

**BEFORE THE EXPERT CONSENTING PANEL
CONCERNING A COMPREHENSIVE CARE RETIREMENT
VILLAGE AT KOHIMARAMA, AUCKLAND**

IN THE MATTER

of the of the COVID-19 Recovery (Fast-Track Consenting) Act 2020 (the FTA) and the deliberations and final decision of the Expert Consenting Panel appointed under Clauses 2, 3, and 4 of Schedule 5 of the COVID-19 Recovery (Fast-Track Consenting) Act 2020 to consider applications for consents for a Comprehensive Care Retirement Village at Kohimarama, Auckland

Expert Consenting Panel:

Ian Gordon (Chair)
Trevor Mackie (Member)
Juliane Chetham (Member)

Legal Representation:

Matthew Allan and Lisa Wansbrough,
Brookfields

Comments received under Clause 17(4) of Schedule 6 to the FTA:

6 April 2021

Details of any hearing if held under Clause 21 of Schedule 6 of the FTA:

No hearing was held (refer Clause 20, Schedule 6 to the FTA)

Date of Hearing if held:

Nil

Date of Decision:

12 May 2021

Date of Issue:

12 May 2021

**RECORD OF DECISION OF THE EXPERT CONSENTING PANEL UNDER
CLAUSE 37 SCHEDULE 6 OF THE FTA**

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PART A: EXECUTIVE SUMMARY

- [1] This is an urgent application for resource consents by Ryman Healthcare Limited (**Ryman**) to develop a comprehensive care retirement village at Kohimarama, Auckland (**the Project**).
- [2] Rather than take the traditional pathway for the necessary consents, Ryman elected to seek a referral from the Minister for the Environment to an expert panel under the COVID-19 Recovery (fast-track Consenting) Act 2020 (**the FTA**). The Minister accepted that the purpose of the FTA would be met by the Project and referred it to this expert panel (**the Panel**).
- [3] The Panel visited the site at 223 Kohimarama Road / 7 John Rymer Place (**the Site**) and several locations nearby.
- [4] The Panel considered the application and identified a catchment of parties that it would invite comment from. Comments were duly received from 71 sources. A comprehensive reply to those comments was received from Ryman including modified suggested conditions.
- [5] The Panel took expert legal advice on some of the issues raised in Ryman's reply and considered the Project within the dual-purpose framework of the FTA and the Resource Management Act 1991 (**the RMA**).
- [6] Subject to conditions, the Panel grants consent to all the Project but for buildings B.03 and B.05 in their current form.
- [7] In their present form buildings B.03 and B.05 contribute to the perception of an overall built form that is unacceptable in terms of height and dominance.¹ We have concluded that the degree of unacceptability is relatively low such that buildings B.03 and B.05 would be acceptable if a middle floor were removed from each with no other external design or footprint changes.
- [8] Accordingly, Condition 1 does not include approval of the plans for buildings B.03 and B.05 as sought. Instead, we have provided a new condition of consent for the certification by Council of modified plans for buildings B.03 and B.05 in terms of this decision.²

¹ Refer AUP policy H5.3(4)

² Condition 43

PART B: INTRODUCTION AND PROCEDURE

Introduction

[9] Ryman is an experienced retirement village operator in New Zealand and operates various facilities across Auckland and other cities. In 2020 it applied to Auckland Council for consents to establish a comprehensive facility on the Site. In early 2021 it elected to have the application considered under the FTA.

[10] The total area of the Site is about 3.1 hectares to the east and south of Selwyn College. It is a triangular-shaped site with three main boundaries, two of which are at the interface with established residential development on Kohimarama Road and John Rymer Place. A short heavily vegetated south-western boundary looks over the Eastern Railway Line towards St Johns and Meadowbank. As Mr Bird for Ryman says:³

... the south-eastern boundary is fully lined with houses most of which occupy rear lots in John Rymer Place ... generally set well below the level of the site's south eastern boundary and have their private outdoor spaces facing north-westward into the steeply upward-sloping sites.

[11] A key feature of the Site is its topography characterized by down slopes from the Kohimarama ridge that are steep in places. That aspect, and its triangular shape introduce challenges for any integrated development of the Site.

[12] Features of the proposed village are:

- (a) 123 apartments;
- (b) 98 care rooms;
- (c) 75 assisted living suites;
- (d) 192 carparks;
- (e) A bowling green, and
- (f) other recreational facilities.

Procedure

[13] The Panel records the following matters.

³ Clinton Bird, Urban Design Review, page 7, para 3.7

Meetings/Site visits

- [14] The Panel met and conducted an all-day site visit to Kohimarama on 19 March 2021. This included a walkover of the site and visits to several properties on John Rymer Place and Whytehead Crescent.
- [15] The Panel conducted meetings by Zoom on:
- (a) 31 March 2021
 - (b) 12 April 2021
 - (c) 19 April 2021
 - (d) 3 May 2021.

Invitations to comment

- [16] By letters dated 12 March 2021 the Panel invited comments on the Project from those parties listed in Clause 17(4) of Schedule 6.
- [17] The Panel also invited comments from parties under Clause 17(5) of Schedule 6.⁴ Comments were required by April 2021. Late comments were accepted from:
- (a) Liz and Bruce Patterson;
 - (b) Ben and Gemma Gribble
 - (c) Michael Allan; and
 - (d) Hon Carmel Sepuloni, Minister for Arts, Culture and Heritage.
- [18] All comments received were sent to Ryman and, in accordance with Clause 19 of Schedule 6, the Panel required its response by 14 April 2021.
- [19] The comments received and Ryman's responses have all been considered by the Panel. They are referred to in detail below at Part E: Evaluation of Effects.
- [20] On 14 April 2021, the Panel received responses from Ryman. Surprisingly, having opted for a fast-track process Ryman saw fit to provide 165 pages of additional material including a 59-page memorandum from its legal counsel and close to 100 pages of expert evidence.

⁴ As listed at Appendix 1 to this Decision.

Further Information from Auckland Council

- [21] On 12 March 2021, the Panel sent a request for further information from Auckland Council. We requested updated specialist reports on specific topics and any associated conditions of consent that had been commenced when the application was initially lodged with the Council. These updated reports represented a considerable body of work by experts within and on behalf of the Council which greatly assisted the Panel. We have included reference to them as part of the body of comments received by us in Part E below.

Further Information from Applicant

- [22] On 26 March 2021, the Panel sent a request for further information from the Applicant asking for any visual simulations that had been prepared for certain addresses within John Rymer Place and Kohimarama Road. In response we were provided with two additional visual simulations, from identified viewpoints 401 and 402, being respectively 3A John Rymer Place and 19a John Rymer Place.

Further Reports to the Panel

- [23] On 20 April 2021, the Panel received written advice from Brookfields Lawyers on some of the issues raised by Ryman's legal counsel in his memorandum of 14 April 2021.

Hearing

- [24] Despite requests from most commenters, the Panel's decision was that a hearing was not required on any issue.

Assistance with Conditions

- [25] The Panel sought assistance and the EPA engaged Mr Gerard Thompson of Barker & Associates to whom the Panel is indebted.
- [26] An invitation to comment on draft conditions went out to commenters on 28 April and 16 responses were received for consideration by the Panel. Some of the responses were constructive. Others simply repeated comments and suggestions that had previously been received and considered. Ryman also took the opportunity to comment further on the

draft conditions and some of its suggestions were useful.

- [27] A detailed response was received from the Council. The Panel was grateful for this input on the draft conditions and for a further independent review by Mr Thompson. All of the comments and suggestions made contributed to our final amendments to the draft conditions.
- [28] The response from Ryman provided some useful amendments to clarify conditions and indicated that it was prepared to assist with further evidence on re-design options for buildings B.03 and B.05. The Panel concluded that it would not be assisted by additional evidence on those aspects.

PART C: LEGAL CONTEXT

- [29] At paragraphs 9-12 of her helpful submissions dated 16 April 2021, Counsel for Kohimarama Neighbours Incorporated (**KNI**) and others has succinctly set out the legal context for this application, which we adopt and add to as follows.
- [30] The role of an expert panel appointed under the COVID-19 Recovery (fast-track Consenting) Act 2020 (the **FTA**) has been carefully described in the decision on a Matawii Water Storage Reservoir at Kaikohe dated 27 October 2020. However, the Matawii decision was in respect of a listed project. This Project is a referred project and would appear to be the first to issue under this legislation.
- [31] A referred project is one that is referred to a Panel by an Order in Council after scrutiny by the relevant Ministers taking into account the criteria and related matters at ss 18 and 19 of the FTA.
- [32] As the Project was referred to the Panel, the Minister was therefore satisfied that the Project would be consistent with the purpose of the FTA. But as acknowledged by counsel for Ryman:⁵
- The Panel is not bound by the referral decision and it must independently determine if resource consents should be granted.
- [33] Section 12 of the FTA sets out the relationship between the FTA and the Resource Management Act 1991 (the **RMA**). The process for obtaining a consent under Schedule 6 of the FTA applies in place of the process under the RMA, but remains subject to its purpose and principles.
- [34] In respect of referred projects clause 31 of Schedule 6 sets out the

⁵ Memorandum of Counsel dated 14 April 2021, para 31.

matters to which a Panel must have regard:

- (1) When considering a consent application in relation to a referred project and any comments received in response to an invitation given under section 17(3), a panel must, subject to Part 2 of the Resource Management Act 1991 and the purpose of this Act, have regard to-
 - (a) any actual and potential effects on the environment of allowing the activity; and
 - (b) any measure proposed or agreed to by the consent applicant to ensure positive effects on the environment to offset or compensate for any adverse effects that will or may result from allowing the activity; and
 - (c) any relevant provisions of any of the documents listed in clause 29(2); and
 - (d) any other matter the panel considers relevant and reasonably necessary to determine the consent application.
- (2) In respect of the matters listed under subclause (1), a panel must apply section 6 of this Act (Treaty of Waitangi) instead of section 8 of the Resource Management Act 1991 (Treaty of Waitangi).
- (3) If a consent application relates to an activity in an area where a planning document prepared by a customary marine title group under section 85 of the Marine and Coastal Area (Takutai Moana) Act 2011 applies, a panel must have regard to any resource management matters in that document until all obligations under section 93 of the FTA have been met by the relevant local authority.

[35] Clause 31(4) of Schedule 6 provides:

- (4) When forming an opinion for the purposes of subsection (1)(a), a panel may disregard an adverse effect of the activity on the environment if a national environmental standard or the plan permits an activity with that effect.

[36] Clause 31(5) lists the matters that a Panel must not have regard to, none of which are relevant to this Project.

[37] Clause 31(1) has significant similarities to s 104 RMA, but with the addition of scope to consider offset and compensation and that consideration is subject not just to Part 2 of the RMA but also, the purpose of this Act.

[38] That purpose is:⁶

The purpose of this Act is to urgently promote employment to support New Zealand's recovery from the economic and social impacts of

⁶ Section 4 of the FTA

COVID-19 and to support the certainty of ongoing investment across New Zealand, while continuing to promote the sustainable management of natural and physical resources.

- [39] Whilst the FTA process involves a duality of purpose, it should not be overlooked that s 4 FTA requires that a panel shall have regard to all of Part 2 of the RMA – the principles in ss 7-8 as well as the s 5 purpose, but with s 8 RMA is to be replaced by s 6 FTA as mentioned above.⁷
- [40] In this respect, counsel for KNI submits that we should have particular regard to ss 7(b), (c) and (f)⁸.
- [41] Ryman acknowledges that the purpose of the FTA does not “trump” Part 2 of the RMA. Ryman says:⁹ “Both purposes must be considered together, on an equal footing”. Counsel for KNI concurs and we agree, but we also accept that some emphasis is to be given to the purpose of the FTA.
- [42] The full economic effects and duration of the pandemic remain enigmatic. Counsel for KNI looks to the short duration of the FTA and suggests that short term economic benefits should not be at the expense of, “...bad long-term planning outcomes”¹⁰. We accept that is a cornerstone of the FTA’s dual purposes.
- [43] Counsel for Ryman has endeavoured to persuade us that the Court of Appeal’s decision in *RJ Davidson Family Trust v Marlborough District Council*¹¹ should not apply to the panel’s consideration of Part 2 of the RMA because, as we understand the proposition, the FTA was enacted later in time than the Auckland Unitary Plan (**AUP**) came into effect.¹² This appeared to us to be an overly complex and somewhat circular argument for placing greater emphasis on the purpose of the FTA. As this is the first decision on a referred project, we sought assistance on this aspect from a specialist adviser and the advice of Brookfields was obtained¹³. We accept that advice and adopt it.
- [44] In any event we note that Ryman asserts that it, “... has not relied on Part 2 or the Fast-track Act purpose to justify the proposal”. Ryman says that the Project, “... stands on its own merits having regard to the AUP provisions, the relevant effects and other relevant matters”.¹⁴
- [45] Whilst an overall Part 2 assessment may not be necessary in a *Davidson* sense, a Panel must bear in mind the need to achieve the overarching

⁷ Paragraph [34](2) above

⁸ Legal Submissions, Minter Ellison, 6 April 2021 at paragraph 23

⁹ Memorandum of Counsel, 14 April 2021 at para 22

¹⁰ Submissions, Minter Ellison, 6 April 2021 at paragraph 30

¹¹ *RJ Davidson Family Trust v Marlborough District Council* [2018] NZCA 316

¹² Memorandum of Counsel, 14 April 2021 at para 25-27

¹³ Brookfields’ memorandum, 20 April 2021

¹⁴ Memorandum of Counsel, 14 April 2021 at para 28

purpose of the FTA. That the Minister has found the purpose to be satisfied for an application to be referred¹⁵ does not absolve a Panel from its obligation in this regard.

- [46] Ryman has provided estimates on s 19 criteria¹⁶ and KNI has commented on alleged economic benefits. The Panel has considered those comments, and the information advanced including the comments of the Ministers for Culture and Heritage, and Land Information.¹⁷
- [47] In the language of s 4 FTA, we accept that the Project is readily able to support New Zealand's recovery from the economic and social impacts of COVID-19 and to support the certainty of ongoing investment across New Zealand. We also accept that this can be urgently achieved. Where we are more challenged is with the assertion that the effects of the Project in its present form will continue to promote the sustainable management of natural and physical resources.
- [48] The assessment of effects required under clause 31 is the same as that under s 104 RMA but also includes any offset benefits and compensation. We note that while offset benefits are advanced by Ryman, no compensation is offered.
- [49] The evaluation of those effects against operative and proposed plans, and higher order documents is also the same albeit, subject to the purpose of the FTA as well as to the purpose and principles of the RMA.
- [50] The approach to the Treaty of Waitangi is similar and includes any Treaty Settlements.¹⁸ Subject to the conditions set out in its letter of support, the Project is supported by the landowner, Ngāti Whātua Ōrākei. Related matters are discussed under Part D below.
- [51] Unlike listed projects, the Panel has a wide discretion to consent or decline a referred application. Adopting the well accepted approach of the Environment Court, we see this as a spectrum which, subject to the purpose of the FTA being achieved, enables us to consent acceptable component parts of the application but decline unacceptable components to the extent that a meaningful project remains without being rendered nugatory.
- [52] This approach has been recently discussed in the context of a consent authority's power to modify an application. In *Director-General of Conservation v the New Zealand Transport Agency* (2020) 21 ELRNZ 620, the Court observed:

I note that the power to modify in the case of notices of requirement

¹⁵ Section 19 FTA

¹⁶ Chapter 9.1 of the AEE at pp 105 - 106

¹⁷ Summary of Comments Received at Appendix 1 and EPA website for Kohimarama Comprehensive Care Retirement Village: Comments from invited parties.

¹⁸ Clause 31(2) Schedule 6 and section 6 of the FTA

is different from the power granted to consent authorities and the Court when dealing with resource consents pursuant to ss 104A, 104B and 104C of the RMA.

...

None of these provisions includes a power to modify a resource consent proposal as can be done in the case of notices of requirement, although it is well recognized that in determining applications for resource consent, consent authorities have the power to grant consent to something less than what is actually being sought. That suggests that the power to modify goes beyond simply changing a proposal by restricting it to something less than what was sought.

- [53] The High Court provided an endorsement of this approach in *Collins v Northland RC*¹⁹:

[26] It was observed by the Planning Tribunal in *Haslam v Selwyn District*:

“The Resource Management Act provides procedures for applications for resource consent that are designed to enable all persons who wish to take part to do so. ... In practice, the lodging of submissions and the presentation of opponents’ cases frequently leads to applicants or consent authorities modifying proposals to meet objections that are found to be sound. That must surely be part of the statutory intent in providing for making submissions.”

[27] I respectfully accept that statement from a Tribunal expert in the field of Resource Management Act applications. It is part of the resource application consent process that sensible modifications will take place. Whether there is a need to re-notify will turn on the facts and will often be a question of degree.

- [54] The Panel sees no reason why this approach should not be equally applicable to resource consenting under the FTA provided that the purpose of the FTA is not neglected in the process. For example, there may be instances where s 108 conditions of consent would be unavailable or inappropriate to restrict certain effects that can be remedied by a partial consent which still enables an effective project.
- [55] In this case, the perception of height and bulk of the proposed buildings is touched on by the vast majority of comments received and carefully responded to by Ryman. These perceived effects and their potential for mitigation, remedy or avoidance are at the very heart of the issues in contention confronting the Panel.

¹⁹ [2013] NZHC 3039 at [26]-[27]

PART D: MANA WHENUA

Ngāti Whātua Ōrākei Māori Trust Board

[56] In section 5.1 of the AEE, Ryman describes consultation undertaken with mana whenua. As noted previously, the majority of the Site is owned by Ngāti Whātua Ōrākei Whai Rawa and Ryman holds a 150-year lease. Ryman has consulted with Ngāti Whātua o Ōrākei Māori Trust Board over its development intentions for the Site and how matters such as stormwater design, construction effects and the potential accidental discovery of archaeological material will be managed, and discussions are ongoing.

Other Relevant Iwi Authorities

[57] In addition to discussions with Ngāti Whātua Ōrākei, Ryman contacted the 15 iwi authorities identified by the Ministry for the Environment in its Report on Section 17 Covid-19 Recovery (Fast-track Consenting) Act 2020 requirements as being the relevant iwi authorities in relation to the application. Responses were received from Waikato-Tainui and Ngāti Tamaoho, who both deferred to Ngāti Whātua Ōrākei as the relevant mana whenua authority in this instance.

Statutory Requirements Relating to Iwi Authorities

[58] Section 6 of the FTA requires all persons performing functions and exercising powers to act in a manner that is consistent with the principles of Te Tiriti o Waitangi (**the Treaty**) and Treaty Settlements. All applications require additional information, namely:

- (a) Clause 9(1)(i) regarding information about Treaty settlements;
- (b) Clause 9(5) which requires applications for resource consent to include a CIA or a statement of reasons given by the relevant iwi authority for not providing a CIA;
- (c) Clause 9(6)(b) regarding customary marine title groups; and
- (d) Clause 10(1)(h) regarding protected customary rights.

Te Tiriti o Waitangi and Treaty Settlements

[59] There are six Treaty Settlements that apply to the Site due to the respective iwi groups having an interest over the area the Site is located:

- (a) Ngāti Whātua Ōrākei Claims Settlement Act 2012; and
- (b) Te Kawerau ā Maki Claims Settlement Act 2015; and
- (c) Ngāi Tai ki Tāmaki Claims Settlement Act 2018; and
- (d) Ngāti Tamaoho Claims Settlement Act 2018; and
- (e) Te Patukirikiri Deed of Settlement signed on 7 October 2018 (noting that legislation to give effect to the deed has yet to be enacted) and
- (f) Ngā Mana Whenua o Tāmaki Makaurau Collective Redress Act 2014.

[60] The Section 17 Report and AEE outline the relevant provisions in the Treaty settlements for resource consent applications within their respective areas of interest. These are mainly associated with Statutory Acknowledgment Areas that are relevant to RMA decision making but not of direct relevance for the FTA. Regardless, no Statutory Acknowledgments apply to the Site.

[61] The Ngā Mana Whenua o Tāmaki Makaurau Collective Redress Act 2014 is not relevant to this application as the Site is not owned by the Crown. The settlements do not provide redress or co-management responsibilities that affect natural and physical resources relevant to the proposed village given that the Site was purchased by Ngāti Whātua Ōrākei in 2006 prior to their Treaty settlement and the remaining settlements listed above.

Cultural Impact Assessment

[62] Confirmation was received from Ngāti Whātua Ōrākei that their correspondence on behalf of Ngāti Whātua Ōrākei Whai Māia Ltd dated 22 May 2020 represents a CIA for the FTA [clause 9(5)(a)]. As mentioned previously, Waikato-Tainui and Ngāti Tamaoho deferred to Ngāti Whātua Ōrākei and no other relevant iwi authorities responded to Ryman or to this panel when further comments were sought. We therefore concur with Ryman that no other CIAs are required to be provided for this application.

[63] Ngāti Whātua Ōrākei Whai Māia Ltd's CIA confirmed approval for the proposed development and considered the application appropriately reflects key outcomes sought in their 2018 Iwi Management Plan ('Te Pou o Kāhu Pōkere'). Several matters and recommendations were set out to be incorporated into consent conditions to ensure consistency with the Iwi Management Plan. These relate to kaitiakitanga, cultural heritage, water (stormwater and discharge), vegetation removal / terrestrial biodiversity and construction waste.

- [64] While we generally agree with the applicant that the proposed village can be constructed in a manner that is consistent with the environmental outcomes expressed in the Ngāti Whātua Ōrākei Iwi Management Plan 2018 and acknowledge the existing relationship between the parties, we consider that specific conditions are required to provide for engagement with Ngāti Whātua Ōrākei in the implementation of the resource consents. We have therefore drafted pre-construction conditions requiring the consent holder to confirm and submit to Council a framework that will outline the methods for engagement and involvement of Ngāti Whātua Ōrākei in the preparation and implementation of relevant management and environmental monitoring plans, see condition 5.

Customary Marine Title and Protected Customary Rights

- [65] An assessment of planning documents prepared by a customary marine title group under section 85 of the Marine and Coastal Area (Takutai Moana) Act 2011 is not required in this instance as there are no Customary Marine Title or Protected Customary Rights Applications which affect the Proposal site.

PART E: EVALUATION OF EFFECTS

Urban Design and visual impact

Potential effects: Assessment of Environmental Effects – Urban Design

- [66] The AEE adopts an Urban Design Assessment by Clinton Bird Urban Design Limited, of the potential urban design effects of the proposed village. While the proposed village will infringe the building height standard and height in relation to boundary standards that apply to the site, and some of the yard standards, other zone-related bulk and location standards are complied with.
- [67] The AEE states that the effects of the infringements are mitigated by generous boundary setbacks, relatively small floor plan footprints, substantial gaps between the buildings, the varied architectural expression, articulation and modulation of the building forms, variations in the cladding material and colours of the buildings and the extensive landscaping. The AEE considers that, from an urban design perspective, and notwithstanding its challenging shape and contours, the site is well suited for use by a comprehensive care retirement village of the type and scale proposed by Ryman.
- [68] Overall, the AEE considers that the proposed village will integrate well with the character and amenity of its surroundings, with the proposed buildings enabling the site to take on a quite different, but more attractive,

character than that of the currently vacant site.

- [69] The AEE divides the potential urban design effects into the following topics:
- (a) Effects on the wider context;
 - (b) Effects on the surrounding public streets;
 - (c) Effects on Selwyn College;
 - (d) Effects on immediately neighbouring properties;
 - (e) On-site amenity considerations; and
 - (f) Effects on public safety and crime prevention.

Effects on the wider context

- [70] The AEE notes that the proposed village will substantially change and intensify the urban form of the neighbourhood by building on a currently undeveloped site. However, the Site is not highly visible within the wider context, and simply being able to see the proposed village does not necessarily constitute an adverse effect.
- [71] The proposed village is considered to be residential in character and will fit well with the predominantly residential character of the Site's wider context. Residential intensification is anticipated in the area and is consistent with the Residential – Mixed Housing Urban zone. This includes the intention to increase the capacity and choice of housing within neighbourhoods.
- [72] Overall, the AEE concludes that the proposed village will have positive character and amenity effects on the wider environment.

Effects on surrounding public streets

- [73] With respect to potential effects on surrounding streets, the Urban Design Assessment reviews each environment, with the AEE contending in summary as follows:

Kohimarama Road: The proposed village is respectful of and responsive to the character and amenity of Kohimarama Road. Only buildings of one – two storeys in height will be perceived from Kohimarama Road. The proposed village will result in more of a mix of building ages and styles, including those of a more intensive residential character consistent with the expectation for the Residential – Mixed Housing Urban Zone. It will also better integrate the existing character of the Site into its residential / educational interface setting. Overall, the effects of the proposed village on the visual character of Kohimarama Road are considered to be positive. The design will not give rise to any visual dominance effects, and the passive surveillance of the adjoining street will be enhanced.

John Rymer Place: The proposed village will be respectful of, and responsive to, the character and amenity of John Rymer Place. Taking into account the screening effects of the existing houses on the northwestern side of John Rymer Place, the proposed village will present as a collection of predominantly three storey buildings stepping up the slope to the northwest of the John Rymer Place properties. Overall, the effects of the proposed village on the visual character, visual dominance and / or overlooking and / or loss of privacy of, and when within, the John Rymer Place streetscape will be less than minor.

Effects on Selwyn College

- [74] The Ministry of Education has provided written consent to the proposal, as owner of Selwyn College, and no account is taken of effects on the College. The AEE concludes that:

The proposed village will be respectful of, and responsive to, the character and amenity of Selwyn College, and that any actual and / or potential visual character, dominance, overlooking / loss of privacy and / or shading effects on Selwyn College will be positive or less than minor.

In terms of Selwyn College's role in the existing environment, the Panel notes that the only restriction on the scale of school re-development is a height-in-relation-to-boundary control in the standard education designation conditions, meaning that building of similar or greater intensity than that of the proposed retirement village could potentially occur.

Effects on immediately neighbouring properties

- [75] Immediately neighbouring properties in Kohimarama Road: With respect to the Kohimarama Road properties located immediately adjacent to the Site, the AEE concludes that the proposed village will be respectful of, and responsive to, these properties, and any visual dominance effects on the residential amenity of these properties from the intensity, scale, location, form and appearance of the proposed village will typically be less than minor. Notwithstanding the infringements of the 11 metre permitted building height standard, the AEE contends that a careful design combination of height in relation to boundary compliance, stepped building forms and generous boundary setbacks, together with the architectural articulation and modulation of the convoluted floor plan will ensure that any visual dominance effects on the private spaces of the neighbouring properties on Kohimarama Road will be less than minor.
- [76] Immediately neighbouring properties in John Rymer Place: The AEE concludes that any visual dominance effects on the properties immediately adjoining the Site on John Rymer Place will be largely avoided, and less than minor in scale, and furthermore, any overlooking or loss of privacy effects will also be less than minor. The Urban Design Assessment includes a detailed assessment of the potential shading

effects of the proposed village, including consideration of the built form standards in the Residential – Mixed Housing Urban zone (an anticipated form of development rather than a ‘permitted baseline’). Overall, the AEE concludes that any potential shading effects will vary between minor and less than minor for different properties – with the topography of the Site and the proposed location of buildings impacting on the extent of effects that will be experienced by neighbours. In particular, the properties that were identified to experience minor shading effects were 3A, 5, 17, 17A, 19 and 19A John Rymer Place.

On-site Amenity

- [77] Despite the challenges presented by the shape, gradient and orientation of the Site, the AEE considers that the proposed village will provide a high level of on-site amenity for residents and visitors. This includes by:
- (a) Ensuring that where apartments / units have an outlook towards a retaining wall, they have good access to daylight and sunlight and the view is of an attractively planted retaining wall;
 - (b) Providing various forms of entertainment, treatment and socialisation amenities in Building B.01; and
 - (c) Providing a variety of on-site residential accommodation options – ranging from independent apartments to care units.

Crime Prevention Through Environmental Design

- [78] The Auckland Design Manual Guidelines for Design Against Crime (**ADM**) note that “personal safety and security and freedom from crime is a critical component of the liveability of the city”. The ADM includes a section on ‘Design for Safety’ which outlines the Crime Prevention Through Environmental Design (**CPTED**) principles and the qualities of safer places.
- [79] The AEE notes that Buildings B.01, B.02, B.04 and B.06 will overlook, to some extent, Kohimarama Road, John Rymer Place and the Selwyn College playing fields. This will help to enhance the passive surveillance of these public and semi-public spaces, thereby making them safer to use. It is noted that the proposal also clearly demarcates a public and private realm and general public access is not provided for in the proposed village.

