Other adjacent landowners, occupiers and business interests***: Other comments from adjacent or nearby landowners/occupiers, including Quay Street Investments, Quattro RE/Kyndryl, Mornington Trustee, Colliers and others, were generally directed to the practical effects of demolition and construction: noise, vibration, dust, access, servicing, pedestrian safety, business continuity, communications and condition enforceability. These parties generally sought stronger notification, engagement, management plan, monitoring and mitigation conditions rather than wholesale opposition to the completed redevelopment.
- 76 Comments were received from the Minister for Arts, Culture and Heritage, noted as "no comment", the Minister for Economic Growth, and NZTA. These comments were broad and did not generate the same level of substantive contention as the MCK, Auckland Council, The Sebel and nearby-owner comments.

Key themes across all comments

- 77 The principal comments received on the Application can be reduced to the following themes:
- a. Broad support or acceptance of redevelopment in principle, including from MCK and The Sebel, provided construction effects are properly controlled.
 - b. Strong support from Ngāti Whātua Ōrākei, based on cultural relationship, partnership, design narrative and iwi benefits.
 - c. Auckland Council's qualified position, acknowledging benefits and design quality but identifying unresolved adverse effects, information gaps and proportionality issues.
 - d. Landscape, visual and waterfront amenity concerns, particularly Tower 1 and the Harbour Edge Height Control Plane.
 - e. Construction effects as the dominant issue, especially noise, vibration, traffic, access, dust and business/hotel continuity.
 - f. Geotechnical, groundwater and structural risk at the MSocial boundary, raised most strongly by MCK.
 - g. Operational transport and PUDO design, raised strongly by Council/Auckland Transport.

- h. Condition certainty and enforceability, including concern that key matters should not be left too broadly to post-consent management plans.
- i. Communication and liaison, especially through the CLG, advance notice of high-impact works, and timely distribution of construction information.
- j. Archaeology and cultural protocols, with HNZPT recommending grant of the archaeological authority subject to conditions.

78 The Panel would like to thank all parties who commented for their detailed and helpful contributions.

13. Applicant's response to comments

79 Precinct responded to the comments on a key themes basis, rather than addressing every comment individually. Its response comprised legal submissions, topic-specific technical memoranda, updated drawings, updated management plans, updated archaeological authority conditions and an updated proposed condition set.

80 Precinct's overall position was that:

- a. the Application has significant regional, and potentially national, benefits;
- b. the Council and commenter concerns do not disclose adverse impacts that are out of proportion to those benefits;
- c. many issues raised are matters of expert disagreement rather than true information gaps;
- d. construction effects are expected for a project of this scale in the city centre and can be appropriately managed through conditions and management plans; and
- e. some condition matters warranted further engagement with Council, AT, MCK, The Sebel and other affected parties.

81 Precinct relied particularly on the FTAA framework, arguing that greatest weight must be given to the purpose of the FTAA and that the section 85(3) decline threshold is high. It submitted that the potential adverse impacts are primarily construction-related and are not close to being out of proportion to the project's benefits.

Response to Auckland Council

82 **Benefits and section 85 proportionality:** Precinct disputed Council's concern that the project benefits had not been sufficiently evidenced. It said the benefits were not limited to quantifiable economic benefits and included cultural, social, city-shaping and environmental benefits. These included the Ngāti Whātua Ōrākei partnership, new public spaces, increased city-centre commercial/residential/hotel capacity, improved pedestrian connectivity and intensification in a highly transit-oriented location.

83 Precinct rejected Council's suggested "information gaps" framing. It characterised many of the points as expert disagreement rather than missing information, including economics, comparative shading, infrastructure servicing, wind mitigation, flood barrier design and transport matters.

- 84 **HEHCP, height and landscape/urban design:** Precinct accepted that Tower 1 (and to a lesser extent Tower 2) infringes the Harbour Edge Height Control Plane (**HEHCP**), but rejected Council's conclusion that this produces unacceptable or disproportionate adverse effects. Its legal response noted that Council's landscape expert was the only expert who did not support the proposal as currently designed, and that Precinct's landscape and planning experts considered the proposal would still achieve the purpose of the HEHCP.
- 85 The urban design response accepted there is a "clear departure" from the HEHCP standard, but maintained that the proposal still provides an overt transition to the harbour, albeit to a lesser degree than the standard describes, and achieves the purposes of the HEHCP and relevant assessment criteria.
- 86 Precinct also submitted that, even if the Panel preferred Council's landscape evidence and found a significant impact from the HEHCP infringement, section 85(4) means the Panel could not decline the Application on that basis alone where the adverse impact arises solely from inconsistency with a plan provision.
- 87 Finally, in relation to this opposition on effects grounds, Precinct also provided a letter from Phil Wilson, CEO of Auckland Council, which acknowledged the position being taken on the project by Auckland Council as regulator, but categorically confirmed that the Auckland Council supports the project and the Council's regulatory position should not be confused with this overall corporate position. Mr Wilson further noted the Council's view that the project will have a number of positive effects for Auckland.
- 88 **Comparative shading:** Precinct rejected Council's request for comparative shading diagrams. It said the shading assessment already assessed all shade from the proposal, including shade associated with infringements, and that a comparison with a "compliant" but still consent-requiring scheme would not be legally or technically useful.
- 89 **Wind:** Precinct responded to concerns about reliance on off-site wind mitigation by proposing an alternative: if approval could not be obtained for off-site tree mitigation on MCK land or road reserve, Precinct would implement a 5m-high screen on its own land. It proposed condition 107A to require one of those two mitigation options.
- 90 **Operational traffic and hotel PUDO:** Precinct accepted that further discussion with AT would be useful on operational traffic, particularly the hotel PUDO. It also obtained a peer review of the PUDO from Mr Daryl Hughes.
- 91 **Construction traffic:** Precinct identified construction traffic as a topic for further direct engagement with AT. Outstanding matters included heavy vehicle monitoring, light construction vehicle use of the Lower Hobson Street entrance, mitigation for closure of the Customs Street West end of the service lane, heavy construction vehicle restrictions during the proposed AT Fanshawe Street retaining wall works, and a possible flyover barrier.
- 92 **Noise and vibration:** Precinct accepted that some further discussion might be useful with MCK, The Sebel and Quattro on the detailed wording of the noise conditions and scheduling process. It maintained, however, that residual construction noise effects to M Social were not significant in the context of a city-centre hotel and were reasonable having regard to the significant regional benefits of the project.
- 93 Precinct also proposed proof that KinderCare had vacated before demolition works

commenced, addressing Council's concern about potential construction noise effects on that sensitive activity.

- 94 **Dust and air quality:** Precinct accepted some additional dust monitoring was appropriate, but considered Council's proposed regime excessive. It proposed two PM₁₀ or TSP monitors at or near the site boundary, wind monitoring at one location, and monitoring during demolition only rather than also during basement excavation.
- 95 **Flooding and infrastructure:** Precinct identified flooding and flood barrier management plan conditions as matters for further engagement with Council. Its position was that the updated conditions and management plan framework were sufficient to address these matters, subject to further refinement if needed.

Response to MCK

- 96 Precinct accepted that further discussion with MCK could be useful on geotechnical, structural and noise/vibration conditions. However, it rejected MCK's position that key matters had to be resolved through more extensive consent-stage conditions rather than later design, peer review, building consent and management plan processes.
- 97 On structural matters, Precinct's response through Holmes accepted that a pre-condition building survey should be completed for MCK's property, but said a full structural condition assessment would be for the existing building owner if desired. Precinct's position was that proposed boundary stability, deflection, settlement and monitoring conditions were sufficient and that design matters would be addressed through ordinary peer review and building consent processes.
- 98 On geotechnical and groundwater matters, Precinct said Council generally concurred with the geotechnical and groundwater assessment, subject to conditions. It said many Council-recommended conditions had been accepted, and that the MCK issues had been addressed through the structural and geotechnical responses. Precinct considered existing proposed conditions would provide necessary protection to M Social structures, and that many of MCK's requests related to peer review or building consent matters.
- 99 On MSocial day-sleeping noise effects, Precinct accepted that a small number of rooms may be affected for a limited period, but submitted the effect must be assessed in context: approximately 3–5 guestrooms, around 2–3% of hotel rooms, for about 6–8 weeks. Precinct said there were practical hotel management options available to M Social, even if those could not be imposed on the hotel by condition.

Response to The Sebel, Quattro and other nearby receivers

- 100 Precinct's response to these parties was mainly through the updated noise/vibration, construction traffic, CLG and management plan conditions. It accepted some refinement to the condition framework, including greater detail in management plan and scheduling processes. It did not accept all requested amendments, particularly where it considered the request duplicated existing conditions, was not required for a resource management purpose, or was more appropriately addressed through private arrangements or ordinary implementation processes.
- 101 For non-adjacent Viaduct Harbour bodies corporate and similar parties, Precinct accepted that the Panel could consider effects on them, but submitted those effects should be given limited weight because they were not proximate to the site and would not experience effects not already assessed.

Response to Ngāti Whātua Ōrākei, Ngāti Whanaunga and archaeological matters

- 102 Precinct relied strongly on Ngāti Whātua Ōrākei's support and partnership position. It said the project's benefits for Ngāti Whātua Ōrākei and Māori were significant and included cultural, social, employment, contractor, business and financial participation opportunities. The Ngāti Whātua Ōrākei Whai Rawa letter included in its response information emphasised that the project's cultural and wider benefits could not be quantified purely in economic terms but were significant.
- 103 On archaeological conditions, Precinct supported Ngāti Whātua Ōrākei's position that tikanga-related archaeological authority conditions should refer only to Ngāti Whātua Ōrākei, as tangata whenua of Tāmaki and the project site, and sought removal of Waikato-Tainui and Ngāti Whanaunga from proposed conditions 5, 6 and 11.
- 104 The Panel is grateful for the detailed responses provided to comments by the Applicant.

PART E: LEGAL CONTEXT

14. Legal context for a listed project under the FTAA

- 105 In accordance with section 42 an authorised person²⁵ for a referred 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. The Applicant lodged its substantive application on 12 January 2026.
- 106 The EPA decided that the Application was complete and within scope²⁶ on 2 February 2026. The EPA made a recommendation on whether there were competing applications or existing resource consents for the same activity on 17 February 2026²⁷, finding that there were not. The EPA then provided the Application to the panel convenor and at the same time requested a report from the Ministry responsible agency²⁸ under section 18. A report was received on 18 February 2026²⁹.

15. Decisions on approvals

- 107 Section 81(1) states the scope of the Panel's discretion on approvals sought in a substantive application; section 81(2) sets out the specific matters that the Panel must consider, apply or comply with for the purposes of making its decision and confirms that it may impose conditions (if approving) or decline (in accordance with section 85); and section 81(3) lists the specific matters that must be considered for the various types of approval that may be sought.
- 108 The Panel records that in making its decision on the Application it has:

²⁵ FTAA, sections 4 and 42.

²⁶ FTAA, section 43

²⁷ FTAA, section 47

²⁸ The Ministry for the Environment is the responsible agency for section 18.

²⁹ Treaty Settlements and other obligations (Section 18) report.

- a. complied with subsections 81(2)(a), (b) (c), and (d);
- b. elected to impose conditions under section 81(2)(e); and
- c. determined not to decline approval for the Application under section 85 (section 81(2)(f)).

16. Approvals relating to the Resource Management Act 1991

109 The relationship of the FTAA with the RMA is outlined in Schedule 5 which provides the consent application process that applies rather than the 'standard' RMA consent application process. Clause 17 states:

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 Whakahoā 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.
- (5) ...
- (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.

110 The Panel understands that its assessment of the Application is governed by a weighting framework under the FTAA, rather than the ordinary Part 6 RMA consent assessment. The direction, to "take into account" relevant matters, requires us to give those matters genuine attention and thought, but the weight to be given to each matter is for the

Panel³⁰. Within that framework, the purpose of the FTAA is the paramount consideration, and the Panel must consider the extent of the project's regional or national benefits at every step.

- 111 We must consider all project impacts, both positive and adverse, and then consider how adverse impacts are best managed. Adverse impacts should be avoided, or otherwise mitigated, offset or compensated for, to the extent practicable. We must also determine what conditions are needed to ensure the project's impacts are managed as intended. Relevant planning instruments may assist in understanding the importance of adverse impacts, but those instruments were not written for the FTAA framework and do not have the same influence on the decision-making process as they would in a strictly RMA assessment under that Act.
- 112 On the test for decline, if residual adverse impacts remain after practicable management measures have been exhausted, we must then undertake a weighing exercise. The question is whether those residual adverse impacts "are sufficiently significant to be out of proportion to the project's regional or national benefits". We only have jurisdiction to decline an approval if that threshold is met and only after considering conditions, or project modifications the applicant may agree to. Even then, that power to decline remains discretionary.
- 113 The overall position appears to be therefore that the FTAA presumes approvals will be granted, with refusal available only as an exception where adverse impacts outweigh the project's regional or national benefits and cannot be appropriately managed through conditions or modifications.
- 114 Finally, the Panel records that it has considered clauses 17 and 18 of Schedule 5 and concluded that the purpose and principles of the RMA in sections 5, 6, and 7 remain relevant to our decision-making.

17. Approvals relating to an archaeological authority under the Heritage New Zealand Pouhere Taonga Act 2014

- 115 Schedule 8, clause 4 sets out the criteria for assessment of an application for an archaeological authority. For the purpose of our decision under Section 81, we must take into account:
 - a. the purpose of the FTAA;
 - b. the matters set out in section 59(1)(a) of the HNZPT Act;
 - c. the matters set out in section 47(1)(a)(ii) and (5) of the HNZPT Act; and
 - d. a relevant statement of general policy confirmed or adopted under the HNZPTA.
- 116 Under clause 4(1) we are required to give the greatest weight to the purpose of the FTAA.

³⁰ *Bleakley v Environmental Risk Management Authority* [2001] 3 NZLR 213 (HC) at [72]; and *Trustees of the Motiti Rohe Moana Trust v Bay of Plenty Regional Council* [2024] NZCA 134, (2024) 25 ELRNZ 1047 at [15].

- 117 The Panel has considered clause 4 of Schedule 8 FTAA and concluded that the purpose and principles of the HNZPTA remain relevant to our decision-making.

18. Requirements for decision – principal issues in contention

- 118 Section 87(2) requires a panel's decision document to state the decision and the reasons for it, but also to include a statement of the principal issues that were in contention and the panel's main findings on those issues.
- 119 Following the Panel's consideration of the Application, the comments received and the Applicant's response to those comments, the request for information and the responses provided, and the parties' comments on conditions, a number of issues in contention with the Application were apparent. We consider the issues fall broadly into two categories.
- 120 The first is a merits-based or principled objection to the bulk and scale of the proposal, focused principally on the height of the towers, the HEHCP infringement, and the claimed adverse landscape, visual, waterfront amenity and shading effects raised by Auckland Council. The core issue in contention is whether the built form itself, especially the scale and height of the towers in relation to the harbour edge, is acceptable within the statutory and planning framework. Council's position is that the proposal departs materially from the planned waterfront transition and creates significant adverse landscape, visual, waterfront amenity and shading effects. Precinct's position is that, despite the HEHCP infringement, the proposal achieves the purpose of the control, contributes positively to the skyline and urban environment, and any adverse effects are not out of proportion to the project's benefits.
- 121 This is the principal merits issue with the project that cannot be resolved simply by more detailed implementation conditions, unless the Panel were to require or accept design changes reducing the relevant bulk, height or shading effects. However, none have been offered by the Applicant, who maintains that to do so (e.g., by reducing the height of one or both of the towers), would make the project unfeasible³¹.
- 122 The second category of issue in contention concerns the implementation of the project and the adequacy, certainty and enforceability of conditions to manage construction, operational and interface effects, including noise and vibration, traffic, PUDO operation, geotechnical and structural protection, wind, flooding, dust, communications and archaeological protocols. Those matters are, in our assessment, primarily condition and implementation issues, although their significance remains relevant to the Panel's overall assessment.
- 123 We summarise the issues in the table below and also identify where they are evaluated in this decision.

Issue in Contention	Evaluated here
Landscape, urban design, shading effects	Part G

³¹ Applicant's response to Comments, 21 May 2026, Attachment C, Memorandum by Tim Woods, General Manager – Development at Precinct.

Relevance of NZCPS	Part I
Infringement of HEHCP and associated AUP(OP) objectives and policies	Part J
National and regional benefits of the project	Part H
Auckland Council's grounds of opposition	Part L
Conditions (various)	Part M
Overall assessment – grounds to decline	Part O

PART F: IWI AUTHORITIES

19. Section 18 Report for a listed project

124 The Ministry for the Environment provided a report under section 18 in accordance with section 49³².

125 The key points of the report included:

- a. Auckland has a complex Treaty settlement landscape with many overlapping interests;
- b. All iwi, hapū, and Māori entities with potential interests in the Downtown Carpark redevelopment area are identified (Attachment 3 of the report);
- c. The Treaty settlement and other arrangements relevant to the project are:
 - Ngāti Whātua Ōrākei Claims Settlement Act 2012;
 - Ngā Mana Whenua o Tāmaki Makaurau Collective Redress Act 2014;
 - Te Kawerau ā Maki Claims Settlement Act 2015;
 - Ngāti Tamaoho Claims Settlement Act 2018;
 - Ngāi Tai ki Tāmaki Claims Settlement Act 2018;
 - Ngāti Pāoa Claims Settlement Act 2025;

³² Fast-track Approval Act 2024 – Treaty settlement and other obligations (section 18) report, 18 February 2026.

- Te Ākitai Waiohua Deed of Settlement (signed Nov 2021); and
 - Te Patukirikiri Deed of Settlement (signed Oct 2018).
- d. While statutory acknowledgment areas exist nearby (Ngāi Tai ki Tāmaki, Ngāti Tamaoho, Te Ākitai Waiohua) the project area is not within or adjacent to these statutory areas.
- e. No marine or fisheries customary rights apply.

20. Substantive application information

Ngāti Whātua Ōrākei

- 126 The Application states that Ngāti Whātua Ōrākei formally supports the proposal to redevelop the Downtown Carpark site. As set out in their letter to the EPA³³ this is because the project aligns with their cultural values, strengthens their role as tangata whenua, provides economic and employment opportunities, and embeds Māori design and identity into a significant part of Auckland's CBD.
- 127 Precinct approached Ngāti Whātua Ōrākei in 2021 to partner on the redevelopment, noting that the iwi had previously collaborated with Precinct on Commercial Bay, which had built trust and confidence. The partnership ensures:
- a. Māori design is embedded from the outset;
 - b. The development reflects Ngāti Whātua Ōrākei identity and values; and
 - c. Employment and economic opportunities for iwi members.
- 128 The partnership also includes frameworks to support long-term economic and professional development for the hapū including:
- a. Employment opportunities for iwi members during development and operation.
 - b. Career progression pathways.
 - c. Small business and contractor engagement for iwi-owned enterprises.
- 129 Moreover, a cultural design memorandum guides the project's conceptual direction. The design draws on *whakairo rākau* (traditional carving), emphasising removing the unnecessary to reveal the essence. Ngāti Whātua Ōrākei records that the redevelopment replaces an outdated, culturally incongruent structure with a space that reflects Māori identity and the iwi's unbroken mana over the area.
- 130 Ngāti Whātua Ōrākei Whai Rawa Limited has options to acquire up to 20% of the office component of the development. As set out in the letter to the EPA, this is their first major CBD investment (outside Te Tōangaroa) in 184 years. The project will also open investment opportunities to other iwi through a tikanga-based process led by Ngāti Whātua Ōrākei (*Te Tomokanga ki Tāmaki*).

³³ Ngāti Whātua Ōrākei letter to the EPA dated 25 November 2025.

- 131 Ngāti Whātua Ōrākei confirm that the project aligns with the environmental and cultural outcomes set out in Ngāti Whātua Ōrākei's 2018 Iwi Management Plan.

Consultation with other Tamaki Mana Whenua

- 132 As outlined in the Application³⁴ the Applicant consulted with other Mana Whenua groups of Tāmaki Makaurau directly and also through the Auckland Urban Development Office (formerly Eke Panuku) Mana Whenua Governance Forum. As set out in the Application, the overall objective of that engagement was to discuss the proposal and understand any issues that may exist with the site, locality and development and how they might be responded to and the information requirements needed for the Application.

- 133 The iwi approached by Precinct were:

- Ngāti Tamaterā,
- Ngāti Te Ata,
- Ngāti Whanaunga,
- Te Patukirikiri,
- Ngāi Tai ki Tāmaki,
- Ngāti Maru,
- Ngāti Pāoa,
- Ngāti Tamaoho,
- Ngāti Whātua o Kaipara,
- Te Ahiwaru – Waiohū,
- Te Kawerau ā Maki,
- Te Rūnanga o Ngāti Whātua, and
- Waikato - Tainui.

- 134 As noted above, Ngāti Whātua Ōrākei was specifically consulted, albeit in the context of being project partner/ design partner with Precinct. To that end, the design of the proposal has been guided by cultural narratives developed in collaboration with design partners, Haumi (NZ) Ltd (**Haumi**). Consultation also included the Authority to modify.

- 135 A supportive response to the proposal was received from Ngāti Whātua Ōrākei. The Panel understands that no issues of significant concern have been identified by iwi to date and that no iwi have opposed the project.

³⁴ Section 7 of the AEE – Consultation undertaken

- 136 Ngāti Whanaunga provided Precinct with a final version of its Cultural Values Assessment (**CVA**) dated 19 December 2025. Post-lodgement of the Application, Precinct has been working with its project partner Ngāti Whātua Ōrākei in respect of the contents of the CVA. Ngāti Whātua Ōrākei wishes to address the matters within the CVA through a tikanga approach. Ngāti Whātua Ōrākei has attempted contact with Ngāti Whanaunga, through Ngāti Pāoa but has not had any response to date. Attached to the Planning Addendum as part of the additional documentation provided by the Applicant³⁵ (Attachment 2) was a copy of the final CVA, noting that the matters are still being addressed through a tikanga approach. It recorded that Precinct and Ngāti Whātua Ōrākei will provide an update to the Panel once matters have been addressed.
- 137 In respect of the previous paragraph, as already set out, Ngāti Whātua Ōrākei as tangata whenua, and project partner support the project. However, the project is guided by cultural narratives developed in collaboration with design partners, Haumi and Ngāti Whātua Ōrākei. This is discussed in more detail in the Architectural and Landscape Report and the Cultural Design Report included as Appendix 9B (Landscape Drawings) and Appendix 10 (Cultural Design Report) respectively of the Application.

