

BEFORE THE POINT MISSION BAY EXPERT PANEL

In the matter of

of the Fast-Track Approvals Act 2024 (the *FTAA*) and the deliberations and final decision of the Expert Panel appointed under section 50 and Schedule 3 of the *FTAA* to authorise the comprehensive development of a retirement village on land generally located at the northern end of Kupe Street, Te Arawa Street, Rukutai Street and Aotea Street, Orakei.

Expert Panel

Daniel Minhinnick
(*Chair*)

Amanda de Jong
(*Member*)

Ian Munro
(*Member*)

Comments received under Section 53 of the FTAA:

10 April 2026

Details of any hearing under Section 57 of the FTAA:

No hearing held

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

Decision: Resource consents are granted subject to conditions

Date of Decision: 12 June 2026

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PART A: EXECUTIVE SUMMARY

- 1 This is an application made jointly by Ngāti Whātua Ōrākei Whai Rawa Limited and Generus Living Group Limited (the **Applicant**) for resource consents under the Resource Management Act 1991 (**RMA**) to authorise the comprehensive development of land generally located at the northern end of Kupe Street, Te Arawa Street, Rukutai Street and Aotea Street, Orakei (the **Site**) for a retirement village (the **Project**).
- 2 The Project includes the following:
 - 2.1 Five interconnected buildings of between 5-8 storeys, inclusive of a 1-3 level podium, accommodating approximately 256 retirement units.
 - 2.2 The retention and integration of the existing 3-storey aged care facility with 94 care units (Eastcliffe Retirement Village) located within the western portion of the Site.
 - 2.3 Demolition of the existing Eastcliffe Retirement Village apartment blocks (24 units) within the eastern portion of the Site.
 - 2.4 Associated staff and administrative functions, and a variety of communal/common amenity facilities for residents and their visitors.
 - 2.5 Soft and hard landscaping across the village.
 - 2.6 The construction of two public pedestrian walkways through the Site (to relocate two existing walkways that are located through the Site – discussed below) to provide access to Takaparawhau from Te Arawa Street and Aotea Street.
 - 2.7 A combination of at grade and basement parking.
 - 2.8 Installation of new wastewater, stormwater and potable water infrastructure.
- 3 The Project was a referred project under the FTAA. On 4 February 2026, we as an expert panel (the **Panel**) were appointed to determine the application for the Project.
- 4 We received comments from those invited to comment up until 10 April 2026 and a response to those comments from the Applicant on 17 April 2026. We issued our draft decision and conditions on 8 May 2026, and received comments on the draft conditions from a range of parties by 25 May 2026, along with a response by the Applicant received on 28 May 2026. We thank the parties for their contributions and have carefully reviewed all of that information in evaluating the Project.
- 5 We have assessed the Project against the relevant statutory criteria within the purpose and context of the FTAA. In terms of the relevant criteria for assessment, Schedule 5, clause 17 sets out the criteria and other matters for assessment of resource consent applications. We have assessed each of the relevant criteria.
- 6 We consider that, having considered all relevant matters, the Project meets the purpose of the FTAA. We therefore grant approval for the Project subject to the conditions in **Appendix A**.

PART B: OVERVIEW OF THE APPLICATION

Applicant

- 7 Ngāti Whātua Ōrākei Whai Rawa Limited and Generus Living Group Limited are the authorised person for the Project as set out in section 42 of the FTAA. They will hold the consents jointly.

Site and surrounding environment

- 8 The Site is at the northern end of Kupe Street, Te Arawa Street, Rukutai Street and Aotea Street, Orakei as shown in the Figure below:¹



Figure 1: Aerial diagram of the Site (reproduced from AEE)

- 9 The Site spans multiple records of title as set out below and depicted in the following Figure:²

Address	Legal Description	Freehold Title	Leasehold Title	Reference to Figure Below
217 Kupe Street	Section 3 SO 63269	557119	441696	Blue
	Lot 1 DP 92924	NA99C/193	51399	Green
	Lot 2 DP 92924	NA99C/194	51399	Yellow
	Lot 3 DP 92925	NA99C/195	51399	Orange
95 Aotea Street	Lot 366A DP 47488	NA43A/1137	N/A	Brown
106 Rukutai Street	Lot 264 DP 37687	NA22C/1052	51399	Red

¹ AEE at section 10.

² AEE at section 9.

Rukutai Street Recreation Reserve	Lot 6 DP 92924	1211845	N/A	Pink Line
Aotea Street Recreation Reserve	Lot 7 DP 92925	1212543	N/A	Black Line



Figure 2: Records of Title (reproduced from AEE)

- 10 The Applicant provides a detailed description of the Site,³ which we summarise as:
- 10.1 The Site is a large property, approximately 390 m in length (east-west) and 80-100 m wide (north-south), comprising an area of 24,341 m², and generally located at the northern end of Kupe Street and the heads of Te Arawa Street, Rukutai Street and Aotea Street. The Site is located approximately 600 m to the south-west of Mission Bay beach.
 - 10.2 The Site forms part of a wider landholding identified for hapū reservation (land held for the purposes of a marae, church, urupā and related hapū amenities) and land identified for development for papakāinga and other commercial and non-commercial activities under the Ngāti Whātua Ōrākei Claims Settlement Act 2012.
 - 10.3 Existing development on the Site includes a three-storey aged care facility with accessory at-grade parking and landscaping within the western portion of the Site. The aged care facility accommodates 94 units, together with administrative and common amenities for residents (including a pool, library, common areas, and fitness facility).
 - 10.4 Two apartment typology blocks ranging from 3-4 storeys are located within the eastern portion of the Site and accommodate 24 independent retirement units.
 - 10.5 The Site is occupied by Eastcliffe Retirement Village (the extent which remains on the Site), which was progressively constructed from 2000. The village included a combination of townhouse and apartment typology accommodation across multiple buildings within the central and eastern portions of the Site, with the 'Main Building' (aged care facility) at the western end of the Site.

³ AEE at Section 10.

- 10.6 Site investigations undertaken in July 2017 determined that the buildings east of the aged care facility building did not comply with the NZ Building Code requirements for structure, fire, external moisture or durability. Due to the extent, volume, and seriousness of the defects to these buildings, coupled with the complexity and the high likelihood for escalated costs, remediation of the buildings was determined not to be feasible. With the exception of the aged care facility and the two apartment typology buildings that remain on the Site, the balance of the buildings having been demolished down to slab level.
- 10.7 The topography of the Site is such that it sits on the eastern side of a ridge and falls in an easterly direction. The existing three-storey care facility occupies the flatter part of the Site at the top of the ridge, with the balance of the Site falling from west to east at a gradient of less than 5-10 degrees (over approximately 26 m from RL43 in the west to RL17 in the east). Several 30–40 degree slopes with retained benches are located near the centre of the Site where former terraced units were located and have since been demolished.
- 10.8 Existing vegetation on the Site is limited as a result of past demolition activities, with the exception of landscaping that has been retained (and continues to be maintained) around the existing care facility and Aotea Street apartment blocks and adjoining the two public pedestrian walkways through the Site. Such existing landscaping includes a range of shrubs, hedging, trees and other amenity planting. The Site's boundaries are fenced (and landscaped in some locations). The northern boundary adjoining Takaparawhau is fenced with a visually permeable metal railing fence and low height planting.
- 10.9 The Site includes two existing public pedestrian walkways that provide access from Rukutai Street and Aotea Street to Takaparawhau open space land to the north of the Site. These are subject to a separate reserve revocation process that has been completed following a public consultation process and which has ultimately resulted in the revocation of the reserve status of the existing walkways.⁴
- 10.10 Vehicle access to the Site is provided from Kupe Street, Te Arawa Street, Rukutai Street and Aotea Street. The existing vehicle crossings include:
- (a) Kupe Street, serving the existing aged care facility (4.0 m wide).
 - (b) Te Arawa Street, serving the existing aged care facility (5.5 m wide).
 - (c) Te Arawa Street, serving a staff parking area and a back-of-house loading area of the existing aged care facility (6.0 m wide).
 - (d) Rukutai Street, serving vacant land (5.5 m wide).
 - (e) Rukutai Street, serving vacant land (4.0 m wide).
 - (f) Rukutai Street, serving vacant land (4.5 m wide).

⁴ NZ Gazette Notice, dated 10 December 2025.

- (g) Aotea Street, serving vacant land (5.3 m wide).
- (h) Aotea Street, serving existing retirement units (5.0 m wide).

10.11 The location of the existing vehicle crossings servicing the Site is shown in the figure below:



Figure 3: Existing vehicle crossings for the Site (reproduced from ITA)

10.12 The Site benefits from well-established transportation infrastructure and is well serviced by public transport, with bus route 783 servicing the immediate neighbourhood and providing routes on an hourly basis to Mission Bay, St Heliers and Eastridge Shopping Centre, while also providing access to transfers including the Tamaki Link (which provides access between Britomart and Glen Innes). The Site also has a good level of accessibility for pedestrians with footpaths on both sides of the streets adjoining the Site.

- 11 The Site is located within close proximity to a variety of amenities / services, including:
- 11.1 Open space (informal recreation) land to the north of the Site (Takaparawhau).
 - 11.2 Mission Bay Town Centre, approximately 350 m to the north-east of the Site, which features local shops, restaurants, cafes and the Mission Bay Beach.
 - 11.3 Several schools, including Kohimarama School, Ōrākei School and St Joseph's School.
 - 11.4 Ōrākei Domain, including Okahu Bay Beach, approximately 430 m to the west.
 - 11.5 Auckland CBD, approximately 8 km to the west of the Site.

Zoning

- 12 The majority of the Site is zoned Residential – Terrace Housing and Apartment Buildings (**THAB**) Zone under the Auckland Unitary Plan (**AUP**), with the balance of the Site including small portions of the following zones:
- 12.1 Residential – Mixed Housing Suburban (**MHS**);
 - 12.2 Special Purpose – Māori Purpose; and

12.3 Open Space – Informal Recreation.

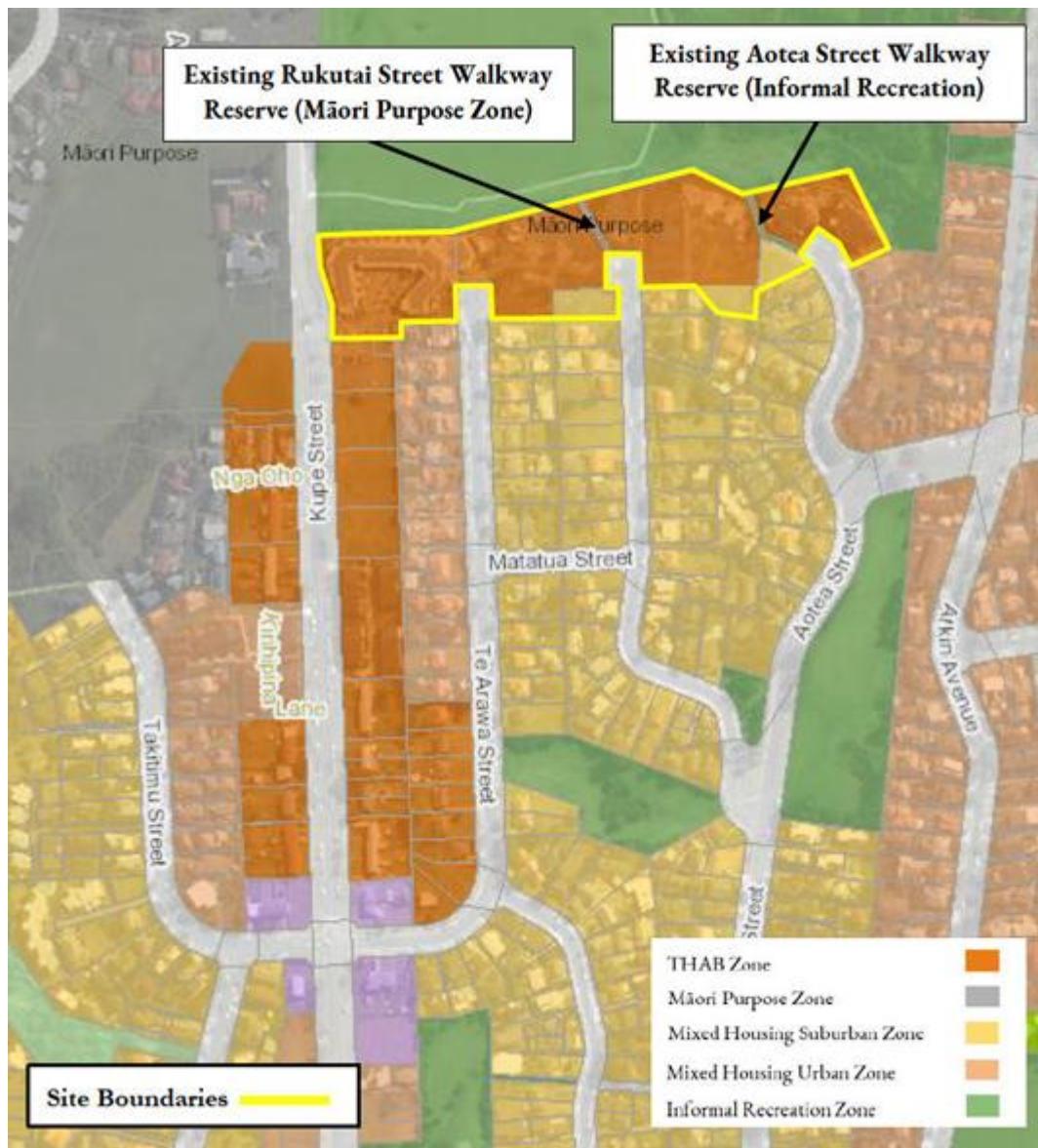


Figure 4: Zoning of the Site and surrounds (Sourced from AEE)

- 13 The Māori Purpose and Informal Recreation zoned land corresponds to the two pedestrian walkways that traverse the Site between Rukutai Street and Aotea Street and Takaparawhau / Michael Joseph Savage Memorial Park to the north of the Site.
- 14 To the south of the Site's southern boundaries, the THAB zone extends along the majority of properties that have a frontage to either side of Kupe Street. The THAB zone also applies to the western side of the southern portion of Te Arawa Street, with the balance of the western side of Te Arawa Street being zoned Mixed Housing Urban (**MHU**).
- 15 The eastern side of Aotea Street and the western side of Atkin Ave are zoned MHU. The balance of properties in the locality (between Te Arawa Street and Atkin Ave) are zoned MHS. At the southern end of Rukutai Street are three parcels of public open space land zoned Informal Recreation.

The Project

- 16 The Project includes the following:
- 16.1 Five interconnected buildings of between 5-8 storeys, inclusive of a 1-3 level podium, accommodating approximately 256 retirement units.
 - 16.2 The retention and integration of the existing 3-storey aged care facility with 94 care units (Eastcliffe Retirement Village) located within the western portion of the Site.
 - 16.3 Demolition of the existing Eastcliffe Retirement Village apartment blocks (24 units) within the eastern portion of the Site.
 - 16.4 Associated staff and administrative functions, and a variety of communal/common amenity facilities for residents and their visitors.
 - 16.5 Soft and hard landscaping across the village.
 - 16.6 The construction of two public pedestrian walkways through the Site (to relocate two existing walkways that are located through the Site) to provide access to Takaparawhau from Te Arawa Street and Aotea Street. A daytime-only pedestrian link along the Site's southern boundary is also proposed to link Rukutai Street to the Aotea Street walkway.
 - 16.7 A combination of at grade and basement parking.
- 17 The Project also includes the following:
- 17.1 Erecting site security fencing and hoardings as appropriate to the perimeter of the construction area, including temporary identification signage.
 - 17.2 Bulk earthworks to provide for suitable basement levels and building platforms, and to accommodate the proposed in-ground infrastructure. The estimated earthworks area is 17,589 m² and volume is 20,460 m³, comprising a cut volume of 25,150 m³ and a fill volume of 4,690 m³.
 - 17.3 The redevelopment of network utilities (private and public) within the Site to connect to existing utilities within Takaparawhau to the north-east of the Site.
 - 17.4 Construction of the buildings (and other associated construction activities).
 - 17.5 The implementation of hard and soft landscaping.

Building Heights and Massing

- 18 The Project comprises five new buildings ranging between 5 and 8 storeys in height, inclusive of a 1 to 3 level podium, together with the retention and integration of the existing 3-storey aged care facility in the western portion of the Site. The buildings are positioned on a north-south axis to optimise aspect and outlook, and will be physically and operationally linked at ground and podium level for functional connectivity.

- 19 Each of the five buildings sits above a podium that provides a landscaped 'roofscape' and level ground plane between Buildings 2-5, with a series of intervening resident community hubs. In addition to the main pavilion at the entrance to the village (between Buildings 1 and 2), smaller pavilion buildings are located on the podium between Buildings 2-3, 3-4, and 4-5, accommodating common amenities for residents including landscaped spaces, restaurants, cafes, and lounges.⁵
- 20 The height of the proposed buildings varies relative to the topography of the Site. The Site falls from west to east over approximately 26 metres (from RL43 to RL17). The maximum building height proposed is approximately 29.7 metres for Building 1 at the eastern portion of the Site, where the topography is at its lowest point.⁶ The existing three-storey care facility occupies the flatter part of the Site at the top of the ridge, with the proposed buildings stepping down in height as the Site falls away to the east.

Setbacks and Height in Relation to Boundary

- 21 The building footprints and their form step away from the southern boundaries in response to their interface with neighbouring sites, with the orientation of the units primarily facing east-west or north towards Takaparawhau. The layout and stepped form of the buildings have been designed to comply with the Height in Relation to Boundary (**HIRB**) standards relative to neighbouring sites.⁷
- 22 With the exception of building height, the Project has been designed to comply with the THAB and MHS zone standards applicable to an Integrated Residential Development (**IRD**) as per the MHS and THAB zone Activity Tables at H4.4.1 and H6.4.1, including Height in Relation to Boundary (Standards H4.6.5, H6.6.6, and H6.6.8) and Yards (Standards H4.6.7 and H6.6.9).

Cultural Design Narrative

- 23 The Application materials describe how the design responds to a conceptual narrative gifted to the Project by Joe Pihema: 'He mātārae kua tauria e te kapua' — 'Clouds only settle upon lofty headlands'. The grounded base of the building podium holds to the solid headland and provides the unified ground plane focus for gathering and human interaction within the village. The building façades respond by having a solid base grounded in the landscape, with upper levels having depth and shadow with fine layering to evoke the concept of clouds.
- 24 The design, layout, and architecture of the Project respond to Ngāti Whātua Ōrākei's Cultural Acknowledgement Principles and Essential Design Requirements (refer to Sheets 6-8 of the Architectural Design Report). These include promoting a cultural sense of place that supports interaction and engagement between tribal members and a community environment unique to Ngāti Whātua Ōrākei in Tāmaki Makaurau, and promoting connection to significant Ngāti Whātua Ōrākei landmarks, cultural features, and heritage connections.

⁵ AEE Figure 30, showing section of proposed buildings facing north relative to Site topography

⁶ AEE Figure 31 and 32, Sheet 34 of the Architectural Design Report

⁷ AEE Figure 29, Sheet 34 of the Architectural Design Report showing HIRB compliance

Building Coverage and Site Layout

- 25 The Project includes a total impervious surface area of approximately 17,223 m² (70.76% of the Site area) and a building coverage of 13,508 m² (55.49% of the Site area). The total landscaped area is 5,771 m² (23.71% of the Site area), excluding 1,347 m² of permeable paving and the landscaped podium areas (which total 2,501m²).

Mitigation Measures

- 26 The Applicant has proposed a detailed suite of conditions to avoid, remedy and mitigate the adverse effects of the Project. These were developed with input from the Council. We discuss the conditions in more detail in Part E and Part H below.

RMA Approvals

- 27 In accordance with Schedule 5, clause 5(1)(f) FTAA, the Application identifies activities requiring consent under the relevant AUP provisions. We have reviewed all the documentation and the further information provided by the Applicant and the other parties. We agree that overall the Project is a non-complying activity.

PART C: PROCEDURE

28 The following matters of procedure are relevant for this decision.

Referral

29 The Minister for Infrastructure referred the project to the Fast-track on 17 June 2025. As part of the Minister's consideration of the referral application for the Project, a report was provided by the Ministry for the Environment under section 18 of the FTAA on 3 June 2025.

Completeness

30 The Applicant lodged the substantive application for the Project on 17 November 2025.

31 The Environmental Protection Authority decided that the Application was complete and within scope⁸ on 8 December 2025. The Environmental Protection Authority made a recommendation on whether there are competing applications or existing resource consents for the same activity on 19 December 2025.⁹ The Environmental Protection Authority then provided the Application to the Panel Convenor.

Panel appointment

32 Minute 2 of the Panel Convenor dated 4 February 2026 confirmed our appointment under section 50 in accordance with Schedule 3 of the Act and provided a date for commencement of 25 February 2026.

Meetings and site visits

33 We carried out a project overview conference and site visit on 27 February 2026.¹⁰ This included:

33.1 A project overview conference attended by the Applicant and Council, in which the Applicant provided an introduction to the Application.

33.2 A site walkover of the Site and immediately adjoining streets, and a drive around the broader Mission Bay area.

34 Following its review of the comments received from invited parties and prior to receiving the Applicant's response to those comments, we undertook a further site visit on 17 April 2026. A particular focus of that site visit was to understand the relationship between the Project site and its surrounds with the benefit of the comments from invited parties. As part of that site visit we walked each of the Rukutai Street, Te Arawa Street and Aotea Street cul de sacs.

Other advice and reports received

35 We issued multiple requests for further information. These included:

⁸ FTAA, section 43.

⁹ FTAA, section 47.

¹⁰ Minute 1 of the Expert Panel, dated 25 February 2026.

- 35.1 A request on 2 March 2026 for updates as to any revisions to the Project and proposed consent conditions.¹¹ The Applicant responded with an updated conditions set on 6 March 2026.
- 35.2 A request on 4 March 2026 for further information regarding the assessment against the objectives and policies of the THAB zone, the cultural narrative of the design, and the benefits of the Project.¹² The Applicant provided a detailed response on 13 March 2026.
- 35.3 A request on 14 April 2026 for further information regarding the assessment of the Project against new and amended national direction, and around the Applicant's response to comments received. The Applicant responded on 17 April 2026 as part of its response to invited comments.

Comments received on the Project

- 36 We invited comments on the Project by letter dated 11 March 2026.¹³ The FTAA identifies a range of parties that must be invited to provide comment. We have a residual discretion to invite additional parties.
- 37 On the basis of the information available to us at the time and the Panel's extensive site visit in and around Mission Bay, we were of the view that identified additional properties, although not immediately adjacent to the "land to which the substantive application relates", are sufficiently exposed to the possible effects of the proposed activities to justify their owners and occupiers being invited to comment. Those properties were:
- 37.1 on both sides of the cul de sac section of Te Arawa Street (north of Matatua Street);
- 37.2 on both sides of the cul de sac section of Rukutai Street (north of Matatua Street);
- 37.3 on both sides of the cul de sac section of Aotea Street (north of Nihill Crescent); and
- 37.4 on the western side of Atkin Avenue from 25 Atkin Avenue south to Nihill Crescent.

Comments received

- 38 Responses to this invitation were due on 10 April 2026. Comments were received from the following:
- 38.1 Relevant local authorities: Auckland Council, including Auckland Transport (**AT**) and Watercare Services.
- 38.2 The owners and/or occupiers of the land to which the substantive application relates and the land adjacent to that land, or other nearby owners or occupiers

¹¹ Minute 2 of the Expert Panel, dated 2 March 2026.

¹² Minute 3 of the Expert Panel, dated 4 March 2026.

¹³ Minute 4 of the Expert Panel, dated 11 March 2026.

that we exercised our discretion to invite comment from: Andrew Parsons, Dr Lucy Baragwanath, Ben Martel, Deb Stevenson, Bruce Conlon, Happy Campers Trustee Limited, Dianne and Peter Burgham, Kyle Lai, Trustees of EDL Family Trust, Kathleen Mathers, Karyn O'Connor, M & C Kinmont, Fleur Nixon, Bruce Harland, Gordon Chong and Chang Oh.

38.3 Ministers of the Crown: Minister for Infrastructure, Associate Minister of Transport, Minister for Treaty of Waitangi Negotiations, Minister for Māori Crown Relations and Minister for Seniors.

38.4 Iwi authorities: Te Rūnanga o Ngāti Whātua.

39 We would like to thank all parties who commented for their contributions. We have considered these all carefully. A discussion of specific comments is summarised within the balance of this decision.

