

# Application for land use consent

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## Integrated Residential Development 2 and 2A Tizard Road, Birkenhead

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Figure 13. Street view from Tizard Road

**Applicant: Sino-Dutch Developments Ltd**

**8 November 2020**

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## **1. APPLICATION OVERVIEW**

- 1.1 The application is seeking resource consent for an integrated residential development containing ten residential units. The site is located at 2 and 2a Tizard Road, Birkenhead adjacent to the Waitemata Harbour and immediately above the Birkenhead wharf terminal.
- 1.2 The site has an area of 3056m<sup>2</sup> and is zoned as Residential – Single House Zone in the Auckland Unitary Plan - Operative in part (AUP). Part of the site is covered by a Significant Ecological Area overlay which contains areas of protected native vegetation and areas with mown grass and weed species. Part of the site is also covered by a bush protection covenant which this application is seeking to remove.
- 1.3 It is proposed to construct a multi-level development on a relatively steep site that steps down the landscape towards the harbour. The building will contain ten residential units over four levels, at least two of which are at basement level such that the building above ground level will generally present as one or two storeys when viewed from the street. The development provides communal facilities for residents including a gym, swimming pool and associated facilities in an open communal area.
- 1.4 This report provides an assessment of the proposal against the provisions of the AUP as well as an assessment of environmental effects. The overall outcome of the assessment shows that the proposal meets the objectives of the AUP and will have no more than minor effects on the environment.
- 1.5 The proposal is assessed as being an efficient and effective use of the site that has no adverse effects on adjoining properties and provides a high quality development that will enhance the aesthetic character of the street. It is considered that a resource consent can be granted subject to including appropriate conditions of consent.
- 1.6 This application was originally lodged in March 2018 and was heard before Commissioners Les Simmons (Chairperson), Dr Lee Beattie and Gavin Lister appointed by Auckland Council in December 2019. The Commissioners determined that the application was a non-complying activity because they considered the units within the IRD were dwellings under the definitions of the AUP. The Applicant rejects this interpretation and favours the definition of units in the AUP as being appropriate to the form of accommodation contemplated within an IRD in the Single House Zone. Accordingly, the Applicant presents this revised application on a without prejudice basis in respect of this interpretation decision by the Commissioners.

## **2. APPLICATION DETAILS**

<b>Applicant:</b>	<b>Sino-Dutch Developments Ltd</b>
<b>Site address:</b>	<b>2 and 2a Tizard Road, Birkenhead</b>
<b>Legal description:</b>	<b>Lot 1 and Lot 2 DP 403136</b>
<b>Site area:</b>	<b>3056m<sup>2</sup></b>
<b>Consent sought:</b>	<b>Land Use Consent</b>
<b>Proposal:</b>	<b>Integrated residential development including ten residential units plus communal facilities</b>
<b>AUP Zoning:</b>	<b>Residential – Single House Zone Coastal – General Coastal Marine zone (tiny segment at southern end of site not relevant to this assessment.)</b>
<b>AUP Overlays:</b>	<b>Natural Resources: Significant Ecological Areas Overlay – SEA_T_8178, Terrestrial</b>
<b>Controls:</b>	<b>Coastal Inundation 1 percent AEP Plus 1m Control – 1m sea level rise AUP (tiny segment at southern end of site) Macroinvertebrate Community Index – Native Macroinvertebrate Community Index - Urban</b>
<b>Activity Status:</b>	<b>Discretionary, but determined by Commissioners to be Non Complying</b>

### **3. SUPPORTING DOCUMENTS and EXPERT CONTRIBUTORS**

The following documents are provided to support the application:

Attachment 1	Certificate of Title and details of bush covenant
Attachment 2	Architectural drawings, Young and Richards, 6 November 2020
Attachment 3	Design Statement, Young and Richards, 6 November 2020
Attachment 4	Urban design and visual assessment, Transurban, 7 October 2020
Attachment 5	Visual simulations prepared by Young and Richards and U6 Photomontages Ltd, June 2020
Attachment 6	Infrastructure report, Civix Ltd, August 2017
Attachment 7	Geotechnical report, Issue D, 14 May 2020, Kirk Roberts Consulting Engineers
Attachment 8	Groundwater Drawdown and Monitoring and Contingency Plan Issue G 2 July 2019
Attachment 9	Transport assessment, Revision A, 22 May 2020, Traffic Planning Consultants Ltd
Attachment 10	Indicative Construction Traffic Management Plan, Traffic Planning Consultants, Revision B 6 September 2019
Attachment 11	Ecological assessment, Wildlands, April 2020
Attachment 12	Arboricultural Assessment October 2020
Attachment 13	Vegetation removal and planting design plans, Topia Garden Design, Revision P 4 November 2020
Attachment 14	Draft unit title subdivision prepared by Kiwi Vision Consultants Ltd Revision D (not part of the formal application documents)

## 4. EXISTING ENVIRONMENT

### Site location

- 4.1 The site is located at 2 and 2a Tizard Road, Birkenhead along the northern shoreline of the Waitemata Harbour. The site is approximately 1.6kms from the Birkenhead Town Centre/ Highbury shopping centre and 2.6km from the Onewa Road interchange with State Highway 1, north of the Auckland Harbour Bridge. Within the immediate vicinity is Birkenhead Ferry Terminal which provides a passenger ferry service to downtown Auckland.



FIGURE 1 - SITE LOCATION

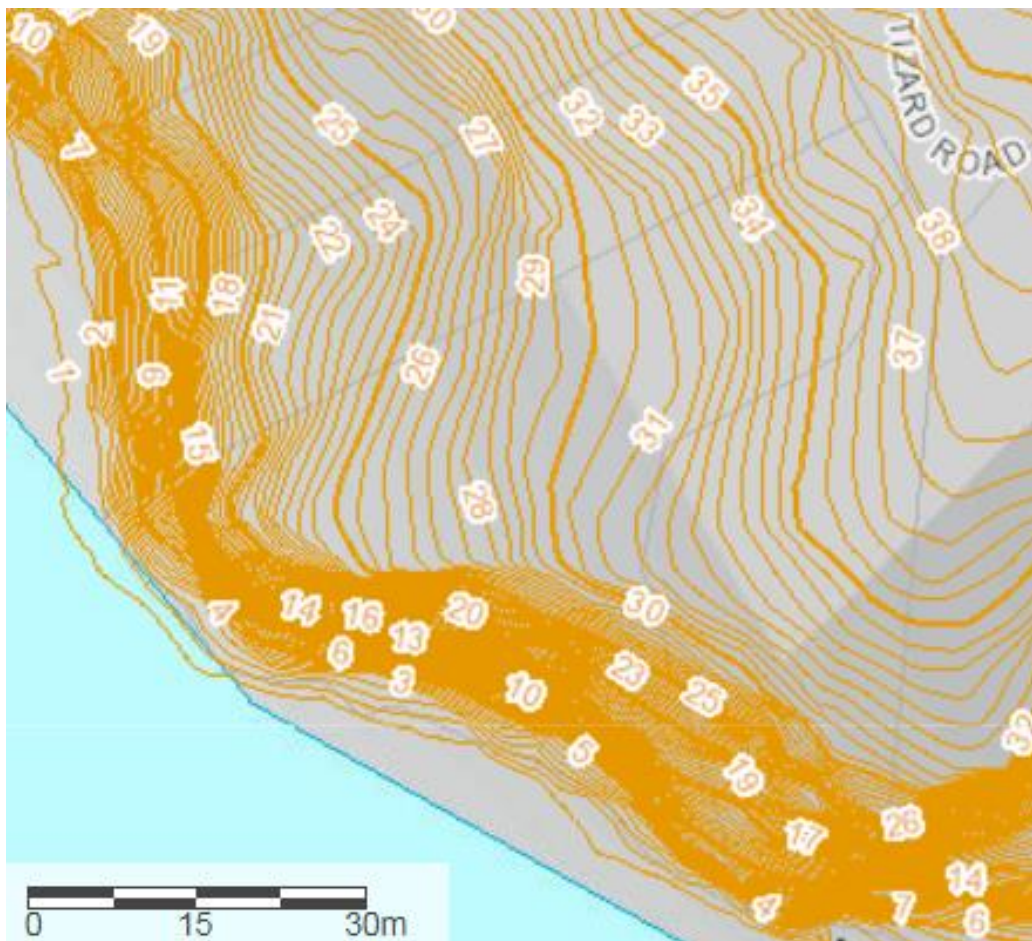


FIGURE 2 - AERIAL VIEW OF SITE



## Site description

- 4.2 The site has an area of 3056m<sup>2</sup> comprising two existing titles that will be consolidated to create one title. Lot 1 DP 403136 has an area of 2000m<sup>2</sup> and Lot 2 DP 403136 an area of 1056m<sup>2</sup>. The Title Plan on DP403136 includes an existing bush covenant that was created on 17 December 2010. This is shown on the existing site plan prepared by Topia Garden Design. It is proposed to remove the covenant, details of which are included in the description of the proposal.
- 4.3 As shown on the map below, the site slopes moderately away from Tizard Road then falls steeply down a 30m high cliff to the coastal edge of the Waitemata Harbour.
- 4.4 The site is located on the south western side of the southern end of Tizard Road. The site has a triangular shape and has a steep gradient, sloping toward the southwest boundary until falling away at the near vertical extent along the southern cliff face. The flattest part of the site located in the north eastern portion of the site. This is generally grassed with limited vegetation.
- 4.5 The site includes a mixture of native and exotic vegetation of varying quality and density along the north western boundary of the site adjacent to No 4 Tizard Road. The south western cliff is lined with mature Pohutukawa trees many of which were poisoned in November 2017, an issue that is addressed in this report.
- 4.6 The site adjoins a residential site with an existing dwelling on the western boundary and a Council Reserve (Hinemoa Reserve) on the eastern boundary which includes a walkway linking this area with the Birkenhead Ferry terminal below. An excellent perspective of the site and surrounding area is shown in the 3D views on pages 9 and 10 in the Urban Design Assessment prepared by Transurban.





- 4.7 The site is currently vacant as the former dwelling has been removed. The foundations of the dwelling are still visible and are shown on the existing site plan and photo below.

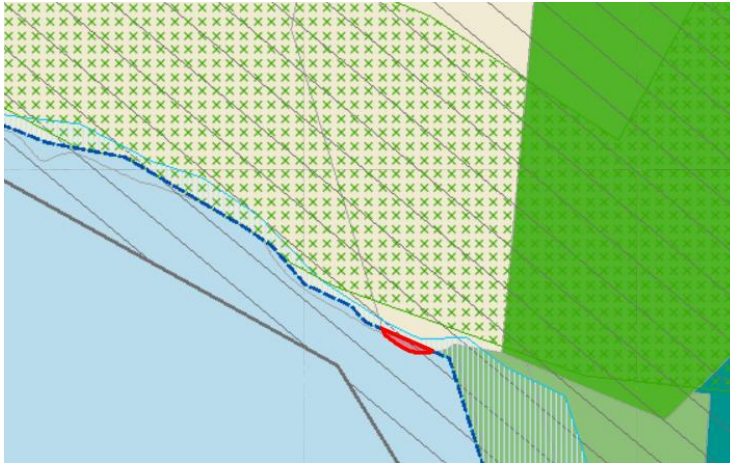


### Zoning

- 4.8 The site is zone Residential – Single House Zone and part of the land is subject to a ‘Natural Resources: Significant Ecological Areas Overlay – SEA\_T\_8178’. (See map below)



- 4.9 A tiny segment of the site at the southern boundary (at the bottom of the cliff adjacent to the harbour) is covered by the General Coastal Marine zone and is subject to a Coastal Inundation Control – 1m sea level rise. The extract below from Auckland Council’s AUP GIS shows the site in relation to the zone, SEA overlay and the Coastal Inundation Control.



### Permitted Baseline

- 4.10 The construction of a new dwelling and a minor dwelling on each of the two sites form the relevant permitted baseline. As noted in the Urban Design Assessment (UDA) if the site were to be developed in this way, there would be no assessment with regard to the design of the buildings or landscape solutions, and a range of outcomes could result with varied visual impacts subject to compliance with the standards.
- 4.11 Also, as noted in the UDA, at the time of undertaking the previous assessment an existing resource consent applied to the site enabling the construction and subdivision of three dwellings of substantial size. This provided a baseline in visual and landscape terms of what has been deemed appropriate for the context. Due to the time from application to hearing, this consent has lapsed and is therefore is no longer a permitted baseline.
- 4.12 Any subdivision of the land is not part of the permitted baseline (because a restricted discretionary consent is required for a complying subdivision), however there was some discussion at the Hearing of the previous application around the potential to subdivide the land to create five residential allotments, and (subject to compliance with the standards) the construction of five dwellings and five minor household units without an assessment of the design of the development and any landscape solutions. A notional subdivision plan and assessment of the number of lots that could be created under the current subdivision and SEA provisions has not been included in this application due to the various design scenarios available to accommodate the SEA and the differing views that could be put about this. However whether it is four or five dwellings it is considered highly likely that a subdivision designed to maximize dwelling yield on the site would create an inferior design outcome and potentially greater adverse effects (particularly visual effects) compared to that being proposed in the current application. This point is noted for two reasons. First it shows that a “conventional” (dwelling + minor household unit) development with a similar density could quite easily occur at this site and secondly, to support the Applicant’s view that the current proposal for an integrated residential development will allow Council to scrutinize the design of the development, the landscaping and the location and configuration of building heights to ensure a high quality outcome and minimise any potential adverse effects especially when viewed by neighbours and from the Harbour.

## **5. PREVIOUS RESOURCE CONSENTS AND APPLICATIONS**

- 5.1 As noted above, a resource consent was granted by Auckland Council on 30 January 2013 for the construction of three dwellings and associated site and tree works (Application LH 2134920). The application was assessed under the provisions of the former North Shore District Plan as a non-complying activity. The application was granted by an independent hearings panel following an approval process that extended for five years. An application was made to extend the consent on 23 January 2018 but was not proceeded with.
- 5.2 The January 2013 application included a proposal to modify the existing bush covenant on the Title Plan. This was approved as part of Application LH2134920 subject to modifications designed to address amenity concerns raised by the adjoining owner of No 4 Tizard Road. The adjoining property has since been purchased by the Applicant and the new Unitary Plan which became operative in 2016 applied a Significant Ecological Area overlay over the southern part of the site including all that land formerly covered by the covenant. This application is still seeking to remove the covenant for reasons which are discussed in the following section.
- 5.3 In March 2018, a new application was made for an integrated residential development containing 10 units, similar to the development that is being proposed in the current application. This resulted in an extended Section 92 process and limited notification to surrounding owners in the local neighbourhood. All those notified except two made submissions opposing the proposal and the application was ultimately considered at a commissioner hearing in December 2019. The application was adjourned for two key reasons. Firstly, the Hearings Commissioners accepted the view of Auckland Council that the overall activity status of the proposal was Non Complying because more than one dwelling per site (Activity A6 in Table H3.4.1 in the Single House zone) is the most restrictive activity in the zone and must prevail under the provisions of rule C1.6 of the General Rules. The Applicant continues to disagree with this decision however the current application is for a Non Complying activity as directed. The second issue was the opinion of the reporting Landscape Architect on the landscape and character effects of the development, predominantly as the result of the height, scale and bulk of the development when viewed from the Harbour (at Viewpoints 3 & 4)
- 5.4 The current application seeks to address the amenity issues that were raised during the hearing for the January 2013 consent, as well as the substantive character and visual landscape issues that were raised in the March 2018 application. In particular it will be demonstrated that the suburban character of the surrounding environment will not be compromised and indeed, will be enhanced by the development of a high quality aesthetically attractive integrated residential development that will have no adverse effects on any person in the neighbourhood. It will also be demonstrated that proposed changes to the height (lowering of the top level) and massing of the development (more variable façade planes) will better integrate with the landscape setting and will not adversely affect character of the coastal landscape when viewed from the Harbour. Accordingly it has been concluded that the new proposal will achieve a better design outcome at the same time as providing additional housing to accommodate Auckland's expanding population. This review has carefully addressed the visual effects and criticisms of the previous application.

## 6. PROPOSAL

- 6.1 The applicant is seeking resource consent to construct a building containing ten residential units as part of an integrated residential development. The proposal has been designed specifically for the site taking existing constraints into account.
- 6.2 The AUP defines and an “Integrated residential development” as:  
“A residential development on sites greater than 2,000m<sup>2</sup> which includes supporting communal facilities such as recreation and leisure facilities, supported residential care, welfare and medical facilities (inclusive of hospital care), and other non-residential activities accessory to the primary residential use. For the avoidance of doubt this would include a retirement village”.
- 6.3 The proposal has been designed to comply with this definition and includes recreational and communal facilities on common owned land (including a swimming pool/recreational area, changing rooms and gymnasium).
- 6.4 The site comprises two freehold titles and it is proposed to consolidate these titles into a single site. Draft unit title subdivision plans have been prepared by John McCullough Kiwi Vision Consultants Ltd and are attached to this application. These show how the property will be subdivided after consent has been granted for the development. These plans are not part of the formal application documents and are indicative only at this stage as they are likely to require modification to comply with the ‘as built’ development. The subdivision plan also endorses the previously agreed esplanade strip as the appropriate alternative to an esplanade reserve at this location.
- 6.5 As noted above, the application is also proposing to remove an existing bush covenant contained in Consent Notice (8666421.2) that was approved under Section 221 (3) of the Resource Management Act. The covenant is shown as Area F “Bush Protection Covenant” on the attached Title Plan (DP 403136). A modification to the covenant was approved as part of the previous resource consent approved in January 2013 (LH 2134920), however this was not lodged with the LINZ Office as the resource consent was not acted upon. The current application is seeking to remove the existing covenant as a Significant Ecological Area (SEA) overlay now covers all significant native vegetation on the site, including that contained within the covenant area. It is considered that the words in the covenant are weaker by comparison as they simply prevent the removal or damage of any trees in the covenant area without the prior consent of Council. It is considered that the SEA overlay contains more robust and stricter controls regarding the protection of native vegetation in the future and that the existing covenant is now redundant.
- 6.6 An assessment of the proposal to remove the covenant is included in the Arboricultural assessment prepared by Peers Brown Miller Ltd and the Ecological assessment prepared by Wildlands.

### Development details

- 6.7 Architectural drawings and a design statement have been prepared by Young and Richards (both dated 5 October 2020) which provide details of the proposed development.
- 6.8 The development proposes to construct ten units within a four storey building including two basements; a ground floor and a first floor. The lower basement includes a three bedroom unit (Unit 10) at the south east corner of the building with a deck area having outlook to the south east. It also includes a gymnasium; a number of storage areas in the basements; and two parking platforms that will provide stacked parking for two parking spaces per apartment.
- 6.9 The upper basement includes two 3 bedroom units (Units 7 and 9) and two 2 bedroom units (Units 6 and 8) with Unit 6 having outlook to the east and south, Unit 7 having outlook to the south, and Units 8 and 9 having outlook to the south and west. It also includes 11 car parking

spaces with the capacity for nine additional stacked spaces provided in the parking pit below. Vehicles access the parking area is provided via a ramp running down the north western boundary.

- 6.10 The ground floor includes three 3 bedroom units (Units 3, 4, and 6) with Unit 3 having a south and easterly outlook, Unit 4 having a southerly outlook and Unit 5 having a south and westerly outlook. This level includes a large communal recreational area, swimming pool, change rooms and roof top garden.
- 6.11 The first floor includes two 3 bedroom units (Units 1 and 2), with Unit 1 having an outlook to the west and east (overlooking Hinemoa Park and Units 2 having an outlook to the west, south and east.
- 6.12 The development includes communal facilities for the use of residents including a gymnasium, pool, change rooms and a communal terrace and garden area.
- 6.13 The building is excavated into and steps down the landscape to take advantage of the downward slope of the site which slopes towards the harbour. When viewed from Tizard Road the building will appear as a single and in part two storey development.
- 6.14 The building has a triangular shaped footprint that generally aligns with the shape of the site. Building materials include a mixture of glass and concrete and the building is well modulated with interesting shapes and projections to reduce the appearance of building mass and bulk.
- 6.15 Despite the fact the building has four levels, most of the building complies with the maximum building height limit because of the extent of excavation of the building into the site. Those parts of the building that do exceed this limit are not significantly higher and will not be visually obvious. The main areas are that over the southern end of Unit 1 (predominantly a roof projection is needed to maintain the architectural integrity of the building); an area over part of the Unit 2 (specifically the southern part bedroom 1 which spans the driveway on the western boundary); and an area at the southern end of Unit 9 on western boundary at the southern end of the site. The extent to which the building exceeds the maximum height (as well as the HIRB) are shown in the 3D view on Plan AA0052a and 52b, and on Plans AA00.53, and AA00.54a and b.
- 6.16 These diagrams also illustrate the height in relation to boundary standard. The most significant area of non-compliance comes from the inevitable but unavoidable effects of measuring the recession plane from the southern boundary at the bottom of the cliff. Otherwise there are two notable areas where this standard has not been met (both on the western boundary): one is at the northern end of the site over the part of the rubbish enclosure area and bedroom 1 of Unit 2 (being part of the building that spans the driveway); and a second area at the southern end of the site (on the second basement level) where the roof and western wall of Unit 9 projects beyond the HIRB line. The HIRB standards are best illustrated in the 3D diagrams on Plan AA0052b.
- 6.17 Plan AA00.51 shows the site coverage plan and other site area calculations. The development will have a building coverage of 1104.4m<sup>2</sup> or 36.1% which requires a very small increase over the maximum building coverage area of 35%. The table below is an extract from the site coverage plan which shows the following statistics:

SITE COVERAGE CALCULATIONS			SH	COMPLIANCE
GROSS SITE AREA	3056 M <sup>2</sup>			
MAX. IMPERVIOUS	1318.1 M <sup>2</sup>	43.1%	MAX. 60%	YES
BUILDING COVERAGE	1104.4 M <sup>2</sup>	36.1%	MAX. 35%	NO
LANDSCAPED AREA	1747 M <sup>2</sup>	57.2%	MIN. 40%	YES
FRONT YARD AREA	48.5 M <sup>2</sup>			
FRONT LANDSCAPED AREA	16.6 M <sup>2</sup>	34.2%	MIN. 50%	NO

The front yard has an area of 48.5m<sup>2</sup> of which 16.6m<sup>2</sup> (or 34.2%) has been landscaped. This has resulted from the inevitable consequence of the narrow site frontage relative to the size of the site and the need to provide for an access drive and pedestrian access within the frontage.

- 6.18 The floor plans also show areas of outdoor living space and outlook spaces from living room and bedroom windows. Whilst these areas are not included as standards in the Single House zone, a comparison has been shown with the standards in the Mixed Housing/THAB zones due to the apartment style building that is being proposed on the site. The outlook and outdoor living areas generally comply with the relevant outlook standards although there are some minor areas of non-compliance with standards in the Mixed Housing Suburban zone, notably the outlook areas from principal bedrooms in Unit 7 and Unit 2.
- 6.19 The effects of these measures will be discussed when the development is assessed against the relevant provisions in the AUP.

#### **Urban Design and Visual Assessment**

- 6.20 An urban design and visual assessment of the development has been prepared by Transurban (UDA). The UDA provides a detailed discussion of the site and its surrounding context and notes that the building has been designed to take advantage of the somewhat unusual circumstances and characteristics of the site and its location, including its location at the end of a cul-de-sac, steep slopes and a southerly aspect which overlooks the Waitemata Harbour.
- 6.21 The UDA refers to the previous resource consent that was granted in 2013 to establish three dwellings on this site (Ref LH 2134920). As noted above, this consent has now lapsed, however the UDA shows the 3D form of this consent in the visual simulations for viewpoints 5,6,7 and 8. It notes that this provides reference to what was previously considered appropriate for development on this site, and whilst it not part of the permitted baseline, it does compare the visual effects of this development with the current proposal with reference to the outcome that would have resulted from that 2013 resource consent.
- 6.22 The current application differs from the 2018 application by reducing the proposed bulk of the building at the south eastern side along the top of the cliff to address the concerns raised. The resulting design increases the bulk along the western boundary of the site at both the lower and upper levels. Further details on the differences in design are outlined in various places within the UDA.
- 6.23 The apartments are generous and well designed with interesting spaces created due to the angles involved and a palette of materials and colours that will assist in integrating the development into the landscape. Some of the apartments have limited solar access and daylight depending on the time of the year, but this is an outcome of the inevitable southerly aspect of the site and a focus on the outstanding views that are available within this aspect.
- 6.24 The UDA notes that the poisoning of the Pohutukawa trees on the cliff face has had a negative effect on the character of the landscape as they currently attract one's eye due to the contrast of their grey structure with the deep green vegetation either side. These trees are now proposed to be removed where possible, which will result in the proposed building being visible and not screened to the extent previously intended. However, the landscape proposal includes replacement Pohutukawa and Karo trees along the bank with the aim of establishing and eventually replace the existing trees albeit in different locations. Through discussions with Council's landscape architect it has been determined that fewer specimen tree planting should occur in favour of natural processes to revegetate the coastal edge. The reduction in building mass along the cliff edge means that the mitigation of the previous form is not as critical.
- 6.25 The UDA discusses the relationship of the proposal to the adjoining Hinemoa Reserve. It notes that a small part of the reserve immediately next to the site is more of a lookout type place for the public, however it is currently untidy and with weeds establishing, some of which are

interrupting the views. It goes on to describe the layout of building in relation to the reserve, the proposed landscape treatment and the potential effects in terms of privacy, passive surveillance and visual integration between the development and the reserve. The report concludes that the proposal is an appropriate response to this reserve. The proposed extension of the footpath around the end of the cul-de-sac will also benefit users of the reserve as well as providing a link to the footpath through the reserve that accesses the Birkenhead Ferry Terminal.