21. Comments from iwi authorities etc

- 138 The Panel invited comments from the following iwi authorities, relevant Treaty settlement entities and any protected customary rights groups and customary marine title groups whose protected customary rights area or customary marine title is within the area to which the substantive Application relates (refer Minute 3 and Minute 4):
- Te Rūnanga o Ngāti Whātua, Ngāti Whātua o Ōrākei Trust Board, Hako Tūpuna Trust, Ngāti Maru Rūnanga Trust, Ngāti Pāoa Iwi Trust, Te Patukirikiri Iwi Trust, Ngāi Tai ki Tāmaki Trust, Ngāti Tamaterā Treaty Settlement Trust, Te Kawerau Iwi Settlement Trust, Te Ākitai Waiohua Waka Taua Inc, Ngaati Whanaunga Incorporated Society, Ngāti Te Ata Claims Support Whānau Trust, and Ngāti Tamaoho Settlement Trust;
 - Ngāti Whātua o Ōrākei Trust Board, Hako Tūpuna Trust, Ngāti Maru Rūnanga Trust, Ngāti Pāoa Iwi Trust, Te Patukirikiri Iwi Trust, Ngāi Tai ki Tāmaki Trust, Ngāti Tamaterā Treaty Settlement Trust, Te Kawerau Iwi Settlement Trust, Ngāti Tamaoho Settlement Trust, Te Ākitai Waiohua Settlement Trust, Ngaati Whanaunga Ruunanga Trust, Tūpuna Taonga o Tāmaki Makaurau Trust/ Whenua Haumi Roroa o Tāmaki Makaurau Limited Partnership, and Taonga o Marutūāhu Trustee Limited/Marutūāhu Rōpū Limited Partnership; and
 - Ngāti Koheriki Claims Committee, Te Ākitai Waiohua Settlement Trust, Ngāti Te Ata Claims Support, Whānau Trust, Ngāti Tamaterā Treaty Settlement Trust, Te Patukirikiri Iwi Trust, Ngāti Maru Rūnanga Trust, Hako Tūpuna Trust, and Te Rūnanga o Ngāti Whātua.
- 139 No comments, other than from Ngāti Whātua Ōrākei, were received from any of the iwi authorities invited to comment.

³⁵ Dated 7 April 2026.

22. Statutory requirements

22.1 Treaty settlements and recognised customary rights

- 140 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 and customary rights recognised under the Marine and Coastal Area (Takutai Moana) Act 2011 and the Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act 2019.
- 141 The project is not within or adjacent to Customary Marine Title Groups or Protected Customary Rights areas. The proposal is not occurring within or adjacent to the environmental covenant prepared by ngā hapū o Ngāti Porou under section 19 of the Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act 2019.
- 142 However, there are a number of Treaty settlements relevant to the Application. These have been set out in paragraph 125.

22.2 Effect of treaty settlements and other obligations

- 143 Because a number of Treaty settlements apply, section 82 becomes relevant to our decision making. Section 82 provides:

82 Effect of Treaty settlements and other obligations on decision making

- (1) This section applies if a Treaty settlement, the Marine and Coastal Area (Takutai Moana) Act 2011, or the Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act 2019 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).
- 144 No comments were received from any Treaty settlement entities or recognised customary rights authorities. Furthermore, Ngāti Whātua o Ōrākei didn't raise Treaty matters in their comments.

22.3 Conditions relating to Treaty settlements and recognised customary rights

- 145 Section 84 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.
- 146 Section 84 is relevant to our decision making and developing conditions with regard to the relevant Treaty settlements, such that we ought not set conditions that may impact

any Treaty settlements. The Panel has kept this issue in mind when drafting and then imposing conditions. Comments from the Applicant, with whom Ngāti Whātua o Ōrākei is closely aligned, have confirmed that [TBC].

22.4 Conduct of hearings and other procedural matters in the context of Treaty settlements and other arrangements

147 Schedule 3, clause 5 of the FTAA provides:

- (1) This clause applies if any Treaty settlement Act, the Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act 2019, or any other iwi participation legislation, or any Mana Whakahono a Rohe or joint management agreement, includes procedural arrangements relating to the appointment of a decision-making body for hearings and other procedural matters, such as the following:
 - (a) a requirement for iwi or hapū to participate in the appointment of hearing commissioners to determine resource consent applications or notice of requirement lodged under the Resource Management Act 1991;
 - (b) a requirement that notice be given to any person or specified class of person of any steps in a resource management process;
 - (c) any consultation requirements with iwi or hapū;
 - (d) any other matter of procedure for determining a matter granted under a specified Act that corresponds to an approval under this Act.
- (2) The panel convener or panel must—
 - (a) comply with the arrangements in the legislation, arrangement, or agreement referred to in subclause (1) as if they were a relevant decision maker (such as a local authority, department, Crown entity, or board of inquiry); or
 - (b) obtain the agreement of the relevant party under the legislation, arrangement, or agreement to adopt a modified arrangement that is consistent with achieving the purpose of this Act and the other legislation, arrangement, or agreement referred to in subclause (1).
- (3) The party referred to in subclause (2)(b) may not unreasonably withhold their agreement to a modified arrangement (as described in that subclause).
- (4) If the panel convener or panel are unable to obtain agreement under subclause (2)(b) (in circumstances where that agreement is not unreasonably withheld) they must stop processing the substantive application and must direct the EPA to return the application to the applicant immediately.
- (5) The panel must also direct the EPA to give written notice to the following that processing of the substantive application has stopped:
 - (a) the relevant local authorities; and
 - (b) if advice or a report has been requested from a person under section 51 and is yet to be provided to the EPA, that person; and
 - (c) if a recommendation has been requested from the relevant chief executive under section 48 and is yet to be made, the relevant chief executive; and
 - (d) if persons or groups have been invited to provide comments under section 35 or 53, those persons or groups.
 - (6) The panel and a person referred to in subclause (5)(b) or (c) must stop processing the substantive application if they receive notice of the stoppage.

148 Overall, the Panel is satisfied that it has complied with all of the procedural requirements in relation to Treaty settlements and has therefore met its obligations under clause 5 schedule 3 of the FTAA.

PART G: EFFECTS OF THE PROJECT ON THE ENVIRONMENT

149 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 the actual and potential effects of the activity, relevant risks associated with hazardous installations and discharges, mitigation measures, persons who may be affected, monitoring, and effects on any protected customary right.

- 150 The AEE provided a detailed assessment of these matters in section 9. Those who provided comments also raised a range of actual and potential effects of the Application on the environment. We have considered that material, the Applicant's response to comments, the further information provided through the RFI process, and the proposed and final conditions.

23. Receiving environment and permitted activities

- 151 For the purposes of assessing effects, the environment includes what presently exists and the future state of the environment as it may be modified by the utilisation of permitted activity rights or by the implementation of resource consents that are likely to be implemented³⁶. We were not told by any party that there were relevant resource consents for activities comparable to those proposed to take place on the Site that we should incorporate into our understanding of the receiving environment.
- 152 The receiving environment is an intensive, highly modified city-centre environment at the western end of Auckland's downtown waterfront. The site is occupied principally by the Downtown Carpark and associated bridges and ramp structures. It sits among high-rise commercial, hotel, residential, retail, public transport, road corridor and waterfront activities, including the MSocial Hotel, HSBC Tower, Aon Centre, the former Auckland Harbour Board Workshops, The Sebel, the Viaduct Harbour area and the Quay Street waterfront.
- 153 Although the physical redevelopment works require consent for a range of building, earthworks, transport, servicing, heritage, groundwater and other matters, a number of the activities proposed to occupy the completed development are anticipated by, and permitted within, the Business - City Centre Zone. In particular, office, retail, food and beverage, visitor accommodation/hotel, residential apartment and associated public/civic uses are consistent with the range of activities enabled by H8 of the AUP(OP).
- 154 The consent requirement therefore arises principally from the scale, design and effects of the proposed buildings and associated works, and from specific standard infringements and regional consent matters, rather than from any fundamental zoning inconsistency with the intended activity mix. We regard that distinction as important. The proposed activity mix is strongly aligned with the City Centre zone's role as Auckland's primary location for intensive commercial, residential, cultural, entertainment and visitor activity. The disputed issues concern whether the particular built form and implementation effects are acceptable and appropriately managed.
- 155 There is no legal basis to disregard the effects of a "complying" built form on the Site as if that built form were permitted. New buildings in this location require consent. Section 104(2) RMA therefore provides no material assistance to our adverse effects assessment. We have instead assessed the proposal by reference to the actual effects identified in the evidence, the relevant assessment criteria and matters for discretion, and the statutory framework that applies under the FTAA.

³⁶ *Queenstown Lakes District Council v Hawthorn Estate Ltd* [2006] NZRMA 424 at [84].

24. Approach to effects evaluation

- 156 The AEE assessed a broad range of effects, including built environment, landscape and visual, shading, sunlight admission, residential and visitor accommodation amenity, public safety, traffic, access and parking, geotechnical, groundwater and structural matters, construction noise and vibration, earthworks, hazardous substances, infrastructure, natural hazards, cultural values, historic heritage, archaeology and social effects.
- 157 We have not repeated every AEE topic heading in full. The AEE and supporting reports form part of the record. Our assessment focuses on the effects that were material to our decision or raised in comments. We address cultural effects as a discrete topic, separate from historic heritage and archaeological effects. We otherwise group effects as follows: positive and beneficial effects; built form, height, HEHCP, landscape, visual and shading effects; operational effects of the completed development; construction and implementation effects; cultural effects; and historic heritage and archaeological effects.
- 158 This structure reflects the way the issues were ultimately contested, while recognising that cultural effects required separate consideration given the section 18 report, the iwi authority material, the Ngāti Whātua Ōrākei partnership and support, and the Ngāti Whanaunga CVA. Other than Auckland Council's concern about height, bulk, the HEHCP infringement and associated landscape, visual, waterfront amenity and shading effects, no party advanced a substantive case that the completed development should be refused because of its physical environmental effects. The remaining issues raised by MCK, The Sebel, Auckland Transport, Council specialists and nearby owners or occupiers were directed primarily to the management of demolition, excavation, construction and operational interface effects through conditions.
- 159 Where an effect was not materially contested, we summarise the Applicant's assessment and record our finding. Where an effect was contested, we identify the competing positions and explain our assessment. The adequacy, certainty and enforceability of the conditions is addressed in Part M, but we refer to those conditions where they are central to our effects findings.

25. Positive effects

- 160 The Application will produce positive effects in several ways. These include removal of an ageing carpark building from a prominent waterfront city-centre site; replacement with a high-quality mixed-use precinct; new publicly accessible civic space in Te Urunga Hau / The Urban Room; improved laneway and pedestrian connections between the city centre and waterfront; active ground-floor frontages; additional office, hotel, residential, retail and food and beverage capacity; and reduced reliance on public carparking in a highly transit-accessible location.
- 161 The proposal will also have positive cultural effects. The design has been guided by cultural narratives developed with Haumi and supported by Ngāti Whātua Ōrākei. Ngāti Whātua Ōrākei supports the project and has described the site as part of Te Kahu Tōpuni o Tuperiri, located on the former Waitematā seabed and of deep cultural significance to Ngāti Whātua Ōrākei. The project provides an opportunity for Ngāti Whātua Ōrākei visibility, ahi-kā, cultural expression, partnership and long-term economic and social outcomes.

- 162 We address regional and national benefits in more detail in Part H. For present purposes, we find that the positive effects are not confined to economic effects. They include urban regeneration, public realm, pedestrian connectivity, cultural recognition, social amenity and transport-oriented development outcomes. Those effects are relevant both to our assessment of actual and potential effects and to the FTAA proportionality assessment.

26. Built form, height, HEHCP, landscape, visual and shading effects

Summary of Applicant's position

- 163 The Applicant's position is that the Site is in the Business - City Centre Zone, within a Special Height Area, in a location where the tallest and most concentrated buildings in Auckland are generally enabled. The Applicant says the project will transform the western edge of the city centre, improve connections between the CBD and waterfront, and create a mixed-use precinct with a high-quality contemporary architectural and landscape design.
- 164 The Applicant accepts that the proposal infringes the Quay Street Harbour Edge Height Control Plane (HEHCP). It does not accept that the proposal infringes the general building height standard H8.6.2. Its position is that the HEHCP infringement is to be assessed against the purpose of that control and the relevant assessment criteria, rather than treated as a de facto height prohibition.
- 165 The Applicant's urban design and landscape evidence is that the proposed towers and podiums will provide a positive built form and public realm outcome. In summary, the Applicant relies on the stepped relationship between Tower 1 and Tower 2, the slenderness and chamfering of the towers, separation between the towers and neighbouring buildings, the quality of the tower crowns, the human-scale podium design, active frontages, new laneway connections and the removal of the existing carpark building.
- 166 On shading, the Applicant relies on the shading assessment by McIndoe Urban. It says most additional shading will fall on streets and surrounding commercial buildings in an area where shading from tall buildings is expected. It accepts that the project breaches the St Patrick's Square sunlight admission control, but says the additional shading is small in area and duration, occurs mainly at the edges of the square, and will not materially reduce the overall usability or amenity of that space.
- 167 The Applicant did not provide comparative shading diagrams as sought by Council. It says those diagrams would not be legally or technically useful because there is no permitted building baseline for the Site and the diagrams already provided assess the actual additional shading generated by the proposal.

Comments received and Applicant's response

- 168 Auckland Council's principal adverse effects concern relates to this topic. Council accepts that the proposal is a major city-centre redevelopment and acknowledges aspects of its design quality and potential benefits. However, Council's landscape, urban design and planning comments consider that Tower 1 and the overall built form raise significant concerns in relation to the HEHCP, waterfront transition, coastal/waterfront context, visual dominance, visual permeability, public realm amenity and shading.
- 169 Council's position is that the HEHCP is not merely a technical control. It regards the control as important to managing the scale of buildings at the western end of Quay Street, providing a transition in building height from the core CBD to the waterfront, maximising

views between the harbour and the city centre, and reinforcing the east-west Quay Street connection. Council's concern is that the scale and height of the proposal would materially depart from that planned waterfront transition.

- 170 Council also sought further comparative shading information to understand the incremental effects of the infringements and their relationship to affected public spaces. Some individual commenters, including interests associated with The Sebel, also raised concerns about height and the AUP(OP) rules, but they did not provide the same detailed expert opposition as Council.
- 171 The Applicant strongly disagreed with Council's assessment. It accepted that there is a clear departure from the HEHCP standard, but maintained that the proposal still provides an overt transition to the harbour, retains meaningful views between the harbour and city centre through tower separation and setbacks, contributes positively to the skyline, achieves the purposes of the HEHCP and considers the relevant assessment criteria. The Applicant also submitted that, even if the Panel preferred Council's landscape evidence and found a significant impact from the HEHCP infringement, section 85(4) would prevent the Panel from declining approval solely on the basis that the adverse impact is inconsistent with or contrary to a planning provision.

Panel assessment and findings

- 172 We accept that the height, scale and HEHCP infringement are the principal effects issue in contention. We also accept that Council's concern is a genuine planning and urban design concern, not simply a technical objection. The HEHCP is intended to influence the relationship between the city centre core and the harbour edge. We have therefore considered carefully whether the physical environmental effects associated with the infringement are acceptable.
- 173 Having done so, we prefer the Applicant's assessment. The Site is not a natural or low-rise harbour-edge environment. It is a highly modified city-centre block already occupied by large-scale structures and surrounded by high-rise commercial, hotel and mixed-use development. The existing Downtown Carpark is a substantial and visually poor structure in a prominent location. Its removal and replacement with a high-quality mixed-use development, public realm and laneway network is a significant positive change to the physical environment.
- 174 We consider the HEHCP infringement must be assessed by reference to its physical consequences, not treated as an independent environmental feature. The relevant environmental questions are whether the height and bulk will produce unacceptable visual dominance, unacceptable loss of views or visual permeability, unacceptable shading, or an unacceptable relationship with the waterfront and public realm. We are not satisfied that the Council's comments establish effects of that level.
- 175 The towers will be prominent. That is inherent in the proposal and is not in dispute. However, prominence is not, in this context, the same as unacceptable dominance. We accept that the tower separation, slender tower forms, stepped tower heights, chamfering, podium scale and architectural treatment materially reduce the potential for adverse bulk and dominance effects. We also accept that the proposal will contribute positively to the skyline and will be read as part of the city centre's existing and planned high-rise environment.

- 176 On waterfront transition, we accept that the proposal provides a lesser transition than a development fully contained below the HEHCP. However, we do not accept that this makes the physical effect unacceptable. The proposal retains a discernible transition through the relationship between Tower 1 and Tower 2, their location and form, and the podium relationship to the street and public realm. We also accept the Applicant's evidence that views and visual permeability between the harbour and city centre are retained through building separation and the proposed laneway/public realm structure.
- 177 On shading and sunlight admission, we find the effects acceptable. The St Patrick's Square infringement is a relevant adverse effect, but on the evidence before us it is limited in area and duration and does not materially compromise the use or amenity of the square. We do not accept that comparative shading diagrams against a hypothetical complying-but-not-permitted building were necessary for us to understand the actual effects of the proposal.
- 178 Overall, we find that the built form, height, HEHCP, landscape, visual, waterfront amenity and shading effects do not warrant refusal. They are not adverse impacts of such significance as to be out of proportion to the project's regional and national benefits. To the extent those effects reflect inconsistency with a planning control, section 85(4) confirms that such inconsistency alone cannot found a refusal decision. In any event, our finding is based on the physical effects, not solely on the legal status of the infringement.

27. Operational effects of the completed development

Summary of Applicant's position

- 179 The Applicant assessed the operational effects of the completed development across on-site residential and visitor accommodation amenity, public safety, operational traffic, access and parking, wind, trees, hazardous substances, servicing and infrastructure, and natural hazards. Its overall position is that these effects are acceptable and can be appropriately managed through design, management plans and conditions.
- 180 For on-site amenity, the Applicant says the residential units and hotel rooms have been designed to provide a high standard of internal amenity, including appropriate daylight, ventilation, outlook, acoustic treatment, shared facilities and safe circulation. Where any technical standard is not fully met, the Applicant considers the overall amenity outcome remains acceptable.
- 181 On public safety, the Applicant relies on the CPTED review. It says the new laneways, public spaces and building edges will be active, visible and well-lit, and that the mix of uses will support natural surveillance across the day and evening. Construction safety will be managed through the CMP, fencing, traffic controls, pedestrian management and site supervision.
- 182 On transport, the Applicant relies on the Operational Integrated Transport Assessment. It says the reduction from approximately 2,000 public car parks to a much smaller basement parking supply is consistent with city-centre transport strategy, that the Site is highly accessible by public transport, walking and cycling, and that the proposed service lane, loading, cycle parking and end-of-trip facilities support a safe and efficient transport outcome. It also relies on the need for a hotel pick-up/drop-off facility to support the proposed hotel use.
- 183 On wind, the Applicant relies on the wind tunnel assessment and proposed mitigation. It says the public spaces, laneways and building edges can meet the AUP(OP) wind

performance standards with targeted mitigation, including planting or screening where required. On hazardous substances, the Applicant relies on the hazardous substances assessment and proposed management controls for diesel storage and associated maintenance substances. On natural hazards, it relies on the coastal hazard and flood risk assessments, floor levels, basement design and flood barrier management measures.

Comments received and Applicant's response

- 184 Auckland Council and Auckland Transport raised the main operational concerns. These included the hotel PUDO design and management, service lane operation, loading and servicing, pedestrian safety, wind mitigation deliverability, infrastructure servicing, flood barrier design and management, and hazardous substances/flood interaction.
- 185 Auckland Transport's most material concern related to the hotel PUDO. It considered the facility constrained and potentially difficult to operate safely and efficiently, particularly having regard to vehicle manoeuvring, pedestrian/vehicle conflict, queuing, larger vehicles and reliance on management procedures. Council also raised concerns about whether wind mitigation by trees was sufficiently resolved, given soil volumes, species/form and possible service conflicts. Council/Watercare raised concerns about wastewater servicing certainty, the timing and responsibility for local network upgrades, and whether infrastructure works had been adequately assessed as part of the project.
- 186 The Applicant responded by providing further transport information, obtaining a peer review of the PUDO from Mr Hughes, offering updated PUDO management plan conditions, and accepting some further transport and servicing refinements. It proposed an alternative on-site 5m screen if off-site tree mitigation for wind could not be delivered. On infrastructure, it maintained that feasible servicing options had been demonstrated and that final design matters could properly be resolved through detailed design, Engineering Plan Approval and pre-occupation connection conditions.

Panel assessment and findings

- 187 We find that the operational effects of the completed development are acceptable, subject to the conditions we impose. We accept that some aspects, particularly the hotel PUDO, servicing/loading, wind mitigation and infrastructure servicing, require careful implementation. However, those issues do not amount to reasons to refuse approval. They are appropriately addressed through direct design requirements, management plan certification, monitoring, review and operational controls.
- 188 In relation to traffic and parking, we accept the Applicant's overall assessment that the completed development will generate acceptable transport effects in its city-centre context. The significant reduction in public carparking is consistent with the strategic direction for this location and with the Site's proximity to Waitematā Station, the Lower Albert Street bus interchange, ferry services and the surrounding walking and cycling network. We accept that the final transport conditions should require careful management of the service lane, loading, PUDO operation, monitoring and review.
- 189 In relation to wind, we accept that wind effects can be managed through the proposed mitigation and conditions requiring either the identified tree mitigation or an on-site screen alternative. We are satisfied that the final conditions provide a sufficient pathway to ensure the performance outcome is achieved.
- 190 In relation to hazardous substances and natural hazards, we accept the Applicant's assessment that the design and management measures will avoid or adequately mitigate

risks to people, property and the environment. We accept that the Site is exposed to coastal inundation risk, but find that the proposed building levels, basement design, flood barrier management framework and conditions are appropriate to manage that risk over the relevant design life.

- 191 In relation to infrastructure and servicing, we accept that final design and network approval processes remain necessary. However, we are satisfied that the evidence demonstrates feasible servicing options and that the final conditions secure the necessary servicing outcome before occupation. We do not consider the residual servicing issues justify refusal.

28. Construction and implementation effects

Summary of Applicant's position

- 192 The Applicant accepts that demolition, excavation, basement construction and construction of the towers and podiums will generate temporary adverse effects. The proposed construction period is substantial and the Site is constrained by adjoining buildings, the road network, public transport operations, pedestrian activity, hotels, apartments and commercial occupiers. The Applicant's position is that these effects are expected for a project of this nature in the city centre and can be managed through the suite of proposed conditions and management plans.
- 193 The main construction and implementation effects are construction noise and vibration, construction traffic, access and servicing disruption, dust and air quality, geotechnical/groundwater and structural interface effects, excavation and bulk earthworks, construction lighting, temporary structures, wayfinding, construction waste, stormwater and sediment controls, and general business and social disruption.
- 194 The Applicant relies on a detailed suite of management plans (CMP, CTMP, CNVMP, GSMCP, DMP, CSMP), erosion and sediment controls, archaeological management measures, building condition surveys, monitoring, trigger/action responses, communications and a Community Liaison Group (**CLG**) framework. It also relies on the further condition refinements made through the comments and RFI processes.