40 We also received a late comment from Na Liu and Cheng-wei Yang. Given that this was received well after we issued our draft decision and after the Applicant had provided its responses to comments on the draft conditions, we have decided not to exercise our discretion to consider the comments received. For completeness, we observe that the comments are reflective of many of the other comments received from nearby owners and occupiers.

Applicant's response to invited persons comments

41 On 17 April 2026 the Applicant provided a response to the comments received on the application from those persons who were invited to comment under Section 53 of the FTAA. This included an updated set of draft consent conditions. We subsequently received a further letter from Ngāti Whātua Ōrākei on 24 April 2026. We exercised our discretion under section 81(6) to consider that information.

42 We have considered the Applicant's responses, and, where appropriate, refer to those responses within other parts of this report below.

Conditions

43 On 8 May 2026, we released our draft decision along with draft conditions. A number of parties provided comments on the draft conditions.

44 Procedural steps in relation to the conditions are described further as part of our discussion at Part H below.

Comments from the Ministers

45 Under section 72 FTAA we invited comment from the Minister for Māori Crown Relations: Te Arawhiti and Māori Development on 8 May 2026. By letter dated 22 May 2026, the Minister confirmed his support for the draft decision.

No hearing required

46 In accordance with section 56 of the FTAA, we do not require a hearing on any issue. We have been able to adequately consider all issues based on the information available including the Application, comments received, responses to comments and the further information provided by the Applicant, the Council and invited persons. The material issues involved were comprehensively addressed in the documentation provided

thereby resolving any technical expert differences of opinion. Residual issues were sufficiently clear for us to consider.

- 47 We are 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 of the FTAA that require us to take all practicable steps to use timely, efficient, consistent, and cost-effective processes that are proportionate to our functions, duties or powers.

Record of deliberations

- 48 Our correspondence, deliberations and decision-making took place over a combination of meetings and over email following review, drafting and commenting on drafts of further information requests, this decision report and the conditions.

Timing of the Panel decision

- 49 In accordance with the Panel Convenor minute dated 4 February 2026 the time frame for us to issue our decision documents under sections 79 and 88 is 45 working days after the date that invited comments on the application close.

PART D: LEGAL CONTEXT

Legal context for a referred project under the FTAA

- 50 In accordance with section 42 an authorised person for a referred project may lodge a substantive application with the Environmental Protection Authority.¹⁴ The project has been referred under section 26 of the FTAA.
- 51 The referral decision directs that certain information be included within the substantive application.¹⁵

Decisions on approvals

- 52 Section 81 describes the decision-making framework under the FTAA. Relevant to the approvals sought in this instance, that framework comprises:

81 Decisions on approvals sought in substantive application

- (1) A panel must, for each approval sought in a substantive application, decide whether to—
 - (a) grant the approval and set any conditions to be imposed on the approval; or
 - (b) decline the approval.
- (2) For the purpose of making the decision, the panel—
 - (aaa) must, if the substantive application relates to an unlisted project, consider the Minister’s reasons for accepting the referral application that are stated in the notice given by the responsible agency under section 28(1):
 - (aab) must consider a relevant Government policy statement:
 - (a) must consider the substantive application and any advice, report, comment, or other information received by the panel under section 51, 52, 53, 55, 58, 67, 68, 69, 70, 72, or 90:
 - (b) must apply the applicable clauses set out in subsection (3) (see those clauses in relation to the weight to be given to the purpose of this Act when making the decision):
 - (c) must comply with section 82, if applicable:
 - (d) must comply with section 83 in setting conditions:
 - (e) may impose conditions under section 84:
 - (f) may decline the approval only in accordance with section 85.
- (3) For the purposes of subsection (2)(b), the clauses are as follows:
 - (a) for an approval described in section 42(4)(a) (resource consent), clauses 17 to 22 of Schedule 5:
...
- (4) When taking the purpose of this Act into account under a clause referred to in subsection (3), the panel must consider the extent of the project’s regional or national benefits.
...
- (6) Despite subsection (2)(a), the panel—
 - (a) is not required to consider any advice, report, comment, or other information it receives under section 51, 53, 55, 67, 69, 70, or 72 after the applicable time frame; but
 - (b) may, in its discretion, consider the information as long as the panel has not made its decision under this section on the approval.
- (7) To avoid doubt, nothing in this section or section 82 or 85 limits section 7.

¹⁴ FTAA, sections 4 and 42.

¹⁵ Being an Integrated Traffic Assessment that includes information that would typically be provided under normal processes and additionally:

- consideration of access to public transport and pedestrian amenity, including provision of footpaths and safe access to nearby bus stops.
- consideration of pavement impact from heavy traffic associated with earthworks and construction.
- consideration of stormwater and road flooding

- 53 Subsections 81(2)(aaa) and (aab) were introduced recently through the Fast-track Approvals Amendment Act 2025. We discuss section 81(2)(aaa) in the context of our assessment of the Project's benefits in Part G below.
- 54 We are also particularly cognisant of the obligation in section 7 FTAA for us to act in a manner that is consistent with obligations arising under existing Treaty settlements.¹⁶
- 55 In respect of section 7(1), we understand from the application and section 18 report that the following Treaty settlements are relevant to the Project:
- 55.1 Ngāti Whātua Ōrākei Claims Settlement Act 2014;
 - 55.2 Te Kawerau ā Maki Claims Settlement Act 2015;
 - 55.3 Ngā Mana Whenua o Tāmaki Makaurau Collective Redress Act 2014;
 - 55.4 Ngāi Tai ki Tāmaki Claims Settlement Act 2018;
 - 55.5 Ngāti Tamaoho Claims Settlement Act 2018;
 - 55.6 Te Patukirikiri deed of settlement (signed October 2018);
 - 55.7 Te Ākitai Waiohua deed of settlement (signed November 2021); and
 - 55.8 Ngāti Paoa Claims Settlement Act 2025.
- 56 Because these Treaty settlements apply, section 82 requires us to give appropriate consideration to any document required by a Treaty Settlement and to consider whether granting the approval would comply with section 7. We have considered the relevant provisions and principles of these settlements, as articulated in the Section 18 Report provided by the Ministry for the Environment.
- Ability to decline consent**
- 57 Section 85 FTAA sets out the limited circumstances when approvals must or may be declined.
- 58 None of those circumstances apply in this case as:
- 58.1 The RMA approvals are not sought for an ineligible activity (section 85(1)(a)).
 - 58.2 We do not consider granting the approvals would breach section 7 of the FTAA (section 85(1)(b)).
 - 58.3 The approvals are not for an aquaculture area (section 85(2)).
- 59 Section 85(3) describes the circumstances in which an approval may be declined. For the reasons described in the balance of this report, we have determined that none of those circumstances apply in this case.

¹⁶ FTAA, section 7.

Approvals relating to the Resource Management Act 1991

60 In considering whether to grant an RMA approval, we must apply clauses 17 to 22 of Schedule 5 FTAA.¹⁷ Clause 17 of Schedule 5, as relevant to the Application, states:¹⁸

17 Criteria and other matters for assessment of consent application

- (1) For the purposes of section 81, when considering a consent application, including conditions in accordance with clauses 18 and 19, the panel must take into account, giving the greatest weight to paragraph (a),
 - (a) the purpose of this Act; and
 - (b) the provisions of Parts 2, 3, 6, and 8 to 10 of the Resource Management Act 1991 that direct decision making on an application for a resource consent (but excluding section 104D of that Act); and
 - (c) the relevant provisions of any other legislation that directs decision making under the Resource Management Act 1991.
- (2) For the purpose of applying any provisions in subclause (1),—
 - (a) a reference in the Resource Management Act 1991 to Part 2 of that Act must be read as a reference to sections 5, 6, and 7 of that Act; and
 - (b) if the consent application relates to an activity that is the subject of a determination under section 23 of this Act, the panel must treat the effects of the activity on the relevant land and on the rights or interests of Māori as a relevant matter under section 6(e) of the Resource Management Act 1991; and
 - (c) to avoid doubt, for the purposes of subclause (1)(b), when taking into account section 104(1)(c) of the Resource Management Act 1991, any Mana Whakahono ā Rohe or joint management agreement that is relevant to the approval is a relevant matter.
- (3) Subclause (4) applies to any provision of the Resource Management Act 1991 (including, for example, section 87A(6)) or any other Act referred to in subclause (1)(c) that would require a decision maker to decline an application for a resource consent.
- (4) For the purposes of subclause (1), the panel must take into account that the provision referred to in subclause (3) would normally require an application to be declined, but must not treat the provision as requiring the panel to decline the application the panel is considering.

...

61 Clause 17(1) includes a weighting requirement. The purpose of the FTAA is to be given the greatest weight, and by implication the criteria in (b)-(c) are to have equal statutory weight.

62 In accordance with clause 17, the relevant matters we take into account comprise:

62.1 The purpose of the FTAA, being “to facilitate the delivery of infrastructure and development projects with significant regional or national benefits.” When assessing this criterion we must consider the extent of the project’s national or regional benefits. This criterion is to be individually assessed as part of a clause 17(1) assessment, and then, when conducting an overall assessment, is to be given the greatest weight.

62.2 Part 2 of the RMA, comprising: sections 5-7.

¹⁷ FTAA, section 81(2)(b) and (3)(a).

¹⁸ For the purposes of clause 17(2)(c), we are not aware of any Mana Whakahono ā Rohe or joint management agreement relevant to the approval. There are no provisions of the RMA that would require us to decline the approvals, and accordingly clause 17(3) and (4) are not considered further. Clause 17(5)-(7) are procedural in nature only.

- 62.3 Part 3 of the RMA, and in particular: section 12 (restrictions on use of coastal marine area); section 15 (discharges of contaminants); section 16 (duty to avoid unreasonable noise); and section 17 (duty to avoid, remedy or mitigate adverse effects).
- 62.4 Part 6 of the RMA, and in particular: section 104 (consideration of applications); section 104B (consideration of applications for discretionary or non-complying applications); and section 108 (conditions of resource consents). Section 104D is expressly disappplied. Consequently, in order for the consents to be granted under the FTAA, it is not necessary for it to be demonstrated that either the adverse effects of the Project are no more than minor or that the Project is not contrary to the objectives and policies of the AUP.
- 63 No other relevant provisions of any other legislation that directs decision making under the RMA has been drawn to our attention as being relevant to the Application.
- Content of our record of decision**
- 64 Consistent with the requirements of section 87, the remainder of the decision:
- 64.1 Identifies the key adverse effects of the Project, and our finding on key effects—Part E.
- 64.2 Identifies the relevant planning instruments, and our finding on key objectives and policies (and related provisions) – Part F.
- 64.3 Identifies the national and regional benefits of the Project – Part G.
- 64.4 Identifies the key issues in contention throughout.
- 64.5 Records the conditions on which the resource consents are to be granted – Part H and Appendix A.
- 64.6 Records our determination of the Project against the relevant criteria – Part I.
- 64.7 Final Decision – Part J.
- 65 In drafting this decision, we have had regard to the procedural principles underpinning the FTAA, including the requirement for expeditious but robust decision-making.

PART E: EVALUATION OF EFFECTS

- 66 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.
- 67 As the application is for a non-complying activity we have adhered to AUP rule C1.8(2), which states (our emphasis added in bold font):
- When considering an application for resource consent for an activity that is classed as a discretionary or non-complying activity, the Council will **have regard to the standards for permitted activities on the same site as part of the context of the assessment of effects on the environment.***
- 68 The AEE provided a detailed assessment of these matters. We consider that the Applicant has diligently and comprehensively prepared the Application, technical assessments and proposed conditions.
- 69 It is clear that the Applicant and the Council (including Watercare, Auckland Transport and Healthy Waters) have undertaken lengthy engagement in relation to the Project, and that is reflected in the widespread agreement on most matters. We thank those parties for their approach in this respect.
- 70 Participants who commented also raised a range of actual and potential effects, and we have carefully considered those matters raised.
- 71 The following main categories of actual and potential effects on the environment exist:
- 71.1 Residential character and amenity effects, landscape effects and urban design;
 - 71.2 Flooding, stormwater and water quality effects;
 - 71.3 Geotechnical matters, groundwater drawdown and landslide susceptibility;
 - 71.4 Construction effects (including land disturbance, construction traffic effects and construction noise and vibration effects)
 - 71.5 Operational transport effects;
 - 71.6 Infrastructure effects;
 - 71.7 Noise and vibration effects;
 - 71.8 Effects on protected trees;
 - 71.9 Contaminated land effects;
 - 71.10 Cultural effects;
 - 71.11 Positive effects.
- 72 We have addressed these effects thematically throughout our discussion below, with the positive effects being addressed separately in Part G below. We have also had regard to the relevant planning provisions in evaluating the effects of the Project, as

discussed in Part F below. These have been particularly influential for our consideration of residential character and amenity effects and landscape effects noting the concerns expressed within comments received by the Panel regarding the height and bulk of the proposal. This is expanded further below.

- 73 In relation to each category of effect (and cumulatively), we considered whether the information before us (from the Applicant, Council and other invited parties) was robust and comprehensive, or whether we needed to request further information or commission an independent expert to provide further information to assist us. Where discrete further information was required, we requested this, as outlined in paragraph 35 above. In relation to each area, we found the expert evidence to be comprehensive and robust, having been prepared by suitably qualified practitioners who have confirmed their adherence to the expert witness code of conduct.
- 74 We have also been mindful in our consideration of the effects of the Project that there is not a particular threshold to be achieved (such as "minor") in order for the appropriateness or acceptability of effects to be determined. In this section we have considered the significance of the various effects and the appropriateness of the Applicant's response to these effects (in terms of Project design, management and mitigation measures and condition drafting), which in turn informs our overall evaluation of the Project against the criteria in the FTAA in Part I below.

Residential character and amenity effects, landscape effects and urban design

- 75 The AEE included an Urban Design, Landscape and Visual Effects Assessment (UD-LVEA) prepared by Boffa Miskell (supported by an Urban Design and Landscape Peer-review prepared by R.A. Skidmore).¹⁹ The Project and its setting are discussed in detail in the Application material and are summarised in Part B above.

Landscape and Visual Changes

- 76 In terms of landscape and visual changes, the Application states:
- 76.1 The UD-LVEA comprehensively assesses the design, form, scale and appearance of the buildings in the context of the Site and the surrounding environment.²⁰
- 76.2 The scale of the Project means it will have a level of prominence in the landscape, most readily experienced from the open headland environment of Takaparawhau.²¹
- 76.3 The assessment concludes that the large scale of Takaparawhau, with its combination of grassland open space and indigenous forest restoration, is readily able to accommodate the scale of the Project.²²
- 76.4 The building's solid base defines the length of its boundary, with the series of five upper level buildings turned 180 degrees, lightening the overall bulk of the development and punctuating the skyline with shifting viewshafts between.²³

¹⁹ AEE at Section 13 and Attachment 12; Attachment 21.

²⁰ AEE at Section 18, paragraphs 18.15-18.24.

²¹ AEE at Section 18, paragraph 18.20.

²² AEE at Section 18, paragraph 18.20.

²³ AEE at Section 18, paragraph 18.20.

- 76.5 The Project will strongly backdrop Takaparawhau with an urban village that overlooks and contributes a quality, unified built backdrop commensurate with the scale of the open space reserve.²⁴
- 76.6 The building's solid base and series of lighter, layered upper level forms relate conceptually to the headland location, anchored to the landscape and filtering to the sky.²⁵
- 76.7 Visual simulations demonstrate that the Project will not be prominent in views from the west, including along the Coates Avenue/Paritai Drive ridgeline, and is not in view when rounding the headland into Okahu Bay on Tamaki Drive.²⁶

Residential character and amenity and urban design elements

- 77 The Application outlined the following in relation to residential character and amenity and urban design elements:
- 77.1 The Project has been designed to achieve a quality built environment with a high density urban character.²⁷
- 77.2 The north-south alignment of the buildings above the podium base, the building separation, and width of the building elements creates openness, light, solar access and views through the Site, ameliorating potential adverse effects in respect of the scale of the development relative to the neighbourhood and neighbouring properties.²⁸
- 77.3 Building bulk and massing has been placed on the Site in a manner which will maintain reasonable privacy and sunlight access to neighbouring residential properties to the south and minimise potential visual dominance effects on them, such that overall potential adverse effects on those properties are considered to be very low.²⁹
- 77.4 There are no infringements to the HIRB standard in respect of residential neighbours, with the building setbacks and stepped height of the development ensuring compliance.³⁰
- 77.5 Shading diagrams demonstrate that for most times of the year, the Project will not cast shadow on neighbouring properties, and the generous gaps between buildings results in times when there is greater solar access to adjacent properties than would result from a fully height-compliant development.³¹
- 77.6 The Project incorporates Crime Prevention Through Environmental Design (**CPTED**) principles and will improve both the actual and perceived safety of the Site and immediate surrounding environment, with the building arrangement

²⁴ AEE at Section 18, paragraph 18.20.
²⁵ AEE at Section 18, paragraph 18.20.
²⁶ AEE at Section 18, paragraphs 18.28(f)-(g).
²⁷ AEE at Section 18, paragraphs 18.25-18.31.
²⁸ AEE at Section 18, paragraph 18.28.
²⁹ AEE at Section 18, paragraph 18.28.
³⁰ AEE at Section 18, paragraph 18.28.
³¹ AEE at Section 18, paragraphs 18.29-18.30.

providing outlook and passive surveillance of the Site, the streetscape environments, and Takaparawhau.³²

- 78 The Architectural Drawings include section diagrams illustrating the relationship of the proposed buildings relative to neighbouring dwellings on adjoining land.³³ The Urban Design, Landscape and Visual Effects Assessment includes a Graphic Supplement containing visual simulations of the buildings in 'before and after' scenarios from various viewpoints.³⁴
- 79 A shading study has been undertaken by Warren and Mahoney demonstrating shading effects for the Summer and Winter Solstice (from 9am to 5pm) and for the Autumn and Spring Equinox (from 9am to 5pm).³⁵ These studies illustrate the differences between shadows cast by the proposed heights of the buildings and buildings that would otherwise comply with the THAB zone's 16-metre height limit.
- 80 Consideration of residential character and amenity effects, landscape effects and urban design elements first required the Panel to consider and determine what the correct starting point is for this assessment. This specifically relates to the relevance (or otherwise) of the expectations of a changing built form and character within this environment that may be anticipated by the AUP THAB zone which applies to the majority of the Site. This was identified by the Panel as a key matter for further analysis by the Applicant following the Project Overview Conference.³⁶
- 81 The Applicant subsequently provided a planning memorandum³⁷ and urban design and landscape visual effects memorandum.³⁸ These memoranda set out the analysis of the respective experts that responded to the matters that the Panel had raised in Minute 3.
- 82 In summary, the respective experts were asked to clearly explain how, and to what extent, the following matters had informed their assessments:
- (a) The pattern of intensification that has occurred recently in the area.
 - (b) Intensification of the surrounding area currently enabled by permitted activities.
 - (c) Intensification of the surrounding area enabled by permitted activities.
 - (d) Proposed intensification identified in Plan Change 120 (**PC120**).
- 83 These memoranda clarified the methodologies followed and confirmed two key points:
- 83.1 The assessments of effects had been based on the existing environment and examples of intensification that had been completed (and that were part of the environment), rather than on hypotheticals of future developments.

³² AEE at Section 18, paragraphs 18.32-18.34; Attachment 33.

³³ AEE at Attachment 17, Drawings RC30-01 to RC31-51.

³⁴ AEE at Attachment 12.

³⁵ AEE at Attachment 17, Drawings RC80-01 to RC80-04.

³⁶ Minute 3 issued by the Panel dated 5 March.

³⁷ Planning Memorandum dated 12 March 2026.

³⁸ Urban design and landscape visual effects memorandum dated 10 March 2026

83.2 PC120 was not being relied on to justify any of the conclusions in support of the grant of consent.

Comments Received

84 Of the comments received, many³⁹ were opposed to the proposal citing adverse effects relating to urban design and landscape effects (building height, bulk, mass and associated effects including access to Takaparawhau and character effects). Most commenters framed their concerns beyond just direct adverse effects on themselves or their property.

85 By way of a representative sample of the concerns expressed:

85.1 Dr Lucy Baragwanath was concerned primarily with access and shadowing effects. She stated:

Eight storeys is enormous. The site is already elevated, meaning that many of the neighbouring houses to the south would be shaded by the proposal.

I therefore oppose the development. I suggest that the developer reconsider, instead creating a series of buildings of no more than 4 storeys, allowing provision for public walkways to enable access from Kupe, Te Arawa, Rukutai and Aotea Streets. This would address all of my concerns.

85.2 Dianne and Peter Burgham were concerned with the impact of the proposed buildings on amenity:

These height exceedances are extreme. Buildings of five to eight storeys, with podium structures, will dominate views from Te Arawa Street and my property ..., resulting in significant loss of outlook, increased shading, reduced openness, and adverse effects on residential character and amenity.

85.3 EDL Family Trust was concerned with the scale of the proposal and its fit with the neighbourhood:

Consequently we vehemently oppose the application in its current form due to the scale, height, bulk and intensity of the proposed development, as well as the resulting adverse effects on residential amenity, construction impacts, traffic, and infrastructure capacity affecting Te Arawa Street and surrounding residential properties.

The proposal represents an exceptionally large and intensive redevelopment within an established residential neighbourhood. The extent of non-compliance with the Auckland Unitary Plan (AUP) is significant and goes well beyond what could reasonably be characterised as minor or acceptable. In our submission, this proposal should be declined.

³⁹ Comments by Andrew Parsons; Lucy Baragwanath; Ben Martell; Ben Conlon; Happy Campers Trustee Ltd; Dianne and Peter Burgham; EDL Family Trust; Kathleen Mathers; Karyn O'Connor; M & C Kinmont; Bruce Harland, Gordon Chong and Chang Oh; and Fleur Nixon.

85.4 Kathleen Mathers expressed concerns relating to lighting, fencing and visual amenity (amongst others), including:

There has been no pattern of intensification in the area to anywhere near the scale of the proposed The Point Mission Bay development, including that of the previous Eastcliffe Retirement Village.

The proposed buildings are massive and would dominate surrounding residential properties located on Mixed Urban Zone (MHU or MHS) land. This would inevitably result in a wall effect separating the development buildings from the local community.

85.5 Karyn O'Connor raised concerns including potential wind tunnel effects between the buildings:

The 8-9 storey buildings will be overbearing, blocking my light and potentially causing wind tunnels between the buildings.

86 We note that the comment from Bruce Harland, Gordon Chong and Chang Oh was written by Mr Harland, an experienced urban designer and planner. Although not admissible to us as a statement of independent expert evidence (and to his credit Mr Harland did not attempt that), we accept that as an expert he has a highly informed opinion relevant to many matters central to our consideration of the Project and we have accepted it as expert (non-independent) advice.

87 In terms of comments supporting the application, one expressly addressing amenity, character, urban design and landscape issues was received from Auckland Council. The overarching comments were prepared by Mr Andrew Miller (consultant planner) which included memoranda from subject matter experts Mr Wayne Bredemeijer (urban designer) and Mr Peter Kensington (landscape architect). In summary the Council was much-aligned with the Applicant's experts.

Applicant response to comments

88 The Applicant responded to the Council urban design and planning comments. But in summary the Applicant did not accept the criticisms levelled by the commenters opposed to the application, and made no material changes to its proposal (although proposed conditions of consent were the subject of input and change based on Council officer comments).

