

To: The Expert Consenting Panel – The Point (Mission Bay) Fast-Track Consent

Subject: Submission in Opposition to “The Point, Mission Bay” Development (217 Kupe Street)

Date: 2 April 2026

Dear Panel Members,

Introduction and Summary of Position

We are the Directors of Happy Campers Trustee Limited, which owns the property at [REDACTED] on trust for the beneficiaries of a family trust, and write in response to the invitation to comment on the fast-track application for “The Point, Mission Bay”, a proposed retirement village comprising 256 units in buildings ranging from five to eight storeys at 217 Kupe Street (hereafter referred to as “The Point”). We are also beneficiaries of the family trust that holds, and the occupants of, the property at [REDACTED], and so respond primarily in this capacity. We strongly oppose this application in its current form.

This submission explains why the proposal should be declined under the Fast-track Approvals Act 2024 (“FTAA”), having regard to the required considerations drawn from the Resource Management Act 1991 (“RMA”) and the Auckland Unitary Plan (“AUP”).

In particular we oppose the proposal’s excessive scale, height, and intensity. As a significant anomaly alongside neighbouring streets, current and future build forms under the AUP, The Point will generate significant adverse effects on the environment and neighbourhood amenity that cannot be adequately mitigated, and which are substantially disproportionate to any regional or national benefits claimed.

Critically, these adverse effects are not only confined to the completed form of the development. The application documents confirm construction will occur in multiple major stages over approximately eight years (around 2026–2034). In planning terms, this means that what are described as “temporary” construction effects will, for surrounding residents, be long-lived, cumulative, and substantial, and must be given meaningful weight as “adverse impacts” for the purposes of the FTAA’s decline test in s85 of the FTAA.

Recent Environment Court, High Court, and Fast-Track panel decisions confirm that proposals which radically depart from planned scale, undermine zoning integrity, and impose unacceptable effects on residential amenity may properly be refused. We are heartened to see this and believe these circumstances apply to this proposed development.

Context of the Decision-Making Framework

While the FTAA provides a streamlined process and modified procedural requirements, it does not displace the substantive planning and environmental tests that govern whether consent should be granted.

Under section 81 of the FTAA, an expert consenting panel must assess a fast-track application by reference to the purpose of the FTAA, which is expressly tied to the purpose of the RMA (s5 – sustainable management). The panel is also required to consider the proposal against relevant statutory and planning instruments, insofar as deviations from these have the potential to cause lasting adverse impacts to the local environment, including:

- the Auckland Unitary Plan (AUP),
- the Auckland Regional Policy Statement,
- any relevant National Policy Statements and National Environmental Standards, and
- the actual and potential effects on the environment, including effects on amenity values and neighbourhood character.

Importantly, we note the FTAA does not create a presumption in favour of approval, nor does it authorise panels to disregard fundamental plan provisions or to approve developments that are plainly inconsistent with the intended urban form and environmental limits set by the AUP. Where a proposal is non-complying, of excessive scale, or generates significant adverse effects that cannot be adequately avoided, remedied, or mitigated, the panel retains a clear statutory discretion to decline consent where these impacts are significantly out of proportion to the regional or national benefits claimed.

Recent fast-track panel decisions and higher-court authorities confirm that streamlined process does not equate to lowered environmental thresholds. The integrity of district plan zoning, height controls, intensity limits, and character protections remains central to lawful decision-making. In particular, developments that would result in permanent and profound departures from planned neighbourhood character, or that would undermine the coherence of established zoning patterns, are inconsistent with both the FTAA's purpose and the sustainable management mandate of the RMA.

Accordingly, the question for the Panel is not whether the proposal delivers regional and national housing or employment opportunities and benefits in the abstract, but whether this development, at this scale and in this location, appropriately meets the statutory tests. As set out below, we contend that The Point fails that test.

Our submission therefore focuses on the proposal's real and substantial adverse effects: namely visual dominance, shading, amenity loss, infrastructure strain, and prolonged construction impacts. And contends that they are so significant that they are out of proportion to the benefits claimed—meeting the FTAA statutory basis for decline.