Comments received and Applicant's response

- 195 Most non-Council comments were directed to construction and implementation effects rather than opposition to the completed development. MCK supports redevelopment of the Downtown Carpark site in principle, but raised detailed concerns about demolition, excavation, site preparation and construction effects on the immediately adjacent M Social Hotel. Its concerns focused on geotechnical, groundwater and structural risk, construction noise and vibration, hotel operational sensitivity, access, servicing and condition certainty.
- 196 The Sebel and individual Sebel owners raised similar construction noise, vibration, access, disruption, sleep disturbance and amenity concerns. Viaduct Harbour Holdings focused on construction traffic effects on the Viaduct Harbour/Wynyard Quarter network. Piccadilly Trustee and other nearby owners and occupiers focused on communications, business continuity, advance notice, access, servicing, noise, vibration, dust, pedestrian safety and condition enforceability.
- 197 Council and Auckland Transport also raised detailed construction issues, including heavy vehicle movements, truck routes, the use and operation of Lower Hobson Street, the service lane, bus network effects, pedestrian safety, construction staging, the flyover,

infrastructure works in the road corridor, noise and vibration schedules, dust monitoring and the relationship between management plans and direct conditions.

- 198 The Applicant accepted that further engagement and refinement of conditions was appropriate on several of these matters. However, it did not accept that the construction effects were of a scale or nature that justified refusal. It maintained that the effects were temporary, typical of major city-centre construction, and manageable through conditions. It also rejected some requested conditions where it considered they were better addressed through private agreement, building consent or engineering approval processes, or where they were more onerous than necessary.

Panel assessment and findings

- 199 We accept that construction effects will be real and, at times, significant for nearby receivers. The scale and duration of the works mean that affected hotels, apartments, commercial occupiers, pedestrians, road users and public transport operations will experience disruption. We do not downplay those effects.
- 200 However, we also find that those effects are temporary, staged and capable of management. This is a major redevelopment in the core of Auckland's city centre, where demolition, excavation and construction effects are not unexpected. The appropriate issue for us is therefore whether the effects can be kept within acceptable bounds through conditions, monitoring, management plans, communication and response mechanisms. We find that they can.
- 201 In relation to construction noise and vibration, we accept that MSocial, The Sebel and other nearby receivers have particular sensitivities. We also accept that exceedances of ordinary construction noise expectations may occur for some activities and periods. The conditions therefore need to provide a clear CNVMP framework, scheduling process, monitoring, notification, complaints response and controls for higher-effect works. Subject to the conditions we impose, we are satisfied that construction noise and vibration effects are acceptable.
- 202 In relation to geotechnical, groundwater and structural interface effects, we accept that the deep excavation in reclaimed ground adjacent to existing buildings requires careful design, monitoring and contingency planning. We give weight to the Applicant's geotechnical and structural assessments, the additional permeability testing, the GSMCP framework and the further condition development. We also recognise MCK's concerns and the potentially significant consequences of an adverse response at the immediately adjoining M Social Hotel. On balance, we find that the final conditions—including survey, continuous monitoring during the identified critical phases, trigger and action responses, reporting, and structural-design and construction-interface information and engagement requirements—provide an appropriate resource consent response. Detailed design remains the Applicant's responsibility and the ordinary building consent and engineering approval processes continue to apply, supplemented by the resource consent conditions we impose.
- 203 In relation to construction traffic and access, we accept that construction vehicle movements, closures, diversions and service lane works will create disruption. We find that those effects can be managed through the CTMP, direct route and access controls, restrictions on heavy vehicle movements, pedestrian management, monitoring, communication and review mechanisms. We also accept that some flexibility is necessary given the constrained and evolving downtown transport environment.

- 204 In relation to dust, earthworks, contaminated land, stormwater and sediment, we accept the Applicant's assessment that effects can be managed through standard and project-specific controls. The Site is almost entirely developed or hard surfaced, but the excavation volume is large and the potential for dust, sediment and contaminated material requires careful control. The DMP, CSMP, erosion and sediment controls, monitoring and disposal requirements are sufficient to address those effects.
- 205 Overall, we find that construction and implementation effects are not a basis for refusal. They are material effects, and they justify robust and enforceable conditions, but they are not sufficiently significant to be out of proportion to the project's regional and national benefits.

29. Cultural effects

Summary of Applicant's position

- 206 Cultural values were addressed through the design process, the cultural design material and the broader consultation and partnership record. The proposal has been guided by cultural narratives developed with Haumi, supported by Ngāti Whātua Ōrākei. A Cultural Values and Impact Assessment was also provided by Ngāti Whanaunga. The Applicant and Ngāti Whātua Ōrākei responded to that material through a tikanga-based approach.

Comments received and Applicant's response

- 207 Ngāti Whātua Ōrākei supported the project. Its comments emphasised its identity as tangata whenua and tangata moana of central Tāmaki Makaurau, the location of the Site within Te Kahu Tōpuni o Tuperiri, the former Waitematā seabed, and the project's ability to support cultural expression, partnership and intergenerational outcomes.
- 208 Ngāti Whanaunga's CVA sought ongoing involvement in cultural design and cultural experiences at the Site, and requested archaeological authority conditions providing for iwi information and notification. The Applicant's response, supported by Ngāti Whātua Ōrākei, was that Ngāti Whātua Ōrākei is tangata whenua for the Site and the appropriate project partner for ongoing cultural design and tikanga matters. The Applicant also supported removing Waikato-Tainui and Ngāti Whanaunga from certain tikanga-related archaeological authority conditions proposed by HNZPT.

Panel assessment and findings

- 209 We accept that the cultural effects of the project are positive. We give significant weight to the direct support of Ngāti Whātua Ōrākei, its role as project partner, and its evidence that the project will enhance cultural values, provide for cultural expression and support the exercise of mana and kaitiakitanga over a site of deep significance.
- 210 We acknowledge the Ngāti Whanaunga CVA. We also accept the Applicant's and Ngāti Whātua Ōrākei's response that, for this Site, Ngāti Whātua Ōrākei is the tangata whenua project partner and that ongoing cultural design and tikanga matters should be addressed through that relationship. We are satisfied that no iwi authority has opposed the project and that cultural effects have been appropriately addressed.

30. Historic heritage and archaeological effects

Summary of Applicant's position

- 211 The principal built heritage feature is the former Auckland Harbour Board Workshops at 204 Quay Street. That building is scheduled in the AUP(OP) and listed as a Category 2 historic place. The project will remove the pedestrian bridge connection to that building and undertake make-good works to the façade. The Applicant's heritage assessment is

that removal of the bridge and façade reinstatement will have neutral or positive heritage effects.

- 212 The key archaeological feature is the recorded Auckland Graving Dock site R11/3458 and a small area of 19th century reclamation. Because the project involves demolition and excavation for the basement, disturbance of archaeological material is possible and an archaeological authority is required. The Applicant proposes archaeological management, monitoring, recording and accidental discovery procedures.

Comments received and Applicant's response

- 213 Auckland Council's heritage specialist did not identify information gaps and considered the proposed conditions sufficient to mitigate potential archaeological and historic heritage risk. HNZPT recommended that the archaeological authority be granted subject to conditions, and that Ellen Cameron be approved as the person to undertake the archaeological work.

Panel assessment and findings

- 214 We find that built heritage effects on the former Auckland Harbour Board Workshops are acceptable and, in some respects, positive. Removal of the non-heritage pedestrian bridge and make-good of the façade will improve the presentation of that heritage building. Construction effects on heritage fabric can be managed through the conditions.
- 215 We also find that archaeological effects can be appropriately addressed through the archaeological authority conditions. HNZPT supports grant of the authority subject to conditions. We accept that the conditions requiring archaeological management, monitoring, tikanga procedures, taonga and kōiwi protocols, recording and reporting are appropriate.

31. Section 105 consideration

- 216 Section 105 RMA is relevant because the Application includes discharge consents under section 15 RMA. Section 105 requires the Panel, in addition to the section 104 matters as incorporated through Schedule 5 of the FTAA, to have regard to the nature of the discharge and the sensitivity of the receiving environment, the applicant's reasons for the proposed choice, and any possible alternative methods of discharge, including discharge to another receiving environment.

Applicant's position

- 217 The Applicant's section 105 assessment is directed principally to the potential discharge of contaminants from the disturbance of contaminated land during demolition, earthworks, excavation and construction. The AEE records that the nature of the discharge and the sensitivity of the receiving environment are addressed through the Preliminary Detailed Site Investigation, and that a full Detailed Site Investigation has been deferred because full site access is not available until demolition and removal of existing impervious surfaces. The Applicant's position is that, given those site-access constraints and the nature of the works, there are no practicable alternative methods of discharge at this stage.
- 218 The Applicant also relies on the proposed management-plan framework. The project involves substantial excavation and land disturbance on reclaimed land, including approximately 100,000m³ of bulk earthworks over an area of approximately 6,442m². The Applicant's case is that potential sediment, contaminated runoff, groundwater/dewatering and construction-phase discharge effects can be managed

through the Erosion and Sediment Control Management Plan, Contaminated Site Management Plan, Groundwater and Settlement Monitoring and Contingency Plan, and related certification and monitoring conditions.

- 219 In relation to the receiving environment, the Applicant accepts that stormwater from the site will ultimately discharge through existing coastal outlets to the inner Waitematā Harbour. Its position is that the proposal does not involve works within the coastal marine area, stormwater will be managed through the reticulated network using best-practice stormwater management, and the removal of the existing above-ground carpark will reduce a high contaminant-generating activity on the site.
- 220 The Applicant further records that wastewater and stormwater will connect to public networks, with no direct wastewater discharge to the coastal marine area. It relies on erosion and sediment controls, contaminated land management, dust controls and construction management measures as the practical means of avoiding or minimising adverse effects on water quality and related cultural values.

Auckland Council's position

- 221 Auckland Council did not raise a discrete objection to the Applicant's section 105 evaluation as such. Its comments were directed to the adequacy of the underlying technical controls and conditions for sediment, contaminated water, groundwater/dewatering and construction stormwater management.
- 222 On sedimentation, Council recorded the scale of the works and the proximity of the site to the coastal receiving environment of the Waitematā Harbour. Council's Regional Earthworks specialist considered the indicative erosion and sediment control approach generally appropriate, provided the final ESCMP is certified and includes clearer requirements for stabilised construction entrances, wheel-wash facilities, dewatering and treatment details, monitoring and maintenance of water treatment devices, final wastewater construction methodology where relevant, and pre-winter review of erosion and sediment controls. Council also sought new conditions addressing minimum visual clarity and pH for stormwater discharges, a Chemical Treatment Management Plan for dewatering systems, and containment/disposal of concrete cutting water to prevent entry to the stormwater system.
- 223 Council's conclusion on sedimentation was that the works could be suitably managed by the proposed erosion and sediment control measures, subject to the amended and additional conditions it recommended. On that basis, Council considered that no residual sedimentation effects remained that required proportionality assessment.
- 224 On contaminated land, Council accepted the Preliminary Detailed Site Investigation conclusions. Council recorded that because contaminated reclamation fill may be present, groundwater on the site may also be contaminated and may require appropriate management, removal and disposal during works. Council's position was that the proposed DSI, to be undertaken once the existing carpark and impervious surfaces are removed, and the CSMP process are appropriate to confirm the extent of contamination and whether additional measures are required before soil disturbance.
- 225 On groundwater and dewatering, Council's groundwater specialist supported the proposal subject to strict adherence to amended conditions and the certified Groundwater and Settlement Monitoring and Contingency Plan. Council concluded that, with those conditions, settlement-related groundwater effects on the receiving environment would

be less than minor and that there were no significant residual groundwater impacts requiring proportionality assessment.

Other parties' positions

- 226 No other commenting party appears to have advanced a separate section 105 alternatives argument directed to the proposed water discharges.

Panel assessment and findings

- 227 Overall, the parties' positions on section 105 are relatively narrow. The Applicant says the relevant discharges are construction-phase discharges associated with necessary demolition, earthworks, contaminated land disturbance, stormwater runoff and dewatering in a fixed urban redevelopment location. It says there is no practicable alternative receiving environment, and that the appropriate response is to manage and minimise discharges through certified erosion and sediment, contamination, groundwater and construction management plans.
- 228 Council does not appear to dispute that broad section 105 approach. Its concern is condition-based: the receiving environment is sensitive because stormwater ultimately discharges to the Waitematā Harbour, and the scale of earthworks and contaminated fill risk require robust pre-works investigation, treatment, monitoring, discharge standards and contingency controls. Council's position is that, with those amendments and conditions, sedimentation, contaminated land and groundwater/dewatering effects are acceptable and do not leave residual impacts requiring proportionality assessment.
- 229 No party has identified a realistic alternative discharge method or alternative receiving environment that should be preferred. The remaining issue for the Panel is therefore not a contest about alternative receiving environments, but whether the final conditions adequately secure the management measures relied on for the section 105 assessment.

32. Overall effects findings

- 230 Drawing these findings together, we find that the project will have substantial positive effects and benefits. The redevelopment will replace an ageing and visually poor carpark structure with a high-quality mixed-use development, new civic space, improved pedestrian connections, active frontages, cultural design outcomes and a more intensive transit-oriented use of a strategically important city-centre site.
- 231 We do not accept that the height, bulk, HEHCP infringement, shading, landscape, visual or waterfront amenity effects warrant refusal, either individually or cumulatively. Those effects are real and were properly raised by Council, but in our assessment they are acceptable in the receiving environment and must be weighed in the FTAA framework against the project's significant regional and national benefits.
- 232 We accept that construction effects will be material and, for some neighbouring receivers, significant at times. However, those effects are temporary, capable of being managed through robust conditions, and are not out of proportion to the project's regional and national benefits. Our detailed condition reasoning is addressed in Part M.
- 233 Overall, we find that the actual and potential adverse effects of the project, after taking into account the conditions we impose, are acceptable. They do not provide a basis to decline any of the approvals sought.

PART H: REGIONAL OR NATIONAL BENEFITS OF THE PROJECT

- 234 Section 3 states that the purpose of the FTAA is to facilitate the delivery of infrastructure and development projects with *significant regional or national benefits*.
- 235 As noted above in Part C section 81(4) specifically requires the Panel to consider the extent of the project's regional or national benefits.
- 236 The assessment of adverse impacts in relation to an approval sought is particularly relevant in the context of a decision to decline an approval. An approval can only be declined if the adverse impacts are out of proportion to regional or national benefits³⁷.
- 237 There is no specific definition of "significant regional or national benefits" in the context of listed projects. Section 22, 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;
- 238 In the case of the Application, the issue is whether allowing the proposed redevelopment of the Downtown Carpark building as proposed, would produce significant regional or national benefits for the purposes of the FTAA, and how those claimed benefits should be weighed against potential economic costs and other potential development risks.

33. Summary of Applicant's Position

- 239 The AEE included a detailed assessment of the potential economic regional and national benefits of the project, supported by an Economic Impact Assessment (EIA). The EIA sets out that there would be significant benefits from the project in terms of economic, social, cultural, urban design, and environmental. These included:
- a. Major Economic Contribution:**
- Total direct expenditure (excluding land) of approximately \$1.635 billion over the updated development timeframe, with Auckland regional GDP NPV of approximately \$1.48 billion at an 8% discount rate and approximately \$1.98 billion at a 2% sensitivity rate;
 - Approximately 11,971 full-time equivalent (FTE) years of employment generated across the development and construction programme;

³⁷ Section 85(3) FTAA

- Approximately \$669 million in additional regional household income;
- Significant flow-on activity for tourism, retail, hospitality, and other city-centre businesses; and
- Expected to catalyse further private investment in the surrounding area³⁸.

b. Transformation of the City Centre Urban Environment

- Replaces an aging carpark with a high-quality, architecturally designed mixed-use precinct;
- Introduces a new laneway network, improving connectivity between the CBD and waterfront;
- Activates street edges with retail, hospitality, and civic uses, improving safety and vibrancy; and
- Creates a pedestrian-oriented environment with enhanced public realm and legibility.

c. Creation of Te Urunga Hau / The Urban Room

- A major new public space that is inclusive, memorable, and culturally layered;
- Embeds mana whenua values and Te Aranga Design Principles; and
- Strengthens cultural identity and sense of place for residents and visitors.

d. Positive Contribution to Auckland's Skyline and Built Form

- Two slender towers and articulated podiums create a distinctive, culturally resonant landmark;
- Strong integration with the surrounding built environment; and
- Human-scale frontages and active edges enhance the quality of the streetscape.

e. Long-Term Social and Economic Benefits from Mixed Uses

- Provides office, residential, hotel, retail, and civic spaces in a strategic, transit-rich location;
- Supports ongoing employment, tourism growth, and city-centre business functions; and
- Aligns with Auckland Plan 2050 and NPS-UD goals for compact, efficient urban growth.

f. Supports Low-Carbon, Transit-Oriented Development

- Immediate proximity to Lower Albert Street bus interchange, Waitematā Station, and ferry terminals;
- Encourages low-carbon travel choices and reduces reliance on private vehicles;
- Enhanced walkability through laneways, landscaping, and public realm

³⁸ An addendum to the EIA updated the development timeframe and input assumptions following further engagement. It concluded that the updated programme did not change the earlier conclusion that the Project would yield regionally significant economic benefits for the Auckland regional economy and community, and would contribute to a well-functioning urban environment within the Auckland Region

improvements; and

- Incorporates energy-efficient design and resilient infrastructure.

g. Partnership with Ngāti Whātua Ōrākei

- Development is undertaken in partnership with Ngāti Whātua Ōrākei Whai Rawa Ltd;
- Ensures cultural values are embedded and tangata whenua connections are honoured;
- Provides financial participation opportunities for Ngāti Whātua Ōrākei and other iwi/hapū across Aotearoa; and
- A letter of support from Ngāti Whātua Ōrākei accompanies the Application.

240 The Applicant also relied on the corporate evidence from of Precinct³⁹, which described the project as the final phase of the Commercial Bay masterplan, expected to increase the Commercial Bay workforce from about 10,000 to 17,000 people, to strengthen the east-west connection from Britomart to the Viaduct and beyond, and to create a new city-centre living and working hub.

241 The Ngāti Whātua Ōrākei letter of support⁴⁰ records that the site is part of Te Kahu Tōpuni o Tuperiri, sits on the former Waitematā seabed, and is culturally significant to Ngāti Whātua Ōrākei. The Applicant's position is that replacing the existing carpark with a co-designed development will generate cultural benefits that are not adequately captured by a narrow economic assessment.

242 The Applicant further relied on the investment and partnership arrangements with Ngāti Whātua Ōrākei Whai Rawa Limited. Those arrangements include an option to acquire up to 20% of the office component, an opportunity for other iwi and hapū to invest through Te Tomokanga ki Tāmaki, and non-commercial outcomes including employment, career progression, small business and contractor opportunities for hapū members.

243 On the Applicant's case, the relevant benefits therefore include, but are not limited to, economic activity measured by the EIA. In addition, they include cultural recognition and ahi-kā, city-shaping urban renewal, increased office and visitor accommodation capacity, a new publicly accessible civic space, improved laneway and pedestrian connectivity, support for transit-oriented growth, and alignment with the NPS-UD and Auckland's compact urban form policy direction.

34. Comments received and Applicant's response

244 Ngāti Whātua Ōrākei supported the Project and described the partnership with Precinct as providing significant and tangible benefits extending beyond this Project, including long-term intergenerational cultural, social and economic outcomes. Ngāti Whātua Ōrākei also identified direct employment and business opportunities, whānau contractor pathways, cultural expression opportunities and the embedding of Ngāti Whātua Ōrākei identity and values in the design and delivery of the development.

245 No other commenting party advanced a substantive opposition to the existence of benefits. The principal qualification was Auckland Council's regulatory assessment of the

³⁹ From Mr Scott Pritchard, CEO and Mr Tim Woods, GM Development – both included with the AEE.

⁴⁰ Also included with the AEE.

scale and evidential basis of the claimed economic benefits, addressed below. Other comments were directed mainly to adverse effects and condition design rather than disputing that the project has important benefits.

- 246 The Council's economist considered that Precinct's economic assessment had not demonstrated that the project would generate regionally significant economic benefits; albeit ultimately concluding that the Application is supported on economic grounds.
- 247 Council's broader planning memorandum also accepted or partly accepted several of the claimed wider benefits, including support for sustainable growth, reduced reliance on private car use, land use and transport integration, infrastructure resilience in general terms, and human-scale frontages, active edges and enhanced street interfaces. It also recorded that Ngāti Whātua Ōrākei summarised the economic and cultural benefits to them as being of huge significance and that the Project would align with the environmental outcomes sought by the Ngāti Whātua Ōrākei Iwi Management Plan.
- 248 The Council's economist, in reviewing the Applicant's EIA stated that the economic benefits have been "materially overstated", with very limited consideration of the costs that will be associated with project. Overall, the assessment sets out that regionally significant economic benefits have not been demonstrated and neither has it established there to be no material economic costs.
- 249 The Council's economist suggested that the benefits need to be recalculated on a corrected basis and that if they were they would represent only a small fraction of the values reported. While it is concluded the benefits are "net beneficial to the community" they would not meet the threshold of regional significance.
- 250 Notwithstanding the above, the Council's economist supports the development on economic grounds – that the project may meet the threshold for regional significance under the FTAA in relation to the ongoing benefits to Ngāti Whātua Ōrākei and the scale and strategic role of the substantial office capacity enabled by the project. The Council economist also considered that the substantial office capacity enabled by the project was material and potentially significant, including because the building would be capable of accommodating a significant share of Auckland CBD economic activity.
- 251 The Council's economist stated that the benefits set out in the preceding paragraph were not addressed in the Applicant's EIA, and that they are material, and potentially significant. It was recommended that the Panel request further information on these matters which relate to⁴¹:
- Iwi benefits
 - Office market assessment;
 - Baseline / counterfactual assessment; and
 - Cost benefit analysis and externalities assessment.
- 252 We also note that the Council's economist considered that a cost benefit analysis (**CBA**) was required for the economic assessment of this proposal⁴².

⁴¹ Memorandum of Planning Matters for Auckland Council, dated 7 May 2026, at paragraph 17.

⁴² Auckland Council economics memorandum dated 14 April 2026, at page 9.