- 6.26 Section 7 of the UDA includes a detailed visual impact assessment based on the visual simulations and photomontages prepared by Young and Richards and U6 Photomontages that are attached to this application. It assesses nine different viewpoints from within the neighbourhood and when viewed from the Harbour. Each viewpoint identifies the viewing audience, its landscape values, visual absorption capacity, the potential effects, the mitigation potential and the significance of the effects when assessed against a seven point scale of effects ranging from negligible to severe. The analysis concludes that the building sits comfortably in the context from all viewpoints assessed, as it continues the character of the landscape whereby buildings sit atop a dominant cliff and dark green tree canopy. In this analysis care has been taken to reinforce that this coastal location has no additional constraints or overlays to be taken into account and is in a coastal location where development is contemplated.

#### **Land Disturbance**

- 6.27 Bulk earthworks will be required to provide the basement area of the building and the driveway. The works will cover an area of 1474m<sup>2</sup> and will have a total volume of 6054m<sup>3</sup> (5880m<sup>3</sup> of cut, 174m<sup>3</sup> of fill).
- 6.28 The Infrastructure report and engineering drawings prepared by Civix Ltd are proposing to construct retaining walls around the proposed driveway and basement of the building.
- 6.29 For the duration of the earthworks, erosion and sediment control measures are to be provided on the site. The proposed controls have been designed to meet the requirements of the Auckland Council Technical Paper GD05. The proposed controls are shown on drawing 0150 with standard details shown in drawings 0190-0193. The works will require the use of a sump pump which is shown in drawing 0165.
- 6.30 Section 4 of the engineering report proposes the following methodology for earthworks:
- “Install the control devices in the locations shown on drawing 0150, following the details shown on drawings 0190-0193.*
- “Remove vegetation and weeds and place aged mulch on the curtilage area. (Refer to Arborist report by Peers Brown Miller Ltd for details).*
- “Place dayglo fence around vegetated areas to be protected (Refer to Arborist report by Peers Brown Miller Ltd for details).*
- “Start the bulk earthworks, arborist required to be present for initial cuts for the building area (Refer to Arborist report by Peers Brown Miller Ltd for details).*
- “Once the building excavation is underway, install the sediment sump pump in the location shown on drawing 0150, details for sump pump installation are shown on drawing 0165.*
- “Leave subgrade excavations 200 to 300mm above final cut level if a delay prior to construction is expected. The final cut to grade should be performed immediately prior to foundation construction. Alternatively, these areas can be undercut and rebuilt to formation level with certified granular fill should the subgrade deteriorate due to “exposure (Refer to Geotechnical report by Kirk Roberts for details).*
- “Once construction is complete, remove erosion and sediment controls following decommissioning processes shown in drawing 0190-0193.”*



### Geotechnical constraints

6.31 Kirk Roberts Consulting Engineers have prepared a geotechnical report for the proposal. The Report reviews the geotechnical investigations undertaken for the previous consent completed by Engineering Geology Ltd and confirms that the information is still valid for supporting a resource consent application for the current proposal.

6.32 The Report covers the following scope:

- Review of the concept design drawings for the current development scheme, provided by Young + Richards Ltd, ref. 16-YR39-BR (Draft), dated 31 March 2020.
- Review of previous site-specific geotechnical investigation information.
- Geological ground modelling for assessment of soil-structure interaction and potential site-specific geotechnical hazards.
- Geotechnical monitoring during basement excavation
- Construction methodology for basement excavation and ground retention works.
- Groundwater assessment and potential dewatering issues during basement construction
- Geotechnical risk assessment pertaining to the site and *proposed development*.

The Report includes the following comments about the proposed basement structure:

*“The site topography dictates the required excavation depth for the proposed apartment complex, with excavation depth varying from about 12.4 m at the north-east corner of the basement footprint, reducing to about 7.4 m at the south-east corner and about 0.5 m toward the south-west corner. The proposed development occupies about 36% of the total combined site area of 3,056 m<sup>2</sup> from 2 & 2A Tizard Road.*

*“The proposed development is positioned 1 m off the east boundary, 3 m off the north boundary, where the excavation depth is a maximum at 12.4 m, and 1 to 3 m off the west boundary. The deep excavation, combined with close proximity to the council reserve boundaries will require temporary retaining of the cut face during construction of the basement structure.”*

6.33 The Report investigates soil and flood inundation, localised and global slope stability and cliff erosion; and Section 5 provides a geotechnical risk assessment of the site before and after development to assess whether the site is suitable for the proposed development combined with the site-specific geotechnical hazards identified at this site. Following is an outline of matters considered:

- Foundation settlement

The Report considers building pressures at basement level and considers that long term static settlement and corresponding differential settlement will comply comfortably with performance requirements set out in Section B1 of the NZBC.

- Basement retention works

Drawings and specification have been prepared for the construction of a concrete palisade wall system propped by steel beams whaler /truss system to support the deep excavation required in close proximity to the to the Council reserve boundaries.

- Basement construction methodology

Basement construction will require specialist contractors to install concrete palisade piles, dewatering and bulk excavation; and the Report sets out the methodology for this occur.

- Stability to neighbouring properties during basement construction

In relation to the adjoining Council reserve the Report concludes that the proposed basement excavation and associated retention works are not expected to affect these sites and the likelihood ground subsidence and/or horizontal land movement will be mitigated by specific design of the concrete palisade retaining wall system and horizontal grillage solution.

To the west of the site (adjoining No 4 Tizard) the horizontal distance between the proposed basement excavation line and the existing dwelling is about 10 m. This distance exceeds the minimum required setback of 8 m required (in the Auckland Unitary Plan) to mitigate subsidence risk to the dwelling during the basement construction phase. It is also relevant that this site is owned by the Applicant who consents to these works.

To the north side of the site (Tizard Road boundary), the horizontal distance between the proposed basement excavation line and Tizard Road is less than the minimum required setback of 8 m and is therefore susceptible to settlement and/or instability if the basement excavation cut face is not retained by the method discussed above. Subject to the north and east basement excavation cut faces being retained by the propped palisade wall as discussed above, the risk of instability and/or subsidence of the neighbouring sites would be unlikely.

- Dewatering

During excavation, the entire residual soil mantle (perched water table) will be excavated creating potential seepage from the exposed cut face to the north-west corner of the site. The Report notes that seepage would be quite low during excavation of the basement area. Dewatering would most likely be controlled by a series of single-phase submersible pumps and the Report sets out the methodology for managing seepage during the excavation process.

A separate groundwater drawdown and settlement monitoring and contingency plan (GDSMCP) is submitted with the application. This attempts to quantify the amount of anticipated dewatering induced ground settlement adjacent to the basement retaining walls and also to the neighbouring properties during drawdown of the perched water table and from that, recommend the installation of piezometers for assessment and monitoring of settlement alert / alarm levels before and after construction of the basement and superstructure. The Report notes:

*“This report is to be read in conjunction with the Groundwater Drawdown and Settlement Monitoring and Contingency Plan (GDSMCP) Rev G written by Kirk Roberts Consulting Ltd, dated 1st July 2019. We note that the date referenced within the GDSMCP is superseded by this report, due to small dimensional edits to the architectural plans. We consider that these edits to be minor and will not affect the overall outcome of the GDSMCP”*

The monitoring, as shown on Figure 1 Appendix B of the GDSMCP proposes:

- Three groundwater monitoring wells to monitor the groundwater levels across the dewatered area. Twin piezometers will be installed within each borehole to identify perched groundwater level from regional ground water level.
- 8 No. ground settlement pins
- 8 No. retaining wall deflection pins

- Site erosion

The Report notes that the areas not occupied by the proposed building will be planted in accordance with a specifically designed landscape plan to enhance the existing area and minimise surface erosion by controlling surface water runoff. It concludes that the proposed development will not worsen or accelerate the current rate of surface erosion.

6.34 Section 6 investigates seismic considerations and Section 7 includes recommendations on foundation options, site preparation and earthworks:

- Foundation options

The Report proposes shallow strip and pad foundations embedded 600mm below the cleared platform level into the completely weathered ECBF soils. It recommends that geotechnical ultimate bearing capacity of 500kPa should be confirmed during the foundation detailed design (building consent) stage. If shallow foundation loads are expected to exceed the capacities given, then specific geotechnical review should be undertaken of the foundation design to determine if greater bearing capacities are available. In relation to basement walls, the Report recommends specific earth pressure loads and proposes a very stiff structure that will limit lateral movement of basement walls.

•Site preparation and earthworks

The Report recommends measures to be implemented during the earthworks operations in accordance with the recommendations of NZS 4431:1989.

- 6.35 Section 8 proposes further geotechnical recommendations for the building consent application and states:

*“A piezometer was installed in MBH2 in 2014. This piezometer should be checked to see if it is still in place and operable, and further readings taken to confirm the current regional water table level.*

*“The shallow boreholes encountered a shallow perched water table within the residual soil mantle and located towards the west side of the development footprint. Therefore, we recommend additional machine borehole testing is carried out between BH5 and BH7 to BH9 to assess if the perched water has migrated across the site due to increased transient horizontal seepage through potential discrete layers of sandy silt and sand. Rock samples should be extracted from two levels within the weathered ECBF rock and should be tested to determine the unconfined compressive strength (UCS) of the weathered rock to confirmed the available bearing capacity for the shallow foundation design.*

*“We highly recommend that during Detailed Design a detailed Geomorphological Assessment be undertaken of the cliff face to confirm geological structures and East Coast Bay Formation dip direction. We also recommend that Kirk Roberts be retained to complete detailed structural design, in order to keep continuity and ease streamflow of the of the project design.”*

- 6.36 The Report concludes:

*“Based on the site-specific investigation data and the currently proposed development scheme, the following geotechnical recommendations are presented.*

- *The site soil profile comprises a weathered profile of East Coast Bays Formation.*
- *The proposed development will require significant earthworks to reach the basement platform level.*
- *The depth of basement excavation will require temporary retaining along the north and east boundaries to maintain stability to neighbouring sites.*
- *Global stability of the site is enhanced due to improved control of surface water runoff over the site combined with complete removal of the residual soil mantle as a consequence of the proposed development.*
- *The inferred cliff face erosion rate of 2 m in 100 years would not affect the structural performance of the proposed development in accordance with the New Zealand Building Code.*
- *The proposed four storey development can be founded on shallow pad and strip footings.*
- *A geotechnical ultimate bearing capacity of 500 kPa (165 kPa allowable) can be assumed for specific design of shallow pad and strip foundations. However, this value should be confirmed by UCS testing.*
- *This report is to be read in conjunction with the Groundwater Drawdown and Settlement Monitoring and Contingency Plan (GDSMCP) Rev G written by Kirk Roberts Consulting Ltd, dated 1st July 2019”*

- 6.37 The proposal is supported based on the findings and conclusions in the Geotechnical Report and GDSMCP subject to the recommendations proposed.

### **Stormwater Management**

- 6.38 The engineering report notes that an existing stormwater line passes through the site adjacent to the northern boundary of the site as shown on drawing 0301.

- 6.39 The engineering report notes and makes the following recommendations:  
“There is fill proposed for the driveway, CCTV of the line prior and post earthworks should be undertaken to ensure the line is undamaged during earthworks. Stormwater manhole 462198 requires raising 1.10m to the new driveway level.”
- 6.40 These recommendations can be attached as a condition of consent to any decision notice issued.
- 6.41 Based on the assessment of stormwater infrastructure the engineering report considers that there is sufficient capacity within the existing system to cater for the development and the upstream catchment.
- 6.42 An overland flow path (OLFP) is shown on the Council GIS system running along the boundary between the application site and the neighbouring property at 4 Tizard Road. The engineering report has assessed the effects on the OLFP resulting from the proposed works on site. The analysis has found that the OLFP will flow safely down the side of the driveway and the impact on water level from the driveway works is minor.
- 6.43 A rubbish storage area is to be provided adjacent to the front boundary, at the entry point of the OLFP to the site. The storage building will be elevated above the ground to provide sufficient space for the OLFP underneath. The storage building will be of sufficient height off the ground to avoid adverse effects in relation to the flow path.

#### **Infrastructure services**

- 6.44 The site can be provided with water from the existing public system. The engineering report notes that there is sufficient capacity in the system to meet the likely demand generated by the building.
- 6.45 In terms of wastewater, the engineering report demonstrates that there are no capacity constraints downstream and there is sufficient capacity to service the development. A private pump station is to be provided so that wastewater can reach the public system in the road.
- 6.46 The site has existing overland power and telecommunication connections. As part of this application it is proposed to provide new network connections via underground cables.

#### **Transportation and car parking**

- 6.47 A traffic assessment has been prepared by Traffic Planning Consultants (TPC) which considers the layout of the development, trip generation figures, vehicle access design, parking provision, refuse collection and deliveries and construction related traffic impacts.
- 6.48 The site currently has a single vehicle access from Tizard Road which has a frontage of 13.7m<sup>2</sup>. The existing vehicle crossing will be retained and modified to provide vehicle access to the site. A separate pedestrian will be provided to connect the foyer of the building and the footpath on Tizard Road.

#### *Vehicle access design*

- 6.49 Parking for a total of 20 vehicles will be formed within a basement parking area which equates to two parking space for each apartment. The proposed driveway is located adjacent to the northern boundary and due to the existing contours of the site, the first 4.0-metre platform immediately within the site has a grade of 1 in 10 (10%) while the proposed vehicle access has a maximum grade of 1 in 4 (25%). Transition slopes, at least 2 metres in length, are provided between the two section of access at a grade of 1 in 8 (12.5%) at the bottom of the driveway before entering the car parking area under the building. The traffic assessment considers that the proposed gradient is suitable for this residential use. The Report states:

*“Generally, sight lines and speeds within the accessway are expected to be suitable so as not to create any unsafe conflicts between vehicle and pedestrian activity. Where the access has a 180-degree bend to connect parking areas to the main access, a signal light will be installed in conjunction with the garage door. When the door is triggered to open, a light will illuminate indicating to other drivers to the presence of an opposing vehicle. Space is available either side of the 180-degree bend for two-way vehicle movement and hold position line markings will be installed on the access, as illustrated in Attachment 1. Additionally, to aid in increased visibility a convex mirror will be installed on the access. As such, vehicles entering the site will be able to see if the garage door is open or closed, to allow for better operation of the access.*

*All parking linked to the common accessway has been configured so that all vehicle movements to and from the site will be in a forward direction.”*

#### *Parking*

6.50 The site is in a good location to generate non car based trips which aligns with the outcomes generally envisaged for an integrated residential development. The site is in close proximity to Birkenhead Ferry Wharf which can be accessed via a public footpath through Hinemoa Park Reserve. A ferry leaves the wharf for Downtown Auckland on a regular basis. The provision of a ferry service enables residents to access jobs and services in Auckland without using a car.

6.51 Car parking for the units is provided below street level in an enclosed garage. A total of 20 parking spaces will be provided in the basement parking area, which equates to two parking space per dwelling, with 18 of the spaces configured with vertical parking stackers. The parking spaces are set out as angled (90°) parking spaces. The parking spaces are a minimum of 2.7 metres wide and 5.4 metres deep. The manoeuvring areas for all parking will be no less than 6.7 metres. The proposed parking spaces are provided within vehicle stackers and are considered suitable for residential use. The Report notes:

*“In respect of AUP compliance, the minimum manoeuvring area for a 2.7-metre-wide space is 5.9 metres for regular users. The parking spaces provided comply with AUP standards, and as a result all vehicles using the site will be able to enter or leave the site in a forward direction.*

*“Residential developments in the Residential – Single House zone have no maximum parking requirement but must provide a minimum of one space per dwelling under the AUP. Therefore, the proposal complies with the AUP parking requirements with regards to the provision and parking dimensions”*

6.52 Whilst there are no specific requirements for bicycle parking in the AUP, secure bicycle parking is provided within the basement of the building, to provide a benefit for residents.

6.53 Pedestrian access to the complex will be provided from Tizard Road, adjacent to the driveway.

#### *Refuse collection*

6.54 Refuse collection will be provided by private contractors. Custom design refuse bin areas have been incorporated into the site for private collection and sufficient space is provided within the site to allow a truck to stop and collect refuse. With no footpath along the site’s frontage the truck’s reversing is not expected to conflict with any pedestrian movements, adding to the safety of the operation.

#### *Construction related traffic impacts*

6.55 The Report notes that the development is likely to be completed in six key stages; demolition, earth and civil works, followed by four stages of construction. All stages are expected to generate of truck movements that will require minimal management with the earthwork stage expected to generate the highest levels.

6.56 In the relation to truck movements it states:  
*"... approximately 6,054 m<sup>2</sup> of soil will be excavated from the site. A truck can typically load 6 m<sup>2</sup> of soil, which equates to about 1,010 truckloads (2,020 truck movements) during the full earthwork stage. The truck activities for transporting excavated soil will occur between 09:00 and 16:00 on weekdays to avoid peak commuter periods, and 09:00 and 17:00 on Saturdays. As a result, the length of the excavation period is directly related to how long it will take trucks to be loaded within the site.*

*"Through consultation with the client and the architects (based on previous projects on sites with challenging topography), it is anticipated that a truck will be able to be filled once every 15-20 minutes. Based on this, the number of trucks per weeks is anticipated to be 129-172 (3-4 trucks [6-8 movements] per hour) for 6-8 weeks. During other stages of construction, trucks will still access the site, but to a lesser degree compared to the earthworks stage"*

6.57 In terms of capacity the Report concludes that the surrounding road network can accommodate this level of truck movements and traffic volumes associated with the construction phases with less than minor effects. Vehicle and pedestrian activities on Tizard Road are very low, given that the site is located at the cul-de-sac of a quiet local road. The application of a Construction Traffic Management Plan (CTMP) will help minimise any potential impact of the truck movements on the surrounding area. As the construction methodology can only be determined once a contractor is engaged for construction, an Indicative CTMP has been prepared (included in Attachment 2) for the site based upon generalised construction methodology and best practices. Key points from the CTMP are:

- Truck activity to the site is to be carefully managed and monitored to reduce impact to the surrounding roads.
- All truck movements are to operate under an approved Traffic Management Plan.
- A temporary loading platform is to be prepared within the site, such that trucks will not need to utilise Tizard Road for loading/servicing during construction.
- Workers are to park in prescribed locations to minimise impact to residents on Tizard Road where the road width is constrained.
- The effect of truck movements and workers during the construction onto the transportation environment will be minor and can be suitably managed.

6.58 On the basis of these measures the Report concludes that the overall effect of the construction activities onto the adjacent transportation environment can be safely managed through the implementation of a CTMP and any effects are anticipated to be minor and relatively short in duration.

6.59 The Transport assessment concludes that vehicle and pedestrian access to the site is designed to a suitable standard and identified infringements to the AUP will not have an adverse effect on the surrounding road network or to the safety of pedestrians and vehicles using the site.

*"Overall, it is considered that the traffic engineering effects of the proposal can be accommodated on the road network without compromising its function, capacity, or safety. Therefore, from a traffic engineering perspective, it is considered that the proposal will have less than a minor impact"*.

### **Ecological Assessment**

6.60 An Ecological assessment has been prepared by Wildlands (October 2020). The report identifies the ecological values on the site, discusses the likely ecological effects generated by the proposal, and recommends what can be done to avoid, minimise or mitigate potential adverse effects on ecological values. It concludes that if the proposed landscape planting is carried out, there will be a net benefit to the environment if the application is granted consent.

- 6.61 The assessment considers that the ecological values of the indigenous vegetation at the site are moderate to high. The Pohutukawa and Kanuka forest form an almost continuous strip of coastal vegetation that covers the northern coast of the Waitemata Harbour. The remainder of the property is considered to have low ecological values.
- 6.62 The Report notes that the SEA on the property forms part of a much larger overlay, which comprises a continuous tract of indigenous coastal pōhutukawa (*Metrosideros excelsa*) forest and scrub that includes Hinemoa Park, which adjoins the eastern property boundary of 2 Tizard Road. Section 3 includes a discussion on the status of vegetation on the site and within the SEA including loss of vegetation that has occurred in recent years.
- 6.63 Section 9 of the Report discusses the ecological effects of the proposal including:
- Loss of indigenous vegetation
  - Damage to indigenous vegetation outside of the clearance area
  - An increase in edge effects
  - Temporary disruption of avifauna during construction
  - Injury to and/or mortality of indigenous skink habitat
- Each of these potential effects are discussed in detail including comments on how they can be remedied or mitigated.
- 6.64 In relation to the loss of indigenous vegetation it states:
- The proposed works will result in the loss of approximately 40 m<sup>2</sup> of gorse-rārahu scrub within an SEA overlay, and 53 m<sup>2</sup> of māhoe-mapou-karamu scrub, of which 24 m<sup>2</sup> is within the SEA overlay. No vegetation clearance will be required within the Esplanade Reserve. The gorse-rārahu scrub is at an early successional stage following clearance at an unknown time in the past and, despite containing a range of indigenous species, it is considered to have the lowest ecological value of the indigenous vegetation types at the property. This area to be cleared is on the edge of the SEA and no fragmentation of remaining vegetation will occur. The vegetation loss will not reduce connectivity across the landscape and the low-stature of the vegetation to be removed means it does not provide significant buffering to the remaining SEA vegetation. The area of māhoe-mapou-karamu scrub is mostly comprised of plants that have regenerated over the past three to five years, but the western edge includes some older karamu probably 8-15 years old, and two mapou (outside the SEA, but within the area of proposed clearance) that are likely to be at least 25 years old. This area of scrub is of higher ecological value than the gorse-rārahu scrub and is contiguous with vegetation of high ecological value on the neighbouring property to the west.*
- “The illegal poisoning of several pōhutukawa trees within the esplanade reserve has had a moderate impact on the ecological values of the property. Pōhutukawa provide an important seasonal food source for indigenous birds and the trees provided shelter to vegetation growing at the top of the cliff, as well as soil stability and protection from erosion”.*
- 6.65 Section 10 of the Report identifies opportunities and makes recommendations to avoid, minimise or mitigate potential adverse ecological effects. These include:
- All areas to be cleared should be clearly defined and marked to ensure that minimal vegetation clearance takes place.
  - For vegetation clearance where excavation is not required, leave roots intact; and where excavation is required, avoid pushing fill into indigenous vegetation.
  - All pest plants within the remaining vegetation should be controlled. Appropriate indigenous species should be planted in any gaps in the indigenous vegetation created through pest plant control and between the edge of the remaining vegetation and new building. A revegetation plan has been prepared by Topia Garden Design and the proposed planting will provide buffering to the remaining SEA vegetation as it matures thus limiting the potential for invasive pest plant species to re-establish within the coastal forest.