Comments received

- [80] Richard Reid, architect, urban designer and landscape architect expert for KNI, provided a statement of evidence as part of the KNI written comments, including the following assessments:
- (a) The height infringements will result in an urban built character of predominantly six storeys, not the Residential - Mixed Housing Urban zone’s planned urban built character of

predominantly three storeys.

- (b) The intensity, scale, form, appearance and overall dominant character of the proposal will create significant adverse effects which cannot be mitigated by existing vegetation (most of which will be removed) or new planting (most of which will take over a decade to establish).

- [81] Mr Reid agrees with two of the (early) areas of concern of Auckland Council Landscape Architect Ainsley Verstraeten, on effects on John Rymer Place and its residents of visual bulk, dominance and intrusiveness due to the height of the proposed buildings and visually heavy roof forms, with the sloping nature of the site exacerbating these effects on residents living and experiencing their street at a lower elevation. And that residents identified with properties along Whytehead Crescent also have the potential for the development to visually dominate their elevated outlook over the site.
- [82] Mr Reid largely disagrees with the assessments made by Clinton Bird, Rebecca Skidmore and Brad Coombs (for Ryman) regarding the type, extent and degree of potential effects created by the development. He considers they have not adequately analysed the wider context of which the site will form part, as it should have played a formative role in their assessment of the proposal's effects on the neighbourhood character, residential amenity, safety, and the surrounding residential area.
- [83] Mr Reid notes that Clinton Bird provides a very limited appraisal of the site's setting which precludes consideration of half of the valley which the site forms an intrinsic part of, that is he does not assess effects on the eastern hillside above John Rymer Place; Rebecca Skidmore correctly identifies this area as part of the primary viewing audience however, she does not provide a description or assessment of the view from any of these properties, instead stating in her report that the whole Village will not be visible from any single location. Mr Reid states that he identified 29 properties on the southern side of the valley which can see the whole village from their living room and external deck. Ms Skidmore confirms her opinion that no property will view the entire Village, as buildings within the proposed village screen other buildings, and various buildings and vegetation outside the site will obstruct views of the proposed village.
- [84] Ms Skidmore notes that the photographs provided by Mr Reid confirm this outcome, and that Mr Reid also fails to acknowledge that these properties are located a significant distance from the Site, with the separation reducing the magnitude of visual effects.
- [85] There are also many properties which will see large parts of the village from their upper levels, especially relevant when some of these will be developed into low-rise apartments within the Mixed Housing Urban zone. Mr Reid considers that views from all of the above properties demonstrate that the proposal will not be seen as a layering of

predominantly two to three storey buildings stepping up the site.

[86] Mr Reid states that²⁰:

The raised level of the site, plus the arrangement of buildings with gaps and overlaps between them, enables clear views to the rear line of six storey apartment blocks, as well as to the similarly scaled internal and rear elevations of Building B.01. Where buildings have been stepped, these are presented as blank south-facing walls to the neighbourhood, increasing the buildings' vertical emphasis and unfriendliness.

[87] From more oblique viewpoints, Mr Reid opines that²¹:

The gaps provided between the buildings will close up, creating the appearance of a continuous wall of development stretching 250m. The contrast in intensity, scale, form and appearance between the proposal and the planned built character for the MHU zone is too strong. The proposed interface between the two zones, Mixed Housing Urban and Mixed Housing Suburban, will be too confrontational, visually intrusive and dominating, especially for properties along the south-eastern boundary.

[88] Mr Reid asserts that the setback of open space in front of Buildings' B.03 and B.05 lifts them higher up the slope, increasing their visual dominance.

[89] Mr Reid considers that the proposal has a monumental scale of order over and above the dimensions of the site and neighbourhood, revealed in Ryman's shading studies for 21 June at 3pm, with the "vast" length of shadow cast by each building being of completely different scale to the surrounding area.

Landscape effects

[90] Rebecca Skidmore, Landscape Architect for the applicant, and Ainsley Verstraeten, Auckland Council Principal Landscape Architect, both acknowledge that the proposed village will create considerable landscape change. But, in the context of the change anticipated by the AUP, the Ryman and Council landscape experts agree that the landscape character effects of the proposed village will be appropriately low. Richard Reid, Architect, Landscape Architect and Urban Designer for KNI, disagrees. He suggests the proposed village will have high adverse landscape character effects.

[91] Overall, Ms Verstraeten considers that, although the proposed development includes buildings up to six storeys, it achieves the planned urban character of 'predominantly' three storeys as there is unlikely to be other sites of this scale within the neighbourhood that can absorb this height. Intensification on the site is anticipated with the size of the site

²⁰ Evidence of Richard Reid Architect, Urban Designer and Landscape Architect for KNI

²¹ Supra

allowing the proposed scale of development to be absorbed. The areas of retained (and enhanced) vegetation assist in accommodating this height. For these reasons she considers adverse landscape character effects to be low.

[92] Mr Reid also suggests the Landscape and Visual Effects Assessment is flawed because it does not consider the St Johns suburb. Ms Skidmore explains that that neighbourhood has a clear physical separation from Kohimarama. Given the distance, she does not consider the proposed village will be viewed as a visually incongruous feature from St Johns.

[93] It was submitted by Ryman legal counsel that²²:

Mr Reid's evidence is often not assessing effects on the environment and is more concerned with producing what he considers to be a 'better design'. Mr Reid criticises the plan layout of Building B.01 as using 'an outdated 19th century typology' developed for hospitals, asylums, prisons and schools, objects to apartments being included in Building B.01, and three-bedroom apartments in other buildings on apparently philosophical grounds. Much of the recommendation section of his report is devoted to describing a substantially different 'recommended development profile' that he concludes would achieve 'a better integration and contextual fit'. He may be overly focused on making assertions regarding the height of buildings based on emotive concepts, rather than objectively assessing the effects of that height. For example, he refers to the buildings' 'unfriendliness' and describes them as 'too confrontational'.

Mr Reid provided comparisons with other Ryman projects and a 12-storey tower, and a Summerset retirement village, which we found to have only limited relevance to this particular site and proposal.

[94] Mr Reid focuses more on the number of storeys of the proposed village, rather than the landscape and visual effects of the proposed village design. We accept that he overstates height effects – such as 'monumental scale' and 'attempt to transcend the site'. Ms Skidmore considers that Mr Reid does not adequately take into account or accept the design strategies applied to the proposed village, including the stepping of building elements that respond to the underlying topography and the use of higher building forms surrounded by open space, instead of a lower, spreading pattern of development.

[95] Mr Reid says he found multiple errors and omissions in the Ryman drawing set. Ms O'Meagher and Mr Malan (for Ryman) have attempted to address the alleged errors. Ms O'Meagher has acknowledged two technical errors and has provided corrected drawings. Ms Skidmore has confirmed those errors are not material to the relevant assessments of effects.

[96] However, Mr Reid is correct in his criticism of the depiction of height-in-

²² Memorandum of Counsel dated 14 April 2021 para 77.5

relation-to-boundary diagrams on cross-sections which do not show the shortest distance to the site boundary. We accept that those depictions are both incorrect and misleading. There may be no height-in-relation-to-boundary infringements relating to the southeast site boundary, however that is not proven by the evidence presented on the plans.

- [97] The Panel had to assess bulk dominance and building-to-building relationships from the contextual rather than precise material provided in the application, the few private site visual simulations and our site visits to potentially affected properties.
- [98] As set out in the application Landscape and Visual Effects Assessment and the Urban Design Review, the assessments of landscape visual and urban design-related effects were informed by extensive site visits. Both documents describe the environment in extensive detail. As Ms Skidmore explains, it is normal practice to undertake assessments based on site visits to public spaces and visual simulations from representative public viewpoints.
- [99] Mr Reid states there is a profound difference between assessing a view from the street behind a house compared to from the deck in front of a house. However, Ms Skidmore states that landscape architects and urban designers are trained professionals that are able to use visual simulations from representative viewpoints and the architectural and landscape plans to make an informed assessment of effects on private properties. We tend to agree with her.

Landscape treatment potential effects

- [100] Ms Verstraeten recommended changes to the proposed landscape treatment to further avoid, remedy and mitigate landscape effects. Ms Verstraeten acknowledges that any redevelopment of the site within the limits of the MHU zone would also result in a dramatic change to the existing site character, given the site's current undeveloped state.

Comments received

- [101] Although its experts do not agree that Ms Verstraeten's changes are necessary, Ryman considered the recommendations to be achievable and practical, and has accepted them. These changes have been addressed through an amendment to Ryman's proposed condition 37 (our decision condition 52).
- [102] Written comments from a number of the nearby residents express a concern at the loss of the green space, green outlook, park-like landscape, almost to the extent of it being a public ownership issue rather than a potential development site. The adjacent residents have more than a mid-distance outlook concern, with many of the houses having been designed to get sun access, immediate outlook, and mid-distance outlook

and views into and over the site.

Panel findings and conditions imposed

- [103] The proposal does involve an overall bulk of building on the site but has taken an approach of smaller building footprints and greater building height, to allow areas of existing vegetation retention and additional enhancement planting, stream restoration and ecological enhancement that will continue to provide a substantial landscape contribution, although not as a vacant grassed and bush-covered site. The Panel confines its conditions largely to supporting the landscape retention and enhancement planting mitigation proposed, including the amendments proposed by the applicant in response to written comments of the Council experts and adjacent residents. As one of the principal functions of the retention and enhancement planting is mitigation of visual impact of buildings, the Panel considers it appropriate to apply a condition requiring a s 128 review of conditions three years after commencement of works on the site, and then again three years later. This review of the landscape planting conditions and the implementation and growth projections of installed planting will allow any changes required to optimise the planting mitigation function.

Visual amenity effects

- [104] Overall visual and residential amenity effects from visual impact were raised by many of the written comments.

Comments received

- [105] Some commenters have raised visual effects of the proposed village. Most of these commenters focus on the height (in storeys) of the buildings rather than the visual outlook they will in fact experience. The applicant considers that commenters also fail to appreciate the design features of the proposed village that will provide a substantially better outcome than the neighbours could expect if the site was developed for more typical residential purposes.
- [106] Written comments on residential amenity from the Auckland Council Planner, Sandy Hsiao, include that²³:

While the proposed buildings are clearly not three-storeys, the objective and policies suggest that developments are to be 'in keeping' with the planned built character of predominantly three storey buildings. In other words, buildings that are greater than three storeys and that do not comply with the bulk and location standards of the zone may be acceptable, where the planned urban built character of the area is not undermined, and local residents are still able to appreciate residential amenity values in accordance with the zone expectation.

²³ Written comments from Sandy Hsiao, Planner for Auckland Council

In Ms Hsiao's opinion, given the topography and setting of the proposed development, when it is viewed from the street or wider surrounds, it could be considered in keeping with the planned character of the zone. However, she considers it would be difficult to say that the scale of the development (compared to a reasonably anticipated bulk and scale on the site based on the zone standards) would maintain the expected level of residential amenity for the neighbouring residents, particularly to the south and east, due to the proposed heights.

- [107] In relation to impacts on neighbouring properties, Ms Samsudeen supports the proposal, subject to one outstanding concern relating to Building B.06. Ms Verstraeten has more wide-ranging concerns relating to the visual impact of buildings B.02, B.03, B.04 and B.06 on neighbouring properties, although her key concern may relate to Building B.06.
- [108] Ms Verstraeten assessed the visual simulation viewpoints and also the submissions from residents which had been received on the earlier resource consent application, in relation to visual amenity, development scale and dominance, and existing and proposed landscape planting.
- [109] There are relevant objectives and policies that Ms Verstraeten considers the proposed development to be not consistent with and that relate to residential amenity from a visual amenity and visual dominance perspective. This is due to the exceedance of the building height standard which has a purpose to achieve the planned urban built character of predominantly three storeys, but also to minimise visual dominance effects. It is her opinion that the proposed village will create visual dominance and visual amenity effects on, not only some of the residents who live within adjoining properties to the southeast, but also those living within properties beyond and experiencing the amenity of John Rymer Place (and the currently vacant site).
- [110] Ms Verstraeten recommends²⁴ that, in order to avoid, remedy and mitigate adverse landscape and visual effects, changes are required in the areas of landscape planting (which the applicant in amended conditions has largely adopted) and in architectural treatments as follows:

In order to reduce visual dominance as perceived from Viewpoint VP 04 – setback of upper floors of B.02, B.04 and B.06 from the north and south edges or utilise more glazing along the top floors to make the buildings 'top' feel more lightweight. This would reduce the length of rooflines along the skyline and produce larger gaps between buildings. In addition, removing the fifth floor of B.03 would assist in reducing the visible bulk from this view and a greater appreciation of the space between the buildings behind.

Removal of the fifth floor of B.03 would reduce effects as perceived from Viewpoint VP05. This extra floor exacerbates visual dominance

²⁴ Written comments of Ainsley Verstraeten, Landscape Architect for Auckland Council

due to the visibility of the two stacked rooflines.

Height of B.06 reduced to three and four storeys to increase the amount of visible sky above the ridgeline as seen from Viewpoint VP06.

Height of B.02 reduced to four and five storeys, B.03 reduced in order for the village to still appear as stepping down the site.

Panel findings and conditions imposed

[111] Ms Verstraeten describes her considered version of a 'consentable proposal', much of which the Panel agrees with, in relation to the landscape planting changes and the treatment of foreground buildings. However, the Panel does not agree that changes are needed to the 'backdrop' buildings B.02, B.04 and B.06.

[112] The Panel finds that while the proposed buildings are only in parts three storeys, the objective and policies suggest that developments are to be 'in keeping' with the planned built character of predominantly three storey buildings. The Panel agrees with the Council Planner, that buildings that are greater than three storeys and that do not comply with the bulk and location standards of the zone may be acceptable, where the planned urban built character of the area is not undermined, and adjacent residents are still able to appreciate residential amenity values in accordance with the zone expectation. The Panel finds that the planned built character is largely satisfied, and the residential amenity values can be better appreciated with some design changes to buildings B.03 and B.05.

[113] The Panel also finds that visual amenity effects on the residents of the eastern hillside above John Rymer Place and Whytehead Crescent will not be unacceptable.

Potential effects – Urban design

[114] Sheerin Samsudeen, Auckland Council Principal Urban Design, in general is of the opinion that the development will be appropriate for the site and its context.

Comments received

[115] Ms Samsudeen is generally of the opinion that the development will be appropriate for the site and its context mainly for the following reasons²⁵:

The site layout and the design approach of six buildings is an appropriate response to balance the functional requirements of a care village, the topographical constraints of the site, and the planned character of the neighbourhood.

The design approach to concentrate the building mass, in particular

²⁵ Written comments of Sheerin Samsudeen Specialist Urban Designer for Auckland Council

the higher height, to the north and west along the Selwyn College boundary and to the site's centre is an appropriate response, with the exception of building B.06.

From the surrounding public realm, the landform, the building form, gaps between buildings, and generous boundary setbacks together with the intervening landscape response will create an outcome that is comparable to the built form envisaged within the MHU zone.

The views and visual simulations included in the application show highly modulated roof forms, and/or upper levels of proposed buildings which are progressively stepped above the existing residential environs, reflecting the underlying topography. The proposed design includes a number of architectural design gestures, and a varied palette of materials and colours to provide a high level of building and roof articulation, all of which will assist in mitigating the perceptions of scale.

The site's shape, topography and the functionality of the retirement village limits the front door presence to both Kohimarama Road and John Rymer Place. The retention of the existing Oak tree and Pohutukawa trees will retain the existing character along the Kohimarama Road frontage which is positive. The proposed vehicle access and the sky bridge pedestrian entrance combined with the proposed building design will provide adequate activation and opportunities for passive surveillance, which will contribute to the existing street environs. Along John Rymer Place, the main entrance is clearly marked by the feature brick wall / signage.

The proposal includes the retention of existing vegetation along the John Rymer Place interface and a new planting mix in front of podium / blank walls / lower levels of podium buildings facing this interface. Until such time as the new planting is established to a level where they can screen the blank walls and lower levels, the proposed bulk and the higher height can have a visually imposing presence to neighbours along this interface, when viewed in the expanse of the proposed buildings.

Adjoining neighbours along the north / northeast off Kohimarama Road and John Rymer Place will not experience any negative urban amenity impacts due to the proposed bulk. Built form and interface outcomes for these neighbours are acceptable in terms of the planned character for the site. This is primarily due to the generous setback, roof and façade articulation, and the intervening landscape, although landscape element details remain to be reviewed.

- [116] The one outstanding concern for Ms Samsudeen relates to the bulk, form and appearance of Building B.06 in relation to the south / southeast neighbours, and raised in earlier submissions by residents at 45A, 29, 27 and 19 John Rymer Place. While acknowledging the proposal's generous setback distance from the shared boundary (up to 25+m), the intervening existing vegetation and the proposed step in building B.06 at the southern end; given the steep slope, Ms Samsudeen considers that these residential neighbours will experience a more dominant up-slope urban form. The building is a large rectilinear form with longer side elevations facing these neighbours and results in the greatest height infringement on the site between 6.9m and 10.4m, without the same stepped character

of the building forms achieved in other views. Ms Samsudeen's recommendation is to reconsider the bulk associated with upper levels and possibly set back the 4th and 5th floors to reduce the perceived scale of this building in relation to these neighbours.

Panel findings and conditions imposed

- [117] The Panel does not agree with Ms Samsudeen's assessment of Building B.06 and considers that the intervening existing vegetation and the part roof step already provide an adequate level of mitigation of the bulk dominance of Building B.06, in relation to the identified properties. Building B.06 will be seen from those properties, at least from the upper storeys, but the extent of existing, retained vegetation on rising terrain and the split-level roof design assisting to modulate the overall appearance means they will have no ground level reference to consider the building of an unacceptable height or bulk dominance.
- [118] In determining whether the proposal is consentable in its current or in a reduced form, the Panel needs to make a holistic assessment of the effects of building height, rather than focus on the height standard or only the dominance effects of individual buildings. We have done that and consider that overall design cohesion can be achieved with one mid-level removed (retaining the roof forms but at a lower overall height) from B.03 and B.05.
- [119] These reductions would benefit the residents adjacent to the southeast boundary and assist with the perception of a predominantly three storey base for the appearance of the proposed village when viewed from the southeast. We do not consider it necessary for height or levels to be removed from B.06, B.04, B.02 or B.01. The varied stepping of their upper levels and rooflines provides sufficient articulation of building form and bulk that when combined with their distance from the viewing properties and streets will not result in unacceptable visual impact or dominance.
- [120] The Panel acknowledges that lowering of buildings B.03 and B.05 would make an additional level of the 'backdrop' buildings (B.02, B.04 and B.06) visible from viewpoints on the eastern hillside above John Rymer Place, however we consider that acceptable given the building designs and proposed landscaping. If the buildings were to be completely re-designed, then we would consider it useful to also introduce a greater degree of horizontal stepping and articulation to the southwest elevations of the buildings, to manage their effects on oblique views of the taller buildings. However, the currently proposed architectural treatments, building spacings, podium presence and intensive intervening landscape planting will suffice, and we do not seek further changes on the evidence before us.
- [121] Mr Reid opposes the proposal from all viewing audiences absent significant design changes, but the Panel does not agree with the level of

adverse effect assessed by Mr Reid, nor the need for such extensive changes.

- [122] The applicant acknowledges that the proposal does not comply with the height standard, and one purpose of the height standard is to minimise visual dominance effects. However, that does not automatically mean the proposal will result in unacceptable visual impacts on neighbouring properties. The full range of factors relevant to visual dominance effects need to be considered. Importantly, the proposed village layout provides substantial setbacks from neighbouring properties well beyond the standard yard, and appears to sit within the height-in-relation-to-boundary (**HIRB**) standard.
- [123] The Panel finds that the site crossfall and the lowered (retained slope) development of existing houses mean that the proposed setbacks and HIRB compliance do not adequately manage visual and dominance effects from buildings B.03 and B.05. Fencing or landscape planting could only contribute partial mitigation without creating additional dominance and shading adverse effects. In particular, the enhanced scale planting proposal in Ryman's amended conditions will require careful management to ensure it does not exacerbate dominance and shading of adjacent down-slope properties.
- [124] The Panel finds that other factors, not addressed by the AUP standards, are also relevant to determining the visual dominance effects. The Panel agrees that the proposed village design is stepped and layered such that closer buildings largely eclipse or screen buildings located further away, although there are some oblique views which reveal the backdrop buildings. Further, although the AUP does not provide a building length standard, the buildings have been configured with relatively small footprints in order to provide substantial gaps between them. The building articulation and use of materials also assists to minimise visual dominance. Overall, the Panel agrees with the applicant that the proposed village can be viewed as an "attractively varied collection of building forms". Some existing vegetation will be maintained to provide screening for adjacent neighbours, and replaced with suitable native species over time. New landscaping will be provided across the site.
- [125] Legal counsel for Ryman submitted that Mr Reid and the Council officers have focused too closely on the actual height of the proposed village buildings, and this has resulted in recommendations that focus on removing levels from buildings, having failed to make an holistic assessment of the effect of that height, and the overall design cohesion achieved. The Panel generally agrees that there has been too much emphasis on measured height of proposed buildings rather than effects. However, following an holistic assessment of the height effects, and the varying expert opinions, and particularly effects on building bulk dominance near the southeastern boundary of the site, the Panel finds

that the removal of a particular building level from each of buildings B.03 and B.05 is necessary to achieve satisfactory mitigation of height effects, to the extent that an overall 'consentable proposal' is achievable. We are not prepared to approve and do not approve the current designs of B.03 and B.05, but we are prepared to approve re-designed buildings as described with no adjustment to other dimensions, treatments or site plans.

- [126] Mr Reid also suggests that Building B.01 is commercial and institutional. This view conflicts with the other experts, who agree the proposed village design uses a variety of architectural elements that create a residential (apartment-type) character.

Other proposed design changes' potential effects

- [127] Changing the design of buildings may have consequential effects.

Comments received

- [128] A number of potential design changes have been suggested by Ms Samsudeen, Ms Verstraeten, and Mr Reid. Ryman legal submissions state that it is not possible to remove a large number of units without substantially interfering with the functional and operational requirements of the proposed village and affecting its overall efficiency. For example, the removal of apartments could offset the careful balance between independent units and care rooms that characterise a comprehensive care retirement village.
- [129] It is suggested that removing floors from buildings may make them inefficient to build, given the sunk costs of basements, foundation design and plant and equipment such as lifts. We have considered that but, in part, those issues arise because this site has some challenging topographical characteristics. Given the overall scale of the proposed development we consider that the submissions for Ryman overstate the flow-on effects of building changes on the viability of the Project. There is little or no direct evidence on this aspect. In any event, the Panel notes that sustainability purpose of the RMA is not to be trumped by the economic purpose of the FTA.
- [130] Ms Samsudeen recommended that Ryman reconsider the bulk associated with the upper levels of Building B.06. Building B/06 similarly appears to be the focus of Ms Verstraeten's comments, although she does have other areas of concern. Ryman considered a setback on the fourth and fifth floors as proposed, however such design amendments would have required substantial refinement to ensure revised floor plates met the needs of the future residents.

Panel findings and conditions imposed

- [131] The Panel is not persuaded that proposed building B.06 will have

unacceptable visual impact and bulk dominance effects. The Panel also considers the Ryman legal submissions overstate the flow-on effects of building changes, within the overall scale of the proposed development.

Privacy and overlooking potential effects

[132] Buildings of a larger scale than their neighbours, and sited on higher ground, will have some privacy and overlooking effects.

Comments received

[133] Some commenters raised the effects of the proposed village on privacy and overlooking of nearby residences. The Urban Design Review provides an assessment of the privacy impacts of the proposed village. Ms Samsudeen for Auckland Council agrees that those urban amenity impacts of the proposed village are acceptable. Ms Skidmore's evidence provides a response to representative comments on privacy. She considers overlooking and privacy impacts will be acceptable based on the AUP expectations for development in this location.

Panel findings and conditions imposed

[134] While the concerns of neighbours may be genuine, they need to be objectively tested, including by reference to the outcomes set out in the AUP. The topography of the site means that the height and HIRB standards would not be able to manage privacy and overlooking effects on their own, and need to be assisted by greater setbacks, and landscape planting filtering views. The Panel has concluded that the privacy and overlooking impacts of the proposed village will be acceptable, provided the landscape planting mitigation as conditioned, is achieved.

Shading

Potential effects

[135] Mr Reid does not address sunlight access to adjacent properties to any great extent and focuses rather on (lack of) sunlight access to a number of the proposed village apartments. There may be no dispute between the relevant experts that the sunlight access impacts of the proposed village are acceptable. The shading analysis in the Urban Design Review identifies some 'minor and less than minor' shading effects on properties to the southeast of the site. The application documents include substantial analysis of southward-facing apartments and care rooms, and commentary on the quality of outlook.

Comments received

- [136] A number of written comments have been received as to perceived shading effects from the proposed buildings, and particularly for the lower lying properties to the southeast of the site. Those written comments also identified the potential for proposed landscape planting to exacerbate shading of neighbouring properties.
- [137] Mr Reid criticises the 11 metre height standard shading line shown on the shading diagrams. He suggests the drawings should instead show the shadow cast by the proposed village layout, without any height exceedances. We do not consider that approach useful, as it would not explore the potential shading effects of other development forms. We also consider the 11 metre height standard shading line does not demonstrate a permitted baseline overall, although parts of it could be expected to occur in alternative development proposals.

Panel findings and conditions imposed

- [138] The principal methods managing sunlight access to adjoining properties are the height and HIRB standards, supported by the policies and assessment criteria. The Panel considers that height and HIRB standards do not work effectively in this case where the site has a substantial crossfall to the southeast, and the existing neighbouring houses are sited below retaining walls on, or just down-slope from boundaries. The loss of sunlight access could potentially be exacerbated by any fencing which is not visually open, or by landscape planting near the boundary. The reduction in height of buildings B.03 and B.05 would have small positive benefits on sunlight access to some of the John Rymer Place properties, in addition to adequately mitigating bulk dominance effects.

Gerontology

- [139] Ryman asserts that it is an expert in the field of providing facilities and services for the elderly, and that the design of the proposed village incorporates current best practice.²⁶
- [140] Against that, KNI introduces evidence from Lori Denise Nielson, a resident of John Rymer Place a PhD student in the field of environmental gerontology. Ms Nielson's qualifications include a master's degree in the subject, and she prepared a 31-page statement with various recommendations.
- [141] Ms Nielson acknowledges that she is a resident of John Rymer Place but says that her opinions and recommendations for the neighbourhood submissions are "...professional in nature". We note that Ms Nielson does

²⁶ Memorandum of Counsel for Ryman, 14 April 2021, paragraphs 113-127

not refer to the Environment Court's 2014 Code of Conduct for Expert Witnesses. That is an observation rather than a criticism.

[142] At 7.8 of her statement Ms Nielson strongly concludes:

Given the extent of the problems, I believe the Ryman Village application is fundamentally flawed and requires a drastic redesign. If Ryman do not agree to major design amendments, then I recommend the panel consider rejecting their application.

[143] While Ms Nielson has not provided the EPA with a personal comment opposing the Project we are advised that a member of her household has expressed strong opposition in a written comment from time to time using the pronoun, "we".²⁷

[144] Counsel for Ryman challenges the weight to be attributed to Ms Nielson's evidence by the Panel.

[145] An example of a decision in which expert evidence has been given reduced weight due to issues of advocacy/lack of independence is *Blueskin Energy Ltd v Dunedin City Council* [2017] NZEnvC 150. In that case, an expert witness had also lodged a personal submission relating to the proposal being considered by the Court. The Court found²⁸:

...Dr Stephenson made a submission on the application for resource consent strongly in support of the grant of consent... When an expert appears to take the position of an advocate this compromises the evidence they give. Given the strength of her views in the submission we are unable to give Dr Stephenson's evidence much weight, and this is so despite her assurances that her views did not taint the opinions expressed in evidence.

We acknowledge that Ms Nielson has not made a personal comment and has asserted her professionalism, but she has expressed a strongly held view and is referred to indirectly by another commenter in her household who, in turn, expresses a strongly held view from time to time using the pronoun, "we". For similar reasons expressed by the Court in *Blueskin*, we find ourselves unable to give significant weight to Ms Nielson's evidence.