Panel Findings

89 We have approached this bundle of potential effects based on the following considerations:

89.1 Relevance of a future or 'planned' built character;

89.2 The 'neighbourhood' that the Project's effects may impact;

89.3 Neighbourhood character and landscape / visual effects;

89.4 Building height and massing effects including wind, shadowing and daylight effects;

89.5 Visual dominance and visual amenity effects;

89.6 Visual privacy / outlook effects including loss of coastal views; and

89.7 Overall conclusions on height, mass, scale and intensity-related effects on the environment.

Relevance of a future or 'planned' built character

- 90 Referring to Part F of our decision, the AUP provisions for both the THAB (see policy H6.2(2)) and MHS (see policy H4.3(2)) zones refer to a "planned" built character. This is a future supposition based on a very wide range of things the AUP enables, which includes both permitted activities and activities that might be authorised by consent (for example where they do not meet the relevant zone standards). We have not taken this concept into account in our consideration of the existing environment, or in assessing the proposal's effects on the environment more generally. Rather we see it as a separate matter of how a proposal might align (or not) with a planning document.
- 91 Effects on the character and amenity of an existing neighbourhood as it exists today, regardless of what changes may or may not be foreshadowed in a Plan, is a relevant matter and we note even in the more limited context of a restricted discretionary activity application for an IRD that hypothetically complied with all of the relevant standards in the THAB zone, restriction of discretion H6.8.1(3) would still empower the decision maker to consider several matters in terms of "*the effects on the neighbourhood character, residential amenity, safety, and the surrounding residential area*".
- 92 Referring to paragraph 67 above, we confirm that we have kept the permitted activity standards that apply to the Site, and also to the generality of sites within the neighbourhood (acknowledging the various land use zones), in mind as a matter of context only when considering effects on the environment.
- 93 We do not see an assessment of effects on the environment and a consideration of how a proposal might fit a future "planned" character as being inherently interlinked or determinative of one another.
- 94 We also acknowledge the reference made by several commenters to a decision made by the Environment Court: *Drive Holdings Ltd v Auckland Council* [2021] NZEnvC 159. That related to an application for development on Business: Local Centre zoned land in the core of Mission Bay. We have read that decision. We do not agree that it is as relevant to the current application as some commenters feel.⁴⁰ Although that decision was made in the context of a "planned" neighbourhood built form character that shares some spatial overlap with the neighbourhood we have determined is relevant to the current application, that was for a separate proposal within a separate zone and subject to a number of materially different planning policy considerations than are raised by the current application. The current application is also subject to a different decision making framework than applied in *Drive Holdings*. We agree with the Applicant in its response to comments that the Court decision is of limited assistance.

⁴⁰ Comment by Happy Campers Trustee Ltd, page 3.

What is the 'neighbourhood' that the Project's effects may impact?

- 95 We refer to Part F of our decision where we have identified the "neighbourhood" noting that, other than the THAB zone itself, it also serves to address the local "area" relevant to the proposal where specific Plan provisions do not use the term "neighbourhood".⁴¹ This is relevant to both specific AUP provisions but also the comments received and expert analyses provided to us.
- 96 The same spatial area applies to our consideration of the Project's environmental effects. In summary, this is the area bound by the Coates Avenue ridge (west), Kohimarama Road ridge (east), Kepa Road ridge (south), and coastline (north). It includes land on sloped hills that might have views of the Kepa Road ridge and the Site (predominantly the eastern side of Kepa Road).

Neighbourhood character and landscape / visual effects

- 97 We find the Applicant's photo-simulations and assessments are sufficient to address this matter, noting we have used the photo-simulations to help ascertain the Project's in-the-round effects, not just from the specific viewpoints chosen. The Panel has also undertaken two site visits to inform our consideration of these matters.
- 98 The Project will present a substantial change to the Site and this will be at times widely visible in the northern and eastern parts of the neighbourhood. It will be progressively less visible as one moves to the southern end of the neighbourhood along Kupe Street, and from the west as the Site will become screened by intervening sites and development at the Kupe Street ridge. Along Kepa Road (east of Eastridge centre), recent mid-rise developments on that road's northern side will also block views of the Site from parts of that ridge. We accept that to those in the community that prefer predominantly two or three-storey residential-style development the Project will seem starkly out of place especially where the viewer has a view of the entirety of at least one building's height from ground to top. We accept at face value that the Project will result in material, noticeable changes to those persons, and that those persons perceive those changes as significant impacts on the amenity values they experience and in terms of how they see their own neighbourhood.
- 99 We also accept the point made by several commenters that the scale of intensification proposed will overall go further than the intensification projects that can be seen in the neighbourhood (which include 5-storey apartment buildings along Kepa Road ridge).
- 100 But we disagree with the commenters opposed to the Project that the effects of the Project on the character of the neighbourhood will be as severe as has been described. Although of a larger scale than existing intensification projects, the Project also benefits from proportionally much more comprehensive landscaping and setbacks from neighbours than several of those projects as well, particularly in terms of direct neighbouring sites.
- 101 For the most part, views of the Project within the neighbourhood will be fleeting and at a distance of well over 250 m. At such distances, the view becomes a much broader 'townscape' taking in many buildings and trees at varying degrees of setback from the viewer. In those views even though the Project will be noticeable and stand out, we

⁴¹ For example see THAB zone objective H6.2(2) compared with restriction of discretion H6.8.1(3)(a).

disagree that it will be so adverse as to detrimentally impact on the neighbourhood's overall character and amenity values. The Project will follow the contour of the land in a way that visually relates well to that; is set very far back from the coastal edge and the key regional amenity of Mission Bay Beach / Selwyn Reserve; and has been designed to present as a number of distinguishably separate buildings each designed to vertically appear as buildings stacked atop one another (through the expression of the proposed podium levels and building 'steps'). Overall from most viewpoints the Project will appear to be for a range of apartment buildings ranging in 2-4 visible storeys rising above or in between intervening buildings and trees but we do not wish to shy-away from the fact that in some instances viewers will see and be close to what will be an 8-storey building designed to be visually very varied and of a high-quality appearance. We find that this is an overall acceptable outcome in what will remain a very visually mixed neighbourhood including a wide variety of building types, sizes, shapes and forms.

102 Acknowledging those comments that emphasised that a compliant-height proposal would have considerably less character and related adverse effects than the Project we do not agree that this is a relevant matter for our consideration. For completeness only, we record that:

102.1 The height of a building is of itself "just a number" – the critical consideration is of the effects of the building, rather than its nominal height.

102.2 It is not necessary for us to undertake a comparative assessment against a hypothetical compliant development because there is no presumption within the AUP, RMA or FTAA that development should comply with standards or only infringe them to a very small degree (and we observe that we have not applied a permitted baseline to the consideration of the Project's effects).

102.3 In any event, a modified proposal designed to comply with zone standards could have resulted in much more continuously horizontal building mass much closer to the southern boundary (including the use of the 'stepped height' approach to include buildings within the MHS zoned areas) and from many viewpoints could have seemed potentially more massive and visually dominant than the detached tower forms proposed. But as outlined above, we have not undertaken that form of assessment as it is not relevant to the statutory tests we must consider.

102.4 As such, we do not see it as appropriate to take that any further.

103 Taking into account the comments opposing the Project including the expert advice of Mr Bruce Harland, we prefer and agree with the expert evidence provided by the Applicant by way of Mr Matt Riley, Ms Rachel de Lambert, and reviewer Ms Rebecca Skidmore, supported by the Council's key experts Mr Wayne Bredemeijer and Mr Peter Kensington. This is in our finding a collectively authoritative body of careful assessment. We find that the Project will have reasonable and acceptable adverse effects on existing neighbourhood character, and that these have been reasonably avoided, remedied or mitigated by the design approach taken to adopt a locally very relevant cultural narrative. Further, the mass and set-back of the buildings presents as a series of individuals, includes comprehensive landscaping, and provides a high-quality of visual interest and detailing in the elevations.

104 On the matter of the cultural narrative, we find that this is a significant part of how the Project will integrate compatibly (which we find means 'can co-exist alongside' rather

than 'be the same as or very similar to') into the neighbourhood. The Site's relationship with Takaparawhau, Bastion Point and Ōrākei Marae and how the Project has responded to that cultural and natural landscape plays a significant part in establishing its place within the neighbourhood; it is much more than just a large IRD on a residential zoned area of land. The cultural narrative the Project has received from Ngāti Whātua Ōrākei,⁴² which will be a direct neighbour to the Project while it continues to provide a variety of (sometimes sacred) cultural services for the community, have been pivotal in our conclusion on neighbourhood character and acceptability. This was reinforced by the letter received from the Chair of Ngāti Whātua Ōrākei.⁴³ As articulated in that letter:

We wish to respond directly to the comments relating to the form of the proposal. From an ahi kā perspective, we support the quality and scale of the proposed development and the considered, iconic nature of its design. The proposal responds appropriately to its context and reflects a thoughtful approach to this site of significance. We consider that it recognises the cultural importance of the whenua and contributes positively to upholding its mana.

The development also gives effect to the approved narrative gifted to the proposal: He mātārae kua tauria e te kapua.

The proposed height is a critical component of the design and is integral to expressing the mana of the site and of the whenua rangatira, Takaparawhau, upon which the development sits.

- 105 In terms of the matter of public pedestrian linkages from the three cul-de-sac heads south of the Site through to Takaparawhau, we agree that this is also related to the configuration of the proposed development and its effects on its neighbourhood. We refer to Part F of this decision where we provide specific comment on the merits of the Project's pedestrian links. In summary, however, we accept the Applicant's position supported by the Council that acceptable safe and convenient public access will be maintained through the Site to Takaparawhau (and will in fact be overall improved) such that any adverse effects arising from the reconfiguration of pedestrian access will be acceptable and suitably mitigated.

Building height and massing effects including wind, shadowing and daylight effects

- 106 The scale and height of the Project was the most contentious part of the Project in the eyes of commenters opposed to the Project. The nub of the Applicant's case is that its Site has characteristics allowing the proposed building height to be proportionally set back from adjacent land such that potential adverse effects are in-line with what a lower-height but closer hypothetical might have been. As noted above, we do not consider it appropriate to imagine hypothetical alternatives to what has been proposed but, keeping the permitted activity standards in-mind as a matter of context, we acknowledge the Applicant's design strategy including the pursuit of multiple separated tower forms and creation of frequent gaps between them.

⁴² With corresponding support from Te Rūnanga o Ngāti Whātua.

⁴³ Letter from Ngāti Whātua Ōrākei dated 24 April 2026.

- 107 To neighbours, the Project would be too tall, creating shadowing / daylight and wind effects that would be unacceptably adverse.
- 108 We have considered the Applicant's shadowing diagrams carefully, noting these have been agreed with by the Council's expert reviewers. We are satisfied that they provide a reliable base to consider these potential adverse effects. We are conscious that shading diagrams need to be interpreted with care given the difficulty in representing the difference between a proposed shadow on an area that might already be subject to shading from a different source. To that end we are appreciative that the shading diagrams include representation of existing buildings, but of note many existing fences and trees that exist across the land adjacent to the Site have not been included. In this respect the diagrams if anything overstate the Project's shadowing on adjacent land. The diagrams show rapidly moving shadows across the day and that the tower separations proposed will frequently break up potential shadowing extent through the late morning and early afternoon periods. The shadow diagrams also show shading extending notably beyond the Site in the late afternoon period in all periods of the year – a characteristic we accept is a result of the very low solar angles that occur towards sunset. We accept that to neighbours subject to the Project's shadowing after approximately 4.30pm on most days of the year, shadows will be extensive and adverse. But this will be in the context where all shadows cast from all buildings will be very long and falling across adjoining neighbouring sites (and so will those from fences and trees). While the Project's shadows will be distinguishable and adverse, they will not be out of step with the amenity values of living on a slope that itself becomes a cause of shadowing as the sun sets.
- 109 In the Applicant's urban design and landscape assessment, shading effects on individual neighbouring properties are considered. We agree with this approach as it allows each adjacent property to be assessed on its own merit rather than be potentially unfairly blended-in with other neighbours across an artificially large area of land. Although we are unwilling to imagine a compliant hypothetical to compare the Project against, we accept the point made by the Applicant's assessment being that effectively any intensive IRD use of the Site within the permitted activity standards would likely cast similar shadows to those proposed on adjacent land and that this informs the question of the Project's overall reasonableness.
- 110 In light of the above and taking a real-world approach, we generally accept the Applicant's assessment of shadowing effects and in addition we are satisfied that the combination of setbacks and gaps between the proposed buildings will ensure sufficient daylight access will be maintained to all neighbours. The Site is long in its east-west dimension and has existing MHS-zoned land to its south. In this urban circumstance a degree of shadows falling from one site to another is an unavoidable and reasonable outcome capable of maintaining reasonable residential amenity. We find that especially for immediate neighbours at the winter solstice and between the two equinoxes either side of that, adverse shadowing effects from the Project will be noticeable. But, overall, the shadows cast from the Site on the whole and in terms of individual properties will be reasonable and acceptable.
- 111 In terms of wind effects, the Applicant has provided an expert assessment from RWDI Australia Pty Ltd which included construction of a physical model and wind tunnel testing. This was reviewed as part of the Council's comment and its conclusions agreed with. We have considered the wind assessment and agree it is conservative, with the report noting that: *"the integration of vegetation within and around the site is anticipated to provide additional mitigation of wind effects, contributing to a more*

comfortable pedestrian environment with conditions expected to be at least a category or two calmer than those noted [in the assessment]".⁴⁴ We are satisfied that potential wind effects will be manageable and reasonable for neighbours and adjacent public spaces.

- 112 Having considered all of the above we are satisfied that the Project will result in reasonable and acceptable adverse effects relating to building height, massing, shadowing / daylight, and wind. We agree with the expert assessments for the Applicant and the Council concluding that the Project will present a configuration of development incorporating substantial height with substantial setbacks, landscaping, and separation between individual tower forms that will overall provide for a reasonable and appropriate residential comfort, access to sun, and related amenity. The Project design, including the specific way in which building height has been able to be pulled away from the Site neighbouring residential boundaries and building forms being so separated from one another was central to our findings as to the success of the management of the Project's height and massing.

Visual dominance and visual amenity effects

- 113 The Applicant's expert assessments conclude that the Project will incorporate high-quality, finely detailed and varied building forms well set back from adjacent and adjoining residential land and well separated from one another such that visual dominance and visual amenity effects will be mitigated.
- 114 From the comments received opposing the application, a common theme was concerns about the building heights looming above people, exacerbated in several instances by adjacent dwellings being on land lower than some of the proposed building platforms. For this reason, we undertook a second site visit including to all of the local streets and in front of each property that a comment was received from (for those sites that were back from the street we moved along the streets and/or the Site so we could sight them). We took into account existing windows and outdoor spaces that we could see, and how sites were configured relative to their immediate neighbours. We acknowledge that we did not enter any private property (other than the Site on our first site visit) and were not able to take into account aspects of property not visible from the street (such as back yards behind dwellings). We were, however, able to consider high-quality aerial photography in this respect and have satisfied ourselves that we have been able to reach a reasonable and informed conclusion on this matter.
- 115 We accept that to immediate neighbours in particular, the Project despite its landscaping, setbacks, and building separation, will present visual dominance effects as described by those commenters and in all cases viewers will be below the top of proposed buildings, and hence look up at them. For those persons, the amenity they currently enjoy from the Site being largely vacant will be substantially reduced and there is no true permitted baseline that we could take into account as a matter of fact and process. For the purposes of our decision, it is not necessary to specifically categorise any adverse effect but in fairness we accept that such adverse effects would be material.
- 116 Our evaluation of the Project has concluded that where individual buildings can be seen separated from one another (which will be most common from those properties closest

⁴⁴ RWDI Australia Pty Ltd., "The Point", 16 October 2025, page 10.

to the Project), they will generally have a more vertical than horizontal massing and we find this will mitigate some potential visual dominance effects. Where the viewer will see several buildings stacked partially behind one another (which will be more common in distant town-scape type views), the stepping in heights, interplay of shadowing, and setbacks between the buildings (buildings behind will present smaller windows compared to the closest buildings) will communicate clearly to viewers that they are looking at several buildings rather than one singular continuous one. This will also mitigate potential visual dominance effects.

- 117 In our overall consideration we find that the Project's adverse effects will be reasonable, acceptable, and comprehensively mitigated by way of the proposed setbacks and building gaps, landscaping, and the design quality of the building elevations. In that latter respect, we agree with the Applicant and the Council that the Project has presented a built form that will be visually interesting, highly varied, and that avoids presentation of very large genuinely dominating surface planes very close to immediate neighbours. In this respect, we find that further back from the Site boundary, most existing neighbours will be subject to overall levels of visual dominance (the combination of building height, width and proximity) from existing neighbouring dwellings that will be more adverse than the Project will be. This has been an important point in satisfying us that the Project will be overall appropriate.
- 118 In reaching our conclusion, we accept that to some in the community the building design will not be visually appealing or attractive, and to others the mere principle of apartment buildings of the heights proposed will be offensive to the eye. We are not in a position to judge personal aesthetic beauty or impose any person's aesthetic tastes onto another. What we can do is ensure that an Applicant has recognised the potential visual design-related impacts its Project might result in and demonstrate that these have been reasonably avoided, remedied or mitigated. We are satisfied that this has been the case and that as a result there will likely be some in the community who find the buildings attractive and pleasant to be around.

Visual privacy / outlook effects including loss of coastal views

- 119 The Applicant considers the combination of building setbacks, intervening landscaping, and separation between the building forms will collectively maintain reasonable outlook for neighbours and mitigate potential visual privacy effects.
- 120 For commenters opposed to the Project, privacy will be substantially diminished as a result of the high number of apartments orientated to face their property.
- 121 We are satisfied that the Project will maintain reasonable privacy for adjacent land and that for most neighbours, existing neighbours in very close proximity will likely create more potential privacy effects than will be likely from the Project. We find that the Project will provide greater building separation and privacy for neighbours and adjacent sites than would normally be possible, although we would not go as far as to describe that as a positive effect or benefit for neighbours overall. Related to this, we find that the proposed fencing and landscaping solution on and adjacent to neighbouring property boundaries will be acceptable; it will maintain privacy and visual amenity, and not result in inappropriate shadowing or visual dominance effects on neighbours.
- 122 We accept and agree with the Applicant's and the Council's position that the Project's effects on privacy have been appropriately managed through the Project design.

- 123 In terms of a loss of views, this was also a key reason we undertook an additional site visit after receiving comments on the application. We accept that for many existing neighbours south of the Project, existing coastal views will be reduced or lost. We also accept that despite the Applicant's efforts in providing a high-quality, interesting building design, those commenters opposed to the Project will not see views of well-designed buildings as a satisfactory substitute.
- 124 In our assessment and evaluation, we have carefully considered land levels and the proposed heights of the buildings on the Site. We are satisfied that even if limited to the zone standards, noting as we have previously that entertaining such 'compliant' alternatives also brings into question potential additional horizontal building length, a substantial loss of existing coastal views would result particularly for immediate neighbours. We find that the additional height proposed will affect sea views of predominantly those neighbours further back from the Site and on higher ground that might have been able to see over the top of a compliant building form. Such views are not protected and although forming part of existing visual amenity and the identity that neighbours associate with living in a beach suburb, we do not agree this forms a reasonable or justifiable basis to refuse consent.
- 125 In reaching this finding we carefully took account of existing windows, decks and outdoor spaces from dwellings adjacent to the Site including (but not limited to) where occupiers provided comments to us. Overwhelmingly, outlook and views available are not limited to just the Site and the section of coast behind that; dwellings typically provide outlook across the valley to the east, well away from the Site. We are satisfied that the Project, while inevitably limiting existing views enjoyed across what is currently largely vacant land, will be reasonable and that the loss of views that will result behind it are acceptable. It is also the case that some neighbours will retain glimpses of the coast between the proposed tower forms, similar to how many existing houses in the neighbourhood will have such glimpses between their existing neighbouring dwellings.
- 126 For the above reasons, we prefer and accept the expert assessments of the Applicant and the Council in support of the Project.

Overall conclusions on height, mass, scale and intensity-related effects on the environment

- 127 For all of the above reasons, we find that the Project will result in a substantial change and, for some in the community including commenters opposed to the Project, perceived significant impacts on the amenity values they experience and in terms of how they see their own neighbourhood.
- 128 But the statutory framework we are to follow is not one where a "zero effects" approach is expected or (in an urban environment) realistic, nor is it the case that only a "minor" (or less) level of adverse effects must be achieved. Having understood the scale and extent of potential adverse effects that the Project could give rise to and their mitigation, the ultimate question for us to consider is whether those effects are reasonable and acceptable (and how they compare to the Project's benefits).
- 129 Based on the comprehensive and numerous expert assessments provided by the Applicant, that the Council with its own extensive peer reviews is in agreement with those, and our own site visits and evaluation of all of the material before us, we are

satisfied that the Project will have reasonable and acceptable adverse effects noting also our assessment of benefits set out in Part G of this decision.

Flooding, stormwater and water quality effects

- 130 The AEE includes an Infrastructure Assessment prepared by CLC, which addresses stormwater runoff and water quality effects.⁴⁵ The AEE also includes a Flood Risk Assessment prepared by CLC, which specifically addresses the flooding risks associated with the Project.⁴⁶
- 131 The Site is traversed by a combination of public and private stormwater lines.⁴⁷ Regarding natural hazards, Council's GeoMaps identifies minor overland flow paths within the Site, with no floodplains identified.⁴⁸ The Flood Risk Assessment confirms that the proposed development is suitable from a flood risk (overland flow) perspective, with the development located within an area of Low Flood Hazard where flood depths and velocities are below the thresholds that present risk to people, property, or access.⁴⁹ CLC consider that the post-development changes to catchment hydrology have been fully assessed and shown to have no adverse downstream impact, with the hydrological changes remaining within acceptable tolerances.⁵⁰
- 132 To ensure there are no adverse effects on the downstream stormwater network, it is proposed to attenuate post-development runoff to pre-development volumes up to and including 1 in 10-year and 1 in 100-year storm events, through the provision of five underground detention tanks providing a combined 112 m³ of stormwater attenuation.⁵¹ Stormwater treatment for at-grade vehicle parking areas will be achieved through a proprietary Stormwater 360 Stormfilter Device in accordance with GD01.⁵²

Comments received

- 133 Comments were received from Council with respect to stormwater management (in terms of both quantity and water quality) and flood hazard risks.⁵³ These comments are summarised as follows:
- 133.1 The Council has reviewed the proposed stormwater drainage design and arrangements as set out by CLC and considers these to be acceptable.
- 133.2 The proposed method for treating the stormwater runoff from the uncovered vehicle movement areas of the site is acceptable. The specific device sizing calculations will be required at a later stage.
- 133.3 An adopted Stormwater Management Plan (**SMP**) will be required to support this Project and it is proposed that this is secured by way of a consent condition. The Council notes that this does not constitute approval of an SMP under the Council's Region Wide Network Discharge Consent and that the Applicant

⁴⁵ AEE at Attachment 7.

⁴⁶ AEE at Attachment 26.

⁴⁷ AEE at Section 13, paragraph 13.86.

⁴⁸ AEE at Section 18, paragraph 18.136.

⁴⁹ AEE at Section 18, paragraphs 18.137-18.138; Attachment 26.

⁵⁰ AEE at Section 18, paragraph 18.138.

⁵¹ AEE at Section 18, paragraph 18.124.

⁵² AEE at Section 18, paragraph 18.125.

⁵³ Comments by Auckland Council 18a – Annexure 1, 18g – Annexure 7 and 18m – Annexure 13.

proceeds at its own risk in not having this adopted as part of this application process.

- 133.4 The ongoing maintenance of the proposed stormwater treatment devices is crucial and this will require an Operation and Maintenance Plan.
- 133.5 The Council acknowledges that the Applicant has proposed stormwater runoff mitigation measures which reflect the pre-application discussions between the Applicant and the Council, but that the Council remains concerned regarding implementation of the measures. Notwithstanding, Council confirms that an onsite solution is possible.⁵⁴
- 133.6 The Council considers there are areas of the Applicant's Flood Risk Assessment which are unclear as to how properties downstream may be affected by the Project in terms of flooding risk. A further assessment is requested in this regard, however, the Council also confirms that there is a "strong basis" for supporting the application subject to these matters set out here and above.
- 133.7 The respective Council experts each provided commentary on the conditions proposed by the Applicant along with suggested amendments and/or additional conditions.
- 134 Several comments were received from parties other than Council in relation to concerns about flooding and the management of stormwater runoff onto neighbouring sites.⁵⁵

Applicant response to comments

- 135 The Applicant provided the following response to the above comments:
- 135.1 CLC prepared an updated Flood Risk Assessment, which addressed the Council's comments regarding the implementation of on-site mitigation measures proposed and effects of the Project on downstream properties. The updated assessment demonstrates that the mitigation measures will ensure no increase in peak flow for a 1% AEP rainfall event, and therefore there will be no adverse effects on downstream properties.⁵⁶
- 135.2 The further assessment undertaken by CLC confirmed that an additional reason for consent is required, and therefore sought by the Applicant, under PC120 rule E36.4.1A (A102).⁵⁷
- 135.3 The Applicant has adopted a condition which requires a SMP to have been prepared and approved by the Council prior to lodgement of any application for Building Consent relating to the private stormwater network. This differs from the condition proposed by the Council which includes the trigger to be prior to an application for Engineering Plan approval (**EPA**).

⁵⁴ Comments by Auckland Council 18 g – Annexure 7 at page 5.

