BEFORE THE EXPERT CONSENTING PANEL

FTAA-2610-1312

IN THE MATTER OF	the Fast-track Approvals Act 2024 (*FTAA*)
AND	
IN THE MATTER OF	an application by the University of Auckland for approvals to establish a new Student Centre and Library

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LEGAL CONSIDERATIONS ON BEHALF OF THE UNIVERSITY OF AUCKLAND

Dated: 13 November 2026

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LAWYERS
Auckland
Solicitor: F M Lupis
[redacted]

1 INTRODUCTION

1.1 This legal considerations memorandum is provided on behalf of the University of Auckland (the *Applicant*) in support of its application under the FTAA for approvals to develop a new Student Centre and Library located on the University of Auckland's city campus (the *Project*), on the corner of Princes Street and Alfred Street (the *Site*) (the *Application*).

1.2 The Project was referred by the Minister for Infrastructure (*Minister*) on 16 June 2026.[1] The Applicant seeks resource consents under the Auckland Unitary Plan (*Unitary Plan*) and an archaeological authority under the Heritage New Zealand Pouhere Taonga Act 2014 (*HNZPTA*).

1.3 The Project will deliver a purpose-built Student Centre and Library and Te Tūātea / Plaza space that brings together key student-facing services, amenities and learning environments in a single, highly accessible location. The facility will provide a modern library, flexible study environments, teaching spaces including state-of-the-art super labs, student association and club spaces, food and retail offerings, and a range of informal social and collaborative spaces.

1.4 The Applicant has worked closely with its architects and wider design team to develop an iconic, landmark building that meets the University's functional requirements while also responding to the Site's strategic location within the city campus. The cultural framework developed by Haumi and Eighty, supported by Ngāti Whātua Ōrākei, has informed the Project's design, ensuring the development responds to the whakapapa, cultural landscape and identity of the wider campus.[2]

1.5 As described further in the Substantive Project Assessment and supporting technical reports, the Project will deliver significant regional and national benefits through the modernisation and expansion of critical University infrastructure, supporting the University's continued growth, international competitiveness and contribution to New Zealand's education and knowledge economy. It will also generate substantial economic activity and employment, enhance the student experience,

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1 **Appendix 5:** Referral Decision [FTAA-2603-1193] dated 16 June 2026.
2 **Appendix 26:** Taumata Rangipuke Concept Direction Report.

and deliver positive public realm, connectivity and urban environment outcomes within Auckland's city centre.

1.6 Granting the approvals for the Project will therefore comfortably achieve the purpose of the FTAA. The Project also:

(a) achieves the purpose of the Resource Management Act 1991 (*RMA*) and the HNZPTA;

(b) generally aligns with the relevant planning documents; and

(c) will ensure, through the conditions proposed, that any environmental effects associated with the construction and use of the Project will be appropriately managed.

1.7 In short, the Project readily meets the FTAA requirements for the Panel to grant the resource consents and archaeological authority sought.

1.8 While the Project will deliver substantial regional and national benefits, the proposed demolition of the existing Student Union Building (which is identified in the Unitary Plan as a Category B historic heritage place) will result in an adverse impact on the historic heritage values of the place.

1.9 This memorandum addresses the way in which the significant benefits of the Project should be weighed against that adverse impact in the context of the FTAA decision-making framework. A broader overview of the Project is provided in the Substantive Project Assessment and is not repeated here.

2 DECISION-MAKING FRAMEWORK UNDER THE FTAA

2.1 The FTAA sets out the legal framework for obtaining approvals as a referred project. The Panel must "take into account" the purpose of the FTAA as well as the other identified matters under the RMA and HNZPTA. These relevantly include:

(a) Parts 2, 3, 6 and 8 to 10 of the RMA (excluding section 104D);[3] and

[3] FTAA, s 81 and sch 5, cl 17(1).