Operational Traffic

Potential effects

[146] The proposal acknowledges that there will be potential operational traffic effects from the proposed retirement village, as an intensive mixed use activity. These effects would be on traffic and pedestrian safety, traffic flows and access efficiency, parking and traffic congestion. These effects

²⁷ Bill Harris of 2b John Rymer Place

²⁸ Paragraph 203 of the decision (footnote 167)

need to be managed by design of the proposal and by the traffic and parking management applied to the site. It was also noted that any intensive (Mixed Housing Urban) residential activity on the Site will have operational traffic effects similar to the proposed village. In this circumstance, the potential effects could be managed and coordinated by a single Village operator (being Ryman).

Comments received

[147] Auckland Council and Auckland Transport traffic engineers provided comments on operational traffic.

[148] Other written comments received included the following concerns (paraphrased):

- (a) Traffic effects of the access onto Kohimarama Road have not been suitably considered;
- (b) Use of 7 John Rymer Place as access and not for residential purposes;
- (c) Traffic from the surrounding schools is already of concern and space is limited. The proposal will result in more traffic;
- (d) The retirement village will cause parking overflow issues, add congestion and add to crash risk for residents;
- (e) The retirement village will have profound long and short-term implications for the community, as well as traffic patterns;
- (f) The total number of units, due to effects on traffic flows and infrastructure;
- (g) The entrance to the retirement village on Kohimarama Road, and the increase in population and therefore traffic effects;
- (h) Risk of slope instability and damage as a result of the construction of the development and underground carparking;
- (i) Future traffic as regards students and elderly along Allum Street;
- (j) Outputs of the SIDRA Traffic modelling were questioned;
- (k) Pedestrian (student) safety and increased traffic congestion and associated noise/pollution impacting quality of life from operational traffic; and
- (l) Surrounding streetscape is heavily congested and the proposal will trigger higher numbers of traffic movements on a 24/7 basis.

[149] Ryman's written response to the comments received included evidence

from traffic experts Leo Hills (Commute) and Terry Church (Flow), addressing those concerns. The consent conditions proposed by Ryman as part of its application already seek to address much of the relief sought by Auckland Council and Auckland Transport, but further amendments have been proposed in response to the comments provided.

- [150] We note that there remains a relatively high level of disagreement on detailed aspects of traffic management, between the Auckland Council traffic engineer and the applicant's traffic experts Mr Hills and Mr Church. The consent conditions proposed by Ryman as part of its application already address much of the relief sought by the other written comments received.
- [151] Overall, Mr Hills and Mr Church confirm their opinion that operational traffic and parking effects can be appropriately managed through the design and the consent conditions proposed by Ryman.

Panel findings and conditions imposed

- [152] The Panel finds that the applicant and its traffic experts have planned adequately for operational traffic effects and the design and proposed conditions of consent will be able to manage those effects. The consent conditions proposed by Ryman as part of its resource consent application already seek to address much of the relief sought by Auckland Council and Auckland Transport, but further amendments have been proposed in response to the comments received.
- [153] The Panel also accepts that any intensive (Mixed Housing Urban) residential activity on the Site could have operational traffic effects similar to the proposed village. In this circumstance, the potential effects could be managed and coordinated by a single Village operator (being Ryman).
- [154] The Panel also considers it appropriate to apply a condition for a s 128 review of conditions. This will confirm that operational traffic management is working satisfactorily after the first residential building is occupied, and then again when the whole retirement village is operational, or if not, then provide for necessary changes to be made.

Construction Traffic

Potential effects

- [155] There will be potential construction traffic effects, considering the scale of the Project, amount of earth to be moved with much to be trucked off the site, the duration of the Project, surrounding residential and school activities, and the local road conditions. It was also noted that any intensive (Mixed Housing Urban) construction activity on the Site will have temporary construction transport effects similar to the proposed

village. In this circumstance, the potential effects could be managed and coordinated by a single operator (being Ryman).

Comments received

[156] Auckland Council and Auckland Transport traffic engineers provided comments on construction traffic. Residents and KNI and the Orakei Local Board also provided comments on construction traffic. The matters of concern raised included (paraphrased):

- (a) Increased traffic volumes during construction;
- (b) Traffic effects of the access onto Kohimarama Road not being suitably considered;
- (c) Traffic exiting on John Rymer Place will build up at the lights;
- (d) Increase of traffic, particularly the interaction of construction vehicles and school movements. Also does not consider that managing traffic during school drop-off and pick-up times is a solution;
- (e) Parking, safety of Kohimarama Road / Allum Street / John Rymer Place intersection, and getting out of John Rymer Place;
- (f) Lack of right turning traffic signal into John Rymer Place;
- (g) Safety of school children;
- (h) Traffic management of high use of roundabout on John Rymer Place at present with anticipated use by trucks;
- (i) Inaccurate baseline traffic data and the point in time survey undertaken; and
- (j) Surrounding streetscape is heavily congested and the proposal will trigger higher numbers of traffic movements on a 24 / 7 basis.

[157] Ryman's written response to the comments received included evidence from traffic experts Leo Hills (Commute) and Terry Church (Flow), addressing those concerns. The consent conditions proposed by Ryman as part of its application already seek to address much of the relief sought by Auckland Council and Auckland Transport, but further amendments have been proposed in response to the comments provided. The proposed consent conditions address much of the relief sought by the other written comments received. In this regard, the proposed consent conditions include the requirement to formalise the draft construction traffic management plan that has already been prepared and, more specifically:

- (a) Limit the movement of construction vehicles during 8:15am to 9.15am and 2.30pm to 3.30pm on weekdays (the peak school periods);
- (b) Require the cleaning of vehicles prior to them exiting the site in order to avoid the deposit of material onto public roads; and
- (c) Require the preparation of pedestrian management plan – that details temporary pedestrian routes during key construction periods so that students and cyclists can safely navigate the area.

[158] In addition, and in response to comments, Ryman proposed further amendments to its consent conditions to:

- (a) Confirm that is construction workforce will not be permitted to park on the public streets around the site;
- (b) Introduce a requirement for a traffic controller to be present at the site accesses when construction vehicles are entering or exiting the site where necessary; and
- (c) Provide for the monitoring and remediation of the pavement of John Rymer Place if it is impacted by construction vehicles.

[159] Overall, Mr Hills and Mr Church confirm their opinion that construction traffic and parking effects can be appropriately managed through the consent conditions proposed by Ryman.

Panel findings and conditions imposed

[160] The Panel finds that the applicant and its traffic experts have planned adequately for construction traffic effects and the proposed conditions of consent, including a requirement for a Construction Traffic Management Plan, will be able to manage those effects.

Operational Noise and Vibration

Potential effects

[161] As an intensive residential and mixed use complex, or Integrated Residential Development, the proposed village has the potential for operational noise and vibration effects. The proposal Noise and Vibration Assessment predicts those effects to be fully compliant with the AUP rules and does not seek consent for any operational noise or vibration infringements.

Comments received

[162] Residents' and KNI written comments expressed concerns at

(paraphrased):

- (a) Operational issues;
- (b) The ongoing noise effects of any mechanical equipment for the buildings (particularly Building B.06);
- (c) Post-construction effects from low-frequency noise from mechanical equipment;
- (d) Operational low frequency noise levels from ventilation systems and generators. As the John Rymer Place valley acts as an 'echo chamber' the constant hum of machinery will amplify noise;
- (e) Operational vibration effects; and
- (f) Night-time operational noise of the village.

[163] The residents' written comments sought:

- (a) Confirmation that no mechanical plant and / or equipment will impact neighbours on a permanent basis post-completion;
- (b) Ryman to provide double glazing to adjacent houses, and / or other mitigation for operational noise and vibration;
- (c) Noise effects that are amplified by the John Rymer Place topography should be considered by the applicant's noise expert and that the EPA panel to consider this in their decision and to request mitigation measures (for operational noise); and
- (d) Provision of an assessment of operational noise effects of the village during night-time hours.

[164] Siiri Wilkening (Marshall Day acoustic and vibration consultant for Ryman²⁹) responded to the received comments, that:

- (a) Section 5.1 of the Noise and Vibration Assessment addresses noise from mechanical plant. Mechanical noise is addressed by common engineering solutions that are used for any development. Compliance with the residential noise limits will be achieved and the proposed Condition 33 ensures this outcome;
- (b) Service and rubbish vehicles should visit the Site during daytime hours only. As such vehicles would disturb the residents as much as the neighbours, site management is likely to address this issue and a condition will secure this outcome;
- (c) Likewise, any low frequency sound nuisance from mechanical

²⁹ Ryman written comments Appendix 6 Statement of evidence, Wilkening

plant would annoy the residents of the retirement village at least as much as the neighbours, and would not be tolerated, even if there were no condition limiting operational noise;

- (d) The noise calculation modelling has taken into account the topography of the John Rymer Place valley as well as other aspects such as air and ground absorption.

Panel findings and conditions imposed

[165] The Panel finds that the applicant's Noise and Vibration Assessment has appropriately evaluated operational noise associated with the proposed retirement village, and concluded it can comply with AUP requirements.

[166] Overall, the Panel considers that operational noise can be appropriately managed by the AUP standards and through the proposed conditions.

Construction Noise and Vibration

Potential effects

[167] Construction of a relatively large-scale, intensive retirement village on this site will involve commercial-grade construction methodologies and extend over a duration of three years. There will be potential construction noise and vibration effects from that construction, on the noise environment of adjacent properties and the wider valley, and in construction vibration effects on adjacent buildings and structures. The proposal Noise and Vibration Assessment predicts those effects to be largely compliant with the AUP rules and the relevant Construction Noise and Vibration Standards, and where exceeded, to be managed by a Construction Noise and Vibration Management Plan (**CNVMP**) to achieve reasonable levels of noise.

Comments received

[168] Written comments received from nearby residents and KNI raised the following concerns (paraphrased):

- (a) Increased volumes of construction traffic, which will also increase industrial noise;
- (b) Construction noise and vibration levels exceed the limits of the AUP and the proposed mitigation measures are considered inadequate;
- (c) Excessive duration of construction and associated prolonged noise and dust effects. Also questioned if compensation will be provided for property damage by vibration;
- (d) Unclear how Ryman will control noise;

- (e) The construction period for the retirement village will create huge disruption to the residents of John Rymer Place, with truck and machinery movements and noise pollution to the residential community in the area for a prolonged area;
- (f) Proposed work hours from 7 am-6 pm Monday to Saturday are not appropriate;
- (g) Vibration effects and damage to neighbouring properties. The noise assessment does not take account of the way John Rymer Place was formed (i.e. with fill);
- (h) Noise and duration of construction were raised as the commenter sleeps during the day and works at night; and
- (i) High frequency construction noise effects. As the John Rymer Place valley acts as an 'echo chamber' the constant hum of machinery will amplify noise.

[169] The written comments sought (paraphrased):

- (a) Monitoring of construction noise and vibration effects;
- (b) Any potential damage from construction to be addressed;
- (c) Limits on use of heavy and noisy construction machinery to after school drop-off and before school pick-up between Monday to Friday, with no noisy work on Saturday;
- (d) Construction hours to be modified to recognise the residential nature of the development, including a range of suggested modified hours;
- (e) Barriers erected to contain noise and dust etc to the worksite and away from neighbouring properties;
- (f) That the CNVMP include communication procedures with the occupiers notified of this application;
- (g) Mitigation options must be considered where noise/vibration levels are predicted or demonstrated to approach or exceed the relevant limits in the AUP. Specific noise/vibration mitigation measures must be implemented which may include but are not limited to; acoustic screening, time management procedures and alternative excavation/construction method technologies; and
- (h) No trucks or contractors arriving or leaving between 8am – 9.15am and 2.30pm – 3.30pm and no heavy vehicles between 7-9am and 4-6pm on weekdays.

[170] The key themes identified in the residents' written comments were addressed in the response from Siiri Wilkening (Marshall Day acoustic and vibration consultant for Ryman³⁰), including that:

- (a) The construction vibration standard (DIN4150-3) is designed to avoid any cracking of plaster and the proposed village construction will comply with that standard;
- (b) The vibration standard and the Construction Noise and Vibration Management Plan (CNVMP) will manage construction vibration effects and include mitigation options;
- (c) There will be pre-construction and post-construction condition surveys of buildings and structures adjacent to construction areas where vibration will occur;
- (d) Construction noise is addressed within the CNVMP and the conditions requiring the preparation and approval of that management plan. The highest noise levels predicted are when construction equipment is closest to the boundary. That would be limited to a few weeks (one to three) in relation to each individual adjacent property, as the equipment and activities move across the site during the construction period. Appendix C to the draft CNVMP includes a list of the 31 receivers (properties) predicted to receive noise above 70 DB LAEQ for indicative durations of one to three weeks each;
- (e) Although the construction methodology and equipment have not been finalised in detail, the predicted noise and vibration effects are based on construction experience and measured levels, and the assessment is conservative;
- (f) The noise levels received within adjacent dwellings will be reasonable;
- (g) Restricting Saturday work hours would increase the overall duration of the works;
- (h) Acoustic barriers will be used in locations and around construction machinery where they will provide effective noise mitigation. Acoustic barriers have been offered to Selwyn College;
- (i) There will be no rock-breaking on the site;
- (j) The AUP sets noise limits for construction and those limits vary to establish hours of work;
- (k) Construction traffic access noise will be within the relevant construction noise limits;
- (l) The CNVMP will include communications, community liaison and complaints procedures;
- (m) Overall, Ms Wilkening considers that the proposed village can be constructed and operated such that noise and vibration

³⁰ Ryman written comments Appendix 6 Statement of evidence, Wilkening

effects can be managed to a reasonable level;

- (n) An additional consent condition has been proposed by Ryman that limits construction hours on the site to 7.30am to 6.00pm on Monday to Saturday, noting that this limitation will not apply to low noise-creating activities such as site set-up, painting, electrical works or planting, which may occur outside of these hours on Monday to Saturday.

Panel findings and conditions imposed

- [171] The Panel finds that the applicant's Noise and Vibration Assessment has appropriately evaluated the construction noise and vibration associated with the proposed development works.
- [172] A CNVMP will provide management including avoidance, mitigation and remedy of construction noise and vibration effects, as required by the proposed conditions of consent. The Panel notes the additional condition proposed by the applicant, which limits construction hours on the site to 7.30am to 6.00pm on Monday to Saturday, with this limitation not applying to low noise-creating activities such as site set-up, painting, electrical works or planting, which may occur outside of these hours on Monday to Saturday.
- [173] Overall, construction noise and vibration effects will be temporary, and any one receiver will not be exposed to high noise or vibration activities for long periods. The Panel accepts that there will be some amenity effects on some neighbouring properties during parts of the Stage 2 and Stage 3 works where it is not practicable to manage noise to be below the permitted AUP construction noise limits. These effects have been addressed by conditions, including the preparation of a CNVMP. The Council's specialist comment considers that noise effects can generally be managed so as to be acceptable to residents through consent conditions, and we accept that recommendation.
- [174] The Panel considers that the construction noise and vibration impacts can be appropriately managed through the proposed conditions.

Contaminated Land

Potential effects

- [175] The National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health 2011 (NES Soil) applies to the earthworks to be undertaken on the site. It requires a controlled activity resource consent for the works associated with areas of potential asbestos contamination.
- [176] Tonkin + Taylor have undertaken a Ground Contamination Investigation of the Site. Concentrations for all contaminants (except asbestos) are

identified at, or below, standards for high-density residential land use.

- [177] Tonkin + Taylor have confirmed that the Site is suitable for the proposed village, subject to the implementation of limited controls to manage risks to human health associated with low levels of asbestos in soil in three defined areas of the Site. Outside of these areas, no specific contamination controls are considered necessary.
- [178] During the disturbance of the contaminated soil (either as part of a proposal to remove the soil from the Site or to encapsulate it under hard surfaces) standard earthworks controls, supplemented with personnel and equipment decontamination, signage and segregation will be implemented by Ryman to manage the low potential for exposure to asbestos. These controls will be documented in the Site Management Plan for Ground Contamination (**SMP**), the draft framework of which was included in the Ground Contamination Report appended to the application AEE.
- [179] If asbestos contaminated material is retained on-site, potential risks associated with the future disturbance of this material will be managed through the implementation of similar controls to those for earthworks. These controls will be documented in a long-term management plan.

Panel findings and conditions imposed

- [180] The Panel finds that the applicant has carried out investigations of the site contaminated soils and has proposed the appropriate consent conditions for management of earthworks in relation to the three areas of potential asbestos contamination.

Air Quality

Potential effects

- [181] The principal potential air quality effect with this site and proposal is escaping dust causing health and nuisance effects. There may also have been residual concerns about other air pollution from diesel vehicle and machinery emissions, and other construction activities such as burning of waste, which should not occur, but those concerns were not clearly stated, and we have concentrated on dust effects on air quality.

Comments received

- [182] Residents' comments expressed concerns about:
- (a) Construction effects causing air pollution including for a commenter with a severe asthma condition; and
 - (b) Operational pollution issues, from mechanical plant, generators

and incinerators.

- [183] Those comments sought that (paraphrased):
- (a) Ryman pay for two house washes per year during excavation and construction;
 - (b) Adopt measures to minimise air pollution during construction;
 - (c) Dust mitigation measures to be implemented;
 - (d) Ryman undertake pool cleaning as, and when, required;
 - (e) Provide assurances that dust won't cause asthma;
 - (f) Implementation of environmental mitigation plan and management; and
 - (g) The consent holder is to reduce dust generated during construction and to take all practicable steps to ensure dust is retained on the Site and does not emanate from the Site into neighbouring properties.
- [184] The applicant's response included that the proposed consent conditions require Ryman to ensure that construction activities on the site do not result in any airborne and deposited dust beyond the boundary of the site that is noxious, objectionable or offensive. This includes taking all practicable action to prevent dust generation beyond the boundary of the site and the implementation of suppression measures in general accordance with the 'Good Practice Guide for Assessing and Managing Dust', Ministry for the Environment (2016).
- [185] Notwithstanding the above, Ryman has amended the requirements of the proposed Construction Management Plan (**CMP**) to identify the circumstances when a wash-down of the exterior of immediately adjacent dwellings will be offered (i.e. at the end of a dry summer or the completion of bulk earthworks on part of the site).

Panel findings and conditions imposed

- [186] The Panel notes that the applicant has not applied for consent to 'discharge to air' of dust beyond the boundaries of the site. Regardless, conditions are designed to manage the effects of dust, including specific CMP requirements for wash-down of adjacent properties and to ensure no airborne and deposited dust beyond the boundary of the site that is noxious, objectionable or offensive. Checking of the CMP for approval should include assessment of the proposed dust management methodology in more detail, such as the use of a water truck, covering of spoil and preparation for wind events.

Geo-technical issues

Potential effects

[187] Many adjacent properties have existing retaining walls and foundations at or near the boundary of the site, at Kohimarama Road and 3A John Rymer Place above, and at other parts of John Rymer Place mainly below the site. The proposal involves bulk earthworks and re-contouring, re-locating of a stream further northwards, extensive new foundation and roading works, and groundwater changes, all of which could have potential effects on geo-technical stability of the land and adjacent retaining walls and buildings, if not well-managed. Those effects could be caused by substantial or abrupt ground level changes, allowing rainwater into exposed earth surfaces, vibration from machinery and construction techniques, and groundwater drawdown, amongst other sources.

Comments received

[188] A number of written comments were received from adjacent residents, concerned for geo-technical stability of their own existing and Ryman-proposed retaining walls and house foundation settlement, and at a broader scale stability of the site during and after bulk earthworks, podium excavation and foundations, and the re-location of the stream. Retention of existing vegetation was requested, in part to assist ground stability.

Panel findings and conditions imposed

[189] The Panel finds that the applicant has designed the proposal with geo-technical stability firmly in consideration, including for some, as yet undecided construction methodologies, and has satisfied the Council peer reviewer of that with corrected information, and additional monitoring and assessment conditions.

[190] The proposal includes conditions on design, construction methodology, monitoring, and supporting of cut surfaces, and for pre- and post-construction condition reports on adjacent buildings and structures, in relation to vibration and groundwater drawdown. There is extensive retention of existing vegetation on the steeper southern slopes.

[191] The Panel finds that potential effects will be managed by the assessment, monitoring and proposed conditions.

Light Spill and Glare

Potential effects

[192] As larger buildings accommodating full-time residential and service activities, the proposed retirement village will have extensive lighting, and the potential for light spill and lighting glare onto the surrounding neighbourhood and adjacent houses.

Comments received

[193] Residents' written comments, including from KNI, raised the issue of potential light spill and glare from lighting, and called for a lighting plan to meet 'dark skies standards'.

[194] The applicant's response to the received written comments included an assessment of light spill from the proposed light fixtures, by lighting consultant firm Cosgroves, which confirmed that the lighting standards for permitted activities in Chapter E24 of the AUP will be achieved. The applicant also confirmed that construction lighting will be minimal, as needed for health and safety purposes and potentially some morning works, and that lighting will not be directed towards neighbours.

Panel findings and conditions imposed

[195] The Panel finds that exterior lighting will be designed to comply with the AUP standards, and that the applicant has not applied to infringe those standards.

Riparian Yard

Potential effects

[196] Re-location of the stream further east towards the Kohimarama Road (and 3A John Rymer Place) properties will mean that the AUP 10-metre riparian yard rule (H5.6.9) would extend over parts of those sites.

Comments received

[197] KNI notes that the application includes the relocation of the intermittent stream closer to the northeast boundary as shown on Tektus drawing 400, and advises that four of its members will be directly affected by the applicant's proposal which imposes a 10m Riparian Yard Control onto private property, limiting the freedoms of those property owners. In principle, KNI does not believe that Ryman should be entitled to undertake work of this nature for its own sole benefit without due consideration or compensation to the neighbours that it has a negative impact upon.

- [198] Individual written comments were received on the riparian yard and stream re-location issue, from Kompeni Trust (Andrew Prins), Peter Willems, Michelle Brinsden, Margaret Williamson and Fam Chan, and from the Orakei Local Board. They considered it is Ryman's choice to daylight the stream, and not a requirement of Auckland Council, and that it would have an impact on the neighbouring properties.

Panel findings and conditions imposed

- [199] The purpose of the riparian yard rule is to ensure buildings are adequately set back from lakes, streams and the coastal edge to maintain water quality and provide protection from natural hazards, for example flooding. It is a restricted discretionary activity to build within the riparian yard, and this requirement for a resource consent would be the likely practical implication of the yard moving with the stream, rather than the prevention of building.
- [200] Riparian yards, as with coastal yards and esplanade reserve requirements, are not fixed to a point on the ground, as they are measured in relation to the current state of the stream or mean high water springs as surveyed at the time of development or subdivision.
- [201] The proposed Ryman development building B.01 is sited within 10 metres of the re-located stream, with a number of building parts within 2 or 3 metres of the edge of the stream. The four affected residential sites are on higher ground and have existing retaining walls holding their building platforms well above the stream. In a practical sense, there is very little scope for structures on these properties to be extended towards a relocated stream edge but, if development is sought, there is scope via a resource consent for a restricted discretionary activity.
- [202] The Ryman proposal includes lengthening and re-forming the stream and landscape planting along the riparian margins, which will maintain and enhance water quality, enhance ecology and habitat, and protection against flooding.
- [203] The Ngāti Whātua Ōrākei Iwi Management Plan 2018 seeks high quality and sustainable surface water management and stream and terrestrial ecology, including by stream daylighting (Desired Outcome 24 of that iwi management plan), which is provided in part by daylighting and re-forming the stream and by the proposed riparian planting.
- [204] Nothing further in riparian margin function should be required of any redevelopment of the adjacent properties. We do not consider further conditions are required in relation to the riparian yard and stream location, beyond the riparian margin works and planting currently proposed by Ryman.

Flooding

Potential effects

[205] The way that stormwater currently runs off the site to the (partly piped) stream and the overland flowpaths could potentially result in exacerbated flooding of the properties adjacent to the southeast boundary of the site if the impervious area is increased and stormwater is not well-managed.

Comments received

[206] Auckland Council Healthy Waters (stormwater department) commented that there is sufficient redundancy and mitigation in the stormwater design; potential off-site flooding effects to 17 and 19 John Rymer Place and 27A and 47 John Rymer Place are adequately mitigated; and on-site flooding effects from the proposal are adequately mitigated.

[207] Residents' comments expressed concerns on (paraphrased):

- (a) Inadequate consideration of the impact on stormwater runoff from development;
- (b) Increased impervious areas on the site will exacerbate flood events already resulting from heavy rain events;
- (c) Slope stability, in particular for residents located next to historic drainage channels: and
- (d) Diversion of stormwater across the site was requested, to discharge to the stream valley south of the site.

[208] The applicant's response to the comments (Tektus stormwater engineering consultant for Ryman³¹) advised that:

The existing and proposed stormwater management regimes in relation to the project have been subject to extensive assessments, including comprehensive peer reviews by Auckland Council;

The proposed management approach will mitigate adverse flooding / stormwater effects and improve on the existing conditions downstream of the site, including through 19/19A John Rymer Place and its shared driveway with 17 John Rymer Place. The existing conditions result in poorly controlled overland flows that concentrate through 17 John Rymer Place and continue down the shared driveway. The proposed arrangement will reduce the frequency and scale of this flood hazard, and improve on the alignment of flood flows to further reduce the existing hazard;

Several layers of redundancy have been designed into the proposed on-site stormwater systems, including a weir and pre-emptive flood retention at the low point of the retirement village access road, and these will be subject to a comprehensive and rigorous long-term

³¹ Ryman written comments, Appendix 1 Response Summary

operation and maintenance regime; and

The existing site and surrounding topography preclude the diversion of stormwater flows to alternative external alignments.

Panel findings and conditions imposed

[209] The Panel observes that Auckland Council stormwater experts agree with the applicant's stormwater management assessment and approach to stormwater and flood management and improved outcomes will result. The existing experience of flooding on adjacent properties may not have been the worst case of a 1 in 100-year flood. The panel accepts that the designers have considered and planned for managing that more severe rainfall event. The daylighting and lengthening of the stream on the site, combined with its riparian planting, will also contribute to flood management. The conditions imposed are to support and implement the applicant's stormwater management proposal.

Water Supply and Wastewater Disposal

Potential effects

[210] The site needs connection to the reticulated water supply (the proposal also includes a bore and water take for amenity planting irrigation) and wastewater sewer network.

Comments received

[211] Watercare Services Limited (**Watercare**) provided written comments, not raising effects issues, subject to the imposition of standard conditions that relate to matters for engineering plan approval, being wastewater and water supply connections in accordance with Watercare's requirements.

[212] While Ryman does intend to construct the necessary water and wastewater connections in accordance with the relevant standards administered by Watercare, most of the conditions Watercare has proposed do not, in Ryman's opinion, relate to a resource management purpose. In this regard, matters relating to the need to obtain engineering plan approval and the scope of information to be submitted as part of that process do not serve a resource management purpose – and do not seek to avoid, remedy or mitigate the potential adverse effects of the retirement village. Furthermore, conditions stating that there is sufficient capacity in Watercare's water and wastewater network do not serve a resource management purpose. In short, the applicant's response to the Watercare comments was that the engineering plan approval process would manage service connections.

Panel findings and conditions imposed

- [213] The Panel considers that some of the conditions earlier proposed by Watercare, which were reiterated in briefer form in the Council comments on the draft conditions, are appropriate as regards achieving a fire-fighting standard of water supply and preferred water supply connection, and preferred pumping station and wastewater main connection.

Freshwater Ecology and Water Quality

- [214] Potential effects on water quality, freshwater and terrestrial ecology were outlined in sections 7.8 and 7.10 of the AEE, the Ecological Assessment report provided by Freshwater Solutions (Appendix K, AEE) and an Arboricultural Assessment by Tree Management Solutions (Appendix 8, AEE). Corresponding specialist technical reports on these matters were provided by Auckland Council on 24 March at our request.
- [215] The Freshwater Solutions report focused on the watercourse diversion and restoration and concluded that due to the intermittent status of the watercourse, the piped network upstream and downstream of the Site, and its low ecological status, that overall, the proposed realignment and restoration of the watercourse will have a positive effect. The restored watercourse will increase the amount of open watercourse habitat and improve the existing habitat by way of instream and riparian habitat enhancements. This is expected to significantly enhance the quality of habitat for banded kokopu.
- [216] A Native Fish Capture and Relocation Plan is proposed in condition 112 to be prepared and implemented by Ryman prior to the diversion of the intermittent watercourse.
- [217] While the earthworks associated with the proposed village have the potential to result in sediment run-off to the intermittent watercourse, provided all earthworks within the Site are completed in accordance with the relevant Auckland Council guidelines (i.e., GD05), Freshwater Solutions conclude that there will be no adverse effects on the downstream receiving environment of Pourewa Creek.