⁵⁵ Comments by Happy Campers Trustee Limited; Diane and Peter Burgham; Trustee of EDL Family Trust; Kathleen Mathers; Karyn O'Connor; M and C Kinmont; Fleur Nixon.

⁵⁶ Applicant's response to comments – Appendix A, item 18.12 and Attachment 3.

⁵⁷ Applicant's response to comments – Attachment 5.

135.4 With regard to flooding effects on 104 Rukutai Street, the Applicant confirms that the proposed development will reduce the current flows entering this property by approximately 10 mm.⁵⁸

Panel Findings

- 136 Overall, there is a broad level of agreement between the Applicant and Council experts on stormwater management and flooding matters. Notably, the experts are in agreement that the Project will not result in any adverse flooding effects on downstream properties.
- 137 The conditions of consent relating to onsite stormwater attenuation, treatment and ongoing maintenance that have been proposed by the Applicant are considered to be comprehensive and generally acceptable.
- 138 The Council has expressed that there are risks for the Applicant by leaving the matter of having a SMP approved by Council to a later date. We consider that this a risk for the Project insofar as it may require redesign and re-work of some on-site stormwater management details at a later date, rather than posing any environmental risks (particularly given the Council's comments that a solution is possible). On this basis, we find that the imposition of a condition which requires this to be submitted and approved by the Council prior to any building consent applications being lodged is an acceptable outcome in this instance.
- 139 Overall, we find that the measures proposed by the Applicant and secured by appropriate conditions of consent will suitably manage and mitigate any flooding, stormwater and water quality effects such that they are acceptable.

Geotechnical matters, groundwater drawdown and landslide susceptibility

- 140 The geotechnical characteristics and suitability of the Site for the Project have been assessed in a Geotechnical Assessment prepared by Tonkin & Taylor.⁵⁹ The assessment confirms the Site is suitable from a geotechnical perspective to accommodate the Project and that the Project is not affected by, nor does it affect, neighbouring land.⁶⁰
- 141 In respect of land stability, this assessment confirms that the underlying stratum of the Site is generally suitable for the proposed buildings including basement levels.⁶¹ Ground movements due to excavations and groundwater drawdown have been calculated, and effects upon nearby buildings are predicted to be negligible.⁶² The building foundations can be designed using standard typologies, including a combination of shallow raft bearing foundations and bored reinforced concrete piles.⁶³ Temporary dewatering of groundwater will be required during bulk excavation works, and permanent dewatering required following construction of the basements by way of basement drainage for intercepted groundwater.⁶⁴ Estimated settlement across all potentially affected adjacent structures is predicted to be less than 5 mm during basement excavation, which is below generally accepted limits for buildings and

⁵⁸ Applicant's response to comments – Appendix A, item 16.1.

⁵⁹ AEE at Attachment 28.

⁶⁰ AEE at Section 18, paragraph 18.139.

⁶¹ AEE at Section 18, paragraph 18.115.

⁶² AEE at Section 18, paragraph 18.115.

⁶³ AEE at Section 18, paragraph 18.115.

⁶⁴ AEE at Section 18, paragraph 18.118.

services.⁶⁵ A Groundwater Settlement Monitoring and Contingency Plan (**GSMCP**) is proposed to set out the monitoring requirements of the excavation works and surroundings, and to provide contingency and mitigation measures should monitoring results indicate ground settlement is approaching or exceeding alert levels.⁶⁶

- 142 In respect of landslide hazards, the Geotechnical Assessment addresses the landslide risk relative to land within and proximate to the Site in accordance with the provisions of Plan Change 120, and confirms the Site is classified as a "low landslide hazard risk".⁶⁷ The establishment of new buildings and structures associated with a low landslide hazard risk area are permitted under PC120.⁶⁸

Comments received

- 143 Comments were received from Council with respect to geotechnical matters, groundwater draw down and landslide susceptibility.⁶⁹ These comments are summarised as follows:
- 143.1 The Council did not provide their final technical input on these matters and raised a range of technical queries regarding groundwater levels observed at the site and the need for visibility of more detailed calculations.
- 143.2 Queries were raised regarding the proposed trigger levels for the GSCMP.
- 143.3 The Council identified areas where further information was required regarding landslide hazard risk assessment.
- 143.4 Notwithstanding the matters outlined above, the Council confirmed that the Site is geotechnically capable of accommodating the Project and that the effects of groundwater drawdown can likely be appropriately managed but recommended that the Panel query the Applicant on the matters that they had identified.⁷⁰
- 144 Brief comments were also received from other parties in relation to concerns about site stability and ground settlement risks (noting these were not supported by expert evidence).⁷¹

Applicant response to comments

- 145 The Applicant provided the following response to the above comments:
- 145.1 Tonkin & Taylor prepared the following updates/additional information:
- (a) Borehole Log information dated 9 June 2025.⁷²

⁶⁵ AEE at Section 18, paragraph 18.119.

⁶⁶ AEE at Section 18, paragraphs 18.164-18.167.

⁶⁷ AEE at Section 18, paragraph 18.139.

⁶⁸ AEE at Section 18, paragraph 18.139.

⁶⁹ Comments from Auckland Council 18f, Annexure 6.

⁷⁰ Comments from Auckland Council 18, paragraphs 62, 63, 66-68.

⁷¹ Comments from Happy Campers Trustee Limited; Kathleen Mathers.

⁷² Applicant's response to comments, Attachment 8.

- (b) Groundwater drawdown and settlement calculations dated 23 July 2025.⁷³
- (c) Annotated copy of the geotechnical investigation site plan.⁷⁴
- (d) Updated geotechnical investigation site plan dated April 2026.⁷⁵

145.2 With respect to the groundwater levels and pressures adopted for the assessment, the Applicant considers that its approach to the assessment has been conservative and appropriate.⁷⁶

145.3 The Applicant considers the Water Permit consent conditions that they have proposed will appropriately manage any ground settlement risks that may arise from the construction works.⁷⁷ With respect to the matter of trigger levels for the GSCMP, the Applicant maintains that its proposed levels reflect the very low risks identified and the unlikelihood of the need for any interventions on the site other than continued monitoring and visual inspections.⁷⁸

145.4 The Applicant addressed the matters raised by Council regarding how the landslide hazard risk assessment had been undertaken. This included confirmation that it had considered the impacts of climate change in its scenarios that it had used, but that it did not consider this to materially change the likelihood of the categories that have been adopted within the Geotechnical Assessment.⁷⁹

Panel Findings

146 Based on the evidence before the Panel, there is broad agreement between the Applicant and the Council geotechnical and groundwater experts regarding landslide hazard risks, overall effects on groundwater and site stability.

147 The key difference in opinion between the Applicant and the Council relates to the details of consent conditions in relation to the trigger levels for the GSCMP.

148 The Panel has considered the explanation from Tonkin & Taylor on this matter, and accepts that evidence that the trigger levels are proportionate to the settlement risks that have been identified for this Project.

149 Overall, we find that the measures proposed by the Applicant and secured by appropriate conditions of consent including the requirement for a GSCMP and adherence to appropriate construction methodologies will suitably manage and mitigate any groundwater drawdown and geotechnical effects to the extent that these are acceptable. In addition, the Panel finds that the Project will be subject to a low risk of any landslide hazards.

⁷³ Applicant's response to comments, Attachment 9.

⁷⁴ Applicant's response to comments, Attachment 10.

⁷⁵ Applicant's response to comments, Attachment 11.

⁷⁶ Applicant's response to comments – Appendix A, at 18.50.

⁷⁷ Applicant's response to comments – Appendix A, at 18.54 and 18.55.

⁷⁸ Applicant's response to comments – Appendix A, at 18.62.

⁷⁹ Applicant's response to comments – Appendix A, at 18.57.

Construction effects

- 150 The effects of construction are addressed below specifically in terms of land disturbance, construction traffic and noise. Notwithstanding, the Panel acknowledges that the effects of construction are experienced in the round, and that these aspects combined will have a material impact on the amenity of residents in the neighbourhood.
- 151 The Panel has also considered whether the scale and bulk of the proposal, would create construction effects that are greater in duration than would otherwise be anticipated, and whether these works could be considered 'temporary' as characterised by the Applicant.⁸⁰
- 152 On this aspect, the Council notes that the Project will be staged and that the location of works occurring across the site will change over that period such that the effects experienced by persons on neighbouring sites will not be continuous in terms of their nature and intensity.⁸¹ The Council considers the proposed suite of management plans provides a "robust framework" for managing these effects, citing an ability for these to be adapted over time to adjust to local conditions, whilst also characterising these effects as "temporary".
- 153 To that end, we acknowledge the concerns that have been expressed in the comments received. It is an extended period and we would not consider the construction effects to be "temporary" in the way that a member of the public might consider a "temporary effect". However, we accept the Applicant's position that these effects are part of development⁸² and that the management plan framework will achieve best practice management of such effects in this neighbourhood as set out in more detail below.

Land disturbance

- 154 The Project involves bulk earthworks with an estimated earthworks area of 17,589 m² and volume of 20,460 m³, comprising a cut volume of 25,150 m³ and a fill volume of 4,690 m³.⁸³ The earthworks would be undertaken in five stages.
- 155 A draft Earthworks Management Plan (**EMP**) and Erosion and Sediment Control Management Plan (**ESCMP**) have been prepared which set out the proposed measures to manage the effects of the earthworks, including stabilised construction entrance, wheel wash for construction vehicles, silt fences and silt socks, contour drains, clean and dirty water diversion channels and bunds, mobile filtration device (Laminar Clarifier), catchpit inlet protections, hydroseeding and mulching, and dust control measures.⁸⁴ Chemical treatment has also been proposed. The Applicant has confirmed that all earthworks will be undertaken in accordance with Auckland Council's GD05 Erosion and Sediment Control Guidelines, with appropriate erosion and sediment controls implemented prior to excavation commencing.⁸⁵

⁸⁰ AEE at Section 18, paragraph 18.79.

⁸¹ Comments from Auckland Council- 18, paragraph 41.

⁸² AEE at Section 18, paragraph 18.81.

⁸³ AEE at Section 13, paragraph 13.9(b).

⁸⁴ AEE at Section 13, paragraphs 13.119-13.123; Attachment 27.

⁸⁵ AEE at Section 18, paragraph 18.93.

Comments received

- 156 Comments were received from the Council which are summarised as follows:
- 156.1 Council considers that an additional reason for consent is required under rule E11.4.1(A8) for earthworks in those areas of the site where it considers the slope is greater than 10 degrees.⁸⁶
- 156.2 The Applicant's approach to providing a draft EMP and draft ESCMP which are to be finalised at a later date via the certification process is supported, noting that the Council considers the proposed earthworks methodology and ESC measures represents industry best practice.⁸⁷
- 156.3 The Council recommends a 15-year duration for the earthworks period to account for any unforeseen delays in completing the works and also agrees that a winter earthworks restriction is appropriate.⁸⁸
- 156.4 The Council concurs with the Applicant's assessment that the potential effects associated with sediment discharge will be appropriately managed. Minor edits to consent conditions proposed by the Applicant have been recommended.

Applicant response to comments

- 157 The Applicant provided the following response to the above comments:
- 157.1 It is the Applicant's position that consent is not required under rule E11.4.1(A8) on the basis that the area of earthworks in that area of the site which has a slope of greater than 10 degrees is below the permitted area threshold.⁸⁹
- 157.2 Amendments to proposed conditions have been made to reflect the substance of the edits sought by Council.

Panel Findings

- 158 The Applicant and the Council are in general agreement regarding the approach to earthworks and erosion and sediment control management and the scope and substance of the conditions that should be imposed.
- 159 We therefore find that subject to the imposition of appropriate conditions of consent that secure the agreed earthworks methodology, erosion and sediment controls measures and chemical treatment, that the effects arising from land disturbance will be appropriately managed and will be acceptable.
- 160 With regard to the difference in opinion between the Council and the Applicant on whether resource consent is required under E11.4.1(A8), we accept the evidence of the Applicant that this is not required.

⁸⁶ Comments from Auckland Council 18I, Annexure 12 – at section 5.0.

⁸⁷ Comments from Auckland Council 18I, Annexure 6 at section 6.2 and 6.3.

⁸⁸ Auckland Council 18I, Annexure 6 at section 6.4.

⁸⁹ Applicant's response to comments – Appendix A, table at 18.93.

Construction transport effects

- 161 Construction related traffic effects are addressed within the Integrated Transport Assessment (**ITA**) prepared by Flow.⁹⁰ The measures proposed to manage construction traffic related effects are detailed in the draft Construction Traffic Management Plan (**CTMP**) that forms part of the Application.⁹¹ This includes measures to manage construction traffic, the traffic routes that will be used, expected traffic volumes across the life of the Project, how contractor parking will be managed and how on-street parking and pedestrian access on these roads will be managed for local residents.
- 162 During excavation periods for the earthworks, up to 10 heavy vehicle movements per hour will be required along with additional trips for other deliveries and equipment.⁹² The main construction routes that have been selected include Kepa Road and Kupe Street, which avoids the narrowest roads. Notwithstanding, the draft CTMP indicates that temporary removal of on-street carparking will still be required on these routes to accommodate the heavy construction vehicles. The Applicant proposes to ensure that residents are suitably advised of the extent and duration of this.⁹³ In addition, the Applicant proposes to have contractor parking within the Site.
- 163 Overall, the Applicant's assessment confirms that construction traffic effects can be managed in accordance with best practice and will ensure that the surrounding transport network remains safe and efficient.⁹⁴

Comments received

- 164 Comments were received from Council only in relation to a recommendation to include a requirement within the CTMP to have all construction parking contained within the Site.
- 165 Comments were received from AT which are summarised as follows:
- 165.1 A condition is recommended which restricts heavy vehicles from accessing the site during network peak hours (7:00-9:00am and 4:00pm-6:00pm). This is to minimise disruption to the road network operations and to reduce potential conflict with existing multimodal traffic surrounding the site. AT proposes that this is included in the CTMP condition.⁹⁵
- 165.2 Detailed tracking plans are recommended to be provided by the Applicant as part of the finalised CTMP to demonstrate that there is sufficient carriageway width and turning radius available for heavy vehicles on the proposed construction routes of Kepa Road and Kupe Street.⁹⁶
- 165.3 Overall, AT considers that any potential adverse effects to road user safety and network operations shouldn't be significant, subject to the amendments to the CTMP condition and the additional information identified above.

⁹⁰ AEE at Attachment 6.

⁹¹ AEE at Attachment 24.

⁹² AEE at Attachment 6, page iv.

⁹³ AEE at Section 18, paragraph 18.98.

⁹⁴ AEE at Attachment 6, page iv.

⁹⁵ Comments from Auckland Council – 18c, Annexure 3 at section 4.0, 2.

⁹⁶ Comments from Auckland Council – 18c, Annexure 3 at section 4.0, 1.

166 The management of construction effects was also a key issue raised by local residents who commented on the Project.

Applicant response to comments

167 The Applicant responded to these comments as follows:

167.1 The Applicant confirmed that it did not accept the requested amendment to restrict heavy vehicles at the aforementioned network peak hours citing that this would have "significant implications for the construction programme". Flow Transportation specialists stated that they do not consider network capacity to be an issue at peak times because of these surrounding streets being low-volume local roads. They also state that such a restriction on heavy vehicle movements during these times would have the effect of prolonging the construction period, requiring a longer overall period of heavy vehicle movements within the roading network.⁹⁷

167.2 The Applicant confirmed acceptance of the requirement to provide tracking plans for heavy vehicle movements and any potential mitigation measures if it was found to be too narrow and proposed an amendment to its proposed Condition 25 to reflect this requirement.⁹⁸

167.3 The Applicant has not accepted the Council's requested amendment to the CTMP condition to require that parking must be contained to the Site, citing that the Parking Management Plan will manage all parking during construction in the "most efficient manner practicable" during the development.⁹⁹

167.4 The Applicant responded to commentors confirming its reliance on the CTMP to manage construction traffic effects.

Panel Findings

168 AT and the Applicant are in general agreement that the proposed approach to managing construction traffic reflects best practice and will be acceptable, with the exception of the restriction on heavy vehicles during peak network hours. Council and the Applicant have disagreed on a further aspect of the CTMP that relates to the requirement to specify that all construction parking must be contained within the site.

169 We have considered the positions of the respective experts and find that the drafting of the condition requiring all construction parking be contained within the site should be amended to provide additional comfort to the community as to the onsite management of effects. This is reflected in the conditions attached to this decision.

170 With regard to the matter of whether there is a need a restriction on heavy vehicles during peak network hours, we have carefully considered the rationale for this as expressed by AT, and the Applicant's response to this request. Given the length of the construction period that is expected, we consider there to be merit to the arguments made by the Applicant that such a restriction would seek to prolong this which is an

⁹⁷ Applicant's response to comments – Appendix A, table at 18.41.

⁹⁸ Applicant's response to comments – Appendix A, table at 18.41

⁹⁹ Applicant's response to comments – Appendix A, table at 18.1114.

undesirable effect. Further, we accept the evidence of the Applicant that there is no such justification for this requirement in terms of impacts on the local roading network.

- 171 On the basis of the above, and subject to the comprehensive CTMP condition (as we have amended) requiring the details to be finalised and certified by the Council prior to commencement of the Project, we find that construction traffic effects will be appropriately managed by the Project and will be acceptable.

Construction noise and vibration effects

- 172 The Acoustic Assessment prepared by Styles Group addresses construction and noise and vibration effects.¹⁰⁰ Construction will occur generally between 7.30am and 6.00pm Monday to Saturday, with no noisy works on Sundays or public holidays.¹⁰¹ The permitted construction noise limits are expected to be exceeded at some receivers during certain construction activities (including concrete breaking, drilling, and compaction), with exceedances predicted to be intermittent and spread across different stages of the construction project.¹⁰² A draft Construction Noise and Vibration Management Plan (**CNVMP**) has been prepared detailing measures to manage works in an appropriate manner.¹⁰³
- 173 The Applicant has proposed detailed mitigation measures to manage construction noise and vibration effects as much as practicable, including the use of temporary noise barriers on the site boundaries, a portable noise barrier to be used within the site around the noise source (for certain noisy activities) and the use of static rollers for compaction.¹⁰⁴ The assessment also confirms that it is their understanding that the noisiest construction activities will not take place at the same time.¹⁰⁵ Further, it states that the highest noise levels will be generated when construction activities are located closest to the boundary, or near to multi-level dwellings where the ground level acoustic barriers are less effective.
- 174 With respect to vibration, the exceedance of the permitted vibration levels will be associated with the compaction works required to construct the proposed accessway along the southern boundary. All other works will comply.¹⁰⁶

Comments Received

- 175 Comments were received from the Council which are summarised as follows:

175.1 Council considers that with the implementation of the mitigation measures, that the noise and vibration from the construction activities will be managed to a reasonable level at the neighbouring noise sensitive receivers.¹⁰⁷

¹⁰⁰ AEE at Attachment 29

¹⁰¹ AEE at Section 13, paragraph 13.133.

¹⁰² AEE at Section 18, paragraphs 18.105-18.107 and Attachment 29, section 4.5.

¹⁰³ AEE at Section 18, paragraphs 18.110-18.112; Attachment 30.

¹⁰⁴ AEE at Attachment 29, section 4.4.

¹⁰⁵ AEE at Attachment 29, section 4.5.

¹⁰⁶ AEE at Section 18, paragraph 18.109.

¹⁰⁷ Comments from Auckland Council – 18b, Annexure 2, at section 3.0.

175.2 The conditions of consent recommended by the Applicant's assessment are suitable and the best practicable option to manage the construction noise and vibration effects.¹⁰⁸

175.3 Council recommended additional conditions to us beyond those proposed by the Applicant which specified:¹⁰⁹

- (a) the requirements for installation of temporary construction noise barriers on all site boundaries (excluding boundary with the reserve and vehicle crossings); and
- (b) that the vibration levels must not exceed 5 mm/s PPV at 59, 104, 119, and 119B Rukutai Street, and 97-99 Aotea Street for approximately 3-days; and
- (c) that the noise levels must not exceed 79db LAeq at 48, 2/48, and 59 Te Arawa Street, 104, 119, and 119B Rukutai Street, and 86 and 97-99 Aotea Street.; and
- (d) that the noise from concrete breaking must not exceed a level of 89 dB LA max at 104, 119, and 119B Rukutai Street, and 97-99 Aotea Street.

176 Comments were also received from local residents in relation to concerns about construction noise and vibration, requesting strict adherence to noise and vibration limits and the need for ongoing monitoring (noting these were not supported by expert evidence). These concerns included specific concerns about how clay soils may be affected by vibration at the property of 55 Te Arawa Street.

Applicant response to comments

177 The Applicant responded to these comments as follows:

177.1 With respect to the conditions C1-C3 proposed by Council, the Applicant confirmed that the substance of these were already covered by the conditions it has proposed as part of the Application.

177.2 The Applicant confirmed that it did not accept condition C4 as proposed by the Council in terms of the requirement for installation of the temporary construction noise barriers on all site boundaries. It is the Applicant's position that this wording would require that these be installed for the entire construction project length, and that this did not reflect the staging of noisy works and other mitigation measures that the Applicant will be using to manage noise effects during the construction of the Project. It is the Applicant's position that the CNVMP will clearly set out the requirements for each stage of construction and that this condition is not needed.¹¹⁰

177.3 The Applicant confirmed that it did not accept conditions C5-C7 as proposed by the Council (and set out above) on the basis that the recommended noise and vibration levels specified by the Council did not align with their Acoustic

¹⁰⁸ Comments from Auckland Council – 18b, Annexure 2, at section 5.1.

¹⁰⁹ Comments from Auckland Council – 18b, Annexure 2, at section 7.0 – conditions C4-C7.

¹¹⁰ Applicant's response to comments – Appendix A, table at 18.37.

Assessment and the consents they are seeking as set out in their substantive application.¹¹¹

177.4 With regard to the concerns raised about potential adverse effects on 55 Te Arawa Street, the Applicant confirmed that the Acoustic Report predicted that compliance with the vibration standards will be achieved at this property and that this had taken into account the local ground conditions.¹¹²

177.5 In response to the concerns raised by commentators relating to ongoing management and monitoring of noise and vibration effects, the Applicant reiterated its reliance on the CNVMP, and its ongoing adherence to this management plan, to manage these effects. The Applicant also made reference to the Council's acceptance of its proposed mitigation measures as the best practicable option.

Panel Findings

- 178 The Applicant and Council are in general agreement that the proposed approach to managing construction noise and vibration effects reflects best practice and will be acceptable. The difference in opinion is limited to those conditions set out above.
- 179 We have considered the positions of the respective experts on the limited matters in contention and agree with the Applicant that its proposed conditions of consent will give enough certainty about the nature and extent of the noise and vibration exceedances that this consent will authorise. We therefore find that the additional conditions recommended by Council are not necessary and will not impose these on that basis.
- 180 Notwithstanding the above, we acknowledge that the noise and vibration effects of the Project will have a material impact on the amenity that is afforded to residents in this area. We have therefore carefully considered the suite of mitigation measures that have been put forward by the Applicant to satisfy us that all available measures have been considered. In this regard, we consider the approach that has been proposed by the Applicant aligns with best practice and that ongoing effective communication with local residents during construction will be crucial. We are satisfied that this requirement for ongoing communication is effectively covered by the wording of the Applicant's proposed condition 25.
- 181 On the basis of the above, and subject to the comprehensive CNVMP condition requiring the details to be finalised and certified by the Council prior to commencement of the Project and these measures being implemented effectively on the Site, we find that construction noise and vibration effects will be appropriately managed by the Project and will be acceptable.

Operational transport effects

- 182 The transport related aspects of the Project are detailed in an Integrated Transport Assessment prepared by Flow Transport Specialists.¹¹³ The Site benefits from well-established transportation infrastructure and is well serviced by public transport, with

¹¹¹ Applicant's response to comments – Appendix A, table at 18.38.

¹¹² Applicant's response to comments – Appendix A, table at 11.11.