(b) the matters in section 59(1)(a) and section 47(1)(a)(ii) and (5) of the HNZPTA.[4]

2.2 In considering and weighing the statutory criteria, the FTAA directs the Panel to give the greatest weight to the purpose of the FTAA,[5] which is to facilitate the delivery of infrastructure and development projects with significant regional or national benefits.[6]

2.3 In relation to these directives:

(a) "Take into account" requires the Panel to directly consider the matters identified and give them genuine consideration, rather than give superficial acknowledgement.[7]

(b) "Giving greatest weight" to the purpose of the FTAA requires the Panel to consider the relevant matters individually before conducting an overall weighting in accordance with the specified direction.[8]

(c) A failure to meet the purpose of the RMA (or indeed any of the other statutes for which approvals can be sought) would be insufficient, on its own, to displace the weight to be given to the purpose of the FTAA.[9]

(d) In considering the purpose of the FTAA, the Panel must evaluate the extent of a proposal's regional and national benefits.[10] That will be a highly fact-specific inquiry in each case.

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4 FTAA, sch 8, cls 4(1)(b) and 4(1)(c).
5 FTAA, sch 5, cl 17(1) and sch 8, cl 4(1).
6 FTAA, s 3.
7 *Royal Forest and Bird Protection Society of New Zealand Inc v New Zealand Transport Agency* [2024] NZSC 26 at [169] and [224] cited in relation to the phrase "have regard to" and as applied by the Expert Consenting Panel for Bledisloe North Wharf and Fergusson North Berth Extension in its decision at [119] in relation to the phrase "take into account" and in the decision by the Expert Consenting Panel for Drury Quarry Expansion – Sutton Block at [112].
8 *Enterprise Miramar Peninsula Inc v Wellington City Council* [2018] NZCA 541 at [41], [52]-[53] in relation to the directive in the Housing Accords and Special Housing Areas Act 2013 and cited by the Expert Consenting Panel on the Bledisloe North Wharf and Fergusson North Berth Extension at [121] as providing helpful guidance to the application of the directive in the FTAA. That guidance was adapted by the Decision of the Expert Consenting Panel on the Drury Quarry Expansion – Sutton Block at [113]-[114].
9 Decision of the Expert Consenting Panel on the Arataki Project at [331]. While those comments were made with specific reference to the RMA, we consider that analysis to apply to FTAA approvals more broadly.
10 FTAA, s 81(4).

(e) As the Expert Consenting Panel for the Maitahi Village FTAA substantive application (*Maitahi Village*) concluded:[11]

> Any factual assessment of regional or national benefits, particularly in relation to infrastructure or development projects, will be informed by related economic and social factors. The relevant regional context will therefore be important.
>
> […]
>
> The inquiry, when evaluating the extent of the project's regional or national benefits, is… seeking to place a measurement on, or provide a quantification of, the benefits as found.
>
> The dictionary definition [of extent] refers variously to terms such as "assessment" or "assessed value" or degree, size, magnitude, dimensions or breadth of the thing being measured. This is the approach the Panel has taken to its evaluative task, bearing in mind that not all benefits are able to be calculated in precise financial or monetary terms. Sometimes expression of quantification or value in absolute terms may simply not be possible. The context in which any regional or national benefits will occur will undoubtedly be relevant.

2.4 The FTAA provides a more enabling framework for the assessment of non-complying activities than the RMA, given that the section 104D gateway test does not apply.[12] Accordingly, the Project can be assessed without first needing to demonstrate that its adverse effects are no more than minor or that it is not contrary to the objectives and policies of the Unitary Plan.

2.5 Section 104 of the RMA applies to an assessment of the Application and requires that the Panel must, subject to Part 2 of the RMA, have regard to the actual or potential effects of allowing the Application (including positive effects), the relevant planning framework and any other matters considered relevant and reasonably necessary to consider.

2.6 Within the RMA context, recourse to Part 2 in an assessment under section 104 is generally only required where it will add to the evaluative exercise.[13] With respect to the Project, it is submitted that the relevant directions within the applicable subsidiary planning documents are

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11 Decision of the Expert Consenting Panel on Maitahi Village at [517], [818] and [819]. See also *CJ Industries Limited v Tasman District Council* [2025] NZEnvC 213 at [287] and [293].

12 The Project has non-complying activity status due to a minor non-compliance with Standard H8.6.3 of the Business – City Centre Zone, relating to the admission of sunlight to Albert Park.