253 It was the Council's position that⁴³:

... without this regional economic justification to support the development, the benefits have not been sufficiently demonstrated. In contrast, the Council's specialists have identified that there are a number of adverse effects associated with the scheme of a sufficient significance, scale and nature, some of which either require additional information from the Applicant or agreed conditions to potentially resolve.

254 The Council's Recommendation and Conclusion (in the Key findings section) was that⁴⁴:

The Application is concluded to generate significant adverse impacts in respect of the matters listed above that collectively could be out of proportion to the project's benefits (of which the regional economic benefits are currently not sufficiently evidenced by the Applicant⁴⁵). This is accounting for proposed conditions and mitigation. The identified information gaps are, however, such that a conclusion cannot yet be reached on whether this would be the case.

255 The Applicant's response was to strongly disagree with the Council's assessment and comments. Its legal memorandum set out the following⁴⁶:

As the Expert Panel will be aware, the significant regional or national benefits test under the FTAA is, deliberately, not limited only to economic or quantifiable benefits, but rather includes all relevant "benefits" of the proposal. The benefits of this Application extend well beyond its (significant) economic benefits and also include several long-term other qualitative benefits. These benefits include, in summary:

- (a) Cultural benefits, as outlined in the letter from Ngarimu Blair that formed part of the Application, the Ngāti Whātua Ōrākei section 52 comments, and the Ngāti Whātua Ōrākei Whai Rawa letter in Attachment D.*
- (b) Social benefits, with the introduction of major new public spaces (including the Urban Room).*
- (c) City-shaping benefits, with strengthened vitality, amenity and liveability of the city centre through the mixed-use development, with increased retail, commercial, residential, and hotel capacity in the city centre.*
- (d) Environmental benefits, through the Application creating intensification in a highly transit-oriented location and the enhanced east-west connectivity across the Waitematā harbour for pedestrians.*

Overall, the Application clearly meets the significant regional benefits test (and, we say, in fact has benefits of national significance), not only for economic reasons, but also based on the significant wider benefits that the proposal will generate.

⁴³ Ibid at paragraph 18.

⁴⁴ Section D3: Key Findings, at paragraph 575.

⁴⁵ As set out in the Council's Economic Assessment.

⁴⁶ Memorandum of Counsel – Addressing the comments on the proposal, dated 21 May 2026, at paragraphs 16 and 17.

- 256 The Applicant's economist also fundamentally disagreed with the Council's assessment and conclusion, stating that⁴⁷:

It would appear the fundamental point of divergence from both the Council and their independent economic reviewer appears to be the objectives and process of the FTAA and the impact this has on the direction and extent of the economic assessment required. The legislative context is crucial in understanding the economic benefits identified. Pertinent issues raised in the review and addressed here include:

1. *The use of CBA versus EIA*
2. *Counterfactual position (permitted baseline)*
3. *Development costs*
4. *Quantification of 'other' costs*
5. *Operational benefits*

- 257 The Applicant's economist addressed each of the points above in their response⁴⁸. Having done so, they concluded that the Council's economic review started from the wrong premise - by treating the benefits as a cost-benefit exercise when the FTAA is concerned with the significance of a project's benefits). In their view, there was no persuasive basis to move away from the conclusions reached in the EIA. Their position remained that a development of this magnitude and structure will result in a significant economic benefit to the region.
- 258 The Applicant's economic response also said the EIA had been prepared to assess the scale and significance of economic activity generated by the specific project for the Auckland regional economy. It rejected the Council economist's premise that the FTAA required a full CBA or a net-benefits counterfactual analysis before a finding of significant regional benefits could be made.
- 259 The Applicant further submitted that the FTAA does not confine the assessment of regional or national benefits to net quantified economic benefits. Rather, the economic assessment is one strand of the wider benefits case, to be considered alongside cultural, social, urban design, environmental and strategic city-centre benefits.
- 260 With respect to the Council request for a CBA, Mr Pilkinton set out that from a legal perspective there is no statutory requirement under the FTAA for a CBA to be submitted with an application. He further set out that section 85(3), which requires the weighing of a project's benefits and its adverse impacts, does not require a CBA to be undertaken in order to undertake that exercise. We note that the Applicant's economists confirmed that a CBA would not be appropriate or necessary⁴⁹.
- 261 As part of the Applicant's response, Mr Kemble, Chief Executive Ngāti Whātua Ōrākei Whai Rawa Limited provided a letter⁵⁰ responding to the Council's economic and planning experts request that the financial benefits to Ngāti Whātua Ōrākei should be quantified.

⁴⁷ Economics response dated 18 May 2026, Property Economics, pages 1 and 2.

⁴⁸ Ibid.

⁴⁹ Ibid, at page 2.

⁵⁰ Dated 20 May 2026.

The Council's comments considered that the lack of quantified assessment was an information gap.

- 262 Mr Kemble set out that Ngāti Whātua Ōrākei confirmed that the benefits are meaningful but cannot yet be quantified as the commercial arrangements are not finalised and that the investment options were still evolving. He also set out the investment options and wider iwi participation; that Ngāti Whātua Ōrākei has formal options to invest in up to 20% of the office component of the development and that other iwi and hapū may also be able to invest, potentially broadening the benefits.
- 263 This response directly answered the Council's concern that the financial benefits had not been quantified. Mr Kemble's evidence was that the benefits were real and meaningful, but the precise commercial values were not yet capable of responsible quantification because the commercial arrangements and investment options were still evolving.
- 264 He further addressed that the benefits extended beyond financial returns; and that the iwi emphasises that cultural, social, and intergenerational benefits are significant (and had been overlooked by Council experts). These benefits include:
- A Ngāti Whātua Ōrākei-led cultural narrative embedded in the design;
 - Recognition of iwi values and responsibilities as tangata whenua;
 - Active, meaningful engagement by Precinct throughout the process;
 - Employment and business opportunities;
 - The Project is expected to create direct employment for iwi members and business and contractor opportunities for whānau; and
 - Precinct has committed to protocols supporting local, sustainable employment pathways.
- 265 Overall, Ngāti Whātua Ōrākei agrees the financial benefits will be real and meaningful, but they should not be viewed as the only or primary benefit and that cultural and community benefits are substantial, though not easily quantified.

35. Panel assessment and findings

- 266 We accept the Applicant's position that the Project will have significant regional benefits and, in aggregate, national benefits. We also accept that the FTAA benefits inquiry is not limited to economic benefits, still less to quantified net economic benefits. The statutory focus is on whether the project has significant regional or national benefits, and, for section 85 purposes, whether any residual adverse impacts are sufficiently significant to be out of proportion to those benefits.
- 267 We do not accept Council's approach insofar as it treated the absence of a CBA, or the absence of a quantified net counterfactual analysis, as undermining the benefits case. That approach gives insufficient weight to the text and purpose of the FTAA. A CBA may be useful in some cases, but it is not required by the FTAA and it would be too narrow a lens for this project in any event. That is, it would also risk under-valuing the cultural, social, urban design, public realm and city-shaping benefits which are central to the project.
- 268 We accept that the Applicant's EIA is an appropriate and sufficient evidential basis for recognising substantial regional economic activity associated with the project. We give weight to the updated EIA addendum, which confirms direct expenditure of approximately \$1.635 billion, Auckland regional GDP NPV of approximately \$1.48 billion at an 8%

discount rate, approximately 11,971 FTE years of employment, and approximately \$669 million in regional household income over the updated programme. We accept that input-output modelling has limitations and is not a full welfare analysis. However, in the statutory context, those limitations do not prevent us from finding significant economic benefits.

- 269 We also give substantial weight to the project's non-economic benefits. In our view, the redevelopment of a prominent and under-performing city-centre carpark site into a high-quality mixed-use precinct, with a new public urban room, improved laneway network, commercial, residential, hotel and retail capacity, and strong public transport accessibility, is a significant regional benefit. Given the site's central waterfront location and the role of Auckland's city centre in the national urban and commercial system, we also consider those benefits have national significance.
- 270 We give particular weight to the partnership with Ngāti Whātua Ōrākei. The evidence from Ngāti Whātua Ōrākei is direct, specific and strongly supportive. It records the site's cultural significance, the opportunity to exercise mana and kaitiakitanga over a site on the former Waitematā seabed, and the economic, employment, business, cultural and intergenerational benefits arising from the partnership. We accept that those benefits cannot be reduced to a dollar figure and that requiring such quantification would be inappropriate and inconsistent with the nature of the benefits described.
- 271 Council's own material acknowledged important aspects of the benefits case, including the likelihood of significant benefits to Ngāti Whātua Ōrākei and the material and potentially significant strategic role of the office capacity enabled by the Project. In our assessment, Council's ultimate stance that the benefits had not been sufficiently demonstrated was therefore not persuasive. It placed too much emphasis on contested economic methodology and too little on the whole benefits package required to be considered under the FTAA.
- 272 Overall, we find that the Project will deliver significant regional and national benefits. These include substantial regional economic activity, employment and household income, transformation of a strategically important city-centre site, a materially improved public realm and pedestrian network, support for compact and transit-oriented urban growth, cultural recognition and partnership outcomes for Ngāti Whātua Ōrākei, and wider city-shaping benefits for Auckland and New Zealand.

PART I: STATUTORY DOCUMENTS

- 273 The AEE addressed the relevant statutory documents and identified relevant provisions. Rather than repeat all of that, this section addresses the documents of particular relevance to the application (particularly relevant provisions) and the comments received. The Panel also relies on its conclusions on effects and the conditions we have decided to impose in support of the conclusions reached on relevant planning provisions as relevant to the topic area.

36. National Environmental Standards

- 274 The following relevant National Environmental Standards were briefly addressed in section 10 of the Application's AEE:
- National Environmental Standards for Assessing and Managing Contaminants in Soil to Protect Human Health 2011 (**NES-CS**).
- 275 The proposed ground disturbance is essential to enabling and facilitating the development of the Site. While a detailed site investigation (DSI) has not been completed given the

existing use, the Applicant's site investigation data from surrounding area and results from sampled reclamation fill extents indicate that reclamation fill was generally found to contain low concentrations of metals and polycyclic aromatic hydrocarbons (PAHs) which typically comply with the relevant acceptance criteria for the protection of both human health and the environment.

- 276 Encountered fill containing industrial and demolition waste was found to contain elevated concentrations of metals and PAHs, and in some cases included Total Petroleum Hydrocarbons (TPH) and/or the presence of asbestos. However, underlying natural soils are expected to yield concentrations within natural background ranges, i.e. uncontaminated.
- 277 To address any potential contamination, the Applicant has prepared a preliminary Draft Contamination Site Management Plan (**CSMP**)⁵¹ which outlines procedures to manage potential ground contamination effects on human health and the environment during ground disturbance activities associated with the proposed site development works and include requirements for pre-works sampling and testing prior to earthworks commencing.
- 278 We find that given the above, the overarching purpose and objective of the NES-CS to protect human health will be achieved.

37. National Policy Statements

- 279 Relevant national policy statements were addressed in section 10 of the AEE. The AEE identified the National Policy Statement on Urban Development 2020 (**NPS-UD**) as the only national policy statement requiring substantive assessment, but separately assessed the New Zealand Coastal Policy Statement 2010 (**NZCPS**) due to the proximate coastal location of the Site. It also recorded that no substantive assessment was required of the other national policy statements then in force, including those relating to greenhouse gas emissions from industrial process heat, highly productive land, freshwater management, indigenous biodiversity, renewable electricity generation and electricity transmission.
- 280 Auckland Council generally agreed with the AEE conclusions on the other national policy statements. However, Council brought to the Panel's attention the National Policy Statement for Natural Hazards 2025 (**NPS-NH**), which became operative after lodgement of the Application and was therefore not assessed in the AEE. Council's position was that an application which generally accords with PC120 and Chapter E36 of the AUP(OP) is likely to accord with the NPS-NH. We accept this advice and have therefore considered natural hazards principally through the AUP(OP), PC120 and the evidence on flood and coastal inundation risk, rather than treating the NPS-NH as generating a separate policy framework requiring specific assessment contention.
- 281 On that basis, and subject to that qualification, we focus in this section on the NPS-UD and the NZCPS.

37.1 NPS-UD

- 282 We find that the Application would clearly give effect to the NPS-UD.
- 283 Objective 1 is that New Zealand has well-functioning urban environments that enable all people and communities to provide for their social, economic and cultural wellbeing, and for their health and safety, now and into the future. Objective 6 concerns integrated

⁵¹ Appendix 17 of the AEE.

planning decisions, infrastructure planning and development, and Objective 8 concerns urban environments that support reductions in greenhouse gas emissions and are resilient to the current and future effects of climate change.

- 284 The Applicant's assessment was that the project aligns with the NPS-UD because it is a comprehensive mixed-use development within the Auckland city centre, in an area of very high transport accessibility and adjacent to major public transport nodes, including Waitematā Station, the Lower Albert Street bus interchange and the Downtown Ferry Terminal. The project will replace an under-performing carpark building with a high-density mix of office, residential, hotel, retail, food and beverage and civic uses, together with a new public urban room and improved pedestrian connections between the city centre and waterfront. The development of the Site will integrate well with the existing transport infrastructure and will support a reduction in greenhouse gas emissions through the reduction in commuter carpark numbers and by locating employment opportunities and other amenities in close proximity to surrounding residential land uses and public transport, again, noting the proximity to Waitematā Station along with the City Rail Link.
- 285 Council generally agreed with the Applicant's assessment in relation to Objectives 6 and 8. Its disagreement was confined to the extent of alignment with Objective 1, because Council considered that the proposed tower height and associated landscape, waterfront amenity, wind and shading effects affected whether the proposal would achieve a well-functioning urban environment.
- 286 We have addressed those matters in our effects findings, particularly in relation to height, the HEHCP, landscape and visual amenity, shading, wind and the quality of the public realm. For the reasons set out there, we do not accept that those effects prevent the project from contributing to a well-functioning urban environment. The proposal will substantially increase business and visitor accommodation capacity in the city centre, provide residential activity in a highly accessible location, improve public realm and pedestrian permeability, and support reduced reliance on private vehicle travel. We therefore find that the project gives effect to the NPS-UD.

37.2 NZCPS

- 287 The NZCPS states national policy for achieving the purpose of the RMA in relation to New Zealand's coastal environment. The AEE accepted that the NZCPS is relevant because the site is close to the inner Waitematā Harbour coastal environment and because stormwater from the site will ultimately discharge through existing coastal outlets. The AEE identified Policies 6, 13 and 18 as directly relevant.
- 288 The AEE assessed the project as consistent with the NZCPS. In summary, the Applicant's position was that the proposal does not involve works within the coastal marine area; the site sits within a highly modified part of the coastal environment; buildings are set back from the coastline; stormwater will be managed through the reticulated network using best-practice stormwater management; the removal of above-ground carparking will reduce high contaminant-generating activity; and Te Urunga Hau / the Urban Room and the proposed laneways will improve public access and connection between the city centre, the Viaduct and the waterfront.
- 289 Council agreed with the Applicant's assessment in relation to NZCPS Policies 6 and 18. Council did not agree with the assessment of Policy 13, relying on the advice of its landscape architect and urban design specialist. Its position was that, although the city centre waterfront is a highly modified part of the coastal environment, the height of the two towers is not appropriate to the coastal context. Council linked that concern to the significant infringement of the HEHCP, which it said had been developed to reflect the

existing natural character of the coastal environment of the city centre as it relates to the waterfront. Council therefore considered that significant effects had not been demonstrated to be avoided, remedied or mitigated.

- 290 The Applicant disagreed with this view. In response, its landscape expert accepted that Te Waitematā remains an important natural asset for Auckland's identity, but maintained that the site is reclaimed land in the urban centre of Auckland, is highly modified, and is within an environment where substantial development is enabled and anticipated by the AUP(OP). The Applicant's landscape response was that effects on natural character are very low at most; that the proposal will retain visual connection and permeability between the harbour and the city centre; that a wall effect is avoided; and that the project will not result in a significant loss of amenity to streetscapes or public open spaces along the waterfront. The Applicant also maintained that the height, form and scale of the towers are complementary to the planned and existing city centre built form and provide a legible transition to both the harbour edge and Viaduct Harbour Precinct.
- 291 We agree that the NZCPS applies, but not with Council's arguments based on Policy 13. The project site is within the coastal environment in a broad statutory sense, but it is a fully urbanised, reclaimed and intensely modified city-centre site. It contains no coastal habitat, dune, wetland, coastal vegetation, natural coastal landform or other natural feature. The only remaining coastal natural character of substance in this location is the open water of Te Waitematā and its experiential relationship with the city centre. The proposal does not encroach into, modify or otherwise physically affect that open water, nor does it affect natural coastal processes or any biotic or abiotic coastal system.
- 292 In the Panel's view, Council's reliance on the HEHCP as a proxy for natural character under Policy 13 is not persuasive. The HEHCP is an important city-centre planning control, and we have considered it carefully in relation to built form, height, transition, views, visual permeability, waterfront amenity and the relevant AUP(OP) assessment criteria. But it is not itself a natural coastal feature. Nor does an infringement of that control, without more, establish an adverse effect on the natural character of the coastal environment for the purposes of Policy 13. To treat the proposed towers as affecting natural coastal character merely because they are tall buildings near the waterfront would, in our view, confuse urban landscape and built-form effects with effects on coastal natural character.
- 293 We therefore find that any NZCPS issue is properly understood as an urban coastal-environment issue, not as a natural character issue of the kind contemplated by Policy 13. The relevant natural character values of Te Waitematā will remain. Public access and connections to the waterfront will be improved. Stormwater and coastal inundation risks are addressed through the engineering design, management plans and conditions. The proposal also reflects the NZCPS policy direction that development in the coastal environment should be located and designed having regard to existing urban areas and infrastructure, and that urban development should be concentrated in already developed, highly modified locations rather than dispersed into less modified parts of the coastal environment (Policy 6).
- 294 For those reasons, we find that the project is consistent with the NZCPS. We do not accept Council's contrary natural character concern under Policy 13. The proposal is an appropriate form of urban development in an already developed coastal environment, and its relationship with Te Waitematā is addressed through design, public realm improvements, access improvements, stormwater management and coastal hazard resilience.

PART J: REGIONAL AND DISTRICT PLANNING FRAMEWORK

- 295 An assessment of the relevant statutory plans has been included within the AEE as is required by Schedule 5, clause 5(1)(h).
- 296 The Panel has reviewed and considered the assessment provided by the Applicant and the comments provided by the Council. We outline the key matters in the following sections and our assessment findings.

38. AUP (OP) Regional Policy Statement

B2 – Urban Growth and Form

- 297 We find that the proposal is consistent with, and is supported by, B2 – Urban Growth and Form. The proposal is consistent with objective B2.2.1(1), which seeks to achieve a quality urban form within a high-quality urban environment.
- 298 The development of the Downtown Carpark Site within the Auckland city centre will include high-quality mixed-use buildings with a significant new public realm including an extensive new laneway network and civic space – Te Urunga Hau / the Urban Room. This will stimulate greater productivity and economic growth in this part of the Auckland city centre and support the effectiveness and success of public transport in this location.
- 299 The Waitematā (Britomart) Train Station and ferry and bus services are within walking distance to the site and the land use diversity of this project in terms of commercial use (food and beverage, retail, and office), high density residential use and public open spaces will enable social and economic vitality.
- 300 Cultural vitality is provided through the integration of Te Aranga Design Principles along with input from Haumi and Ngāti Whātua Ōrākei input to the proposal developing Tikanga Māori Cultural narrative.
- 301 Given the above the proposal gives effect to the policy framework of policies B2.2.2(4), (5) and (6) as such urban growth and intensification will be contained within the core of the centre and higher residential intensification is enabled within Business City Centre Zone. Furthermore, the development of the Site from a carpark to a commercial building will create increased employment and commercial opportunities for future demand consistent with objective B2.5.1.(1) and (2), including concentrating additional commercial growth in the city.
- 302 Objectives B2.7.1(1) and (2) will also be given effect to with the creation Te Urunga Hau / the Urban Room which will be publicly accessible and generously sized to meet recreational needs of people and communities. This will connect and complement the existing open spaces along the Waitemata coastline ensuring public access is enhanced to Auckland's Waterfront.

B3 – Infrastructure, Transport and Energy

- 303 The objectives and policies for infrastructure under B3.2.1 and B3.2.2 are principally focused on ensuring that the importance of infrastructure is recognised, and appropriate provision of such infrastructure. With reference to objective B3.2.(1), the development and upgrading of infrastructure (as necessary) is enabled, which in this case includes the necessary reticulation system to service the Proposal and achieving the necessary connections to existing bulk infrastructure.
- 304 The site could be subject to noise from port activities and commercial activities. Internal acoustic insulation and ventilation is provided for all residential units including the hotel rooms and no balconies or private outdoor spaces are proposed for the majority of the

apartments so the noise effects of commercial and port activities are avoided or mitigated to further reduce any reverse sensitivity effects in line with policy B3.2.1(6).

- 305 With respect to transport objective B3.3.1(1), the Proposal is consistent with this objective as the proposal provides laneways through the Project site to a standard that can safely support the movement of people, goods and services in an efficient and effective manner.

B5 – Historic heritage and special character

- 306 Historic heritage places contribute to Auckland's distinctiveness as a visitor destination and to its economic vitality. Part of the Site (204 Quay Street) is within the scheduled extent of place of a Category B Historic Heritage Place relating to the former Auckland Harbour Board Workshops (Historic Heritage and Special Character: Historic Heritage Overlay Extent of Place [rcp/dp] - 1969, Auckland Harbour Board Workshops (former)), which is currently occupied by a number of office, food and beverage and retail activities.
- 307 As part of the demolition, the pedestrian footbridge is proposed to be removed with the connection to the heritage building to be disestablished. This will restore the façade of the former Auckland Harbour Workshop Building, and the proposed building on the Site will provide clear distinction for the heritage building. This aligns with Objectives B5.2.1.(1) and (2) and Policies B5.2.2.(8) and (9) which seeks that historic heritage places are protected from inappropriate use and development and provide for restoration where this will not detract from the historic heritage value of the place.

B6 – Mana Whenua

- 308 We find the proposal is consistent with objectives B6.2.1(1) and (2) and policy B6.2.2(1) through involvement of Ngāti Whātua Ōrākei in the Project and the consultation and engagement with Mana Whenua groups that have occurred to date.
- 309 The applicant has, and will, consult with the iwi representatives and engage with the interested iwi groups on an ongoing basis. This process is consistent with policy B6.2.2(1) in terms of providing the opportunity for Mana Whenua to actively participate in the sustainable management of natural and physical resources, and building and maintaining partnerships and relationships with iwi authorities.