- Any woody vegetation that is cleared should be retained on site. This will be achieved by transferring any felled vegetation to areas outside of the construction footprint to provide habitat for indigenous fauna.
- In relation to the poisoned Pohutukawa it states:  
*“A previous version of this report (dated 31 January 2018) recommended that the dead pōhutukawa trees be left on-site given that standing dead wood provides habitat for invertebrates, fungi, and indigenous birds. For example, pied shag (Phalacrocorax varius varius; ‘At Risk-Declining’ as per Robertson et al. 2017) nest and roost in coastal pōhutukawa trees and the trees at the site provide suitable habitat for this species. The dead trees have since dried out and are in the process of breaking down. The Project Arborist has recommended that the dead material on the cliff top is removed to the trunk boles, to a height that is deemed safe to leave standing (Peers Brown Miller 2020). The Arborist considers that the dead wood poses an unacceptable risk to people working underneath the trees for vegetation clearance and revegetation works. Concerns have also been raised regarding the likelihood of damage being caused to restoration plantings by large dead wood falling onto the plantings. It is proposed to leave dead material further down the cliff face in situ to continue to break down naturally. Removing dead wood that poses a risk to human health or restoration plantings and leaving dead wood in situ further down the cliff is considered an acceptable compromise.”*
- Controlling pest plant species within the remaining indigenous vegetation, planting of a buffer between the edge of the existing indigenous vegetation and the edge of the apartment complex, and retention on site of any woody vegetation that is cleared is considered appropriate mitigation for vegetation loss. Planting methods are provided in the accompanying Landscape Plan (Topia Garden Design Ltd) and suggested pest plant control methods are provided in Appendix 4. Planting of appropriate eco-sourced indigenous species should be undertaken within all of the SEA that is outside of the building footprint.
- It recommends legal protection of remaining indigenous vegetation with the SEA stating:  
*The loss of 93 m2 of indigenous vegetation, of which 65 m2 is within the SEA, should be addressed by the protection in perpetuity of the remaining indigenous vegetation in the SEA to be retained. This will require the implementation of an Ecological Management Plan (addressing pest plant impacts and indigenous replanting), and permanent legal protection. The goal of the Ecological Management Plan should be to restore all vegetation within the SEA overlay outside of the building footprint to representative coastal vegetation (CL1: pōhutukawa treeland/rockland).*
- Potentially invasive exotic species should not be planted at the property, including any species listed in the Regional Pest Management Plan for Auckland and any species listed in the National Pest Plant Accord or on the [weedbusters.org.nz](http://weedbusters.org.nz) website.
- Indigenous skinks may be present within the proposed vegetation clearance area. All indigenous lizards are protected under the Wildlife Act (1953) and efforts must be made to relocate indigenous skinks from within the building footprint before works commence. A Lizard Management Plan (LMP) should be prepared, approved by Council, and implemented before vegetation clearance. A suitably qualified and experienced herpetologist should also be on-site during vegetation clearance. Provided the approved LMP is implemented fully, the ecological effects of vegetation clearance on lizards will be less than minor.

6.66 The report concludes

*“If the measures recommended in this report are suitably implemented, the ecological effects of the proposed vegetation clearance of vegetation clearance, including within an SEA overlay, will be less than minor. A positive net benefit to the ecological integrity of the site can be expected as planted indigenous vegetation matures. The site will require ongoing pest plant control and legal protection of the indigenous vegetation within the SEA to ensure that these ecological gains are maintained in the long-term”.*

## Arboricultural Assessment and Bush Covenant

- 6.67 An Arboricultural Assessment (Arborist report) has been prepared by Peers Brown Miller. The Report identifies and describes protected vegetation that is proposed to be removed and recommends appropriate mitigation for the effects of the removed vegetation. It also assesses existing vegetation within the registered bush covenant and proposes works methodologies and protective measures that should be implemented to ensure that adverse effects on retained vegetation are avoided or minimised.

### *Bush Covenant*

- 6.68 The report notes that a bush covenant was registered on title on 21 December 2010 as part of a subdivision that created the existing two allotments. A proposal was made to amend the covenanted area when the most recent 2012 application for three dwellings was made. Consent was granted for this amendment (in the January 2013 decision) but required a further change to include an additional strip of vegetation along the north western boundary. Research of the relevant documentation relating to this application and the hearings decision indicates that the primary purpose of extending the covenant along the north western boundary was to protect the privacy of the adjoining property No 4 Tizard Road. That property is now owned by the Applicant.

- 6.69 It is now proposed to remove the covenant entirely for the following reasons:
- Much of the land in the existing covenanted area is unvegetated.
  - The only native vegetation of any ecological significance within the covenanted area is a small stand of Kanuka trees as the western end and the report considers that the protection offered by the SEA will be greater than that provided in the wording of the existing covenant.
  - The vegetation along the north western boundary includes a mixture of exotics and native vegetation. The report considers that the native vegetation in this strip has little ecological value and that the proposal to include this area in the covenant was driven more as a measure to mitigate potential adverse effects on the adjoining property rather than the value of the vegetation per se. This property has now been purchased by the owner of the subject site however it is still proposed to retain most of the vegetation along this strip to provide a privacy barrier between the two properties.

- 6.70 The report proposes measures to protect the existing stand of Kanuka trees during the construction process and suggests that these measures be included as a condition of consent.

### *Poisoned Pohutukawa trees*

- 6.71 Sometime in November 2017, it was observed that the one Kanuka tree and a number of Pohutukawa trees on the cliff face had been poisoned. The Applicant has no knowledge of who did this and the Arborist report suggests it was carried out by a trespasser. Nevertheless this is now an issue that must be dealt with by the Applicant.

- 6.72 At the time of lodging the previous application it was considered that the dead trees should be retained insitu to allow the wood to frotter away gradually. However in the course of time, the Arborist and Ecologist now consider that the trees should be removed. The Report states: *“At an earlier stage it was agreed that the dead trees should be retained in situ and to allow the wood to frotter away gradually. However, inspections of the trees since have revealed that the dead scaffold material of the trees is drying fast and is breaking up. This presents a hazard for personnel working at the site during the clearance and revegetation stages – especially the latter, where people would be working directly beneath the trees in the fall zone of the dead material. Another reason for this decision is that there is a substantial amount of low-growing native vegetation on the cliff line which it is considered important to foster in order to complement the proposed revegetation planting. It is considered undesirable to have large dead wood potentially falling onto this native vegetation.*

*“It was also originally thought that there might be a possibility of regenerative growth sprouting from the root systems of the Pohutukawa trees. However, I do not believe now that this will occur. Accordingly, it is proposed to remove the dead material down to the trunk boles – at a height above ground deemed safe to leave standing. Dead material down the cliff face can remain as is, as it will simply fall down the cliff safely – there being no public access at the bottom of the cliff”.*

- 6.73 The Report includes some photographs that demonstrate the ‘before’ and ‘after’ situations with the Pohutukawa trees.

#### *Vegetation Removal*

- 6.74 Section 7 of the Report includes a discussion on the proposed vegetation removal and notes that the gorse-rarahu scrub that is to be removed is located in the southeast corner of the site (largely outside the esplanade strip boundary) and spills over into the esplanade strip for a bit. The Mahoe-Mapou-Karamu scrub to be removed is partially within the SEA. The Report concludes: *“... it is our opinion that most of the vegetative cover under SEA overlay within this property does not warrant being classified as ecologically significant”.* The reasons for this opinion are extrapolated in the Report’s discussion against the relevant objectives in the overlay.

- 6.75 The Report carries out an assessment of proposed vegetation removal under the objectives and policies in Chapter D9.2 (SEA) as well as Chapter E15.8.2 which contains the assessment criteria for a restricted discretionary activity. It considers the effects of the development on existing native vegetation and makes detailed recommendations to ensure this vegetation is protected throughout the construction process, including the erection of protective fencing. In particular it provides a detailed assessment of the root stability of the poisoned Pohutukawa tree and concludes: *“Fig. 5 (Page 9) demonstrates that the base of the root plate of this tree is a considerable distance down from the clifftop. There is actually a terrace of ground at that point - on which the tree is firmly anchored. It also has a wide range of robust stout lateral and propping roots that perform the primary anchorage function which confirms the tree’s stability. I was therefore able to confidently conclude that any disturbance to any roots that extend past the esplanade strip line would not destabilise this Pohutukawa tree”.*

- 6.76 Section 9 of the Report also carries out an assessment against the relevant criteria in Chapter 15 and which shows the proposal achieves the relevant outcomes included on those criteria.

- 6.77 Section 10 includes recommendations to protect native vegetation and proposes that these measures be included as conditions of consent. Section 11 assesses boundary vegetation and recommends the protect of a number of species.

- 6.78 The Report concludes: *“The volume of protected vegetation to be removed to facilitate this proposal is minimal in both scale and the potential impact on the environment. The proposed apartment complex and the carparking area would occupy ground that is already largely clear of vegetation – and just 40m<sup>2</sup> + 25m<sup>2</sup> (approx.) of low to moderate ecological value SEA vegetation is estimated as needing to be removed.*

*With regard to the physical works associated with the proposal – excavation and construction activity, I am confident that, if the recommended works methodologies and tree protection measures are adopted and implemented, any adverse effects on the retained vegetation would be negligible. The strip of ground between the esplanade strip and bush protection covenant lines and the coast would not be encroached upon, and would be securely isolated from any intrusion during the course of the project. Indeed, the environment would be enhanced via the new native planting and the weed control measures that would be implemented”.*

### **Landscaping and planting**

- 6.79 Vegetation removal and planting design plans have been prepared by Topia Garden Design. These include plans showing existing vegetation to be removed and retained; planting design plans for the development; and planting design plans for the area covered by the Significant Ecological area. These plans have been prepared in consideration of the findings and recommendations of the Ecological Assessment and Arborist Report. Redesign of the planting program has been carried out in consultation with Council's reporting Landscape Architect. Further details are provided in the UDA.

#### *Reserve Planting*

- 6.80 Topia Garden Design has also prepared a proposed planting design plan for the adjoining Hinemoa Reserve. The eastern side of the proposed building will interface with the Reserve and if landscape works and planting are carried out to enhance this space it would complement the development as well as improving public enjoyment of the Reserve. The Applicant is prepared to do this landscaping as part of the development proposal at no cost to the Council. However, it should be noted that the planting and works offered in relation to Hinemoa Park are not part of any proposal to mitigate adverse effects from the proposed development. This is offered as a gesture of goodwill on the part of the Applicant.

## 7. REASONS FOR CONSENT

The provisions of the Auckland Unitary Plan (operative in part) have been reviewed and it is considered that resource consent is required for the following reasons:

### Residential – Single House Zone

- 7.1 The provision of an Integrated Residential Development within the Residential – Single House Zone, is a **discretionary** activity under Rule H3.4.1 (A9).
- 7.2 The construction of a new building to accommodate an integrated residential development (IRD) within the Residential – Single House Zone, is a **discretionary activity** under Rule H3.4.1 (A36)
- 7.3 The provision of 10 residential dwellings within the Residential – Single House Zone, (being more than one dwelling per site) is a **non-complying** activity under Rule H3.4.1 (A6). As previous noted, the Applicant does not agree that this activity status should override the intended activity status for an Integrated Residential Development in the zone, and this activity has only been included as a reason for consent at the request of the Commissioners at the time of considering the previous application (in December 2019).
- 7.4 It is the view of the Applicant that dwellings and units (which have separate definitions in the AUP) are intended as two different housing typologies. A dwelling is defined as *“Living accommodation used or designed to be used for residential purpose as a single household residence contained within one or more buildings.....”*; and conversely, a Unit is defined as *“A defined part of a building under different ownership, including apartments and separate leased areas within a building.”* This application is seeking consent for units (apartments) as part of an integrated residential development, where each unit is under different ownership within defined parts of a building. It is not seeking consent for multiple self-contained single residences (or dwellings). It is considered that the interpretation of the proposed units as separate dwellings creates an absurdity in interpreting the Activity Table in the Zone and makes a mockery of the former Independent Panel’s recommendation and Council’s subsequent agreement to provide for Integrated Residential Developments as a specific activity and policy in the Single House zone.
- 7.5 This position was elaborated upon on in Mr Putt’s evidence at the Commissioner hearing in December 2019 when it was pointed out that the Independent Hearings Panel (in the IHP Report to Auckland Council in July 2016) made a deliberate decision to delete the definition of Retirement Village (RV) in the Unitary Plan and to incorporate retirement villages into the definition of Integrated Residential Development. In deliberating on submissions to that Hearing it became apparent that any larger scale residential development was likely to have similar effects and should therefore be subject to similar assessment matters. To follow the Council’s current position that IRDs are now a non-complying activity in the Single House zone assumes that Retirement Villages would also be a non-complying activity because they too meet the definition of “Dwellings” in the AUP (irrespective of what they might be called under the Retirement Villages Act). Indeed if Council had intended that Retirement Villages should have a different interpretation to units or apartments, then it raises the question of why it agreed to combine the two activities. It also raises the question of why Council has already approved IRDs in the Single House zone and whether these consents are now ultra vires.

### Taking, Using, Damming and Diversion of Water and Drilling

- 7.6 The diversion of groundwater associated with excavation works that exceed the permitted activity standards set out in Table E7.6.1.10, is a restricted discretionary activity under Rule E7.4.1 (A28).
- 7.7 Dewatering associated with a groundwater diversion that does not meet the associated permitted activity standards (as set out above), is a restricted discretionary activity under Rule E7.4.1 (A20).

### *Regional*

#### **Land Disturbance - Regional**

- 7.8 Earthworks over an area of more than 5m<sup>2</sup> and involving a volume of more than 5m<sup>3</sup> within a significant ecological area, is a restricted discretionary activity under Rule E11.4.3 (A28 and A30).

#### **Vegetation Management and Biodiversity**

- 7.9 The removal of vegetation over an area of approximately 40m<sup>2</sup> and works within the rootzone of retained vegetation all located within a significant ecological area, is a discretionary activity under Rule E15.4.2 (A43).

### *District*

#### **Earthworks**

- 7.10 Earthworks over an area of approximately 1,474m<sup>2</sup> and involving a volume of approximately 6,054m<sup>3</sup> on residentially zoned land, where 500m<sup>2</sup> and 250m<sup>3</sup> are the permitted levels, is a restricted discretionary activity under Rule E.12.4.1 (A5 and A10).

#### **Vegetation Management and Biodiversity**

- 7.11 The removal of vegetation over an area of approximately 40m<sup>2</sup> and works within the rootzone of retained vegetation all located within 20m of mean high water springs, is a **restricted discretionary** activity under Rule E15.4.1 (A21).
- 7.12 The removal of vegetation over an area of approximately 40m<sup>2</sup> and works within the rootzone of retained vegetation all located within a horizontal distance of 20m from the top of a cliff with a slope steeper than 1:3 and within 150m of mean high water springs, is a **restricted discretionary** activity under Rule E15.4.1 (A22).

#### **Transport**

- 7.13 Delivery/ refuse trucks will need to reverse manoeuvre onto the front driveway entrance on a site where there are four or more parking spaces served by a single access which is a restricted discretionary activity under Rule E27.6.3.4 (1)(a).
- 7.14 The proposed vehicular accessway will have gradients that are steeper than the minimum requirement under standard E27.6.4.4.(3) which is a **restricted discretionary** activity under Rule E27.4.1 (A2).
- 7.15 Based on the above assessment, the overall activity status for the application is **NON-COMPLYING**.

## 8. STATUTORY CONSIDERATIONS

8.1 Overall the proposal is seeking consent for a Non-Complying Activity.

8.2 The matters that require consideration in assessing this application are set out in section 104, section 104B and section 104D of the Resource Management Act 1991. These matters include the actual and potential effects of allowing activities on the environment, the relevant objectives and policies of the planning documents, and any other matter that is relevant and necessary to determine the application. The provisions of section 104 are subject to the matters set out in Part II of the Act.

The following sections of this application will address the actual and potential effects of the activity on the environment, the relevant objectives and policies and the relevant provisions of Part II of the Resource Management Act 1991.

8.3 Section 104 states that that when considering an application for resource consent, the consent authority must, subject to Part 2 RMA, have regard to-

- (a) Any actual and potential effects on the environment of allowing the activity; and
- (b) Any relevant provisions of-
  - a. A national environmental standard
  - b. Other regulations
  - c. A national policy statement
  - d. A New Zealand coastal policy statement
  - e. A regional policy statement or proposed regional policy statement
  - f. A plan or proposed plan
- (c) Any other matter the consent authority considers relevant and reasonably necessary to determine the application.

8.4 Section 104 also states that a consent authority 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.

Section 104B allows the consent authority, after considering an application for resource consent, to grant or refuse the application. If consent is to be granted conditions may be imposed under section 108 of the RMA.

Section 104D allows a consent authority to grant a resource consent for a non complying activity, only if it is satisfied that either:

- (a) The adverse effects of the activity will be minor, or
- (b) The application is for an activity that will not be contrary to the objectives and policies of the plan.

The following sections of this application will address the actual and potential effects of the activity on the environment, and the relevant assessment criteria, objectives and policies and provisions of Part II of the Resource Management Act 1991.



## 9. PLANNING ASSESSMENT

### Chapter H3 Residential – Single House Zone

#### *Initial comments on Integrated Residential Developments*

- 9.1 An integrated residential development is a discretionary activity in the Single House zone. The Independent Hearings Panel recommended that integrated residential developments be a restricted discretionary activity in the Zone and included assessment criteria to guide decision making in this zone. The Discretionary activity status and failure to provide for integrated residential development in the Single House zone was appealed to the Environment Court. The appeal against the discretionary activity status was withdrawn, however an agreement was reached between the parties to provide for integrated residential developments in the Zone. A consent order was issued in December and Policy 8 was incorporated into the zone to provide for integrated residential developments on larger sites. The Urban Design Assessment provides a useful interpretation of the new policy and the expected outcomes it might generate:

*“Our interpretation is that this provision was established through the deletion of the retirement village zone and a way of enabling them within residential zones, however the policy framework lacked guidance on the issue.*

*The sites are typically large and can accommodate a different density and typology where their effects can be managed. In this zone, the overarching objective is that development should be of a suburban character.*

*Our expectation for an apartment development in this zone would include a low-rise design proposal that is relatively close to the development standards for permitted and restricted discretionary activities, unless there is specific opportunity to differ provided by the site and the context.*

*There is no density expectation for this typology and therefore the number of units would be controlled by the building form and design, and potentially other servicing constraints.*

*In this case the site is unique and provides an opportunity for a greater number of dwellings in a way that sits comfortably with the surrounding residential character.”*

- 9.2 Overall, the IRD opportunity in the Single House Zone is another means of implementing the regional objective of achieving a quality compact urban form across urban Auckland.

#### **Relevant matters to be considered**

- 9.3 Under the General Rules in Chapter C [Rule C1.8] when considering an application for a non-complying activity
- the Council will consider all relevant overlay, zone, Auckland-wide and precinct objectives and policies that apply to the activity or to the site or sites where that activity will occur
  - the Council will have regard to the standards for permitted activities on the same site as part of the context of the assessment of effects on the environment, and
  - any positive effects of allowing an activity relevant to the consideration of an application for resource consent for that activity.
- 9.4 The assessment below includes
- an assessment against the permitted activity standards in the Single House zone including an assessment against the purpose of each standard to consider whether that purpose will still be achieved if consent is granted.
  - an assessment against the assessment criteria for Integrated Residential Developments in H4.8.2 in the Mixed Housing Suburban zone in the absence of any design guidelines not provided for in the Single House Zone. Again this includes an assessment against the purpose of each standard in order to assess whether the outcome intended by the standard will still

be achieved. These criteria are considered to be the most relevant to the proposed land use activity.

- an assessment against the against the objectives and policies in the Single House zone.

9.5 The UDA also provides a detailed assessment of the proposal from an urban design perspective (including areas where the building does not comply with the permitted activity standards) and this is relied upon in this application.

**Table 1 – Assessment against standards in the Single House zone.**

H3.6 Standards Residential – Single House Zone		
<i>Rule</i>	<i>Compliance with standard</i>	<i>Assessment against Purpose of Standard</i>
<p><b>H.3.6.1 - Activities listed in Table H3.4.1 Activity table</b>                      (1) Activities and buildings containing activities listed in Table H3.4.1 Activity table must comply with the standards listed in the column in Table H3.4.1 Activity table called Standards to be complied with.</p>	<p>There are no standards that need to be complied with in relation to integrated residential developments, however the standards for permitted activities in the Single House zone are being considered as a guide in assessing the effects of the application on the surrounding environment.</p>	
<p><b>H3.6.6 - Building height</b>                      (1) Buildings must not exceed 8m in height except that 50 per cent of a building's roof in elevation, measured vertically from the junction between wall and roof may exceed this height by 1m, where the entire roof slopes 15 degrees or more, as shown in Figure H3.6.6.1 Building height in the Residential – Single House Zone below.</p> <p><b>Purpose of standard</b>                      To manage the height of buildings to:</p> <ul style="list-style-type: none"> <li>• Achieve the planned suburban built character of predominantly one to two storeys;</li> <li>• minimise visual dominance effects;</li> <li>• maintain a reasonable standard of residential amenity for adjoining sites; and</li> <li>• provide some flexibility to enable variety in roof forms.</li> </ul>	<p>Does not comply                      The building will exceed the 8m height limit. This occurs generally over</p> <ul style="list-style-type: none"> <li>- the southern end of Unit 1</li> <li>- Bedroom 1 of Unit 2 at the northern end of the site where the building spans the driveway, and</li> <li>- the roof and the western wall of Unit 9 at the southern end of the site adjacent to the western boundary.</li> </ul> <p>These areas are highlighted in the 3D diagram 3 on plan A00.52a</p>	<p>It is considered that the proposed building height will not compromise the planned suburban built character of predominantly one to two storeys. The site has special or different characteristics to most allotments in the locality in that it is located at the end of a cul de sac, it is triangular in shape with a very narrow frontage and it slopes quite steeply away from the road.</p> <p>The development is excavated well into the site so that a major proportion of the building is below ground and first floor level; and will appear as single and partly two storey development when viewed from the streetscape. This will minimise visual dominance effects within the neighbourhood, and whilst the height of the building at the lower levels will be visible from the Harbour, it will be partly screened by trees and will present as one of many large buildings along this part of the skyline.</p> <p>The development will achieve the purpose of maintaining a reasonable standard of residential amenity for adjoining sites, and there are a variety of roof forms that are appropriate in the context of the site conditions and slope.</p>

<p><b>H3.6.7 – Height in relation to boundary (HIRB)</b>  (1) Buildings must not project beyond a 45-degree recession plane measured from a point 2.5m vertically above ground level alongside and rear boundaries, as shown in Figure H3.6.7.1 Height in relation to boundary below.</p> <p><b>Purpose of standard</b>  To manage the height and bulk of buildings at boundaries to maintain a reasonable level of sunlight access and minimise adverse visual dominance effects to immediate neighbours.</p>	<p>Does not comply  The building technically infringes the HIRB on the coastal edge as the 45 degree recession plan projects into the cliff face. If the control was measured from the top of the cliff the proposal would comply.</p> <p>The HIRB does not comply at two places on the western boundary: one over part of the wall of the rubbish enclosure as well as part of Bedroom 1 to Unit 2 where it spans the driveway at the northern end of the site; the second is part of the roof and western wall to Unit 9 and at the southern end of the site.</p>	<p>Non compliance adjacent to the southern (coastal) boundary is a very unusual circumstance resulting from the 30m high cliff face, however it will have no impact on any neighbouring properties.</p> <p>The infringements to the HIRB on the western boundary will still achieve the purpose of the standard notwithstanding that this property is owned by the Applicant.</p> <p>The western wall of the rubbish storage area and the infringement of part of Bedroom 1 to Unit 2 will have little or no effect on sunlight access to this property, nor will it have any visual dominance effects. Similarly, in the case of Unit 9, this part of the building is well below the existing dwelling on No 4 Tizard and will not be visible from, nor will it have any effect on sunlight access.</p>														
<p><b>H3.6.8 – Yards</b>  (1) A building or parts of a building must be set back from the relevant boundary by the minimum depth listed in Table H3.6.8.1 Yards below.</p> <p><b>Table H3.6.8.1 Yards</b></p> <table border="1" data-bbox="226 951 757 1158"> <thead> <tr> <th>Yard</th> <th>Minimum depth</th> </tr> </thead> <tbody> <tr> <td>Front</td> <td>3m</td> </tr> <tr> <td>Side</td> <td>1m</td> </tr> <tr> <td>Rear</td> <td>1m</td> </tr> <tr> <td>Riparian</td> <td>10m from the edge of all other permanent and intermittent streams</td> </tr> <tr> <td>Lakeside</td> <td>30m</td> </tr> <tr> <td>Coastal protection yard</td> <td>10m, or as otherwise specified in Appendix 6 Coastal protection yard</td> </tr> </tbody> </table> <p><b>Purpose of standard</b></p> <ul style="list-style-type: none"> <li>to maintain the suburban built character of the streetscape and provide sufficient space for landscaping within the front yard;</li> </ul>	Yard	Minimum depth	Front	3m	Side	1m	Rear	1m	Riparian	10m from the edge of all other permanent and intermittent streams	Lakeside	30m	Coastal protection yard	10m, or as otherwise specified in Appendix 6 Coastal protection yard	<p>Does not comply  The wall of the rubbish storage area is defined as a building as it is a structure used for storage over 1.5m high. As shown on Plan A00.53 – 02 part of the wall encroaches into the side yard setback on the north/western boundary.</p> <p>The western wall of Unit 9 also encroaches into the 1m side yard setback increasing from 0 at the northern end of the wall to 1m at the southern end</p>	<p>The height of the rubbish enclosure is necessary to raise the floor level of this structure to accommodate an OLFP underneath. In normal circumstances a rubbish storage area such as this would be located within the side yard setback and would not be regarded as an infringement of the yard control. It will have no effect on the residential amenity of the adjoining site (which as noted above is also owned by the Applicant). It will not affect any buildings and services on the site or adjoining site; and it is not within the front yard setback so it will not compromise the suburban built character of the streetscape or reduce space available for landscaping in the front yard.</p> <p>The ‘infringement’ of the roof and western wall of Unit 9 is required to accommodate the design changes needed to reduce the extent of building height infringements. This wall is located at the bottom (southern end) of the site, well below the dwelling on the adjoining site. It will</p>
Yard	Minimum depth															
Front	3m															
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Lakeside	30m															
Coastal protection yard	10m, or as otherwise specified in Appendix 6 Coastal protection yard															