13 *RJ Davidson Family Trust v Marlborough District Council* [2018] NZCA 316 at [71]-[76].

coherent and aligned such that recourse to Part 2 is unlikely to provide further assistance for the Panel's decision. Notwithstanding this, an assessment against sections 5, 6 and 7 of the RMA has been provided in the Application in accordance with Schedule 5, clause 5(1)(g) of the FTAA.[14]

Decline criteria

2.7 The Panel may decline an approval sought for the Project but only in accordance with section 85. That section identifies circumstances in which that approval *must* be declined, none of which apply to the Project.

2.8 Under section 85(3), the Panel may decline the relevant approval if the Panel forms the view that:

(a) there are one or more adverse impacts in relation to the approval sought;[15] and

(b) those adverse impacts are sufficiently significant to be out of proportion to the Project's regional and national benefits, even after taking into account any conditions in relation to those adverse impacts.

2.9 The assessment under section 85(3) must account for any conditions the Panel may set in relation to the adverse impacts, as well as any conditions or modifications that an applicant may agree to or propose to avoid, remedy, mitigate, offset, or compensate those adverse impacts.[16] The Panel may not form the view that an adverse impact meets the threshold of being sufficiently significant solely on the basis that the adverse impact is inconsistent with, or contrary to, a provision of the RMA or any other document the Panel must take into account.[17]

2.10 As discussed further below, it is submitted that, on the strength of the Application, the circumstances described in section 85(3) do not arise in relation to the Project. While the demolition of the Student Union Building complex will result in adverse historic heritage impacts,

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14 Substantive Project Assessment at Sections 9.5 and 13.4.1.
15 FTAA, s 85(5) defines "adverse impacts" as any matter considered by the panel in complying with s 81(2) of the FTAA that weighs against granting the approval.
16 FTAA, s 85(3)(b).
17 FTAA, s 85(4).

mitigation is, in part, achieved through the proposed three-dimensional and photographic recording of the building. In assessing the Project overall, the effects of the demolition must be considered in the context of the substantial and enduring regional and national benefits of the Project, which it is submitted outweigh the adverse heritage impacts.

3 THE PROJECT

Assessment of the Project against the purpose of the FTAA – regional and national benefits

3.1 The series of decisions issued under the FTAA to date provide clear guidance on the assessment of project benefits. The following principles are of particular relevance to the assessment of this Project:

(a) While the criteria set out in section 22 of the FTAA apply to the Minister's referral decision rather than to a panel's substantive determination of whether a project has significant regional or national benefits, those criteria nevertheless provide useful guidance as to the kinds of regional and national benefits that may be relevant to that assessment.[18]

(b) Significant means "sufficiently great or important to be worthy of attention; noteworthy" or "worthy of note" based on its ordinary meaning.[19]

(c) The question of whether a project is one with significant regional or national benefits is an "intensely factual determination turning on the particular circumstances of the [a]pplication".[20]

(d) Any factual assessment of regional or national benefits will be informed by related economic and social factors and the context in which those benefits arise.[21]

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18 Decision of the Expert Consenting Panel for Maitahi Village at [529]; and Decision of the Expert Consenting Panel for the Pound Road Industrial Development at [642], referenced with approval in the recent Decision of the Expert Consenting Panel for the Hunua Quarry Development at [94]-[95].

19 Decision of the Expert Consenting Panel for Maitahi Village at [516]; Decision of the Expert Consenting Panel for Waihi North at [842]-[843]; Decision of the Expert Consenting Panel for The Point Mission Bay at [324.4]; and Decision of the Expert Consenting Panel for Delmore at [76].

20 Decision of the Expert Consenting Panel for Maitahi Village at [515].

21 Decision of the Expert Consenting Panel for Maitahi Village at [517], [818] and [819]; Decision of the Expert Consenting Panel for The Point Mission Bay at [324.6]; and Decision of the Expert Consenting Panel for Delmore at [75].