B10 – Environmental Risk

- 310 We are satisfied the proposal is consistent with Objective B10.2.1(1)-(6) understanding that the Site is subject to identified flood and coastal hazards, and potentially contaminated land. Assessments against the flood hazards have been undertaken, and the design and layout of the buildings respond to and/or accommodate both the overland flow paths and flood plain so that the risk to people and property is avoided or otherwise managed. These management approaches satisfy policy B10.2.2(7), (8), and (10).
- 311 While the site is subject to Coastal Inundation (1 per cent AEP Plus 1m Control-1m Sea level rise), the buildings within the extent of the inundation have been designed (through the proposed freeboards) in a way that mitigates the adverse effects of the coastal hazard taking into consideration the next 100 years thereby meeting policy B10.2.2(13). The proposed diesel storage system for back up energy generation incorporates secondary containment, leak detection, and fire protection, supported by a certified Hazardous Substances Management Plan covering inspection, maintenance, and emergency procedures. This ensures that hazardous substances are safely stored, used, and managed within a fully enclosed, flood-protected basement plant area. As such, the hazardous substances associated with the proposal are effectively managed thereby meeting Objectives B10.3.1.(1-2) and policies B10.3.2.(1-3).

- 312 With respect to contaminated land, the implementation of the CSMP⁵² will manage potential ground contamination effects on human health and the environment during ground disturbance activities associated with the proposed Site development thereby meeting policies B10.4.2(1) to (3).
- 313 Overall, the proposal has taken into account the effects of climate change on natural hazards, including future climate change sea level rises, therefore meeting the objective and policies of B10.

39. AUP (OP) Plan

- 314 The Application includes a detailed assessment of the relevant regional and district plan provisions of the AUP(OP). The principal assessment is in section 10.6.1.12 of the AEE, with the full objectives and policies assessment provided in Appendix 45. We have reviewed that material, together with the Council comments and the Applicant's response.
- 315 The relevant chapters identified in the AEE are H8 Business - City Centre Zone, I205 Downtown West Precinct, D17 Historic Heritage Overlay, E7 Taking, using, damming and diversion of water and drilling, E11 (Regional) and E12 (District) Land disturbance, E23 Signs, E25 Noise and vibration, E27 Transport, E30 Contaminated land, E31 Hazardous substances, E36 Natural hazards and flooding, and E40 Temporary activities. Council also addressed air quality matters under Chapter E14 and natural hazards under proposed Plan Change 120. The AEE also addressed the relevant rules, matters of discretion and assessment criteria, including the Harbour Edge Height Control Plane (HEHCP) standard.
- 316 We do not consider it necessary to repeat the Applicant's full objective and policy assessment in this decision. The relevant provisions are numerous, and much of the assessment was not materially contested. We therefore summarise the plan framework at a high level and address in more detail only those provisions where Council materially disagreed with the applicant's assessment. That approach is consistent with our obligation to give reasons for the principal issues in contention without duplicating the full application record.

39.1 H8 Business - City Centre Zone

- 317 The Business - City Centre Zone is the most important district plan framework for the proposal. The zone seeks to provide for the city centre's role as Auckland's primary business, commercial, entertainment, cultural and urban living centre. It enables the greatest intensity of development in Auckland, while also managing the quality, form and effects of that development, including its relationship to the waterfront, public open spaces, streets, historic heritage and identified qualifying matters.
- 318 The Applicant's assessment is that the project gives effect to the H8 objectives and policies because it replaces an existing carpark building with a high-quality mixed-use development, provides additional commercial, residential, visitor accommodation, retail and public/civic space in the city centre, improves pedestrian connections and public realm, supports use of public transport, and is located within a part of the city centre where significant height and intensity are anticipated. The Applicant also relies on the design quality of the towers and podiums, the creation of Te Urunga Hau / the Urban Room, the new laneway network, active frontages and the cultural design narrative developed with Ngāti Whātua Ōrākei.

⁵² Appendix 17.

- 319 Council accepted or generally accepted many of the Applicant's H8 conclusions. However, Council did not accept the assessment of the provisions relating to built form, height, waterfront setting, qualifying matters, visual connections, wind, shading and visual dominance. In particular, Council considered that the Applicant had given too much weight to the Special Height Area and insufficient weight to the HEHCP as a qualifying matter that modifies otherwise-enabled building height and density. Council also considered that Policy H8.3(30A), which concerns modification of building height and/or urban form to provide for qualifying matters, had not been adequately assessed.
- 320 The key H8 provisions in dispute are those concerned with maintaining and enhancing the waterfront setting, respecting existing and planned built form and character, managing building height and form, protecting or maintaining sunlight and amenity in public spaces, avoiding adverse dominance effects, and providing for qualifying matters. The particular focus is the purpose of Standard H8.6.5, the HEHCP, and the associated assessment criteria for infringements of that standard.

39.2 Harbour Edge Height Control Plane

- 321 The HEHCP is an important part of the AUP(OP) framework for the western end of Quay Street. Its purpose is to manage the scale of buildings at the western end of Quay Street to provide a city form that transitions in building height from the core of the city centre down towards the waterfront, maximise visual connections and visual permeability between the harbour and the city centre, and reinforce the Quay Street east-west connection from The Strand to Jellicoe Street by the alignment of tall building frontages.
- 322 There is no dispute that both towers infringe the HEHCP. Council's position is that the infringement is substantial and that the proposal would replace the planned gradual transition to the harbour edge with a materially steeper built form. Council's landscape and urban design specialists considered that the proposal brings substantial height too close to the waterfront, reduces the intended "air space" or breathing space above the waterfront edge, diminishes visual connections between the harbour and the city centre, and creates adverse visual dominance, shading and wind-related amenity effects on waterfront streets and public spaces. Council also considered that the HEHCP operates with the general building height provisions and the qualifying matter provisions so that the site should not be treated simply as an unlimited-height location.
- 323 The Applicant contended otherwise. Its position was that the proposal is in the Special Height Area, where very tall buildings and high development intensity are anticipated, and that the HEHCP is a localised moderating control rather than an absolute limit on development. It accepted there is a clear departure from the HEHCP standard, but relied on the urban design and landscape assessments to say the proposal still achieves the purposes of the control. In particular, it said the step down from Tower 1 to Tower 2, the location of Tower 2 closer to Quay Street, tower setbacks, chamfering, tower separation, visual gaps through the block, podium scale and high-quality architectural treatment collectively maintain a clear height transition, retain visual permeability, avoid a wall effect and reinforce the Quay Street east-west frontage.
- 324 The Urban Design assessment in the AEE records that, notwithstanding the departure from the 40m plus 45 degree HEHCP, the proposal provides an overt height transition, though to a lesser degree than the standard describes. It also records that visual permeability is maintained principally through the gaps between the towers and other buildings, reinforced by the plan offset of Tower 1 from Tower 2, and that those attributes avoid a closed "wall effect" in views between the harbour and the city. The urban design response to comments maintained that position, correcting Council's point about the wording of the second purpose of the HEHCP and confirming that the assessment had

been undertaken against the operative language of “visual connections and visual permeability”.

- 325 The landscape assessment in the AEE similarly recognises that the transition created by the proposal is steeper than that anticipated by the HEHCP, but concludes that the site is an appropriate location for development of this scale within the underlying topography and urban form of the city. It records that the towers are not “over height” in a zoning sense because the site is within the Special Height Area, but they infringe the localised HEHCP standard. The landscape evidence is that the proposal achieves the HEHCP purpose through other means: a clear if steeper transition, tower setbacks from Quay Street behind existing buildings, separation between the towers, retention of visual permeability, avoidance of a wall effect, and reinforcement of the Quay Street east-west connection by tall buildings within the Quay Street block.
- 326 We accept Council’s point that the HEHCP is not merely a background matter. It is a specific planning control, now operating within the H8 framework as a qualifying matter, and it is relevant to the intensity and form of development anticipated at this part of the waterfront edge. We also accept that the infringement is substantial and that the resulting transition is steeper, and the towers more prominent, than a development fully contained within the plane would be.
- 327 However, we do not accept Council’s conclusion that the proposal is therefore contrary to the relevant H8 objectives and policies or that the purpose of the HEHCP is defeated. The control must be assessed by reference to its purpose and the relevant assessment criteria, not by treating any infringement as determinative. The evidence shows that the development does not eliminate the transition from the city centre core to the waterfront; rather, it provides a more emphatic and steeper transition through the relative heights and positioning of Tower 1 and Tower 2, their setbacks from Quay Street, the presence of existing lower skyline buildings on the Quay Street edge, and the relationship to the wider city-centre skyline.
- 328 We also find that visual connections and visual permeability between the harbour and the city centre are maintained to an acceptable degree. The proposal will reduce some openness and will be visually prominent, but the separation between the towers, the gaps between buildings, tower slenderness, plan offsets and podium form avoid the closed wall effect that Council was concerned about. We also accept the Applicant’s point that a building complying with the HEHCP could still reduce some views and that the purpose is to maximise visual connections and permeability in the context of urban development on the site, not to preserve an undeveloped view corridor.
- 329 We further find that the proposal reinforces the Quay Street east-west connection. The towers are set back from Quay Street, but they are within the Quay Street block and will read as part of the series of tall buildings and marker elements along the downtown waterfront edge. The podiums and public realm treatment provide the more immediate street-level scale, activation and pedestrian experience.
- 330 For those reasons, we find that the purpose of the HEHCP is generally met despite the infringement. The development does not achieve the exact built form outcome described by the standard, but it achieves the underlying planning purposes to an acceptable degree in this highly urbanised city-centre waterfront context. We prefer the Applicant’s urban design and landscape evidence on that issue. Council’s position, in our assessment, gives insufficient weight to the Special Height Area context, the high-quality design response, the public realm benefits, and the fact that the HEHCP is a standard capable of infringement assessment rather than a prohibition.

- 331 This finding also informs our assessment of the related H8 objectives and policies. We accept that the proposal is not fully aligned with every aspect of the height-related policy framework because the HEHCP is infringed. However, assessed overall, the project is consistent with the central direction of the H8 provisions: it enables significant city-centre intensification, provides high-quality built form, strengthens public realm and pedestrian connectivity, maintains acceptable waterfront visual permeability and transition, and manages adverse dominance, shading, wind and amenity effects to an acceptable level, subject to the conditions we impose.

39.3 I205 Downtown West Precinct

- 332 The Downtown West Precinct provisions are also directly relevant. The precinct sits within the heart of the city centre waterfront between the Viaduct Harbour and Britomart precincts. Its objectives and policies provide for comprehensive redevelopment, a mix of commercial and residential land uses, improved pedestrian connectivity, and support for the area's transport interchange role.
- 333 The Applicant's assessment is that the proposal gives effect to the I205 provisions through the mix of retail, commercial, hotel and residential activities; the two-tower and podium built form; Te Urunga Hau / the Urban Room; the new pedestrian connections from Lower Hobson Street and Customs Street West; and improved links to Waitematā Station and the waterfront. Council generally agreed with that assessment, but did not agree that the proposed built form and scale would be well integrated with the Auckland city centre and adjoining Viaduct Harbour, and considered that wind effects could undermine the extent to which the development supports transport facilities within and around the precinct.
- 334 For the reasons set out above in relation to H8 and the HEHCP, and in our effects findings on wind, public realm and transport, we are satisfied that the proposal is consistent with the I205 objectives and policies. The proposal materially advances the precinct outcomes by replacing a carpark with a comprehensive mixed-use development, improving pedestrian permeability through the block, increasing activity and public access, and supporting the functioning of the downtown transport environment. Any remaining wind, access and operational transport matters are addressed through conditions.

39.4 Other regional and district provisions

- 335 We have reviewed the Applicant's assessment of the other relevant AUP(OP) chapters and Council's comments. Council generally concurred with the Applicant's assessment of Chapters E7, E11, E12, E23, E30 and E31, subject to recommended condition refinements. We accept that position.
- 336 In relation to D17 Historic Heritage Overlay, the relevant issue is the effect of removing the non-scheduled pedestrian bridge connection and undertaking make-good works to the former Auckland Harbour Board Workshops at 204 Quay Street. The Applicant's assessment is that the works will restore and improve the heritage presentation of that building. Council's heritage specialist did not identify an unresolved plan consistency concern. We find that the proposal is consistent with the relevant D17 objectives and policies, subject to the heritage-related conditions.
- 337 In relation to E7 groundwater and dewatering, E11 and E12 land disturbance, and E30 contaminated land, the project involves significant excavation and works within reclaimed land. The applicant's assessment is that groundwater diversion, dewatering, earthworks, erosion and sediment control, and contaminated land effects can be managed through the proposed design and management plan framework. Council generally concurred, subject to conditions. We are satisfied that those provisions are met, subject to the final

conditions requiring groundwater, settlement, erosion and sediment control, and contaminated land management.

- 338 In relation to E25 Noise and vibration, Council generally concurred with the objectives and policies assessment, while noting that construction noise and vibration effects, including vibration amenity at 29 Customs Street West and construction effects on M Social and other sensitive receivers, required clearer mitigation and monitoring. We address those effects in Part G and conditions in Part M. For plan consistency purposes, we are satisfied that the E25 provisions are met through the conditions requiring a CNVMP, construction scheduling, monitoring, notification, communication and best practicable option controls.
- 339 In relation to E27 Transport, Council generally agreed with the objectives and policies assessment except for the conclusions relating to the hotel pick-up and drop-off area. Auckland Transport's concerns were directed to operational safety, manoeuvring, queuing, capacity and management of the PUDO. We address those matters elsewhere in this decision and through the PUDO and transport conditions. We are satisfied that, with those conditions, the E27 objectives and policies are met.
- 340 In relation to E31 Hazardous substances, the proposed diesel storage and minor chemical storage are to be located within contained basement plant areas with bunding, leak detection, spill response, training, signage and management procedures. We accept the applicant's assessment that the hazardous substances provisions are met, subject to the Hazardous Substances Management Plan and related conditions.
- 341 In relation to E36 Natural hazards and flooding, including the relevant Plan Change 120 provisions, Council generally concurred with the applicant's assessment that the site is subject to coastal inundation and flood risk that can be managed, but sought further detail on flood barrier design, operation, maintenance and adaptive management. We accept that a conditioned Flood Hazard/Flood Barrier Management Plan is appropriate in this case, given the level of assessment provided and the nature of the residual design matters. Subject to those conditions, we find the proposal consistent with the relevant E36 provisions.
- 342 Finally, in relation to E40 Temporary activities and construction-related effects, the construction programme is long and will have real effects on nearby receivers. However, construction activity is necessary to deliver the project and is appropriately assessed through the construction noise, vibration, traffic, dust, erosion and sediment, groundwater and communication conditions. We find that the E40 enabling and effects-management policy direction is met.

39.5 Assessment criteria

- 343 We have considered the relevant AUP(OP) assessment criteria applying to the consent matters identified in Appendix B. Given the number of restricted discretionary rule infringements, the relevant criteria are extensive and span the City Centre zone, Downtown West Precinct, historic heritage, land disturbance, groundwater, noise and vibration, transport, contaminated land, hazardous substances, natural hazards and temporary activities. We do not repeat each criterion in this decision. Where the Applicant's assessment of those criteria was not materially disputed by Auckland Council, and where the relevant Council specialist either agreed or raised only condition-based qualifications, we adopt that assessment. On that basis, we are satisfied that the majority of the applicable assessment criteria have been suitably addressed through the application material and the conditions we impose.
- 344 The criteria requiring more detailed consideration are those relating to the City Centre

built form and design outcomes, and the assessment criteria engaged by the infringement of the Quay Street HEHCP. These criteria are central to the principal merits disagreement between the Applicant and Council. In summary, the Applicant's position is that the proposal achieves a high-quality city centre design outcome, with slender towers, articulated podiums, active edges, improved laneways, Te Urunga Hau / the Urban Room, cultural design expression and a materially improved public realm. The Applicant also relies on the assessments of McIndoe Urban and Isthmus that the height, scale and form of the towers remain appropriate in the context of the City Centre zone, the Special Height Area, the surrounding established tower environment and the strategic importance of this western downtown site.

- 345 Council's contrary position is focused on the extent to which Tower 1 and, to a lesser degree, Tower 2 depart from the HEHCP and whether that departure undermines the intended height transition from the central business district to the waterfront, visual permeability between the city and harbour, and the Quay Street east-west waterfront edge. Council's landscape and urban design concerns are that the height and bulk of the proposal, particularly when viewed from waterfront and harbour-edge locations, would weaken the planned waterfront transition and generate adverse landscape, visual and waterfront amenity effects. Council therefore did not accept the Applicant's conclusion that the HEHCP purpose and related criteria are fully achieved.
- 346 We accept that the HEHCP infringement is substantial and that the proposal does not achieve the literal built-form outcome that would result from compliance with the control. However, the assessment criteria require an evaluative judgement about effects and outcomes, not a mechanical conclusion that any infringement is unacceptable. We prefer the Applicant's assessment on this issue. In our view, the proposal retains a discernible transition in scale through the relative positioning and stepping of the towers, the separation between tower forms, the podium response at street level, and the design treatment of the tower crowns and chamfered forms. We also accept that the proposal maintains meaningful visual connections between the city and harbour, while recognising that the HEHCP does not operate as a general protection of private views. Most importantly, the proposal substantially improves the public realm, pedestrian permeability, ground-level activation and architectural quality of the site when compared with the existing carpark environment.
- 347 Overall, we are satisfied that the relevant AUP(OP) assessment criteria have been considered and have assisted the Applicant (and us) in assessing and determining that the proposal satisfies the outcome sought in the AUP (OP). The proposal involves a clear and significant infringement of the HEHCP, but we find that the purpose of the control is generally achieved in substance, having regard to the proposal's design quality, urban context, tower separation, waterfront relationship and public realm outcomes. We also find that the development is consistent with the objectives and policies of the City Centre zone, which seek intensive, high-quality, transit-oriented, mixed-use development in Auckland's primary centre. The assessment criteria do not lead us to a different conclusion from our effects assessment: the built form effects are acceptable, and the application should not be refused on the basis of the HEHCP or City Centre design criteria.

40. Overall finding on the AUP(OP)

- 348 Overall, we are satisfied that the Application is consistent with and supported by the relevant regional and district objectives and policies of the AUP(OP), read as a whole and in the FTAA decision-making context. The principal area of conflict or tension is the substantial HEHCP infringement and its relationship with the H8 height, built form, waterfront setting and qualifying matter provisions. We have considered that issue

carefully and accept that the proposal does not comply with the standard. However, we find that the purpose of the control is generally achieved despite the infringement and that the related adverse effects are acceptable in context.

- 349 We therefore do not accept Council's view that the proposal fundamentally conflicts with the spatial strategy of the City Centre Zone. In our assessment, the project implements the dominant direction of the AUP(OP) for this location: comprehensive redevelopment, significant city-centre intensification, high-quality design, active frontages, improved public realm, strengthened pedestrian connectivity, support for public transport, recognition of cultural values, and management of adverse effects through conditions. The proposal is not fully aligned with every development standard, but it is consistent with the objectives and policies of the AUP(OP) when assessed overall.

PART K: IWI DOCUMENTS

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

- 350 Schedule 5, clause 5(1)(h) and clause 5(2)(g) require the Application to 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.
- 351 Section 10.8 of the AEE identifies and assesses the planning documents recognised by relevant iwi authorities and lodged with Auckland Council. The AEE identifies the following documents as relevant or potentially relevant:
- a. Te Pou o Kāhu Pōkere – Iwi Management Plan for Ngāti Whātua Ōrākei 2018;
 - b. Te Kawerau ā Maki Resource Management Statement 1995;
 - c. Ngāi Tai ki Tāmaki Management and Development Plan Stage One 1994 and Resource Management Principles and Operational Policies 2002;
 - d. Ngāti Te Ata Waiohua Tribal Policy Statement 1991 and Ngāti Te Ata Waiohua Issues and Values 2011;
 - e. Waikato-Tainui Environmental Plan;
 - f. Ngāti Whanaunga Environmental Management Plan 2019;
 - g. Ngāti Tamaterā Environmental Management Plan 2019; and
 - h. Ngāti Rehua Ngātiwai ki Aotea Hapū Management Plan 2013, although the AEE concludes that document is not applicable because it relates to Aotea / Great Barrier Island, outside the project area and its likely influence.
- 352 The AEE concludes that, overall, the Project can be constructed and operated in a manner consistent with the environmental outcomes sought by the planning documents recognised by relevant iwi authorities and lodged with Auckland Council.

41.1 Te Pou o Kāhu Pōkere – Ngāti Whātua Ōrākei Iwi Management Plan 2018

- 353 The most directly relevant iwi planning document is Te Pou o Kāhu Pōkere – Iwi Management Plan for Ngāti Whātua Ōrākei 2018. The AEE describes that document as setting out the interests and values of Ngāti Whātua Ōrākei in resource management matters through policy and implementation. It records that Ngāti Whātua Ōrākei has been consulted and is also a partner in the development.
- 354 The AEE assesses the Project as consistent with the environmental and resource

management outcomes sought by Te Pou o Kāhu Pōkere for the following reasons:

- a. the applicant has committed to a development with minimum 5 Green Star aspirations, including energy efficient design, roof gardens, resource recovery and circular economy initiatives;
- b. the mixed-use development will enable people to live and work within the city centre, reducing reliance on private vehicles and improving access to public transport, including the City Rail Link;
- c. the proposal removes over 2,000 carparks and replaces them with approximately 454 carparks, bicycle parking and end-of-trip facilities, supporting more sustainable and active transport modes;
- d. Ngāti Whātua Ōrākei is a project partner, with arrangements intended to provide intergenerational prosperity, employment opportunities and contractor opportunities;
- e. the building design incorporates natural hazard responses, including locating parking at lower basement levels; and
- f. an archaeological authority is sought for modification of the recorded archaeological feature R11/3458, supported by accidental discovery protocols and conditions.