¹¹³ AEE at Attachment 6.

bus route 783 servicing the immediate neighbourhood.¹¹⁴ Vehicle access is proposed via all four road frontages from eight vehicle crossings, of which three are existing.¹¹⁵

- 183 Once fully occupied, the retirement village is expected to generate 46 vehicle trips during the AM and PM peak periods, representing an increase of approximately 31 vehicles per hour during peak periods.¹¹⁶ 274 car parking spaces (including 6 accessible car parking spaces) are proposed across the site, with these mostly being located at basement level.¹¹⁷ Compliant bicycle parking is also proposed. The parking layout and design is confirmed as being sufficient and workable.
- 184 The assessment notes that traffic generation rates for retirement villages are much lower than comparable land uses such as typical residential apartment developments, and peak hour traffic generation for villages is typically outside usual commuter peak hours.¹¹⁸ Further, when taking into account the existing trip generation of the existing aged care facility and the two Aotea Street apartment blocks, the Project results in a net increase of approximately 31vph during the peak periods, with this traffic being distributed between Rukutai Street (approximately 70%) and Aotea Street (approximately 30%). The assessment concludes that the anticipated volume of traffic can be readily accommodated and will have negligible traffic effects on the operation and safety of the surrounding road network.¹¹⁹
- 185 In terms of internal manoeuvring and traffic movements, the assessment confirms that the access and manoeuvring arrangements are safe and workable, noting that they will not impact on either pedestrian or vehicle safety and amenity. This also includes sufficient space and access for emergency vehicles.¹²⁰
- 186 Pedestrian linkages through to Takaparawhau will be maintained by the Project, albeit in a different location as detailed elsewhere in this decision.

Comments received

- 187 Comments were received from the Council which are summarised as follows:

187.1 The Council confirmed that they were satisfied with the development from a traffic perspective subject to recommended conditions which require:

- (a) that access ways, parking areas, vehicle crossing and manoeuvring areas are all formed, paved and completed prior to occupation of the development;
- (b) installation of a clearance height bar at the entrance of the basement car park to inform drivers of its height;
- (c) confirmation that the proposed undercover car park has the capability to install Electric Vehicle Supply Equipment;

¹¹⁴ AEE at Section 10, paragraph 10.16.

¹¹⁵ AEE at Section 13, paragraphs 13.55-13.59.

¹¹⁶ AEE at Section 13, paragraph 13.74.

¹¹⁷ AEE at Section 13, paragraphs 13.62 and 13.63.

¹¹⁸ AEE at Section 18, paragraph 18.72.

¹¹⁹ AEE at Section 18, paragraph 18.70-18.72.

¹²⁰ AEE at Section 18, paragraphs 18.65-18.69.

(d) submission of a finalised CTMP.

188 Comments were received from Auckland Transport which are summarised as follows:

188.1 AT recommends that the Applicant should be required to install a pram crossing on the south-western corner of Aotea Street and Nihill Crescent intersection. This is to ensure that there are safe crossing opportunities for pedestrians next to the bus stops 7869 and 7862.¹²¹

188.2 AT considers the implementation of No Stopping At All Times (NSAAT) markings for the cul-de-sac heads of Te Arawa Street, Rukutai Street and Aotea Street are necessary and that these should be installed prior to the occupation of the proposed units.¹²²

188.3 AT concludes that any potential adverse effects on road users and the operation of the roading network shouldn't be significant, subject to compliance with the recommended conditions of consent.

189 Most transport related comments from other parties related to construction traffic, though a comment was received citing a gap in the Applicant's evidence regarding how the local transport and roading environment can sustain the Project.¹²³

Applicant response to comments

190 The Applicant responded to these comments as follows:

190.1 ATs recommendation for a pram crossing is not accepted for the reason that this does not relate to an effect generated by the Project.¹²⁴

190.2 A new condition 68D is now proposed to require the NSAAT lines to be installed prior to occupation.¹²⁵

190.3 With respect to a perceived "gap" in the evidence, the Applicant referred to its ITA prepared by Flow Assessments as confirming the Project could be safely accommodated in the local transport network.¹²⁶

Panel Findings

191 The Council, AT and the Applicant are in general agreement about the acceptability of this Project from a traffic engineering perspective.

192 The outstanding matter relates to the provision of a pram crossing as detailed above. We agree with the Applicant that this is not related to any effects caused by the Project and therefore will not be imposing this condition.

193 Overall, we find that the Project will provide for safe and efficient movement for pedestrians and vehicles within the Site, and will not adversely affect the safety and

¹²¹ Comments from Auckland Council 18c, Annexure 3 at section 6.0.

¹²² Comments from Auckland Council 18c., Annexure 3 at Section 4.0, 5.

¹²³ Comment from Fleur Nixon.

¹²⁴ Applicant's response to comments – Appendix A, table at 18.42.

¹²⁵ Applicant's response to comments – Appendix A, table at 18.40.

¹²⁶ Applicant's response to comments – Appendix A, table at 23.3.

operation of the local transport network. With respect to vehicle movements and trip generation and how this may impact on residential amenity, we accept the evidence of the Applicant that this would be lower than that of a residential apartment development, that this will not be a significant increase in local traffic for residents and that overall, these effects will be acceptable.

Infrastructure effects

- 194 The Project has been supported by an Infrastructure Assessment prepared by CLC.¹²⁷ This assessment covers stormwater, wastewater and potable water servicing, noting that the Project includes new public and private infrastructure to accommodate the Project due to the extent of excavation that is required.
- 195 In respect of stormwater which was discussed in more detail earlier in this decision, the Project can be connected to the existing reticulated stormwater networks with appropriate on-site detention, and the networks will have sufficient capacity to accommodate stormwater flows from the development.¹²⁸
- 196 For wastewater, the Project will increase peak dry and wet weather wastewater flows by 3.56 l/s and 6.19 l/s respectively.¹²⁹ New wastewater pipes within the Site are to be connected to the existing public system within Takaparawhau, and a new bypass line will be installed.¹³⁰ The increased flows from the building can be adequately serviced by the reticulated wastewater network.¹³¹
- 197 For potable water, the Project has an estimated average demand design flow of 1.33 l/s and peak demand design flow of 2.67 l/s.¹³² Water supply will be provided by the existing public watermain in Kupe Street, with upgrades proposed to the existing water pipe in Ngake Street.¹³³ There are adequate firefighting hydrants in the vicinity of the Site, and a 60 m³ on-site storage tank with diesel booster pump is proposed to support the fire sprinkler system.¹³⁴
- 198 The Applicant has provided a draft Waste Management Plan (WMP) which proposed private waste collection and available space on-site for waste storage and manoeuvring of trucks.¹³⁵
- 199 Overall, the assessment from CLC states that the Project can be adequately serviced with respect to three waters, fire suppression, gas, power and utilities and waste management.

Comments received

- 200 Comments were received from Council regarding stormwater servicing which are set out earlier in this decision and are therefore not repeated here.

¹²⁷ AEE at Attachment 7.

¹²⁸ AEE at Section 18, paragraph 18.123.

¹²⁹ AEE at Section 13, paragraph 13.94.

¹³⁰ AEE at Section 13, paragraph 13.96.

¹³¹ AEE at Section 18, paragraph 18.127.

¹³² AEE at Section 13, paragraph 13.98.

¹³³ AEE at Section 18, paragraph 18.128.

¹³⁴ AEE at Section 18, paragraphs 18.129-18.130.

¹³⁵ AEE at Attachment 25.

- 201 Comments were also received from Council regarding waste management and the proposed WMP. The Council expressed support for the Project subject to minor updates to the WMP which were identified as being able to be managed via the certification process and a condition requiring consideration of bin storage distances from dwellings.
- 202 Comments were received from Watercare which are summarised as follows:
- 202.1 A range of technical information gaps are identified, which relate to calculations relating to peak hourly demand and how the Project accords (or otherwise) with the Watercare Code of Practice.¹³⁶
- 202.2 The need to upgrade the water mains on both Kupe Street and Ngake Street have been identified in order to accommodate the increased demand.¹³⁷
- 202.3 Further information and details are needed regarding the design for the proposed wastewater network. This includes further consideration of the location of the proposed wastewater pipeline, with the steep terrain and overland flow path having implications for the final alignment and long-term maintenance access.¹³⁸
- 202.4 Watercare confirms that they have no in-principle objection to the provision of water supply and wastewater services. Subject to further detailed design review, required approvals and compliance with Watercare policies and standards, they consider the works proposed are capable of meeting the criteria for future vesting as public infrastructure.¹³⁹
- 203 Comments were also received from other parties raising concerns about the increased demand on infrastructure and services and whether this was able to be accommodated in the local network.¹⁴⁰

Applicant response to comments

- 204 The Applicant has responded to the Council's comments as follows:
- 204.1 The Applicant agrees that the certification process would allow for the amendments that Council sought for the WMP.
- 204.2 The Applicant does not agree with the need to consider the distance of dwellings to bin storage areas noting that this is a retirement village complex where staff will manage this rather than occupants.
- 205 The Applicant has responded to Watercare's comments as follows:

¹³⁶ Comments from Auckland Council - 18r, Annexure 18.

¹³⁷ Comments from Auckland Council - 19a Watercare Services, at page 3, 1.

¹³⁸ Comments from Auckland Council - 19a Watercare Services, at page 6.

¹³⁹ Comments from Auckland Council - 19a Watercare Services, at page 2.

¹⁴⁰ Comments from Happy Campers Trustee Limited; Dianne and Peter Burham; Trustee of EDL Family Trust; M and C Kinmont; Fleur Nixon.

205.1 The Applicant confirmed that further engagement has occurred with Watercare and that additional information had been provided in response to their comments made on the Application.

205.2 Proposed condition 59 has been amended to reflect the required water supply and wastewater upgrades to be undertaken. The Applicant also notes that engagement with Watercare will be ongoing as part of the detailed design and EPA process.¹⁴¹

Panel Findings

206 With respect to waste management, we agree with the Applicant that the certification process for the WMP will be an appropriate avenue for sorting out any further details relating to waste management. We also accept that the distance of bin storage from individual units is not particularly relevant for an IRD whereby operational staff will manage such tasks.

207 With regard to stormwater servicing, our findings are set out earlier in this decision and are therefore not repeated here.

208 With regard to wastewater and potable water servicing, we note there is now agreement between Watercare and the Applicant on the extent of upgrades that are required to accommodate the Project. Condition 60 proposed by the Applicant to reflect the outcomes sought by Watercare are considered to give sufficient assurance that the upgrades will occur.

209 As such and particularly in light of the comments provided by the Council and Watercare as the statutory operators of the infrastructure, we find that the Project is able to be appropriately serviced by infrastructure and therefore any adverse effects on the environment in this regard will be avoided.

Operational noise and vibration effects

210 The Acoustic Assessment prepared by Styles Group addresses operational noise and vibration effects.¹⁴² In terms of noise, the primary sources from the retirement village will be vehicle movements, residents' use of recreation and amenity areas, and external mechanical plant including air conditioning and ventilation.¹⁴³ The assessment confirms that noise from these sources will comply with the AUP daytime and night time limits at all neighbouring properties.¹⁴⁴

Comments Received

211 Comments were received from the Council as follows:¹⁴⁵

211.1 That the noise sources associated with the proposed operation of the retirement village are already present in the existing environment and are common in residential areas. The Council agrees with the Acoustic Assessment that the

¹⁴¹ Applicant's response to comments – Appendix A, table at 19.1.

¹⁴² AEE at Attachment 29.

¹⁴³ AEE at Section 18, paragraphs 18.43-18.45.

¹⁴⁴ AEE at Section 18, paragraphs 18.46-18.50.

¹⁴⁵ Comments from Auckland Council - 18b – Annexure 2, section 3.0.

operational noise generated by the Project will not result in any unreasonable effects on neighbouring sites.

- 212 Comments were also received from other parties in relation to concerns about operational noise created by the proposed retirement village. These included concerns about the noise associated with vehicles in the site.

Applicant response to comments

- 213 The Applicant confirmed that its Acoustic Assessment demonstrates that the operation of the retirement village will comply with the permitted noise standards of the AUP. The Applicant also referred to its proposed condition 58 which requires all mechanical plant and transformers to be designed to comply with the relevant standards, and for this to be confirmed by a suitably qualified and experienced practitioner at the detailed design stage of the project.

Panel Findings

- 214 We note that there is agreement between the Applicant and the Council on the assessment of operational noise effects and the mitigation measures proposed.
- 215 On this basis, we accept the evidence that the Project will achieve compliance with the permitted standards of the AUP with respect to operational noise and that this is able to be appropriately secured by a condition of consent. As such, we find that any operational noise effects will be appropriately managed and minimised and will be acceptable.

Effects on protected trees

Comments received

- 216 In the Council's response to Minute 4, the Council Planner identified an information gap to us regarding the potential need for resource consent to authorise works to trees that are located in the adjacent Takaparawhau.¹⁴⁶

Applicant response to comments

- 217 The Applicant addressed this matter in the Planning Memorandum which formed part of its response to comments.¹⁴⁷ This memorandum explained that there are trees that overhang the Site in places that may need to be trimmed or removed, and that these may qualify for protection under the AUP dependent on the height and girth of the trees. The Applicant confirms that it seeks consent under Table E16.4.1(A10) of the AUP to cover off these works in the event that they are required.
- 218 The Applicant has provided an assessment of the effects of this aspect of the Project which concludes that the works to trees will not be appreciable in the wider context, and will not cause a loss of amenity values subject to the conditions that are now

¹⁴⁶ Comments from Auckland Council 18, See table at paragraph 129 on page 29.

¹⁴⁷ Applicant's response to comments – Attachment 5

proposed.¹⁴⁸ This has been supported by a letter from Ngāti Whātua Ōrakei as the owner of Takaparawhau.¹⁴⁹

- 219 The conditions proposed by the Applicant include the requirement for a Tree Works Plan which identifies the affected trees to be submitted to Council for certification prior to the works commencing proximate to the north-eastern boundary of the Site along with suitable supervision and reporting from a suitably qualified arborist.¹⁵⁰

Panel Findings

- 220 We find the response from the Applicant sufficient to demonstrate that any works to protected trees in Takaparawhau can be appropriately managed by the proposed conditions of consent. As such, we find that the effects on protected trees will be acceptable.

Contaminated land effects

- 221 The Applicant provided a detailed PSI/DSI prepared by Tonkin & Taylor which confirmed that the site is not contaminated.¹⁵¹ The Council has reviewed this assessment and concurs with the findings.¹⁵²
- 222 We accept this evidence and are satisfied that the Site does not contain contaminated land and therefore any adverse effects in this regard are avoided and are not considered further.

Cultural effects

- 223 The Site forms part of land identified for development under the Ngāti Whātua Ōrakei Claims Settlement Act 2012.¹⁵³ Ngāti Whātua Ōrakei is a joint applicant and has collaborated with Genus in the design of the Project.¹⁵⁴ The Project has been developed to respond to and reflect tangata whenua values and, through the partnership with Genus, will contribute to the social and economic development of tangata whenua.¹⁵⁵ The design, layout and architecture respond to Ngāti Whātua Ōrakei's Cultural Acknowledgement Principles and the Essential Design Requirements, including promoting a cultural sense of place and designing to promote connection to significant Ngāti Whātua Ōrakei landmarks, cultural features and heritage connections.¹⁵⁶ The landscape design supports the vision of a native korowai of indigenous trees and shrubs encircling the development, with species selection informed by cultural significance.¹⁵⁷
- 224 In response to a request for further information on the cultural significance of the project, we received helpful further detail from the Chair of Ngāti Whātua Ōrakei. This outlined:

¹⁴⁸ Applicant's response to comments – Attachment 5 – page 3-6
¹⁴⁹ Applicant's response to comments – Attachment 5, Attachment 2
¹⁵⁰ Applicant's response to comments - Appendix B Updated Proposed Conditions of Consent – Conditions 35B and 66E, F and G.
¹⁵¹ AEE at Attachment 14
¹⁵² Comments from Auckland Council 18d – Annexure 4
¹⁵³ AEE at Section 20
¹⁵⁴ AEE at Section 7; Attachment 5
¹⁵⁵ AEE at Section 18, paragraph 18.150
¹⁵⁶ AEE at Section 7, paragraph 7.2
¹⁵⁷ AEE at Section 19, paragraph 19.154

- 224.1 Takaparawhau sits at the heart of Ngāti Whātua Ōrākei identity. It is a site of significant Crown acquisition, and of significant resulting loss to Ngāti Whātua Ōrākei. It is also the site of the 1977–78 occupation, a defining moment in the modern history of Aotearoa that ultimately led to the return of whenua and which reshaped the national conversation about Treaty justice.
- 224.2 The proposed partnership with Generus Living Group is the practical mechanism to address remediation, deliver redevelopment and stabilise long-term operations at Eastcliffe, enabling the cultural, resident and community outcomes described, while Ngāti Whātua Ōrākei retains ownership of the whenua.
- 224.3 The redevelopment will replace incomplete and ageing buildings with a fully integrated, high-quality retirement village that reflects the cultural and historical significance of Takaparawhau and restores mana to the whenua.
- 224.4 For Ngāti Whātua Ōrākei, restoring mana to the whenua is fundamental. It means addressing the condition of Eastcliffe and ensuring the site reflects the cultural and historical significance of Takaparawhau within our papakāinga. The redevelopment will improve the village for residents and is an expression of manaakitanga. The partnership embeds recognition of Ngāti Whātua Ōrākei as tangata whenua through the design and operation of the redeveloped village, and supports access for kaumātua to village facilities and services. The partnership reduces exposure to ongoing losses and major remediation costs at Eastcliffe and provides long-term ground lease rental income, strengthening Ngāti Whātua Ōrākei's ability to invest in initiatives that improve whānau wellbeing. It also creates scholarship, employment and contracting opportunities for whānau, and strengthens connection to Takaparawhau through improved public walkways. Takaparawhau is Ngāti Whātua Ōrākei whenua tūpuna. It carries Ngāti Whātua Ōrākei history, and it calls Ngāti Whātua Ōrākei to act with care for future generations.

225 This was echoed in the feedback from Te Rūnanga o Ngāti Whātua.

Panel Findings

- 226 We acknowledge and accept the statements by both Ngāti Whātua Ōrākei and Te Rūnanga o Ngāti Whātua that the Project offers a unique opportunity from a cultural perspective, given the significance of Takaparawhau. There are significant positive cultural benefits associated with this Project. We discuss these further below in Part G in the context of the benefits of the Project.
- 227 Those cultural considerations also provide support for the scale of development sought by the Applicant given the Site's cultural context. We have discussed this above in our consideration of the Project's built form.

Positive effects

- 228 In addition to the positive cultural effects identified above, there are a range of other positive effects or benefits of the Project identified in the Application. We discuss these further in Part G below in the context of the Project's benefits, including our consideration of the Council's criticisms of the Applicant's economic assessment.

PART F: EVALUATION OF RELEVANT PLANNING INSTRUMENTS

- 230 The AEE addressed the relevant statutory documents and identified relevant provisions. Rather than repeat all of that, this section addresses the provisions of particular relevance to the Application and the comments received. We also rely on our conclusions on effects and the conditions we have decided to impose in support of the conclusions reached on relevant planning provisions.
- 231 We have carefully read the information provided to us from all parties, and read the relevant planning documents ourselves. Although our commentary and findings below will include the entire application, the single point of greatest contention between the Applicant and those commenters opposing the Project – insofar as it relates to planning documents – related to the height, bulk and mass of the development. In fairness to those commenters, opposition was not couched as a general opposition to *any* IRD-led retirement village on the land, but instead in promoting an alternative that better-matched (or ideally complied with) the relevant planning standards. Most comments also focused on environmental effects rather than planning documents. For these reasons in our written findings we have focused on that key planning issue. We also record at the outset that in terms of the comments received and relevant planning documents, the AUP was focussed on and we have correspondingly focused most of our comments on that. For example, Happy Campers Trustee Ltd felt (our emphasis added):¹⁵⁸

This [the Project's height] 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.

National Policy Statements

- 232 The relevant National Policy Statements (**NPS**) were addressed in section 19 of the Applicant's AEE and the Applicant's response to comments.¹⁵⁹ In this case, the pertinent NPS is the National Policy Statement for Urban Development (**NPSUD**).
- 233 The Application contains an assessment against the NPSUD and considers the Application to be consistent with the relevant objectives and policies of the NPSUD and to contribute to a well-functioning urban environment for the following reasons:
- 233.1 The Project represents an efficient use of the Site, which will contribute to an increase in the provision of housing capacity, intensity, variety and choice for elderly people. In this regard, it will help support the social and economic well-being of the community.
- 233.2 The Project is a partnership with tangata whenua and includes the opportunity for Māori to express their cultural traditions and norms.
- 233.3 As an IRD it will enable a variety of homes in a location which provides good accessibility to community services and natural and open spaces. The location of

¹⁵⁸ Comment from Happy Campers Trustee Ltd, page 1.

¹⁵⁹ Applicant's response to comments – Appendix A, table at 18.21.

the Project also has good access to public transport.

233.4 The bulk and scale of the Project have been carefully designed with respect to its relationship with neighbouring sites, including the interface with Takaparawhau and the wider viewing catchment. In this regard, the degree of visible change is acknowledged, however, noting that this is not, of itself, an adverse effect.

233.5 The Project will integrate with, and contribute to, the established neighbourhood and the future planned character that may eventuate over time.

234 The comments received from the Council have expressed general agreement with the Applicant's assessment of the Project against the requirements of the NPSUD.¹⁶⁰

235 Bruce Harland, Gordon Chong, and Chang Oh raised a concern relating to the NPSUD at paragraph 29 of their joint comment:

Closure of the [Rukutai Street] walkway would not be consistent with a well functioning urban environment as defined in Policy 1 of the NPS-UD. In particular the closure of the walkway would be inconsistent with Policies 1(c) and (e) which read as follows:

Policy 1: Planning decisions contribute to well functioning urban environments, which are urban environments that, as a minimum:

(c) have good Accessibility for all people between housing, jobs, community services, natural spaces, and open spaces, including by way of public or active transport,

(e) Support reductions in greenhouse gas emissions

236 We understand that the commenters' concerns in terms of NPSUD policy 1(e) is that a reduction in pedestrian or active mode accessibility from users of the Rukutai Street linkage could result in a compensatory increase in use of motor vehicles by those persons. In its response to comments, the Applicant did not directly respond to the matter of any conflict between the application and the NPSUD but it did provide a response to the merits of its proposal for access to and from Takaparawhau. As outlined elsewhere in this decision, the reserve status of the existing walkways to and from Takaparawhau has now been revoked through a separate statutory process, following public consultation.

237 Other than the comments from Auckland Council and Bruce Harland, Gordon Chong, and Chang Oh, no other comments explicitly related directly to an NPS. Nevertheless, we find that the general term "well-functioning urban environment" at the heart of the NPSUD is inherently relevant to several commenters' objections to the Project's scale and built form and the adverse effects they have described to us. The Council via PC80 has integrated that NPS term into its AUP Regional Policy Statement (**RPS**) (Chapter B2 – Urban Form), which in turn flows into the various chapters and provisions at the District Plan level. As such we are satisfied that by considering the Project against the AUP we can also properly include as part of that the extent to which the Project will promote (or not) a well-functioning urban environment. We find that our decision would not be aided by undertaking a separate NPSUD consideration of whether or how

¹⁶⁰ Comments from Auckland Council, Memorandum of Planning Matters at [113].

the Project might sit against that term.

- 238 The National Policy Statement for Natural Hazards (**NPSNH**) which came into force on 15 January 2026, is also relevant to the Project. The Applicant has assessed the Project against the relevant provisions of the NPSNH and considers these to be addressed by the updated Flood Risk Assessment and Geotechnical Assessment. On this basis, the Applicant considers no further assessment is necessary.

Panel Findings

- 239 Referring to Part E and further below in our decision, we accept the arguments provided by the Applicant that appropriate provision for pedestrian and active-mode users to and from Takaparawhau has been made, even though a previously existing link from the end of Rukutai Street is to be removed as part of the Project. We find that in terms of the NPSUD Policy 1(c), "good accessibility" will be maintained. Following on from that, we disagree that there is a tension with NPSUD policy 1(e) in terms of the Project appropriately supporting a reduction in greenhouse gas emissions.
- 240 Noting the general agreement between the experts for the Applicant and Council, we otherwise accept and agree with the assessment of the Project and find the Project to be consistent with the intended high-level outcomes of the NPSUD. We later discuss the bulk and scale of the proposed buildings in more detail in terms of how the Project responds to the AUP provisions and expected zone outcomes.
- 241 We also accept and agree with the Applicant's assessment of the Project under the NPSNH.