(e) Not all benefits lend themselves to precise financial or monetary quantification. As a result, it may not be possible to express their value in absolute terms,[22] nor is there any explicit requirement to do so.[23] Social outcomes can also satisfy the regional significance threshold,[24] and benefits may be assessed collectively.[25]

(f) If a panel is satisfied, having regard to the facts and circumstances of the project, that it will deliver significant regional or national benefits, it is not necessary for the panel to reconcile competing expert opinions as to the specific extent of those benefits.[26]

(g) Comprehensive cost-benefit analysis is not required. Rather, an economic impact assessment assessing the direct, indirect and induced economic effects of a project can be considered an appropriate and sufficient evidential basis for recognising, and can be relied on when evaluating, the extent of a project's regional and national benefits.[27]

(h) For the purpose of assessing a project's benefits, the focus should be on gross rather than net benefits.[28] Requiring benefits to be assessed on a net basis risks double counting adverse impacts,[29] and blurs the distinction between the assessment of benefits under section 81 of the FTAA and the separate proportionality assessment required under section 85.[30]

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22 Decision of the Expert Consenting Panel for Maitahi Village at [819]; and Decision of the Expert Consenting Panel for The Point Mission Bay at [324.7].

23 Decision of the Expert Consenting Panel for Waihi North at [786].

24 Decision of the Expert Consenting Panel for Rangitoopuni at [268], [269] and [280]; and Decision of the Expert Consenting Panel for The Point Mission Bay at [335].

25 Decision of the Expert Consenting Panel for Delmore at [239].

26 Decision of the Expert Consenting Panel for The Point Mission Bay at [324.8].

27 As most recently articulated and confirmed in the Decision of the Expert Consenting Panel for The Point Mission Bay at [324.10] and [342]; Decision of the Expert Consenting Panel for the Downtown Carpark Redevelopment – Te Pūmanawa o Tāmaki Final Decision at [267]-[268]; and Decision of the Expert Consenting Panel for the Hunua Quarry Development at [96]-[98]. See also the Decision of the Expert Consenting Panel for Waihi North at [787] with reference to the Supreme Court authority in *Trans-Tasman Resources Ltd v Taranaki-Whanganui Conservation Board* [2021] NZSC 127.

28 Decision of the Expert Consenting Panel for the Ayrburn Film Hub at [158]-[161]; and Decision of the Expert Consenting Panel for The Point Mission Bay at [340].

29 Decision of the Expert Consenting Panel for Ayrburn Film Hub at [158]-[161].

30 Decision of the Expert Consenting Panel for The Point Mission Bay at [324.11].

(i) The purpose of the FTAA is to be afforded the greatest weight in the statutory assessment, in accordance with section 85.[31]

3.2 Additionally, section 81(2)(aaa) of the FTAA requires a panel to consider the Minister's reasons for accepting the referral application. In making his decision to refer the Project, the Minister stated:[32]

> a. The project is an infrastructure or development project that would have significant regional or national benefits because it:
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> i. will enable the continued functioning of existing regionally or nationally significant infrastructure [s22(2)(a)(ii)] as it:
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> - will ensure the University can continue to operate and provide services and provide for the changing needs and demands of current and future populations
>
> - can enable the continued functioning of existing regionally or nationally significant infrastructure, noting that Universities fall within the definition of 'additional infrastructure' within the National Policy Statement for Infrastructure
>
> - is considered critical to accommodate current student demand and future growth and will play a key role in enhancing the student experience, fostering academic success, and supporting research and collaboration, thereby contributing to the University's regional and national impact.
>
> ii. will contribute to a well-functioning urban environment (within the meaning of policy 1 of the National Policy Statement on Urban Development 2020) [s22(2)(a)(iii)] as it:
>
> - will be highly accessible to existing and planned public transport links, along with existing cycleways and shared paths
>
> - will deliver positive public realm, street activation, and campus connectivity outcomes
>
> iii. will deliver significant economic benefits [s22(2)(a)(iv)] as it:
>
> - will contribute approximately $463.3 million in GDP for the Auckland region over the five-year development timeframe,

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31 See the Decision of the Expert Consenting Panel on the Arataki Project at [338] where the Panel found it was required to compare the significance of any adverse impacts against the regional or national benefits of the project, with greater weight being given to the latter pursuant to the proportionality test set out in s 85 of the FTAA; see also Decision of the Expert Consenting Panel for Delmore at [328]-[322] and Decision of the Expert Consenting Panel for the Hunua Quarry Development at [712]-[716].