- 355 Ngāti Whātua Ōrākei's own material strongly supports that assessment. Its letter records that the site is part of Te Kahu Tōpuni o Tuperiri, at the centre of Ngāti Whātua Ōrākei's heartland, below a clifftop pā site, at the western mouth of the Waihorotiu Stream, and overlooking the sacred Waitematā. It also records that the existing carpark sits on what was formerly the Waitematā seabed, over which Ngāti Whātua Ōrākei holds an unresolved grievance concerning the loss of customary title.
- 356 Ngāti Whātua Ōrākei supports the Project because it considers the redevelopment will enhance the cultural values of the Auckland CBD and provide tangible and ongoing benefits to the iwi. Its evidence records that Ngāti Whātua Ōrākei are tangata whenua of Tāmaki and that their mana over the land and sea is underpinned by take tupuna, take raupatu, ahi kā and tuku whenua.
- 357 We place particular weight on Ngāti Whātua Ōrākei's support, because it is direct, site-specific and grounded in its status as tangata whenua and project partner. The Ngāti Whātua Ōrākei material records that the current carpark is culturally incongruent with the significance of the site, and that the partnership with Precinct provides an opportunity to exercise mana as kaitiaki of the underlying land.
- 358 The applicant's response to comments further records that the partnership between Ngāti Whātua Ōrākei and Precinct provides significant and tangible benefits extending beyond the Project, including long-term intergenerational cultural, social and economic outcomes. It records that the proposal incorporates a strong Ngāti Whātua Ōrākei-led cultural narrative and that the Project is expected to provide direct employment, business and contractor opportunities for Ngāti Whātua Ōrākei members and whānau.
- 359 We find that the Project is consistent with Te Pou o Kāhu Pōkere. It recognises and provides for Ngāti Whātua Ōrākei's relationship with the site, incorporates Ngāti Whātua Ōrākei-led cultural design, provides for ongoing involvement and benefit through the partnership structure, and includes practical measures addressing sustainability, transport, natural hazards and archaeology.

41.2 Other iwi authority documents

- 360 The other iwi planning documents identified in section 10.8 of the AEE raise broadly consistent themes, including kaitiakitanga, protection of wāhi tapu and cultural heritage, maintenance of mauri, stormwater and wastewater management, erosion and sediment control, native planting, natural hazards, and appropriate engagement with iwi.
- 361 The AEE assesses the Project as consistent with those documents because:
- a. the Project is on a highly modified urban site;
 - b. there are no known waterways, wetlands or natural habitats within the site;
 - c. wastewater and stormwater will connect to public networks, with no direct wastewater discharge to the coastal marine area;
 - d. erosion and sediment controls, contaminated land management, dust controls and construction management measures are proposed;
 - e. the landscape strategy includes indigenous planting and urban greening;
 - f. natural hazard risks have been assessed and incorporated into the design;
 - g. archaeological effects are addressed through the archaeological authority, archaeological management plan and accidental discovery protocols; and
 - h. the Project incorporates Te Aranga design principles and a Tikanga Māori cultural narrative through the involvement of Haumi and Ngāti Whātua Ōrākei.
- 362 We accept that assessment. We also note that no iwi authority, Treaty settlement entity or other Māori entity invited to comment opposed the Project. The only substantive iwi comment received was from Ngāti Whātua Ōrākei, which supports the Project. The matters raised by Ngāti Whānau in its CVA have been addressed by the Applicant and Ngāti Whātua Ōrākei through the tikanga-based process described elsewhere in this decision.
- 363 We therefore find that the Project is consistent with the relevant planning documents recognised by iwi authorities and lodged with Auckland Council. We give greatest weight in this section to Te Pou o Kāhu Pōkere, because of the direct relationship between Ngāti Whātua Ōrākei and the Project site, Ngāti Whātua Ōrākei's status as tangata whenua, and its direct support for the Project

42. Treaty settlements

- 364 As noted in Part D, section 7 states:

7 Obligation relating to Treaty settlements and recognised customary rights

- (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).

365 The Panel understands⁵³ that the following Settlement Acts (and associated Treaty settlement deeds) are of relevance to the Application area:

- a. Ngāti Whātua Ōrākei Claims Settlement Act 2012;
- b. Ngā Mana Whenua o Tāmaki Makaurau Collective Redress Act 2014;
- c. Te Kawerau ā Maki Claims Settlement Act 2015;
- d. Ngāti Tamaoho Claims Settlement Act 2018;
- e. Ngāi Tai ki Tāmaki Claims Settlement Act 2018;
- f. Ngāti Pāoa Claims Settlement Act 2025;
- g. Te Ākitai Waiohū Deed of Settlement (signed Nov 2021); and
- h. Te Patukirikiri Deed of Settlement (signed Oct 2018).

366 Part D provides an overview of the relevance of these treaty settlements to the application area. As noted in Part D the Panel directed the EPA to seek comments from the above iwi. No formal comments were received.

367 The Panel also directed the EPA to seek comment from the Minister for Treaty of Waitangi Negotiations under section 72. No formal comments were received from the Minister.

368 The Panel is not aware of any additional conditions that may be required in order to recognise or protect any relevant Treaty settlement under section 84.

PART L: EVALUATION AND FINDINGS ON PRINCIPAL ISSUES IN CONTENTION

369 In paragraph 123, we identified the principal issues in contention with the Application and where they are addressed in this decision. Most of those matters have been evaluated in Parts G to K and in our consideration of conditions in Part M. In this Part we bring together Auckland Council's merits-based opposition to the project, because that was the only opposition advanced on the basis that the completed built form itself should not be approved.

43. Auckland Council's grounds of opposition

370 Council's position was not that redevelopment of the Downtown Carpark site should not occur. Nor was it that the proposed activity mix is inappropriate for the Business - City Centre Zone. Council acknowledged the strategic importance of the site, aspects of the project's design quality and the project's potential benefits. Its regulatory opposition was directed principally to the height, bulk and form of the proposed towers and the consequences said to follow from the substantial infringement of the Quay Street HEHCP.

371 We understand Council's merits opposition as having three related strands. The first was an effects-based case concerning landscape, visual, waterfront amenity, built form and shading effects. The second was a national policy statement case, relying particularly on Policy 13 of the NZCPS and the proposition that the tower height did not preserve the

⁵³ Based on the Ministry for the Environment Treaty Settlements and other obligations [section 18 report](#).

natural character of the coastal environment. The third was an inconsistency with policy case under the AUP(OP), focused on the H8 City Centre provisions, the qualifying matter provisions and the purpose and assessment criteria for the HEHCP.

Landscape, visual, waterfront amenity and built form effects

- 372 The first strand of Council's opposition was addressed in Part G, section 26. Council's landscape, urban design and planning evidence was that the height and scale of Tower 1, and to a lesser degree Tower 2, would materially depart from the planned waterfront transition, reduce the intended air space above the waterfront edge, diminish visual connections between the city centre and harbour, and produce adverse landscape, visual, waterfront amenity and shading effects.
- 373 We accepted that those concerns were genuine and required careful assessment. We also accepted that the HEHCP infringement is substantial and that the proposal produces a steeper and more emphatic transition than would occur if the towers were fully contained within the plane. However, for the reasons set out in Part G, we preferred the Applicant's landscape and urban design evidence. The Site is a highly modified city-centre block, already occupied by a substantial carpark structure and surrounded by large-scale urban development. We found that the proposed tower separation, stepped tower heights, slender forms, chamfering, podium treatment, architectural quality and public realm improvements avoid unacceptable dominance or wall effects, retain meaningful visual permeability and provide an acceptable relationship with the waterfront.
- 374 Our finding on this strand is that the landscape, visual, built form, shading and waterfront amenity effects are real, but acceptable. They do not warrant refusal and are not sufficiently significant to be out of proportion to the project's regional and national benefits.

NZCPS Policy 13 and natural character

- 375 The second strand was addressed in Part I, section 35.2. Council accepted the relevance of the NZCPS, but disagreed with the Applicant's assessment of Policy 13. It relied on landscape and urban design concerns to argue that the height of the towers was inappropriate to the coastal context, and linked that concern to the HEHCP as a control said to reflect natural character considerations at the city centre waterfront.
- 376 We agreed that the NZCPS applies, but not in the way Council contended. The project Site is within the coastal environment in a broad statutory sense, but it is fully urbanised, reclaimed and intensely modified. It contains no coastal habitat, dune, wetland, coastal vegetation, natural coastal landform or other natural feature. The remaining coastal natural character of substance in this location is the open water of Te Waitematā and its experiential relationship with the city. The proposal does not encroach into, modify or physically affect that open water, nor does it affect natural coastal processes or any biotic or abiotic coastal system.
- 377 We found that Council's reliance on the HEHCP as a proxy for natural character under Policy 13 was not persuasive. The HEHCP is an important city-centre planning control, but it is not itself a natural coastal feature. The adverse effects alleged by Council are urban landscape and built form effects, not natural character effects of the kind contemplated by NZCPS Policy 13. We therefore found that the proposal is consistent with the NZCPS, including its recognition that development in the coastal environment should be located and designed having regard to existing urban areas and infrastructure.

AUP(OP), H8 and the HEHCP

- 378 The third strand was addressed in Part J, section 37. Council's AUP(OP) case focused on the H8 Business - City Centre Zone provisions, the qualifying matter framework, the

purpose of Standard H8.6.5 and the associated HEHCP assessment criteria. Council's position was that the Applicant had given too much weight to the Special Height Area and insufficient weight to the HEHCP as a qualifying matter that modifies otherwise-enabled building height and density.

- 379 We accepted that the HEHCP is not a background or incidental matter. It is a specific planning control and a relevant part of the AUP(OP) framework for this part of the waterfront. We also accepted that the proposal does not achieve the literal built-form outcome that would result from compliance with the plane. However, as a restricted discretionary matter, the standard is capable of infringement assessment. Its purpose and criteria require an evaluative judgement about the actual design outcome and physical effects, rather than a mechanical conclusion that any infringement defeats the plan.
- 380 For the reasons set out in Part J, we found that the purpose of the HEHCP is generally met despite the infringement. The proposal provides a clear, if steeper, transition from the core city centre toward the harbour; retains visual connections and permeability to an acceptable degree; avoids a closed wall effect; and reinforces the Quay Street east-west connection through the combination of tower placement, podium form, street-level activation and public realm improvements. We also found that the project is consistent with the dominant direction of the H8 provisions: significant city-centre intensification, high-quality design, active frontages, improved pedestrian connectivity, public transport support, cultural recognition and the management of adverse effects through conditions.

Overall evaluation of Council's merits opposition

- 381 Standing back, we apprehend that Council's three strands of opposition may also reflect an implicit concern about precedent, or about the integrity of the AUP(OP) and the HEHCP in particular. We understand why that concern may arise in ordinary RMA consenting, where a substantial infringement of a carefully designed height-control plane could be seen as undermining the plan framework if approved without sufficient justification.
- 382 However, we do not consider that concern provides a basis for refusing this Application. This project is being considered and approved under the FTAA framework, with all that entails. It is a listed project. The Panel must give greatest weight to the purpose of the FTAA. The non-complying activity gateway in section 104D RMA does not apply. Section 85 sets a specific and high threshold for decline. Section 85(4) also makes clear that an adverse impact cannot meet that threshold solely because it is inconsistent with, or contrary to, a provision of a specified Act or other document that the Panel must consider.
- 383 In that statutory context, there is little basis to decline a project of significant regional and national benefit on the basis of conflict with a plan provision, unless that conflict manifests in objectively significant adverse environmental effects that remain out of proportion to the project's benefits after appropriate conditions and any agreed modifications are taken into account. We have not found such effects here. The HEHCP infringement is significant as a matter of plan compliance, but the physical effects associated with it are acceptable in this receiving environment and do not approach the section 85 threshold.
- 384 We therefore do not accept Council's merits opposition, whether framed through landscape and built form effects, NZCPS Policy 13, or the AUP(OP) and HEHCP provisions. Those matters were properly raised and have assisted our assessment, but they do not provide a basis to decline the Application.

PART M: CONDITIONS

385 Section 81 provides that the Panel must set any conditions to be imposed on the approval. The statutory requirements on what conditions are set is determined by what approvals are being sought.

386 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.

387 How the Panel has complied with this section is discussed below in relation to the conditions that have been set.

44. FTAA requirements for conditions

388 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.

389 For the grant of an archaeological authority the following clause of Schedule 8 applies:

5 Imposition of conditions on archaeological authorities

- (1) In relation to an archaeological authority, a panel may impose any conditions, including conditions that—
 - (a) the consent of the land owner and the holder of any specified registered interest must be obtained before the holder of an archaeological authority may enter the relevant site or undertake any activity under that authority; and
 - (b) the site must be returned as nearly as possible to its former state (unless otherwise agreed between the owner of the land on which the site is located and the panel); and
 - (c) any activity undertaken at the site under the archaeological authority must conform to accepted archaeological practice; and
 - (d) Heritage New Zealand Pouhere Taonga, or the person approved under this schedule to carry out an activity, must provide a report to—
 - (i) the holder of the authority; and
 - (ii) the owner of the archaeological site concerned, if different from the holder of the authority; and
 - (iii) Heritage New Zealand Pouhere Taonga, unless Heritage New Zealand Pouhere Taonga prepared the report.
- (2) The panel may impose a condition requiring an investigation under the HNZPT Act, but only if the panel is satisfied on reasonable grounds that the investigation is likely to provide significant information in relation to the historical and cultural heritage of New Zealand.

- 390 Generally speaking, a resource consent condition must⁵⁴:
- 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.
- 391 The underlying purpose of the conditions of a resource consent is to manage environmental effects by setting outcomes, requirements or limits to that activity, and how they are to be achieved⁵⁵.
- 392 Conditions must also be certain and enforceable⁵⁶.
- 393 A condition must also not delegate the making of any consenting or other arbitrary decision to any person, 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 condition⁵⁷. Such authorisation 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 (s 84 of the RMA).
 - c. This power of certification does not authorise any change or cancellation of a condition except as expressly authorised under the Act (s 127 of the RMA).

45. Project conditions

- 394 Unlike the proposed conditions to be imposed on the archaeological authority, which were agreed by the HNZPT and the Applicant early in the process, the Panel adopted a 'two-step' approach to its review, drafting and imposition of the RMA conditions for the project. This was because important aspects of these conditions were clearly in contention from the outset of the decision-making process.
- 395 The Panel's process involved requesting the Auckland Council to provide the amendments it sought to the Applicant's proposed conditions lodged with the Applicant's section 55 response to comments on 21 May 2026⁵⁸. The Applicant, MCK and The Sebel parties were then also asked to confer and endeavour to reach agreement on conditions concerning them⁵⁹. Responses to both of these requests were then received by the Panel and were

⁵⁴ *Newbury District Council v Secretary of State for the Environment* [1980] 1 All ER 731 (HL), at 739.

⁵⁵ *Summerset Village (Lower Hutt) Ltd v Hutt City Council* [2020] MZEnvC 31 at [156].

⁵⁶ *Bitumix Ltd v Mt Wellington Borough Council* [1979] 2 NZLR 57.

⁵⁷ *Turner v Allison* (1970) 4 NZTPA 104.

⁵⁸ Refer RFI02.

⁵⁹ Refer RFI03.

used to assist the Panel to prepare its draft conditions for the purposes of comment under section 70. The issues in contention between the Applicant, the Council and the other parties at the end of that process, and the Panel's preliminary findings in relation to them, are set out below.

45.1 Panel's draft conditions

396 The Panel has considered the information on conditions provided in response to its information requests. We have treated a condition issue as materially in dispute where the Applicant did not accept the requested change, or where the commenting party expressly maintained that the Applicant's proposed wording did not adequately secure the intended environmental or implementation outcome.

397 In evaluating our draft condition set, we have applied section 83 and the ordinary principles applicable to resource consent conditions. Conditions must be for a resource management purpose, fairly and reasonably relate to the development authorised, not be more onerous than necessary, and be sufficiently certain and enforceable.

398 The disputed issues fall broadly into five practical groups: whether key mitigation should be secured through direct conditions or through management plans; how much post-consent flexibility should be retained; whether private interface matters should be imposed as consent conditions; whether infrastructure servicing is sufficiently certain; and whether the PUDD and M Social interface effects require stronger direct controls.

Wind mitigation and fall-back wind screen

399 Council accepted that the development would satisfy the AUP(OP) wind requirements at most locations, but remained concerned that the Applicant had over-claimed the extent to which the proposal was comparable with existing wind conditions. Council was also concerned that the proposed fall-back mitigation, comprising an on-site 5m porous screen if off-site tree mitigation could not be delivered, had not been defined, tested or secured with sufficient precision.

400 Council therefore sought further information before decision, or more detailed conditions addressing the design, testing, timing and enforceability of the wind mitigation package. The conditions in issue included those addressing the pre-commencement wind mitigation process, certification, implementation and fall-back screen requirements.

401 The Applicant's position was that the matter could be resolved by conditions. It proposed a condition pathway requiring either the preferred off-site tree mitigation or, if that could not be delivered, an on-site 5m screen within the Applicant's land. The Applicant considered that this adequately secured a practicable mitigation response without requiring further redesign before consent was granted.

402 We accept Council's concern that the fall-back wind mitigation needs to be sufficiently secured. However, we do not consider that the absence of a fully detailed final screen design is a reason to require further design work before grant. The relevant question for conditions is whether a practicable mitigation pathway is secured if the preferred off-site tree mitigation cannot be delivered.

403 We are satisfied that the Applicant's proposed condition approach is appropriate. It requires the preferred tree mitigation to be pursued and, if that cannot be achieved, requires an on-site 5m porous screen within the Applicant's control. In our view, the final detailed design, testing and certification of that fall-back measure can properly occur through the condition pathway if the fall-back is triggered. That approach is sufficiently certain and enforceable, and is not more onerous than necessary.

Wastewater, stormwater and local infrastructure works

- 404 Council, Watercare and Auckland Transport considered that the public wastewater and water upgrade works required to service the development could not be separated from the project for condition purposes. Council sought conditions confirming the consent holder's responsibility to design, construct and fund local network upgrades, requiring early feasibility confirmation of Watercare Option 1, and providing a pathway if Option 4 or other works were required.
- 405 Council and Auckland Transport also sought consequential amendments requiring the construction effects of those infrastructure works to be addressed through the CMP, CTMP, CNVMP and associated schedule processes. Their concern was that infrastructure feasibility, timing and construction effects should not be left to later processes in a way that could compromise occupation or generate unassessed construction effects.
- 406 The Applicant rejected this approach. It considered that feasible wastewater servicing options had been demonstrated, that the detailed solution would be progressed with Watercare through the ordinary engineering approval process, and that a pre-occupation condition requiring appropriate connections was sufficient. The Applicant also maintained that any public infrastructure extension works were separate from the project and should not be folded into the project's construction management conditions.
- 407 We prefer the Applicant's position on this issue. Section 84A enables us to impose conditions to ensure that infrastructure is, or can be made, adequate to support the project. The conditions do that by requiring appropriate servicing and network connections before occupation. We do not consider it necessary or appropriate to go further and require, at this consent stage, a condition allocating responsibility for particular public network upgrade options or prescribing the detailed design and funding pathway for those works.
- 408 We accept that adequate wastewater, stormwater and water connections are essential to occupation of the completed development. It is, however, unrealistic to treat the building as capable of being lawfully completed and occupied without those matters being resolved through the ordinary Watercare, engineering approval, and building consent processes. We also do not accept that the public infrastructure works should be folded into the project's CMP, CTMP or CNVMP conditions. To the extent road corridor works are required, Auckland Transport will retain control through the CAR and related approval processes.

Construction traffic review and CTMP flexibility

- 409 Auckland Transport supported a section 128 RMA review condition for construction traffic effects, but sought more specific wording. In particular, AT sought the ability to review CTMP objectives, principles and details, reduce hourly construction vehicle limits, and restrict construction vehicle movements during peak periods if the traffic effects proved greater than those assessed.
- 410 The Applicant accepted an overarching review condition but rejected the more directive wording sought by AT. It considered that AT's wording would create unreasonable uncertainty for the construction programme, could constrain efficient construction sequencing, and could increase the overall duration of construction effects.
- 411 A related dispute concerned the CTMP objective. AT opposed wording that would require the CTMP to "manage and minimise" effects, on the basis that it might dilute more directive "avoid" obligations elsewhere in the CTMP conditions. The Applicant accepted the "manage and minimise" wording sought by MCK and did not consider it would weaken the condition framework.

- 412 We accept the Applicant's approach. A review condition is appropriate so that construction traffic controls can respond if effects are materially different from those assessed. We do not accept, however, that the review condition should pre-determine reductions in hourly construction vehicle limits or impose peak-period restrictions in the manner sought by Auckland Transport.
- 413 Those more directive controls would create material uncertainty for the construction programme and could have the unintended consequence of extending the duration of construction effects. The CTMP framework, the certification process and the review condition together provide an adequate and proportionate means of managing construction traffic effects while preserving necessary implementation flexibility.
- 414 We also accept the CTMP objective wording requiring construction traffic effects to be managed and minimised. We do not consider that wording dilutes the more specific objectives or principles that require avoidance of particular effects where avoidance is required by the requirements of the CTMP.

Pedestrian, road and bus lane closures

- 415 AT sought tighter control over pedestrian, road and bus lane closures. It objected to wording that allowed closures where required for health and safety reasons, because the effects of additional closures had not been assessed and the exception could be used too broadly.
- 416 The Applicant considered that some flexibility was necessary in a complex city-centre road environment, particularly where detailed construction methodology and sequencing could not yet be finally fixed. It maintained that construction traffic effects could be appropriately managed through the CTMP certification process and related conditions.
- 417 We prefer the Applicant's approach. The project will be undertaken in a complex city-centre road environment, and some flexibility is required where closures are necessary for health and safety reasons or to respond to detailed construction sequencing. We do not accept that retaining that exception authorises unassessed closures without control.
- 418 Any road corridor closures will require Auckland Transport approval through the relevant corridor access and traffic management processes. The CTMP conditions also require closures to be planned, justified, minimised and safely managed. On that basis, the condition framework provides an appropriate balance between effects management and practical constructability.

CLG parties' operational sensitivities and construction traffic management

- 419 AT sought deletion or relocation of proposed CTMP wording requiring the consent holder to take account of CLG parties' operational sensitivities. AT's concern was that accommodating the operational requirements of private parties could trade off against wider network efficiency or create effects not assessed in the Application.
- 420 The Applicant considered it appropriate for the CTMP to identify and take account of the practical sensitivities of nearby residents, businesses and hotel operators. It submitted that this did not require private interests to prevail over public network function, but enabled informed construction planning in a sensitive receiving environment.
- 421 We accept that the CTMP should identify and take account of the operational sensitivities of nearby residents, businesses, hotels and other affected parties. That is a practical and appropriate step in construction planning for this receiving environment. We do not accept Auckland Transport's concern that this necessarily requires private interests to prevail over safe and efficient public network operation.

- 422 To avoid ambiguity, our preferred wording treats those sensitivities as matters to be identified and considered when preparing the CTMP. That approach allows the consent holder and certifier to understand relevant receiver sensitivities while maintaining the primacy of transport safety, network function and the specific CTMP objectives and principles.