Regional Policy Statement

- 242 The RPS sets out the overall strategic statutory framework to achieve integrated management of the natural and physical resources of the Auckland Region. As noted in our section on NPS, the NPSUD concept of a well-functioning urban environment has been incorporated into the AUP through PC80 to Chapter B2 of the RPS.
- 243 Section 19 of the Applicant's AEE¹⁶¹ contains a detailed assessment of the Project against the relevant provisions of the RPS. Overall, the Applicant's assessment is that the Project is consistent with these provisions for the following reasons:

- 243.1 **B2 – Tāhuhu whakaruruhau ā-taone – Urban growth and form:** The Project is of an intensity and scale which is consistent with and will promote the AUP objectives in a way that will maintain and enhance the amenity values of the area. As confirmed by respective landscape experts, the Project will positively respond to its surrounding context. With regard to urban design matters, the Project has been designed to acknowledge local context which includes the adjacent area of open space at Takaparawhau and the cultural values of the environment. Overall, the Applicant considers:¹⁶²

The Site represents a rare opportunity within this urban environment to accommodate a reasonably intensive, comprehensively designed, quality retirement village with a suitable form and scale that will meaningfully

¹⁶¹ AEE at Section 19, paragraphs 19.32-19.52

¹⁶² AEE at Section 19, paragraph 19.44

contribute to supplying the demand for housing to meet Auckland's growing elderly population.

243.2 **B3 – Infrastructure, transport and energy:** The Project includes the provision of infrastructure that will integrate with existing infrastructure. With respect to transport, the Project results in urban intensification within a zone that anticipates higher densities of development and form and represents compact urban form in a location that is well-serviced by the transport network.

243.3 **B6 – Mana Whenua:** The RPS seeks to enable the development of Māori Land and Treaty Settlement Land to ensure that these lands and associated resources contribute to significantly lifting the social, cultural and economic wellbeing of Māori. The Project is consistent with these outcomes given it proposes development of the land collaboratively with tangata whenua. The Project has been designed to reflect the values of Ngāti Whātua Ōrākei and will enhance the economic and social wellbeing of tangata whenua on their whenua tūpuna.

244 The Council also undertook an assessment of the Project under the relevant RPS provisions and expressed that it is in general agreement with the assessment of the Applicant.

245 No other commenters expressly raised RPS concerns or provisions. But many did object to the Project against the AUP generally, which does inherently include the RPS section. However we find that the concerns, issues and effects raised by commenters more directly associate with the specific Regional Plan and District Plan level chapters relevant to the Project, and do not benefit from additional or separate consideration against RPS provisions.

Panel Findings

246 We are in general agreement with the Applicant's assessment and find the Project to be generally consistent with the relevant RPS provisions and in terms of taking a region-wide lens. We agree that the Site is suited to an IRD-based retirement village given its characteristics; significance and benefits to iwi; infrastructure capacity and capabilities; adjacency to Mission Bay commercial centre (including its supporting Business Mixed Use zone); adjacency to other nearby commercial centres including Eastridge; direct access to a major public open space amenity; and the many local opportunities to access the bus service via bus stops on many nearby streets.

Auckland Unitary Plan (Regional and District Plans)

247 Section 19 of the Applicant's AEE¹⁶³ includes detailed assessments of each of the components of the Project against the relevant provisions of the AUP. The provisions of plan changes 79 and 120 have also been considered by the Applicant.

248 A wide range of AUP provisions are relevant, including those contained within the following chapters:

- Chapter I326 – Ōrākei 1 Precinct

¹⁶³ AEE at Section 19, paragraphs 19.53-19.134

- Chapter H4 – Mixed Housing Suburban Zone
- Chapter H6 – Terrace Housing and Apartment Zone
- Chapter H7 – Open Space – Informal Recreation Zone
- Chapter H27 – Special Purpose – Māori Purpose
- Chapter E7 – Taking, damming and diversion of water
- Chapter E9 – Stormwater Quality (High contaminant generating car parks)
- Chapter E11 and E12 – Land Disturbance (Regional and District)
- Chapter E23 – Signs
- Chapter E25 – Noise and Vibration
- Chapter E27 – Transport
- Chapter E40 – Temporary Activities

249 We note that commenters did not raise provisions from any parts of the AUP other than the sections listed above. However, Bruce Harland, Gordon Chong, and Chang Oh did in their comments refer to matters of neighbourhood design and subdivision, despite no subdivision activity being proposed. In its response to comments, the Applicant also emphasised that no subdivision consents were being sought and that there was no need for formally consider Chapter E38 – Urban Subdivision. It otherwise responded to the commenters’ concerns with reasons why it considered an appropriate outcome had been proposed on merit. As a Non-complying activity, we are permitted to consider any provisions of the relevant plan(s) we find relevant and to that end we have additionally reviewed AUP chapter E38: Urban Subdivision as part of our analysis. Given that no party had drawn any specific E38 provision(s) to our attention, we are satisfied that we did not need additional specialist comment or assessment to be provided and instead considered Bruce Harland, Gordon Chong, and Chang Oh’s comments directly.

250 Bruce Harland, Gordon Chong and Chang Oh also relied on the New Zealand Urban Design Protocol as well as the Council’s non-statutory guideline the Auckland Design Manual (ADM). These are not RMA documents noting in particular the Council’s ADM has never been subjected to an RMA First Schedule public process. Appendix 17 of the AUP lists material incorporated by reference. No reference is made to the Urban Design Protocol, and the Auckland Design Manual is listed only in specific relation to AUP Appendix 1 Structure Plan Guidelines.

251 We are thus very cautious of promoting their content as being on-par with or substitutable for the actual provisions of the AUP. In fairness to the commenters, the Applicant’s expert urban design and landscape assessments did also consider those documents and to that end we accept they are relevant, particularly as part of the context of our consideration of the Project’s effects on the environment contained in Part E of this decision. We record that we did not find these documents substantively useful in relation to considering the Project’s fit against the AUP’s provisions (to the extent that they did not inform or colour what those provisions meant or sought).

Panel Findings

- 252 We have considered the assessments provided to us, the comments received, and undertaken our own review of the Plan provisions. We are satisfied that the information and expert assessments before us are comprehensive and fit for purpose.
- 253 On these matters that are not in significant dispute, we generally agree with and accept the assessment of the Applicant but for completeness addresses these at a high-level later in this decision. On this basis, the Project is found to be generally consistent with the aforementioned objectives and policies of the AUP.

Residential character and amenity, landscape and urban design matters

- 254 Having considered the application documents and comments received, and undertaken our own site visits to the Site and neighbourhood, we find the key matters in this topic are:
- 254.1 Plan Change 120;
- 254.2 AUP approach to building height, form and scale;
- 254.3 Planned Neighbourhood character;
- 254.4 The streets and Takaparawhau;
- 254.5 Residential amenity;
- 254.6 Connectivity to Takaparawhau; and
- 254.7 Well-functioning urban environment
- 255 The Applicant considers its proposal to be appropriate and broadly in-keeping with the outcomes sought by the AUP and this has been agreed with by Auckland Council – a particularly relevant point.
- 256 Of the commenters that did not agree, the principal concern related to the need or justification for exceeding the applicable zone height limits and why, in those commenters' opinions, the zone height standards in particular should not be exceeded.
- 257 The Applicant did not accept any of the commenters' criticisms in terms of suitability under the AUP framework and in its response provided numerous additional comments from its expert team in support of the Project.

Plan Change 120

- 258 PC120 has been notified and submissions and further submissions have been received. It has been the result of a prolonged planning process in Auckland commencing with the now-withdrawn PC78. Public statements by the Government and the Council indicate that its notified version is to be subject to substantial modification prior to any formal hearing process commencing. Noting also that the Applicant has confirmed none of its experts have relied on PC120 in reaching their own conclusions anyway, we agree with Bruce Harland, Gordon Chong and Chang Oh that: "...it is premature to rely on or give weight to PC120 including the proposed increase in height for the THAB

zone from 16m to 22m.”¹⁶⁴

- 259 We have considered those provisions of PC120 that have immediate legal effect, but have otherwise not placed weighting on what we regard as very uncertain Plan provisions. For the avoidance of doubt, we have not had the same uncertainty with recent PC79, which we have given weighting to noting a Consent Order settling appeals has been issued.

Building height, form and scale

- 260 The Site is split-zoned. The predominant zone is THAB. A feature of this zone is that there are no permitted dwelling activities. A restricted discretionary activity consent is required regardless of whether a new dwelling or IRD complies entirely with the zone standards, or infringes all of them. The other zones that are within the Site are MHS (217 Kupe Street, 106 Rukutai Street, and 95 Aotea Street); Special Purpose – Māori Purpose (Rukutai Street Local Purpose (accessway) Reserve); and Open Space – Informal Recreation (Aotea Street Local Purpose (accessway) Reserve).
- 261 The Site is also subject to the Ōrākei 1 Precinct. In addition to the Site, the Precinct extends along Kupe Street to include the THAB and Business Mixed Use zone south at 107-111 Kupe Street, and the Māori Purpose zoned land north and west of the Site comprising the Ōrākei Marae.
- 262 Importantly, in terms of the various zones within the Site:
- 262.1 Within the MHS zone, the land is proposed to be generally clear of buildings except for a portion of 3-storey building on the northern part of 106 Rukutai Street.
- 262.2 Within the Open Space – Informal Recreation zone, the proposal is to modify this to include part of the car parking decks and a 1-storey building at the new podium roof / ground level linking a reception to Buildings 1 (east) and 2 (west).
- 262.3 Within the Special Purpose – Māori Purpose zone, the proposal is to develop Building 4 and Pavilion 3 across this land.
- 262.4 With the exception of the Special Purpose – Māori Purpose zone, the buildings that are of a concerning scale to the commenters are located on THAB-zoned land.
- 263 In light of the significance attached to the THAB zone height standard by many commenters, we wanted to better understand what significance the AUP places on the principle of compliance as part of the AUPs overall approach. We started in Chapter A1, the AUP introduction. As part of explaining the structure, role and intent of the Plan, the following is stated by way of an explanation of the role of “standards” at A1.6.6:

Activities provided for as permitted, controlled or restricted discretionary activities are normally subject to standards. Standards set limits on the extent to which an activity is permitted or may be assessed as a controlled or restricted discretionary activity. Exceedance of a standard normally results in the activity being

¹⁶⁴ Comment by Bruce Harland, Gordon Chong and Chang Oh, paragraph 42.

considered as a more restrictive class of activity.

Standards are located following the activity tables in the overlay, zone, Auckland wide and precinct provisions.

- 264 We then turned to Chapter C1, which contains General Rules. C1.1(1) establishes that this chapter applies to all of the Plan except for the RPS section, and on this basis it applies to the zones and other AUP chapters relating to the Project. Rule C1.4 applies to sites with multiple zones, which would capture the Site. This rule states at C1.4(1):

Where a proposal will take place:

(a) in two or more zones; or

(b) where two or more overlays apply to it; or

(c) on a site which is partially affected by an overlay or a precinct;

then the proposal must comply with the overlay, zone and precinct rules applying to the particular part of the site in which the relevant part of the proposal is located.

- 265 This rule does at face value include a statement requiring that all activities on sites such as the Site "must comply with" the relevant rules. Although Chapter A1 delineates "general rules" from "standards", no other definition of those terms are provided and we find that a Plan "standard" must be regarded as a particular type of "rule" (rather than a form of "other method") in terms of classification for the purposes of administering the AUP and its objectives and policies. However, an important additional provision is provided at rule C1.9(1) and (2). These state in the explicit context of "standards" that:

(1) Every activity that is classed as a permitted, controlled and restricted discretionary activity must comply with all the standards applying to that activity.

(2) An activity that is classed as a permitted, controlled or restricted discretionary activity but that does not comply with one or more of the standards applying to that activity is a restricted discretionary activity unless otherwise specified by a rule applying to the particular activity.

- 266 We note that following on from clause (2) of the rule, clause (3) then sets out the additional restrictions of discretion that would apply to proposals that infringe one or more additional standards and trigger a restricted discretionary activity under Chapter C1 over and above any consents triggered by a proposal. These are:

(a) any objective or policy which is relevant to the standard;

(b) the purpose (if stated) of the standard and whether that purpose will still be achieved if consent is granted;

(c) any specific matter identified in the relevant rule or any relevant matter of discretion or assessment criterion associated with that rule;

(d) any special or unusual characteristic of the site which is relevant to the

standard;

(e) the effects of the infringement of the standard; and

(f) where more than one standard will be infringed, the effects of all infringements considered together.

267 Based on the above, we find the following in relation to the AUP's basic framework for rules and standards generally:

267.1 There is nothing preventing a development to be proposed across a Site containing multiple zones, but each zone is to remain subject to its own rules, standards and other provisions.

267.2 The AUP uses rules and standards primarily to govern the applicable process or assessment(s) that a particular proposal will be subjected to, rather than to express inflexible limits on what may be acceptable on a Site.

267.3 Rules and standards "must be" complied with in the context of requirements for applications including providing information, notification or determination, and for establishing (or maintaining) activity status.

267.4 It is allowable for "standards" to be infringed and the consequence of this is an additional restricted discretionary activity consent requirement (of note not a non-complying activity), subject to additional specific restrictions of discretion. The AUP can therefore only be described as contemplating and providing for the consideration of proposals that infringe standards.

267.5 The restrictions of discretion that apply to restricted discretionary activities resulting from proposed infringement(s) of one or more standards set out what the decision maker is permitted to consider but they do not possess any signal or direction as to what might or might not be appropriate. It is relevant to us that although a decision maker can consider "any special or unusual characteristic of the site which is relevant to the standard", this falls well short of a requirement that consent could only be granted if some special justification or need to not infringe the standard(s) in question can be established.

268 Overall, we find the AUP cannot be characterised as seeking or requiring that development generally comply with standards in an absolute sense. It instead provides assessment pathways that consent applicants can select through their decisions of what standards they wish to comply with or not, and what assessments they wish to be subjected to or not. That is the very purpose of the consenting process. We find that the AUP takes a generally neutral stance towards whether or not proposals that comply with standards are more desirable or "better" than those that do not.

269 Moving to the THAB zone, its purpose is summarised in the Zone Description:

The purpose of the zone is to make efficient use of land and infrastructure, increase the capacity of housing and ensure that residents have convenient access to services, employment, education facilities, retail and entertainment opportunities, public open space and public transport. This will promote walkable neighbourhoods and increase the vitality of centres.

270 We find that the AUP signals that the THAB zone has been used on land suitable for “efficient” use by way of an “increase” in the capacity of housing offering convenient access to a variety of activities. It is very relevant to us that the zone purpose makes no reference to maintaining any pre-existing built form character and only references effects of development on adjoining sites as a matter subject to the neutral verb “manage” (not for instance “avoid”, or “minimise”). We acknowledge, however, that this is also in the context of a more directive expectation to “achieve” a planned character for the zone and area.

271 The key objectives and policies relative to building height, bulk, mass and scale are H6.2(1) and (2); and H6.3(2), (4), and (5). Of these the most directive provisions are H6.2(2) and H6.3(2) (our emphasis added):

H6.2(2): *Development is **in keeping with** the areas planned urban built character of predominantly five, six or seven storey buildings in identified areas, in a variety of forms.*

H6.3(2): **Require** the height, bulk, form and appearance of development and the provision of setbacks and landscaped areas to achieve a high-density urban built character of predominantly five, six or seven storey buildings in identified areas, in a variety of forms.

272 We find that the above quoted provisions, and the remainder that we have referred to and including the zone description, cannot be read in a literal manner whereby a specific absolute maximum (or minimum) building height for any single Site can be pre-determined. We make the following observations in this regard:

272.1 The term “predominantly” in H6.3(2) should be interpreted as meaning something similar to ‘generally’ or ‘typically’ across the broader zone as a whole in Auckland. The zone methods, restrictions of discretion for what are often restricted discretionary activities, and assessment matters, all conflict with a more restrictive interpretation that every single building must be (or must be predominantly) five, six or seven storey buildings in every area identified as suitable for that. Importantly, the policies make no reference to the zone height standard (16 m) at all.

272.2 The term “in keeping with” in H6.2(2) is one we are all familiar from other planning documents with and means something close to ‘compatible with’ or ‘comparable to’. Importantly it is not stated that development should be “in keeping with” any existing neighbourhood built form character but instead a “planned built character”, stated to be “predominantly five, six or seven storey buildings in identified areas”. But, unless “identified areas” are to mean the THAB zone itself, the zone provisions do not seem to set a clear vision for what the planned character might be in any part of the zone that is not, through whatever mechanism is to apply, an identified area for predominantly five, six or seven storey buildings.

272.3 The zone has a maximum building height standard of 16 m. There is no minimum building height requirement and the zone name itself includes the term “terraced housing” – a type of living characteristically 2-or-3 storeys in height and often well less than 16 m in height. That the zone enables residential development but then requires most such development to obtain a restricted discretionary activity consent whether it complies with the zone height standard

or not further lessens our confidence in a potential AUP interpretation that would elevate the 16 m height standard as a de facto policy extension to flesh-out what the zone's "planned character" might be outside of the "identified areas" for five, six or seven storey buildings that are described in the framework.

272.4 In terms of policies H6.3(2) and H6.3(4), a key phrase used is "in identified areas" (H6.3(2)), and "in identified locations" (H6.3(4)). We note that restrictions of discretion applying to applications for consent for new buildings that infringe the height standard as restricted discretionary activities within the zone (separate to the aforementioned Chapter C1 restrictions) at H6.8.1(4) make no mention of the Height Variation Control. Equally relevant is that the assessment matters at H6.8.2(5) refer to policies H6.3(1), H6.3(2), H6.3(4) and H6.3(5). We conclude that the question of whether an "identified area" or "identified location" applies must be one that can be considered through applications for resource consent rather than purely through a plan-making exercise and through use of the Height Variation Control method.¹⁶⁵

272.5 In any event, 16 m cannot realistically equate to a five, six or seven storey building so cannot be seen as a linear 'delivery mechanism' of the policy framework. Even if policy H6.3(2) was read more narrowly, such that the reference to five, six, and seven storey buildings was only applied to "identified areas" within the Plan that are subject to an alternative height standard via the Height Variation Control method (which we find difficult to agree with given a separate policy H6.3(4) addresses that specific method), it would mean policy H6.3(2) would not have any relevance to the majority of the zone, which is not subject to the Height Variation Control. The zone assessment matters would not have included reference to the policy if that was the case.

272.6 "Planned character" in light of the above must include outcomes that comply with the zone standards (outcomes that we term 'planned and also prescribed'), but must also include the wider range of outcomes that might prove consentable following the zone's expressly provided framework for proposals that do not comply with those standards (what we term 'planned but not also prescribed').

273 Turning to the maximum building height standard itself, it states a purpose at the commencement of H6.6.5:

to manage the height of buildings to provide for terrace housing and apartments and achieve an urban built character of predominantly five storeys or six or seven storeys in identified locations adjacent to centres.

274 The verb "manage" is one we find to be inherently neutral. If the AUP intent was that development should not or only in very narrow circumstances infringe the standard, a more directive term such as "limit" or "restrict" would have been used. Noting that all dwellings in the zone require restricted discretionary activity consent, we find the standard could be used to refuse consent to dwellings that were 'under height' just as much as it could be to refuse consent for those that are 'over height'. The purpose of the management of building height is to "provide for" terraced housing and apartments, and to "achieve" a planned built character of predominantly five, six or

¹⁶⁵ We also observe the application of the Height Variation Control also appears to have the effect of narrowing the assessment pathway so as to exclude from consideration the Chapter C1.8(3) restrictions that would otherwise apply for building heights above the 16 m basic standard.

seven storeys in identified locations adjacent to centres. If any particular functional need or special justification was required to allow infringements of the standard, we find that such a fundamental matter would have been expressly stated in place of the wording that has been used. Also of note:

274.1 The Project is for an IRD whereby the dwellings will be apartments;

274.2 As we have found earlier, the resource consent mechanism is one means to establish that a site is an "identified area" for five, six or seven storey buildings;

274.3 The Project includes a number of buildings and building heights but can be fairly described as being predominantly five, six or seven storey buildings within the THAB zoned part of the Site;

274.4 The purpose of the height standard includes achieving a built character of predominantly five, six or seven storeys in such locations; and

274.5 Depending on our ultimate findings as to whether or not the Site is an appropriately "identified location" for a built character of predominantly five, six, or seven storey buildings, the Project *could* be in-keeping with the purpose of the height standard.

275 In conclusion, we find that the THAB zone seeks a variety of high density residential outcomes and that the question of its "planned character" cannot just be limited to buildings up to approximately 16 m in height. Although the Project substantially exceeds the zone height standard, and acknowledging that this is highly concerning to many commenters opposed to it, we do not accept that a large degree of infringement of this or other zone standards can itself constitute evidence that a proposal is fundamentally out of place; the zone policy framework itself (and including the purpose of the height standard) more than once refer to buildings much taller than 16 m. The AUP contemplates a comprehensive in-the-round assessment of all of "*height, bulk, form and appearance of development and the provision of setbacks and landscaped areas to achieve a high-density urban built character*",¹⁶⁶ and we find that this is to occur under the umbrella of determining whether or not the Site is a suitable area or location for that.

276 Relevant to this consideration is a comment made by Mr Ben Martell. He expressed concern that the Applicant's evidence had not appropriately considered the building height issue in the frame of the AUP:¹⁶⁷

This [the way the Applicant's experts have assessed building height effects] is a gap in the evidence. The correct question is not "are effects acceptable at the proposed height?" but rather "are the stated design outcomes achievable at 16m, such that the exceedance is genuinely necessary?" The applicants' reports do not answer this question.

277 We find that Mr Martell has not correctly posed the planning policy question asked by the AUP. There is nothing in the AUP to support Mr Martell's position, and we find that it is not correct to imagine fully-compliant hypothetical alternatives to what an applicant has proposed as part of establishing a pre-requisite 'need' to exceed a

¹⁶⁶ AUP policy H6.3(2).

¹⁶⁷ Comment of Ben Martell, page 2.

standard. If such a fundamental expectation underpinned the AUP, the relevant policy framework, activity rules, and restrictions of discretion would have stated this.

- 278 We do also recognise the important role that policy H6.3(5) also plays in determining an acceptable building height and bulk. It states:

Manage the height and bulk of development to maintain daylight access and a reasonable standard of privacy, and to minimise visual dominance effects to adjoining sites and developments.

- 279 However, unlike the broader questions of “planned character” for the zone or area, we find that policy H6.3(5) has a more immediate focus on land generally adjacent to a proposal that could be subject to daylight access and privacy impacts. Visual dominance effects are limited to “adjoining” sites and developments. We accept that this is a key reason the Applicant (and Council) has placed much emphasis on its compliance with the building height in relation to boundary standard noting that (and unlike the maximum building height standard), the height in relation to boundary standard at H6.6.6 includes an explicit reference to visual dominance effects.

- 280 The above analysis of the AUP and its provisions has established that it is not possible for us to simply require a development to comply with (or be necessarily even close to) the zone standards as a function of an inherent policy framework directive or requirement within the AUP. Although we found modified photo-simulations of the Project showing what a reduction in building height might look like¹⁶⁸, we were cautious of entertaining partial hypotheticals and alternatives and have focused our enquiry on what has been proposed; for example a much lesser-height development in compliance with the THAB zone height standard might not have retained the building layouts of the current Project; such a hypothetical might have also been accompanied by much greater horizontal continuity (i.e., no gaps between buildings), which would also be compliant with the THAB zone standards but have potentially created other adverse effects or policy tensions.

- 281 To address whether what has been proposed is of a bulk, height, scale and mass in keeping with the planned character for the Site, findings of fact and degree must be made for that specific Site and its specific context that go beyond just seeking compliance with the zone standards or assuming they represent an optimum solution. We will proceed to this next.

- 282 Turning to the MHS zone, this uses a similar structure and language to the THAB zone except that it seeks a “suburban built character”¹⁶⁹ of “predominantly two storey buildings”¹⁷⁰. Our analysis of the Project and the comments opposed to the Project is that the limited 3-storey component of Building 4 within the MHS zone at 106 Rukutai Street, and the balance of the proposed treatment of land zoned MHS within the Site, is not determinative of the Project and can be regarded as being generally in-keeping with the outcomes sought for that zone. We will not take this further and consider the THAB zone is the focal point of the key issues in contention.

- 283 We have reached the same finding in respect of the Special Purpose – Māori Purpose zone noting that for buildings unrelated to a Māori cultural use the maximum building

¹⁶⁸ Comment from Bruce Harland, Gordon Chong, and Chang Oh, Figures 8, 9 and 10.

¹⁶⁹ MHS Zone Purpose statement and objective H4.2(2).

¹⁷⁰ MHS Zone, objective H4,2(2) and policy H4.3(2).

height standard is 8 m. We will not take this further and consider the THAB zone is the focal point of the key issues in contention.