<ul style="list-style-type: none"> <li>• to maintain a reasonable standard of residential amenity for adjoining sites;</li> <li>• to ensure buildings are adequately set back from lakes, streams and the coastal edge to maintain water quality and provide protection from natural hazards; and</li> <li>• to enable buildings and services on the site or adjoining sites to be adequately maintained</li> </ul>		<p>have no effect on the standard of residential amenity enjoyed by that site.</p>
<p><b>H3.6.9 – Maximum impervious area</b>  (1) The maximum impervious area must not exceed 60 per cent of site area.</p> <p>(2) The maximum impervious area within a riparian yard, a lakeside yard or a coastal protection yard must not exceed 10 per cent of the riparian yard, lakeside yard or coastal protection yard area.</p>	<p>Complies  The proposal will result in a maximum impervious area of 43.1% as shown on the Site Coverage Plan and Calculations.</p>	<p>As the development complies with the standard for maximum impervious area, it is deemed to comply with the purpose of the standard.</p>
<p><b>H3.6.10 – Building coverage</b>  (1) The maximum building coverage must not exceed 35 per cent of net site area.  <b>Purpose of standard:</b>  To manage the extent of buildings on a site to achieve the planned suburban built character of buildings.</p>	<p>Does not comply  The proposal will result in building coverage of 36.1%.</p>	<p>The building coverage has increased in order to reduce the effects of building height. It is considered that the increase will not be visually apparent and will still achieve the purpose of the standard.</p>
<p><b>H3.6.11 – landscape area</b>  (1) The minimum landscaped area must be at least 40 per cent of the net site area.</p> <p>(2) At least 50 per cent of the area of the front yard must comprise landscaped area.</p>	<p>Complies  The Site Coverage Plan and Calculations shows a permeable area of 57.2% which complies with the minimum landscaped area.</p> <p>Does not comply  The landscaping in the front yard is 34.2% as the site has a</p>	<p>The development complies with the standard for landscape area but not the percentage of landscaped area in the front yard.</p> <p>It is considered that landscaping of the front yard will maintain the landscaped character of the streetscape. The site has a frontage of only 13.8m and a large proportion of this is needed for the access way. A pedestrian accessway has been provided within the frontage of the site, not only to facilitate access to the</p>

<p><b>Purpose of standard:</b></p> <ul style="list-style-type: none"> <li>• to provide for quality living environments consistent with the planned suburban built character of buildings;</li> <li>• to maintain the landscaped character of the streetscape within the zone.</li> </ul>	<p>triangular shape and the frontage to the site is only 13.8m wide. Space is required to accommodate the driveway and pedestrian access to the site.</p>	<p>development but also to provide a public link to the walkway in Hinemoa Park connecting the Birkenhead Ferry terminal below. It is considered that the landscaping and planting that is to be provided is appropriate and will enhance the existing character of the streetscape.</p>
<p><b>H3.6.12 – Front, side and rear fences and walls</b></p> <p>(1) Fences or walls or a combination of these structures (whether separate or joined together) must not exceed the height specified below, measured from the ground level at the boundary:</p> <p>(a) Within the front yard, either:</p> <p>(i) 1.2m in height, or</p> <p>(ii) 1.8m in height for no more than 50 per cent of the site frontage and 1.2m for the remainder, or</p> <p>(iii) 1.8m in height if the fence is at least 50 per cent visually open.</p> <p>(b) Within the side and rear yards: 2m.</p> <p>Purpose of standard:</p> <p>To enable fences and walls to be constructed on a front, side or rear boundary or within a front, side or rear yard to a height sufficient to:</p> <ul style="list-style-type: none"> <li>• provide privacy for dwellings while enabling opportunities for passive surveillance of the street</li> <li>• minimise visual dominance effects to immediate neighbours and the street.</li> </ul>	<p>Rubbish enclosure area does not comply with the standard for side fences/walls.</p> <p>The drawing show that the height on the boundary of the rubbish storage structure ranges from approximately 2.5 to 3m. The height of this structure is required to align the structure with the driveway levels and to provide for the OLFP under the structure as noted in discussing the infringement of the HIRB control.</p>	<p>It is only the wall height of the rubbish storage area that has resulted in an infringement of this control. The reasons for this have already been discussed. The wall extends only for the length of the storage area and it located behind the front yard setback.</p> <p>It is considered that the development will achieve the purpose of this standard. The section of the wall that exceeds this height will not compromise passive surveillance of the street and will not create any visual dominance effects to immediate neighbours. It will also be screened by landscaping in the front yard and therefore will not be prominent or visually intrusive structure on the streetscape.</p>

**Table 2 - Assessment against criteria for integrated residential developments in the Mixed Housing Suburban (MHS) zone.**

H4.8.2 Assessment Criteria – Restricted Discretionary Activity Mixed Housing Suburban Zone (3) Integrated Residential Development	
<b>Criteria</b>	<b>Response</b>
(a) the extent to which or whether the development achieves the purpose outlined in the following standards or what alternatives are provided that result in the same or a better outcome:	
<p><b>(i) Standard H4.6.8 Maximum impervious areas</b> Purpose:</p> <ul style="list-style-type: none"> <li>•to manage the amount of stormwater runoff generated by a development, particularly in relation to the capacity of the stormwater network and potential flood risks;</li> <li>•to support the functioning of riparian yards, lakeside yards and coastal yards and water quality and ecology;</li> <li>•to reinforce the building coverage and landscaped area standards; and</li> <li>•to limit paved areas on a site to improve the site’s appearance and cumulatively maintain amenity values in a neighbourhood.</li> </ul>	Development complies with the maximum impervious area for the MHS and Single House zone and is therefore deemed to achieve the purpose of this standard.
<p><b>(ii) Standard H4.6.9 Building coverage</b> Purpose: to manage the extent of buildings on a site to achieve the planned suburban built character of buildings.</p>	Refer to comments in the assessment of building coverage in the Single House zone
<p><b>(iii) Standard H4.6.10 Landscaped area</b> Purpose:</p> <ul style="list-style-type: none"> <li>•to provide for quality living environments consistent with the planned suburban built character of buildings within a generally spacious setting; and</li> <li>•to maintain the landscaped character of the streetscape within the zone.</li> </ul>	<p>The development complies with the minimum landscaped area in the Single House zone, however it does not comply with the minimum landscaped area for the front yard. (Refer to the reasons why this is the case in the assessment under the Single House zone).</p> <p>Notwithstanding this situation, it is considered that the development meets the purpose of the standard. As discussed in assessing the proposal against the provisions in the Single House zone, it is providing for a quality living that is generally consistent with the planned suburban character of the area and the front yard landscaping will maintain and enhance the landscape character of the streetscape.</p>
<p><b>(iv) Standard H4.6.11 Outlook space</b> Purpose:</p>	The outlook space to the principal bedroom of Unit 3 very marginally encroaches into Hinemoa Park however in outlook spaces for all windows generally comply overall with the standard and it is considered that the purpose of the standard will be achieved.



<ul style="list-style-type: none"> <li>•to ensure a reasonable standard of visual privacy between habitable rooms of different buildings, on the same or adjacent sites; and</li> <li>•in combination with the daylight standard, manage visual dominance effects within a site by ensuring that habitable rooms have an outlook and sense of space.</li> </ul>	
<p><b>(v) Standard H4.6.12 Daylight;</b> Purpose:</p> <ul style="list-style-type: none"> <li>•to ensure adequate daylight for living areas and bedrooms in dwellings,.....and boarding houses; and</li> <li>•in combination with the outlook standard, manage visual dominance effects within a site by ensuring that habitable rooms have an outlook and sense of space.</li> </ul>	<p>The UDA (p27) includes a detailed analysis of the extent of daylight (and sunlight) received in each of the units and concludes (p40):</p> <p><i>“Most apartments will either have morning or afternoon sun in summer. Units 8 - 10 at the south western corner could have afternoon sun to their outdoor living spaces, however the existing trees around that corner will have an effect on the extent to which sun will penetrate. It is expected that Unit 10 will have very limited or no sun access. Unit 7 is also unlikely to receive sun in the winter due to the façade alignment. This is not desirable for these two units, however it is a compromise in favour of the views and amenity values the outlook will provide for those units. The view is more important to some people than sun and the proposal provides a range for different preference.</i></p> <p><i>Unit 1 and 2 will receive all day sun in different parts of the dwelling throughout the year.</i></p> <p><i>Units 3 and 5 will receive sun at either morning or afternoon due to their position.</i></p> <p><i>Unit 4 may have restricted sun access in winter but should receive morning and afternoon sun in summer.”</i></p>
<p><b>(vi) Standard H4.6.13 Outdoor living space;</b> Purpose: to provide dwellings, ..... with outdoor living space that is of a functional size and dimension, has access to sunlight, and is directly accessible from the principal living room, dining room or kitchen and is separated from vehicle access and manoeuvring areas.</p>	<p>The outdoor living space complies with the minimum areas specified in the standard and each area is accessible from the principal living room. In this regard the UDA states:</p> <p><i>“All units are proposed with private outdoor space in the form of decks connected to the living and bedrooms in locations where good views will be obtained. In most these are extensions to the living space, however Unit 9 has a balcony related to a bedroom and this would be better related to the living room. Due to the site orientation, some of these decks will not receive a lot of sun. The size of the outdoor space is not particularly large in some cases such as some of the three bedrooms units. These however meet the expectations of the AUP in terms of adequate space for apartments using the THAB zone as a guide. There is significant open space nearby the site if occupants want to use larger areas.”</i></p>

	In relation to solar access refer to comments in assessment of daylight and sunlight on page 27 of the UDA.
<p><b>(vii) Standard H4.6.14 Front, side and rear fences and walls</b>  Purpose: to enable fences and walls to be constructed on a front, side or rear boundary or within a front, side or rear yard to a height sufficient to:</p> <ul style="list-style-type: none"> <li>• provide privacy or dwellings while enabling opportunities for passive surveillance of the street</li> <li>• minimise visual dominance effects to immediate neighbours and the street.</li> </ul>	Refer to comments on this question in assessing the proposal against under the Single House zone. Also refer to the detailed assessment of boundary treatments in the UDA.
<p><b>(viii) Standard H4.6.15 Minimum dwelling size.</b>  Purpose: to ensure dwellings are functional and of a sufficient size to provide for the day to day needs of residents, based on the number of occupants the dwelling is designed to accommodate.</p>	All dwellings meet the minimum dwelling size and will achieve the purpose of this standard.
<p><b>(b) refer to Policy H4.3(1)</b>  Enable a variety of housing types including integrated residential development such as retirement villages.</p>	As an integrated residential development the proposal is providing a variety of housing types in the zone.
<p><b>(c) refer to Policy H4.3(2)</b>  Achieve the planned suburban built character of predominantly two storey buildings, in a variety of forms by: (a) limiting the height, bulk and form of development;  (b) managing the design and appearance of multiple-unit residential development; and  (c) requiring sufficient setbacks and landscaped areas.</p>	<p>The UDA provides a comprehensive analysis of the building in terms of points (a) (b) and (c) of this policy and shows that the development will achieve the planned suburban built character of predominantly two storey buildings.</p> <p>The Assessment of Environmental Effects in Section 10 of this report also discusses the effects of the proposed development on the planned suburban built character of predominantly two storey buildings. It notes that the development will present as a single or two storey building when viewed from the street; and even from other dwellings above the site, the height, bulk and form of the development have been designed to appear as a two storey development. The site slopes away from the street and the lower floors of the building are excavated into the site.</p>
<p><b>(d) refer to Policy H4.3(3);</b>  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.</p>	The development will enhance the streetscape and adjoining public open space and windows to the development facing the Park will allow passive surveillance. Front yard landscaping does not achieve the minimum area prescribed in the zone because of the small frontage to this large site, however as previously noted this area will still include attractive landscaping.

	Again refer to the detailed assessment of the interface of the development with the street and Hinemoa Park.
<b>(e) refer to Policy H4.3(4);</b> 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.	The proposed building will not change the current levels of sunlight and privacy to adjoining properties, and the building will not be visually dominant in relation to adjoining sites.
<b>(f) refer to Policy H4.3(5);</b> Require accommodation to be designed to: (a) provide privacy and outlook; and (b) be functional, have access to daylight and sunlight and provide the amenities necessary to meet the day-to-day needs of residents.	The UDA provides and assessment of privacy, outlook and access to daylight and sunlight and this is relied upon in this assessment.  All units are designed to achieve good privacy and outlook. They are functional from an internal point of view and have all the amenities necessary to meet the day to day needs of residents.
<b>(g) refer to Policy H4.3(6);</b> Encourage accommodation to have useable and accessible outdoor living space.	Each unit has its own area of outdoor living space which meets the standards for the mixed housing/THAB zones. The development is also provided with a gymnasium and a communal pool and terraced area at the centre of the complex.
<b>(h) refer to Policy H4.3(7);</b> 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.	The total impervious area on the site meets the standards of the Single House Zone and the engineering report confirms that stormwater runoff from the development will be managed to avoid adverse effects on amenity values and the environment overall.
<b>(i) refer to Policy H4.3(8)</b> Enable more efficient use of larger sites by providing for integrated residential development.	The site meets the definition of a large site (with a total area of 3056m <sup>2</sup> ) and the development will make efficient use of this area by providing for an integrated residential development (of ten units) without compromising the low rise suburban character and amenity of the surrounding area.
<b>(j) refer to Policy H4.3(9);</b> Provide for non-residential activities that: (a) support the social and economic well-being of the community; (b) are in keeping with the 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 –	N/A

<p>City Centre Zone, Business – Metro Centre Zone and Business – Town Centre Zone.</p>	
<p><b>(k) infrastructure and servicing:</b>  (i) Whether there is adequate capacity in the existing stormwater and public reticulated water supply and wastewater network to service the proposed development.  (ii) Where adequate network capacity is not available, whether adequate mitigation is proposed.</p>	<p>Based on the information provided in the engineering report there is sufficient capacity within the existing public networks to support the proposed development.</p>

**Assessment against the objectives and policies in the Single House zone**

**Objective H3.2 (1)** Development maintains and is in keeping with the amenity values of established residential neighbourhoods including those based on special character informed by the past, spacious sites with some large trees, a coastal setting or other factors such as established neighbourhood character.

**Response:** The Tizard Road neighbourhood has a variety of housing types, sizes and architectural styles. The proposed development generally fits into this fabric and will not compromise the pattern and character of development in the neighbourhood which includes a number of large dwellings and a cluster of very large dwellings on the prominent headland to the east of the site as illustrated below.



**Objective H3.2 (2)** Development is in keeping with the neighbourhood's existing or planned suburban built character of predominantly one to two storeys buildings.

**Response:** As noted above and as discussed in the Assessment of Environment Effects in Section 10 of this report, the development is generally in keeping with the planned suburban character of the surrounding neighbour. Whilst the proposal includes four levels of development, much of this will be excavated into the site, and because of the slope of the land will appear as a single or two level development when viewed from Tizard Road.

**Objective H3.2 (3)** Development provides quality on-site residential amenity for residents and for adjoining sites and the street.

**Response:** The proposal will achieve this objective. Each apartment will have outlook over the Harbour and there is a gymnasium, communal swimming pool and gathering area in the centre of the development. The development will be high quality construction and will provide an attractive and positive interface with the street. The Assessment of Environmental Effects demonstrates that the development will have no adverse effects on adjoining sites and it is considered that building will be a high quality development that will enhance the character of the neighbourhood including adjoining sites and the street.

**Objective H3.2 (4)** Non-residential activities provide for the community's social, economic and cultural well-being, while being in keeping with the scale and intensity of development anticipated by the zone so as to contribute to the amenity of the neighbourhood.

**Response:** N/A

**Policy H3.3 (1)** Require an intensity of development that is compatible with either the existing suburban built character where this is to be maintained or the planned suburban built

**Response:** Whilst the development has a greater intensity than other dwellings in the neighbourhood the density of the development is not significantly different to that which could occur if a complying subdivision was approved and a  
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character of predominantly one to two storey dwellings.

dwelling and minor household unit constructed on each site. The development has been designed to enhance the existing suburban character of the Tizard Road neighbourhood, and as the surrounding area has a range of housing types, sizes and architectural styles the proposal is considered to be a suitable response to this area and its landscape setting.

**Policy H3.3 (2)** Require development to:

(a) be of a height, bulk and form that maintains and is in keeping with the character and amenity values of the established residential neighbourhood; or

(b) be of a height and bulk and have sufficient setbacks and landscaped areas to maintain an existing suburban built character or achieve the planned suburban built character of predominantly one to two storey dwellings within a generally spacious setting.

**Response:** It is relevant that Objective 4 of the new NPS on Urban Development (July 2020)

acknowledges that New Zealand's urban environments, including their amenity values, will develop and change over time in response to the diverse and changing needs of people, communities, and future generations. This is interpreted to mean that planning decisions on resource consents are not required to ensure that the existing character and amenity of a neighbourhood is rigidly maintained and must never change. In this context it is considered that development will be generally in keeping with the character and amenity values of the neighbourhood. Whilst small areas of the development exceed the maximum building height limit for the zone, the building is designed to step down the landscape and the additional height will not be visible from the street or surrounding properties. When viewed from the street the building will appear as a single or two level development and this situation together with the high quality design and landscaping of the development will ensure that the outcomes envisaged in the policy will be met.

**Policy H3.3 (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.

**Response:** The building provides passive surveillance of the street as well as adjacent park and the front yard will be landscaped to achieve an attract interface with the street.

The proposal provides underground car parking with access via a concrete drive adjacent to the north west boundary of the site. Accordingly there will be no garage doors visible from the street.

**Policy H3.3 (4)** Require the height, bulk and location of development to maintain a reasonable level of sunlight access and privacy and to minimise visual dominance effects to the adjoining sites.

**Response:** The proposed building has been designed to provide a reasonable level of privacy and sunlight within the development, particularly given the orientation and slope of the site and the ability to take advantage of significant views Harbour. There will be no overlooking or overshadowing of adjoining properties, and the height, bulk and location will not create any visual dominance effects on adjoining sites.

**Policy H3.3 (5)** Encourage accommodation to have useable and accessible outdoor living space.

**Response:** All of the units will have a private deck and/or terrace that meets the outdoor living space standards for apartment living. They will also have access to the outdoor communal area which includes a private swimming pool.

**Policy H3.3 (6)** 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.

**Response:** The proposal meets the maximum impervious area standards for the zone and therefore meets the outcomes intended by this policy.

**Policy H3.3 (7)** 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 the Business – Town Centre Zone.

**Response:** N/A. There are no non-residential activities on the site.

**Policy H3.3 (8)** Provide for integrated residential development on larger sites.

**Response:** The site is over 3000m<sup>2</sup> and it is considered it is highly suitable for an integrated residential development.

Section 4.7 (p20) of the UDA provides a useful interpretation of this policy in terms of the expected urban design outcomes which is relied upon in this assessment. In particular it is important to consider that:

- The site is large and can accommodate a more intense development and different housing typology where the effects can be managed.
- The development maintains a low rise suburban character that is relatively close to the development standards for permitted and restricted discretionary activities
- The policy creates an unlimited density expectation for this typology allowing the number of units to be controlled by the building form and design.
- The physical characteristics of the site provide a unique opportunity to increase the density of development without having an adverse visual effect

9.6 The development will meet higher order objectives and policies contained in the Regional Policy Statement and well as the National Policy Statement on Urban Development (2020). It is providing for a quality compact urban form by making efficient use of land and physical infrastructure. It makes good use of public transport, it provides greater choices that will meet the needs of people and communities; it responds to the intrinsic qualities and physical characteristics of the site and area; and last but not least, it is achieving these outcomes without having an adverse effect on any neighbouring resident.

9.7 On the basis of the above assessment it is concluded that the proposal is not contrary to the objectives and policies in Chapter H3.

**Chapter E7 – Taking, using, damming and diversion of water and drilling**

9.8 Under Table E7.4.1 Activity (A27) diversion of groundwater caused by any excavation (including trench) or tunnel is a permitted activity provided the activity complies with the permitted activity standards in Rule E7.6.1.6 and E7.6.1.10.

E7.6.1. Permitted activities

9.9 All activities listed as permitted activities in Table E7.4.1 must comply with the following permitted activity standards.

<b>Rule E7.6.1.6 - Dewatering or groundwater level control associated with a groundwater diversion permitted under Standards E7.6.1.10 must meet the following standards:</b>	<b>Assessment</b>
(1) The water take must not be geothermal water; (2) The water take must not be for a period of more than 10 days where it occurs in peat soils, or 30 days in other types of soil or rock; and (3) The water take must only occur during construction.	Does not comply The water take may occur for more than 30 days.  The proposal includes a drainage basin and therefore will not occur only during the construction process.
<b>Rule E7.6.1.10. Diversion of groundwater caused by any excavation, (including trench) or tunnel</b>	
(1) All of the following activities are exempt from the Standards E7.6.1.10(2) – (6): (a) pipes cables or tunnels including associated structures which are drilled or thrust and are less than 1.2m in external diameter; (b) pipes including associated structures up to 1.5m in external diameter where a closed faced or earth pressure balanced machine is used; (c) piles up to 1.5m in external diameter are exempt from these standards; (d) diversions for no longer than 10 days; or (e) diversions for network utilities and road network linear trenching activities that are progressively opened, closed and stabilised where the part of the trench that is open at any given time is no longer than 10 days.	The diversion of groundwater will occur for longer than 10 days
(2) Any excavation that extends below natural groundwater level, must not exceed: (a) 1ha in total area; and (b) 6m depth below the natural ground level.	Site is less than 1ha Does not comply - Excavation will exceed 6m below ngl
(3) The natural groundwater level must not be reduced by more than 2m on the boundary of any adjoining site.	Does not comply The natural ground water level is likely to be reduced by more than 2m along the (short) north eastern site boundary and a portion of the north western site boundary.
4) Any structure, excluding sheet piling that remains in place for no more than 30 days, that	Does not comply



<p>physically impedes the flow of groundwater through the site must not:</p> <p>(a) impede the flow of groundwater over a length of more than 20m; and</p> <p>(b) extend more than 2m below the natural groundwater level.</p>	<p>If the perched water table is regarded as natural groundwater, then this rule cannot be met as structures will extend more than 2m below natural groundwater for more than 30 days.</p>
<p>(5) The distance to any existing building or structure (excluding timber fences and small structures on the boundary) on an adjoining site from the edge of any:</p> <p>(a) trench or open excavation that extends below natural groundwater level must be at least equal to the depth of the excavation;</p> <p>(b) tunnel or pipe with an external diameter of 0.2 - 1.5m that extends below natural groundwater level must be 2m or greater; or</p> <p>(c) a tunnel or pipe with an external diameter of up to 0.2m that extends below natural groundwater level has no separation requirement.</p>	<p>Complies</p> <p>The location of the basement excavation is offset 11m from the west boundary, and the adjoining property (Lot 4) is offset from the same boundary by 3m, therefore combined offset from basement excavation from adjoining property is 14m and this exceeds the maximum depth basement excavation.</p>
<p>(6) The distance from the edge of any excavation that extends below natural groundwater level, must not be less than:</p> <p>(a) 50m from the Wetland Management Areas Overlay;</p> <p>(b) 10m from a scheduled Historic Heritage Overlay; or</p> <p>(c) 10m from a lawful groundwater take.</p>	<p>N/A</p>

9.10 On the basis of Council's view that a perched water table is defined as natural groundwater, the proposal does not meet the relevant permitted activity standards.