Comments received

- [218] Auckland Council specialist Arsini Hanna provided comments regarding stormwater management and erosion and sediment control and stream works. Both considered the proposed stormwater management for the site is considered to be the best practicable option to mitigate the stormwater runoff and to adequately avoid or suitably mitigate effect and achieve the relevant AUP objectives and policies.
- [219] Auckland Council's specialist Christina Bloom provided a memorandum

on 04 June 2020 in which she concluded that with the proposed erosion and sediment controls and compliance with GD05 the resulting effects on the environment from sediment discharges during the earthworks will be able to be appropriately managed. She reached a similar conclusion with regard to stream works, considering that the ecological effects can be appropriately managed, that there will be no net loss in terms of aquatic habitat and consistency with the relevant AUP provisions can be achieved.

- [220] In her addendum dated November 2020, Ms Bloom maintained her earlier conclusions but recommended additional conditions of consent in regard to the proposed weirs to comply with the monitoring and information requirements of regulations 62, 64, 68 and the Fish Passage Monitoring and Maintenance Plan requirements of regulation 69 of the NES:FW 2020.
- [221] In response to our invitation for comments, Ms Bloom provided a further addendum dated 19 March 2021 where she noted the proposal for the stream diversion had changed in the revised application material for the FTA process to now include the addition of a vertical stormwater riser at the downstream end of the diverted stream channel. She considers that the riser presents a significant barrier to native fish passage which would have consequences for the potential value of the stream and affect the calculated SEV Ecological Compensation Ratio used in the project design to address effects of the stream works.
- [222] According to Ms Bloom the vertical riser meets the definition of culvert for the purposes of the NES:FW 2020 because it is a pipe with an inlet and outlet that connects the water of the same stream. She considers the 'novacoil' spiral ramp proposed by Ryman to provide for fish passage in the culvert is an unproven device that could present difficulties in relation to its ongoing functioning and maintenance. Her recommendation was for the applicant to consider alternatives or construct a concrete grouted spiral ramp.

Panel findings and conditions imposed

- [223] Notwithstanding her preference for an alternative solution, Ms Bloom has recommended updated conditions to enable review and further remediation or offsetting to be undertaken should the spiral ramp prove to be ineffective for fish passage through the vertical culvert (riser), it can be remediated and any associated impact on the ecological value to the upstream habitat can be addressed. We note Ryman has incorporated Ms Bloom's additional conditions in this respect and with final feedback from Council on the circulated draft conditions we consider that compliance with the NES:FW2020 will be achieved.
- [224] Ms Bloom also commented that the vertical culvert (riser) is likely to require an authorisation under the Freshwater Fisheries Regulations

1983 from the Department of Conservation. Accordingly, we have referred to this matter by way of an advice note.

Terrestrial Ecology & Bird Life

[225] With regard to terrestrial ecology we note that no specific assessment was provided as part of the AEE although the Arboricultural Assessment (Appendix H of the AEE) covers the status of vegetation on the site, the majority of which is exotic and weed species and none of which is identified as significant vegetation or notable in the AUP. A Tree Management Plan will be prepared to address the management of retained vegetation including the Pohutukawa Trees along Kohimarama Road.

Comments received

[226] In her memorandum dated 23 October 2020, Auckland Council Senior Ecologist Carol Bergquist did not raise any concerns with the Project noting that the western bush area will be retained, and landscape planting and stream restoration will continue to provide the habitat and water access onsite essential for many bird species, particularly tui and kereru.

[227] A number of comments were received from KNI and other local residents concerned about the potential loss of vegetation and bird life. These parties sought a condition requiring a “full Environmental Management Plan” including a Lizard Management Plan, retention and protection of existing native vegetation, early planting of significant native vegetation, large specimens and inclusion of an ongoing pest trapping programme. We note that Dr Bergquist did not respond specifically to these matters and we received no comments from either the Minister of Conservation/DOC or Forest and Bird.

Panel findings and conditions imposed

[228] Generally we are satisfied that the proposed amended conditions 52 - 57 in relation to landscape and tree management appropriately provide for retention, protection and enhancement of the existing vegetation areas, ongoing weed control and include appropriate detail on the grade of trees to be planted.

[229] An issue we feel is somewhat unresolved relates to the proposed planting schedule. Richard Reid’s evidence for KNI was critical of some of the selected exotic species in the Site Tree Plan considering them inappropriate in a landscape sense and in light of the approach being taken by The Tūpuna Maunga o Tāmaki Makaurau Authority to remove and replace similar species on Auckland’s maunga with natives. We consider this point has some relevance from an ecological and mana whenua perspective, particularly in light of the comments in the CIA from

Ngāti Whātua Ōrākei as regards terrestrial biodiversity and prioritisation of the establishment of native species.

- [230] In our view it is not overly clear from the site tree schedule and landscape plans that native species have been prioritised to maximise ecological and mana whenua values. We have therefore proposed additional detail in conditions 5(b) (mana whenua engagement) and 52 and 55 (landscaping) providing for matters such as a review of the planting schedule by Ngāti Whātua Ōrākei to ensure species selection adequately supports native bird life, vegetation clearance without affecting bird nesting and more robust implementation, maintenance and scope for review.

Historic Heritage/Archaeological Values

- [231] The Archaeological Assessment by Clough & Associates states that the Site has no known archaeological values of significance and considers the potential for there to be unidentified sub-surface sites is low. A standard consent condition relating to the accidental discovery of archaeological material was proposed by Ryman.
- [232] Auckland Council did not provide any specialist commentary on heritage values.

Comments Received

- [233] Comments were received from Heritage New Zealand Pouhere Taonga (HNZPT) after examining historical aerial photography. HNZPT suggested that terraces on the south western portion of the site that were identified as natural in Clough & Associates assessment could be an extension of archaeological site R11/1196 (destroyed by residential development in the lower end of John Ryman Place). As such, they considered subsurface archaeological remains could be present and that an Archaeological Authority is likely to be required.
- [234] In the event that an Archaeological Authority is not obtained, HNZPT recommended an alternative accidental discovery protocol condition. The Minister for Arts, Culture and Heritage the Hon Carmel Sepuloni provided comment in recognition of HNZPT's recommended conditions and advice note and sought the opportunity to review the draft conditions.
- [235] In response to the comments received Clough & Associates advised that Site R11/1196 was recorded as a "possible" archaeological site (although unconfirmed) and the potential feature is up to 170 m distant from the Ryman's site. Clough & Associates remain of the view that the 'terrace' features are not "archaeological" and are more accurately be described as ridges and gullies and maintain their opinion that an authority is not required. Ryman have however proposed to add an advice note to

condition 17 stating:

This accidental discovery protocol applies to any parts of the application area not covered by an archaeological authority issued under the Heritage New Zealand Pouhere Taonga Act 2014.

Panel findings and conditions imposed

[236] On the basis of Clough & Associates' assessment and the CIA which did not identify the site as a wāhi tapu we consider that potential effects on archaeological values are unlikely and can be addressed by a condition and advice note. Taking on board comments received on the circulated conditions from Auckland Council and HNZPT, the amended condition now appropriately provides for oversight and involvement of these parties and for Ngāti Whātua Ōrākei's role in cultural monitoring as envisaged by the CIA and Iwi Management Plan 2018.

Positive effects

[237] Legal submissions from the applicant describe potential positive effects. The Panel must have regard to the positive effects of the proposed Village. Some of the substantial positive effects are acknowledged by commenters and many commenters note that the use of the site for a retirement village is appropriate. The comment from the Minister for Land Information supporting the Application states that the proposed village:

Is in line with the purpose of the Fast Track Act and will assist the community to provide for their social, economic, and cultural wellbeing;

The development of housing stock and amenities will contribute to housing and care of an ageing population, while reducing pressure on the housing market;

Will provide employment and economic benefits; and

Aligns with the provisions of the relevant National Policy Statements.

[238] The substantial benefits of the proposed village are addressed in the application material. In summary, the applicant contends that³²:

The proposed village will make a strong contribution to the well-being of current and future generations by contributing to the wellbeing and health and safety of one of the most vulnerable demographics: the elderly. Allowing elderly residents to remain living within their community and "age in place" close to their families and places of interest will make a significant contribution to their wellbeing. The provision of specialist continuum care from independent living in apartments, to assisted living, rest-home and hospital care, and care for residents with dementia will ensure residents only need to move once and will have almost all of their amenity and healthcare needs

³² Supra at para 166.1

met on the site.

[239] The applicant asserts a number of additional public benefits, including³³:

- (a) Increasing housing supply by providing a modern and top-quality living environment.
- (b) Addressing the lack of retirement and aged care in New Zealand, which is at crisis point. Homes for the elderly in Auckland are desperately needed.
- (c) Helping ease demand on the general residential housing market. Growth in retirement village units is faster than growth in the general housing stock, and older New Zealanders free up their often large and age-inappropriate family homes to the general market when they move to a retirement village.
- (d) Supporting national direction to ensure that planning decisions enable the supply of housing needed to meet demand, as set out in the NPSUD.
- (e) Making highly efficient use of a scarce land resource. The Site is ideally suited for the proposed village given its size and suitability for high density residential living, and would be difficult to develop as a traditional residential subdivision. Sites that are appropriate for retirement villages are extremely rare to find due to size and locational requirements, particularly in the Auckland central region. The proposed village will therefore represent a highly efficient use of a scarce land resource.

[240] In any event, the applicant states that it does not rely on any positive effects to 'balance out' any adverse effects of the proposed village. All potential adverse effects of the proposed village are considered by the applicant to have been fully addressed by its expert witness team on their merits and have been avoided or mitigated to appropriately low levels. That said, if the Panel disagreed with the nature and scale of the effects presented by Ryman, the applicant submits that the positive benefits do weigh strongly in favour of approval, particularly when viewed in light of the purpose of the FTA and the provisions of the NPSUD.

Panel findings and conditions imposed

[241] The principal issues in contention are the adverse effects of the proposed building heights on the bulk and location, and the effects of construction.

[242] The Panel largely agrees with the applicant's assessment of positive effects and considers that those positive effects will partly offset the adverse effects of the building heights, bulk and location. An intensive residential and mixed use Integrated Residential Development can make more efficient use of this large site than a standard residential development. The compact building footprint combined with additional height enables greater retention of existing vegetation and open space

³³ Memorandum of counsel dated 14 April 2021, para 166.2

on the site.

- [243] The Panel also finds that there are adverse dominance and visual impact effects, on a localised area along John Rymer Place, which will not be offset by positive effects. That is reflected in our overall assessment of building height and dominance effects.

Summary of Effects

- [244] The Evaluation of Effects passages above identified the potential and actual effects and their principal issues of contention, between the applicant and variously the nearby residents, KNI, the Ōrākei Local Board, Auckland Transport and Auckland Council. Some of those issues have been resolved by suggested changes to conditions.
- [245] The Panel has indicated where it is satisfied with the proposed effects as modified by the proposed and amended conditions. Construction effects can be mitigated by appropriate conditions.
- [246] The Panel's only remaining issue in contention is the contribution to overall height and bulk dominance, and visual impact made by buildings B.03 and B.05. We are not prepared to consent to the present plans for these buildings. However, we accept that our concerns can be met by a condition as to certification of revised plans for reducing the height of these two buildings prior to the construction of any buildings on the site. This is given effect to by Condition 43, as referred to in Condition 1.
- [247] For the avoidance of doubt, Condition 43 is intended to operate as a pre-condition to the construction of buildings B.01, B.02, B.04, B.06 and B.07 views of which, from points to the east and south, will be mitigated to some extent by buildings B.03 and B.05 in a reduced form, resulting in a perception of predominantly three storey buildings given the shape, gradient and orientation of the Site.

PART F: NATIONAL POLICY CONSIDERATIONS

- [248] The only National Policy Statements addressed by Ryman are the National Policy Statement on Urban Development 2020 (**NPSUD**) and the National Policy Statement on Freshwater Management 2020. We accept that the Project does not confront any other National Policy Statements.

National Policy Statement on Urban Development 2020

[249] We also accept that we are required to consider the relevant NPSUD objectives and policies applicable at the present time, rather than speculate on the outcome of future plan change processes undertaken to implement the NPSUD.

[250] Ryman invites us to conclude that the granting of consent for the Project will help achieve the objectives and policies of the NPSUD and it advances various arguments for that,³⁴ before saying that it does not rely on the NPSUD because the Project was designed before it was effective and stands on its own merits.³⁵

[251] We have considered the NPSUD in relation to this Project and accept that some of its objectives and policies are advanced by it.

[252] The predecessor to the NPSUD was the National Policy Statement of Urban Development Capacity (UPS 2016) about which the Environment Court observed:³⁶

The UPS requires evaluation in the context of “national significance” within which planning endeavours are to be undertaken and which will allow “urban” environments to develop and change. Accordingly, our conclusion is that a more future-oriented, outcome-focused conclusion than what might have been the case otherwise and common-place before the promulgation of the UPS is envisaged.

[253] In our view, the NPSUD can be said to play a similar role in relation to future-oriented urban growth outcomes which might previously had been over-shadowed by local amenity considerations. Our observation is that the NPSUD has picked up and restated the future-oriented urban growth goals of its predecessor, the UPS 2016. The Court in *Summerset* observed that:³⁷

...we recognise the use of critical language in these provisions of the UPS. Deliberately, it seems to us, the authors of the document have deployed the words “*change*” and “*future*”. Unarguably, the use of these terms intends a future focus for development planning.

We think that the same can be said for the NPSUD.

[254] Additionally, in the context of the AUP it should be acknowledged that the UPS 2016 and the NPSUD 2020 emerged from the same political and economic landscape, but independently of that Plan. In short, there is a mutuality as to expectation for future urban development which includes change from historic levels of housing typology and amenity to something more intense.

³⁴ Memorandum of Counsel, 14 April 2021 at paras 171.1 - 171.5

³⁵ *Supra* at para 172

³⁶ *Summerset Villages (St Johns) Ltd v Auckland City Council* [2019] NZEnvC173 at para 50

³⁷ *Supra* at para 46

- [255] The NPSUD is yet to be implement by the AUP but some elements of likely implementation can be anticipated for the AUP, mainly being minimum six storey building height limits within walking distance of the city centre and metropolitan centres and rapid transit stations.
- [256] The context here is that the Glen Innes and Orakei rail stations are too far from this site, and the frequent if not rapid bus services past the site do not have a separated bus lane at this time and are therefore not deemed to be a rapid transit service. Presently the site is not within walking distance of a metropolitan centre or a rapid transit station, but that could change.
- [257] KNI and Mr Reid contend the NPSUD would be unlikely to change the plan provisions for this Mixed Housing Urban (intensive) zoned site or the adjacent less-intensive Mixed Housing Suburban neighbourhood. In response, Ryman's counsel submitted that we cannot speculate in advance of a Council plan change how implementation of the NPSUD might look for this MHU zone and potential intensification above present levels. He argued and that in some way the decision of the Court of appeal in *Hawthorn* means it would be unlawful to speculate on what the outcome of future plan changes might be to give effect to the NPSUD.³⁸
- [258] It is possible that Plan changes to implement the NPS could introduce further intensification to the site and its surrounding neighbourhood, particularly along the Kohimarama Road ridgeline. However, its equally possible that there will be little material change to the key components of the residential MHU zone for this area. Regardless of the extent to which *Hawthorn* might or might not lend support to the position, we think that it is unhelpful to speculate as to what might occur. That said, we think that there is a range of possibilities, from no material change to considerable change.
- [259] The current proposal being an intensive, integrated residential development, efficiently fitted to its large, partially vegetated, and sloping site sits within the range of potential planning outcomes anticipated by the NPSUD. Also, we are conscious that regard must be had to residential amenity, but that the NPSUD anticipates that change may improve amenity for some people and detract from amenity appreciated by others, in the pursuit of a 'well-functioning urban environment' within a tier 1 city.
- [260] In our view, the present proposal is not inconsistent with the NPSUD 2020 and we accept that some of its objectives and policies are advanced by it.

³⁸ Memorandum of counsel 14 April 2021 at paragraph 169

National Policy Statement on Freshwater Management 2020

- [261] The National Policy Statement for Freshwater Management 2020 is relevant to the Project. It was assessed in section 8.2 of the AEE. That assessment concluded the proposal will be consistent with the objective and policies of the NPSFM relating to the management of water in an integrated and sustainable way.
- [262] We find that the design and management of the proposed stream works, which include stream restoration and enhancement through daylighting, riparian planting and fish management, along with appropriate stormwater and erosion and sediment control measures, appropriately reflects the overall objective, the concept of Te Mana o te Wai and ensuing policies. The engagement undertaken to date with Ngāti Whātua Ōrakei and provision for further involvement also supports the objective and policies. Therefore, we consider that the Project is consistent with the NPSFM 2020.

NES-FW

- [263] The AEE did not specifically assess the Resource Management (National Environmental Standards for Freshwater) Regulations 2020 (**NES-FW**). Auckland Council were the only party who provided comments in relation to the requirements for the proposed weirs and culvert. Council recommended additional consent conditions to ensure monitoring and information and fish passage requirements of the NES-FW were complied with. These conditions were largely accepted by the applicant and we have adopted these incorporating feedback from Auckland Council³⁹. We are therefore satisfied that the Project is consistent with the NES-FW.

Treaty of Waitangi and Treaty Settlements

- [264] Given that the proposed village is being constructed on land leased to Ryman by Ngāti Whātua Ōrakei our assumption is that the iwi has had in depth discussions with Ryman regarding iwi expectations for the development of the site. We note in section 5.11 of the AEE that Ryman states these discussions are ongoing and that the CIA provided indicates support for the proposal.
- [265] With regard to the comment received from Hon Kelvin Davis Minister for Māori Crown Relations (Te Arawhiti) noting Ngāti Whātua Ōrakei is the landowner and recommending we confirm agreement in writing to lease the land (as per s18(3)(b) of the FTCA. Given that Ryman have a 150-year lease of the property and Ngāti Whātua Ōrakei have provided their approval we do not consider it necessary to qualify this by seeking confirmation of agreement in writing to lease the land. Further, Hon Andrew Little commented that he had considered matters specific to his

³⁹ Refer to conditions 119-126

portfolio as Minister for Treaty of Waitangi Negotiations and as the minister responsible for the Marine and Coastal Area (Takutai Moana) Act 2011 and had no comment on the application.

- [266] The involvement of Ngāti Whātua Ōrākei through their relationship with Ryman and as provided for by the consent conditions ensures that:
- (a) the relationship of Māori and their culture and traditions with their ancestral lands, water, sites, wāhi tapu, and other taonga (s6(e)) will be recognised and provided for;
 - (b) Historic heritage sites will be protected (s6(f));
 - (c) particular regard to kaitiakitanga (s7(a)) will be had; and
 - (d) the principles of the Treaty of Waitangi (s8) are appropriately taken into account.

Iwi Management Plans

- [267] The Ngāti Whātua Ōrākei Iwi Management Plan 2018 (Te Pou o Kāhu Pōkere) is relevant to our assessment. In section 8.4 of the AEE Ryman provide an overview of key statements of Ngāti Whātua Ōrākei interests and values as they apply to the proposal. We generally concur with the assessment provided in the AEE and record that the CIA concludes that the design of the proposal finds support in the outcomes sought in the Iwi Management Plan. The relevant design elements include the proposed daylighting and restoration of ecological values of the watercourse through increasing the length and area of available habitat, and riparian planting.
- [268] The stormwater management system proposed will provide for appropriate treatment and avoid the direct discharge of stormwater into the Pourewa catchment. Retention of much of the existing vegetation on the site and extensive replanting, including the use of native species, is also proposed. Although no known sites of significance to Ngāti Whātua Ōrākei have been identified, accidental discovery protocols have been offered by Ryman as part of the conditions of consent. Ryman has responded to Ngāti Whātua Ōrākei recommendations around construction waste minimisation advising that its own construction team will undertake construction and are experienced in minimising the transportation of excess fill from a site and waste reduction on construction sites. The mana whenua condition 5(c) also provides for the involvement of Ngāti Whātua Ōrākei in the preparation and implementation of the Construction Waste Minimisation Plan required by condition 16.
- [269] While we acknowledge there is a relationship and ongoing dialogue

between Ryman and Ngāti Whātua Ōrākei, the CIA did clearly recommend a role for the iwi and its various arms/entities in the implementation of resource consent conditions. As we did not see a clear definition of this role in either Ryman or Auckland Council's proposed conditions, we have drafted Ngāti Whātua Ōrākei Engagement Plan conditions as described above in paragraph [64].

PART G: AUCKLAND UNITARY PLAN

[270] As would be expected, Ryman and its experts assert that its AEE identifies the relevant AUP objectives and policies and provides an analysis which demonstrates that the Project is consistent with the outcomes sought by the AUP.⁴⁰

[271] Much of the focus of Council's Planner, Ms Hsiao and the Consultant Planner for Kohimarama Neighbours Incorporated, Mr McManus on Policies H5.3(2) and (4). We accept that the most relevant MHU objectives and policies are H5.3(1), (2) and (4). We accept that these policies need to be read together, and in light of the relevant objective H5.3. The policies are set out in full at paragraph [285] below but for present purposes the most relevant read:

Policy H5.3(1)

Enable a variety of housing types at higher densities, including low-rise apartments and integrated residential development such as retirement villages.

Policy H5.3(2)

Require the height, bulk, form and appearance of development and the provision of sufficient setbacks and landscaped areas to achieve an urban built character of predominantly three storeys, in a variety of forms.

Policy H5.3(4)

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.

[272] Ryman has directed us to the consideration of Policy H5.3(2) by the Environment Court in the *Summerset* decision.⁴¹ In particular, Ryman refers us to various passages in the *Summerset* decision at paragraphs [19], [36] and [42]. In this respect, Ryman's counsel is emphasising observations by the Court in *Summerset* which assists its case but

⁴⁰ Memorandum of Counsel dated 14 April 2021 paras 173 - 174.

⁴¹ *Supra* at para 55

without reference to various helpful contextual matters. For example, the *Summerset* site is not as steep and that application was for *3-storey built form covering 53 percent*.⁴² Another relevant matter is that the St John site in the *Summerset* decision mostly appears to be a spot zone of MHU, whereas this site is at the eastern end of a ribbon of Kohimarama Road MHU with an MHS zone suburban interface in something akin to a topographical bowl or arena.

- [273] What is helpful is the Court's discussion of the intent of the policies and the real-world applicability of policy H5.3(2) which, as here, "...occupied most of this evidence...and which required the height bulk form and appearance of development and the provision of sufficient setbacks and landscaped areas to "achieve an urban built character of predominantly three storeys in a variety of forms".⁴³
- [274] The Court in *Summerset* observed that the word "require" gives some priority to this provision relative to policies to "enable, recognize or encourage". We agree, and we also accept that the reference to compatibility with the surrounding residential area in assessment criteria at 5.8.1(3) and 5.8.2(1)(b) directs Plan users and decision-makers to consider effects on that area. This proposal has to consider viewers 'stacked' up and away on an opposite slope with views into the Project at the same level as some floors of the buildings.
- [275] At [34] and [35] of the decision in *Summerset* the Court records:
- [34] Our conclusion is that the proper meaning of the AUP wording as to compatibility is that there must be some features of the development allowing the residential and MHU zones to interact and relate to one another.
- [35] In this case, that is clearly done (and accepted by all witnesses) in relation to the adjoining residential areas by the increased setback...etc
- [276] Given the topography of this site and its environs, setback alone of over-height buildings will not achieve the necessary interface qualities sought by the AUP policy direction.
- [277] As a discretionary activity overall, the assessment of the proposal is not limited to the identified matters of discretion, however they do provide a focus of attention. The standards that must be met by an integrated residential development include H5.6.4 Building height; H5.6.5 Height in relation to boundary; H5.6.6 Alternative height in relation to boundary; H5.6.7 Height in relation to boundary adjoining lower intensity zones; H5.6.8 Yards. Infringement of any those standards is a restricted discretionary activity.

⁴² *Summerset* decision, para [19]c

⁴³ *Summerset* decision, para [29]

[278] Where standards are infringed, the AUP identifies the matters to be considered at C1.9:

(3) when considering an application for a resource consent for a restricted discretionary activity for an infringement of a standard under Rule C1.9(2), the Council will restrict its discretion to all of the following relevant matters:

- (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.

[279] In summary, infringement of the height standard requires consideration of relevant objectives and policies, the purpose of the height standard, relevant special characteristics of the site such as topography and aspect; form of existing adjacent development; existing and proposed landscape planting character), and effects of the height infringement. There is very little overlap between the effects of the different types of standard infringement. The height-in-relation-to-boundary infringements (that we know of) relate to the Selwyn College boundary and the Ministry of Education has consented to those.

[280] The yard infringements relate to the pedestrian bridge adjacent to Kohimarama Road and the riparian yard infringements are part of an overall re-located and replanted stream internal to the site. It is the cumulative effect of these infringements that is to be holistically considered.

[281] Guidance is also provided at H5.8:

H5.8. Assessment – restricted discretionary activities

H5.8.1. Matters of discretion: The Council will restrict its discretion to all of the following matters when assessing a restricted discretionary activity resource consent application:

(3) for integrated residential development:

- (a) the effects on the neighbourhood character, residential amenity, safety, and the surrounding residential area from all of the following: (i) building intensity, scale, location form and appearance; (ii) traffic; (iii) location and design of parking and

access; and (iv) noise, lighting and hours of operation.

- (b) All of the following standards: (i) Standard H5.6.9 Maximum impervious areas; (ii) Standard H5.6.10 Building coverage; (iii) Standard H5.6.11 Landscaped area; (iv) Standard H5.6.12 Outlook space; (v) Standard H5.6.13 Daylight; (vi) Standard H5.6.14 Outdoor living space; (vii) Standard H5.6.15 Front, side and rear fences and walls; and (viii) Standard H5.6.16 Minimum dwelling size.
- (c) Infrastructure and servicing

[282] These matters of discretion apply to effects on neighbourhood character, residential amenity, safety, and the surrounding residential area, with a focus within this topic on building intensity, scale location, form and appearance. That assessment has been undertaken in the application, Council and other expert review, and in the section on Evaluation of Effects – Urban Design and Visual Impact.

[283] H5.8.1 matters of discretion also address building height:

- (4) for buildings that do not comply with Standard H5.6.4 Building height, (and/or other identified standards)... :
 - (a) any policy which is relevant to the standard;
 - (b) the purpose of the standard;
 - (c) the effects of the infringement of the standard;
 - (d) the effects on the urban built character of the zone;
 - (e) the effects on the amenity of neighbouring sites;
 - (f) the effects of any special or unusual characteristic of the site which is relevant to the standard;
 - (g) the characteristics of the development;
 - (h) any other matters specifically listed for the standard; and
 - (i) where more than one standard will be infringed, the effects of all infringements.

[284] As to the purpose of the relevant standards, their purpose can be derived from the H5.2 Objectives:

- (1) Land near the Business – Metropolitan Centre Zone and the Business – Town Centre Zone, high-density residential areas and close to the public transport network is efficiently used for higher density residential living and to provide urban living that increases housing capacity and choice and access to public transport.
- (2) Development is in keeping with the neighbourhood's planned urban built character of predominantly three-storey buildings, in a variety of forms and surrounded by open space.

- (3) Development provides quality on-site residential amenity for residents and adjoining sites and the street.
- (4) Non-residential activities provide for the community's social, economic and cultural well-being, while being compatible with the scale and intensity of development anticipated by the zone so as to contribute to the amenity of the neighbourhood.

[285] The relevant policies to achieve these objectives are at H5.3:

- (1) Enable a variety of housing types at higher densities, including low-rise apartments and integrated residential development such as retirement villages.
- (2) Require the height, bulk, form and appearance of development and the provision of sufficient setbacks and landscaped areas to achieve an urban built character of predominantly three storeys, in a variety of forms.
- (3) 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.
- (4) 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.
- (5) Require accommodation to be designed to meet day to day needs of residents by: (a) providing privacy and outlook; and (b) providing access to daylight and sunlight and providing the amenities necessary for those residents.
- (6) Encourage accommodation to have useable and accessible outdoor living space.
- (7) Restrict the maximum impervious area on a site in order to manage the amount of stormwater runoff generated by a development and ensure that adverse effects on water quality, quantity and amenity values are avoided or mitigated.
- (8) Provide for non-residential activities that: (a) support the social and economic well-being of the community; (b) are in keeping with the scale and intensity of development anticipated within the zone; (c) avoid, remedy or mitigate adverse effects on residential amenity; and (d) will not detract from the vitality of the Business – City Centre Zone, Business – Metro Centre Zone and Business – Town Centre Zone.
- (9) Enable more efficient use of larger sites by providing for integrated residential development.
- (10) Recognise the functional and operational requirements of activities and development.