- 284 In terms of the Open Space – Informal Recreation zone, this does not contemplate the use of land other than for recreational use (see objectives H7.5.2(2) and (3)). Notwithstanding the zone maximum building height limit of 8 m, the Project is clearly not for a use consistent with a face value reading of what this zone seeks. To that end the Project proposes an alternative within its Site for public recreation access to Takaparawhau and we also note the separate matter of reserve revocation (which has progressed to the point that the zoning itself reflects somewhat of a planning anomaly). For this reason, we find that the Open Space – Informal Recreation zone is not determinative of the question of the Project's building height, mass and scale (and related effects). We will not take this further and consider the THAB zone is the focal point of the key issues in contention - but it is relevant to our later consideration of connectivity to Takaparawhau.

Planned Neighbourhood Character

- 285 We have considered the planned character of the neighbourhood including as a basis to help us determine whether or not the THAB-zoned area of the Site is an appropriate area or location for the scale of development proposed. We find the term "neighbourhood" used within the AUP is an everyday term meaning the local area surrounding a site (see the H6.1 Zone Description, second paragraph). In this instance and based on the overall body of information and evidence presented to us (including of note where the Project may be visible from or have impacts on), we find the neighbourhood is the local area extending approximately 800 m from either end of the Site. This is a common approximation of a notional 10 minute walk, but in this instance happens to also coincide with the natural landform pattern of ridges and valleys. This is the area either-side of the Site, which in-part adjoins a 'central' ridge of Kupe Street, out to the ridge of Coates Avenue (west), Kohimarama Road (east), and Kepa Road (south). It allows most development on a slope that might face and have direct exposure to the Site to be taken into consideration. This approach also allows for inclusion of all of Takaparawhau and the Orakei Marae, Mission Bay commercial centre, and the coastline.
- 286 For the avoidance of doubt, in recognition of the large scale of the Project we are satisfied that our approach to the "planned neighbourhood" (and planned area) in which it sits has an appropriately wide net. We also confirm that where the AUP has alternatively described its outcomes in terms of an "area" rather or other than a "neighbourhood" (such as objective H6.2(2)), we find that the spatial extent we have identified as the neighbourhood is also sufficient for those purposes. Where the provisions are directed to planned outcomes for a "zone" we have considered that with the broader neighbourhood's planned character forming part of the context of our evaluation.
- 287 Within this area, the AUP paints a very mixed picture for the future including (in no order of significance):
- 287.1 THAB zone on the Site and along a length of Kupe Street, and also along Kepa Road at the Eastridge Centre (and around a small centre on Coates Avenue. These will consistently enable taller-scale buildings in some of the locally highest and more visually prominent (and character-contributing) locations in the neighbourhood. This zone directly covers only a small part of the overall

neighbourhood.

- 287.2 Business Mixed Use zone, with a zone standard up to 18 m,¹⁷¹ in parts of Kupe Street, along Kepa Road (which in conjunction with the THAB zone provides for a fairly unbroken run of high density development of approximately 1 km), and extensively in the Mission Bay commercial area.
- 287.3 Numerous Local Centre and Neighbourhood Centre zone areas containing of note the Mission Bay and Eastridge centres. The Local Centre zones have a height standard of 18 m,¹⁷² and the neighbourhood centres it is 13 m.¹⁷³ The Site is most directly associated with Mission Bay centre and as it is within a convenient walking distance of that. The centre includes a theatre, numerous shops and dining options, and is further supported in its role as a community focal point by additional businesses in the Mixed Use zone. We are satisfied the Site can be regarded as "adjacent" to the centre, as well as passenger transport stops on Tamaki Drive, Aotea Street, Te Arawa Street, Kupe Street, Kepa Road.
- 287.4 Within the area we have satisfied ourselves is the 'neighbourhood' for the purposes of considering the Project within, none of the Mixed Use or centre zones have been subjected to the Height Variation Control (i.e., they are all subject to the 'normal' zone standard).
- 287.5 The neighbourhood contains large area of both MHU and MHS zones. These each enable substantial change on residential sites. The MHU zone has of note an 11 m building height standard, and the MHS zone has an 8 m zone standard. The Single House zone, which generally enables the least extent of built character change, also exists in pockets east of the Site and to Kohimarama Road. The residential zones together are collectively the most predominant within the neighbourhood, with almost all vistas containing wide views of dwellings spreading up and down the slopes of the two valleys bisected by Kupe Street.
- 287.6 Our inspections of the neighbourhood are that a wide variety of building shapes, sizes and periods exists. Including apartment buildings up to 12-storeys in height (on Tamaki Drive around the eastern headland towards Kohimarama Road and at the foot of the natural cliff). We do, however, accept the tenor of many opposing commenters that by and large the neighbourhood today contains predominantly 2-and-3-storey dwellings.
- 287.7 Lastly, the neighbourhood contains a substantial area of Open Space zones, including the Takaparawhau / Bastion Point headland, beach reserves, and Orakei Domain as well as various smaller local purpose-type recreation reserves across the area.
- 288 Within this very mixed area, the AUP enables a wide variety of built form character outcomes and substantial change to the existing environment. Other than the fairly limited pockets of Single House zone and the Open Space zones, we conclude that the planned neighbourhood character is something very different to what exists today.

¹⁷¹ The Mixed Use zone has a split-standard for building height, with 18 m the total height, but 16 m the limit for occupiable space.

¹⁷² The Local Centre zone has a split-standard for building height, with 18 m the total height, but 16 m the limit for occupiable space.

¹⁷³ The Neighbourhood Centre zone has a split-standard for building height, with 18 m the total height, but 16 m the limit for occupiable space.

None of the zones include permitted activity standards greater than 18 m, and for all of them it is possible by way of resource consent to exceed height (and other) standards. Occupants of land within one zone will often be able to see land zoned differently and across the neighbourhood quite different scales and types of activity are to be expected – and will frequently be visible from most dwellings along with varying degrees of open space and the coast.

- 289 We find that the Applicant, in the context of the Site’s neighbourhood and area, has established its site is an appropriate identified area for a built character of predominantly five, six or seven storey buildings based on its characteristics and adjacency to Mission Bay local centre, as well as access to passenger transport via stops on several adjacent roads.
- 290 We have considered the Project in light of the Applicant’s photo-simulations and additional locations identified by Happy Campers Trustee Ltd.¹⁷⁴ We have visited those locations but did not agree we required additional photo-simulations noting these are each intended to cumulatively inform an in-the-round assessment, not just one static assessment from one individual point of view. We agree that from many viewpoints the Project will be visible and viewers will see something that is clearly apartment buildings greater than 16 m in building height. We are, however, satisfied that what viewers will see is a development of multiple buildings that will be predominantly between five to seven storeys in height in a location that to a person reasonably informed of the neighbourhood and the AUP approach to built form, will be appropriate.
- 291 We overall accept the position of the Applicant and Council that the Project, although being a substantial change to the existing site and of a height much in excess of the applicable zone height standards, will nevertheless be appropriately in-keeping with the neighbourhood’s planned built character.

The Streets and Takaparawhau

- 292 THAB objective H6.2(3) and MHS objective H4.2(3) each seek that development “provides quality on-site residential amenity for... the street”. THAB policy H6.3(3) and MHS policy H4.3(3) each state:

Encourage development to achieve attractive and safe streets and public open spaces including by:

- (a) providing for passive surveillance*
- (b) optimising front yard landscaping*
- (c) minimising visual dominance of garage doors.*

- 293 Notwithstanding the non-directive verb “encourage” at the policy commencement, the objectives that lead the policies are clearer that development is to “provide” quality amenity at the street (and open spaces as what we find to be a reasonable consequence of providing quality amenity for residents).
- 294 The Project interfaces with Takaparawhau along its northern and eastern edges, and

¹⁷⁴ Comments by Happy Campers Trustee Ltd, page 4.

public streets along Kupe Street and the cul-de-sac heads of Te Arawa, Rukutai, and Aotea Streets. Public accessways through the Site should also be subject to this policy framework. Due to the revoked reserve status for both of the existing Aotea Street and Rukutai Street linkages, we find that it is more appropriate to consider the new / proposed public access routes here.

- 295 We agree with the Applicant and the Council that the Project will provide all of the qualities sought by the AUP for streets and public spaces, including those parts of the Site to be made available to public use as a means of linking from the cul de sacs to Takaparawhau. These will be well-overlooked and safe-feeling as well as visually interesting. Although the buildings proposed include height well above the 16 m zone standard up to 29.7 m,¹⁷⁵ we are satisfied that their arrangement relative to streets and open spaces, including setbacks from boundaries; proposed landscaping including within front yards or between the buildings and public open space; the width of each building and the separation between them in a side-by-side sense; and the visual design techniques used within each to visually soften the building scale and provide visual richness or interest will mitigate potential visual dominance or scale effects. As such the buildings will not unreasonably detract from people's enjoyment of the streets or public spaces.
- 296 We make a particular finding that the scale of the Project will not overwhelm or adversely affect the regionally and nationally significant values of Takaparawhau or the solemnity of Bastion Point as a point of reflection. We agree with the Applicant's expert analyses in this regard.
- 297 More broadly, we have also considered the suitability of the Project in terms of the amenity and peoples' reasonable enjoyment of Mission Bay beach / Selwyn Reserve and the other local reserves in Mission Bay that will provide various views of the Project (or parts of it). We are satisfied that the Project will not materially detract from any of these spaces, including because of the substantial separation distances that apply and the screening effect that intervening vegetation and structures will provide.

Residential amenity

- 298 The AUP provides policy guidance for both on-site amenity and for the amenity of neighbours. As it relates to on-site amenity, we accept the position of the Applicant and the Council that a suitable on-site amenity will be provided.
- 299 In terms of amenity for neighbours and others, THAB zone policy H6.3(5) and MHS zone policy H4.3(5) are similar:

H6.3(5): Manage the height and bulk of development to maintain daylight access and a reasonable standard of privacy, and to minimise visual dominance effects to adjoining sites and developments.

H4.3(5): Require the height, bulk and location of development to maintain a reasonable standard of sunlight access and privacy and to minimise visual dominance effects to adjoining sites.

- 300 At face value and taken alongside one another we find that the MHS zone policy sets a

¹⁷⁵ AEE, section 13.23.

generally more restrictive expectation than the THAB equivalent. The policies are supported by permitted activity standards and consent assessment pathways in each zone noting that in the THAB zone a greater scale and intensity of development is expected than in the MHS zone. But in each, the key standards relating to adjacent land are building height; height in relation to boundary; yards; maximum impervious area; landscaped area; outlook space; daylight; and front, side and rear fences and walls have been provided. We have considered each of these and all of them together.

- 301 To commenters opposed to the Project, the scale and height of the Project is excessive leading to a substantial loss of amenity, privacy, views, and the creation of significant visual dominance effects particularly attributable to those parts of the Project sitting higher than the maximum building height standard. The Applicant's position is that it has configured development on its site, including the provision of gaps between buildings, landscaping, setbacks from boundaries, and in particular compliance with the applicable height in relation to boundary standards, such that any adverse effects would be reasonable and in keeping with what the AUP seeks.
- 302 We find that although the Project is clearly much taller than the THAB zone height standard, the provision of open space, setbacks from boundaries, and gaps between buildings are also much greater than the zone standards seek (in particular continuous building length, for which the AUP has no standard or specific stated outcome). We accept the Applicant's first-principles argument that the additional potential adverse effects of vertical building height can be usefully mitigated by proportionately increasing horizontal setbacks. We prefer that more nuanced approach to the Council's approach which focuses primarily on whether the HIRB standard is complied with. In this instance, the Site has characteristics that allow it to accommodate a configuration of development unlikely to be achievable on much smaller sites, and is located sufficiently adjacent to a commercial centre and passenger transport stops that can also justify a larger scale of development than may often be acceptable.
- 303 Insofar as it relates to the outcomes sought by the AUP and planning merit, we accept and agree with the Applicant and the Council that the Project has been configured in a manner that will maintain a reasonable amenity, including privacy, spaciousness, and in terms of visual dominance for neighbouring and adjacent properties in keeping with what is sought by the AUP. We make the specific comment that the AUP is silent on the matter of existing private views, including where a view enjoyed by 'party A' is across privately owned land under the control of 'party B'. We have understood the concern expressed by commenters that many existing views across the (largely vacant) site to the coast will be modified or lost and this has been included in our consideration of what is reasonable in terms of the outcomes sought by the AUP.

Connectivity to Takaparawhau

- 304 Bruce Harland, Gordon Chong and Chang Oh provided detailed commentary on the layout of local roads and spaces, in support of their position against the Project's approach to public access through the Site (north-south) from Takaparawhau to the cul-de-sac heads of Te Arawa, Rukutai, and Aotea streets. They considered the Project represented a poor urban design response including in terms of the removal of the Rukutai Street linkage. The commenters stated that a "best practice"¹⁷⁶ response would be to extend Te Arawa, Rukutai, and Aotea Streets through the Site to directly

¹⁷⁶ Comment from Bruce Harland, Gordon Chong, and Chang Oh, paragraphs 16 and 17, and Figure 3.

adjoin Takaparawhau.

- 305 Importantly, the linkage referred to by the commenters has been subject to a Reserve revocation process. We note that the Council followed a prescribed public process set out in the Reserves Act and it has been determined that the existing public linkage can be removed. We regard this as a very relevant matter in considering the commenters' preferences, and refer to the Applicant's summary of that process in Section 11 of the AEE.
- 306 The Project is to provide a means of public pedestrian access from Rukutai Street to Te Arawa Street available during daylight hours, adjacent to the property boundary with 104 Rukutai Street and 59 Te Arawa Street. Two new easements are proposed through the Site to Takaparawhau, from Aotea Street and Aotea Street, and as shown on the Site Plan within the Boffa Miskell Ltd landscape concept plans.
- 307 The Applicant disagrees with the commenters, and considers that an appropriate provision of public access has been provided including in terms of considerations of route directness and safety.
- 308 We generally accept the Applicant's position that Chapter E38 – Urban Subdivision of the AUP is the chapter that deals with the formation of urban blocks, roads and open spaces, and that no subdivision is proposed. Were the Project for a restricted discretionary activity we agree we would have no basis to consider that chapter. It is also very relevant to note that although the comment from Bruce Harland, Gary Chong and Chang Oh is not a statement of independent expert evidence, Bruce Harland is an experienced urban designer and planner¹⁷⁷. Although the comment referred to the AUP as a document that "informed" it¹⁷⁸, the relief sought was supported only by references to the Auckland Design Manual and NZ Urban Design Protocol, not the AUP or any of the E38 Urban Subdivision provisions. Given Mr Harland's status as an experienced (non independent) expert, and acknowledgement that he considered the AUP, that omission of any AUP references is in our finding an intentional decision of Mr Harland and not a result of a lack of awareness.
- 309 But as a non-complying activity we are able to consider all parts of the AUP that we see as relevant, and in this instance the Applicant is seeking to change existing patterns of public movement and access. We find that Chapter E38 – Urban Subdivision is relevant and we have considered it insofar as it helps determine this aspect of contention. That the Applicant has wished not to offer any comments on this remains its decision, and we have proceeded to directly consider the matter.
- 310 Noting that no subdivision is proposed as part of the Project, and we cannot seek to compel that, we did not find any of the E38 objectives helpful. However, policies E38.3(10) and (18) are helpful. They state:

E30.3.10: Require subdivision to provide street and block patterns that support the concepts of a liveable, walkable and connected neighbourhood including:

(a) a road network that achieves all of the following:

¹⁷⁷ Comment from Bruce Harland, Gordon Chong, and Chang Oh, paragraph 1.

¹⁷⁸ Comment from Bruce Harland, Gordon Chong, and Chang Oh, paragraph 6.

(i) is easy and safe to use for pedestrians and cyclists;

(ii) is connected with a variety of routes within the immediate neighbourhood and between adjacent land areas; and

(iii) is connected to public transport, shops, schools, employment, open spaces and other amenities; and

(b) vehicle crossings and associated access designed and located to provide for safe and efficient movement to and from sites and minimising potential conflict between vehicles, pedestrians, and cyclists on the adjacent road network.

E38.3.18: *Require subdivision to provide for the recreation and amenity needs of residents by:*

(a) providing open spaces which are prominent and accessible by pedestrians;

(b) providing for the number and size of open spaces in proportion to the future density of the neighbourhood; and

(c) providing for pedestrian and/or cycle linkages.

311 Having considered the above and all of Chapter E38 – Urban Subdivision as well as the other AUP chapters previously identified, we find that the overall provision of public access through the Site to Takaparawhau from the three cul-de-sac heads south of the Site will be improved as a result of the Project. Although access from Rukutai Street will become a daytime only opportunity that is less-direct than at present (and the link from Aotea Street will also become less-direct), this is counterbalanced by provision of a linkage from Te Arawa Street that currently does not exist.

312 We find that the creation of public roads and their connection (or not) to public open spaces has been previously settled and is not affected by the current proposal. We are not persuaded that the Project offers a proper or valid means to revisit what roads should or should not have connected directly to Takaparawhau. In terms of the changes proposed to pedestrian access from the three cul-de-sac heads to Takaparawhau, we find the outcomes sought by the AUP including by Chapter E38 will be met by the Project. Specifically:

312.1 We accept the Applicant's CPTED and related expert assessments establishing that the proposed public access routes will be safe and well-overlooked.

312.2 The linkages through the Site will also be usable by those on bicycles.

312.3 A connected variety of routes will be maintained and established.

312.4 The AUP does not seek that public routes only exist via vested public spaces with 24/7 or continuous access.

312.5 Takaparawhau and the three cul-de-sacs will remain prominent and reasonably accessible by pedestrians.

312.6 The linkages will help to provide access to public transport, shops, schools, employment, open spaces and other amenities.

- 313 In all other respects, we prefer and agree with the Applicant and the Council that the Project will maintain and otherwise provide appropriate and safe public access through the Site to Takaparawhau from the south.

Well-functioning urban environment

- 314 As a means of providing one overall conclusion linking all of the above and the hierarchy of statutory documents relevant to urban form, we have chosen to use the lens of a well-functioning urban environment. Well-functioning urban environment is a very broad term. In the NPSUD Policy 1, it is given an open definition whereby the use of the words "at a minimum" in the policy allow additional matters to those specified in the NPSUD to be added. The Council has done this through its operative Plan Change 80, which integrated the term throughout the RPS Chapter B2, and on that basis the subordinate regional and district plan provisions that are based on that.

- 315 We find that the Project will promote and contribute to a well-functioning urban environment (as it relates to building scale, form, mass and associated matters) because:

315.1 The Site will make best use of land that is accessible to a significant public open space, a commercial centre, and numerous bus stops on local roads. The Site is appropriate for, and has been sufficiently identified as, an area for high density urban development of predominantly five, six or seven storey buildings.

315.2 The Project will contribute to housing choice and variety within the neighbourhood, and provide a quality on-site amenity for residents.

315.3 The Project will be of a suitable design and visual quality, will contribute to the identified planned built character of the neighbourhood (and not inhibit other sites in the neighbourhood from also doing so), and incorporates a design response that will provide for the reasonable provision and maintenance of quality amenity for adjacent roads, open spaces, and nearby properties. Although the Project's building height greatly exceeds the zone height standards, the overall Project incorporating its height, bulk, form and appearance and provision of setbacks and landscaped areas is in keeping with the AUP's overall anticipated outcomes for the THAB, MHS, and Special Purpose – Māori Purpose zones.

315.4 We find that the Project is not in keeping with the outcomes sought on land zoned Open Space – Informal Recreation however this is not sufficient to lead to a refusal of consent noting the small part of the Site that is subject to this zone; a separate reserve revocation process has occurred; and the alternative provisions for public access through the Site that have been proposed.

315.5 On the basis of all of the above, we prefer and accept the overall conclusions of the Applicant, supported by the Council, that the Project will be appropriately consistent with the applicable planning documents.

Other matters

315.6 Although we have focused on what we see as the critical point of contention relating to planning documents, we make the following additional findings relating to other matters identified by several commenters opposed to the

application:

- (a) In terms of the relationship of building scale and height to the interests of Māori, we find that the Project will provide relevant material benefits to Ngāti Whātua Ōrakei in a manner that will be consistent with the NPSUD, RPS, Regional and District Plan sections of the AUP that address mana whenua interests and aspirations. We are satisfied that there is a direct nexus between the Site's history and context; previous attempts to see development occur on it that benefits the iwi; current importance of the Site to the ongoing wellbeing and prosperity of the iwi; and the scale (including building heights) proposed through this application to provide those benefits in a way that restores mana to this sensitive site, gives effect to a site-specific cultural design narrative that the iwi agrees with, and creates a high quality interface between the Site and Takaparawhau and Ōrākei Marae.
- (b) In terms of traffic management and generation, we find that the AUP takes an enabling approach to urban growth and transport generation, with a particular emphasis on matching density and intensity to those locations best able to accommodate that, and on the specific details of a proposal demonstrating how potential adverse effects will be managed. Referring to our assessment of environmental effects in Part E of this decision, and subject to modifications to proposed conditions of consent relating to construction traffic, we agree with the Applicant and the Council that the Project will be consistent with the relevant provisions of the planning documents. Specifically, the Project is an appropriate location for a high density development of the scale and intensity proposed noting proximity to a range of destinations and bus stops that will provide alternatives to motor vehicle use. It has also been demonstrated that likely traffic generation will be within the capability of the local network to manage, and a number of conditions of consent have been offered and agreed with by Auckland Transport and Auckland Council to that end.
- (c) In terms of construction management, we accept the concern of many commenters that the Project's scale and construction timeframe will extend well beyond what could be termed a temporary basis. Construction will occur across many years and we refer to our consideration of construction effects in Part E of this decision. We agree with the Applicant and the Council that construction related issues will be in keeping with the outcomes sought by the planning documents. Specifically, the proposed construction is commensurate with the size and scale of the Site. In a neighbourhood with significant built form change enabled, periodic construction activity including potentially on multiple adjacent sites at the same time, is a reasonable likelihood and not of itself contrary to the outcomes and amenities sought by the AUP. In this instance we agree that relevant effects have been managed by the proposed design approach (including staged construction across different parts of the Site) and conditions of consent.
- (d) With regard to the management of stormwater runoff and downstream flooding effects, and in light of those provisions which have legal effect under PC120, we find that the overall approach to managing these issues

as proposed by the Applicant, and generally agreed to by the Council as set out in Part E of this decision, will align with the outcomes sought by the AUP.

315.7 In all other respects we reiterate that we have carefully considered the information provided to us and the provisions of the identified planning documents in full. Noting that the comments provided to us did not focus on specific references to those documents or planning analyses, our analysis has led us to agree with and accept the conclusions of the Applicant, supported by the Council. The Project is consistent with the applicable planning framework with the exception of our specific findings in relation to the built form proposed on land zoned Open Space – Informal Recreation referred to above.

Conclusion regarding consistency with the regional and district planning framework

316 Based on the above, we agree with the Applicant and the Council that the Project will be in keeping with the relevant planning documents including through promotion of a well-functioning urban environment. In reaching this conclusion:

316.1 The AUP provides a number of assessment-based pathways to consider applications for consent. One of those, which the Applicant has elected to take, involves Chapter C1 of the AUP and is expressly based on non-compliance with zone standards. It is not the case that the outcomes sought by the AUP including the “planned built form character” of zones, areas, or neighbourhoods can only be achieved by complying with those standards. It follows that an application not complying with a standard, even considerably so, is not of itself evidence of a failure to reflect the planning outcomes sought.

316.2 We considered but were not materially assisted by the non-statutory Auckland Design Manual and NZ Urban Design Protocol, although we recognise it was relied on by the Applicant’s expert urban design assessment as well as by some commenters.

316.3 We find the Project will not be consistent with the outcomes sought on land zoned Open Space – Informal Recreation however in this instance this shortcoming is not sufficient to lead to a refusal of consent. The area of land is very small in the context of the Site, relates to a separate Reserve revocation process the Council has supported through a public process, and is compensated for by way of an alternative access solution for pedestrians proposed by the Applicant. In this regard, this is considered to be more of a technical issue rather than material to the outcomes being achieved within this zone.

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

317 An application for a resource consent must include an assessment of the activity against any relevant provisions of a planning document recognised by a relevant iwi authority and lodged with a local authority.¹⁷⁹

318 The application includes a written statement from Marama Royal, chairperson of the Ngāti Whātua Ōrākei Trust, that confirms the Site forms part of the Ngāti Whātua

¹⁷⁹ FTAA, Schedule 5, clause 5(1)(h) and clause 5(2)(g).