32 **Appendix 5:** Referral Decision [FTAA-2603-1193] dated 16 June 2026 at pages 2–3.

supporting a total of 3,471 full-time equivalent (FTE) years over that period

- will help sustain and potentially expand the University's already significant contribution to the Auckland regional economy and New Zealand's national education and knowledge economy

iv. is consistent with local or regional planning documents, including spatial strategies [s22(2)(a)(x)] as it:

- aligns with the Auckland Regional Policy Statement and Auckland Unitary Plan aim to shape a city centre that is more connected, liveable, sustainable, and economically prosperous and seeks to improve the physical connections between the university, the city centre, and the city fringe

- aligns with The Auckland Plan 2050 Spatial Plan which directs growth toward a quality compact urban form, concentrating intensification within the existing urban area.

3.3 The significant national and regional benefits of the Project are further outlined in the Substantive Project Assessment and in its supporting appendices, including specifically:

(a) The statement prepared by the University of Auckland, which highlights:[33]

(i) The significance of the University and its contribution to the regional and national economy and New Zealand's education and knowledge economy, including the importance of its campuses and facilities in supporting education, research and innovation, and the need for continued investment to ensure they remain fit for purpose.

(ii) The unique and strategically important position of the Site within the city campus, functioning as a principal point of arrival and connection within the campus environment.

(iii) How the Project is a key enabling component of the University's wider Masterplan and Estate Strategy, including the creation of a centralised hub for student activity, improvements to the surrounding public realm and pedestrian connections, and the establishment of a

[33] **Appendix 6:** University Statement.

welcoming and recognisable entrance to the University from the city centre.

(iv) The need for a new Student Centre and Library, including the increasing demand for high-quality teaching, learning and student spaces, evolving student expectations and approaches to teaching and learning, and the physical, functional and operational limitations of the existing Student Union Building and General Library.

(v) The significance of the Project to the University and the student experience, including its contribution to student wellbeing, engagement and belonging through the creation of a vibrant social, academic and cultural hub for the city campus.

(b) The Economic Impact Assessment by Property Economics, which establishes:[34]

(i) The significant economic activity generated by the Project, including estimated direct expenditure of approximately $499.5 million, a contribution of approximately $469.6 million in value-added GDP to the Auckland regional economy, and the generation of approximately 3,518 FTE years over the development period.

(ii) The wider regional and national economic benefits of the Project, including supporting the University's continued growth and international competitiveness, attracting and retaining domestic and international students, supporting academic outcomes, research and innovation, and strengthening New Zealand's education and knowledge economy.

(iii) The economic benefits associated with the efficient use and development of the Site and wider city campus, including the modernisation and expansion of University infrastructure, enabling the future renewal of other campus facilities, and

[34] **Appendix 4:** Economic Impact Assessment.

supporting Auckland city centre vitality, accessibility and connectivity.

(c) The planning assessment of the Project's significant regional and national benefits, including the following matters to the extent not addressed in the reporting outlined above:[35]

(i) The contribution of the Project to a well-functioning urban environment.

(ii) The positive public realm, street activation and campus connectivity outcomes, including improved pedestrian connections between the University, Albert Park and the wider city centre.

3.4 The Project is also strongly aligned with the strategic direction of the relevant planning framework, including the Unitary Plan, and other local and regional planning documents and spatial strategies. Specifically:[36]

(a) Auckland Unitary Plan: The Project supports the strategic role of the city centre and Learning Precinct as a focus for tertiary education and related activities, contributes to a quality compact urban form, and delivers positive public realm and connectivity outcomes. The demolition of the Student Union Building complex is not inappropriate in terms of the applicable Historic Heritage overlay objectives and policies, and the Project will deliver significant public benefits relevant to the assessment under that framework.

(b) Auckland Plan 2050: The Project supports a quality compact urban form through significant investment in tertiary education facilities within the existing city centre, encouraging greater use of public transport, walking and cycling given its highly accessible location, including proximity to City Rail Link stations. It also contributes to Auckland's education and knowledge economy and provides a substantially enlarged public Te Tūātea / Plaza.