1. Out-of-Scale Development – Height and Intensity Far Exceeding Plan Expectations

The proposal seeks to construct five- to eight-storey high-rise tower blocks reaching approximately 25–27 metres, on a site surrounded predominantly by one- to two-storey dwellings and bordering a locally important and culturally sensitive public reserve. Even within its Terrace Housing and Apartment Buildings (THAB) zoning, this

- a) far exceeds the typical height framework (generally around 16 metres or 4–5 storeys), representing an increase of approximately 50–70% over anticipated heights, resulting in buildings roughly three times the height of many surrounding homes;
- b) and is still significantly higher than the ridge line, inland apartment blocks on Kapa Road, incorrectly and falsely referenced in the application as being comparable.

This is not a minor infringement. It is a fundamental departure from the scale and intensity anticipated by the AUP and translates directly into excessive bulk, visual dominance, intensified activity, and severe effects on residential amenity. Claims in the application and responses to Minute 3 of this being in keeping with the local character are utterly false.

The Environment Court's decision in *Drive Holdings Ltd v Auckland Council* [2021] NZEnvC 159, upheld by the High Court in [2022] NZHC 3620, is directly relevant. There, consent was refused for a 7–8 storey apartment and retail development in Mission Bay on the basis that its excess height created unacceptable adverse visual dominance effects and was inconsistent with key AUP objectives and policies. This was in the commercial area of Mission Bay. Those findings apply with even greater force here, given the scale of the proposal and its location in a quiet residential valley, directly adjacent to low density housing and a substantial and historically important reserve, rather than in a commercial centre context.

Furthermore, regarding bulk, coverage and impervious area exceedances, the proposal also fails to comply with several key site intensity controls, including:

- Exceedance of the maximum permitted building coverage of 50 percent within the Māori Purpose Zone;
- Exceedance of the maximum permitted impervious area of 60 percent;
- Non-compliance with minimum yard and setback standards.

The cumulative effect of these infringements is an over-developed site with excessive built form and hard surfaces. This intensification exacerbates visual dominance, reduces open space, and materially increases stormwater runoff risk affecting adjoining residential streets and properties - an issue which blights the neighbourhood and our beaches, increasingly so considering the ongoing impact of extreme weather and climate change.

It is furthermore noted that, per the proposals, this visual dominance grows as the contour of the land falls away down the valley, rather than falling more sensitively with the contour. As such, the visual dominance has been skewed to directly negatively impact residences in Te Arawa Street, Rukutai Street and Aotea Street (which have been invited to respond), and indeed much further beyond, as well as the public viewing the area from the site of Takaparawhā. Meanwhile these effects have been minimised from affecting Ngāti Whātua Ōrākei owned land and

properties at the crest of the ridge. We and our community recognises Ngāti Whātua Ōrākei's right to develop its land and we support appropriate development of the site. However, this proposal in its current form is too large, too intensive, and too damaging for this location. A materially smaller, policy- and zoning-compliant alternative could meet development and commercial objectives without imposing such profound and enduring harm on the surrounding neighbourhood, environment and communal amenity.

Image 1 below, taken from the submission materials, shows how dominating and intrusive the proposed structures will be when viewed from the site of Takaparawhā.



Image 1 - View of the proposed structure from Takaparawhā

In making its assessment, and to ensure that the visual and dominating impact that this development will have on the surrounding communities is fully understood, we would recommend that the Panel requests simulations of how the proposed development will look when viewed from other, nearby public spaces, including other locations from within Takaparawhā and beyond, including but not limited to:

- The Michael Joseph Savage Memorial at Latitude -36.84561, Longitude 174.82610
- The trig point at Latitude -36.85006, Longitude 174.82400
- The memorial site at Latitude -36.85009, Longitude 174.82460
- The fountain in Selwyn Reserve, Mission Bay
- The corner of Aotea Reserve, Latitude -36.85263, Longitude 174.82793.

These simulations will no doubt show the significant and dominating impact the proposed development will have on the public spaces surrounding the site.