Ōrākei whenua rangatira (ancestral land) and that Ngāti Whātua Ōrākei are ahi kā, and are the only relevant iwi authority, hapū and Treaty settlement entity for the purpose of the substantive application for the Project.

- 319 We understand the only relevant planning document recognised by a relevant iwi authority and lodged with the Council is the Ngāti Whātua Ōrākei Iwi Management Plan 2018. The application includes a detailed assessment against that document. Overall, it finds that:¹⁸⁰

In summary, the Project aligns with the directions and desired outcomes set out in the Iwi Management Plan 2018.

The design, layout and architecture of the Project respond to the Iwi Management Plan 2018. The Project provides for the optimal development of the Site collaboratively with tangata whenua in a way that appropriately responds to and integrates with the policy direction and outcomes of the Iwi Management Plan 2018.

- 320 We agree with this characterisation and accept that the Project will be consistent with the Ngāti Whātua Ōrākei Iwi Management Plan 2018.

¹⁸⁰ AEE at Section 19, paragraphs 19.156-19.157.

PART G: REGIONAL OR NATIONAL BENEFITS OF THE PROJECT

322 Section 3 of the FTAA states that the FTAA's purpose is to facilitate the delivery of infrastructure and development projects with *significant regional or national benefits*.

323 As noted above in Part C section 81(4) FTAA specifically requires us to consider the extent of the project's regional or national benefits. An approval can only be declined if the adverse impacts are out of proportion to regional or national benefits.¹⁸¹

324 The question of how to approach the assessment of benefits of a project has been considered in numerous fast-track panel decisions. Drawing on those decisions, a number of key principles emerge:

324.1 There is no definition of significant regional or national benefits in the FTAA relating to the substantive consideration of applications.

324.2 Section 22 FTAA, which relates to the criteria for assessing a referral application, provides the following:

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

324.3 Housing supply and well-functioning urban environments are expressly recognised benefits under section 22(2)(a)(iii). The purpose of the FTAA is enabling, rather than protectionist.¹⁸²

324.4 Significance means "sufficiently great or important to be worthy of attention; noteworthy" based on its ordinary meaning.¹⁸³

324.5 The question of whether a project is one with significant regional or national benefits remains a factual determination turning on the particular circumstances of the application.¹⁸⁴

¹⁸¹ FTAA, section 85(3).

¹⁸² Ashbourne Expert Panel Decision (21 April 2026).

¹⁸³ Maitahi Village Expert Panel Final Decision (18 September 2025) at [516]. See also Waihi North Expert Panel Final Decision (18 December 2025) at [842]-[843].

¹⁸⁴ Maitahi Village Expert Panel Final Decision (18 September 2025) at [515].

- 324.6 Any factual assessment of regional or national benefits will be informed by related economic and social factors. The relevant regional or national context will therefore be important.¹⁸⁵
- 324.7 Not all benefits are able to be calculated in precise financial or monetary terms. Expression of quantification or value in absolute terms may simply not be possible.¹⁸⁶
- 324.8 If the Panel is satisfied, having regard to the facts and context of a project, that the project will have significant regional or national benefits, it is not required to resolve differences in opinions between economic experts as to the extent of those benefits.¹⁸⁷
- 324.9 Even if the Panel were to determine that a project did not have 'significant regional or national benefits', the purpose of the FTAA may nevertheless be achieved by facilitating the project.¹⁸⁸ This reflects the drafting of section 85(3).
- 324.10 Comprehensive cost-benefit analysis is not required.¹⁸⁹
- 324.11 For the purposes of determining the benefits of a project, the focus should be on gross benefits, rather than net benefits.¹⁹⁰ To restrict consideration of a project's benefits to its net benefits would run the risk of double counting adverse impacts.¹⁹¹ It also conflates the consideration of a project's benefits as part of the assessment against the purpose of the FTAA under section 81 with the proportionality test under section 85.
- 324.12 Disbenefits (as opposed to adverse impacts) that can be identified and quantified should be taken into account in identifying the true scale of economic benefits.¹⁹²
- 324.13 In relation to the question of displacement (ie that an impact such as job creation or housing growth is in reality a transfer of activity that would have occurred elsewhere in the absence of the project, rather than representing new growth):¹⁹³
- (a) Displacement should be 'accounted for' when considering whether a project has 'significant regional or national benefits' if economic benefits are relied on by an applicant, and displacement is determined to be an economic disbenefit (as opposed to being regarded as an adverse environmental impact).
 - (b) Whether displacement is determined to be an economic disbenefit

¹⁸⁵ Maitahi Village Expert Panel Final Decision (18 September 2025) at [517], [818] and [819].

¹⁸⁶ Maitahi Village Expert Panel Final Decision (18 September 2025) at [819].

¹⁸⁷ Drury Metropolitan Centre Expert Panel Final Decision (7 November 2025) and Ashbourne Expert Panel Decision (21 April 2026).

¹⁸⁸ Maitahi Village Expert Panel Final Decision (18 September 2025) and Ashbourne Expert Panel Decision (21 April 2026).

¹⁸⁹ Maitahi Village Expert Panel Final Decision (18 September 2025), Rangitoopuni Expert Panel Final Decision (27 November 2025), and Ashbourne Expert Panel Decision (21 April 2026).

¹⁹⁰ Ayrburn Film Hub Expert Panel Final Decision (14 April 2026) at [158]-[161].

¹⁹¹ Ayrburn Film Hub Expert Panel Final Decision (14 April 2026) at [158]-[161].

¹⁹² Ayrburn Film Hub Expert Panel Final Decision (14 April 2026) at [161].

¹⁹³ Ashbourne Expert Panel Decision (21 April 2026) at [517]-[522].

requires consideration of whether that asserted displacement has a reliable and supportable evidentiary basis, represents a material and tangible economic disbenefit, and is otherwise not speculative.

- (c) A high degree of confidence is required that consenting new proposed residential development would have material and significant adverse effects on housing supply before it becomes a disbenefit that effectively counted against approval of the project.
- (d) If displacement is not determined to be an economic disbenefit, then there is no requirement to 'account for it' in an assessment of significant regional or national benefits.

325 Following the Fast-track Approvals Amendment Act 2025, section 81(2)(aaa) requires us to take into account the Minister's reasons for referral. In making his decision to refer the project, the Minister for Infrastructure stated:¹⁹⁴

The Minister is satisfied the project is an infrastructure or development project that would have significant regional or national benefits as:

- a. it is an infrastructure or development project because it involves land development for the construction of a retirement village and associated infrastructure
- b. it would have significant regional benefits because it would
 - i. increase housing supply by providing approximately 342 new retirement residential units including 90 units of accommodation for care
 - ii. provide economic benefits including an estimated \$336 million to Auckland's GDP and 2,329 full-time equivalent (FTE) jobs over the 10-year construction period with an additional 30 FTE roles on an ongoing basis once operational

326 Those benefits are elaborated on in the Economic Impact Assessment by Insight Economics provided with the application, which provides an assessment of the potential economic impacts of the Projects. It outlines that:

326.1 The construction of the Project will deliver approximately \$366 million into the economy (of which 90% is expected to remain within the region), and approximately 2,330 FTE years over the 9–10-year construction period (representing 233 people employed full-time over the construction period).¹⁹⁵

326.2 Employment during the construction period is expected to generate more than \$200 million in wages and salaries.¹⁹⁶

326.3 The following regional impacts are expected:¹⁹⁷

- (a) A one-time boost in GDP of approximately \$302 million.
- (b) Full-time employment for 210 people (2,100 FTE years).
- (c) Additional household incomes of over \$180 million through wages and

¹⁹⁴ Referral decision, dated 17 June 2025.

¹⁹⁵ EIA at 6.4.

¹⁹⁶ EIA at 6.4.

¹⁹⁷ EIA at 6.5.

salaries.

- 326.4 Ongoing employment is expected to generate \$2.3 million in annual wages and salaries and approximately \$3.8 million in annual GDP.¹⁹⁸
- 326.5 The Project will contribute some 256 new units to the market and the growing demand for high-quality and age-appropriate housing - 932 retirement units will be needed per year over the next 25 years to service the projected demand by 2048.¹⁹⁹
- 327 As outlined in the application, the contribution of retirement village accommodation delivered by the Project will have flow-on benefits in terms of freeing up housing stock within the community (as residents move from their current accommodation into retirement villages), and managing housing affordability by delivering accommodation units within a compact form (which also has efficiencies in terms of the cost of infrastructural servicing).²⁰⁰
- 328 The Minister's consideration of the benefits of this Project (as reflected in the referral decision quoted above) identifies that economic benefits of the scale described in the Economic Impact Assessment are of regional significance in and of themselves.
- 329 Despite the Council's stated support for the Project, the Council provided a peer review of the economic assessment, which expressed concerns with the Applicant's economic assessment and identified perceived gaps. These were:²⁰¹
- 329.1 Further detail is sought on the nature and scale of benefits to Ngāti Whātua Ōrākei, to better understand the significance to Ngāti Whātua Ōrākei and its members, and potentially the region.
- 329.2 Gross economic benefits are presented without accounting for potential development under a baseline scenario or displacement of demand elsewhere in Auckland. Further assessment of net benefits is sought.
- 329.3 Further market analysis is sought to support assumptions regarding demand and the nature of the proposed development, including implications for pricing and affordability.
- 329.4 The review notes that the assessment relies on input-output modelling, which does not account for the time value of money, opportunity costs or externalities. It suggests that applying a present value framework and/or cost-benefit analysis would provide a more complete assessment of net benefits.
- 329.5 An assessment of externalities associated with the proposed building height relative to that anticipated by the underlying zoning is requested.
- 329.6 The population projections are outdated and/or incorrectly applied, and should be updated. This was not expected to materially affect the overall findings, but

¹⁹⁸ EIA at 7.3.

¹⁹⁹ EIA at 8.1.

²⁰⁰ AEE at 18.147.

²⁰¹ Comments from Auckland Council, review memorandum at section 7.

would improve the robustness of the assessment.

330 Overall, the Council's peer review concludes:²⁰²

[T]he Economic Assessment overstates benefits and provides no assessment of costs. Corrected net economic impacts are small and not regionally significant. However, I agree that the quantified values in the Economic Assessment may still provide net positive outcomes for the community, although in my opinion the scale of those net positive outcomes would not be significant as required under the FTAA.

In my opinion the direct economic benefits to Ngāti Whātua Ōrākei and their members are likely to be substantial and may be deemed to be regionally significant, an aspect omitted from the Economic Assessment and potentially relevant to the FTAA purpose.

In summary, while The Point provides some economic and social benefits, these are largely marginal at a regional scale. The primary economically significant gains accrue to Ngāti Whātua Ōrākei, which may be consistent with the FTAA objectives and could be deemed to be regionally significant on this aspect of the project, as has been the case in other recent FTAA decisions.

331 The Applicant provided a response to the Council's comments above, including a technical memorandum from Insight Economics.

332 We address the Council's criticisms below.

Nature and scale of benefits to Ngāti Whātua Ōrākei

333 The application materials were surprisingly light on the potential cultural and social benefits of the Project. Prior to inviting comments on the Project, we requested further information from the Applicant in relation to the benefits of the Project.²⁰³ In response and as outlined earlier in Part E, the Applicant provided further information which outlined that:²⁰⁴

333.1 Takaparawhau sits at the heart of Ngāti Whātua Ōrākei identity. It is a site of significant Crown acquisition, and of significant resulting loss to Ngāti Whātua Ōrākei. It is also the site of the 1977–78 occupation, a defining moment in the modern history of Aotearoa that ultimately led to the return of whenua and which reshaped the national conversation about Treaty justice.

333.2 The proposed partnership with Generus Living Group is the practical mechanism to address remediation, deliver redevelopment and stabilise long-term operations at Eastcliffe, enabling the cultural, resident and community outcomes described, while Ngāti Whātua Ōrākei retains ownership of the whenua.

333.3 The redevelopment will replace incomplete and ageing buildings with a fully integrated, high-quality retirement village that reflects the cultural and historical significance of Takaparawhau and restores mana to the whenua.

333.4 For Ngāti Whātua Ōrākei, restoring mana to the whenua is fundamental. It means addressing the condition of Eastcliffe and ensuring the site reflects the

²⁰² Comments from Auckland Council, Economic Memo dated 16 March 2026 at 3.0.

²⁰³ Minute 3 of the Expert Panel, dated 4 March 2026.

²⁰⁴ Applicant's Response to Minute 3, Attachment E.

cultural and historical significance of Takaparawhau within our papakāinga. The redevelopment will improve the village for residents and is an expression of manaakitanga. The partnership embeds recognition of Ngāti Whātua Ōrākei as tangata whenua through the design and operation of the redeveloped village, and supports access for kaumātua to village facilities and services. The partnership reduces exposure to ongoing losses and major remediation costs at Eastcliffe and provides long-term ground lease rental income, strengthening Ngāti Whātua Ōrākei's ability to invest in initiatives that improve whānau wellbeing. It also creates scholarship, employment and contracting opportunities for whānau, and strengthens connection to Takaparawhau through improved public walkways. Takaparawhau is Ngāti Whātua Ōrākei whenua tūpuna. It carries Ngāti Whātua Ōrākei history, and it calls Ngāti Whātua Ōrākei to act with care for future generations.

- 334 That position was supported by Te Rūnanga o Ngāti Whātua.
- 335 Cultural, social and environmental outcomes such as these can also satisfy the regional significance threshold.²⁰⁵
- 336 Taking into account the principles in paragraph 324, we accept the Applicant's explanation, and consider the benefits outlined above are noteworthy and constitute significant regional benefits.

Gross vs Net benefits

- 337 The Council's economic peer review outlines that a counterfactual should be considered involving some form of development of the site, or acknowledging displacement of growth elsewhere. In essence it seems to contend that it is only the marginal benefits of infringing the development standards which are to be considered.
- 338 In its response, the Applicant outlines that there is no "baseline" development of the site, as any development of the Site would trigger a resource consent, and there is a high level of uncertainty as to any alternative development. Instead, it outlines that its assessment of gross economic benefits is appropriate, and suitable to be considered against any impacts as part of the overall assessment. The Applicant did not engage on the question of displacement.
- 339 In terms of the appropriate counterfactual for consideration, we consider there needs to be symmetry in the consideration of the benefits and impacts of the Project. In that sense, it would be artificial to consider all the impacts of the Project (i.e., applying no permitted baseline), but to then apply a baseline to limit the consideration of the Project's benefits. Based on the evidence before us, the most appropriate and only realistic counterfactual is the status quo (i.e., an undeveloped site). We proceed on that basis.
- 340 More broadly, we agree with the Applicant that a consideration of gross benefits is appropriate for assessment of the benefits of the Project. That position is consistent with the approach outlined in paragraph 324 above.
- 341 In relation to the question of whether we should take into account any alleged displacement, we do not have a reliable and supportable evidentiary basis that there is

²⁰⁵ Rangitōopuni Expert Panel Decision (27 November 2025) at [268], [269] and [280].

any displacement, let alone that it represents a material and tangible disbenefit. This is particularly here where the proposed activity is on land that is expressly zoned for it, and a consideration of 'displacement' could only be undertaken by way of us then engaging in a process of imagining what other THAB zone land might have been even 'better' than the proposed site is for the village - an exercise that is well beyond what's appropriate or justifiable in resource management practice. As such, we do not consider it further.

Other Council criticisms

342 The other Council criticisms at paragraph 329.3 - 329.6 were addressed in the Applicant's response. We are satisfied with the position as outlined in the response of the Applicant for the reasons outlined therein, being:²⁰⁶

342.1 Additional market analysis, including as to pricing and affordability, is not required to support the EIA's assumptions.

342.2 An input-output assessment is appropriate, and a full cost-benefit analysis is not necessary for the consideration of the benefits of the Project. For the reasons outlined above, we see the cost-benefit analysis as encompassed by the proportionality consideration under section 85.

342.3 It is not necessary for the EIA to account for all externalities. That is particularly the case when many of those externalities (including visual amenity impacts) do not naturally lend themselves to a quantitative assessment.

342.4 The updated population projections in the Applicant's response address the Council's concern in that regard.

Conclusion as to benefits

343 For the reasons outlined above, we consider that:

343.1 The cultural, social and environmental benefits due to the scale, nature and design of the Project in this particular location are of regional significance.

343.2 The broader quantitative benefits of the Project are also of significant regional benefit.

344 Accordingly, we are satisfied that the Project has significant regional benefits.

²⁰⁶ Technical Memorandum from Insight Economics dated 14 April 2026.

PART H: CONDITIONS

FTAA general requirements for conditions

- 345 Section 81 provides that, as part of granting any RMA approval; or archaeological authority, we must set any conditions to be imposed on the approval.
- 346 When exercising the discretionary power to set a condition, we must comply with s83 of the FTAA which 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.

- 347 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.

- 348 Consistent with that direction generally to apply the provisions of the RMA in relationship to conditions, we have approached our assessment of the proposed conditions in a manner consistent with established RMA jurisprudence on conditions, in accordance with the following principles:

348.1 No condition should be more onerous than necessary to address the reason for it being imposed.

348.2 We may impose conditions to protect a relevant Treaty settlement, subject to any such condition being consistent with the principles below.

348.3 A resource consent condition must be for a resource management purpose, not an ulterior one; it must fairly and reasonably relate to the development authorised by the resource consent or designation; and it must not be so unreasonable that a reasonable planning authority, duly appreciating its statutory duties could not have approved it.²⁰⁷

348.4 Conditions must also be certain and enforceable.²⁰⁸

348.5 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 condition.²⁰⁹

²⁰⁷ *Newbury District Council v Secretary of State for the Environment* [1980] 1 All ER 731 (HL), at 739.

²⁰⁸ *Bitumix Ltd v Mt Wellington Borough Council* [1979] 2 NZLR 57.

²⁰⁹ *Turner v Allison* (1970) 4 NZTPA 104.

- 349 Following the ongoing engagement between the Applicant and the Council, there were very few matters remaining in dispute as between the Applicant and the Council. We were generally satisfied with the conditions as proposed by the Applicant (following responses to feedback from invited parties). We have made some changes to the conditions to provide greater clarity or certainty. As discussed earlier in this decision, we have also strengthened the condition regarding the management of construction parking onsite.
- 350 A copy of draft conditions was circulated on 8 May 2026 to the Applicant and invited parties, requesting any comments on the draft conditions must be received by the Environmental Protection Authority by 25 May 2026.²¹⁰ A copy of the draft decision was also provided.
- 351 We received comments from the following parties by 25 May 2026:
- 351.1 Andrew Parsons.
 - 351.2 Minister for Treaty of Waitangi Negotiations.
 - 351.3 Bruce Harland, Gordon Chong and Chang Oh.
 - 351.4 Kathleen Mathers.
 - 351.5 Minister for Maori Crown Relations and Maori Development
 - 351.6 Fleur Nixon.
 - 351.7 Auckland Council.
 - 351.8 Trustees of EDL Family Trust.
- 352 We also received a late comment from Na Liu and Cheng-wei Yang, which included some discussion on conditions. Given that this was received well after the Applicant had provided its responses to comments on conditions, we have decided not to exercise our discretion to consider the comment received. For completeness, we observe that the comments are reflective of many of the other comments received from nearby owners and occupiers.
- 353 We acknowledge that the comments on proposed conditions did in some cases include commentary on the draft decision that went beyond what is permissible under section 70 of the FTAA, and we have not considered those matters further.²¹¹
- 354 The Applicant provided a response on 28 May 2026 to the comments received on conditions. In the lead-up to this response the Applicant had engaged further with the Council on the draft conditions. As part of the Applicant's response, it provided an updated set of conditions, which accepts many of the points raised by the Council and some of the points raised by other parties. We have generally accepted the changes agreed between the Applicant and Council, except to the extent that some of the changes proposed by Council (and accepted by the Applicant) hindered the readability

²¹⁰ FTAA, section 70(2).

²¹¹ See also Minute 9 of the Expert Panel, dated 28 May 2026.

of the conditions.

355 The matters remaining in dispute, and our decision on those matters is set out in the table below:

Condition #	Issue	Panel position
85 and 86	Request for extension of the public access hours during daylight savings from 7:00 - 18:00 to 7:00 to 19:00	We accept the position of the Applicant that it is not necessary to extend the public access hours as sought.
New condition	Request for a new condition to require the existing Rukutai Street walkway remain open to public access until the new walkway is operational.	We accept the position of the Applicant that this is sufficiently provided for by condition 18(n).
New condition	Request for additional protections on the management of the overland flood path and flood risk as it relates to the adjacent property at 104 Rukutai Street	We accept the position of the Applicant that the expert flooding assessments demonstrate that flood risk has been appropriately managed through the design of the Project
New condition	Request for condition to ensure Maori are provided with meaningful employment during construction and operation	We accept the position of the Applicant that this is a commercial matter as between Ngāti Whātua Ōrākei Whai Rawa Limited and Generus Living Group Limited, and a condition is not necessary.
New condition	Request that modern communication devices be used to mitigate noise effects	We agree with the Applicant that this is appropriately provided for by condition 24 (including in particular condition 24(j)).
New condition	Request that a condition be included to address the concerns with the Project's assessment of benefits.	We do not consider that such a condition is necessary, including for the reasons outlined in Part G above.
New condition	Request that there be an independent coastal and hazard sea level rise assessment.	We accept the Applicant's response that the site is not identified on the Council's GeoMaps as being at risk.
9	Request that all properties within 1km of the Site be notified of the commencement of works (rather than 50m)	We agree with the Applicant that this is not necessary, in light of the earthworks-related effects of the Project. We also observe that we amended condition 25(p) to require notification of the commencement of construction to a broader range of properties.
33 and 34	Request that the lighting plan take into account ecological effects.	We agree with the Applicant that this is not necessary, and the lighting proposed is commonplace.
New condition	Request for a new condition regarding the management of cyclone season.	We agree with the Applicant that this is not necessary, and is covered by procedures outside of the consenting process.
New condition	Request for a condition requiring a plan for flooding over the next 125 years.	We accept the Applicant's response that the flooding assessments demonstrate flood risk is appropriately managed to ensure no increased flood risk in the downstream catchment.

28	The Applicant and Council disagree on the wording of aspects of the advice note.	We accept the Applicant's wording as better reflecting the relationship of conditions 28 and 105
-	A concern that the conditions rely on the future development of management plans, which does not give the community sufficient certainty.	We consider that the use of management plans for the Project is appropriate, and is reflective of the common use of such management plans across projects of this nature and scale. The management plans are all subject to certification by the Council to ensure they are fit for purpose and meet the objectives outlined within the conditions of consent.
-	Request for strengthened and more prescriptive conditions	We consider the conditions are appropriate and meet the requirements of section 83 and 84 of the FTAA.

356 We are comfortable that the conditions attached in Appendix A meet the requirements of section 83 and 84 of the FTAA, and are consistent with the principles described above.

PART I: OVERALL EVALUATION

- 357 We have considered the substantive application and all advice, reports and other information received, in accordance with section 81(2)(a) FTAA. We have also considered the Minister's reasons for accepting the referral application as stated in the notice of referral, as required by section 81(2)(aaa) FTAA. We have applied the provisions of clauses 17-22 of Schedule 5 in the manner required by section 81(2)(b) FTAA.
- 358 We have considered the comments received on the application and on the draft conditions. We thank all those who commented for their contributions.
- 359 The Project has been comprehensively considered and a thoughtful and detailed approach has been taken to the management of the impacts of the Project.
- 360 We find that the Project will promote the purpose of the FTAA. We accept that the Project will generate significant regional benefit, as reflected in Part G above.
- 361 We have taken into account the relevant matters in Parts 2, 3 and 6 of the RMA. We find that the Project will promote the purpose of the RMA and that the Application is consistent with the regional and district planning framework, as outlined in Parts E and F above.
- 362 Under section 81(2) FTAA we are required to undertake our overall evaluation against each of the relevant criteria individually, and then to apply the greatest weighting to the purpose of the FTAA. We confirm that we would grant the approvals subject to the conditions set out at Appendix A, and that we would do so even without needing to apply any greater weighting to the purpose of the FTAA relative to other criteria.
- 363 In respect of section 82(3) FTAA, we confirm that granting the consents is consistent with section 7.
- 364 In imposing the conditions described in Appendix A, we have complied with section 83 FTAA. We understand that section 84 FTAA states that we may set conditions to recognise or protect a relevant Treaty settlement for the purposes of section 7 FTAA, but have decided that no conditions were necessary.
- 365 We have determined to grant the consents sought subject to the conditions attached as Appendix A to this Decision.



Daniel Minhinnick



Amanda de Jong



Ian Munro

APPENDIX A: CONDITIONS