[286] In relation to the relevant policies, the height infringements:

- (a) Enable a variety of housing types at higher densities, including low-rise apartments and integrated residential development such as

proposed retirement village.

- (b) Support a height, bulk, form and appearance of development and the provision of sufficient setbacks and landscaped areas to achieve an urban built character of predominantly three storeys, in a variety of forms.
- (c) Support attractive and safe streets and public open spaces (school grounds) including by providing for passive surveillance and optimising front yard landscaping, while allowing provision of garaging within a podium rather than in multiple garages across the site.
- (d) Allow the height, bulk and location of the proposed development to maintain a reasonable standard of sunlight access and privacy and to minimise visual dominance effects to adjoining sites, if proposed buildings B.03 and B.05 are reduced in height.
- (e) Enable accommodation to be designed to meet day to day needs of residents by providing privacy and outlook; and by providing access to daylight and sunlight and providing the amenities necessary for those residents.
- (f) Recognise the functional and operational requirements of the retirement village activities and development.
- (g) Enable a more compact building footprint to support useable and accessible outdoor living space.
- (h) Enable a more compact impervious area on the site in order to support the management of the amount of stormwater runoff generated by the development and ensure that adverse effects on water quality, quantity and amenity values are avoided or mitigated.
- (i) Provide for overall building bulk sufficient to accommodate extensive associated non-residential activities that: (a) supports the social and economic well-being of the community; (b) are in keeping with the scale and intensity of development anticipated within the zone; (c) avoid, remedy or mitigate adverse effects on residential amenity; and (d) will not detract from the vitality of the Business – City Centre Zone, Business – Metro Centre Zone and Business – Town Centre Zone.
- (j) Enable more efficient use of this larger site by providing for integrated residential development.

[287] Overall, the height infringements are not inconsistent with the policies.

[288] The purpose of the height standard (H5.6.4) is to manage the height of

buildings to:

- (a) contribute to urban built character of predominantly three storeys;
- (b) minimise visual dominance effects;
- (c) maintain a reasonable standard of residential amenity for adjoining sites; and
- (d) provide some flexibility to enable variety in roof forms.

- [289] Relevant special characteristics of the site include the challenging topography and aspect; the form of existing adjacent development being houses mainly either above or below retaining walls; and extensive existing and proposed landscape planting character. The topography (site crossfall to the southeast), stream and existing vegetation support a more compact building footprint and all support the absorption of the visual impact of 'stacked', taller buildings.
- [290] Relevant special characteristics of the proposed development include the low-lying houses to the southeast of the site vulnerable to potential domination by over-height structures up-slope to the north of them. The amenity of this part of the neighbourhood can be better protected by some reduction in the height of buildings B.03 and B.05, with an added small benefit of greater sun access.
- [291] The existing dense mainly native vegetation in the southern part of the site is to be retained and enhanced by pest species removal and supplementary native planting. Both that existing, retained and enhanced vegetation and the proposed new landscape planting are significant mitigating features for the visual effects of height and bulk.
- [292] Effects of the height infringement on the environment, and specifically on the urban built character of the zone and the amenity of neighbouring sites are assessed in the AEE and its supporting technical Urban Design and Landscape and Visual Impact expert reports and evidence, and the expert reviews, and evaluated in the section on Evaluation of Effects – Urban Design and Visual Impact above.
- [293] With regard to Chapter B6 “Mana Whenua” we consider the existing relationship between Ryman and Ngāti Whātua Ōrakei, the findings of the CIA together with the conditions aligns with the objectives and policies of this chapter, providing for recognition of Te Tiriti o Waitangi partnerships and participation, mana whenua values, Māori economic, social and cultural development, and protection of mana whenua cultural heritage.
- [294] Although the policies might appear to address a wider range of issues than might initially be apparent from the H5.2 Objectives, we find that

standing back and reading them as a whole, they provide clear and unconfusing guidance as to the purpose of the zone.

PART H: CONDITIONS

- [295] A summary of the comments received on conditions is attached at Appendix 2. We have generally covered discussion on conditions within our findings for each topic and do not intend to repeat that here. However, there are two matters that warrant some further explanation.
- [296] Understandably, construction noise has been the subject of numerous comments on the draft conditions. We are mindful of the potential effects on residential amenity. The Panel has re-read the report by Marshall Day Acoustics submitted by Ryman and peer reviewed by Auckland Council, and we have reflected on the AUP provisions for construction noise.
- [297] The AUP provisions express limits in measures of dB LAeq and dB LAFmax (Lmax). LAeq is a calculation of average noise energy over a given period (sometimes described as equivalent continuous sound level) weighted to achieve a response that is similar to the frequencies detectable by the human ear. Lmax is measurement of peak noise. Lmax events directly correlate to average noise over a period. A reasonably low average noise limit will only be achievable if Lmax events are rare or at least infrequent for any given period. The shorter the period, the less tolerant a low average noise level will be of one-off spikes.
- [298] It is the nature of construction that noise sources will vary, and emission levels will be unpredictable. The AUP acknowledges this and provides limits for more sensitive times of the day and night. We are generally satisfied that construction noise levels can be successfully managed within these limits, but it will require careful attention to site management. Conditions 25(g) – (i) are intended to set minimum requirements for appropriate site management and for effective communications with close neighbours.
- [299] The experience of the Panel is that effective, on-going channels of communication with residents is crucial to successful management of construction noise and it is envisaged that the Community Liaison Group will play a key role in this process. With appropriate levels of attention to detail and care, we are satisfied that the conditions we have settled on will provide a reasonable level of residential amenity during construction.
- [300] An issue raised by at least one commenter was the size of new specimen trees for specific locations in the landscape plan. A call for up to 300L specimens was considered and discounted because establishment

enablement issues for transplanting large specimens can result in little more than short term mitigation when what is intended here is a medium to longer-term outcome for significant buildings. Notwithstanding the short-term effects of new buildings in this landscape, we are generally satisfied that successful establishment and subsequent growth can achieve the desired mitigation with the plant sizes referred to in the draft conditions.

- [301] We are satisfied that the adverse effects of the Project are capable of remedy or mitigation through the imposition of the appended Conditions, and that is the principal reason for granting these consents. These final Conditions approved by us have had the benefit of input from Auckland Council, KNI and some other commenters, and an independent expert review. Any further refinement can be made through an RMA variation process.
- [302] Condition 43 as discussed requires changes to buildings B.03 and B.05. These requirements were signaled in an advice note on the draft conditions circulated for comment. Ryman provided a brief response saying that it preferred the original draft conditions, but that if evidence on re-design options would assist the Panel, it could be provided. We concluded that we would not be assisted by additional evidence at the 11th hour and are satisfied that alternative plans can be certified by the Council in due course.
- [303] Notably the Ryman response did not allege that the purpose of the FTA would be undermined or affected in any meaningful way and whilst we accept that the proposal is for an integrated facility, there is no evidence as to any economic threshold relating to any component parts. In the circumstances, we have concluded that the positive effects of the changes to buildings B.03 and B.05 will not have a counter effect that undermines the ability of the Project to meet the purpose of the FTA.

PART I: RMA 1991, PART 2

- [304] As we have already observed, there is nothing unclear about the relevant AUP Objectives and Policies, or what they set out to achieve. That appeared to be the conclusion of the Court in *Summerset*⁴⁴ and we endorse it. Assessing the Project against the policies required careful thought, but it was not an exercise that left us in any doubt about the purpose of the AUP or whether it had been competently prepared. In our view, the AUP provisions have been competently prepared and further reference Part 2, RMA would not add anything to the evaluative

⁴⁴ *Summerset*, supra

exercise.⁴⁵

- [305] That said, Schedule 6, Clause 9(1)(g)(i) provides that every application for a referred project must include an assessment of the activity against Part 2 of the RMA. The matters to which we must have regard when considering a referred application for consent are expressed as being subject to Part 2⁴⁶, therefore, for the sake of completeness we have undertaken our own assessment of relevant Part 2 matters.
- [306] Having reviewed the AEE and its Appendices and all the information and comments received, both on the AEE and the draft conditions, we consider that the Project, to the extent approved by us, will better enable the communities of Auckland to provide for their social and economic wellbeing and for their health and safety. It will also sustain the potential of Kohimarama to meet the reasonably foreseeable needs of future generations by contributing to the supply of housing in and around that part of Auckland. Controls on the diversion and daylighting of the stream will safeguard its life supporting capacity and its intrinsic values.
- [307] The Project will better enable the efficient use and development of this limited physical resource, an open-space site in the heart of an established residential area. The relationship of Ngāti Whātua Ōrākei and their culture and heritage with the site will be enhanced and post-construction, the Project will result in well-functioning urban design that is consistent with the NPSUD.⁴⁷
- [308] Overall, the Project to the extent approved and subject to the attached conditions is consistent with Part 2.

PART J: FINAL DECISION

- [309] We are satisfied that the FTA, Schedule 6 (Clause 31) considerations are all met and that the dual purposes of the FTA and the RMA are achieved by this Decision.
- [310] Except for the final design of Buildings B.03 and B.05 as discussed, the consents are granted as sought subject to the Conditions appended to this Decision.

⁴⁵ *Davidson*, supra

⁴⁶ Schedule 6, clause 31(1)

⁴⁷ Objective 1, NPSUD 2020

[311] As required by Clauses 38 and 45 of Schedule 6, FTA persons entitled to appeal are to commence any appeals within the 15-day working period from the day they are notified of this Decision.



Ian Gordon (Chair)



Trevor Mackie (Member)



Juliane Chetham (Member)

APPENDIX 1

Summary of Comments Received

Name/organisation	Summary of comments
Andrew Hope	Height above the Unitary Plan Visual impact Construction noise, vibration, dust, pollution Limit construction work hours Truck traffic in narrow streets Congested street parking from construction workers Post construction traffic congestion Removal of bush and loss of bird life
Hon Andrew Little	No comment
Andrew Prins	Height above the Unitary Plan Visual impact Request for photo simulations for 247a Kohimarama Rd Construction noise, vibration, dust, pollution, and work hours 6 days per week Riparian margin concerns Removal of bush and loss of bird life
Anna Hill	Height above the Unitary Plan Visual impact Post construction traffic congestion Post construction infrastructure congestion
Anthony and Shariffa Buckland	Height above the Unitary Plan Visual impact Post construction traffic congestion
Belinda Hope	Height above the Unitary Plan Visual impact Construction noise, vibration, dust, pollution, and work Limit construction work hours Truck traffic in narrow streets Congested street parking from construction workers Post construction traffic congestion Removal of bush and loss of bird life
Bill Harris	Height above the Unitary Plan Visual impact Construction noise, vibration, dust, pollution, and work ending at 6pm, 6 days per week Large number of trucks Post construction traffic congestion Operational light pollution Loss of views Removal of bush and loss of bird life
Bruce and Kathryn Herbert	Height above the Unitary Plan Visual impact Request for photo simulations for 247a Kohimarama Rd Construction noise, vibration, dust, pollution, and work hours 6 days per week Traffic safety Removal of bush and loss of bird life
Carol Smith	Height above the Unitary Plan Visual impact Construction and post construction traffic congestion Operational light pollution Devaluation of property

Name/organisation	Summary of comments
Caroline Blair	Height above the Unitary Plan Visual impact Construction noise, vibration, dust, pollution, security light pollution, and traffic congestion Large number of trucks Removal of bush and loss of bird life
Christopher and Sandra Taylor	Height above the Unitary Plan Construction noise, vibration, dust, pollution Construction workers street parking Post construction traffic congestion Removal of bush and loss of bird life
David Evans	Height above the Unitary Plan Visual impact Construction noise vibration, dust, pollution and traffic congestion Removal of bush and loss of bird life
Dawn Evans	Height above the Unitary Plan Visual impact Construction noise vibration, dust, pollution and traffic congestion
Deidre Little	Height above the Unitary Plan Visual impact Construction noise vibration, dust, pollution and traffic congestion Post construction traffic congestion Removal of bush and loss of bird life
Ericia Shin	Construction traffic a hazard for school children Construction noise vibration, dust, pollution and traffic congestion
Fam Chan	Height above the Unitary Plan Visual impact
Helen Hope	Height above the Unitary Plan Visual impact Construction noise, vibration, dust, pollution, and work Limit construction work hours Truck traffic in narrow streets Congested street parking from construction workers Post construction traffic congestion Removal of bush and loss of bird life
Hengjiang Wei, Ting Li and Victor Wei	Height above the Unitary Plan Visual impact and shading Environmental effects are more than minor Construction noise, vibration, dust, pollution, and work ending at 6pm, 6 days per week Large number of trucks Post construction traffic congestion Pedestrian safety esp during school hours Risk of flooding
Hironori Yanagisawa	Height restrictions above the Unitary Plan Visual impact Construction noise, dust, pollution, work 6 days per week Truck traffic
Hon Damien O'Connor	Support application
Hon Kelvin Davis	Applicant needs agreement in writing to lease the land
James Evans	Height restrictions above the Unitary Plan Visual impact

Name/organisation	Summary of comments
	Construction noise, vibration, dust, pollution, work day duration and 6 days per week Removal of bush and loss of bird life
James and Maureen Kyle	Height restrictions above the Unitary Plan Visual impact Construction noise, dust, pollution, traffic Post-construction increase in traffic Influx of rats and local burglaries due to construction site
Janet Austin	Removal of bush, green space and loss of bird life Height and bulk of development Height restrictions above the Unitary Plan Construction noise, dust, pollution, 6 days per week Congested street parking from construction workers Post construction traffic Traffic management around vehicle access points to Selwyn College Decrease in property values
Jennifer Zea	Height above the Unitary Plan Visual impact and shading Construction noise, dust, pollution, 6 days per week Truck traffic Operational noise, lighting, and increase in traffic Decrease in property values Loss of vegetation and bird life
John O'Grady	Height above the Unitary Plan Visual impact and shading Construction noise, dust, pollution, 6 days per week Truck traffic Operational noise, lighting, and increase in traffic
Jun Li	Truck traffic Operational traffic and parking Pedestrian safety
Kelly Beange	Height above the Unitary Plan Visual impact Truck traffic Operational traffic and parking Environment impact during construction to be scrutinised
Kevin O'Grady	Height above the Unitary Plan Visual impact and shading Construction noise, dust, pollution, 6 days per week Truck traffic Operational noise, lighting, and increase in traffic
Kim Harrop	Height, and bulk impact Visual impact Construction noise, dust, pollution, 6 days per week Truck traffic Congested street parking from construction workers Operational noise, lighting, and increase in traffic Loss of vegetation and bird life Decrease in property values
Laith Rubiae and Sama Hassan	Height above the Unitary Plan Visual impact and shading Construction noise, dust, pollution, 6 days per week Truck traffic Congested street parking from construction workers Construction workers outside schools Risk of flooding

Name/organisation	Summary of comments
	Pedestrian safety esp during school hours Decrease in property values Loss of vegetation and bird life
Leanne Wellington	Height above the Unitary Plan Visual impact and shading Construction noise, dust, pollution Loss of vegetation, green space and bird life
Leon Baumgarten	Height and bulk Visual impact and shading Truck traffic Loss of vegetation, green space and bird life
Louise Evans	Height restrictions above the Unitary Plan Visual impact Construction noise, vibration, dust, pollution, work day duration and 6 days per week Removal of bush and loss of bird life
Maggie Chan	Auckland builders don't need more work Increase in traffic and pedestrian safety Removal of bush, green space and loss of bird life
Michael Padfield	Sewage and Stormwater system not adequate for increase
Michelle Brinsden	Height above the Unitary Plan Bulk of development Visual impact Construction noise, vibration, dust, pollution, night security lighting, times and days of work Large number of trucks Congested street parking from construction workers Post construction traffic congestion, esp rush hours and school hours Future riparian boundary Removal of bush and loss of bird life
Mika Austin	Height above the Unitary Plan Construction noise, 6 days per week Large number of trucks Pedestrian safety for school children
Money and Lawrence Ponniah	Height above the Unitary Plan Large number of trucks Congested street parking from construction workers Post construction traffic congestion, esp rush hours and school hours
Nicholas Nigro	Height above the Unitary Plan Visual impact Removal of bush and loss of bird life Construction noise, vibration, dust, pollution, and work ending at 6pm, 6 days per week Large number of trucks Congested street parking from construction workers Stability of development site on in-filled land
Oliver and Margaret Williamson	Height above the Unitary Plan Riparian margin concerns
Patrick Langhran	Height above the Unitary Plan Bulk of development Visual impact Construction noise, vibrations Operational low and ultra-low noise and low level vibrations Traffic modelling, including parking

Name/organisation	Summary of comments
Paul Marquart	<p>Previous application to Auckland Council received a lot of opposition</p> <p>Application isn't needed to provide employment as builders in full employment in Auckland</p> <p>Construction noise, vibration, dust and excavated dirt pollution, and work ending at 6pm, 6 days per week</p> <p>Truck traffic</p> <p>Visual impact and shading</p> <p>Height above the Unitary Plan</p> <p>Bulk of development</p>
Raluca Caseanu	<p>Height above the Unitary Plan</p> <p>Bulk of development</p> <p>Visual impact of roof top services equipment</p> <p>Construction noise, vibration, dust, pollution, and work ending at 6pm, 6 days per week</p> <p>Large number of trucks</p> <p>Congested street parking from construction workers</p> <p>Post construction traffic congestion, esp rush hours and school hours</p> <p>Operational light pollution at night</p> <p>Loss of views</p> <p>Removal of bush and loss of bird life</p>
Rachael Ferris	<p>Height above the Unitary Plan</p> <p>Bulk of development</p> <p>Visual impact</p> <p>Construction noise, vibration, dust, pollution, and work ending at 6pm, 6 days per week</p> <p>Large number of trucks</p> <p>Congested street parking from construction workers</p> <p>Post construction traffic congestion and parking</p> <p>Operational light pollution at night</p> <p>Operational noise</p> <p>Removal of bush and loss of bird life</p>
Reena Ramsaroop	<p>Construction noise and truck traffic noise</p> <p>Operational low and ultra-low noise and low level vibrations</p> <p>Stormwater not adequate</p> <p>Removal of bush and loss of bird life</p> <p>Decrease in property values</p>
Regunathan Shanmuganathan	<p>Increase in traffic</p> <p>Removal of bush and loss of bird life</p>
Roger and Miriam Gray	<p>Height above the Unitary Plan</p> <p>Visual impact and shading</p> <p>Increase in traffic</p> <p>Construction noise, vibration, dust, pollution, and work ending at 6pm, 6 days per week</p> <p>Removal of bush and loss of bird life</p>
Roy and Miri Cohen	<p>Height above the Unitary Plan</p> <p>Visual impact and shading</p> <p>Environmental effects are more than minor</p> <p>Construction noise, vibration, dust, pollution, and work ending at 6pm, 6 days per week</p> <p>Large number of trucks</p> <p>Post construction traffic congestion</p> <p>Pedestrian safety esp during school hours</p> <p>Risk of flooding</p>
Sandra Evans	<p>Increased traffic noise</p>
Shelley Johnston	<p>Height above the Unitary Plan</p>

Name/organisation	Summary of comments
	Visual impact and shading Construction noise, vibration, dust, pollution, 6 days per week beginning at 7.00am Truck traffic Post-construction increase in traffic, impact of school drop-off and pick-up
Siti Prins	Construction noise and traffic, 6 days per week Large number of trucks Congested street parking from construction workers Post construction traffic congestion Pedestrian safety esp during school hours
Suresh Patel	Height above the Unitary Plan Bulk of development Visual impact Post construction traffic congestion, esp rush hours and school hours Construction work occurring 6 days per week
Teresa Bodzassy	Height above the Unitary Plan Bulk of development Visual impact and shading Construction noise, vibration, dust, pollution, 6 days per week Large number of trucks Post construction traffic congestion and parking in John Rymer Place Safety around school drop-off zones Removal of bush and loss of bird life
Thomas Dietz	Height above the Unitary Plan Construction noise, vibration, dust, pollution, 6 days per week Large number of trucks Congested street parking from construction workers Operational noise and light pollution Decrease in property values Removal of bush and loss of bird life
Tim and Catherine Ratcliffe	Height above the Unitary Plan Construction noise, vibration, dust, pollution, 6 days per week Large number of trucks Congested street parking from construction workers Operational noise and light pollution Removal of bush and loss of bird life
Vincent Tsui	Height above the Unitary Plan Visual impact and shading Construction pollution Post construction traffic congestion Pedestrian safety, esp children
Yulia and Kerry McKenzie	Height above the Unitary Plan Bulk of development Visual impact Construction noise, vibration, dust, pollution, 6 days per week Post construction traffic congestion, esp rush hours and school hours Loss of views
Kohi Neighbours Inc	Height above the Unitary Plan Visual impact and shadowing Construction noise, vibration, dust, pollution, 6 days per week

Name/organisation	Summary of comments
Auckland Council	<p>Large number of trucks Congested street parking from construction workers Post construction traffic congestion, light and noise pollution Pedestrian safety esp during school hours Removal of bush and loss of bird life</p>
Cocoroko Securities Limited	<p>Height and bulk of development above Unitary Plan Visual impact Construction noise, vibration, dust, pollution, and beginning at 7.30am, Large number of trucks Congested street parking from construction workers Post construction traffic congestion Operational noise and light pollution Decrease in property values</p>
Heritage New Zealand	<p>authority under the HNZPT Act 2014 should be sought to enable works to be carried out on site</p>
Orakei Local Board	<p>Height above Unitary Plan Visual impact Post construction traffic congestion Operational noise and light pollution Relocation of overflow stream</p>
Trest Developments Ltd	<p>Construction noise, pollution Large number of trucks Post construction traffic congestion</p>
Ben and Gemma Gribble	<p>Height and bulk of development Visual impact and shadowing Construction noise, vibration, dust, pollution, and beginning at 7.30am, Large number of trucks Post construction traffic congestion, esp rush hours and school hours Removal of bush and loss of bird life</p>
Bruce Patterson	<p>Height and bulk of development Visual impact and shadowing Construction noise, vibration, dust, pollution, and beginning at 7.30am Large number of trucks transiting the property Post construction traffic congestion Pedestrian safety esp during school hours Removal of bush and loss of bird life</p>
Liz Patterson	<p>Height and bulk of development Visual impact and shadowing Construction noise, vibration, dust, pollution, and beginning at 7.30am Large number of trucks transiting the property, traffic management plan needed to protect pedestrians Post construction traffic congestion Pedestrian safety esp during school hours Removal of bush and loss of bird life</p>

APPENDIX 2

Summary of Comments on Draft Conditions

Source	Summary of Comments
Oliver and Margaret Williamson	Do not think it is necessary for Ryman to encroach on our property for Riparian planting of trees and shrubs. They would much prefer a fence to be built on the true boundary of our property to give complete separation from the project.
Maggie Chan	Object to the project as it will make traffic worse and is not good for the landscape of this area
Heritage New Zealand Pouhere Taonga	Supports condition 17 related to the accidental discovery protocol that should apply to any parts of the application area not covered by an archaeological authority.
Teresa Bodzassy	<p>Provided specific comments around Condition 34.</p> <p>Draft conditions do not mention zoning for buildings of heights as those proposed.</p> <p>These two roads are not "identified corridors" for urban growth and intensification.</p> <p>This proposed development is not in keeping and is incongruous with the neighbourhood's planned urban character of predominately three-storey buildings.</p> <p>The height to boundary, as in the proposed plans, needs to be reviewed on a scale more favourable to the existing and future residents, and not 2 to 1 in favour of Rymans, and be so significantly outside the Unitary Plan.</p>
Ngāti Whātua Ōrākei	<p>We would like to be provided a copy of the Construction Waste Minimisation Plan</p> <p>With the accidental discovery protocol 17c Ngāti Whātua Ōrākei would like to be notified at the same time</p>

	<p>as the Heritage New Zealand Regional Archaeologist</p>
Orakei Local Board	<p>The Ōrākei Local Board does not support the proposal in its current form and requests that the application be declined.</p> <p>The Orakei Local Board maintain a consistent line – the compliance to the thresholds and levels specified in the Unitary Plan is unconditional.</p> <p>Draft conditions appear to address pre-construction and during construction, but the Local Board is still concerned about effects post construction.</p> <p>A condition should be prescribed for collaborative planning of traffic flows with Auckland Transport.</p> <p>Request to be represented in the Community Liaison Group.</p> <p>The draft conditions are silent about the Pourewa Creek. Some condition to prescribe full testing and capacity to handle the volume of discharge is required.</p> <p>Conditions need to be considered with the Local Board’s plans for the Pourewa Valley, Kepa Bush and Glen Innes to Tamaki Drive Shared Path. In reference to the latter, there are intentions to build links to the shared path through John Rymer Place. Any retirement village construction needs to integrate the environmental and structural headwind that an additional link through John Rymer Place may incorporate.</p>
Roy and Mariana Cohen	<p>Requested specific changes to various conditions.</p> <p>General feedback</p> <ul style="list-style-type: none"> • Although the Panel has amended the proposed conditions of consent, the

	<p>draft conditions are not robust enough to respond to the significant concerns that affected neighbours raised through the consenting process.</p> <ul style="list-style-type: none"> • Richard Reid identified issues and differences between the plans provided with the consent application. These should be corrected and the correct versions referred to in the conditions of consent. • A condition should be provided requiring the consent holder to maintain a point of contact for residents to raise any issues that arise during the consent, e.g. noise and dust.
Christopher Taylor	Requested changes to specific conditions
Andrew Prins	Does not feel their concerns have been addressed in the draft conditions. These matters are addressed in their comments on draft conditions.
Michelle Brinsden and Peter Willems	Provided specific comments on conditions
Tim Ratcliffe	<p>Almost no changes to construction proposals.</p> <p>Concerns around the height of Building 06</p>
Hengjiang Wei, Ting Li, and Victor Wei	<p>Provided specific comments on draft conditions.</p> <p>General Feedback</p> <ul style="list-style-type: none"> • Although the Panel has amended Ryman Healthcare’s proposed conditions of consent, the Wei’s do not consider the draft conditions to be robust enough to respond to the significant concerns they, and other affected neighbours, raised through the consenting process. • Richard Reid identified issues and differences between the plans provided with the consent application.

	<p>These should be corrected and the correct versions referred to in the conditions of consent.</p> <ul style="list-style-type: none"> • A condition should be provided requiring the consent holder to maintain a point of contact for residents to raise any issues that arise during the consent, e.g. noise and dust. • A condition should be included to provide that all works on site are suspended during COVID19 Levels 3 and 4 when residents will be required to stay home for a long period of time.
Patrick Laughran	Provided specific comments on conditions
Kohi Neighbours Incorporated	<p>Provided specific comments on conditions</p> <p>General Comments</p> <p>Upholds that the height, bulk and dominance of the project is inappropriate for the neighbourhood, contrary to the intent of the AUP, and not supported by the NPS-UD. Design modifications, including removing levels from several or all of the buildings, must be undertaken as a condition of, or precedent to, the approval of the development.</p>
Reena Ramsaroop	Provided specific comments on conditions
Auckland Council	<p>Provided specific comments on conditions</p> <p>General Comments</p> <p>The council's preferred approach to condition wording is to (generally) state "<i>must</i>" rather than "<i>shall</i>". It is recommended that conditions are amended to reflect this.</p> <p>Rather than referring to the "<i>Team Leader Monitoring and Compliance – Central</i>", or to other Council departments such as Healthy Waters, conditions should refer to</p>

“the Council” and the following advice note should be included:

For the purpose of compliance with the conditions of consent, “The Council” refers to the council’s monitoring officer, unless otherwise specified. Please email monitoring@aucklandcouncil.govt.nz to identify your allocated officer.

APPENDIX 3

Conditions of Consent

CONSENT CONDITIONS

RYMAN HEALTHCARE LIMITED – COMPREHENSIVE CARE RETIREMENT VILLAGE (223 KOHIMARAMA ROAD AND 7 JOHN RYMER PLACE)

GENERAL CONDITIONS

These conditions apply to all resource consents.