Truck staging, queuing and the M Social service driveway

- 423 AT sought clear measures to stage and sequence truck movements so that trucks would not queue back into the adjacent road network. It also sought stronger wording for the M Social service driveway conditions to avoid queuing back into the Lower Hobson Street flyover lanes and to avoid two trucks arriving at the same time to use the M Social service driveway.
- 424 The Applicant accepted some additional wording requiring trucks to avoid queuing, but resisted an absolute “avoid” obligation for the M Social service driveway. It proposed “minimise” wording to preserve flexibility where queuing or simultaneous truck arrivals were unavoidable despite reasonable traffic management.
- 425 AT also sought a 1m visual screen on the eastern extent of the Hobson Street flyover to reduce driver distraction from crane and construction activity. The Applicant rejected that condition, relying on its transport response and considering that the proposed traffic management framework was sufficient.
- 426 We accept the Applicant’s position on truck staging, queuing and the M Social service driveway. The conditions should require active staging and management so that construction vehicles avoid queuing back into the surrounding road network as far as practicable. We are not persuaded that an absolute prohibition on any queuing or any simultaneous truck arrivals at the M Social service driveway would be workable or necessary.
- 427 The Applicant’s proposed wording provides sufficient control while recognising that, during a long and complex construction programme, short-duration or unavoidable operational interactions may occur despite reasonable traffic management. We also do not impose Auckland Transport’s requested 1m visual screen on the Hobson Street flyover. On the material before us, we do not see sufficient transport safety benefit from that measure to justify it as a condition.

Hotel pick-up and drop-off area

- 428 The hotel pick-up and drop-off area remained the main operational transport condition dispute. AT’s concern was that the PUDO was small and constrained and that the proposed management measures did not sufficiently mitigate transport network effects. Particular concerns included use of the bypass lane as a waiting area, entry legibility from Sturdee Street, pedestrian safety, queuing across the Customs Street West footpath, protocols for larger vehicles, monitoring frequency, reporting, and the potential future closure or reinstatement of the PUDO if hotel use ceased.
- 429 AT sought more prescriptive design, management, monitoring, reporting and review conditions. Its position was that the PUDO should not be left substantially to management-plan certification because the facility’s physical constraints were central to its operational effects.
- 430 The Applicant relied on the updated Hotel Pick-Up and Drop-Off Management Plan and accepted some refinements arising from AT’s comments and the PUDO peer review. It rejected several additional AT requirements as unnecessary, duplicative, or too onerous, and considered the final management plan and certification process would adequately

manage the operational effects.

- 431 We acknowledge Auckland Transport's concerns about the physical constraints of the hotel PUDO and the importance of ensuring that it does not generate unacceptable effects on Customs Street West, pedestrians or wider network operation. We also accept that a hotel of the scale and quality proposed requires a workable pick-up and drop-off facility, and that the Applicant has provided a detailed Hotel Pick-Up and Drop-Off Management Plan informed by further technical review and engagement.
- 432 We prefer the Applicant's condition approach. The updated management plan, certification requirements, operational protocols, monitoring and review mechanisms provide an appropriate and enforceable framework for managing the PUDO's effects. We do not consider the additional Auckland Transport conditions requiring more prescriptive design, bypass-lane controls, reporting, future reinstatement or closure mechanisms to be necessary or proportionate in the circumstances.

Social engagement protocol and management plan changes

- 433 MCK sought a bespoke MSocial Engagement Protocol, including a dedicated liaison person, regular meetings, direct review of management plans, forward work schedules, operational sensitivity planning, meeting minutes and a 24-hour complaints response. MCK considered that the scale, proximity and duration of the works justified a more tailored interface regime than the general CLG and CMP conditions.
- 434 The Applicant was willing to address some of these matters through a private side agreement, but opposed their inclusion as consent conditions. It considered that the proposed MSocial engagement requirements were essentially private or contractual matters, and that it would be inappropriate for Council to administer or enforce them as resource consent conditions.
- 435 MCK also opposed a minor-change pathway for certified management plans where changes could occur outside Council certification and CLG consultation. It sought clearer requirements to explain why a proposed change was minor or material and to consult on material changes. The Sebel supported clearer consultation requirements for management plans that had been prepared with affected-party input. The Applicant considered a minor-change pathway to be common, pragmatic and necessary for implementation flexibility.
- 436 In our draft conditions, we did not impose MCK's proposed separate MSocial Engagement Protocol as a resource consent condition. We accept that the MSocial Hotel will be a sensitive and directly affected neighbour during a lengthy construction period, and we encourage the Applicant and MCK to continue engaging and, if appropriate, to record interface arrangements in a private agreement. However, many of the matters sought by MCK are boundary interface matters rather than resource management controls for Auckland Council to administer and enforce. We reconsider this preliminary conclusion in paragraphs 518–530 below following comments on the draft conditions.
- 437 We also agree with the Applicant that a management plan amendment process for minor/immaterial changes that might arise during construction is common in complex projects such as this one and enables a pragmatic and flexible implementation approach. Our draft conditions therefore retain the Applicant's suggestion, including the more detailed process offered via condition 16A, which we endorse.

MSocial land stability, groundwater and structural monitoring

- 438 MCK sought stronger conditions addressing the geotechnical, groundwater and structural interface with the MSocial Hotel. It wanted the GSMCP conditions to expressly link

management plan methodology to compliance with the consent conditions, and sought continuous monitoring and data loggers for MSocial until basement construction was complete.

- 439 MCK also sought new structural design conditions requiring detailed design information to be provided to MSocial before building consent. The matters included temporary support of existing retaining structures, diaphragm wall and capping beam design, wall construction through piles, hydrostatic uplift, seismic gaps, waterproofing and fire-rated boundary wall matters.
- 440 In addition, MCK sought 24 deformation monitoring stations, as shown on the Structus marked-up plans, together with continuous groundwater, settlement, retaining wall deflection and inclinometer monitoring at the MSocial interface.
- 441 The Applicant rejected the continuous monitoring and structural design conditions as resource consent requirements. It maintained that the assessed risk to MCK structures was low, that the proposed monitoring regime was sufficient, and that many of the matters raised by MCK would be addressed through ordinary detailed design, peer review, building consent processes or private side agreement. The Applicant proposed eight regularly surveyed deformation monitoring stations, with 12 additional stations installed and baselined but not regularly surveyed.
- 442 We have given careful consideration to MCK's geotechnical, groundwater and structural concerns. The MSocial interface is an important construction risk issue. However, on the evidence before us, our preliminary conclusion was that the assessed risk to the MSocial structures was low and that the Applicant's proposed monitoring and contingency framework was reasonable and proportionate.
- 443 In our draft conditions, we therefore did not require continuous monitoring or data loggers for all MSocial monitoring matters, nor did we require the 24 deformation monitoring stations sought by MCK. We reconsider this preliminary conclusion in paragraphs 518–530 below following comments on the draft conditions.
- 444 In our draft conditions, we also did not impose MCK's proposed structural design disclosure conditions. We considered the issues raised to be relevant to detailed design, construction methodology, building consent, engineering approval, peer review and any private arrangements between the parties. We reconsider this preliminary conclusion in paragraphs 518–530 below following comments on the draft conditions.

Construction noise and vibration schedule process

- 445 The construction noise and vibration schedule process remained one of the central condition disputes. MCK sought a three-tier process distinguishing: compliant works; identified or known exceedances expressly authorised through a clear schedule process; and unforeseen exceedances managed through a separate schedule or stop-work process. MCK also sought stronger receiver consultation, recognition of affected-party sensitivities, continuous monitoring for MSocial, and immediate cessation for unforeseen exceedances unless cessation would be unsafe.
- 446 The Sebel generally supported stronger controls and additional clarity around affected receivers and high-effect activities such as night pours and bridge removals. However, its position was less absolute than MCK's and it was more comfortable with the Applicant's current schedule approach if MCK's additional process was not adopted.
- 447 The Applicant retained a two-tier approach: compliant works managed under the CNVMP, and a schedule process where the standards are predicted or measured to be exceeded or works occur outside standard hours. It rejected MCK's additional tiering and continuous

monitoring requirements, saying the proposed schedule process was sufficient, enforceable and workable for a project of this scale.

- 448 There were also more specific drafting disputes about whether the CNVMP should expressly reference the Marshall Day reports, whether the CNVMP objective should state that it adopts the best practicable option within the consent limits, and whether the CNVMP should include stronger advance warning and CLG feedback requirements.
- 449 We prefer MCK's three-tier schedule approach for construction noise and vibration exceedances, but not its request for continuous monitoring. Given the scale, duration and proximity of the works to hotel, residential and commercial receivers, we consider that the conditions should distinguish more clearly between compliant works, identified or predicted exceedances managed through an approved schedule, and unforeseen exceedances requiring a separate response pathway.
- 450 That additional structure will improve certainty for affected receivers and for Council compliance officers. It also better reflects the practical difference between exceedances that are known and planned for, and exceedances that arise unexpectedly during works. We accept the evidence and submissions supporting a clearer stop-work or response mechanism for unforeseen exceedances, subject to necessary health and safety qualifications.
- 451 We do not, however, accept that continuous monitoring is necessary as a general requirement. Targeted monitoring, schedule preparation, receiver notification, complaints procedures and Council certification provide a sufficient and proportionate management framework. We have also accepted the need for the CNVMP condition to refer directly to the relevant Marshall Day acoustic material so that the CNVMP is clearly anchored to the assessed effects.

The Sebel access, heavy vehicle routing and complaints pathway

- 452 The Sebel sought conditions to protect both the physical and operational capacity of key access routes, including routes serving Princes Wharf, Lower Hobson Street and Customs Street movements. The Applicant rejected the phrase "operational capacity", noting that operational capacity can be affected by traffic signal phasing and wider network management controlled by AT rather than the project.
- 453 The Sebel also sought direct conditions preventing heavy construction vehicles using Quay Street or Viaduct Streets as haulage routes, loading areas or layover areas, except for footbridge removal. The Applicant considered a separate direct condition unnecessary because heavy vehicle routing was already addressed through CTMP condition 27(g).
- 454 A further Sebel request was for a direct condition requiring continuous safe east-west pedestrian access along Customs Street West, including by gantry if necessary, subject only to limited exceptions. The Applicant considered this was already addressed through CTMP condition 28(jj).
- 455 The Sebel also sought a 24-hour complaints pathway so complaints could be received and actioned at any time when extended-hour works were occurring. The Applicant rejected a separate condition, saying contact details and complaints procedures were already provided through the CMP condition framework.
- 456 We generally prefer the Applicant's position on The Sebel's proposed access and complaints conditions. We accept that the physical availability of key access routes must be protected where the project affects those routes. We do not accept that the conditions should guarantee wider 'operational capacity', because that can be affected by signal phasing, general traffic conditions and wider network management outside the

Applicant's control.

- 457 We also do not impose separate direct conditions prohibiting heavy construction vehicle use of Quay Street and the Viaduct Streets or creating a standalone 24-hour complaints pathway. Those matters are sufficiently addressed through the CTMP and CMP condition framework. However, we accept two drafting refinements sought by The Sebel. First, condition 28(jj) should clarify that the CTMP must address the maintenance of safe east-west pedestrian access along Customs Street West for the duration of works, subject to limited and approved exceptions. Secondly, the additional wording in condition 28(ii) referring to movements beneath the Lower Hobson Street flyover improves clarity and is adopted.

Matters narrowed or largely resolved

- 458 A number of matters appeared to have narrowed to drafting rather than fundamental disagreement. These included the heavy vehicle routing principle in condition 27(g), where the Applicant accepted the substance subject to wording; truck staging and queuing in condition 28(t), where the Applicant accepted "avoid queueing" wording in part; and some PUDO management measures, where AT accepted several peer-review-informed improvements while maintaining broader concerns about design, bypass lane use and monitoring.
- 459 Some of MCK's mark-up matters also appeared capable of commercial resolution between MCK and the Applicant. The Applicant did not necessarily oppose those matters as between the parties, but did oppose their inclusion as enforceable resource consent conditions.
- 460 At the draft condition stage, we record that several disputed matters narrowed to drafting issues or were appropriately resolved through the Applicant's amended condition set. Where the Applicant accepted the substance of requested changes, we have generally adopted that approach rather than adding duplicative direct conditions. Where MCK's green-text matters are capable of private agreement, we do not treat that possibility as a reason to impose them as consent conditions.
- 461 Overall, our draft condition set at that stage reflected what we considered to be a proportionate balance between certainty and flexibility. It strengthened controls where we consider the effects record requires that, particularly in relation to management plan changes and the construction noise and vibration schedule process, while declining conditions that would be duplicative, private in character, outside the Applicant's practical control, or more onerous than necessary.

45.2 Parties' comments on draft conditions and Applicant's response

- 462 On 8 July 2026, the Panel circulated its draft decision, draft RMA consent conditions and draft archaeological authority conditions for comment under sections 70 and 72.
- 463 Comments on the draft conditions were received from Council, AT, MCK, Ngāti Whātua Ōrākei Trust, and the Minister for Māori Crown Relations: Te Arawhiti and Minister for Māori Development.
- 464 On 23 July 2026, the Applicant provided a memorandum and supporting planning comments responding to the comments received. The Applicant advised that, subject to several matters of detail, it supported the draft conditions and the reasoning in the draft decision. It nevertheless proposed amendments to some conditions to address workability, drafting and issues raised by the commenting parties.

Auckland Council

- 465 Council's comments were made having regard to the preliminary findings recorded in the draft decision. Council proposed minor drafting, numbering and cross-reference amendments throughout the condition set to correct clerical errors, remove duplication, improve readability and assist compliance monitoring.
- 466 Council did not undertake a detailed review of the principal transport conditions because AT had been separately invited to comment on those matters. These included the CTMP, the Managed Access and Servicing Access Plan, the Servicing and Loading Management Plan and the Hotel Pick Up and Drop Off Management Plan.
- 467 Council raised a question concerning the wastewater engineering drawings referred to in condition 1. It queried whether drawings showing alternative wastewater servicing options should form part of the approved drawings where those options had not yet been finally selected and might require separate approvals. The Applicant acknowledged the concern and proposed moving the wastewater options from the approved drawings listed in Attachment 2 to the supporting documents listed in Attachment 1. It noted that the conditions would prevail over any inconsistency in the supporting documents in any event.
- 468 Council sought an expanded advice note to condition 77 addressing wastewater servicing. The proposed advice note would record the need for Watercare approval, engineering plan approval, possible further resource consents, compliance with the Water and Wastewater Code of Practice, and any necessary build-over or work-over approvals. This proposal was accepted by the Applicant.
- 469 Council sought amendments to the construction noise and vibration conditions to clarify the operation of the three-tier process for predicted and unpredicted exceedances and to assist monitoring. The Applicant agreed with the three-tier approach in principle but proposed drafting changes. In particular, it proposed that condition 69 also cover other construction activities for which exceedances had been predicted in the acoustic assessment, and other activities that did not comply with the relevant noise and vibration limits but were not expressly listed. It also proposed deleting a consultation requirement from condition 69 on the basis that it was repeated in the conditions applying to the later tiers.
- 470 Council sought amendments to condition 107 so that the wind-mitigation measures relied on by the proposal were expressly listed for ease of reference and monitoring. The Applicant maintained that every wind-mitigation measure did not need to be reproduced in the condition. It proposed instead that condition 107 refer expressly to the reports accompanying the application that identify the required mitigation measures.
- 471 Council sought further detail in the Flood Barrier Management Plan condition and maintained its request for a covenant registered against the land to address the ongoing natural-hazard obligations. The Applicant supported the draft wording of the Flood Barrier Management Plan condition and opposed a covenant. It considered that the draft conditions adequately addressed the residual natural-hazard risk and noted that the proposed Plan Change 120 policy relied on by Council did not prescribe a covenant as the required method.
- 472 Council sought deletion of the separate glare condition on the basis that glare was already addressed through the material-certification condition. The Applicant accepted this deletion.
- 473 Council maintained that easements should secure continuous public access through the

Urban Room and the east-west pedestrian connections.

474 The Applicant opposed an easement condition. It submitted that an easement was not required by the AUP and that easement matters were already addressed in the Integration Agreement between the Applicant, Council and AT. It considered a consent condition could duplicate or conflict with that agreement.

475 As an alternative, the Applicant proposed conditions requiring:

- a. a clear pedestrian movement width of at least 5 metres through the Urban Room and east-west pedestrian connection;
- b. public access to those spaces 24 hours a day, seven days a week; and
- c. exceptions only for emergencies or maintenance where restriction was necessary for safety.

476 The Applicant also proposed an advice note confirming that tables, chairs and landscaping elements could be located in those spaces provided the 5-metre clear width was maintained.

Auckland Transport

477 AT sought amendments to the review condition so that a review could expressly consider whether the CTMP remained appropriate in light of construction effects on the transport network. The Applicant supported the draft review condition and opposed express inclusion of the CTMP, relying on its earlier responses under section 55 and RFI 3.

478 AT maintained that the CTMP objective should require adverse effects to be avoided or mitigated rather than managed and minimised. The Applicant supported the Panel's draft wording and opposed replacing "minimise" with "avoid".

479 AT objected to the qualification in conditions 27(c) and 27(d) permitting closures where required for health and safety reasons. The Applicant supported the Panel's draft wording of those conditions.

480 AT proposed an amendment to condition 28(e) clarifying that the 24-vehicle hourly limit included both construction and non-construction vehicles using the dedicated access beneath the Lower Hobson Street flyover. The Applicant accepted that amendment.

481 AT also sought to apply the limit of 24 construction vehicles per hour across the whole project site, including vehicles using the service lane, but the Applicant opposed this. It stated that the limit was intended to apply only to construction vehicles turning right into Customs Street West beneath the Lower Hobson Street flyover. It referred to the construction transport assessment, which modelled 24 trucks per hour using that route and separately allowed an additional 50 vehicles per hour using the service lane.

482 AT maintained that a visual screening barrier should be required between the construction staging area and the Lower Hobson Street flyover to reduce driver distraction. The Applicant opposed a specific screening condition and relied on its earlier section 55 and RFI 3 responses.

483 AT sought stronger wording in the Managed Access and Servicing Access Plan condition to avoid vehicles queuing back onto Lower Hobson Street, including where two M Social service vehicles arrived at the same time. The Applicant supported the Panel's draft requirement to minimise queuing. It stated that complete avoidance depended partly on MCK's scheduling of its service vehicles, which was outside the Applicant's direct control. It also stated that servicing volumes were low and that the M Social loading area was itself designed for one vehicle.

- 484 AT maintained that a specific condition should require reinstatement of the Fanshawe Street retaining wall and balustrade following removal of the existing ramp. The Applicant opposed a separate condition and relied on its earlier response to RFI 3. It nevertheless accepted an advice note clarifying the meaning of "other assets" in the road-asset damage condition.
- 485 AT sought more detailed monitoring and reporting requirements for the hotel pick-up and drop-off facility. The Applicant supported the Panel's draft conditions and opposed further requirements, relying on its earlier section 55 and RFI 3 responses.
- 486 AT also sought a contingency condition requiring removal of the pick-up and drop-off facility and reinstatement of the footpath if the hotel use ceased or materially changed. The Applicant opposed that condition. It stated that a material change of that nature would require a variation or other approval and that the facility was already tied to operation under the Hotel Pick Up and Drop Off Management Plan.

Millennium & Copthorne Hotels New Zealand Limited

- 487 MCK maintained its request for a separate M Social Engagement Protocol. The proposed protocol included a dedicated liaison person, regular meetings, MCK involvement in relevant management plans and a complaints process suitable for a hotel operating 24 hours a day.
- 488 The Applicant opposed a separate engagement protocol and supported the approach in the draft decision and conditions. It relied on its earlier section 55 and RFI 3 responses.
- 489 The Applicant also advised that it and MCK were well advanced in negotiating a separate side agreement concerning party-to-party engagement and aspects of the structural interface, although no agreement had been concluded at the date of its response. The Applicant maintained that matters of an essentially private or contractual character should not be imposed as consent conditions requiring Council monitoring and enforcement.
- 490 MCK sought amendments to the CNVMP conditions to impose additional consultation, engagement, reporting and liaison requirements. The Applicant supported the Panel's draft wording and stated that the draft CNVMP referenced in the application and conditions already addressed the matters raised by MCK.
- 491 MCK maintained its request for continuous geotechnical and structural monitoring during relevant phases of the works. The Applicant supported the draft monitoring regime and opposed continuous monitoring, relying on its earlier section 55 and RFI 3 responses.
- 492 MCK sought consistent amendments to the objectives of the Groundwater and Settlement Monitoring and Contingency Plan conditions. The Applicant supported the amendment already made to the general condition and proposed making the same amendment to the equivalent water-permit condition.
- 493 MCK sought an increase in the number of deformation-monitoring stations at the M Social site from eight to 20. The Applicant supported the draft condition requiring eight stations and relied on its earlier response to RFI 3.
- 494 MCK maintained its request for a condition governing structural design and construction methodology at the common boundary. The Applicant opposed a structural design condition and relied on its earlier section 55 and RFI 3 responses.

Ngāti Whātua Ōrākei Trust

- 495 Ngāti Whātua Ōrākei's comments focused on conditions 5, 6 and 11 of the draft archaeological authority. It sought removal of the references to other iwi and requested

that the conditions identify Ngāti Whātua Ōrākei as the iwi with the notification, tikanga and reporting roles created by those conditions.

- 496 The Applicant supported Ngāti Whātua Ōrākei's requested amendments. It referred to Ngāti Whātua Ōrākei's role as the Applicant's project partner and acknowledged its position that it is tangata whenua for the project site and exercises ahi kā. The Applicant's proposed archaeological authority conditions accordingly removed references to the other iwi.

Ministerial comment

- 497 The Minister for Māori Crown Relations: Te Arawhiti and Minister for Māori Development supported the draft decision, subject to the final resource consent and archaeological authority conditions responding to the concerns raised by Ngāti Whātua Ōrākei.

Other drafting matters

- 498 The Applicant proposed minor drafting changes to the construction noise schedules to clarify the operation of the three-tier process and improve workability. It also corrected condition numbering, cross-references and duplication throughout its preferred condition set.
- 499 Apart from the matters identified above, the Applicant maintained its support for the conditions circulated by the Panel on 8 July 2026.

45.3 Remaining condition issues

- 500 From the Panel's perspective the principal outstanding condition issues to be determined by us, after taking account of the Applicant's acceptance of some requested changes, are as follows.
- a. **Public access easements:** Council continues to seek easements securing enduring 24-hour public access through the Urban Room and east-west pedestrian connections. The Applicant opposes an easement condition. It says easement arrangements are already addressed through the Integration Agreement with Council and Auckland Transport, and that a consent condition could duplicate or conflict with that agreement. It instead proposes conditions requiring 24/7 public access and a minimum clear pedestrian width of 5 metres.
 - b. **Natural-hazard covenant:** Council continues to seek a land covenant securing the long-term flood-barrier and natural-hazard obligations. The Applicant opposes a covenant and considers the draft consent conditions sufficient. It also says the proposed Plan Change 120 policy relied on by Council does not require a covenant as the method for managing residual risk.
 - c. **Wind-mitigation detail:** Council seeks the individual wind-mitigation measures to be expressly listed in condition 107 for certainty and monitoring. The Applicant does not support reproducing all mitigation measures in the condition. It proposes instead that the condition cross-refer to the relevant technical reports containing those measures.
 - d. **Flood Barrier Management Plan detail:** Council seeks further detail in the condition governing the content of the Flood Barrier Management Plan. The Applicant supports the Panel's draft wording and does not accept Council's additional drafting.
 - e. **Scope of the review condition:** AT seeks the review condition to expressly allow review of the CTMP where construction effects on the transport network differ from those assessed. The Applicant supports the Panel's draft general review condition

and opposes express reference to the CTMP.