9.11 Under Table E7.4.1 Activity (A28) Diversion of groundwater caused by any excavation (including trench) or tunnel that does not meet the relevant permitted activity standards or is not otherwise listed, is a restricted discretionary activity. Accordingly consent is required as a restricted discretionary activity for dewatering or groundwater level control associated with a groundwater diversion.

#### E7.8.2. Assessment criteria

9.12 Rule E7.8.2 requires Council to consider the relevant assessment criteria for restricted discretionary activities.

#### E7.6.3. Restricted discretionary activities

<b>E7.8.2. Assessment criteria</b>	<b>Assessment</b>
<p>(1) all restricted discretionary activities:</p> <p>(a) the extent to which any effects on Mana Whenua values are avoided, remedied or mitigated;</p> <p>(10) Whether the proposal to divert groundwater will ensure that:</p> <p>(a) the proposal avoids, remedies or mitigates any adverse effects on:</p>	<p>The proposed dewatering will have no effects on Mana Whenua values.</p> <p>The geotechnical engineers (Kirk Roberts Ltd) have submitted a groundwater drawdown and settlement monitoring and contingency plan (GRSMCP) that</p>

<ul style="list-style-type: none"> <li>(i) scheduled historic heritage places and scheduled sites; and</li> <li>(ii) people and communities;</li> <li>(b) the groundwater diversion does not cause or exacerbate any flooding;</li> <li>(c) monitoring has been incorporated where appropriate, including: <ul style="list-style-type: none"> <li>(i) measurement and recording of water levels and pressures; and</li> <li>(ii) measurement and recording of the movement of ground, buildings and other structures;</li> </ul> </li> <li>(d) mitigation has been incorporated where appropriate including: <ul style="list-style-type: none"> <li>(i) minimising the period where the excavation is open/unsealed;</li> <li>(ii) use of low permeability perimeter walls and floors;</li> <li>(iii) use of temporary and permanent systems to retain the excavation; and</li> <li>(iv) re-injection of water to maintain groundwater pressures;</li> </ul> </li> </ul>	<p>addresses the issue of ground settlement on adjacent properties during drawdown of the perched water table.</p> <p>As discussed by Auckland Council and the Geotechnical engineer (from Kirk Roberts Ltd) it was agreed that additional water monitoring is required to confirm the ground water regime and transient water flow.</p> <p>Refer to report (GRSMCP) for proposed location of ground water monitoring points and the measuring and recording of ground movements.</p> <p>Mitigation has been incorporated where appropriate.</p> <p>Refer to report on retaining wall sequence.</p>
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## Chapter E11 Land disturbance – Regional

- 9.13 Regional consent is required as a restricted discretionary activity for earthworks over an area of more than 5m<sup>2</sup> and involving a volume of more than 5m<sup>3</sup> with a significant ecological area. All permitted, controlled and restricted discretionary activities must comply with the general standards E11.6.2 and be assessed against the relevant assessment criteria in E11.8.2. The earthworks are also assessed against the objective and policies in Chapter 11.

E11.6 Standards Land Disturbance – Regional	
<i>Rule</i>	<i>Response/ Status</i>
<b>E11.6.1 – Accidental discovery rule</b>	Will comply if required
<b>E11.6.2 – General Standards</b>	
<b>E11.6.2 (1)</b> Land disturbance must not, after reasonable mixing, result in any of the following effects in receiving waters: (a) the production of conspicuous oil or grease films, scums or foams, or floatable or suspended materials; (b) any conspicuous change in the colour or visual clarity; (c) any emission of objectionable odour; (d) the rendering of fresh water unsuitable for consumption by farm animals; or (e) any significant adverse effects on aquatic life.	Erosion and sediment controls will be provided for the duration of the earthworks as outlined in the engineering report. By implementing these controls it is considered that the adverse effects described in this standard will not result.
<b>E11.6.2 (2)</b> Best practice erosion and sediment control measures must be implemented for the duration of the land disturbance. Those measures must be installed prior to the commencement of land disturbance and maintained until the site is stabilised against erosion.	The engineering report has provided details of the proposed erosion and sediment control measures that will be used on site. These will be implemented prior to the commencement of any works.
<b>E11.6.2 (3)</b> Dewatering of trenches and other excavations must be done in accordance with best practice and must not result in a discharge of untreated sediment laden water to any stormwater reticulation system or water body.	Best practice will be followed to ensure that untreated sediment laden water does not discharge into stormwater system or water body.
<b>E11.6.2 (4)</b> Trenching must be progressively closed and stabilised such that no more than 120m of continuous trench is exposed to erosion at any one time.	This can be included as a condition of consent if required.
<b>E11.6.2 (5)</b> Only cleanfill material may be imported and utilised as part of the land disturbance.	Will be complied with if required.
<b>E11.6.2 (6)</b> To prevent the spread of contaminated soil and organic material with kauri dieback disease, vehicle and equipment hygiene procedures must be adopted when working within 3 times the radius of the canopy drip line of a New Zealand kauri tree. Soil and organic material from land disturbance within 3 times the radius of the canopy drip line must not be transported beyond that area unless being transported to landfill for disposal.	Will be complied with if required.

<b>E11.6.2 (7)</b> Earthworks for maintenance and repair of driveways, parking areas, sports fields and major recreational facilities within the Significant Ecological Areas Overlay shall be limited to the area of earth previously disturbed or modified.	N/A
<b>E11.6.2 (8)</b> Earthworks associated with a temporary activity within the Significant Ecological Areas Overlay shall be limited to the area of earthwork previously disturbed or modified.	Will be complied with. A condition of consent can be included to ensure that protected native vegetation is not adversely affected by the works.

E11.8.2 Assessment Criteria – Restricted Discretionary Activity Land Disturbance - Regional (1) all restricted discretionary activities	
<i>Criteria</i>	<i>Response</i>
(a) whether applicable standards are complied with;	The proposed earthworks can be carried out in accordance with the applicable standards.
(b) the proximity of the earthworks to any water body and the extent to which erosion and sediment controls and the proposed construction methodology will adequately avoid or minimise adverse effects on: (i) water quality including of the coastal marine area; (ii) ecological health including of the coastal marine area; (iii) riparian margins; (iv) the mauri of water; and (v) the quality of taiāpure or mahinga mātaītai.	The methodology for erosion and sediment control is included in the engineering report and associated drawings.
(c) the extent to which the earthworks minimises soil compaction, other than where it benefits geotechnical or structural performance;	Earthworks have been designed in accordance with a geotechnical assessment. The works will ensure the stability of the site and proposed building.
(d) the proximity of the earthworks to areas of significant ecological value and the extent the design, location and execution of the works provide for the maintenance and protection of these areas;	The earthworks will be located adjacent to the SEA and the ecological assessment makes recommendations to minimise cleared areas and effects of excavation as well as proposing an Environmental Management Plan to manage ecological restoration. It is expected that this would be included as a condition of consent.
(e) whether monitoring the volume and concentration of sediment that may be discharged by the activity is appropriate within the scale of the proposed land disturbance;	Can be included as a condition of consent if considered necessary.
(f) whether the extent or impacts of adverse effects from the land disturbance can be mitigated by managing the duration, season or staging of such works	The area of earthworks, along with the proposed controls will ensure that adverse effects are less than minor. As such it is not considered necessary to provide a seasonal restriction.
(g) the extent to which appropriate methods are used to prevent the spread of total control pest plants or unwanted organisms (as listed under the Biosecurity Act 1993), such as kauri dieback disease.	The ecological assessment proposes a methodology for pest plan control.

(2) Additional assessment criteria for land disturbance within the Significant Ecological Areas Overlay or Water Supply Management Areas Overlay:	
<i>Criteria</i>	<i>Response</i>
<p>(a) whether the land disturbance proposed within a Significant Ecological Areas Overlay or Water Supply Management Areas Overlay are undertaken so they have no adverse effect, or minor adverse effect, on the aquatic and terrestrial ecology and wildlife of the area and in particular, where relevant:</p> <p>(i) nesting, feeding and breeding of species; (ii) biological processes;</p> <p>(iii) connections between ecosystems;</p> <p>(iv) the diversity of species;</p> <p>(v) the habitat of threatened or protected species, both terrestrial and aquatic;</p> <p>(vi) rare habitat, threatened habitat or at risk habitat; (vii) sand dune ecosystems;</p> <p>(viii) buffering of indigenous ecosystems; or (ix) cumulative effects</p>	<p>Refer to comments in I(d) above. The measures proposed in the ecological assessment will include preparation of an Environmental Management Plan and Lizard Management Plan.</p>
<p>(c) the extent to which adverse effects on ecological and indigenous biodiversity values have been avoided or minimised.</p>	<p>The ecological assessment provides measures to avoid, minimise or mitigate potential adverse ecological effects.</p>

9.14 Based on the above and the assessment and associated expert reports, it is considered that the proposed earthworks can be carried out at a regional consenting level with less than minor effects on the environment.

#### **Objectives and Policies - Land Disturbance - Regional**

9.15 Following is an assessment against the objectives and objectives and policies relating to regional land disturbance/earthworks.

**Objective E11.2 (1)** Land disturbance is undertaken in a manner that protects the safety of people and avoids, remedies and mitigates adverse effects on the environment.

**Response:** The proposed land disturbance associated with the proposal will be undertaken in a manner that avoids or mitigates adverse effects on the environment and protects the safety of people.

**Objective E11.2 (2)** Sediment generation from land disturbance is minimised.

**Response:** For the duration of the earthworks controls will be in place to minimise the level of sediment generated from the activity.

**Objective E11.2 (3)** Land disturbance is controlled to achieve soil conservation.

**Response:** Controls will be in place to ensure that soil is protected from erosion.

**Policy E11.3 (1)** Avoid where practicable, and otherwise mitigate, or where appropriate, remedy adverse effects on areas where there are natural and physical resources that have been scheduled in the Plan in relation to natural heritage, Mana Whenua, natural resources, coastal environment, historic heritage and special character.

**Response:** Part of the application site is identified as an SEA-T. Expert reports have been prepared to show that care will be taken to protect vegetation with the SEA-t from adverse effects.

**Policy E11.3 (2)** Manage land disturbance to: (a) retain soil and sediment on the land by the use of best

**Response:** For the duration of the earthworks it is proposed to implement sediment and erosion

practicable options for sediment and erosion control appropriate to the nature and scale of the activity;

(b) manage the amount of land being disturbed at any one time, particularly where the soil type, topography and location is likely to result in increased sediment runoff or discharge;

(c) avoid, remedy and mitigate adverse effects on accidentally discovered sensitive material; and

(d) maintain the cultural and spiritual values of Mana Whenua in terms of land and water quality, preservation of wāhi tapu, and kaimoana gathering.

**Policy E11.3 (3)** Manage the impact on Mana Whenua cultural heritage that is discovered undertaking land disturbance by:

(a) requiring a protocol for the accidental discovery of kōiwi, archaeology and artefacts of Māori origin;

(b) undertaking appropriate actions in accordance with mātauranga and tikanga Māori; and

(c) undertaking appropriate measures to avoid adverse effects. Where adverse effects cannot be avoided, effects are remedied or mitigated.

**Policy E11.3 (4)** Enable land disturbance necessary for a range of activities undertaken to provide for people and communities social, economic and cultural well-being, and their health and safety.

**Policy E11.3 (5)** Design and implement earthworks with recognition of existing environmental site constraints and opportunities, specific engineering requirements, and implementation of integrated water principles.

**Policy E11.3 (6)** Require that earthworks are designed and undertaken in a manner that ensures the stability and safety of surrounding land, buildings and structures.

**Policy E11.3 (7)** Require any land disturbance that will likely result in the discharge of sediment laden water to a surface water body or to coastal water to demonstrate that sediment discharge has been minimised to the extent practicable, having regard to the quality of the environment; with:

(a) any significant adverse effects avoided, and other effects avoided, remedied or mitigated, particularly in areas where there is:

(i) high recreational use;

(ii) relevant initiatives by Mana Whenua, established under regulations relating to the conservation or

controls. The controls have been detailed within the engineering report.

The earthworks will be carried out at one time due to the nature of the proposal. As noted above, the proposed erosion and sediment controls will reduce the effects of sediment runoff or discharge.

If any sensitive materials are accidentally discovered appropriate action will be taken.

It is considered that use of the proposed sediment and erosion controls will maintain the cultural and spiritual values of Mana Whenua.

**Response:** A protocol will be provided once a contractor has been appointed for the works on site. Any protocol will be prepared as per Council requirements and can be attached to the decision notice as a condition of consent.

**Response:** The proposed land disturbance is necessary to provide the additional housing proposed.

**Response:** The earthworks are to be implemented in a way that takes account of the site constraints. The site characterised by steep slopes (almost vertical adjacent to the sea) and contains protected native vegetation particularly along the cliff face. These constraints have been factored into the earthworks design and methodology prepared by the civil and structural engineers. The Draft CTMP will ensure that the removal of earth is carried out in a responsible manner.

**Response:** The earthworks have been designed by qualified engineers to ensure that stability or safety issues are addressed. A suitable contractor will be engaged to carry out the work in a safe manner.

**Response:** The engineering report proposes erosion and sediment control measures that will minimise adverse effects on the receiving environment.

management of fisheries, including taiāpure, rāhui or whakatupu areas;  
(iii) the collection of fish and shellfish for consumption;  
(iv) maintenance dredging; or  
(v) a downstream receiving environment that is sensitive to sediment accumulation;  
(b) adverse effects avoided as far as practicable within areas identified as sensitive because of their ecological values, including terrestrial, freshwater and coastal ecological values; and  
(c) the receiving environments ability to assimilate the discharged sediment being taken into account.

**Policy E11.3 (8)** Monitor the quality of fresh and coastal water bodies across the region and the effects of land disturbance on water quality and receiving environments.

Not required to support this application.

9.16 The above assessment shows that earthworks can be carried out on site in manner that is not contrary to regional objectives and policies in Chapter E11.

## Chapter E12 Land disturbance – District

E12.6 Standards Land Disturbance – District	
<i>Rule</i>	<i>Response/ Status</i>
<b>E12.6.2 – General Standards</b>	
<b>E12.6.2 (1)</b> Land disturbance within riparian yards and coastal protection yards are limited to: (a) operation, maintenance and repair (including network utilities); less than 5m <sup>2</sup> or 5m <sup>3</sup> (b) ; for general earthworks; less than 10m <sup>2</sup> or 5m <sup>3</sup> (c) for the installation of new network utilities; (d) installation of fences and walking tracks; or (e) burial of marine mammals.	Earthworks will be outside of the coastal protection yard.
<b>E12.6.2 (2)</b> Land disturbance must not result in any instability of land or structures at or beyond the boundary of the property where the land disturbance occurs.	Refer to Geotechnical Report and the Groundwater Drawdown and Monitoring and Contingency Plan.
<b>E12.6.2 (3)</b> The land disturbance must not cause malfunction or result in damage to network utilities, or change the cover over network utilities so as to create the potential for damage or malfunction.	Care will be taken not to cause malfunction or damage network utilities. This can be confirmed by way a condition of consent.
<b>E12.6.2 (4)</b> Access to public footpaths, berms, private properties, network utilities, or public reserves must not be obstructed unless that is necessary to undertake the works or prevent harm to the public.	Will comply
<b>E12.6.2 (5)</b> Measures must be implemented to ensure that any discharge of dust beyond the boundary of the site is avoided or limited such that it does not cause nuisance.	Suitable controls will be implemented to avoid dust discharge beyond the site boundary. Refer to Draft CTMP.
<b>E12.6.2 (6)</b> Burial of marine mammals must be undertaken by the Department of Conservation or the agents of the Department of Conservation.	Noted.
<b>E12.6.2 (7)</b> Land disturbance around Transpower NZ Ltd electricity transmission line poles must: (a) be no deeper than 300mm within 2.2m of a transmission pole support structure or stay wire; and (b) be no deeper than 750mm within 2.2 to 5m of a transmission pole support structure or stay wire; except that (c) vertical holes not exceeding 500mm diameter beyond 1.5m from the outer edge of a pole support structure or stay wire are exempt from Standards E12.6.2(7)(a) and E12.6.2(7)(b) above.	N/A
<b>E12.6.2 (8)</b> Land disturbance around Transpower NZ Ltd electricity transmission lines towers must: (a) be no deeper than 300mm within 6m of the outer	N/A



visible edge of a transmission tower support structure; and (b) be no deeper than 3m between 6-12m from the outer visible edge of a transmission tower support structure.	
<b>E12.6.2 (9)</b> Land disturbance within 12m of a Transpower NZ Ltd electricity transmission line pole or tower must not: (a) create an unstable batter that will affect a transmission support structure; or (b) result in a reduction in the ground to conductor clearance distances as required by New Zealand Electrical Code of Practice for Electrical Safe Distances NZECP34:2001.	N/A
<b>E12.6.2 (10)</b> Only cleanfill material may be imported and utilised as part of the land disturbance.	No fill will be imported onto the site.
<b>E12.6.2 (11)</b> Earthworks (including filling) within a 100 year annual exceedance probability (AEP) flood plain: (a) must not raise ground levels more than 300mm, to a total fill volume up to 10m <sup>3</sup> which must not be exceeded through multiple filling operations; and (b) must not result in any adverse changes in flood hazard beyond the site.	N/A
<b>E12.6.2 (12)</b> Earthworks (including filling) within overland flow paths must maintain the same entry and exit point at the boundaries of a site and not result in any adverse changes in flood hazards beyond the site, unless such a change is authorised by an existing resource consent.	Will comply. See engineering report.
<b>E12.6.2 (13)</b> Temporary land disturbance and stockpiling of soil and other materials within the one per cent annual exceedance probability (AEP) flood plain and/or overland flow path for up to a maximum of 28 days in any calendar year may occur as part of construction or maintenance activities.	Will comply.
<b>E12.6.2 (14)</b> Earthworks for maintenance and repair of driveways, parking areas, sports fields and major recreational facilities on a site or places of Significance to Mana Whenua must be limited to the area and depth of earth previously disturbed or modified.	N/A
<b>E12.6.2 (15)</b> Earthworks for maintenance and repair of driveways, parking areas, sports fields and major recreational facilities within the Historic Heritage Overlay must not extend more than 300mm below the surface where additional rules for archaeological sites or features apply as listed in Schedule 14 Historic Heritage Schedule, Statements and Maps.	N/A

<b>E12.6.2 (16)</b> Earthworks associated with a temporary activity on a site or place of significance to Mana Whenua shall be limited to the area of earthwork previously disturbed or modified.	N/A
<b>E12.6.2 (17)</b> Earthworks/land disturbance for the planting of any tree within the Historic Heritage Overlay must not be undertaken where additional rules for archaeological sites or features apply as listed in Schedule 14 Historic Heritage Schedule, Statements and Maps, other than as a replacement for a pre-existing tree; and, within the area previously occupied by the root plate of the pre-existing tree.	N/A

<b>E12.8.2 Assessment Criteria – Restricted Discretionary Activity</b>	
<b>Land Disturbance - District</b>	
<b>(1) all restricted discretionary activities</b>	
<i>Criteria</i>	<i>Response</i>
(a) whether applicable standards are complied with;	The engineering report concludes that the applicable standards have been complied with.
(b) the extent to which the earthworks will generate adverse noise, vibration, odour, dust, lighting and traffic effects on the surrounding environment and the effectiveness of proposed mitigation measures;	The earthworks will result in some effects on the surrounding environment. Measures have been proposed in the CMTP to ensure that any adverse effects will be mitigated.
(c) whether the earthworks and any associated retaining structures are designed and located to avoid adverse effects on the stability and safety of surrounding land, buildings, and structures;	Refer to geotechnical report and associated plans, specification and calculations for construction of the proposed palisade wall.
(d) whether the earthworks and final ground levels will adversely affect overland flow paths or increase potential volume or frequency of flooding within the site or surrounding sites;	The engineering report is proposing earthworks, and final ground levels designed to ensure they do not adversely affect existing overland flow paths on site. Overall flow from the site will still discharge into the harbour.
(e) whether a protocol for the accidental discovery of kōiwi, archaeology and artefacts of Māori origin has been provided and the effectiveness of the protocol in managing the impact on Mana Whenua cultural heritage if a discovery is made;	The Applicant is happy to accept a condition of consent that requires a protocol for the accidental discovery of kōiwi archaeology and artefacts. The Protocol will be prepared once a contractor has been appointed to the project.
(f) whether the extent or impacts of adverse effects from the land disturbance can be mitigated by managing the duration, season or staging of such works;	It is considered that the scale of works combined within the proposed mitigation measures in the CMTP are sufficient to control any adverse effects generated from the works.

(g) the extent to which the area of the land disturbance is minimised, consistent with the scale of development being undertaken;	The earthworks are of a scale that is consistent with the development and the engineering report and CMTF include details on how this has been managed.
(h) the extent to which the land disturbance is necessary to provide for the functional or operational requirements of the network utility installation, repair or maintenance;	N/A
(i) the extent of risks associated with natural hazards and whether the risks can be reduced or not increased;	A detailed assessment of risks and risk management is contained in the geotechnical report.
(j) whether the land disturbance and final ground levels will adversely affect existing utility services;	The earthworks are designed so they will not have an adverse effect on existing utility services. If utility services are impacted they will be altered to suit the final ground level.
(k) the extent to which the land disturbance is necessary to accommodate development otherwise provided for by the Plan, or to facilitate the appropriate use of land in the open space environment, including development proposed in a relevant operative reserve management plan or parks management plan;	The land disturbance proposed is required to provide an integrated residential development.
(l) for land disturbance near Transpower New Zealand Limited transmission towers: (i) the outcome of any consultation with Transpower New Zealand Limited; and (ii) the risk to the structural integrity of transmission lines.	N/A
(m) the extent to which earthworks avoid, minimise, or mitigate adverse effects on any archaeological sites that have been identified in the assessment of effects.	N/A – no archaeological sites have been identified on site.

### Objectives and Policies – Land Disturbance - District

9.17 Following is an assessment against the objectives and objectives and policies relating to district land disturbance/earthworks.

**Objective E12.2 (1)** Land disturbance is undertaken in a manner that protects the safety of people and avoids, remedies and mitigates adverse effects on the environment.

**Response:** The information provided with the application has demonstrates that the proposed land disturbance can be undertaken in a safe manner that avoids, remedies and mitigates adverse effects on the environment.

**Policy E12.3 (1)** Avoid where practicable, and otherwise, mitigate, or where appropriate, remedy adverse effects of land disturbance on areas where there are natural and physical resources that have been scheduled in the Plan in relation to natural heritage, Mana Whenua, natural resources, coastal

**Response:** Part of the application site is identified as an SEA-T. The ecological assessment proposes measures to ensure that care will be taken for duration of the earthworks to protect significant ecological values within the SEA-T from adverse effects.

environment, historic heritage and special character.

**Policy E12.3 (2)** Manage the amount of land being disturbed at any one time, to:

(a) avoid, remedy or mitigate adverse construction noise, vibration, odour, dust, lighting and traffic effects;

(b) avoid, remedy and mitigate adverse effects on accidentally discovered sensitive material; and

(c) maintain the cultural and spiritual values of Mana Whenua in terms of land and water quality, preservation of wāhi tapu, and kaimoana gathering.

**Response:** The Traffic Report and CMTP estimate that 1010 truckloads of soil will need be removed from the site. To support this, a stabilised entrance will be provided for the site.

The traffic assessment also considers the effects of these truck movements and concludes that the road network can accommodate the level of truck movements associated with the construction phone. A draft construction traffic management plan (CMTP) has been prepared as part of this application and it is considered that the various measures proposed will mitigate any adverse effects as a result of the earthworks, (including responses to accidental discovery outline above) will achieve the outcomes intended in this policy.

**Policy E12.3 (3)** Enable land disturbance necessary for a range of activities undertaken to provide for people and communities social, economic and cultural well-being, and their health and safety.

**Response:** The proposed land disturbance is required to support a residential development that will accommodate ten households.

**Policy E12.3 (4)** Manage the impact on Mana Whenua cultural heritage that is discovered undertaking land disturbance by: (a) requiring a protocol for the accidental discovery of kōiwi, archaeology and artefacts of Māori origin; (b) undertaking appropriate actions in accordance with mātauranga and tikanga Māori; and (c) undertaking appropriate measures to avoid adverse effects, or where adverse effects cannot be avoided, effects are remedied or mitigated.

**Response:** A protocol will be provided once a contractor for the works has been appointed. The provision of a protocol can be attached as a condition of consent.

**Policy E12.3 (5)** Design and implement earthworks with recognition of existing environmental site constraints/opportunities, specific engineering requirements, and implementation integrated water principles.