1. Except as required by the condition 43 and other conditions that follow, these consents shall be undertaken in accordance with the documents and drawings submitted with the application, detailed below, and all referenced as resource consent numbers, and as approved by this consent:
 - Bundled resource consent for Ryman Kohimarama Comprehensive Care Retirement Village dated 12 May 2021;
 - Land use consent (s9 land use consent) for Ryman Kohimarama Comprehensive Care Retirement Village dated 12 May 2021;
 - Discharge consent (s14 and s15 stormwater permit) for Ryman Kohimarama Comprehensive Care Retirement Village dated 12 May 2021;
 - Land use streamworks consent (s13 and s14 streamworks consent) for Ryman Kohimarama Comprehensive Care Retirement Village dated 12 May 2021;
 - Water consent (s14 groundwater permit) for Ryman Kohimarama Comprehensive Care Retirement Village dated 12 May 2021;
 - Water consent (s14 water permit) for Ryman Kohimarama Comprehensive Care Retirement Village dated 12 May 2021; and

Application Form and Assessment of Environmental Effects prepared by Mitchell Daysh Limited, titled “Ryman Healthcare Limited, Proposed Comprehensive Care Retirement Village, 223 Kohimarama Road and 7 John Rymer Place, Kohimarama, Auckland, Resource Consent Applications and Assessment of Environmental Effects” including its Appendices, signed and dated 12 February 2021.

Plan title	Author	Ref	Rev	Dated
Cover Page	Beca	044-RCT-S01-A0-000	D	November 2020
Contents Page	Beca	044-RCT-S01-A0-001	F	

				12.04.2021
Location Plan	Beca	044-RCT-S01-A0-002	A	4.02.2020
Existing Site Plan	Beca	044-RCT-S01-A0-003	B	9.04.2021
Proposed Site Plan with Aerial	Beca	044-RCT-S01-A0-004	A	4.02.2020
Site Master Plan	Beca	044-RCT-S01-A0-010	C	9.04.2021
Site Plan Level 0 Basement	Beca	044-RCT-S01-A0-020	C	3.04.2020
Site Plan Level 1	Beca	044-RCT-S01-A0-030	B	3.04.2020
Site Plan Level 2	Beca	044-RCT-S01-A0-040	C	3.04.2020
Site Plan Level 3 Podium and Setbacks	Beca	044-RCT-S01-A0-050	B	3.04.2020
Site Plan Level 4 and Setbacks	Beca	044-RCT-S01-A0-060	B	3.04.2020
Site Plan Level 5	Beca	044-RCT-S01-A0-070	B	3.04.2020
Site Plan Level 6	Beca	044-RCT-S01-A0-080	B	3.04.2020
Site Plan Level 7	Beca	044-RCT-S01-A0-090	B	3.04.2020
Site Plan Level 8	Beca	044-RCT-S01-A0-100	B	3.04.2020
Site Roof Plan	Beca	044-RCT-S01-A0-110	B	3.04.2020
Site Elevations	Beca	044-RCT-S01-A2-010	B	26.11.2020
Site Fencing	Beca	044-RCT-S01-A3-010	A	4.02.2020
Site Sections	Beca	044-RCT-S01-A3-020	C	12.04.21
Site Sections	Beca	044-RCT-S01-A3-030	D	12.04.21
Site Sections	Beca	044-RCT-S01-A3-031	A	3.04.2020
Sections	Beca	044-RCT-S01-A3-032	B	22.05.2020
Site Sections	Beca	044-RCT-S01-A3-040 ¹	C	8.05.2020
Sections	Beca	044-S01-A3-041	B	22.05.2020
Detail Interface Sections	Beca	044-RCT-S01-A3-050	B	26.11.2020

¹ Except where superseded by Tektus drawing 200 in respect of Section 2.

Detail Interface Sections	Beca	044-RCT-S01-A3-051	A	26.11.2020
Detail Interface Sections	Beca	044-RCT-S01-A3-052	B	9.12.2020
B01 Floor Plan Level 0 Basement	Beca	044-RCT-B01-A1-010	A	4.02.2020
B01 Floor Plan Level 1 Ground	Beca	044-RCT-B01-A1-020	A	4.02.2020
B01 Floor Plan Level 2	Beca	044-RCT-B01-A1-030	A	4.02.2020
B01 Floor Plan Level 3	Beca	044-RCT-B01-A1-040	A	4.02.2020
B01 Floor Plan Level 4	Beca	044-RCT-B01-A1-050	A	4.02.2020
B01 Floor Plan Level 5	Beca	044-RCT-B01-A1-060	A	4.02.2020
B01 Floor Plan Level 6	Beca	044-RCT-B01-A1-070	A	4.02.2020
B01 Overall Roof Plan	Beca	044-RCT-B01-A1-080	A	4.02.2020
B01 Elevations	Beca	044-RCT-B01-A2-010	B	3.04.2020
B01 Elevations	Beca	044-RCT-B01-A2-020	B	3.04.2020
B01 Internal Elevations	Beca	044-RCT-B01-A2-030	A	4.02.2020
B02 Floor Plans Levels 2-5	Beca	044-B02-A1-010	A	4.02.2020
B02 Floor Plans Levels 6-8 and Roof Plan	Beca	044-RCT-B02-A1-020	A	4.02.2020
B02 North West and North East Elevations	Beca	044-RCT-B02-A2-010	A	4.02.2020
B02 South West and South East Elevations	Beca	044-RCT-B02-A2-020	A	4.02.2020
B03 Floor Plans Levels 1-4	Beca	044-RCT-B03-A1-010	A	4.02.2020
B03 Floor Plan Level 5 and Roof Plan	Beca	044-RCT-B03-A1-020	A	4.02.2020
B03 North West and North East Elevations	Beca	044-RCT-B03-A2-010	A	4.02.2020
B03 South West and South East Elevations	Beca	044-RCT-B03-A2-020	A	4.02.2020
B04 Floor Plans Levels 2-5	Beca	044-RCT-B04-A1-010	A	4.02.2020

B04 Floor Plans Levels 6-8 and Roof Plan	Beca	044-RCT-B04-A1-020	A	4.02.2020
B04 North West and North East Elevations	Beca	044-RCT-B04-A2-010	A	4.02.2020
B04 South West and South East Elevations	Beca	044-RCT-B04-A2-020	A	4.02.2020
B05 Floor Plans Levels 1 and 2	Beca	044-RCT-B05-A1-010	A	4.02.2020
B05 Floor Plans Levels 3 and 4	Beca	044-RCT-B05-A1-020	A	4.02.2020
B05 Floor Plan Level 5 and Roof Plan	Beca	044-RCT-B05-A1-030	A	4.02.2020
B05 North West and North East Elevations	Beca	044-RCT-B05-A2-010	A	4.02.2020
B05 South West and South East Elevations	Beca	044-RCT-B05-A2-020	B	26.11.2020
B06 Floor Plans Levels 2 and 3	Beca	044-RCT-B06-A1-010	A	4.02.2020
B06 Floor Plans Levels 4 and 5	Beca	044-RCT-B06-A1-020	A	4.02.2020
B06 Floor Plans Levels 6 and 7	Beca	044-RCT-B06-A1-030	A	4.02.2020
B06 Roof Plan	Beca	044-RCT-B06-A1-040	A	4.02.2020
B06 North West and North East Elevations	Beca	044-RCT-B06-A2-010	A	4.02.2020
B06 South West and South East Elevations	Beca	044-RCT-B06-A2-020	A	4.02.2020
B07 Core Plans and Elevations	Beca	044-RCT-B07-A1-010	A	4.02.2020
Landscape Master Plan	Design Squared Landscape Architects Ltd	SK100		03.04.20
Site Tree Plan	Design Squared	SK101	6	3.04.20

	Landscape Architects Ltd			
Podium Landscape Details	Design Squared Landscape Architects Ltd	SK102	4	3.04.20
Podium Landscape Details 2	Design Squared Landscape Architects Ltd	SK103	4	3.04.20
South East Elevation	Design Squared Landscape Architects Ltd	SK108	1	3.04.20
South West Elevation	Design Squared Landscape Architects Ltd	SK109	1	3.04.20
Cross Section A	Design Squared Landscape Architects Ltd	SK110	1	3.04.20
Additional Native Planting Plan	Design Squared Landscape Architects Ltd	SK111	1	3.04.20
Additional Exotic Planting Plan	Design Squared Landscape Architects Ltd	SK112	1	3.04.20
Riparian Planting	Design Squared Landscape Architects Ltd	SK113	1	3.04.20
Drawing List and Locality Plan	Tektus	000	A	18.12.20
Overall Layout Plan	Tektus	001	A	18.12.20
General Notes and Legend	Tektus	002	A	18.12.20

Existing Features Plan	Tektus	100	A	18.12.20
Proposed Earthworks and Retaining Plan	Tektus	200	A	18.12.20
Proposed Cut and Fill Plan	Tektus	210	A	18.12.20
Proposed Erosion and Sediment Control Plan	Tektus	220	A	18.12.20
Proposed Erosion and Sediment Control Details	Tektus	230	A	18.12.20
Proposed Accessway Plan	Tektus	300	A	18.12.20
Proposed Accessway Longitudinal Section	Tektus	350	A	18.12.20
Proposed Stormwater Plan	Tektus	400	A	18.12.20
Proposed Stormwater Attenuation Plan	Tektus	440	A	18.12.20
Proposed Stormwater Attenuation Schematic	Tektus	441	A	18.12.20
Stream Long Section	Tektus	460	A	18.12.20
Stream Cross Sections Sheet 1	Tektus	465	A	18.12.20
Stream Cross Sections Sheet 2	Tektus	466	A	18.12.20
Proposed Wastewater Plan	Tektus	500	A	18.12.20
Existing Public Wastewater Long Sections	Tektus	550	A	18.12.20
Proposed Public Wastewater Long Sections – Sheet 1	Tektus	551	A	18.12.20
Proposed Public Wastewater Long Sections – Sheet 2	Tektus	552	A	18.12.20
Proposed Public Wastewater Long Sections – Sheet 3	Tektus	553	A	18.12.20
Proposed Water Supply Plan	Tektus	600	A	18.12.20
Proposed Utilities Plan	Tektus	800	A	18.12.20

Advice Note: For the purposes of monitoring this consent, the Council refers to Auckland Council's monitoring officer, unless otherwise specified. Please email monitoring@aucklandcouncil.govt.nz for your allocated monitoring officer.

LAPSE PERIOD

2. Under section 125 of the Resource Management Act 1991, this consent lapses two years after the date of commencement under section 116 of the Act unless:
 - a) The consent is given effect to; or
 - b) The Council extends the period after which the consent lapses.

MONITORING FEE

3. The consent holder shall pay the Council an initial consent compliance monitoring charge of \$1,500 (inclusive of GST), plus any further monitoring charge or charges to recover the actual and reasonable costs incurred to ensure compliance with the conditions attached to this consent.

Advice Note:

The initial monitoring deposit is to cover the cost of inspecting the site, carrying out tests, reviewing conditions, updating files, etc., all being work to ensure compliance with the resource consent. In order to recover actual and reasonable costs, monitoring of conditions, in excess of those covered by the deposit, shall be charged at the relevant hourly rate applicable at the time. The consent holder will be advised of the further monitoring charge. Only after all conditions of the resource consent have been met, will the council issue a letter confirming compliance on request of the consent holder.

STAGING

4. Any management plans required under the conditions of this resource consent may apply to works across the entire site, or may solely apply to part of the site or works depending on the programme / staging of works proposed by the consent holder.

Furthermore, nothing in these consent conditions shall preclude the staged occupation of the buildings authorised as part of this resource consent.

ENGAGEMENT WITH NGĀTI WHĀTUA ŌRAKEI

5. At least ten working days prior to the commencement of bulk earthworks on the site, the Consent Holder shall submit to Council a framework to enable appropriate engagement with Ngāti Whātua Ōrakei during construction.

The framework shall include:

- a) The methods for engaging with Ngāti Whātua Ōrakei;
- b) The process for involvement of Ngāti Whātua Ōrakei in the preparation and implementation of the management and environmental monitoring plans to provide for:
 - i. The exercise of kaitiakitanga;

- ii. Heritage management through appropriate cultural monitoring and cultural design;
 - iii. Managing vegetation removal and planting to improve biodiversity and terrestrial ecological values particularly in relation to habitat for taonga species and cultural resources;
 - iv. Managing stormwater, wastewater and streamworks to enable maintenance or enhancement of the mauri of waterways;
 - v. Minimisation of construction waste
- c) The management and environmental monitoring plans identified in (b) above are:
- i. Erosion and Sediment Control Plan (Condition 72)
 - ii. Construction Management Plan (Condition 9)
 - iii. Construction Waste Minimisation Plan (Condition 16)
 - iv. Stormwater Operation and Maintenance Plan (Condition 67)
 - v. Landscape Maintenance and Implementation Plan (Condition 52)
 - vi. Stream Restoration and Enhancement Plan (Condition 114)
 - vii. Native Fish Capture and Relocation Plan (Condition 112)
 - viii. Fish Passage Monitoring and Maintenance Plan (Condition 124)
 - ix. Accidental Discovery Protocol (Condition 17)
- d) The requirements for construction management and monitoring plans referred to in (c) above are to include details of feedback received from Ngāti Whātua Ōrakei, the measures proposed to address feedback, and / or reasons why specific feedback has not been addressed.

COMMUNITY LIAISON GROUP

6. The consent holder shall invite the Kohi Neighbours Incorporated to participate in a community liaison group ("CLG"). Provided that the invitation is accepted within two weeks of a written offer by the consent holder, the CLG shall comprise representatives of the consent holder and Kohi Neighbours Incorporated. Representatives from Ngāti Whātua Ōrakei, Selwyn College and St Thomas's School shall also be invited to participate in the CLG. The purpose of the CLG is to provide a forum for consultation 'on matters affecting the local community arising from the exercise of this resource consent. The consent holder must convene the first meeting of the CLG within 90 days from the date of issuing this consent or prior to the commencement of any works on site, whichever is the earlier. The CLG shall meet thereafter at intervals agreed by the members of the CLG in relation to major construction event timing or no greater than four months apart. The consent holder shall meet the reasonable administrative costs of the CLG.
7. The consent holder will provide copies of the approved Construction Management Plan, Erosion and Sediment Control Plan, Construction Traffic Management Plan, and the Construction Noise and Vibration Management Plan required by conditions 9, 72, 36, and 27 to the members of the CLG.

PRE-CONSTRUCTION CONDITIONS

8. Prior to the commencement of bulk earthworks on the site, the consent holder shall hold a pre-commencement meeting that:
 - a) Is located on the site at 223 Kohimarama Road and 7 John Rymer Place;
 - b) Is scheduled not less than five working days before the anticipated commencement of bulk earthworks;
 - c) Includes all relevant officers from Auckland Council (e.g. monitoring officers) and technical specialists;
 - d) Includes representation from the contractors and suitably qualified professionals who will undertake the works; and invites attendance of two Kohimarama Neighbours Incorporated nominees of the Construction Liaison Group;
 - e) Includes an invitation to Ngāti Whātua Ōrākei representatives to attend to provide for carrying out site blessings, karakia and cultural inductions if required.

The meeting is to discuss the erosion and sediment control measures, the earthworks methodology and must ensure all relevant parties are aware of, and familiar with, the relevant conditions of this consent.

The following information must be made available at the pre-commencement meeting:

- a) Name and telephone number of the project manager and the site owner (leaseholder);
- b) Timeframes for key stages of the works authorised under this consent;
- c) Details of stabilised construction entranceways that will be implemented to manage the tracking of sediment off the site associated with the movement of heavy vehicles to, and from, the site;
- d) The certified Construction Management Plan (Condition 9);
- e) The certified Erosion and Sediment Control Plan (Condition 72);
- f) The certified Chemical Treatment Management Plan (Condition 74);
- g) The certified Construction Noise and Vibration Management Plan (Condition 27);
- h) The certified Construction Traffic Management Plan (Condition 36); and
- i) Resource consent conditions and any other approvals granted for the site.

The pre-commencement meeting shall be held prior to the commencement of the bulk earthworks on the site in each period between October 1 and April 30 that this consent is exercised.

CONSTRUCTION MANAGEMENT

9. At least ten working days prior to the commencement of bulk earthworks on the site, the consent holder shall provide a Construction Management Plan to the Council for certification. The purpose of the Construction Management Plan is to specify the overall construction management measures that will be implemented by the consent holder to ensure that the conditions of this consent will be complied with.

The Construction Management Plan shall specify:

- a) The construction timetable;
 - b) The various construction methods to be utilised on-site;
 - c) The proposed staging of construction;
 - d) General site management measures;
 - e) The details of a complaints management process, including the location and details of information boards at the site entrances displaying the name, email address and phone number of the site manager;
 - f) The circumstances when the consent holder shall offer the wash down of the exterior of immediately adjacent dwellings to remove any potential construction-related dust;
 - g) Site reinstatement measures to be implemented upon completion of works on the site;
 - h) Any material deposited on the road shall be cleaned up immediately, with no wash-down into drains.
10. All machinery associated with construction activities on the site shall be operated in a way which ensures that spillages of hazardous substances, such as fuel, oil, grout, concrete products and any other contaminants, are prevented.
11. The consent holder shall ensure that construction activities on the site do not result in any airborne and deposited dust beyond the boundary of the site that is noxious, objectionable or offensive.
12. During earthworks on the site, the consent holder shall take all practicable action to prevent dust generation beyond the boundary of the site. Sufficient water shall be available at the site to dampen exposed soil, and / or other dust suppressing measures shall be implemented in general accordance with the *“Good Practice Guide for Assessing and Managing Dust”*, Ministry for the Environment (2016).
13. The consent holder shall ensure that no damage to public roads / footpaths, reserves or other public assets occurs as a result of the construction activities authorised by this resource consent entering / exiting the site and using John Rymer Place. In the event that damage does occur, the consent holder shall notify Council within 24 hours of its discovery. The costs of remedying such damage and restoring the asset to its previous condition will be met by the consent holder.

14. An 'as-built' drawing from a suitably qualified engineer showing the final contours of the site shall be provided on a CAD Plan to Council within ten working days following completion of earthworks on the site.
15. No materials or equipment shall be stored within the road reserve unless written permission is granted from Auckland Transport for specific storage of materials and equipment in the road reserve.

CONSTRUCTION WASTE MINIMISATION

16. At least ten working days prior to the commencement of bulk earthworks on the site, the consent holder shall provide a Construction Waste Minimisation Plan (CWMP) to Council for certification. The purpose of the CWMP shall be to support the minimisation of construction waste. The CWMP shall include:
 - a) The contact details of the person responsible for implementing the CWMP;
 - b) The range of materials to be used on site and the waste targets for each material;
 - c) Specific methods to minimise waste along with any methods to re-use or recycle materials;
 - d) A communication plan for staff and contractors to implement the CWMP; and
 - e) Details of how waste minimisation targets will be monitored and reported on.

ACCIDENTAL DISCOVERY PROTOCOL

17. This accidental discovery protocol applies to any parts of the application area not covered by an archaeological authority issued under the Heritage New Zealand Pouhere Taonga Act 2014.

In the event that an unidentified archaeological site is located during works, the following applies:

- a) Work shall cease immediately within 20 metres of the archaeological site.
- b) The contractor must shut down all machinery, secure the area, and advise the Site Manager.
- c) The Site Manager shall notify Ngāti Whātua Ōrakei, Council and the Heritage New Zealand Regional Archaeologist. Further assessment by an archaeologist may be required.
- d) If the site is of Maori origin, the Site Manager shall notify the Heritage New Zealand Regional Archaeologist and the appropriate iwi groups or kaitiaki representative of the discovery and ensure site access to enable appropriate cultural procedures and tikanga to be undertaken, as long as all statutory requirements under legislation are met (Heritage New Zealand Pouhere Taonga Act (2014), Protected Objects Act (1975).
- e) If human remains (kōiwi tangata) are uncovered the Site Manager shall advise the Heritage New Zealand Regional Archaeologist, NZ Police and the appropriate iwi groups or kaitiaki representative and the above process under d) shall apply. Remains are not to be moved until such time as iwi and Heritage New Zealand have responded.
- f) Works affecting the archaeological site and any human remains (kōiwi tangata) shall not resume until Heritage New Zealand gives written approval for work to continue. Further assessment by an archaeologist may be required.
- g) Where iwi so request, any information recorded as the result of the find such as a description of location and content, is to be provided for their records.

- h) Heritage New Zealand will determine if an archaeological authority under the Heritage New Zealand Pouhere Taonga Act 2014 is required for works to continue.

Advice Note:

It is an offence under s87 of the Heritage New Zealand Pouhere Taonga Act 2014 to modify or destroy an archaeological site without an authority from Heritage New Zealand irrespective of whether the works are permitted or consent has been issued under the Resource Management Act or other legislation.

CONTAMINATED LAND

18. At least ten working days prior to the commencement of bulk earthworks on the site, the consent holder shall provide a Site Management Plan to Council for certification. The purpose of the Site Management Plan is to specify the measures and monitoring that will be implemented in order to minimise potential effects on the environment from the disturbance of contaminated soil or waste material on the site.
19. The consent holder shall prepare the Site Management Plan in general accordance with the Ministry for the Environment's "Contaminated Land Management Guidelines #1: Reporting on Contaminated Sites in New Zealand (Revised 2011)." The Site Management Plan should also include:
- a) The extent of identified asbestos contamination (if known), including the area of fly tipping; or
 - b) A proposed asbestos delineation and validation testing regime, to be carried out prior to excavation of asbestos-contaminated soils in the three areas of the site (including the area of fly tipping) identified in the report titled "*Ground Contamination Assessment of Environmental Effects, Ryman Village, Kohimarama Road, Auckland*", prepared by Tonkin & Taylor and dated February 2021. Validation testing for arsenic should also be included for the area of fly tipping.

If onsite management of asbestos-contaminated soils that exceed the health protection guidelines in the New Zealand Guidelines for Assessing and Managing Asbestos in Soils (BRANZ Guidelines, 2017) is proposed, the Site Management Plan shall also include detail on safe works methodology, depth and location, intended on-site encapsulation methodology, and a Long-Term Monitoring and Management Plan.

20. In the event that the delineation and/or validation testing regime identifies soil contaminants at concentrations exceeding relevant Soil Contaminant Standards for the protection of human health for the high density land use, as set out in the National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health (NES:CS) and/or the health protection guidelines in the New Zealand Guidelines for Assessing and Managing Asbestos in Soils (BRANZ Guidelines, 2017) is proposed, the Site Management Plan shall be updated by a SQEP and submitted to the council for certification prior to the bulk earthworks on the site. The Site Management Plan shall also include detail on safe works methodology, depth and location,

intended on-site encapsulation methodology, and a Long-Term Monitoring and Management Plan so that the site is safe for the intended future land-use.

21. Earthworks shall be undertaken in accordance with the Site Management Plan, required by Condition 19 or if required the revised version required by Condition 22. Any variations to the Site Management Plan shall be submitted the Council for review and certification.
22. The consent holder shall engage a Suitably Qualified and Experienced Practitioner (“SQEP”), familiar with the requirements of the Site Management Plan, to oversee the implementation of the required earthworks and to carry out asbestos monitoring and soil sampling in accordance with the certified Site Management Plan.
23. The consent holder shall at all times comply with the provisions of the Health and Safety at Work (Asbestos) Regulations 2016 and the Management and Removal of Asbestos - Approved Code of Practice (WorkSafe, Amended December 2016) for works involving asbestos.
24. The consent holder shall ensure that any contaminated soil or waste material identified for off-site disposal is disposed of at a site that holds a resource consent or relevant authorisation to accept the relevant level of contamination identified at the site. Copies of the disposal dockets for the material removed from the site shall be retained and provided to the Council upon request.
25. The consent holder shall ensure that any imported soil onto the site complies with the definition of 'Cleanfill Material', as per the Auckland Unitary Plan - Operative in Part. Any imported material shall be solid material of an inert nature and must not contain hazardous substances or contaminants above natural background levels of the receiving site.
26. Within three months following the completion of bulk earthworks on the site, the consent holder shall provide a Site Validation Report (“SVR”) to Council. The SVR shall be reviewed and approved for release by a SQEP to confirm the outcome of the bulk earthworks and to identify any residual contamination at the site.

The SVR shall include:

- a) A summary of earthworks undertaken on the site, including a statement confirming that the earthworks have been completed in accordance with the approved plans and consent conditions, and details of any variations;
- b) The location and dimensions of the earthworks carried out, and the volume of soil excavated, re-used onsite and disposed offsite, including a relevant site plan;
- c) Details and results of any testing and / or monitoring undertaken including validation testing and / or monitoring and interpretation of the results in the context of the Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011, the contaminated land rules of the Auckland Unitary Plan – Operative in Part and the New Zealand Guidelines for Assessing and Managing Asbestos in Soils;

- d) Copies of the disposal dockets for all contaminated materials removed from the site;
- e) Records of any unexpected contamination encountered during the works and actions undertaken;
- f) Any complaints and / or breaches of the procedures set out in the approved plans and other consent conditions;
- g) Conditions of the final site ground surface;
- h) Scaled plans (plan and elevation views) showing the locations and containment details (if any) of any contaminated materials remaining on-site; and
- i) If any contamination is contained on-site, an ongoing monitoring and management plan detailing procedures and requirements for any future works on the site that may penetrate the containment system, or otherwise create a potential for human exposure to potential contaminated soils.

CONSTRUCTION NOISE AND VIBRATION

Construction Noise and Vibration Management Plan

27. At least ten working days prior to the commencement of bulk earthworks on the site, the consent holder shall provide a Construction Noise and Vibration Management Plan (“CNVMP”) to Council for certification. The purpose of the CNVMP is to set out the best practicable option (within the limits set out under the conditions of this consent) for the management of noise and vibration effects associated with the construction activities on the site.

The CNVMP shall be prepared with reference to Annex E of NZS 6803:1999 Acoustics – Construction Noise and be consistent with the draft “*Ryman Kohimarama Construction Noise and Vibration Management Plan*”, prepared by Marshall Day Acoustics and dated June 2020. The CNVMP shall include:

- a) The construction noise and vibration limits to be applied to the construction activities on the site;
- b) The predicted construction noise and vibration levels from construction activities on the site;
- c) The limitations on working days and hours as set out in Conditions 29 and 32;
- d) The identification of surrounding receivers that are potentially sensitive to noise and / or vibration;
- e) Details of the management and mitigation measures that will be implemented in order to minimise the generation of construction noise and vibration from the site, including:
 - (i) Requirements and specifications for acoustically effective barriers on and within the site boundaries and additional localised screening around machinery; and

- (ii) Identification of properties requiring pre and post condition surveys and details of the surveys required for any buildings and pools potentially exposed to vibration above the limits specified in Condition 31;
 - f) Minimum separation distances to enable compliance with the predicted construction noise and vibration levels;
 - g) The engagement and consultation to be undertaken with the owners / occupiers of properties that are within 50 m of the site;
 - h) A complaints procedure in the event of noise or vibration complaints being received; and
 - i) Training procedures for construction personnel, including procedures for ensuring compliance with the lower noise levels that apply to set up activities occurring before 7:30am.
28. The consent holder shall ensure that the construction works are carried out in accordance with the certified CNVMP and a copy of the CNVMP shall be kept on site at all times.

Construction Noise

29. Construction noise at occupied buildings (unless specified by condition 30) containing activities sensitive to noise (as defined in the Auckland Unitary Plan – Operative in Part) shall comply with the following limits, when measured and / or assessed in accordance with *NZS 6803:1999 Acoustics – Construction Noise*:

Time of Week	Time Period	Noise Limit dBA	
		L _{Aeq}	L _{Amax}
Weekdays	6:30 am – 7.30 am	55	70
	7:30 am – 6.00 pm	70	85
	6:00 pm – 8.00 pm	65	80
	8:00 pm – 6.30 am	45	70
Saturdays	6:30 am – 7.30 am	45	70
	7:30 am – 6.00 pm	70	85
	6:00 pm – 8.00 pm	45	70

	8:00 pm – 6.30 am	45	70
Sundays and public holidays	6:30 am – 7.30 am	45	70
	7:30 am – 6.00 pm	55	80
	6:00 pm – 8.00 pm	45	70
	8:00 pm – 6.30 am	45	70

30. Construction noise at occupied buildings containing activities sensitive to noise (as defined in the Auckland Unitary Plan – Operative in Part) may exceed the noise limits specified in condition 29 as generally specified in the draft “*Ryman Kohimarama Construction Noise and Vibration Management Plan*”, prepared by Marshall Day Acoustics and dated June 2020, and when measured and / or assessed in accordance with *NZS 6803:1999 Acoustics – Construction Noise*.

Advice Note: The CNVMP is a Best Practicable Option management plan, and has an Appendix C schedule of properties (receivers) which will likely be subjected to predicted construction noise exceedances, each for a period of one to three weeks.

Construction Vibration

31. Vibration levels arising from construction activities on the site shall not exceed the limits set out in German Industrial Standard DIN 4150-3 (1999) Structural Vibration – Part 3 Effects of Vibration on Structures criteria when measured in accordance with that standard on any structure not on the same site as specified in the Auckland Unitary Plan – Operative in Part - Rule E25.6.30(1)(a).