[35] Substantive Project Assessment at Sections 2.3, and 13.3.
[36] Substantive Project Assessment at Section 11.

(c) Other relevant spatial strategies: The Project supports the strategic direction of the Auckland Future Development Strategy and City Centre Masterplan, including the efficient use of existing urban land, improved pedestrian connectivity, and enhancement of the city centre's public realm.

3.5 The Project delivers a high-quality development outcome within the city centre that supports the strategic objectives for growth, intensification, connectivity, and urban amenity in those documents. The reporting indicates that the Project will result in negligible adverse impacts, other than heritage impacts, which are addressed separately below.

3.6 Any one category of the Project's benefits, including its social and economic benefits, is capable of independently satisfying the threshold of regional or national significance. Taken collectively, it is clear that the benefits of the Project are substantial, enduring and significant in both a regional and national context.

Historic heritage

3.7 The University is responsible for the stewardship of a substantial number of heritage buildings and places across its campus, including assets protected through both scheduling and covenant mechanisms. Its management of those assets reflects an ongoing commitment to heritage conservation, while ensuring the campus remains capable of meeting the University's contemporary teaching, learning, research and operational requirements.[37]

3.8 The Student Union Building is identified in the Unitary Plan as a Category B historic heritage place. Category B historic heritage places are defined as places that are "of considerable significance to a locality or greater geographic area".[38]

Heritage policy framework

3.9 The Regional Policy Statement (*RPS*) provisions of the Unitary Plan in section B5 set the framework for the Historic Heritage Overlay, which

[37] **Appendix 6:** University Statement at Section 4.
[38] Unitary Plan, D17. Historic Heritage Overlay, D17.1 Background.

provides the implementation method for regulation and preservation of historic heritage.

3.10 The key RPS policy that applies to the Project is Policy B5.2.2(7) which provides:

> (7) Avoid where practicable significant adverse effects on significant historic heritage places. Where significant adverse effects cannot be avoided, they should be remedied or mitigated so that they no longer constitute a significant adverse effect.

3.11 Policy D17.3(14) of the Historic Heritage Overlay gives effect to this RPS direction:

> (14) Avoid the total or substantial demolition or destruction of:
>
> (a) the primary features of Category A* and Category B scheduled historic heritage places;[39]
>
> …
>
> Unless:
>
> (i) the demolition or destruction is required to allow for significant public benefit that could not otherwise be achieved; and
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> (ii) the significant public benefit outweighs the retention of the feature, or parts of the feature, or the place; or
>
> …

(a) The Unitary Plan classifies demolition of a Category B historic heritage place as a discretionary activity.[40] (Comparatively, demolition of a Category A historic heritage place is classified as a non-complying activity.[41]) Accordingly, there is no prohibition on demolition of Category B historic heritage places, nor do the statutory gateway tests applicable to non-complying activities otherwise apply. As the Environment Court has observed, "issues of consistency or otherwise with the objectives and policies are clearly relevant in the exercise of the discretion for an application for discretionary activity but cannot be determinative" and "[i]t

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39 No primary features are identified for the Student Union Building therefore all features within the extent of place are considered a primary feature for the purposes of implementing the rules in the Historic Heritage Overlay, refer to D17.1 Background.

40 Unitary Plan, D17.4.1(A1).

41 Unitary Plan, D17.4.1(A1).

would be a perverse outcome if all discretionary activities must achieve the objectives and policies".[42]

3.12 Nevertheless, the relevant policies recognise that demolition may be appropriate in particular circumstances:

(a) RPS Policy B5.2.2(7) directs the avoidance of significant adverse effects on significant historic heritage places *where practicable.*

(b) Historic Heritage Overlay Policy D17.3(14) expressly contemplates demolition of scheduled historic heritage places where it is required to enable significant public benefit that could not otherwise be achieved and that benefit outweighs the retention of the heritage feature.

(c) Neither policy imposes an unqualified requirement to retain the heritage feature, although both require careful consideration of the circumstances in which its loss may be appropriate.