**Response:** Existing site constraints have been taken into consideration in designing the proposed earthworks. A geotechnical assessment has also been carried out with the recommendations being incorporated into the design.

**Policy E12.3 (6)** Require that earthworks are designed and undertaken in a manner that ensures the stability and safety of surrounding land, buildings and structures.

**Response:** The proposed earthworks are designed so they can be undertaken in a safe manner that does not result on an adverse effect on surrounding land, buildings and structures.

9.18 Based on the above assessment it is considered that the proposal is not contrary to the objectives and policies for earthworks at a district level.

## Chapter E15 Vegetation Management and Biodiversity

- 9.19 All restricted discretionary activities must comply with the permitted activity standards E15.6 and must be assessed against the relevant assessment criteria in E15.8.2.

E15.6 Standards Vegetation management and biodiversity	
<i>Rule</i>	<i>Response/ Status</i>
<p><b>E15.6.1 – Deadwood removal</b> (1) All kauri deadwood material (including sawdust and woodchips) must be retained on site or disposed of to landfill.</p>	<p>Status: <b>Complies.</b> In the event that any kauri deadwood material is discovered on site this standard will be complied with.</p>
<p><b>E15.6.2 – Vegetation alteration or removal for customary use</b> (1) No greater than 20m<sup>2</sup> of vegetation is removed within a significant ecological area per site. (2) No greater than 50m<sup>2</sup> of vegetation is removed from areas not identified as significant ecological areas per calendar year.</p>	<p>N/A</p>
<p><b>E15.6.3 – Conservation planting</b> (1) Conservation planting in significant ecological areas must only be for ecological restoration purposes.  (2) Conservation planting within the Outstanding Natural Features Overlay, Outstanding Natural Character Overlay, High Natural Character Overlay or the Outstanding Natural Landscapes Overlay must be limited to planting of indigenous species for ecological restoration or landscape restoration purposes.</p>	<p>Status: <b>Complies.</b> As detailed within the ecological and arboricultural reports, it is proposed to provide enhanced planting within the SEA that will restore and enhance the ecological values of the existing bush.</p> <p>N/A</p>
<p><b>E15.6.4 - Vegetation alteration or removal for routine operation, maintenance and repair of existing tracks, lawns, gardens, fences, shelterbelts and other lawfully established activities</b> (1) Vegetation alteration or removal must be undertaken within 1m either side of existing tracks or fences. (2) Vegetation alteration or removal must not include trees over 6m in height, or 600mm in girth. (3) Vegetation alteration or removal must not result in greater than 25m<sup>2</sup> of vegetation removal from within a Significant Ecological Areas Overlay, Outstanding Natural Features Overlay, Outstanding Natural Character Overlay, High Natural Character Overlay or the Outstanding Natural Landscapes Overlay per site. (4) Vegetation alteration or removal must not result in greater than 50m<sup>2</sup> of vegetation removal from areas not identified as significant ecological areas per calendar year.</p>	<p>N/A</p>

(5) Vegetation alteration or removal undertaken within the 100-year ARI floodplain must ensure that erosion control measures associated with vegetation removal and replanting, such as mulch or bark, are not able to be swept off-site in a flood event.	
<b>E15.6.5 - Vegetation alteration or removal within a significant ecological area for a building platform and access way for a dwelling per site.</b> (1) The total area of vegetation alteration or removal must not be greater than 300m <sup>2</sup> .	N/A.
<b>E15.6.6 - Vegetation alteration or removal of any indigenous contiguous vegetation up to 50m<sup>2</sup> in an Outstanding Natural Character Overlay, High Natural Character Overlay or Outstanding Natural Landscapes Overlay, or up to 25m<sup>2</sup> in an Outstanding Natural Features Overlay</b> (1) Vegetation alteration or removal must not include trees over 6m in height, or 600mm in girth.	N/A
<b>E15.6.7 - Vegetation alteration or removal within a Significant Ecological Areas Overlay, Outstanding Natural Features Overlay, Outstanding Natural Character Overlay, High Natural Character Overlay or the Outstanding Natural Landscapes Overlay, on Māori land or Treaty Settlement land for one marae complex per site and up to 30 dwellings and activities associated with a marae complex or papakāinga</b> (1) The total area of vegetation alteration or removal per site is not greater than: (a) 1500m <sup>2</sup> for a marae complex; and (b) 300m <sup>2</sup> per dwelling.	N/A

<b>E15.8.2 Assessment Criteria – Restricted Discretionary Activity</b> Vegetation management and biodiversity (1) All restricted discretionary activities:	
<i>Criteria</i>	<i>Response</i>
(a) ecological values: (i) the extent to which the vegetation alteration or removal is minimised and adverse effects on the ecological and indigenous biodiversity values of the vegetation are able to be avoided, remedied or mitigated; (ii) whether vegetation removal will have an adverse effect on threatened species or ecosystems; and (iii) the extent to which the proposal for vegetation alteration or removal has taken into account relevant objectives and policies in Chapter B7.2 Indigenous biodiversity, B4. Natural heritage, Chapter E18 Natural character of the coastal	The location of the proposed excavation in relation to the trees is considered to be acceptable and would not have adverse effects on the ecological and indigenous biodiversity values of the vegetation within the site. A range of vegetation protection measures and appropriate work methods will be put in place and employed for the duration of the works.  The subject vegetation contains no threatened species. The Arboricultural assessment considers has assessed the proposal against the relevant objectives in this rule as follows:

<p>environment and E19 Natural features and natural landscapes in the coastal environment.</p>	<p>Chapter B7.2 – Indigenous fauna or biodiversity would not be compromised by the proposed works.</p> <p>Chapter B4 – Natural heritage values inherent in the relevant natural landscape – in this case a Pohutukawa and a Kanuka trees, would not be compromised by the proposed works.</p> <p>Chapter E18 – The subject property is in the coastal environment. However the proposal involves no significant level of vegetation or tree removal, and the proposed works would not compromise the root zones of any vegetation to a degree whereby the health or stability of retained vegetation would be compromised.</p> <p>Chapter E19 – The proposal does not compromise the objectives and policies that give effect to the New Zealand Coastal Policy Statement. Although the development requires consent because a small area of gorse rarahu scrub falls within the 20m setback of the MHWS, the building is located above a 30m high cliff that will have no interface with or effect on the adjacent water body. Appropriate stormwater management measures will be provided and additional planting of native species in the Esplanade strip will contribute to addressing the effects of the recent poisoning of the Pohutukawa trees as well as maintaining the natural character of the landscape.</p>
<p>(b) hazard mitigation:</p> <p>(i) the extent to which the vegetation serves to avoid or mitigate natural hazards and the amount of vegetation to be retained or enhanced;</p> <p>(ii) the extent to which the vegetation alteration or removal will increase natural hazard risks; and</p> <p>(iii) whether the vegetation alteration or removal is necessary to mitigate an identified bushfire risk.</p>	<p>The proposed area of vegetation removal is small and would not create any natural hazards such as creation of edge effects or destabilisation of land.</p> <p>N/A</p>
<p>(c) sediment, water quality and hydrology:</p> <p>(i) the extent to which vegetation alteration or removal will adversely affect soil conservation, water quality and the hydrological function of the catchment and measures to avoid remedy or mitigate any adverse effects.</p>	<p>For the duration of the works silt and sediment controls will be implemented on site. In relation to vegetation removal and the proposed excavation work, it is considered that there would be no consequential adverse impacts upon the coastal environment. Soil derived from the excavations for the building platform would be removed from the site.</p>
<p>(d) landscape, natural features and natural character values:</p> <p>(i) the extent to which vegetation alteration or removal will have adverse effects on the values identified for scheduled outstanding natural landscape, outstanding natural features, outstanding natural character and high natural character areas;</p>	<p>The proposed works within the site would have no adverse effect on the physical character of any public open space environment. Furthermore, landscape, natural features and natural character values of the local environment would not be compromised.</p> <p>The proposal includes implementation of an extensive planting programme for the esplanade strip. The ecological assessment and landscape plan</p>

<p>(ii) the extent to which vegetation alteration or removal adversely affects landscape, natural features and natural character values particularly on adjacent public space including the coast, reserves and walkways and measures to avoid, remedy or mitigate any adverse effects.</p>	<p>provide details of the proposed enhanced planting of this area.</p>
<p>(e) amenity values: (i) the extent to which the vegetation alteration or removal will have adverse effects on the amenity values of any adjacent open space including the coast, parks, reserves and walkways and measures to avoid, remedy or mitigate any adverse effects.</p>	<p>The amenity values of the adjoining open space and marine environment would not be affected by the proposed works.</p>
<p>(f) Use: (i) whether the vegetation alteration or removal is necessary to enable reasonable use of a site for a building platform and associated access, services and living areas, and existing activities on the site; (ii) the extent to which the vegetation alteration removal is necessary taking into account the need for, or purpose of, the proposed building or structure; (iii) the extent to which the vegetation alteration or removal is necessary to enable reasonable use of the site for farming purposes; (iv) whether the vegetation alteration or removal will improve the reliance and security of the network utility, or road network; (v) whether the vegetation alteration or removal is necessary for a structure that has a functional or operational need to be in the proposed location; and (vi) the extent of the benefits derived from infrastructure and the road network.</p>	<p>The objective of this proposal is to create a building platform for an apartment complex. The site of the proposed building is generally cleared (with the exception of the small area of gorse-rarahu to be removed) and there is an expectation that a residential building project would occur on this site at some time.</p> <p>The removal of vegetation is necessary to provide the proposed building platform. It has been demonstrated that the vegetation to be removed is of low quality and will not compromise any ecological values and will have no impact on any utility services or roads.</p>
<p>(g) methods and location: (i) whether there are practicable alternative locations and methods including consideration of an application to infringe development control where this would result in retention and enhancement of vegetation on the site; and (ii) whether the effects from the alteration or removal of vegetation and land disturbance can be minimised through works being undertaken on an alternative location on the site, and/or method of undertaking the works.</p>	<p>Taking account of existing site constraints there is no alternative location for the proposed building on the site. The vegetation that will be altered is considered to be of low value and additional mitigation is provided.</p>
<p>(h) mitigation measures: (i) the extent to which revegetation can remedy or mitigate adverse effects, including eco-sourcing and the ongoing maintenance of revegetation measures.</p>	<p>There is scope to significantly enhance the cliff top and esplanade environment with extensive revegetation. Previous occupiers of the site have undertaken vegetation clearance very close to the cliff top in places; and a proliferation of weeds has also been allowed to occur. The recent poisoning of the Pohutukawa trees has also compromised ecological and landscape values with the Esplanade strip.</p>



	<p>The new owners of the property are committed to a full revegetation of the land and to this end the proposal is seeking to mitigate these effects with significant conversation planting between the proposed new building and the clifftop and the replacement of additional native species within the Esplanade Strip.</p>
<p>(i) bonds and covenants:  (i) whether conditions of consent can avoid remedy or mitigate adverse effects including the imposition of bonds, covenants or similar instruments.</p>	<p>This application includes a proposal to remove the existing bush covenant. The reasons for this covenant are generally superceded and there have been a number of intervening circumstances since this covenant was first placed on the title.</p> <p>A Significant Ecological Overlay now covers all land that contains significant native vegetation and it is considered that the level of protection provided in this overlay far outweighs the protection that is provided in the words of the existing covenant. In considering the need for covenant under this assessment criteria the Arboricultural report states:  <i>“ All areas of the site that contain significant native vegetation are now covered by the Significant Ecological Areas overlay - which contains detailed and robust objectives and policies designed to manage potential adverse effects on significant ecological areas in terrestrial and marine environments, as well providing for strong measures to manage any future application to remove vegetation. I consider that these policies will be more effective in protecting the existing stand of Kanuka trees than the words in the existing covenant as well as the words proposed in Condition 43 of the Council decision made on 30 January 2013 approving an amendment made to the existing covenant”</i></p> <p>The Arboricultural Report goes on to recommend a suite of conditions designed to protect existing and additional planted vegetation and it is expected that these conditions would form part of any consent that is issued.</p>
<p>(j) Mana Whenua values:  (i) the extent to which any adverse effects on Mana Whenua values can be avoided, remedied or mitigated, and having regard to the objectives and policies in E20 Māori Land whether the proposed works are appropriate to provide for Mana Whenua, mātauranga and tikanga values.</p>	<p>It is considered there will be no adverse effects on Mana Whenua values.</p>

9.20 Based on the above assessment it is considered that the proposal is not contrary to the objectives and policies in Chapter E15.

## Chapter E27 Transport

- 9.21 All activities in Table E27.4.1 must comply with the relevant standards in E27.6 and any infringements of the rules must be assessed against the relevant assessment criteria for restricted discretionary activities in E27.8.2.
- 9.22 This application relies upon an assessment under Chapter E27 against the relevant standards and assessment criteria carried out by Traffic Planning Consultants (TPC). Table 1 below lists the relevant standards that apply to this development and comments on compliance, and where there is non-compliance, TPC has undertaken a further assessment against the relevant assessment criteria.

**Table 1: Transport Development Standards**

Development Standard	Requirement/Details	Comment
E27.6.1 Traffic Generation	Sets the threshold for when resource consent as a restricted discretionary activity is required.	For a residential development, the threshold of 100 dwellings applies. This development has 10 dwellings proposed – <b>does not apply</b>
E27.6.2 (1) Number of Parking Spaces	Defines the minimum and maximum number of parking spaces for new developments.	There are 20 parking spaces provided on the site, with two spaces per dwelling – <b>complies</b>
E27.6.2 (6) Bicycle Parking	Defines the number of bicycle parks required for new residential and commercial developments.	There are 10 dwellings proposed – <b>does not apply</b>
E27.6.2 (7) End Trip Facilities	End trip facilities to be provided for any office, education or hospital facilities.	The proposal is for residential buildings – <b>does not apply</b>
E27.6.2 (8) Number of Loading Spaces	Outlines the minimum loading space requirements for new developments.	GFA is under 5000 m <sup>2</sup> – <b>does not apply</b>
E27.6.3.1 (1) Size and Location of Parking Spaces	Defines the size, use and location of parking spaces.	All spaces are located within the same site, will not be used for any other purposes and will be available at all times - <b>complies</b>  All parking spaces meet the minimum dimensional requirements of Table E27.6.3.1.1 – <b>complies</b>
E27.6.3.2 Size and Location of Loading Spaces	Defines the size, use and location of loading spaces	No loading spaces required – <b>does not apply</b>
E27.6.3.3 Access and Manoeuvring for Parking	Defines the requirements for design vehicles, driveways, manoeuvring area, and stacked parking allowances.	All parking spaces and access aisles can accommodate 85 <sup>th</sup> percentile vehicle tracking – <b>complies</b>
E27.6.3.4 Reverse Manoeuvring	Defines the conditions in which reversing manoeuvring is prohibited to and from a site.	Regular vehicle use of the site will be in a forward direction – <b>complies</b> The trucks will need to reverse to or from the site – <b>does not comply</b>
E27.6.3.5 Vertical Clearance	Defines the minimum overhead clearance for vehicles to pass safely under overhead structures.	The minimum clearance overhead in the basement parking is greater than 2.1 metres – <b>complies</b>

E27.6.3.6 Formations and Gradients	Defines the formation and gradients for all parking spaces and manoeuvring areas.	All parking areas will be formed drained with all-weather surfaces and with a gradient no greater than 1 in 20 (5%) – <b>complies</b> Gradients within manoeuvring areas will not exceed 1 in 20 (5%) – <b>complies</b>
E27.6.3.7 Lighting	Lighting is required where there are 10 or more parking spaces and associated pedestrian routes used in the hours of darkness.	Suitable lighting will be provided along the access and within parking areas – <b>complies</b>
E27.6.4.1 Vehicle Access Restrictions	Defines the acceptable locations of access points in relation to strategic roads and intersections.	Tizard Road is a local road – <b>does not apply</b> The vehicle crossing is not located within 10 metre of an intersection – <b>does not apply</b>
E27.6.4.2 Width and Number of Vehicle Crossings	Defines the maximum number of vehicle crossings, proximity to others and permitted widths.	One vehicle crossing is proposed – <b>complies</b> The vehicle crossing is located more than 2 metres clear of adjacent sites – <b>complies</b> The proposed vehicle crossing is 5.5 metres wide serving 20 vehicles – <b>complies</b>
E27.6.4.3 Width of Vehicle Access and Queuing	Defines the standards for vehicle access widths for on-site parking and pedestrian movements.	The minimum width for the access is 5.5 metres wide serving 20 vehicles – <b>complies</b>
E27.6.4.4 Gradient of Vehicle Access	Defines the gradients of circulating aisles for vehicle movements.	The maximum gradient within vehicle circulating areas is proposed to be 1 in 4 (25%) which is steeper than 1 in 5 (20%) – <b>does not comply</b> The proposed vehicle crossing has a gradient of 1 in 10 (10%) at the boundary, where 1 in 20 (5%) is required – <b>does not comply</b>
E27.6.5 Design and Location of Pedestrian/Cycle Facilities	Defines the requirements for off-road and pedestrian and cycle facilities.	The pedestrian facilities on site are considered to meet the requirements of this standard – <b>complies</b>

9.23 The TPC assessment notes that the design requires consent under

- E27.6.3.4 – Reverse Manoeuvring (Criteria 8); and
- E27.6.4.4 – Gradient of Vehicle Access (Criteria 8).

9.24 In relation to E27.6.3.4 – Reverse Manoeuvring

*“The reason for consent under this standard relates to the need for vehicles to reverse from the site where a single access serves more than four parking spaces. The scheduled refuse collection truck will need to reverse off-site where the access serves 20 parking spaces and therefore does not comply with this standard.*

*Since this is not a daily occurrence and the refuse collection drivers for the site will be a regular user, this can be safely managed. Furthermore, most truck activities will occur during the day when vehicles are not parked on the site, reducing the risk of conflict when trucks are present. Vehicle movements at the proposed access point will have a suitable standard of sight lines and*

*inter-visibility between drivers and all other road users. There is also a separated footpath provided alongside the vehicle access to reducing the risk to pedestrians associated with the site, and there is no public footpath along the site's frontage.*

*Therefore, the reverse manoeuvring of the truck for this development can be safely managed and will not create any unsafe situation to the traffic on-site and on the adjacent road network”.*

9.25 In relation to E27.6.4.4 – Gradient of Vehicle Access

*“The first reason for consent under this standard relates to the maximum gradient provided within vehicle circulating areas exceeding the maximum permitted, 1 in 5 (20%). The proposed vehicle access has a maximum grade of 1 in 4 (25%) and therefore does not comply.*

*Due to the constraints from the site size, existing topography, and structural elements, it is not feasible to provide a longer ramp to reduce the gradient to comply with the standard. Nevertheless, the effect of this non-compliance is considered minor. Suitable transition gradients of 1 in 8 (12.5%), at least 2 metres in length, have been provided at each end of the 1 in 4 (25%) to aid with vehicle movement and prevent vehicle understrike for design vehicles. The proposed ramp design will not cause any adverse effects on the road network.*

*The second reason for consent under this standard relates to the gradient of the vehicle platform proposed for vehicle access. Under Standard E27.6.4.4, all vehicle accesses must be designed so that where the access adjoins the road there is sufficient space on-site for a platform so that vehicles can stop safely and check for pedestrians and other vehicles prior to exiting. The platform must have a maximum gradient no steeper than 1 in 20 (5%) and a minimum length of 4.0 metres for the residential activity.*

*The gradient for the platform is steeper than 1 in 20 (5%) and has a gradient of 1 in 10 (10%) and therefore requires consent.*

*Due to the existing contours of the site, the proposal is unable to provide a platform with a complying gradient. Given that the location of the vehicle crossing is at the cul-de-sac head of Tizard Road, with no public footpath along the site's frontage, there is a low likelihood that pedestrian would pass the proposed vehicle crossing when the vehicle is exiting the site. Furthermore, the proposed gradients will not result in the scenario where a pedestrian along the frontage will be obscured by the bonnet of a vehicle, as the proposed gradient of 1 in 10 (10%) still allows for good forward visibility.*

*The driveway will serve regular users and the operating speeds for vehicles will be low such that vehicles will be able to stop if required as the driveway slopes upwards the footpath on the frontage road”*

9.26 On the basis of the above assessment, it is considered that the proposal is consistent with the relevant assessment criteria and is not contrary to the objectives and policies in Chapter E27.

## Chapter D9 Significant Ecological Areas overlay.

9.27 The removal of vegetation in the SEA-T requires consent as a discretionary activity and must be assessed against the relevant objectives and policies in Chapter D9 Significant Ecological Areas Overlay.

**Objective D9.2 (1)** Areas of significant indigenous biodiversity value in terrestrial, freshwater, and coastal marine areas are protected from the adverse effects of subdivision, use and development.

**Response:** Part of the application site is covered by an SEA and as outlined in the proposal, the application is seeking to remove approximately 64 m<sup>2</sup> of low value native vegetation. Measures are proposed to protect existing areas of high value native vegetation from adverse effects and there will be replacement planting and a net gain that will enhance significant indigenous biodiversity values. Refer to the planting program prepared by Topia Garden Design and the Arboricultural and ecological assessment.

**Objective D9.2 (2)** Indigenous biodiversity values of significant ecological areas are enhanced.

**Response:** The proposal will result in a loss of approximately 40m<sup>2</sup> of *gorge-rarahu* scrub with the SEA and 53 m<sup>2</sup> *māhoe-mapou-karamu scrub* of which 24 m<sup>2</sup> is within the SEA. Ecological assessment considers that the *gorge-rarahu* scrub is an early successional stage and has the lowest ecological values of the indigenous vegetation types at the property. The area of *māhoe-mapou-karamu scrub* within the SEA are of higher ecological values than the *gorge-rarahu* scrub, however these are saplings that will outgrow their growing space and will be replaced by more suitable native coastal shrubs that will increase and significantly enhance existing ecological values on the site.

**Objective D9.2 (3)** The relationship of Mana Whenua and their customs and traditions with indigenous vegetation and fauna is recognised and provided for.

**Response:** It is considered there will be no adverse effects on Mana Whenua values.

### ***Managing effects on significant ecological areas – terrestrial and marine***

**Policy D9.3 (1)** Manage the effects of activities on the indigenous biodiversity values of areas identified as significant ecological areas by:

- (a) avoiding adverse effects on indigenous biodiversity in the coastal environment to the extent stated in Policies D9.3(9) and (10);
- (b) avoiding other adverse effects as far as practicable, and where avoidance is not practicable, minimising adverse effects on the identified values;
- (c) remedying adverse effects on the identified values where they cannot be avoided;
- (d) mitigating adverse effects on the identified values where they cannot be avoided or remediated; and

**Response:** As discussed elsewhere in this report and in response to the objectives above, it is proposed not only to mitigate potential adverse effects of removing the *gorge-rarahu scrub* and some *māhoe-mapou-karamu scrub* on the site but also to enhance biodiversity values by implementing a comprehensive coastal revegetation planting program.

(e) considering the appropriateness of offsetting any residual adverse effects that are significant and where they have not been able to be mitigated, through protection, restoration and enhancement measures, having regard to Appendix 8 Biodiversity offsetting.

**Policy D9.3 (2)** Adverse effects on indigenous biodiversity values in significant ecological areas that are required to be avoided, remedied, mitigated or offset may include, but are not limited to, any of the following:

- (a) fragmentation of, or a reduction in the size and extent of, indigenous ecosystems and the habitats of indigenous species;
- (b) fragmentation or disruption of connections between ecosystems or habitats;
- (c) changes which result in increased threats from pests on indigenous biodiversity and ecosystems;
- (d) loss of buffering of indigenous ecosystems;
- (e) loss of a rare or threatened individual, species population or habitat;
- (f) loss or degradation of originally rare ecosystems including wetlands, dune systems, lava forests, coastal forests;
- (g) a reduction in the abundance of individuals within a population, or natural diversity of indigenous vegetation and habitats of indigenous fauna;
- (h) loss of ecosystem services;
- (i) effects which contribute to a cumulative loss or degradation of habitats, species populations and ecosystems;
- (j) impacts on species or ecosystems that interact with other activities, or impacts that exacerbate or cause adverse effects in synergistic ways;
- (k) loss of, or damage to, ecological mosaics, sequences, processes, or integrity;
- (l) downstream effects on wetlands, rivers, streams, and lakes from hydrological changes further up the catchment;
- (m) a modification of the viability or value of indigenous vegetation and habitats of indigenous fauna as a result of the use or development of other land, freshwater, or coastal resources;
- (n) a reduction in the historical, cultural, and spiritual association held by Mana Whenua or the wider community;
- (o) the destruction of, or significant reduction in, educational, scientific, amenity, historical, cultural, landscape, or natural character values;
- (p) disturbance to indigenous fauna that is likely or known to increase threats, disturbance or pressures on indigenous fauna; or (q) increases in the extinction probability of a species.