Vibration levels arising from construction activity on the site must not exceed a limit of 2mm/s peak particle velocity for more than 3 days in occupied buildings in any axis when measured in the corner of the floor of the storey of interest for multi-storey buildings, or within 500mm of ground level at the foundation of a single storey building. Such allowed three-day exceedances can occur only once in any rolling four-week period.

Construction Hours

32. The construction works on the site shall be restricted to hours between 7.30 am and 6.00 pm, Monday to Saturday. No construction works are permitted on Sundays or Public Holidays. This restriction shall not apply to low noise creating activities such as site set up, painting, electrical works or planting, which may occur outside of these hours on Monday to Saturday only.

OPERATIONAL NOISE

33. The noise (rating) level and maximum noise level arising from activities on the site, including vehicle movements, shall not exceed the following limits measured within the boundary on any site in any residential zone except for Selwyn College, where the L_{Aeq} levels shall be 55 dB (Monday to Saturday 7 am – 10 pm and Sunday 9 am – 6 pm) and 45 dB (all other times):

Monday to Saturday 7am – 10pm Sunday 9am – 6pm	50 dB L_{Aeq}
All other times	40 dB L_{Aeq} 75 dB L_{AFmax}

All noise shall be measured and assessed in accordance with NZS 6801:2008 Acoustics – Measurement of Environmental Sound and NZS 6802:2008 Acoustics – Environmental Noise.

Advice Note:

The noise levels for the daytime hours in Condition 33 may be exceeded by intermittent noise for reasonable periods where that noise is associated with normal household activities, such as lawn mowing or home handyman work.

34. To ensure the noise standards specified in Condition 33 above are met at all times, the selection, design and installation of mechanical plant and equipment on site must be overseen by a suitably qualified acoustic specialist at the detailed design stage of the retirement village.

Within 20 working days of commencement of operations at the retirement village, the consent holder shall provide a report prepared by a suitability qualified acoustic specialist to Council that demonstrates compliance with the noise standards specified in Condition 33.

35. Rubbish trucks shall only access the site during the period between 7am and 7pm.

TRAFFIC

36. At least ten working days prior to the commencement of construction activities on the site, the consent holder shall provide a Construction Traffic Management Plan (“CTMP”) to Council for certification. The purpose of the CTMP is to set out the measures to safely control traffic movements to, and from, the site during the construction activities.

The CTMP shall include the following detail:

- a) Hours of work and staging of the development relevant to the management of construction traffic (as well as any traffic associated with the occupation of the retirement village prior to all construction work being completed);

- b) A parking management plan for visitors and construction traffic (with all parking for visitor and construction staff to be contained within the site and no parking to occur on the street);
 - c) The location of loading / working areas;
 - d) Truck operation times, noting that the pickup and drop off of machinery and the use of Allum Street by construction vehicles shall not occur between 8:15 am to 9:15 am and 2:30 pm to 3:30 pm on weekdays – except for during concrete pours (and not including school holidays);
 - e) When it will be necessary for a traffic controller or site traffic management supervisor to be present at either site access for vehicles are entering or exiting the site;
 - f) Cleaning facilities within the site to thoroughly clean all vehicles prior to exit to prevent mud or other excavated material from being dropped on the public road. In the event that material is dropped on the public road, resources should be on hand to clean-up as soon as possible;
 - g) The transportation and parking of oversize vehicles, such as cranes;
 - h) Traffic management plans in compliance with the latest edition of the NZ Transport Agency (Waka Kotahi) “*Code of Practice for Temporary Traffic Management*”;
 - i) A pedestrian management plan including temporary pedestrian routes which must be easily traversable, well-marked and safely separated from moving vehicles;
 - j) The signposting of the site access point to ensure that access to neighbouring properties is not compromised;
 - k) Internal signage requiring any semi-trailer tucks exiting the site to not make left turns at the Kohimarama Road / John Ryman Place intersection; and
 - l) Details on any temporary parking restrictions required at the construction access points.
37. Unless otherwise approved through the CTMP, prior to the use of Kohimarama Road for access by residents of the retirement village, the consent holder shall install the bollards within the site detailed in the report titled “*Transportation Assessment Report*”, by Commute Transportation Consultants and dated February 2021, and signage at the entrance of the Kohimarama Road access and at the bollard location in order to ensure that vehicle movements not allowed into, and out of the Kohimarama Road Access between 8:15 - 9:15 am and 2:30 - 3:30 pm. A call box or induction loop shall be installed to allow vehicles which have entered the site via the Kohimarama Road access during the hours of 8:15 - 9:15am and 2:30 - 3:30pm to pass the bollards avoiding the need for a vehicle to reverse off the site.

The consent holder shall also install signage at the Kohimarama Road vehicle access to:

- a) Inform drivers that an intercom to reception of the retirement village is available in the event that vehicles inadvertently seek to use this access during the restricted periods noted above; and

- b) Inform drivers of the alternative access to the retirement village is available during the restricted periods noted above.
38. Unless otherwise approved through the CTMP, prior to the residential occupation of any buildings on the site, the consent holder shall:
- a) Install a 'No Right Turn' sign on the internal side of the Kohimarama Road vehicle access way to inform drivers exiting the site of the turning restriction;
 - b) Install a sign close to the basement parking access point to the internal roading network advising drivers who wish to travel south from the site to exit via the John Rymer Place vehicle access;
 - c) Ensure the entrance gates at both the Kohimarama Road and John Rymer Place access points are set a minimum of 6 m from the property boundary;
 - d) Ensure that vehicle accesses, and parking and manoeuvring areas are formed, sealed (with an all-weather surface), lit and drained in accordance with the approved plans; and
 - e) Install appropriate signage and line markings within the loading bay to deter other vehicles from parking in the loading area.
39. The layout, quantity, design and security of bicycle parking facilities located within the site shall meet the minimum requirements of the Auckland Transport Code of Practice 2013, Part 13.6 for Cycle Parking.
40. The consent holder shall ensure that the vegetation located within the site along the road frontage of Kohimarama Road (to the east of the proposed crossing on Kohimarama Road) is maintained / trimmed to ensure that it does not intrude into a zone that is 3 m from the roadside kerb. The growth of the trees shall be monitored every six months, for the duration of the operation of the retirement village, to ensure adequate visibility is provided for vehicles exiting the site onto Kohimarama Road. The required monitoring of vegetation growth and any required trimming is the responsibility of the consent holder.
41. The consent holder shall prepare and implement an on-site parking management strategy to ensure residents, staff and visitors to the site (including service deliveries) are directed to appropriate parking areas, including during shift change overs, and are aware of the Kohimarama Road access restrictions and the reasons for this. The strategy shall identify parking areas and include signs and markings and shall thereafter be implemented. A copy of the on-site parking management strategy shall be provided to Council upon request.
- The on-site parking management strategy shall be updated by the consent holder as required, or at the request of Council to ensure it remains effective.
42. Prior to the residential occupation of any buildings on the site, the consent holder shall install a speed bump on the access to Kohimarama Road, within its site, for the purpose of controlling the

speed of vehicles exiting the retirement village. The design of the speed bump shall be provided to Council for certification that it meets the Auckland Transport Code of Practice.

42A. Pursuant to section 128 of the RMA the conditions of this consent may be reviewed by the Manager Resource Consents at the consent holder's cost within three months of the first building on site being occupied and then again within three months of all six buildings being occupied:

- a) To deal with any adverse traffic-related effects arising from the ingress and egress of vehicles via the Kohimarama Road access which may arise or potentially arise from the exercise of this consent and which it is appropriate to deal with at a later stage.

DESIGN OF BUILDINGS B03 AND B05

43. Prior to commencement of any works beyond site preparation and earthworks, a revised set of architectural drawings must be prepared showing the removal of one mid-level from each of Building B03 and B05. The revised drawings must also show any other consequential changes to the building design and are to be submitted to Council for written certification. In making any consequential changes, the overall building footprint, location and roof forms shall remain unchanged.

SURVEYORS CERTIFICATION

Foundation Check

43. No building works on Buildings B01 - B06 shall proceed beyond the foundation stage until a registered surveyor or licensed cadastral surveyor, engaged by the consent holder, has provided written certification to Council that the foundation works have been completed in accordance with the approved plans as referred to in Conditions 1 and 43 of this consent.

Surveyor Roof Height Check

44. A registered surveyor or licensed cadastral surveyor, engaged by the consent holder, shall provide written certification to Council that the heights of the buildings have been completed in accordance with the approved plans as referred to in Conditions 1 and 43 of this consent.

GEOTECHNICAL MANAGEMENT

45. The consent holder shall ensure that all earthworks on the site are managed to ensure that they do not lead to any uncontrolled instability or collapse affecting any neighbouring properties. In the event that such collapse or instability does occur, it shall immediately be rectified by the consent holder.

46. The consent holder shall engage a suitably qualified engineering professional (who is familiar with Geotechnical Assessment of Environmental Effects by Tonkin & Taylor Limited (reference:

30314.v4, dated: February 2021)) to monitor all excavations, retaining and foundation construction. The supervising engineer's contact details shall be provided in writing to Council at least five working days prior to the commencement of bulk excavations on the site.

47. The consent holder shall provide a work method statement written by a suitably qualified geotechnical engineer and undertake the earthworks in accordance with the work method and the recommendations provided within the report titled "*Geotechnical Assessment of Environmental Effects*", Tonkin & Taylor Limited dated February 2021. The work method statement shall include:

- a) Filling specifications and methods;
- b) Compaction standards and testing;
- c) Excavation timeframes; and
- d) Temporary sequencing of works.

The work method shall be required to ensure fills are suitably compacted and stability is maintained throughout the civil works stage of the development. The work method shall be provided in writing to Council at least five working days prior to the commencement of bulk earthworks on the site. No works are permitted on the site until the engineer's work method has been reviewed by Council.

48. The consent holder shall engage an engineer to advise Council of the timeframes for unsupported cuts adjacent to the site boundaries at least five working days prior to the excavations on the site boundaries being undertaken.

SCREENING

49. Any air-conditioning plant and other on-roof equipment shall be screened in a manner that ensures they are masked from view from the street or surrounding properties.

50. All service or storage areas shall be screened from the street or surrounding properties.

LANDSCAPING

51. Prior to the completion of building construction activities and prior to the implementation of any landscaping on-site, the consent holder shall provide a finalised set of landscape design drawings and supporting written documentation, which are to be prepared by a landscape architect or suitably qualified professional, to Council for certification. The submitted information shall be generally consistent with the Landscape Master Plan prepared by Design Squared (Drawing SK100), dated 3 April 2020 and shall include the following details:

- a) An annotated planting plan(s) which communicate the proposed location and extent of all areas of planting including;
 - i. Additional dense screen planting along the southern boundary of the site adjacent to 27A, 19A and 19 John Rymer Place to assist in screening. The details of the planting shall

be developed in consultation with these neighbours in terms of species, height and location;

- ii. Screen planting along the base of Building B01 as it fronts the entrance from John Rymer Place to assist in screening the basement wall;
 - iii. Planting between the edge of Building B01 and the boundary with 3A John Rymer Place and 249A Kohimarama Road shall include upright tree species adjacent the stairwell (planted at a minimum grade of 45L) to assist in screening the blank stairwell edge. Planting above the retaining wall is to include tall shrubs (and trees where possible) to assist in screening for these neighbours;
 - iv. Planting between the Kohimarama Road fence line and Building B01 needs to reach a scale that is able to integrate the fence and filter views towards the building given the level change in this location;
 - v. Specimen trees planted around Buildings B03 and B05 shall be able to grow to a height of approximately 10 m and planted at a minimum grade of 45L. Once established, the specimen trees shall be maintained at a height of approximately 10m in order to minimise shading on adjoining properties; and
 - vi. Where planting is proposed to screen building plant that may have been amended during detailed design.
- b) Annotated cross-sections and / or design details with key dimensions to illustrate that adequate widths and depths are provided for planter boxes / garden beds / raised beds above the podium;
 - c) A plant schedule based on the submitted plant list which details specific plant species, plant sourcing, the number of plants, height and / or grade (litre) / Pb size at time of planting;
 - d) A review of the retained and proposed vegetation to ensure that the planting on site provides food sources to support native bird life. In carrying out the review, the consent holder shall seek input from Ngāti Whātua Ōrakei, as part of kaitiakitanga engagement in accordance with Condition 5 and Condition 52h;
 - e) Details of draft specification documentation for any specific drainage, soil preparation, tree pits, staking, irrigation and mulching requirements;
 - f) An annotated pavement plan and related specifications, detailing proposed site levels and the materiality and colour of all proposed hard surfacing;
 - g) The location and type of all seats, bins, raised planters, lights, fences, walls, cycle racks and other structural landscape design elements;
 - h) A landscape maintenance and implementation plan (report) and related drawings and specifications for all aspects of the finalised landscape design, including in relation to the following requirements:

- i. A programme for weed removal of retained stands of vegetation and replacement with suitable native species;
 - ii. Irrigation;
 - iii. Weed and pest control;
 - iv. Plant replacement;
 - v. Inspection timeframes; and
 - vi. Contractor responsibilities.
52. Prior to construction and earthworks occurring on the site, the consent holder shall protect from construction damage the dense planting screen along the southern boundary of the site adjacent to the properties at 19, 19A and 27A John Rymer Place. The remainder of the landscape design shall be implemented, on a staged basis, prior to the occupation and use of individual buildings on the site, and within an appropriate planting season, in accordance with Condition 52. The consent holder shall, thereafter, retain and maintain this landscaping (planting, pavement, and street furniture) in perpetuity.
53. The consent holder shall protect the areas generally shown as 'retained existing vegetation' on the Site Tree Plan, drawn by Design Squared Landscape Architects Limited (SK01). The consent holder shall also undertake the gradual removal of weed species within these areas as set out within the Landscape Maintenance and Implementation Plan.
54. Any vegetation removal to be carried out within the areas generally shown as 'retained existing vegetation' on the Site Tree Plan, drawn by Design Squared Landscape Architects Limited (SK01) shall only be undertaken where a suitably qualified and experienced terrestrial ecologist has inspected the vegetation and confirmed that there are no indigenous bird species nesting in the affected vegetation or, otherwise outside of bird nesting season.
55. Any trees to be removed within the areas generally shown as 'retained existing vegetation' on the Site Tree Plan, drawn by Design Squared Landscape Architects Limited (SK101) shall be undertaken under the supervision of a suitably qualified arborist.
56. Pursuant to section 128 of the RMA the conditions of this consent may be reviewed by the Manager Resource Consents at the consent holder's cost within three years of the commencement of works and then again three years after that:
 - a) To deal with any adverse effect related to the effectiveness of the landscaping that has been implemented to provide the intended softening or screening of buildings and retaining walls from neighbouring properties and which it is appropriate to deal with at a later stage.

WASTEWATER

57. The maximum discharge rate from the pump station on the site shall be no more than 5 l/s, or to a rate which is acceptable to Watercare Services.
58. The consent holder shall provide a private drainage “as-built” plan, signed by a registered drainlayer, to Council within 20 working days from the completion of the works.
59. All necessary pipes and ancillary equipment shall be supplied and laid to provide a wastewater connection to the public wastewater network. The developer shall construct a network extension and connection to the public wastewater network in front of Selwyn College on Kohimarama Road (preferred) or a network extension and connection to Allum Street as shown on TEKTUS CONSULTANTS drawing n° T19083/500/Rev A dated 18/12/2020, subject to the conditions below:
- a) A macerator pump shall be installed within the private property and maintained by the developer/owner that will ensure faster flow of wastewater and no solids, which will mitigate blockages and stagnation risks on the wastewater line due to the reduced gradient (0.1%) of the proposed wastewater pipeline.
 - b) The pumped flow rate must be below 5L/s.
 - c) The internal wastewater infrastructure within the lot shall be private and connect via a private manhole and gravity connection to the public network in accordance with the Watercare Water and Wastewater Code of Practice for Land Development and Subdivision (Code of Practice)

Advice Notes:

- *An Engineering Plan Approval application for this work is required to be submitted to the Auckland Council's Development Engineering and approved prior to the works commencing.*
- *The developer must produce under the engineering plan approval stage a completed design of the proposed water supply and wastewater infrastructure, including infrastructure to vest in Auckland Council and thereafter in Watercare (public water supply and wastewater works), in accordance with the current Watercare Water and Wastewater Code of Practice for Land Development and Subdivision (Code of Practice) as well as Watercare's standards for material supply, construction and asset data capture.*
- *All public water supply and wastewater works required to service this subdivision/development shall be designed and constructed by the developer at no cost to Watercare.*
- *Works over application will be required for the pipe sections where the cover/backfill is less than 900mm.*

WATER

60. Prior to the occupancy of any buildings on the site, the consent holder shall provide confirmation to Council of the adequacy of the public water supply to provide for firefighting as required by SNZ PAS 4509:2008. Any shortfalls in the adequacy of the public supply must be mitigated by the Consent Holder to the satisfaction of the Council.

Advice Note

Confirmation of meeting this condition should include a written report from Fire Emergency New Zealand confirming that the firefighting water supply is adequate.

61. All necessary pipes and ancillary equipment shall be supplied and laid to provide a water supply connection to the public water network. The developer shall construct a 100mm road crossing watermain to connect to the 225mm watermain on Kohimarama Road and also a 100mm road crossing watermain on the 100mm watermain on John Rymer Place as shown on TEKTUS CONSULTANTS drawing n° T19083/600/Rev A dated 18/12/2020.

Advice Notes:

- *An Engineering Plan Approval application for this work is required to be submitted to the Auckland Council's Development Engineering and approved prior to the works commencing.*
- *The developer must produce under the engineering plan approval stage a completed design of the proposed water supply and wastewater infrastructure, including infrastructure to vest in Auckland Council and thereafter in Watercare (public water supply and wastewater works), in accordance with the current Watercare Water and Wastewater Code of Practice for Land Development and Subdivision (Code of Practice) as well as Watercare's standards for material supply, construction and asset data capture.*
- *All public water supply and wastewater works required to service this subdivision/development shall be designed and constructed by the developer at no cost to Watercare.*

FLOODING / OVERLAND FLOW PATH

62. The consent holder shall engineer an overland flow path around the buildings on the site via an engineered stream. Freeboard must be provided for Building B01 and evidence of this shall be provided by the consent holder via engineering certification reporting and an as-built plan of the works.

The As-Built plan shall include cross sections of the overland flow path channel showing the 1% AEP flood water levels, freeboards and finished floor levels. The plan shall be provided to Council within 20 working days from the completion of works and prior to occupancy of Building B01.

63. A stormwater detention tank (or tanks) shall be incorporated into the private drainage reticulation to reduce the 1% AEP peak overland flows to a maximum of pre-development flows, or to a lesser level which is accepted by Council. A private drainage As-Built plan signed by a registered drainlayer showing the installed detention tank shall be provided to Council within 20 working days from the completion of the works.
64. For stormwater flows in excess of the capacity of the primary drainage systems, overland flow paths shall be provided to allow surplus stormwater from critical storms (up to the 100-year ARI event) to discharge with the minimum of nuisance and damage. Overland flow paths shall be kept free of all obstructions.
65. The consent holder shall provide to Council a statement from a suitably qualified engineer certifying the as-built location of the overland flow path depicted within Drawing No 400 (Rev A) prepared by Tektus. This shall be provided within 20 working days from the completion of the works.
66. The consent holder shall provide a Stormwater Operation and Maintenance Plan for certification by Council prior to the commencement of works on site. The purpose of the Stormwater Operation and Maintenance Plan is to detail the site-specific requirements for the ongoing, long-term operation and maintenance of the stormwater management systems, including water quality and peak flow attenuation mitigation measures. The Stormwater Operation and Maintenance Plan shall be required to be implemented in perpetuity.
67. The Consent Holder shall provide a Flood Management Plan for certification by the Council prior to the commencement of works onsite. The Flood Management Plan shall be required to be implemented in perpetuity. The Flood Management Plan shall include:
 - a) Description of the stream and attenuation details;
 - b) Site plan illustrating anticipated area of stormwater ponding throughout the site and anticipated extent of the stream water levels during the 1% AEP event;
 - c) Areas on-site with a significant flood risk and how pedestrian and vehicle will be limited to these areas at time of risk;
 - d) Areas within the proposed building with safe refuge;
 - e) Evacuations plans for safe passage of persons and animals onsite;
 - f) Monitoring of weather conditions which align with higher frequency events as required for effective management e.g. safe evacuation threshold trigger;
 - g) Protection of flood sensitive items and electronics;
 - h) Maintenance of flood resistant items and structures;
 - i) On-site alert systems of high rainfall event and procedures relating to flood events;

- j) Operation and maintenance of any alarms; and
- k) List of relevant site contacts to report any flood incidents to.

COVENANT

68. Pursuant to section 108(2)(d) of the Resource Management Act 1991, a covenant in favour of Auckland Council is required to record and advise any future owners / operator(s) of the need to comply with this condition on an ongoing basis:

- a) The on-going operation and maintenance of the stormwater attenuation tank, catch pits, scruffy domes, mega pit and realigned stream; and
- b) To ensure the unobstructed flow of the overland flow path during a 1% AEP storm event, the owner[s] of the property are required to comply with the following restrictions on an on-going basis:
 - Do not change the ground levels within the overland flow path;
 - Do not obstruct the overland flows through the property with any fencing, object (either by temporary storage or permanent placement), impermeable landscaping, building or structure;
 - Maintain the overland flow path channel such that it remains free from weeds / ground that would inhibit its ability to convey overland flows;
 - Do not alter the finished floor levels of the buildings onsite without prior approval from Auckland Council; and
 - Implement the approved Stormwater Operation and Maintenance Plan (or as modified by an approved variation) in perpetuity.
 - Implement the approved Flood Management Plan in perpetuity or as modified by a variation approved by Council.

69. The final draft of the covenant shall be submitted to Council to certify it meets the requirements to Condition 69 prior to its registration against the Record of Title. The covenant shall be registered against the Record of Title prior to the start of construction. All costs associated with the preparation and registering of the covenant on the Record of Title shall be at the expense of the consent holder.

REGIONAL EARTHWORKS CONSENT (LAND USE CONSENT (S9 LAND USE CONSENT) FOR RYMAN KOHIMARAMA COMPREHENSIVE CARE RETIREMENT VILLAGE DATED 12 MAY 2021)

70. This land use consent shall expire five years from the date of commencement, unless it has lapsed, been surrendered or cancelled at an earlier date pursuant to the Resource Management Act 1991.

71. At least ten working days prior to the commencement of each stage of earthworks on the site, the consent holder shall provide an Erosion and Sediment Control Plan to Council for certification. The purpose of the Erosion and Sediment Control Plan is to identify the erosion and sediment control measures that will be implemented on the site during construction activities and how these will comply with Auckland Council Guidance Document GD05: *Erosion and Sediment Control Guide for Land Disturbing Activities in the Auckland Region*.
72. Prior to each stage of earthworks commencing on the site, a certificate signed by a SQEP shall be submitted to Council to certify that the erosion and sediment controls have been constructed in accordance with the certified Erosion and Sediment Control Plan.

The controls shall include, but are not limited to, sediment retention ponds, and clean and dirty water diversion bunds. Information supplied in the certificate, if applicable, shall include:

- a) Contributing catchment area;
- b) Shape of structure (dimensions of structure);
- c) Position of inlets / outlets; and
- d) Stabilisation of the structure.

The operational effectiveness and efficiency of all erosion and sediment control measures specifically required by the certified Erosion and Sediment Control Plan shall be maintained throughout the duration of earthworks activities, or until the site is permanently stabilised against erosion.

73. At least ten working days prior to the commencement of each stage of earthworks on the site, the consent holder shall submit a Chemical Treatment Management Plan ("CHEMTMP") to Council for certification. The purpose of the CHEMTMP is to set out the requirement for the implementation of chemical treatment to improve the efficiency of sediment retention devices on site.

The CHEMTMP shall include:

- a) Specific design details of the chemical treatment system based on a rainfall activated methodology for any decanting earth bund or sediment retention pond at the site;
- b) Monitoring, maintenance (including post storm) and a contingency programme (including a record sheet);
- c) Details of optimum dosage (including assumptions);
- d) Results of an initial chemical treatment trial;
- e) A spill contingency plan; and

- f) Details of the person or bodies that will hold responsibility for the long-term operation and maintenance of the chemical treatment system and the organisational structure which will support this system.
74. All sediment retention ponds, and decanting earth bunds shall be chemically treated in accordance with the certified CHEMTMP.
75. No earthworks on the site shall be undertaken between 1 May and 30 September in any year, without the prior written approval of Council. Any revegetation / stabilization works are to be completed by 30 April in accordance with measures detailed in Auckland Council Guidance Document GD05; Erosion and Sediment Control Guide for Land Disturbing Activities in the Auckland Region and any amendments to this document.
76. Earthworks shall be managed to avoid, as far as practicable, deposition of earth, mud, dirt or other debris on any road or footpath resulting from earthworks activity on the site. In the event that such deposition does occur, it shall immediately be removed. In no instance shall roads or footpaths be washed down with water without appropriate erosion and sediment control measures in place to prevent contamination of the stormwater drainage system, watercourses or receiving waters.

Advice Note

In order to prevent sediment laden water entering waterways from the road, the following methods may be adopted to prevent, or address discharges should they occur:

- *provision of a stabilised entry and exit(s) point for vehicles;*
 - *provision of wheel wash facilities;*
 - *ceasing of vehicle movement until materials are removed;*
 - *cleaning of road surfaces using street-sweepers;*
 - *silt and sediment traps;*
 - *catchpit protection; or*
 - *In no circumstances should the washing of deposited materials into drains be advised or otherwise condoned.*
77. The site shall be progressively stabilised against erosion at all stages of earthworks and shall be sequenced to minimise the discharge of sediment to groundwater or surface water in accordance with the certified Erosion and Sediment Control Plan.

Advice Note:

- *In accordance with Condition 78, earthworks shall be progressively stabilised against erosion during all stages of earthworks. Interim stabilisation measures may include:*
- *The use of waterproof covers, geotextiles, or mulching;*
- *Top-soiling and grassing of otherwise bare areas of earth; or*
- *Aggregate or vegetative cover that has obtained a density of more than 80% of a normal pasture sward.*

78. Upon completion or abandonment of earthworks on the site all areas of bare earth shall be permanently stabilised against erosion.

Advice Note:

- *Should the earthworks be completed or abandoned, bare areas of earth shall be permanently stabilised against erosion. Measures may include:*
- *The use of mulching;*
- *Top-soiling, grassing and mulching of otherwise bare areas of earth; or*
- *Aggregate or vegetative cover that has obtained a density of more than 80% of a normal pasture sward.*

STORMWATER DIVERSION (DISCHARGE CONSENT (S14 AND S15 STORMWATER PERMIT) FOR RYMAN KOHIMARAMA COMPREHENSIVE CARE RETIREMENT VILLAGE DATED 12 MAY 2021)

79. This consent shall expire 35 years from the date of commencement, unless it has lapsed, been surrendered or cancelled at an earlier date pursuant to the Resource Management Act 1991.

80. The following stormwater management works shall be constructed for the following catchment areas and design requirements, and shall be completed **prior** to discharges from the associated new impervious areas commencing from the site:

Works to be undertaken	Catchment area	Design requirement(s)
<i>Inert roofing materials</i>	All roof areas	No exposed unpainted metal surfaces.
<i>Stormwater 360Stormfilter X 2 (SF1 and SF2)</i>	SF1 = 4551.0m ² SF2 = 440.0m ²	Installed as per manufacturers' specifications Offline configuration, peak flow diversion manhole SF1 = 9 cartridges SF2 = 2 cartridges To be approved at Engineering Plan Approval stage
<i>Underground re-use attenuation (storage) tank (1350m³)</i>	All impervious areas	As per Guidelines specifications

Outfall X4	6,043m ² of impervious area and 5,031m ² of pervious	Erosion protection to minimise bed scour and erosion Steep drops (ranging between 2.3m and 3.1m and lined with appropriate substrate to prevent scour and erosion (e.g. boulder, cobble).
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Detailed designs for stormwater mitigation for the site impervious areas including any relevant drawings, plans and calculations shall be submitted for Engineering Plan Approval and/or Building Consents.

Modifications approval

81. In the event that any modifications to the stormwater management system are required, that will not result in an application pursuant to Section 127 of the RMA, the following information shall be provided:

- Plans and drawings outlining the details of the modifications; and
- Supporting information that details how the proposal does not affect the capacity or performance of the stormwater management system.

All information shall be submitted to and approved by the Team Leader - Compliance Monitoring Central, prior to implementation.