3.13 In assessing whether avoidance of significant adverse heritage effects is practicable under Policy B5.2.2(7), consideration must therefore be given to what can reasonably be achieved in the particular circumstances, having regard to the nature and purpose of the proposal, the characteristics of the site and the relevant planning and statutory framework.[43] Policy D17.3(14) requires specific consideration of whether the significant public benefit enabled by the proposed demolition could otherwise be achieved, and whether that benefit outweighs retention of the heritage feature. Such an assessment necessarily involves a review of the alternatives to demolition, having regard to the nature and extent of the public benefits relied upon in light of the outcomes that those alternatives might deliver. Even solely within the RMA framework, therefore, there is a deliberate pathway to enable demolition in appropriate circumstances.

3.14 In the FTAA context, the balance shifts. The Panel is required to assess the Project as a whole, including its significant regional and national

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42 *High Quality Ltd v Auckland Council* [2022] NZEnvC 117 at [56] and [24], upheld on appeal in *Auckland Council v High Quality Ltd* [2024] NZHC 2238.

43 *Wellington International Airport Limited v New Zealand Air line Pilots Association Industrial Union of Workers Incorporated* [2018] 1 NZLR 780 (SC) at [65] and *OJI Fibre Solutions (NZ) Limited v Waikato Regional Council* [2025] NZEnvC 170 at [505] and [506].

benefits, the adverse impacts associated with the loss of historic heritage, and the relevant statutory direction as to the weight to be given to those competing considerations, with the greatest weight to be given to the purpose of the FTAA.[44]

3.15 Applying that framework to the Project:

(a) The significant national and regional public benefits of the Project are outlined in paragraphs 3.3 to 3.6 above.

(b) The Project responds to an identified need for a contemporary Student Centre and Library to cater for significant student population growth.[45]

(c) The reporting provided in support of the Project demonstrates that the existing Student Union Building complex and associated facilities are no longer fit for purpose, with significant physical, functional and operational limitations that constrain their ability to meet the University's current and future requirements.[46]

(d) The Applicant has considered alternative development approaches, including options that would retain all or part of the existing complex.[47] However, those options would not adequately address the University's functional and strategic requirements or the limitations of the existing facilities and, importantly, would not enable the cohesive development response required to deliver the significant public benefits identified above.[48]

(e) Alternative locations within the city campus have also been considered. However, none of those locations would be capable of

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44 See the Decision of the Expert Consenting Panel on the Arataki Project at [338] where the Panel found it was required to compare the significance of any adverse impacts against the regional or national benefits of the project, with greater weight being given to the latter pursuant to the proportionality test set out in s 85 of the FTAA; see also the Decision of the Expert Consenting Panel for Delmore at [328] to [322] and the Decision of the Expert Consenting Panel for the Hunua Quarry Development at [712] to [716]. Also refer the Decision of the Expert Consenting Panel on the Arataki Project at [338] and the Decision of the Expert Consenting Panel on the Ashbourne Project at [773] where it is recognised the FTAA contemplates there be an overall judgment or balancing approach to decision-making.

45 **Appendix 6:** University Statement at Section 9.

46 **Appendix 6:** University Statement at Section 8. See **Appendix 34:** Building Condition Memorandum for further detail on the current structural condition and seismic status of the existing complex / buildings.

47 **Appendix 6:** University Statement at [9.7]–[9.11].

48 **Appendix 6:** University Statement at Sections 8 and 9; and **Appendix 34:** Building Condition Memorandum.

accommodating the proposed facilities while delivering the significant public benefits associated with the Site's central location, accessibility and integration with the wider campus.[49]

(f) The assessment therefore demonstrates that the significant public benefits of the Project are closely connected to both the Site and the particular form of development proposed. The alternatives considered would not enable those benefits to be achieved to the extent required to address the identified needs of the University and its students.

3.16 On that basis, the Project can be reconciled with the relevant heritage policy framework, including the direction to avoid significant adverse heritage effects where practicable under Policy B5.2.2(7), and the recognition in Policy D17.3(14) that demolition of scheduled historic heritage places may be appropriate where it is required to enable significant public benefits that could not otherwise be achieved and that outweigh retention of the heritage feature.