2. Zoning Context – A THAB Anomaly in a Low-Rise Residential Valley

The Panel must consider the broader zoning pattern. In the Mission Bay–Kohimarama area, THAB zoning is confined to ridgelines and centres, for example, along the ridgeline of Kupe Street, along the ridgeline of Kepa Street, and on the ridgeline of Coates Avenue in the vicinity of the local centre shops on this street. Importantly, at those locations construction on these sites has conformed with the 4-5 storey building heights expected under THAB zoning. By contrast, 217 Kupe Street and the proposed construction site sits overlooking and cascading down the natural contours of a valley adjoining Mixed Housing Suburban (MHS) zoned land on most sides. Refer to image 2 below, which shows the current AUP zoning map, with existing THAB zoned land coloured in orange, the surrounding MHS zoned land colored in yellow and the proposed site marked in the red circle.

217 Kupe Street is not on an arterial route and nor does it have direct access to public transport links, as is the case for example the relatively newly completed, yet lower and less storeyed apartment blocks (4-5 storeys) found at the “Outlook Mission Bay”, opposite the Eastridge shopping mall, and the recently constructed apartments at 33 Coates Avenue.

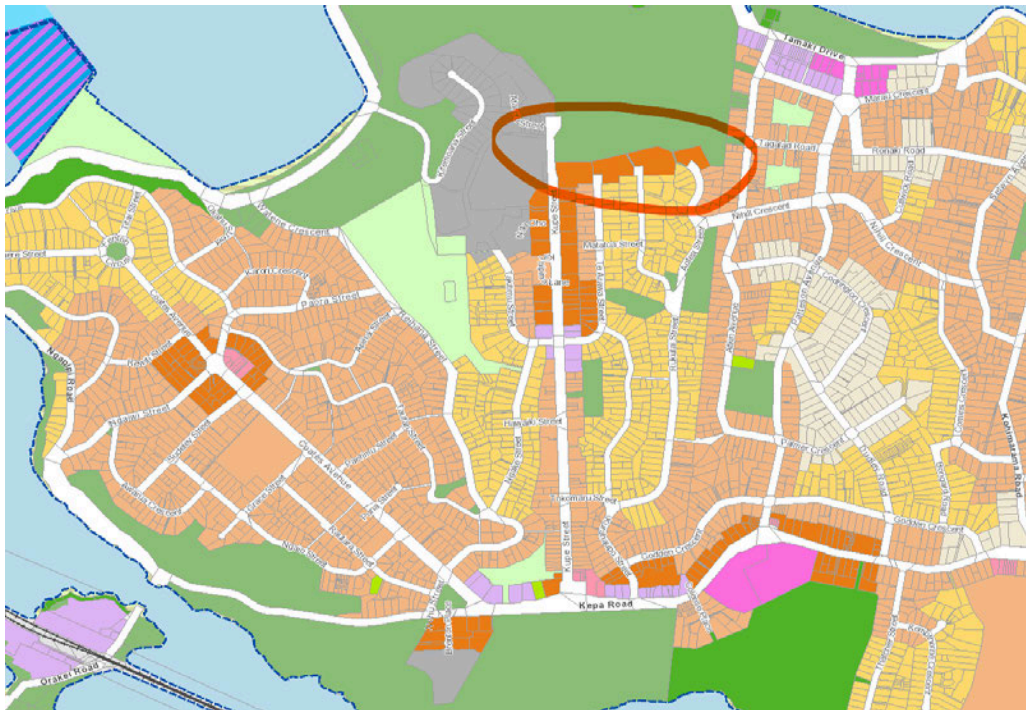


Image 2 - AUP with THAB zoning shown in orange, and MHS shown in yellow, with 217 Kupe Street marked by the red circle.

The majority of the surrounding MHS streets behind The Point are constrained to two-storey development and will not intensify to a comparable scale due to the restrictions imposed under the AUP. The proposed complex would therefore be a permanent outlier, not a transitional form. We were surprised to see reference to the applicant making claims that this development would be ‘in keeping’ with the environment - it is quite the opposite. From the cultural statement this development doesn’t connect with the sky and clouds, it blocks them.