Advice Note:

All proposed changes must be discussed with the Team Leader - Compliance Monitoring Central, prior to implementation. Any changes to the proposal which will affect the capacity or performance of the stormwater management system will require an application to Council pursuant to Section 127 of the RMA.

DEWATERING (WATER CONSENT (S14 GROUNDWATER PERMIT) FOR RYMAN KOHIMARAMA COMPREHENSIVE CARE RETIREMENT VILLAGE DATED 12 MAY 2021)

82. This consent shall expire 35 years from the date of commencement, unless it has lapsed, been surrendered or cancelled at an earlier date pursuant to the Resource Management Act 1991.

Advice Note:

- *The definition of key terms relevant to the exercise of the Dewatering Consent are attached as Attachment 1 to the conditions appended to this consent.*

NOTICE OF COMMENCEMENT OF DEWATERING

83. The consent holder shall notify Council in writing at least ten working days prior to the commencement of any dewatering on the site.

DESIGN OF BASEMENT WALLS AND RETAINING

84. The design and construction of the retaining walls and basement walls shall be undertaken in general accordance with the specifications contained in the report titled *“Geotechnical Assessment of Environmental Effects – 223 Kohimarama Road and 7 John Rymer Place, Auckland”* prepared by Tonkin & Taylor dated February 2021.

EXCAVATION LIMIT

85. The Bulk Excavation on the site shall not extend more than 1 m below the Final Finish Levels shown on Drawing No.200 (by Tektus) (not including the Bulk Excavation for the establishment of the stormwater detention tanks proposed below the basement floor slab in Building B01).

DAMAGE AVOIDANCE

86. All excavations, dewatering systems, retaining structures, basements and works associated with the diversion or taking of groundwater, shall be designed, constructed and maintained so as to avoid damage to buildings, structures and services on the site or adjacent properties, outside that assessed as part of the application process unless otherwise agreed in writing with the asset owner.

EXTERNAL VISUAL INSPECTIONS DURING DEWATERING AND REPORTING

87. The consent holder shall request in writing the approval of the owners of the following properties to undertake an initial Condition Survey prior to the Commencement of Excavations on the site:

- 3A, 5, 9, 17A, 17, 19A, 19, 27A, 2/37, 45A and 47 John Rymer Place.

The consent holder shall send copies of each of the requests to Council. If the property owner does not respond within 15 working days of the request having been made, or the property owner does not require a visual inspection to be undertaken, the consent holder need not undertake a survey of that property.

The Condition Survey shall be undertaken by a SQEP and shall assess the current condition of the exterior and interior of the buildings, and any retaining walls, on the properties listed above. A written report, including a photographic record as specified below, shall be submitted to Council and to the relevant property owner, on the results of the baseline condition survey within 15 working days of the surveys being completed.

Within 12 weeks of the Completion of Excavation at the site, a follow up condition and photographic survey of each property listed above shall be undertaken (subject to the approval of the property owner). The purpose of these surveys is to assess any adverse effects resulting

from dewatering activities at the site and to document any remediation required by the consent holder to rectify damage caused by construction activities.

A written report, including a photographic record as specified above, shall be submitted to Council and to the relevant property owner, on the results of the follow up condition survey within 15 working days of the surveys being completed.

ADDITIONAL SURVEYS

88. The consent holder shall undertake additional surveys of the condition of any building, structure, or service, if requested following a complaint and there is a reasonable basis to support the request, by Council, for the purpose of investigating any damage potentially caused by ground movement resulting from dewatering or retaining wall deflection on the site. A written report of the results of the survey shall be prepared and / or reviewed by a SQEP and submitted to Council and to the relevant property owner.
89. The requirement for any such additional Condition Survey will cease six months after the Completion of Dewatering, unless ground settlement or building deformation monitoring indicates movement is still occurring at a level that may result in damage to buildings, structures, or services. In such circumstances the period where an additional Condition Survey may be required will be extended until monitoring shows that movement has stabilised and the risk of damage to buildings, structures and services as a result of the dewatering is no longer present.

CONTINGENCY ACTIONS

90. If the consent holder becomes aware of any damage to buildings, structures or services potentially caused wholly, or in part, by the dewatering authorised by this consent, the consent holder shall:
- a) Notify Council and the asset owner within two working days of becoming aware of the damage;
 - b) Provide a report prepared by a SQEP (engaged by the consent holder at their cost) that:
 - (i) Describes the damage;
 - (ii) Identifies the cause of the damage;
 - (iii) Identifies methods to remedy and / or mitigate the damage that has been caused;
 - (iv) Identifies the potential for further damage to occur; and
 - (v) Describes actions that will be taken to avoid further damage.
 - c) Provide a copy of the report prepared under (b) above, to Council and the asset owner within ten working days of notification under (a) above.
 - d) Implement the actions described in the report as soon as practicable, subject to obtaining written approval to do so from the affected asset owner.

NOTICE OF COMPLETION

91. The consent holder shall notify Council in writing within ten working days of the completion of excavation and the Completion of Dewatering.

GROUNDWATER MAINTENANCE PROGRAM

92. The consent holder shall provide Council with a maintenance program for any permanent groundwater drainage system used to manage groundwater levels.

Advice Note:

The consent holder is advised that the discharge of pumped groundwater to a stormwater system or waterbody will need to comply with any other regulations, bylaws or discharge rules that may apply.

REVIEW

93. In accordance with section 128 of the Resource Management Act 1991, the conditions of this consent may be reviewed by Auckland Council, at the consent holder's cost, at intervals of not less than one year following commencement of dewatering, for a maximum of five years after completion of the project, in order to vary the monitoring and reporting requirements, and performance standards, on account of the results of previous monitoring and changed environmental knowledge on:

- a) Ground conditions;
- b) Aquifer parameters;
- c) Groundwater levels; and
- d) Ground surface movement.

BORE (LAND USE CONSENT (S9 LAND USE CONSENT) FOR RYMAN KOHIMARAMA COMPREHENSIVE CARE RETIREMENT VILLAGE DATED 12 MAY 2021)

Bore Location

94. The bore is to be located and constructed within 50 m of the specified location detailed below:

Name	Bore ID	NZTM Easting (mE)	NZTM Northing (mN)	Depth (m)
Ryman Healthcare Limited	30779	1763960	5918658	400
Bore diameter (mm)	Aquifer	Casing depth (m)	Casing material	Grouting (mm)

200	Auckland Isthmus Waitemata	100	Steel	100
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Bore Completion Date

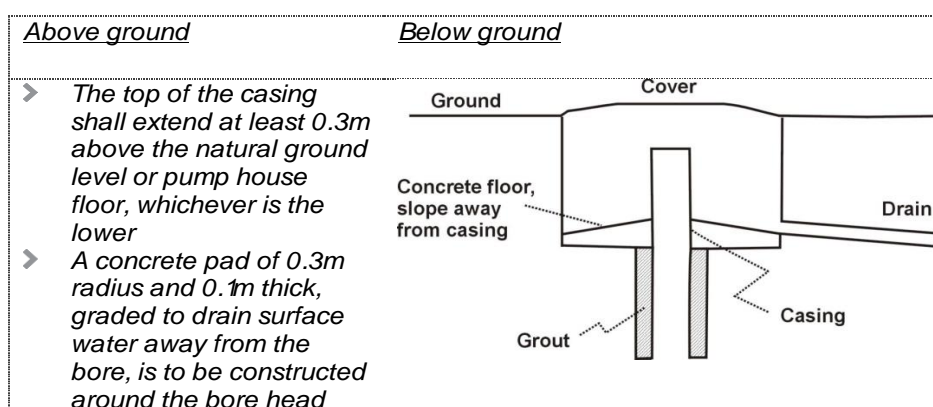
95. The bore must be completed within 30 days of the commencement of construction.

Bore Design, Construction, Maintenance and Record Keeping

96. The bore must be constructed, maintained, tested, and records kept (drilling log) in accordance with NZS 4411:2001, Environmental Standard for Drilling of Soil and Rock. Adequate provisions for groundwater level measurement and water sampling shall also be provided at the bore head.

Advice Notes:

- *Bore headworks constructed in accordance with the diagram and explanation provided below will be considered to meet the NZS 4411:2001 Section 2.5.5.3-5.*



- *NZS 4411:2001 Section 2.5.5.7 (water level measurement) can be met by strapping a 20 mm diameter (minimum) tube (polypipe) to the main riser, power and support stay for the pump, the provision of a hole in the headworks of a minimum of 20 mm diameter and a removable, screw-type cap. Provision at the top of the bore for water quality sampling can be achieved by fitting a tap or hand valve as close to the pump outlet as possible and before the water enters any storage tank or filter. It should have at least 0.3 metre clearance above ground level or other obstruction to allow a sample bottle to be filled.*

Bore Identification

97. Bore identification number 30779 must be permanently affixed, in a clearly visible location and in a form that will remain legible, to the bore head structure.

Information to be supplied to Council

98. The following information shall be supplied to Council within 20 working days of completion of the bore:

- a) The drilling log;
- b) A digital photograph(s) legibly showing:
 - The bore number affixed to the bore head structure;
 - The length of the casing protruding above the concrete pad; and
 - The concrete pad around the bottom of the bore head.
- c) An annotated map, or aerial photograph, that accurately and clearly shows the physical location and coordinates for the bore; and
- d) The following as built details for the bore:

Name	Bore ID	NZTM Easting (mE)	NZTM (mN)	Northing	Depth (m)
	30779				
Bore diameter	Aquifer	Casing depth (m)	Casing material	Grouting	

WATER TAKE AND ALLOCATION (WATER CONSENT (S14 WATER PERMIT) FOR RYMAN KOHIMARAMA COMPREHENSIVE CARE RETIREMENT VILLAGE DATED 12 MAY 2021)

Term of Consent

99. The taking of water in accordance with this consent shall expire in 15 years, unless it has lapsed, been surrendered or been cancelled at an earlier date pursuant to the Resource Management Act 1991.

Take Location

100. The take and use of groundwater in accordance with this consent shall be from the Auckland Isthmus Waitemata Aquifer, and from a bore located within 50 m of the location at Map Reference 1763960 mE 5918658 mN on 223 Kohimarama Road, Kohimarama (Lot 1 DP 332284) for irrigation of amenity gardens at 223 Kohimarama Road (Lot 1 DP 332284) and 7 John Rymer Place (Lot 51 DP 163242), Kohimarama.

Authorised Quantity

101. The taking of water shall comply with the following:

- a) The total abstraction shall not exceed 120 cubic metres per day for the first five years of the exercise of this consent, and 90 cubic metres per day thereafter; and
- b) The total volume of water abstracted in each 12-month period, commencing 1 June of any year and ending 31 May of the following year, shall not exceed 11,600 cubic metres for the first five years of the exercise of this consent, and 8,900 cubic metres thereafter.

Installation of Water Meter

102. Prior to the first exercise of this consent, a water meter shall be installed and maintained at the outlet of the bore pump. The water meter shall:

- a) Be fit for the purpose and water it is measuring;
- b) Measure the volume of water taken, with an accuracy of +/- 5% of the actual volume taken;
- c) Be tamper-proof and sealed; and
- d) Be installed and maintained in accordance with the manufacturer's specifications.

Verification of Water Meter / Device Accuracy

103. The water meter shall be verified as accurate by a suitably qualified professional at the following times:

- a) Prior to the first exercise of this consent;
- b) Within five working days of the water meter being serviced or replaced; and
- c) By 30 June of the fifth year from the commencement of consent, and thereafter at five yearly intervals.

The water meter, its verification and evidence of its accuracy shall be in accordance with the Resource Management (Measurement and Reporting of Water Takes) Regulations 2010 (or any equivalent regulations that may replace them) and a copy of the verification shall be provided to Council within ten working days of the meter / devices being verified as accurate.

Bore Construction for Water Level Measurements

104. If required in writing by Council, the consent holder shall, within 20 working days, make provision at the top of the bore so that a probe can be lowered vertically into the bore between the riser tube and casing to measure the static water level in the bore.

Advice Note:

Access to the wellhead for water level measurement can be achieved by having an access tube of at least 2 centimetres internal diameter extending from the top of the bore to the submersible pump. In order to keep out foreign matter, the tube should be fitted with an easily removed plug.

Bore Construction for Sampling

105. If required in writing by Council, the consent holder shall, within 20 working days, make provision at the top of the bore so that a sample of water can be taken from the bore for water quality analysis. A tap or hand valve shall be fitted as close to the bore pump outlet as possible and before the water enters any storage tank or filter. The tap or valve should have at least 0.3 m clearance above ground level or any other obstruction to allow a sample bottle to be filled.

Water Meter Readings

106. A water meter reading shall be taken at weekly intervals consistently at one of these times:

- a) Before pumping starts for a day; and
- b) At the end of pumping for a day.

The date and the water meter reading shall be recorded and supplied to Council in accordance with the reporting condition below.

Advice Note:

If no water is taken during any period, the current meter reading must still be recorded.

Water Reporting

107. The following information shall be entered, at the frequency and date specified, to the Council's Water Use Data Management System or to any replacement database identified in writing by Council.

Information	Due Dates for reporting
Water use water meter reading and date	Every 15th day of March, June, September and December

Water Use Efficiency Report

108. The consent holder shall provide a water use efficiency report to Council five years after commencing this consent, and subsequently at intervals of not more than five years thereafter. The report shall assess the water use over the reporting period against best practice in respect of the efficient use of water for the purpose consented. This report shall include, but not be limited to:

- a) Annual summary of water usage (month by month and related to irrigation scheduling);
- b) Reasons why annual water use may have varied from previous years aside from climatic variability (e.g. development of buildings, expansion of amenity planting);
- c) Information demonstrating irrigation equipment and decision making (e.g. soil moisture data, irrigation scheduling, meter accuracy checks, computer control of irrigation) and any changes planned for the coming five years; and
- d) Water conservation steps taken (e.g. leak detection).

Review

109. In accordance with section 128 of the Resource Management Act 1991, the conditions of this consent may be reviewed by Auckland Council, at the consent holder's cost, in June 2026 and subsequently at intervals of not less than five years thereafter in order to:

- a) To deal with any adverse effect on the environment which may arise or potentially arise from the exercise of this consent and which it is appropriate to deal with at a later stage; or
- b) To vary the quantities, monitoring, operating and reporting requirements and performance standards in order to take account of information, including the results of previous monitoring and changed environmental knowledge, on: water availability, including alternative water sources; actual and potential water use; groundwater levels; efficiency of water use; groundwater quality; and the relationship of Māori with water.

STREAMWORKS CONSENT (LAND USE STREAMWORKS CONSENT (S13 AND S14 STREAMWORKS CONSENT) FOR RYMAN KOHIMARAMA COMPREHENSIVE CARE RETIREMENT VILLAGE DATED 12 MAY 2021)

STREAMWORKS MANAGEMENT

110. Prior to streamworks commencing, a streamworks methodology shall be prepared and submitted to Council for certification. The streamworks methodology shall be prepared in general accordance with Guidance Document GD05 (section G4 Works within a watercourse) and shall detail a specific dam and divert methodology to be implemented for the duration of streamworks.

111. At least ten working days prior to the commencement of any streamworks within the site, the consent holder shall submit a Native Fish Capture and Relocation Plan to Council for certification. The purpose of the Native Fish Capture and Relocation Plan shall be to detail how native fish will be salvaged prior to the dewatering of the stream on the site occurring to avoid mortality and shall include the following information:

- a) The methodology, and frequency of effort, to capture native fish;
- b) The identification of a suitably qualified and experienced ecologist to undertake the capture and relocation of native fish;
- c) The suitability of the proposed relocation site(s);
- d) The storage and transport measures to be utilised, including measures to prevent predation and death during capture / relocation; and
- e) Euthanasia methods for diseased or pest species.

112. The ecologist identified in Condition 112 above, shall be responsible for conducting the capture and relocation of native fish in accordance with the Native Fish Capture and Relocation Plan, and

shall be on site during the dewatering of the stream on the site to capture and relocate any native fish still present.

113. At least ten working days prior to the commencement of any streamworks within the site, the consent holder shall submit a Stream Channel Design and Enhancement Plan to the Council for certification. No streamworks activity on the subject site shall commence until confirmation from Council is provided that the Stream Channel Design and Enhancement Plan is satisfactory. The purpose of the Stream Channel Design and Enhancement Plan is to confirm the final details of the newly constructed stream channel and to outline a programme of planting, and plant and animal pest management, to be implemented within the stream that is to be constructed / established on the site. The Stream Channel Design and Enhancement Plan shall be prepared in accordance with Technical Publication 148, Riparian Zone Management Strategy for the Auckland Region (TP148) and shall include:

- a) Details of the stream mitigation works that result in:
 - i. At least 170 m² length and 109.44m² bed area of constructed stream at the point of impact;
 - ii. Riparian planting along the full length of the newly constructed stream channel in accordance with Drawing SK113.
- b) Final stream channel design including, but not limited to:
 - i. Details of stream design with meanders and variation in hydrology;
 - ii. Use & frequency of hard substrate for habitat enhancement;
 - iii. Details of creation of cascades, run, riffle and pool sequences; and
 - iv. Details of weirs, including provision of fish passage for climbing species through mussel spat ropes or other approved methodology included in the New Zealand Fish passage Guidelines.
- c) Site preparation details, including timing of preparation work;
- d) Pest plant and animal control methodologies;
- e) Plant species, numbers and densities to be planted;
- f) Planting methodologies;
- g) Annual planting maintenance details;
- h) Eco-sourcing details; and

- i) A detailed ecological methodology to ensure the proposed SEV values indicated within the document titled '*Response to Items 70, 71 and 72 of the Section 92 Request for Further Information for the Kohimarama Village Resource Consent Application*', prepared by Freshwater Solutions, dated 20 May 2020, referenced in Condition 1 are monitored at year 1, 3, 5 after the completion of the diversion and planting to provide a trajectory.
114. Creation and livening of the stream diversion and enhancement as outlined within the approved Stream Channel Design and Enhancement Plan required under condition 114 above, shall be implemented and completed with 24 months of the commencement of streamworks authorised under this consent and maintained thereafter, in accordance with that plan.
115. The pest plant and animal pest management measures required by the approved Stream Restoration and Enhancement Plan shall be implemented for a period of not less than five years or until canopy closure of the riparian planting is achieved (whichever milestone is achieved first). The five-year period shall commence once all the streamworks and riparian planting works have been completed.
116. Written confirmation in the form of a Stream Restoration and Enhancement Completion Report shall be provided to Council, within 30 working days of the stream restoration and enhancement work being implemented and completed.
117. The consent holder shall ensure that mussel spat ropes are installed and maintained on the three upper weirs of the constructed stream in order to provide for on-going passage for native climbing species. Fish passage for native climbing species shall be maintained throughout the duration of this consent once the works have been completed.
- Advice notes:***
- Spat ropes require on-going maintenance which should be provided for in any stormwater maintenance plans to be maintained throughout the life of the structures.*
118. Within 20 working days following completion of the installation of the three weir structures, the consent holder shall submit to the Council the information required by Regulations 62 and 64 of the National Environmental Standard for Freshwater (2020), specifying the time and date of collection.
119. Within 20 working days following completion of the three weir structures, the consent holder shall submit a Fish Passage Monitoring and Maintenance Plan (FPMMP) to the Council for certification. The FPMMP must specify the ongoing monitoring and maintenance measures of the weirs to ensure fish passage is maintained over the lifetime of the weirs, and include the following detail:
- a) Baseline survey in accordance with current best practice measures prior to installation identifying the species upstream and downstream of the future structures;
 - b) Programme and method of annual species monitoring in accordance with current best practice measures for monitoring fish passage success (upstream and downstream of the

structures) for at least the first three years following completion of installation, at the same time every year between the months of December and April;

- c) Where the monitoring concludes that the weirs and spat rope are not effective at providing for the passage of fish over the weirs, a Further Fish Passage Remediation Plan shall be prepared, to the satisfaction of the Council, within 2 months following the species monitoring undertaken 3 years following the livening of the diverted stream. The plan shall include, without limitation, repairs or improvements of existing weirs to achieve the fish passage past the weirs, provision to update the plan as required following further monitoring at yearly intervals until such time that each weir is shown to be effective at providing for unimpeded fish passage past the weirs;
- d) Programme and method of visual routine monitoring each time a significant natural hazard affects the structures and maintenance;
- e) Visual inspection of the structure within five days following high flow events, or events that may otherwise affect the weirs' stability and provision for fish passage.
- f) Submission of species monitoring results to the Council within ten working days following monitoring, that include:
 - Results of species survey;
 - Whether monitoring shows that there are adverse effects on the passage of fish; and
 - Details of any required fish passage remediation; and
 - Further steps to be taken to ensure that the structure's provision for the passage of fish does not reduce over its lifetime.
- g) Submission of monitoring results (including photos) to the Council within ten working days following monitoring, that include:
 - Any changes to the structure and environment detail as submitted following completion of site de-watering; and
 - Further steps to be taken to ensure that the structures provision for the passage of fish does not reduce over its lifetime.

120. The consent holder must maintain a record of:

- a) All placement, alteration, extension and reconstruction works, including when the works commence, how long they take, and when the works are completed; and
- b) Details of all monitoring and maintenance works undertaken in relation to the stream including evidence of any maintenance works undertaken.

If requested, the consent holder shall provide this record to the Council within ten working days of the date of request.

121. Fish passage must be maintained over the weir structures in perpetuity, and monitoring, maintenance and remediation measures must be undertaken in accordance with the FPMMP throughout the lifetime of the weirs.

122. Within 20 working days following completion of the installation of the new vertical culvert and spiral fish ramp structure, the consent holder shall submit to Council the information required by Regulations 62, 63 and 68 of the National Environmental Standard for Freshwater (2020), specifying the time and date of collection.

123. Within 20 working days following completion of the new vertical culvert and spiral fish ramp structure, the consent holder shall submit a Fish Passage Monitoring and Maintenance Plan (FPMMP) to Council for certification. The FPMMP must specify the ongoing monitoring and maintenance measures of the vertical culvert structure to ensure fish passage is maintained over the lifetime of the vertical culvert structure, and include the following detail:

- a) Baseline survey in accordance with current best practice measures prior to installation identifying the species upstream and downstream of the existing structure;
- b) Programme and method of annual species monitoring in accordance with current best practice measures for monitoring fish passage success (upstream and downstream of the structure) for at least the first three years following completion of installation, at the same time every year between the months of December and April;
- c) Where the monitoring concludes that the spiral fish ramp is not effective at providing for the passage of fish through the vertical culvert, a Further Fish Passage Remediation Plan shall be prepared, to the satisfaction of the Council, within 2 months following the species monitoring undertaken 3 years following the livening of the diverted stream. The plan shall include, without limitation, repairs or improvements of existing spiral fish ramp to achieve the fish passage through the vertical culvert, provision to update the plan as required following further monitoring at yearly intervals until such time that the spiral fish ramp is shown to be effective at providing for unimpeded fish passage through the vertical riser;
- d) Programme and method of visual routine monitoring each time a significant natural hazard affects the structure and maintenance;
- e) Visual inspection of the structure within five days following high flow events, or events that may otherwise affect the vertical culvert and ramp's stability and provision for fish passage.
- f) Submission of species monitoring results to Council within ten working days following monitoring, that include:
 - Results of species survey;
 - Whether monitoring shows that there are adverse effects on the passage of fish; and
 - Details of any required fish passage remediation; and

- Further steps to be taken to ensure that the structure's provision for the passage of fish does not reduce over its lifetime.
- g) Submission of monitoring results (including photos) to Council within ten working days following monitoring, that include:
 - Any changes to the structure and environment detail as submitted within Condition 120a above; and
 - Further steps to be taken to ensure that the structure's provision for the passage of fish does not reduce over its lifetime.

124. The consent holder must maintain a record of:

- a) All placement, alteration, extension and reconstruction works, including when the works commence, how long they take, and when the works are completed; and
- b) Details of all monitoring and maintenance works undertaken in accordance with Condition 120b, including evidence of any maintenance works undertaken.

If requested, the consent holder shall provide this record to Council within ten working days of the date of request.

125. Fish passage must be maintained through the vertical culvert structure in perpetuity, and monitoring, maintenance and remediation measures must be undertaken in accordance with the FPMMP throughout the lifetime of the vertical culvert structure.

Advice note:

The Department of Conservation must be notified of the intention to erect or place any structure likely to impede fish passage. This includes weirs, culverts, fords, dam or diversion structures (Part VI of the Freshwater Fisheries Regulations 1983).

SEASONAL RESTRICTIONS

126. No streamworks within the site shall be undertaken between 30 April and 1 October in any year, without the prior written approval of Council at least ten working days prior to 30 April. Revegetation or stabilisation of any stream margins is to be completed by 30 April in accordance with measures detailed in Guidance Document GD05.

ATTACHMENT 1 - DEFINITION OF KEY TERMS RELEVANT TO DEWATERING CONSENT (WATER CONSENT (S14 GROUNDWATER PERMIT) FOR RYMAN KOHIMARAMA COMPREHENSIVE CARE RETIREMENT VILLAGE DATED 12 MAY 2021)

DEFINITIONS

Words in the ground dewatering (take) and groundwater diversion consent conditions have specific meanings as outlined in the table below.

Key Term	Definition
Bulk Excavation	Includes all excavation that affects groundwater excluding minor enabling works and piling less than 1.5m in diameter.
Commencement of Dewatering	Means commencement of bulk excavation and / or the commencement of the taking or diversion of groundwater, other than for initial state monitoring purposes.
Completion of Dewatering	Means, in the case of a drained building or structure, the stage at which the structures external and internal support mechanisms, including basement floors have been completed, the permanent drainage system(s) are in place and no further groundwater is being taken for the construction of the basement.
Commencement of Excavation	Means commencement of bulk excavation or excavation to create perimeter walls.
Completion of Construction	Means when the Code Compliance Certificate (CCC) is issued by Auckland Council.
Completion of Excavation	Means the stage when all bulk excavation has been completed and all foundation / footing excavations within 10 meters of the perimeter retaining wall have been completed.
Council	For the purposes of monitoring this consent, the Council refers to Auckland Council's monitoring officer, unless other otherwise specified. Please email monitoring@aucklandcouncil.govt.nz
Condition Survey	Means an external visual inspection or a detailed condition survey (as defined in the relevant conditions).

Damage	Includes Aesthetic, Serviceability, Stability, but does not include Negligible Damage. Damage as described in the table below.
External visual inspection	A condition survey undertaken for the purpose of detecting any new external damage or deterioration of existing external damage. Includes as a minimum a visual inspection of the exterior and a dated photographic record of all observable exterior damage.
RL	Means Reduced Level.
Services	Include fibre optic cables, sanitary drainage, stormwater drainage, gas and water mains, power and telephone installations and infrastructure, road infrastructure assets such as footpaths, kerbs, catch-pits, pavements, and street furniture.
SQEP	Means Suitably Qualified Engineering Professional.

Table 1: Building Damage Classification

Category of Damage	Normal Degree of Severity	Description of Typical Damage (<i>Building Damage Classification after Burland (1995), and Mair et al (1996)</i>)	General Category (<i>after Burland – 1995</i>)
0	Negligible	Hairline cracks.	Aesthetic Damage
1	Very Slight	Fine cracks easily treated during normal redecoration. Perhaps isolated slight fracture in building. Cracks in exterior visible upon close inspection. Typical crack widths up to 1mm.	
2	Slight	Cracks easily filled. Redecoration probably required. Several slight fractures inside building. Exterior cracks visible, some repainting may be required for weather-tightness. Doors and windows may stick slightly. Typically crack widths up to 5mm.	
3	Moderate	Cracks may require cutting out and patching. Recurrent cracks can be masked by suitable linings. Brick pointing and possible replacement of a small amount of exterior brickwork may be required. Doors and windows sticking. Utility services may be interrupted. Weather tightness often impaired. Typical crack widths are 5mm to 15mm or several greater than 3mm.	Serviceability Damage

4	Severe	Extensive repair involving removal and replacement of walls especially over door and windows required. Window and door frames distorted. Floor slopes noticeably. Walls lean or bulge noticeably. Some loss of bearing in beams. Utility services disrupted. Typical crack widths are 15mm to 25mm but also depend on the number of cracks.	
5	Very Severe	Major repair required involving partial or complete reconstruction. Beams lose bearing, walls lean badly and require shoring. Windows broken by distortion. Danger of instability. Typical crack widths are greater than 25mm but depend on the number of cracks.	Stability Damage

Note: In the table above the column headed "Description of Typical Damage" applies to masonry buildings only and the column headed "General Category" applies to all buildings.