3.17 In any event, the FTAA does not require a project to be consistent with all relevant planning objectives and policies in order for approval to be granted. As set out above, section 85(4) expressly provides that a panel may not form a view that an adverse impact meets the threshold for decline solely on the basis of inconsistency with such provisions. The practical significance of this section was demonstrated in the *Delmore* decision, where the Expert Panel granted approval notwithstanding its finding that the proposal was contrary to the directive provisions of the Unitary Plan relating to urban growth and form.[50]

3.18 More broadly, the statutory framework of the FTAA places particular weight on the significant regional and national benefits of a project. Recent expert panel decisions illustrate how this weighting exercise has been applied. By way of example, in the *Hunua Quarry* decision, the Panel concluded that even if the residual adverse impacts of the proposal were significant, they would not have justified declining approval given the substantial benefits of that project.[51]

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49 **Appendix 6:** University Statement at [9.9].

50 Decision of the Expert Consenting Panel for Delmore at [332]. Refer to the Expert Consenting Panel's findings on urban growth and form at [299].

51 Decision of the Expert Consenting Panel for the Hunua Quarry Development at [711].

Heritage impacts

3.19 The FTAA expressly provides for adverse impacts to be addressed through conditions. In determining a substantive application, the Panel may impose conditions to avoid, remedy, mitigate, offset or compensate for adverse impacts. While conditions cannot avoid the loss of heritage values resulting from demolition, they can provide for the recording, interpretation and preservation of aspects of the historic heritage associated with the place.

3.20 To that end, the Applicant has proposed a bespoke condition of consent requiring three-dimensional and photographic recording of the Student Union Building complex prior to demolition.[52]

3.21 The University's broader stewardship of historic heritage across the city campus is also a relevant consideration in the assessment of the Project.[53] The University has demonstrated a strong commitment to the retention, adaptation and enhancement of heritage buildings across its city campus, as reflected in its Masterplan and ongoing investment in those buildings. The proposed demolition of the Student Union Building complex does not diminish the University's broader commitment to heritage protection, but reflects the particular constraints and circumstances associated with this building and the conclusion that its retention would not enable the significant public benefits of the Project to be realised.

3.22 The Applicant acknowledges that the proposed demolition will result in the loss of a scheduled historic heritage place and its associated heritage values. The proposed conditions will provide for the recording, interpretation and retention of aspects of those values, but will not eliminate the adverse impacts arising from the loss of the existing Student Union Building.

3.23 The central question for the Panel is therefore not whether adverse heritage impacts will arise, but how those impacts are to be weighed against the significant regional and national benefits of the Project within the decision-making framework established by the FTAA. In particular,

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52 **Appendix 32:** Proposed Conditions of Consent, Condition 52.

53 In accordance with s 104(1)(c) RMA, which applies to the assessment of substantive applications under the FTAA by virtue of FTAA s 81(3)(a) and sch 5, cl 17(1)(b).

the assessment requires consideration of the significance of the adverse heritage impacts, the extent to which they can be addressed through conditions, and whether those impacts are outweighed by the Project's regional and national benefits in accordance with section 85.

3.24 For the reasons set out in the supporting technical assessments and this memorandum, the Applicant submits that the significant regional and national benefits of the Project considerably outweigh the adverse heritage impacts associated with the proposed demolition and justify the grant of approval under the FTAA, notwithstanding those impacts.

Assessment against other statutory requirements

3.25 A full assessment of the effects of the Project is set out in section 10 of the Substantive Project Assessment and the supporting technical reports, with an assessment of the relevant statutory considerations provided in section 11.

3.26 Part C of the Substantive Project Assessment addresses the requirements for the archaeological authority sought for the Project. The consultation record confirms that Heritage New Zealand Pouhere Taonga was satisfied with the draft Archaeological Assessment, Archaeological Management Plan and proposed archaeological authority conditions provided for its review.[54]

4 CONCLUSION

4.1 Having regard to the statutory framework established by the FTAA, including the requirement to give the greatest weight to the purpose of the FTAA, the Applicant submits that the approvals sought should be granted, subject to the proposed conditions.

DATED this 13th day of November 2026



F M Lupis

Counsel for the University of Auckland

[54] **Appendix 3**: Consultation Report at Section 4.