**Response:** The Ecological Assessment provides a detailed response to relevant matters contained in this policy and it is considered that any potential adverse effects will be avoided, remedied, mitigated or offset as provided for in the Topia planting plan, Ecological and Arboricultural Assessment. Accordingly it is considered that the proposal will meet this policy.

**Policy D9.3 (3)** Enhance indigenous biodiversity values in significant ecological areas through any of the following:

- (a) restoration, protection and enhancement of threatened ecosystems and habitats for rare or threatened indigenous species;
- (b) control, and where possible, eradication of plant and animal pests;
- (c) fencing of significant ecological areas to protect them from stock impacts;
- (d) legal protection of significant ecological areas through covenants or similar mechanisms;
- (e) development and implementation of management plans to address adverse effects;
- (f) re-vegetating areas using, where possible, indigenous species sourced from naturally growing plants in the vicinity with the same climactic and environmental conditions; or
- (g) providing for the role of Mana Whenua as kaitiaki and for the practical exercise of kaitiakitanga in restoring, protecting and enhancing areas.

**Policy D9.3 (4)** Enable activities which enhance the ecological integrity and functioning of significant ecological areas including:

- (a) the management and control of pest species that threaten indigenous biodiversity; and
- (b) managing works in the vicinity of kauri, such as deadwood removal or earthworks, to control kauri dieback disease by preventing the spread of soil and kauri plant material.

**Policy D9.3 (5)** Enable the following vegetation management activities in significant ecological areas to provide for the reasonable use and management of land:

- (a) trimming of vegetation;
- (b) vegetation removal to maintain existing open areas, including tracks;
- (c) vegetation removal to establish and maintain a reasonable cleared area around a building;
- (d) vegetation removal required to maintain lawfully established activities, structures and buildings;
- (e) vegetation removal necessary to provide for a dwelling on a site;
- (f) vegetation removal necessary to provide for marae and papakainga on Māori land;
- (g) vegetation removal in areas of high wildfire risk to manage this risk; and
- (h) vegetation removal necessary to provide access and exit for emergency service vehicles.

**Policy D9.3 (6)** While also applying Policies D9.3(9) and (10) in the coastal environment, avoid as far as practicable the removal of vegetation and loss of

**Response:** Again a number of measures have been proposed to mitigate the effects of removing native vegetation from the site. Part of the proposed mitigation is to control pest plants, provide protective fencing prior to any excavation work commencing and monitoring compliance with tree protection measures and native planting in any gaps that may result from the pest plant removal. The Ecological assessment also recommends that additional native bush planting should be provided between the edge of the SEA and the building, the protection in perpetuity of remaining indigenous vegetation and implementation of an Ecological Management Plan to restore all vegetation with the SEA outside the building footprint.

It has been proposed that Council include conditions of consent that give effect to the mitigation and enhancement measures recommended in the expert reports.

**Response:** The Ecological Report recommends a program to implement pest plant control. This together with other measures proposed will enhance the ecological values of existing native vegetation on the site.

**Response:** Refer to comments in response to other objectives and policies in Chapter 9. This policy will be achieved through conditions of consent.

**Response:** The proposal makes use of the existing cleared area on site however part of the SEA needs to be cleared to allow the site to be developed as

biodiversity in significant ecological areas from the construction of building platforms, access ways or infrastructure, through:

- (a) using any existing cleared areas on a site to accommodate new development in the first instance;
- (b) assessing any practicable alternative locations and/or methods that would reduce the need for vegetation removal or land disturbance;
- (c) retaining indigenous vegetation and natural features which contribute to the ecological significance of a site, taking into account any loss that may be unavoidable to create a single building platform for a dwelling and associated services, access and car parking on a site;
- (d) designing and locating dwellings and other structures to reduce future demands to clear or damage areas of significant indigenous biodiversity, for example to provide sunlight or protect property;
- (e) avoiding as far as practicable any changes in hydrology which could adversely affect indigenous biodiversity values;
- (f) implementing measures to maintain existing water quality and not increase the amount of sediment entering natural waterways, wetlands and groundwater; and (g) using techniques that minimise the effects of construction and development on vegetation and biodiversity and the introduction and spread of animal and plant pests

**Policy D9.3 (7)** Provide for the role of Mana Whenua as kaitiaki in managing biodiversity, particularly in Treaty Settlement areas, and for cultural practices and cultural harvesting in significant ecological areas where the mauri of the resource is sustained.

**Policy D9.3 (8)** Manage the adverse effects from the use, maintenance, upgrade and development of infrastructure in accordance with the policies above, recognising that it is not always practicable to locate and design infrastructure to avoid significant ecological areas.

***Protecting significant ecological areas in the coastal environment***

**Policy D9.3 (9)** Avoid activities in the coastal environment where they will result in any of the following:

- (a) non-transitory or more than minor adverse effects on: (i) threatened or at risk indigenous species (including Maui's Dolphin and Bryde's Whale); (ii) the habitats of indigenous species that are the limit of their natural range or which are naturally rare; (iii) threatened or rare indigenous ecosystems and vegetation types, including

proposed and measures are proposed as previously outlined to retain and enhance existing indigenous vegetation and biodiversity values on the site.

Because of the nature of the proposal and the site characteristics it is not possible to re-locate the development to avoid the need for any native bush removal at all. Mitigation has been proposed to ensure that the ecological effects of the vegetation removal are less than minor and that the new planting program will enhance biodiversity values on the site.

**Response:** This policy is generally not applicable on this site. As previously noted, it is considered there will be no adverse effects on Mana Whenua values.

**Response:** Noted. Any infrastructure needed for the development will be designed to avoid damaging native vegetation with the SEA.

**Response:** As noted above the development requires consent because a small area of low value native vegetation will be lost which falls within 20m setback of the MHWS line. As previously noted, the building is located above a 30m high cliff and will not have a physical interface with the marine environment. The development will have no adverse effects on the marine environment and will not threaten the habitat of any at risk indigenous species or ecosystems.



naturally rare ecosystems and vegetation types; (iv) areas containing nationally significant examples of indigenous ecosystems or indigenous community types; or (v) areas set aside for full or partial protection of indigenous biodiversity under other legislation, including the West Coast North Island Marine Mammal Sanctuary.

(b) any regular or sustained disturbance of migratory bird roosting, nesting and feeding areas that is likely to noticeably reduce the level of use of an area for these purposes; or

(c) the deposition of material at levels which would adversely affect the natural ecological functioning of the area

**Policy D9.3 (10)** (10) Avoid (while giving effect to Policy D9.3(9) above) activities in the coastal environment which result in significant adverse effects, and avoid, remedy or mitigate other adverse effects of activities, on: (a) areas of predominantly indigenous vegetation; (b) habitats that are important during the vulnerable life stages of indigenous species; (c) indigenous ecosystems and habitats that are found only in the coastal environment and are particularly vulnerable to modification, including estuaries, lagoons, coastal wetlands, dunelands, intertidal zones, rocky reef systems, eelgrass and saltmarsh; (d) habitats of indigenous species that are important for recreational, commercial, traditional or cultural purposes including fish spawning, pupping and nursery areas; (e) habitats, including areas and routes, important to migratory species; (f) ecological corridors, and areas important for linking or maintaining biological values; or (g) water quality such that the natural ecological functioning of the area is adversely affected.

**Response:** Areas of significant indigenous vegetation will be retained and protected as will the habitats of any indigenous species though the measure proposed in the Ecological and Arboricultural assessments.

- 9.28 The above assessment indicates that proposal is consistent with the policies of the Significant Ecological Area overlay. It is also relevant that there are no prohibitions or restrictions on building with an SEA if the policies of Chapter D9 are met. Overall it is concluded that the measures proposed to mitigate the loss of some existing native vegetation, to protect existing significant indigenous vegetation and to implement a comprehensive coastal revegetation planting program will meet the relevant policies in Chapter D9 and will enhance existing biodiversity values on the site.

## Regional Policies

- 9.29 The Regional Policy Statement (RPS) in the Auckland Unitary Plan sets out the issues and strategic vision for greater Auckland. Some of the objectives and policies provided within the RPS are relevant to this application are discussed below:

### Chapter B2 – Urban Growth and Form

#### B2.2 Urban growth and form

##### **Policy B2.2.2 (4)**

*Concentrate urban growth and activities within the metropolitan area 2010, enable urban growth and activities within the Rural Urban Boundary, towns, and rural and coastal towns and villages, and avoid urbanisation outside these areas.*

##### **Policy B2.2.2 (5)**

*Enable higher residential intensification:*

- (a) In and around centres;*
- (b) Along identified corridors; and*
- (c) Close to public transport, social facilities (including open space) and employment opportunities.*

- 9.30 The site is located within the existing urban area in close proximity to public transport and social facilities. As an integrated residential development it will allow intensification in a prime location within an existing established urban area on the North Shore. Because of its easy access to public transport future residents will be within easy reach of employment opportunities in Central Auckland.

#### B2.3 Quality built environment

##### **Policy B2.3.2 (1)**

*(1) Manage the form and design of subdivision, use and development so that it does all of the following:*

- (a) supports the planned future environment, including its shape, landform, outlook, location and relationship to its surroundings, including landscape and heritage;*
- (b) contributes to the safety of the site, street and neighbourhood;*
- (c) develops street networks and block patterns that provide good access and enable a range of travel options;*
- (d) achieves a high level of amenity and safety for pedestrians and cyclists;*
- (e) meets the functional, and operational needs of the intended use; and*
- (f) allows for change and enables innovative design and adaptive re-use.*

##### **Policy B2.3.2 (2)**

*Encourage subdivision, use and development to be designed to promote the health, safety and well-being of people and communities by all of the following:*

- (a) Providing access for people of all ages and abilities;*
- (b) Enabling walking, cycling and public transport and minimising vehicle movements; and*
- (c) Minimising the adverse effects of discharges of contaminants from land use activities and subdivision.*

##### **Policy B2.3.2 (3)**

*Enable a range of built forms to support choice and meet the needs of Auckland's diverse population.*

**Policy B2.3.2 (5)**

*Mitigate the adverse environmental effects of subdivision, use and development through appropriate design including energy and water efficiency and waste minimisation.*

- 9.31 The proposal has will achieve all of the above policies as relevant. The site is located in close proximity to a ferry terminal which provides connections to Auckland City centre. The site is also located close to public transport that will provide an opportunity to minimise vehicle movements. The development will also add to the range of dwellings/ apartments that are available to meet the diverse needs of the City's population.

**B2.4 Residential Growth**

**Policy B2.4.2 (2)**

*Enable higher residential intensities in areas closest to centres, the public transport network, large social facilities, education facilities, tertiary education facilities, healthcare facilities and existing or proposed open space.*

**Policy B2.4.2 (3)**

*Provide for medium residential intensities in areas that are within moderate walking distance to centres, public transport, social facilities and open space.*

**Policy B2.4.2 (8)**

*Recognise and provide for existing and planned neighbourhood character through the use of place-based planning tools.*

**Policy B2.4.2 (9)**

*Manage built form, design and development to achieve an attractive, healthy and safe environment that is in keeping with the descriptions set out in place-based plan provisions.*

- 9.32 As noted above, the site is in close proximity to the public transport network (Birkenhead Ferry Terminal) as well as public open space. It is also within moderate walking distance of the local shopping centre (i23 Highbury) with a walking time of about 20 minutes.
- 9.33 The site is zoned as Single House Zone and the proposal is for an integrated residential development that is provided for in the Zone. This will provide a form of medium density close to Auckland on a site and in a location that lends itself to this type of development. The merits of this site for an integrated residential development have previously been discussed in this report.
- 9.34 The locality includes a mix of densities and residential dwelling types that has been created though incremental changes over a number of years. The site is one of many in the Single House zone that are located along the cliff tops overlooking the Waitemata Harbour. Many of the buildings are large and in many cases quite visually prominent. The building on the subject site is similarly large but not visually intrusive. It is framed by vegetation and has an attractive architectural design with colours and materials that will complement the landscape setting. It is considered that the proposal is generally consistent with the low rise suburban residential character of the zone and it is considered the proposed development will add to and enhance the character of the Tizard Road neighbourhood.

**Chapter B7 - Natural resources**

**B7.2 Indigenous vegetation**

**Policy B7.2.2 (1)**

Identify and evaluate areas of indigenous vegetation and the habitats of indigenous fauna in terrestrial and freshwater environments considering the following factors in terms of the descriptors contained in Schedule 3 Significant Ecological Areas – Terrestrial Schedule:

- (a) representativeness;
- (b) stepping stones, migration pathways and buffers;
- (c) threat status and rarity;
- (d) uniqueness or distinctiveness; and
- (e) diversity

**Policy B7.2.2 (5)**

Avoid adverse effects on areas listed in the Schedule 3 of Significant Ecological Areas – Terrestrial Schedule

- 9.35 The proposal has been assessed against the assessment criteria, objectives and policies in Chapter E15 Vegetation Management and Biodiversity and Chapter D9 Significant Ecological Areas overlay, and measures are proposed to ensure that significant indigenous vegetation within the SEA on the site will be protected. A small area of gorse rarahu containing some indigenous vegetation is proposed to be removed, however the arboricultural and ecological reports both assess this vegetation as being of low stature. A planting plan has been submitted that will supplement and enhance existing areas of indigenous vegetation and increase ecological values with the SEA area.

**Chapter B8 – Coastal Environment**

**B2 Natural Character**

**Objective B8.2.1**

Areas of the coastal environment with outstanding and high natural character are preserved and protected from inappropriate subdivision, use and development.

**Objective B8.2.2**

Subdivision, use and development in the coastal environment are designed, located and managed to preserve the characteristics and qualities that contribute to the natural character of the coastal environment.

**Policy B8.2.2 (4)**

Avoid significant adverse effects and avoid, remedy or mitigate other adverse effects on natural character of the coastal environment not identified as outstanding natural character and high natural character from inappropriate subdivision, use and development.

**Objective B8.2.3**

Where practicable, in the coastal environment areas with degraded natural character are restored or rehabilitated and areas of high and outstanding natural character are enhanced.

- 9.36 In accordance with the directions in Objective B8.2.1 the AUP identified areas of outstanding natural landscape and outstanding natural features as well as areas of high natural character and significant natural character. The Birkenhead urban coastline is not constrained by any outstanding landscape notation nor is it considered to be a location of high or significant natural character. Accordingly it can be regarded as part of the ordinary coastal edge of the Auckland Harbour intended for urban development including the Birkenhead Point Ferry Terminus and wharf structures, apartment buildings and large single dwellings. It would unreasonable to single out the subject site as a development that would not preserve the characteristics and qualities that contribute to the natural character along this part of the coastline when there are already some large commercial developments and unattractive large houses along this section of the coastline as shown in the aerial photo in discussing Objective H3.2 (1) in the Single House zone. In any event it will be demonstrated below that the proposed development will preserve those characteristics and qualities along this part of the coastline.

- 9.37 In relation to Objective B8.2.2 and Policy B8.2.2(4), the characteristics and qualities to be preserved on this site are the geological landform that forms part of the cliff face along the Birkenhead coastline and the significant indigenous vegetation within the area covered by the SEA. Section 2.3 of the UDA provides a detailed description and photographs of the coastal character of the site and its context. The proposed development is located to preserve these areas and the planting program will not only mitigate the loss of a small (low stature) area of gorse rarahu within the SEA, but also will enhance the quality and ecological values of existing indigenous vegetation that is to be protected. The design of the building and the selection of recessive colours and materials will also mitigate any adverse effects that might potentially arise from the additional height and bulk that exceed the permitted standards relating to building height, bulk and location.

### **B8.3 Subdivision and Development**

#### **Objective B8.3.1**

Subdivision, use and development in the coastal environment are located in appropriate places and are of an appropriate form and within appropriate limits, taking into account the range of uses and values of the coastal environment.

#### **Objective B8.3.2**

The adverse effects of subdivision, use and development on the values of the coastal environment are avoided, remedied or mitigated.

#### **Policy B8.3.2 (1)**

Recognise the contribution that use and development of the coastal environment make to the social, economic and cultural well-being of people and communities.

#### **Policy B8.3.2 (2)**

Avoid or mitigate sprawling or sporadic patterns of subdivision, use and development in the coastal environment by all of the following:

- (a) Concentrating subdivision, use and development within areas already characterised by development and where natural character values are already compromised.

- 9.38 This site is zoned for urban (residential development) and there is an expectation that the site will be developed potentially with large houses given the demand for housing and market potential of this site. The proposal development will make a positive contribution to the social, economic and cultural wellbeing of the community. The development of an integrated residential development will increase the diversity of housing typologies in a highly accessible location in Auckland that is surrounded by a wide range of facilities and services from local retailing in Birkenhead to employment and higher order regional facilities and Takapuna and Auckland. The proposal is providing a rare opportunity to contribute to a regional direction that seek to achieve a quality compact city as well as the key directions contained in new National Policy Statement on Urban Development (2020).
- 9.39 The proposal is avoiding sprawling/sporadic patterns of the subdivision use and development, as the development is located in area already zoned for urban development where natural character values (on that part of the land suitable for development) cannot be reinstated. It is important to reinforce the conclusion that the development is not “inappropriate” on this site because it is a land use activity contemplated by the AUP.
- 9.40 As discussed above, it considered that the any potential adverse effects of subdivision, use and development on the values of the coastal environment have been mitigated and further details on this question are addressed in the assessment of environmental effects in Section 10.

## **B8.6. Explanation and principal reasons for adoption**

- 9.41 Chapter B8.6 defines the coastal environment, its values, uses and importance as set out in the New Zealand Coastal Policy Statement. It justifies the need for statutory overlays to protect significant natural character and natural features and notes that even highly modified areas still contain features that contribute to their natural character such as vegetation and significant landform. In terms of subdivision, use and development it recognises that the coastal environment is under increasing pressure for use and development and its natural and physical resources must be used efficiently to ensure it is able to sustain the needs of future generations. The objectives and policies in Chapter B8 seek to ensure that subdivision, use and development in the coastal environment is appropriate by ensuring development is located in appropriate areas taking into account the values identified and the strategic direction for managing subdivision use and development in the coastal environment.
- 9.42 There is nothing in the AUP and no specific objective or policies in Chapter B8 which require special treatment of the subject site for coastal management purposes. What is apparent from section B8.2, B8.3 and B6 is the obligation to preserve the characteristics and qualities that contribute to the natural character of the coastal environment. The cliff face at the most southerly end of the site has a natural landform, and its cover of significant indigenous vegetation makes a significant contribution to the natural character of the cliff face along this part of the Birkenhead. The site at the top of cliff has no natural character (other than being vacant land) and like other land along the top of the cliff it is zoned for urban development. The fact that small parts of the proposed building are marginally higher than the maximum height specified for this Zone, will not make the difference between this land (or headland) being seen as an area of natural character in the coastal environment or not. The proposed development will continue to preserve the natural character along the cliff face and it is therefore considered that the objectives and policies in Chapter B8.2.1 (2) will be met. Furthermore, the planting that has been proposed to enhance the ecological values of indigenous vegetation in the SEA will make a 'net gain' in relation to the existing qualities that contribute to natural character in the area.
- 9.43 Based on the above assessment it is considered that the proposal is not contrary to relevant policies in the Regional Policy Statement of the AUP.

## National Policies

### New Zealand Coastal Policy Statement (NZCPS)

9.44 It is noted that the NZPS is accurately reflected in the relevant regional objectives and policies contained in the AUP in particular, in relation to this application, the objectives and policies in Chapter B8 Coastal Environment. For completeness, the relevant objectives are listed below and a commentary provided on the relevant policies.

#### Objective 2

To preserve the natural character of the coastal environment and protect natural features and landscape values through:

- recognising the characteristics and qualities that contribute to natural character, natural features and landscape values and their location and distribution;
- identifying those areas where various forms of subdivision, use, and development would be inappropriate and protecting them from such activities; and
- encouraging restoration of the coastal environment

#### Objective 6

To enable people and communities to provide for their social, economic, and cultural wellbeing and their health and safety, through subdivision, use, and development, recognising that:

- the protection of the values of the coastal environment does not preclude use and development in appropriate places and forms, and within appropriate limits;
- some uses and developments which depend upon the use of natural and physical resources in the coastal environment are important to the social, economic and cultural wellbeing of people and communities;
- functionally some uses and developments can only be located on the coast or in the coastal marine area;
- the coastal environment contains renewable energy resources of significant value;
- the protection of habitats of living marine resources contributes to the social, economic and cultural wellbeing of people and communities;
- the potential to protect, use, and develop natural and physical resources in the coastal marine area should not be compromised by activities on land;
- the proportion of the coastal marine area under any formal protection is small and therefore management under the Act is an important means by which the natural resources of the coastal marine area can be protected; and
- historic heritage in the coastal environment is extensive but not fully known, and vulnerable to loss or damage from inappropriate subdivision, use, and development.

**Policy 1** considers the extent and characteristics of the coastal environment including (in Policy 1(f)) elements and features that contribute to the natural character, landscape, visual qualities or amenity values. Much of the coastal edge of the site contains Kanuka and Pohutukawa forest. This part of the site is located within the Significant Ecological areas overlay with only 40m<sup>2</sup> of Gorse-Rarahu scrub being removed as part of this application. The assessment under Chapter E15 and E19 concludes that the coastal forest will remain intact and will be protected.

**Policy 11** considers the effects of activities on indigenous biological diversity. The proposal has been designed to limit adverse effects on biodiversity found on site. An assessment of the existing native bush has been undertaken. The recommendations provided in the assessment have been incorporated into the application. The proposal will result in 40m<sup>2</sup> of Gorse-Rarahu scrub being removed however this will be mitigated by landscaping and planting of the remaining area of native vegetation on the site. Additional planting of Pohutukawa trees and other native species will be undertaken within the Esplanade strip and it is considered that the proposal will not have an adverse effect in relation to coastal biodiversity.

**Policy 13** considers the preservation of natural character. This issue has been addressed at length in assessing the proposal against the objectives and policies in Chapter B8 and it is concluded that the proposal will preserve the existing natural character of the site reflected in the landform and significant indigenous vegetation of the cliff and cliff face.

**Policy 22** considers the effects of increased sedimentation of the coastal environment. The main risk of sediment entering the coastal environment is during the earthworks that are required during construction of the development. To protect the receiving environment and the existing native bush, on site erosion and sediment controls are proposed as set out in the Engineering Report. The Report considers that the proposed controls will be sufficient in protect the coastal environment from any adverse effects associated with sedimentation.

9.45 Based on the above it is considered that the proposal will not be contrary to the relevant objectives and policies in the NZCPS.

#### **National Policy Statement on Urban Development 2020 (NPSUD)**

9.46 The objectives and policies in the recently approved NPSUD are relevant to this proposal. In particular NPSUD is:

- Providing for well functioning urban environments that enable all people and communities to provide for their for their social, economic and cultural wellbeing, and for their health and safety, now and into the future
- Ensuring that planning decisions improve housing affordability by supporting competitive land and development markets
- Enabling more people to live in areas of an urban environments that are well-served by existing or planned public transport and where there is a high demand for housing relative to other areas within the urban environment
- Recognising that New Zealand's urban environments, including their amenity values, develop and change over time in response to the diverse and changing needs of people, communities, and future generations.
- Ensuring that planning decisions urban development that affect urban environments are integrated with infrastructure planning and funding decisions; strategic over the medium term and long term; and (of particular relevance to this application), are responsive to proposals that would supply significant development capacity.
- Requiring local authorities to have robust and frequently updated information about their urban environments and use it to inform planning decisions.

9.47 Policy 1 provides clear directives seeking to ensure that planning decisions:

- enable a variety of homes that meet the needs, in terms of type, price and location of different households,
- have good accessibility for all people between housing, jobs, community services, natural spaces and open spaces including by way of public or active transport; and
- support, and limit as much as possible adverse impacts on, the competitive operation of land and development markets.

9.48 Policy 2 requires (amongst other things) that a Tier 1 local authority (including Auckland Council), at all times, provide at least sufficient development capacity to meet expected demand for housing over the short, medium and long term.