Fast-track precedent supports refusal where apartment-scale dominance is imposed in a suburban setting. In the “Quarterdeck” decision (Box Property Investments Ltd, 2024), the expert panel declined consent, with the decision turning on concerns including scale/intensity and amenity effects in a suburban context. The parallel here is clear: “The Point” is larger and more intrusive, with correspondingly greater adverse effects on the local community, particularly given its location and immediate surrounding environment.

3. Prolonged Construction Effects (2026–2034)

Prolonged Construction Effects are “adverse impacts” that materially increase the case for declining an application. A defining feature of this proposal is the application’s confirmed multi-stage construction programme lasting approximately eight years (2026–2034). This is not a short-term inconvenience; it is an extended period of disruption that will be experienced by neighbours as a near-decade loss of amenity, including:

- sustained construction noise and vibration during permitted hours, six days per week;
- extensive heavy vehicle movements and traffic management on local streets - narrower streets which are not designed for intensive construction activity;
- dust, mud tracking, and degraded local amenity;
- prolonged visual intrusion from cranes, scaffolding, and an active worksite; and
- economic impact on transacting land.

Under the FTAA, these are properly characterised as “adverse impacts” within the meaning of s85(5) (matters that weigh against approval), and they must be assessed cumulatively when considering whether adverse impacts are out of proportion to any regional or national benefits claimed.

Even if some individual construction effects could be managed to compliance levels, s85(3) requires the Panel to ask whether the adverse impacts remain sufficiently significant after conditions and mitigation. With an eight-year duration and construction intensity planned for the site, the cumulative burden on the local residential amenity is substantial and enduring and, we would argue, does not meet the mitigation thresholds required by s85(3).

We have first-hand lived experience of construction works at that site from our property from the demolition of the previous townhouses and apartment blocks, as well as significant earthworks for foundations of another development that never went ahead. The noise and vibrations, particularly for the earthworks, were overwhelming and we were driven out of our home during the day with a new baby to escape what felt like daily earthquakes accompanied by loud construction noise.

With this application we have learnt that with the abandonment of the previous venture and new more far-ranging plans being issued, all this disruption was in vain and will need to be removed and replaced. We were powerless to do anything about those earthworks and it is quite devastating to learn that this was all unnecessary and will be redoubled by removal and replacement. We note that clay soil, which characterises our property and this area, is more

susceptible to carrying low-frequency vibrations than hard ground, causing significant shaking in nearby structures. We would ask the Panel to look into the geological character of the neighbourhood in assessing the application for the wellbeing of all neighbouring residences.

4. Adverse Effects on Amenity and Neighbourhood Character

The combined effects of both the completed development and the construction phase will be severe. Adjacent MHS-zoned properties will experience unacceptable dominance, shading, privacy loss, noise, and a fundamental degradation of suburban amenity.

In *Drive Holdings*, the Court emphasised the need to manage height and bulk to avoid adverse dominance effects on surrounding residential areas. Here, the proposal's scale and the duration of construction mean adverse effects are magnified, not minimised. Due to the staggering size of the tower blocks, this will be felt by the entire valley of residential properties, the communities that use the site of Takaparawhā, and not only the immediate neighbours.

The Environment Court's approach in *Larksbay Trustees v Central Otago District Council* (EnvC 2025) is also instructive: Judge Steven declined a development where the adverse landscape/amenity effects were unacceptable and raised precedent concerns. While the setting differs, the same principle applies—grossly out-of-scale development producing unacceptable effects should be declined consent.

5. Conflict with the AUP (supporting consideration)

The application materials acknowledge the proposal is non-complying under the AUP. The courts have long held that developments fundamentally contrary to a plan that may be declined in order to uphold plan integrity, as affirmed in *Baker Boys Ltd v Christchurch City Council* [1998] NZRMA 433 (HC).

6. Cultural and environmental impacts

The development as proposed will have a significant negative cultural and environmental impact given it will be located on a site adjacent to an area of cultural and local community significance.