- f. **CTMP objective: “avoid” or “minimise”:** AT seeks an objective requiring adverse transport effects to be avoided or mitigated. The Applicant supports the draft requirement to manage and minimise effects and opposes use of “avoid”, on the basis that complete avoidance will not always be practicable.
- g. **Additional closures for health and safety:** AT objects to conditions 27(c) and 27(d) allowing additional closures where required for health and safety reasons. The Applicant supports retaining that qualification.
- h. **Geographic scope of the 24-vehicle limit:** AT seeks the limit of 24 construction vehicles per hour to apply across the entire project site, including the service lane. The Applicant says the limit should apply only to construction vehicles using the right turn into Customs Street West beneath the Lower Hobson Street flyover. It relies on transport modelling that separately allowed additional movements through the service lane.
- i. **Flyover visual screening:** AT continues to seek a visual-screening barrier between the construction staging area and the Lower Hobson Street flyover to address driver distraction. The Applicant opposes a specific condition requiring that barrier.
- j. **Queuing at the M Social service access:** AT seeks wording requiring queuing back into Lower Hobson Street to be avoided, including where two M Social service vehicles arrive together. The Applicant supports a requirement to minimise queuing rather than avoid it. It says servicing arrangements depend partly on MCK’s scheduling, which is outside the Applicant’s direct control, and that simultaneous arrivals are unlikely.
- k. **Fanshawe Street retaining wall and balustrade:** AT seeks a specific condition requiring reinstatement of the Fanshawe Street retaining wall and balustrade after removal of the existing ramp. The Applicant opposes a separate condition, although it accepts an advice note clarifying the road assets covered by the asset-damage provisions.
- l. **Hotel pick-up and drop-off monitoring:** AT seeks more detailed monitoring and reporting requirements for the hotel pick-up and drop-off facility. The Applicant supports the draft conditions and opposes additional requirements.
- m. **Removal of the hotel pick-up and drop-off facility:** AT seeks a contingency condition requiring the facility to be removed and the area reinstated as footpath if the hotel use ceases or materially changes. The Applicant opposes that condition, saying any material change would require a consent variation or other approval and that the facility is already linked to the hotel management plan.
- n. **M Social Engagement Protocol:** MCK continues to seek a separate condition requiring a dedicated engagement protocol for M Social, including a liaison person, regular meetings, involvement in relevant management plans and a 24-hour complaints process. The Applicant opposes that condition and relies on the existing CLG, management-plan and complaints provisions. It also says some of the matters are private or contractual and are being addressed through a proposed side agreement.
- o. **Additional CNVMP liaison and reporting:** MCK seeks additional consultation, engagement, reporting and liaison obligations in the CNVMP conditions. The

Applicant says the existing draft CNVMP already addresses those matters and opposes further conditions.

- p. **Continuous geotechnical and structural monitoring:** MCK continues to seek continuous monitoring during relevant excavation and construction phases. The Applicant supports the Panel's draft monitoring regime and opposes continuous monitoring.
- q. **Number of deformation-monitoring stations:** MCK seeks 20 deformation-monitoring stations at M Social rather than the eight required by the draft condition. The Applicant supports retaining eight stations.
- r. **Structural design and common-boundary methodology:** MCK seeks a condition governing structural design and construction methodology at the common boundary with the M Social site. The Applicant opposes such a condition and maintains that those matters are either addressed through the existing conditions and regulatory processes or are more appropriately dealt with in the proposed side agreement. However, the parties appear to have narrowed the issue concerning the GSMCP objectives. The Applicant accepts applying the amended objective consistently to the equivalent water-permit condition.

501 No continuing issue appears to remain between Ngāti Whātua Ōrākei and the Applicant. The Applicant supports the requested amendments to archaeological authority conditions 5, 6 and 11 so that the notification, tikanga and reporting roles refer to Ngāti Whātua Ōrākei rather than the other iwi named in the Panel's draft.

Summary of overall position

502 The remaining disputes in relation to conditions are concentrated in four areas:

- a. **legal security and long-term administration**, particularly public-access easements and a natural-hazard covenant;
- b. **construction transport management**, including the review condition, closures, vehicle limits, screening, queuing and reinstatement of transport assets;
- c. **protection of M Social during construction**, particularly engagement, structural design, monitoring and the number of monitoring stations; and
- d. **the level of prescriptive detail required in conditions**, including wind mitigation, flood management and hotel pick-up and drop-off monitoring.

503 The Applicant's general position is that the Panel's draft conditions already provide a comprehensive and proportionate framework, with only limited amendments needed for clarity and workability. The other parties seek more specific, enduring or independently enforceable controls in the areas most directly affecting their respective interests.

45.4 Panel's condition findings

504 We have considered the comments received on our draft conditions, the Applicant's response, and the reasons advanced for and against the further amendments sought. We have also reconsidered the relevant findings and reasoning in our draft decision. Our conclusions are set out below.

Auckland Council

505 Except in relation to the mechanism for securing continuing public access through the development, we accept the Applicant's position on the matters that remained in dispute with Council. We consider the Applicant's proposed amendments and the conditions otherwise included in our draft provide an appropriate, sufficiently certain and

enforceable response to Council's concerns.

- 506 The Urban Room and the 24-hour pedestrian connections through the site are different in character. They are central features of the proposal and material components of the public benefits on which the Applicant relies. They contribute to the permeability of the city block, improve connections between the city centre and waterfront, and provide a substantial new publicly accessible civic space. The enduring availability of those spaces for public use must therefore be suitably secured, and we did not turn our mind in detail to the appropriate mechanism to do so in our draft decision or conditions.
- 507 Council seeks registered easements to secure that access. The Applicant opposes an easement condition but offers conditions requiring the Urban Room and identified pedestrian connections to remain available for public use 24 hours a day, seven days a week, subject to limited exceptions for emergencies and maintenance. It also proposes a minimum unobstructed pedestrian movement width of 5 metres.
- 508 We do not consider it possible to require an easement against the Applicant's will in the circumstances of this land use consent. Section 108AA RMA constrains the types of conditions that may be imposed without an applicant's agreement, and these include conditions connected with a positive effect on the environment of the activity, which is what the easement would seek to secure in this case. There is a power to require the granting or reservation of an easement, but it sits in s 220(1)(f) RMA relating to conditions of subdivision consents.
- 509 The practical alternatives are therefore:
- a. to rely on the continuing public-access conditions, which will run with the land for so long as the consent remains operative; or
 - b. to require the Consent Holder to enter into and register a covenant under ss 108(2)(d) and 109 RMA recording the same continuing obligations.
- 510 In substantive terms, those alternatives secure the same resource management outcome. In either case, the obligation runs with the land and binds future owners. The material distinction is one of visibility and accessibility. A registered covenant appears on the record of title and is readily apparent to prospective purchasers, financiers, occupiers and members of the public undertaking a title search. A consent condition remains legally binding but may become less readily visible over time as ownership and occupation change.
- 511 Given the significance of the Urban Room and pedestrian connections to the proposal and to our assessment of its public benefits, we consider it appropriate that the obligation remain visible on the title throughout the life of the development. We therefore require a covenant under s 108(2)(d) RMA, registered in accordance with s 109, recording the continuing obligations to provide 24-hour public access and maintain the required clear pedestrian movement width. The covenant is not a substitute for the operative consent conditions. Its function is to record those obligations on the title and reinforce their enduring and publicly identifiable character.
- 512 We have considered the Applicant's statement⁶⁰ that "*easement requirements are addressed in the Integration Agreement between Precinct, AC and AT*" and that "*a consent condition would duplicate and potentially conflict with its implementation*". The

⁶⁰ *Response to comments received on Draft Conditions*, Barker & Associates, Appendix A to Memorandum of Counsel for Applicant dated 23 July 2026.

Integration Agreement itself was not provided to the Panel and was not put into evidence by the Applicant. The project materials contain general references indicating that an agreement exists and is concerned principally with coordination of the development, removal of the Lower Hobson Street flyover, associated road works, construction programming, design interfaces and reinstatement works. The materials do not disclose its operative provisions relating to public access or easements.

- 513 We therefore have no evidential basis on which to confirm or reject the Applicant's description of the agreement's easement provisions. Nor can we determine whether any such provisions secure the same areas, hours, minimum widths, duration, successor obligations and enforcement arrangements as the public-access conditions. Council's continued request for an easement condition also indicates that its regulatory reviewers did not regard the matter as having been sufficiently addressed for consent purposes through the material available to the Panel.
- 514 That uncertainty provides a further reason to adopt the s 108 RMA covenant mechanism. The covenant is a transparent resource management instrument within the approval framework before us. It secures the public benefit relied on in granting consent without requiring the Panel or future owners to depend on the terms, continued operation or enforceability of an agreement that is not part of the evidential record.

Auckland Transport

- 515 We have reconsidered each of AT's requested amendments and the Applicant's response. We remain satisfied with the approach and wording of our draft conditions, subject to the amendments accepted by the Applicant and any consequential drafting corrections.
- 516 In particular, we accept the Applicant's position concerning:
- a. the scope and wording of the review condition;
 - b. the objectives and principles of the CTMP;
 - c. the limited qualification allowing closures where reasonably required for health and safety;
 - d. the application of the 24-construction-vehicle hourly limit to the assessed access beneath the Lower Hobson Street flyover rather than to all vehicle movements across the site;
 - e. the absence of a prescribed flyover visual-screening barrier;
 - f. the requirement to minimise, rather than absolutely avoid, queuing associated with the M Social service access;
 - g. the treatment of the Fanshawe Street retaining wall and balustrade through the approved works, asset-protection provisions and relevant approval processes; and
 - h. the monitoring, review and future operation of the hotel pick-up and drop-off facility.
- 517 We consider the draft conditions address the relevant transport effects with sufficient specificity while preserving appropriate flexibility for detailed construction planning and network approvals. The additional controls sought by AT are either unnecessary in light of the existing condition framework, more prescriptive than the effects assessment requires, or directed to matters appropriately addressed through AT's separate corridor-access, engineering and temporary-traffic-management processes.

Millennium & Copthorne Hotels New Zealand Limited

- 518 We have reconsidered our draft findings concerning MCK in light of its further legal submissions⁶¹. We accept that MCK and the M Social Hotel occupy a unique position in relation to the development.
- 519 The M Social site immediately adjoins the project site. The proposed demolition, deep excavation and construction works will occur close to the common boundary over an extended period. The hotel operates continuously and is particularly sensitive to noise, vibration, access disruption and any geotechnical or structural effects. The consequences of inadequate engagement, monitoring or management could therefore be materially greater for MCK than for other surrounding owners and occupiers.
- 520 MCK submitted that the conditions it seeks are not merely private or contractual boundary arrangements. It says they are measures directed to avoiding, mitigating and managing the environmental effects of the authorised construction activities on the most directly affected neighbouring site. Having reconsidered the matter, we agree that this characterisation is appropriate in relation to MCK's issues 1, 3 and 4 set out in the further legal submissions, which remained unresolved at the conclusion of the condition commenting process.
- 521 We have taken account of the advice from both MCK and the Applicant that they were negotiating a possible side agreement to address these outstanding matters. The Applicant described those negotiations as well advanced, but no executed agreement or agreed terms have been provided to the Panel. We must therefore determine the conditions on the basis of the record before us and cannot assume that the matters will be resolved privately.
- 522 **Issue 1 — M Social Engagement Protocol:** We accept MCK's request for a specific M Social Engagement Protocol. The protocol responds to the particular sensitivity and proximity of the M Social site and complements, rather than replaces, the broader Community Liaison Group and management-plan provisions.
- 523 The protocol is to provide for a dedicated liaison person, regular direct engagement, MCK's involvement in the preparation and implementation of management measures relevant to effects on its site, timely notice of material construction activities, and a complaints process available during all periods when authorised works may affect the hotel. We consider those requirements directly relate to the management of construction noise, vibration, access and structural-interface effects and are appropriate resource consent controls in this particular setting.
- 524 **Issue 3 — Structural design and construction at the common boundary:** We also accept the substance of MCK's requested structural design and construction-interface conditions. The scale and proximity of the excavation, together with the potential consequences for the adjoining hotel, justify a condition framework requiring relevant design and construction information to be provided and discussed before the affected works begin.
- 525 Those conditions do not give MCK a general power to approve or veto the Applicant's detailed design. Their purpose is to ensure that the design and methodology affecting the common boundary are disclosed in sufficient time for MCK and its advisers to understand the implications for the hotel, identify relevant interface risks, and engage

⁶¹ Memorandum on behalf of Millenium & Copthorne Hotels New Zealand Limited, 16 July 2026.

with the Applicant before works capable of causing those effects commence.

526 We accept MCK's submission that building consent, engineering approval, Applicant-commissioned peer review and possible later civil remedies do not, by themselves, provide an equivalent means of managing the resource management effects on the adjoining property. Those processes have different statutory purposes and do not necessarily provide MCK with timely information or participation. The conditions sought are directly related to avoiding or mitigating the potential effects of the authorised works and are therefore appropriate, subject to final drafting that preserves the Applicant's responsibility for design and does not confer an approval role on MCK.

527 **Issue 4 – Continuous monitoring:** We further accept MCK's request for continuous monitoring in relation to the identified geotechnical and structural parameters during the critical excavation and basement-construction phases.

528 We acknowledge that the Applicant's experts assessed the risk to the M Social structures as low and proposed a trigger-based monitoring and contingency regime. However, risk is a combination of likelihood and consequence. The consequences of a material geotechnical or structural response at an occupied 13-storey hotel immediately adjoining a deep excavation could be substantial. Continuous monitoring provides earlier identification of an adverse trend and enables the trigger and contingency procedures to operate promptly.

529 We also accept that the cost and practical burden of continuous monitoring are proportionate in the context of the scale, value and duration of the development and the potential consequences of delayed detection. The final conditions will therefore incorporate MCK's proposed continuous-monitoring requirements for the relevant period and parameters identified in its condition amendments.

530 Our acceptance of MCK's issues 1, 3 and 4 is confined to the specific conditions directed to engagement, structural-interface information and continuous monitoring. It does not amount to acceptance that all matters arising between adjoining owners should be regulated through the resource consent. Private access, commercial loss allocation, indemnity and other contractual matters remain for agreement between the parties.

Ngāti Whātua Ōrākei

531 The archaeological authority conditions circulated with our draft decision were based on an earlier version of the conditions provided during the process. They did not reflect the later position advanced jointly by Ngāti Whātua Ōrākei and the Applicant or the findings recorded in our draft decision concerning Ngāti Whātua Ōrākei's relationship with the site.

532 We regret that oversight and apologise to Ngāti Whātua Ōrākei for any offence caused. We accept its explanation that the draft conditions were inconsistent with its status and responsibilities as tangata whenua and ahi kā for the project site and with the tikanga-based relationship established between Ngāti Whātua Ōrākei and the Applicant.

533 The Applicant supports Ngāti Whātua Ōrākei's requested amendments. We agree that the final archaeological authority conditions should adopt the suite put forward by the Applicant following Ngāti Whātua Ōrākei's comments. Conditions 5, 6 and 11 will therefore identify Ngāti Whātua Ōrākei in relation to the relevant tikanga, kōiwi, taonga, notification and reporting obligations.

46. Overall findings on final conditions

534 Subject to the amendments identified above, we confirm the approach and reasoning in

our draft decision. The final conditions will:

- a. otherwise adopt the Applicant's position on the matters remaining in dispute with Council;
- b. secure the enduring public-access obligations for the Urban Room and pedestrian connections through both direct consent conditions and a registered covenant under ss 108(2)(d) and 109 RMA;
- c. retain the Panel's draft approach to the outstanding Auckland Transport matters;
- d. incorporate MCK's requested amendments concerning its issues 1, 3 and 4; and
- e. adopt the Applicant's final archaeological authority conditions supported by Ngāti Whātua Ōrākei.

535 We are satisfied that the final condition framework is directed to the effects and implementation risks identified from the comprehensive materials we have been provided and which we have assessed, is appropriate and meets the applicable requirements of sections 83, 84 and 84A. It is proportionate to those effects, and provides sufficient certainty, enforceability and flexibility for the Project to proceed.

536 To the extent the final set contains minor errors, the Panel notes it has powers under section 89 to make minor corrections.

PART N: RMA 1991

537 Schedule 5, clause 17 sets out the way in which the RMA decision-making provisions apply to this consent application. The Panel must take into account, giving the greatest weight to the purpose of the FTAA, the provisions of Parts 2, 3, 6 and 8 to 10 of the RMA that direct decision-making on resource consent applications, excluding section 104D.

538 We have addressed the relevant RMA matters throughout this decision. In summary, the project is consistent with the purpose and principles of the RMA. It enables the efficient use and development of a highly strategic urban land resource, supports the social, economic and cultural wellbeing of people and communities, and appropriately manages adverse effects through the final conditions.

539 The matters in sections 6 and 7 of the RMA have been considered where relevant. The project recognises the relationship of tangata whenua with the site through the partnership with Ngāti Whātua Ōrākei and the cultural design process; it appropriately addresses historic heritage and archaeology; it maintains and enhances public access and pedestrian connections in the coastal environment; and it promotes efficient use of existing urban infrastructure, compact urban form, amenity values, quality of the environment and the benefits of the development. We have also had regard to the effects of climate change and natural hazard risk through the flood and coastal inundation assessment and conditions.

540 We have considered the relevant national direction, the AUP(OP) and iwi planning documents. We have found that the project gives effect to the NPS-UD, is consistent with the NZCPS, is supported overall by the AUP(OP) regional and district policy framework, and is consistent with the relevant iwi authority documents. To the extent that the project infringes development standards and creates tension with the HEHCP, we have found that the associated physical environmental effects are acceptable and that the purpose of the control is generally met.

541 We are therefore satisfied that the RMA approvals sought can properly be granted under

the FTAA framework, subject to the conditions in Appendix A1.

PART O: FTAA, SECTION 3

- 542 The purpose of the FTAA is to facilitate the delivery of infrastructure and development projects with significant regional or national benefits. That purpose is the matter to which we must give greatest weight when considering the resource consent approvals under Schedule 5 and the archaeological authority under Schedule 8.
- 543 For the reasons set out in Part H, we find that the Project will deliver significant regional and national benefits. Those benefits include substantial regional economic activity, employment and household income; transformation of a strategically important city-centre site; a materially improved public realm and pedestrian network; support for compact, transit-oriented urban growth; cultural recognition and partnership outcomes for Ngāti Whātua Ōrākei; and wider city-shaping benefits for Auckland and New Zealand.
- 544 We also find that the project aligns strongly with the delivery focus of the FTAA. It is a comprehensive redevelopment of a prominent, under-performing city-centre site, supported by substantial private investment and by a tangata whenua partnership. The adverse effects identified through the process are either acceptable in their own right or capable of being managed through the conditions we impose.
- 545 We therefore find that granting the approvals sought, subject to conditions, achieves the purpose of the FTAA.

PART P: OVERALL ASSESSMENT

- 546 Section 85 of the FTAA provides the relevant decline power. The Panel may decline an approval only if it forms the view that there are one or more adverse impacts in relation to the approval sought and that those adverse impacts are sufficiently significant to be out of proportion to the project's regional or national benefits, even after taking into account conditions and any conditions or modifications agreed or proposed by the Applicant to avoid, remedy, mitigate, offset or compensate for those impacts.
- 547 That is not the conclusion we reach. The project will have adverse effects. The most important completed-development effects relate to the height, bulk, HEHCP infringement, landscape, visual, waterfront amenity and shading matters raised by Council. We have found those effects acceptable. The most important implementation effects relate to construction noise and vibration, construction traffic, access, geotechnical and groundwater interface effects, structural monitoring, wind, PUDO operation, infrastructure, flooding, dust and communications. We have found that those effects are capable of being appropriately managed through the final conditions.
- 548 We have also considered whether the project's tension with the HEHCP, or the possibility that approval may be said to affect plan integrity, changes that assessment. It does not. The FTAA does not require the Panel to decline a project because it conflicts with a plan standard. Section 85(4) expressly prevents the Panel from treating inconsistency with a planning provision as sufficient in itself to meet the decline threshold. What matters is whether the adverse impacts associated with that inconsistency are objectively significant and out of proportion to the project's benefits. We have found that they are not.
- 549 Taking the application as a whole, we find that the positive effects and significant regional and national benefits substantially outweigh the residual adverse effects. The project is supported by the NPS-UD, is consistent with the NZCPS, is supported overall by the AUP(OP) objectives and policies, is consistent with relevant iwi planning documents, and

accords with the purpose of the FTAA and the RMA.

550 There is therefore no basis to decline any of the approvals sought.

PART Q: FINAL DECISION

551 The Panel has considered the Application, the supporting information, the section 53 comments, the Applicant's response to comments, the further information provided through the RFI process, and comments on the draft conditions. We thank all participants for their contributions.

552 For the reasons set out in this decision, the Panel is satisfied that the matters in section 81 have been addressed appropriately and that the purpose of the FTAA is achieved by granting the approvals sought subject to conditions. We have had regard to the actual and potential effects of the project, the relevant planning documents, the project's regional and national benefits, Treaty settlement and iwi planning matters, and the statutory tests applying to the resource consent approvals and archaeological authority.

553 The Panel determines to grant the RMA approvals sought, subject to the conditions attached as Appendix A1 to this decision, and to approve the archaeological authority sought under the HNZPTA, subject to the conditions attached as Appendix A2.

554 As required by section 99 of the FTAA, the persons listed in that section are entitled to appeal this decision on a question of law. Any appeal must be commenced within the 20-working-day period from the day this decision is published under section 88(3).

Dated 5 August 2026



Kitt R M Littlejohn
(Chair)



Rebecca Skidmore
(Member)



Greg Hill
(Member)

APPENDIX A1: CONDITIONS OF RMA CONSENTS

APPENDIX A2: CONDITIONS OF ARCHAEOLOGICAL AUTHORITY

APPENDIX B: REASONS FOR CONSENT

APPENDIX C: EXPERTS RELIED ON