- A valley full of residential properties in Orakei and Mission Bay will lose visibility of the area's landmark maunga, Rangitoto. This impacts the sense of belonging and connection to this beautiful and iconic neighbourhood.
- The site of Takaparawhā, which has significant cultural importance both in terms of ancestral value, personifying the struggles in the last century of its community, and legacy today as a venue for cultural celebrations, for example Matariki. For it to be overlooked by enormous tower blocks would damage the solemnity and spirituality of the reserve and have a lasting impact on those who use and enjoy this space.
- The residences in the valley are blessed with rich and native birdlife that utilise the natural habitat that the site of Takaparawhā offers. This birdlife has become more

abundant thanks to charitable efforts co-ordinated by the Songbird project (with Auckland Council support) and sustained community action to reduce pests and enrich habitats. Installing high rise blocks of this magnitude disrupts and kettles the native birdlife's habitat: for example exacerbating fatal collisions with glass surfaces; and disorientation caused by artificial lighting. It is noteworthy that none of the submission documents address the ornithological impacts of the proposed development. This represents a clear omission in the assessment of environmental effects, particularly given the site's coastal context and its potential significance for avifauna.

7. The statutory basis for decline is satisfied

The applicant may assert regional or national benefits (housing supply, investment, employment). But FTAA s85(3) sets the decisive legal test that the Panel may decline if there are adverse impacts and those impacts are sufficiently significant to be out of proportion to the benefits claimed - even after conditions and mitigation are taken into account.

On the facts here, the adverse impacts are multiple and severe:

- Permanent built-form impacts: extreme height and bulk, visual dominance, shading, privacy loss, and a long-term outlier form in a low-rise valley setting.
- Prolonged construction impacts: an approximately eight-year staged programme that will impose near-decade disturbance (noise/vibration, traffic, dust, visual disruption) on neighbouring residents.
- Infrastructure and safety impacts: increased pressure on a constrained local street network and services, with heightened risks and costs borne by the community.
- Environmental and cultural impacts that cannot be mitigated sufficiently by the oversized design in its current form.

These are not minor or localised inconveniences: taken together, they constitute significant adverse impacts in the statutory sense. Further, they cannot be reduced to an acceptable level "even after" conditions, because the core drivers of harm are structural: the sheer scale of the development, as well as the duration of its construction programme.

Accordingly, even acknowledging any regional or national benefits, the adverse impacts are sufficiently significant to be out of proportion to those benefits, satisfying the FTAA's legal basis for refusal under s85(3).

Conclusion

For the combined reasons of:

- excessive height and bulk,
- incompatibility with surrounding zoning,
- prolonged and severe construction impacts,
- unacceptable adverse effects on residential and environmental amenity,

- and the FTAA's statutory refusal threshold being met due to those adverse impacts being out of proportion to any claimed regional or national benefits

We respectfully urge the Panel to decline consent for "The Point, Mission Bay".

A materially smaller, policy- and zoning-compliant alternative could meet development and commercial objectives, providing the stated regional and national benefits, but without imposing such profound and enduring harm on the surrounding neighbourhood, environment and communal amenity. If approval is contemplated, this should require substantial redesign and stringent conditions, including:

- Significant reductions in building height and bulk, respecting the contour of the land and valley upon which the site is located;
- Increased setbacks and step-downs to protect neighbouring outlook and amenity;
- Neighbour-specific shading, privacy and dominance assessments;
- Strict construction noise, vibration and traffic controls, including real-time monitoring;
- Limits on construction duration and staging;
- Binding infrastructure upgrade and capacity confirmation prior to occupation;
- Lighting and privacy controls at residential boundaries.

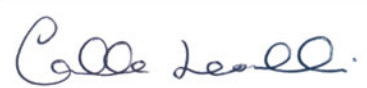
In the time available to us we are unable to commission studies or more detailed reports to support our arguments, or indeed co-ordinate and facilitate a meaningful and representative community response. Therefore we respectfully ask that the panel take this into consideration when weighing the adverse impacts this development will have against the regional and national benefits claimed.

Thank you for considering our submission. We are willing to speak at any hearing and provide further information if required.

Yours sincerely,



Stephen Walker
Director



Camilla Leonelli
Director

Happy Campers Trustee Limited