9.49 Policy 3 requires that tier 1 urban environments, regional policy statements and district plans enable:

- (a) in city centre zones, building heights and density of urban form to realise as much development capacity as possible, to maximise benefits of intensification; and



- (b) in metropolitan centre zones, building heights and density of urban form to reflect demand for housing and business use in those locations, and in all cases building heights of at least 6 storeys; and
- (c) building heights of least 6 storeys within at least a walkable catchment of the following:
  - (i) existing and planned rapid transit stops
  - (ii) the edge of city centre zones
  - (iii) the edge of metropolitan centre zones: and ....
- (d) all other locations in the Tier 1 urban environment, building heights and density of urban form commensurate with the greater of:
  - (i) the level of accessibility by existing or planned active or public transport to a range of commercial activities and community services; or
  - (ii) relative demand for housing and business use in that location.

9.50 These objectives and policies give a clear direction to councils (and in relation to this application, to Auckland Council), to make planning decisions that will increase housing capacity; respond to the increasing demand for housing demand; limit as much as possible adverse impacts on the housing market; and to accept that amenity values change over time and when considering the effects of development on neighbourhood character and amenity. On the basis of the NPSUD one could readily conclude that the AUP Single House zone is not an appropriate land use mechanism in a Tier 1 urban environment. Accordingly this is an important consideration in the assessment of this IRD in terms of density and settlement pattern at this locality.

9.51 It is noteworthy that Judge Smith in his decision (*St Johns*) to support a resource consent application for an Integrated Residential Development (retirement village) in Meadowbank ([2019] NZEnvC 173), placed weight on the outcomes of the National Policy Statement on Urban Development Capacity (2016) in particular, that planning decisions must actively enable development in urban environments (underlines added). He makes the point:

*"[49] There is a clear commonality of purpose and principle to be found, on the one hand, in the theme of the UPS, set out above, and, on the other, in the particular thrust of OA3: "change". In our view, the inescapable conclusion is apparent: the UPS gives direction to decision-makers to have regard to urban growth outcomes which have previously been under-emphasised in favour of local environmental or amenity considerations"*

9.52 This decision has many similarities to the current application in that it was for an IRD and the key issue was focused on whether the additional height and bulk of the development would adversely affect the existing residential character and amenity of the area. In this case site was zoned Mixed Housing Urban but was situated amid a Mixed Housing Suburban zone where housing along this section of St Johns Road is typically single house. The proposal was for a retirement village ranging in height from 3 to 6 storeys which was tiered and stacked between the MHS area and the adjacent St Johns College. The question was whether the height and bulk of the development was in keeping with the neighbourhood's planned urban built character of predominantly three-storey buildings and the hearing focussed on the visual effects of a single viewpoint (where it was ultimately concluded that the view was transitory and not viewed as the predominant part of the site).

9.53 In deciding to take account of the NPS Judge Smith stated:

*[17] Both the National Policy Statement Urban Development (Urban Policy Statement or UPS) and the AUP stress compact urban form in the context of the existing urban areas requires intensification. This Site is appropriate for such intensification for integrated residential development and in particular for a retirement village. Although Mrs Ngata raised some issues around the development phase and its impacts on traffic management which we will deal with later, the main focus of this hearing related to the potential impact upon residential amenity and character in this area.*

*[18] Fundamentally we do not accept the proposition that the change envisaged under the UPS and AUP can be countermanded by reference to the existing residential amenity without a reference to the plan changes that are envisaged in terms of the UPS and AUP. To*

*determine the residential character without reference to the UPS and the AUP would be a failure to properly administer both the Unitary Plan and the Policy Statement in terms of the requirements under s104.*

*"[31] We consider that the Council witnesses have focussed more on existing residential amenity and the surrounding residential area in its current form rather than that brought about by the AUP and UPS. ...,"*

- 9.54 It is considered that the *St Johns* decision is now even more relevant to this application in terms of the objectives, policies and requirements of the 2020 NPSUD. The NPSUD is stronger in its directions to support the housing industry in increasing housing supply, particularly in areas of high demand and high levels of accessibility as is the case in Birkenhead. It clearly notes that amenity values develop and change over time and that planning decisions need to take this into account in responding to proposals that meet the objectives and policies of this NPSUD.
- 9.55 Policy 3 also makes it clear that regional policy statements and district plans in a Tier 1 urban environment enable building heights and densities that are commensurate with the level of accessibility by existing or planned active or public transport to a range of commercial activities and community services or the relative demand for housing in that location (whichever is the greater).
- 9.56 In this application the site is in a highly accessible location and in an area of high demand for housing. It is an area that lends itself to greater building heights and densities, and the fact that the proposed development is only marginally higher than the maximum height permitted in the zone; and has a density that is not much greater than that which could be achieved if the land was subdivided and developed to its maximum potential; suggests that this is a proposal that Council could comfortably support as having effects that are no greater than minor and that meets the purpose of the NSPUD.

## 10. ASSESSMENT OF ENVIRONMENTAL EFFECTS (AEE)

An assessment of the actual and potential effects generated by the proposal is outlined below. In preparing this assessment, consideration has been given to the matters that are required to be addressed in Schedule 4 of the Resource Management Act.

### **Neighbourhood effects**

#### *Overview on density*

- 10.1 The Single House zone provides for a pattern of development characterised by one to two storey buildings consistent with a suburban built character. To support the purpose of the zone multi-unit development is not anticipated as it could have an adverse effect on the character and amenity of the neighbourhood. In relation to the intensity of development it has previously been noted that the site is over 3000m<sup>2</sup> in area and potentially could be subdivided into four or five allotments that meet the 600m<sup>2</sup> minimum site size. If a single dwelling and minor household unit were constructed on each of these lots, the number of dwellings (density) could be comparable to that being proposed in this application.
- 10.2 If this density was realised, the effects on the neighbourhood in terms of traffic generation, construction and the size, height and bulk of each building would be similar, including the potential effects of the proposed development when viewed from the coast. Policy 8 in the Single House zone specifically provides for integrated residential development on larger sites within this zone and the subject site is a good example of the type of IRD that might be contemplated. The proposed IRD does not result in any significant 'infringements' of the zone rules and the development has been designed so it will not be visually intrusive or compromise the amenity of any neighbouring properties. The site is also in a highly accessible location as detailed in the UDA. It is near the public transport network (Birkenhead Ferry Terminal) and is within moderate walking distance of the local shopping centre (Highbury) with a walking time of about 20 minutes. It is therefore considered a highly suitable location for an integrated residential development.
- 10.3 The following assessment of effects will show that the proposal uses this new typology in keeping with the IRD opportunity in the Single House zone without have any adverse effects on the character and amenity of the neighbourhood or any residents who live within it.

### ***Neighbourhood character and amenity values generally***

- 10.4 It is considered that the development achieves a very high standard of architectural design that will enhance the character of the streetscape and will not compromise the character and amenity values of the local neighbourhood. The foreground of the neighbourhood is characterised by a coastal setting, striking cliff tops and significant indigenous vegetation. The suburban setting above the cliff is characterised by standalone two storey dwellings with many of the original lots having since been subdivided. There is a mixture of housing types, sizes and architectural styles, many of them (especially those in cliff top locations) are large and visually prominent as illustrated by the photographs in the UDA.

### ***Effects on the planned suburban built character of predominantly one to two storeys***

- 10.5 The objectives and policies seek to ensure that new development is in keeping with the planned 'suburban' character of the neighbourhood. Whilst the building has four levels, the slope of the site and the depth of excavation means that the two lower levels (at the front/streetscape end of site) are below ground level and will be concealed from all viewpoints in the neighbourhood. As will be noted in Section 10.8 below, the building complies for the most part with the maximum building height above natural ground level and depending on the angle from which it is viewed will present as a single or two storey development.

- 10.6 It is to be expected that the character of a neighbourhood will change and evolve as new development occurs and there are increasing pressures to use land more efficiently in highly accessible locations, indeed as reflected in the recently approved NPSUD. In any event it is considered that the proposed development will integrate and will be in keeping with the planned 'suburban' character of the neighbourhood. The increased building height at the middle/southern end will generally not be visible from the street and on the basis of the detailed analysis in the UDA, it is considered that the effects on the planned suburban character of predominantly one to two storeys will be no more than minor.

***Effects on the standard of residential amenity for adjoining sites***

- 10.7 The building has been designed to ensure that any potential effects of height and bulk will not adversely affect the standard of amenity of adjoining sites. It will not overlook or overshadow the outdoor living space or habitable room windows of any adjoining properties and it will not impinge on any views enjoyed by existing properties. Accordingly, it is considered that the effects on the standard of residential amenity for adjoining sites will be less than minor.

***Building height and building coverage***

- 10.8 The building exceeds the maximum building height at three places within the development. The first is the roof terrace at the southern end of Unit 1; the second is that part of Bedroom 1 to Unit 2 at the northern end of the site adjacent to the western boundary where it spans the driveway; and the third is the roofline and western wall of Unit 9 at the southern end of the site adjacent to the western boundary. These 'infringements' are clearly illustrated in the architectural plans and are discussed in some detail in the UDA.
- 10.9 The building also exceeds the building coverage by 1.1% which is a marginal increase over the previous application which complied with the maximum standard. This increase has resulted from the need to change the design to reduce the height of the building. This increase is very minor and it will not be visibly perceptible. The building still presents at most as a two storey structure when viewed from the street.
- 10.10 It is considered that the increases in building height and building coverage will not have a visual dominance visual effect on the surrounding neighbourhood or adjoining properties. If these projections were removed, the appearance and configuration of the development would not be significantly different than if they complied with the maximum building height. The increases are quite marginal but are needed, particularly in the case of the Unit 1 roof projection, to maintain the architectural integrity of the design of the building and to improve the functionality of the units. This modification in design (compared to the 2018 application) will also reduce the height of the development adjacent to the cliff which created concerns by Council's landscape architect about the visual impacts of the development when viewed from the Harbour. The inclusion of part of Unit 2 spanning the driveway will move the building mass towards the street where there is a capacity for additional height and mass whilst maintaining the single and partly two storey appearance of the development when viewed from the street. The additional height created by the roofline of Unit 9 will have a marginal effect on the visual appearance of the development as it located at the lower end of the site and will present as part of the stepping down of the building from the street to the cliff line. In all cases, the increases in height will not affect the amenity of the neighbourhood including the amenity of No. 4 Tizard which is owned by the Applicant.

***Height in relation to boundary, yard setback and height of side fence/wall***

- 10.11 It is considered that the effects of the HIRB 'infringing' the side yard setback and wall/fence height to accommodate the rubbish enclosure will be less than minor. This structure is defined as a building because it "exceeds 1.5m in height and may be in use for more than 32 days of the year". The structure is located in the side yard setback immediately behind the front yard setback and is higher than might normally be expected as a consequence of the need to accommodate an overland flow path along this boundary. This is a logical place to locate the rubbish storage

area and there is no other place it could be constructed. It is considered that the structure will not be visually dominant. It will have no adverse effects on the character or amenity of the streetscape and wider neighbourhood, and it will not compromise the amenity of the adjoining property.

10.12 Part of the building spanning the driveway adjacent to the rubbish enclosure on the western boundary also encroaches into the HIRB plane as highlighted in the drawings. As previously noted, this has come about because of the need to move the height and bulk of the building further up the site to minimise adverse visual effects of building height adjacent to the cliff edge. It is considered that the projection into the HIRB will not adversely affect the amenity of No 4 Tizard. This projection is adjacent to the driveway of this property and will not create any shading or visual dominance when viewed from any windows on this property. The projection will not adversely affect the character of the streetscape. As shown in various 3D diagrams in the Design Response, this reads as an integral part of the development and still reads as part of a single or two storey development when viewed from the street.

10.13 Part of the roof and wall of Unit 9 at the southern end of the western boundary infringes the side yard setback as well as the HIRB. It is considered that this will have no adverse effects on the adjoining property or when viewed from the streetscape and surrounding neighbourhood. This part of the building is located well below the level of the street and well below the house on No 4 Tizard and the extent of the 'infringement' would be difficult to discern.

#### ***Front yard landscaping***

10.14 The landscaping in the front yard setback does not meet the minimum 50% requirement. The key reason for this is the narrow frontage relative the shape of the site and the need to accommodate a driveway and pedestrian access in the limited space available. However as shown on the architectural plans and visual images within the Design Response, the front yard will be planted and landscaped to the maximum ability possible and will present as an attractive interface with the street. It is therefore considered that the effects of this infringement will be less than minor.

10.15 In concluding effects on the neighbourhood, it considered that the proposal will be in keeping with the suburban character of the neighbourhood and will have positive effects for the housing market in Auckland. The site is in a highly accessible location and the development will provide an increase in the supply of dwellings in a location close to Auckland Central. The development will make efficient use of the land and existing infrastructure without having any adverse effects on the character on the neighbourhood and surrounding area and it there concluded the effects on the neighbourhood will be no more than minor.

#### **Physical effects on the locality, including landscape and visual effects**

##### ***Visual effects***

10.16 Section 10.9 above discusses the visual effects on the neighbourhood as a result of increased building height and concludes that the proposal will not have an adverse effect on the character and amenity of the area. As shown in the Design Response prepared by Young and Richards, the building will still achieve a single or two storey appearance from the street. It has also been constructed using a neutral colour palette that will complement the natural features of the landscape. The building will be screened or framed by vegetation when viewed from properties to the west, and for the most part will present as a single or two storey development when viewed from Hinemoa Park (Refer to p29 of the UDA)

10.17 In relation to views from the Harbour, Section 7 of the UDA (pp31 – 39) carries out a detailed visual impact assessment based on nine different visual simulations and photomontages prepared by Young and Richards and U6 Photomontages Ltd. The assessment analyses the extent

to which the building will be visible when viewed from each of these viewing points around the harbour including the Harbour Bridge.

10.18 The assessment concludes:

*“The visual effects of the proposal will be no more than minor particularly once the vegetation establishes. This vegetation helps to integrate the building in the landscape through reducing the extent to which three levels are viewed (such as in viewpoint A) and supporting the layering or stepped form of the building as seen in viewpoint B.*

*The proposal would maintain the key elements contributing to the visual character of this location where development is seen along the top of the cliff form, and more prominent buildings are visible at the small headlands. The amenity values for people on the harbour will be maintained (p3)*

*“The building sits comfortably in the context from all viewpoints assessed as it continues the character of the landscape whereby buildings sit atop a dominant cliff and dark green tree canopy as seen from the wider harbour views and completes the street from Tizard Road.”*

*“Overall, the proposal is considered to sit comfortably in this landscape based on the representative visual simulations provided and assumed from those that have not been updated. It is considered that the natural character values of the site and coastal environment are maintained - not as existing, but with the expectation that a building or buildings could be developed on this site. The visibility of the building is consistent with other buildings along the coast that exist on the small headland forms, as being different to those set back behind more significant vegetation at the cliff slump locations.*

*Appreciating three level buildings from the water is not unusual along this coast, or from within Tizard Road itself. The stepping form of the proposal is consistent with the stepping buildings over the landform (p40).”*

10.19 On the basis of the visual simulations, photomontages and detailed assessment in the UDA it considered that the development will not be visually intrusive in the landscape setting and will generally integrate with the urban landscape above the line of the cliff top. It will not appear to be significantly different to other larger houses on the cliff top and despite the recent poisoning of the Pohutukawa trees, existing vegetation and proposed new landscaping will frame the building when viewed from various locations around the harbour. The views from the Harbour and Harbour Bridge generally involve greater distances and the photomontages and visual simulations suggest that the construction of one large building on the site would not appear significantly different to the construction of a number of large single dwellings and associated minor household units if the site was subdivided and developed to its maximum potential under the provisions of the Single House zone.

10.20 The proposed development itself is also a high quality design. The building is well modulated with interesting shapes and projections and it will be constructed in materials and colours that will enhance the surrounding built environment. The development will be terraced down the slope and will be framed or partly screened by existing significant native vegetation well as new planting shown on the landscape plan in consultation with Council’s urban landscape architect.

10.21 It is also noted that the development would have no greater visual effect on the landscape than the previously consented development. Whilst it is acknowledged that this consent has lapsed and does not provide part of the permitted baseline, it does provide a reference to what was previously considered appropriate for development on this site. This is considered relevant given the relatively minor extent to which the development ‘infringes’ the current Single House zone standards, and in the context of the current NPSUD imperative to optimise building heights and densities in highly accessible locations where it is likely that the neighbourhood character and amenity will be subject to ongoing change.

10.22 In conclusion, whilst development is in a zone where multi-unit development is not anticipated, the proposal meets the expectation of Integrated Residential Development in Zone and the development is generally consistent with the characterisation of one to two storey buildings. The development will not look significantly different to many other dwellings when viewed from the street and will have no greater visual effects on the wider landscape than other large houses when viewed from various viewing points on the Harbour.

10.23 It is therefore concluded that the physical effects on the locality including the landscape and visual effects will be no more than minor.

#### ***Traffic effects***

10.24 In relation to traffic effects, the development would result in an increase in vehicle movements compared to one dwelling on each of the existing lots. However, as previously noted, the site could be subdivided and more intensely developed under the existing zone provisions, and this being the case, it might be expected that such development could generate a similar number of vehicles movement and have similar effects to the proposed development.

10.25 Tizard Road is a narrow street with limited space for on road car parking; and the cul-de-sac terminates in a non-typical turning facility as well as being adjacent to Hinemoa Park. The development infringes the standards for driveway gradients reverse manoeuvring, and this could have adverse effects on the local road network.

10.26 A transportation assessment has been undertaken which has considered the potential effects on the local road network. The assessment considers that there is sufficient capacity within the local road network to accommodate additional trips and there are two on site car parking spaces per unit so residents will not be forced to park on the street if they have more than one vehicle. The site is also adjacent to the Birkenhead ferry wharf (via Hinemoa Park) so residents can walk to the wharf which provides a ferry to Auckland City Centre. This will help to reduce the number of vehicle movements as residents will have an alternative transport for accessing the wider Auckland region.

10.27 The transportation assessment has considered the gradient of the vehicle access and considers that this is a minor infringement. Suitable transitions have been provided at each end of the steep section and the ramp design will not cause any adverse effects on the road network. The assessment provides a detailed explanation of the gradient is designed and how traffic will exit the site. On the basis of this assessment it is considered that the effects of the increase in gradient will be less than minor.

10.28 The transportation assessment also considers the effects of reverse manoeuvring. The refuse collection truck will need to access the front entrance of the site and then reverse into the cul de sac. This is not a daily occurrence and will occur at a time in the day when there are minimal cars parked on the street. It considers that sight lines will not be affected and there is a separate pedestrian path that will reduce risks for pedestrians. The assessment considers that the reverse manoeuvring can be safely managed and on the basis of this assessment is it considered that the effects will be less than minor.

10.29 Finally the traffic assessment considers the potential adverse effects of providing for approximately 1010 truck movements during the course of removing excess soil from the site. This was a contentious issue in the course of processing the previous application and at the request of Council, an indicative construction management traffic plan (CMTP) was prepared. Although the CMTP will need to reviewed at such time that a contractor is has been appointed, it provides a detailed strategy and program which sets out (amongst other things) the timing and duration of truck movements, the management of traffic and contractor parking during the construction process and the construction of a loading platform on the site so that trucks will not need to utilise Tizard Road for loading and servicing during construction.

10.30 The assessment concludes that the overall effect of construction activities onto the adjacent transportation environment can be safely managed through the implementation of a CTMP and any effects are anticipated to be minor and relatively short in duration.

10.31 Accordingly, it is considered that the effects of the traffic, parking and construction activities will be less than minor.

#### ***Geotechnical effects***

10.32 The proposed development will involve excavations varying in depth from 12.4m at the north east corner to 0.5m toward the south west corner. Due to the depth of the cut and its proximity to the Council reserve boundaries it will be necessary to provide temporary retaining of the cut face during the construction of the basement structure. This has the potential to increase geotechnical risks and adversely affect the adjoining properties.

10.33 In relation to No. 4 Tizard Road, the Report notes that this property is owned by the same client of 2 & 2A Tizard Road. Therefore, in terms of potential public liability risk to both local council and client, dewatering induced ground settlement damage is not considered to be critical.

10.34 Kirk Roberts Consulting have prepared a detailed geotechnical report and groundwater drawdown and settlement monitoring and contingency plan GDSMCP. A detailed description of the investigations, findings and recommendations in these reports is included in Section 6 above; and the conclusions reached by Kirk Roberts in assessing the potential effects are relied upon in this AEE.

10.35 The amended plans submitted with this application do not change the extent of earthworks and geotechnical solutions proposed in the Geotechnical Report submitted with the previous application (except for the proposal to construct a concrete palisade wall system to support the deep excavation required in close proximity to the to the Council reserve boundaries). The GDSMCP is also the same report that was submitted to Council in the previous application.

10.36 The Geotechnical report and GDSMCP in the previous application were accompanied by extensive levels of information (including additional detailed drawings and calculations). These were assessed by Council's Groundwater Specialist, Mr Andy Samaratunga, and peer reviewed by an independent consultancy Engeo. The proposed geotechnical works have not changed in this regard and so comments made by Council in the Section 42A Hearing Report for the previous application are still applicable. In this regard, Council commented:

*"..subject to total settlement and differential settlement being limited to the maximum levels calculated, there would be negligible risk of damage to buildings and services located within the surrounding environment;*

*"..the works could be undertaken in a manner that would minimise the potential for ground settlement, with monitoring proposed to ensure that the specified levels are not exceeded. This ensures that the risk of damage to buildings and services as a consequence of the works would be minimal, with any damage that may result to be rectified by the applicant.*

*"..the proposed diversion of groundwater would not affect any existing surface flow regimes, with any effects on groundwater flows being temporary and not resulting in any long-term impacts on water quality. There are also no historic heritage items within the surrounding area that may be susceptible to adverse effects from dewatering.*

10.37 It is considered that these comments are applicable to this application and accordingly, it is considered that any adverse geotechnical effects including the diversion of groundwater and dewatering can be avoided, remedied or mitigated to no more than minor and acceptable levels.

10.38 Overall it is considered that the physical effects of the proposal including visual, landscape and geotechnical effects will be no more than minor.



## **Effects on ecosystems**

### ***Stormwater***

- 10.39 Whilst the proposed development meets the standards for impervious surfaces, there is still a need to manage the effects of stormwater runoff to ensure that the receiving environment is not adversely affected. The Engineering report notes that stormwater from the development will discharge into the existing public line as shown on the engineering drawings. The Report considers that the line has sufficient capacity for the increase in stormwater and the plans show measures to ensure that there will be no adverse effects from erosion and siltation. It is therefore considered that the stormwater discharges will be managed in an acceptable manner and the effects of stormwater discharges will be less than minor.

### ***Vegetation removal***

- 10.40 Although the site is zoned for urban development part of the site is covered by a Significant Ecological Area (SEA) and the need to remove vegetation could have adverse ecological effects.
- 10.41 The Ecological Assessment prepared by Wildlands notes that the proposed works at the site will extend into the SEA and approximately 65 m<sup>2</sup> of indigenous vegetation within the SEA is proposed to be removed (including some 40 m<sup>2</sup> of Gorse-rarahu scrub and 24 m<sup>2</sup> of māhoe-mapou-karamu scrub). The location of which is shown in Figure 1 the Report. It also notes that works will take place close to kānuka (*Kunzea robusta*) forest within the SEA.
- 10.42 The potential adverse effects of the proposed development are listed below and have been discussed in detail in the Ecological assessment including:
- Loss of indigenous vegetation
  - Damage to indigenous vegetation outside of the clearance area
  - An increase in edge effects
  - Temporary disruption of avifauna during construction
  - Injury to and/or mortality of indigenous lizards.
- 10.43 The Assessment makes recommendations on how these effects can be avoided, minimised or mitigated and it has been recommended that these measures be included as conditions of consent.
- 10.44 In particular the landscape plan prepared by Topia Garden Design provides for the planting of significant indigenous vegetation within the development site and the SEA to offset the effects removing the gorse-rarahu and māhoe-mapou-karamu scrub, as well as the loss of Pohutukawa trees that were recently poisoned. As shown in the site plan prepared by Topia Garden Design the area of māhoe-mapou-karamu scrub on the western boundary are all saplings which will ultimately outgrow the space available and have been replaced by more suitable native coastal shrubs as part of the coastal vegetation program.
- 10.45 It is considered that the loss of low value native vegetation within the SEA will be more than offset by the coastal revegetation program that is proposed and will result in a better ecological outcome than the present environment within the SEA. It is therefore concluded that the proposal will enhance existing ecological values within the SEA and will have positive effects.

### ***Effect of works within the root zone of native trees***

- 10.46 The Arboricultural assessment considers the effects of removing native vegetation in the SEA and supports the recommendations of the Ecological Assessment. It considers the effects of works in the vicinity of the root zones of native trees and recommends specific conditions of consent to address root disturbance during the construction phase of the development.

### **Poisoning of the Pohutukawas**

- 10.47 The Arboricultural assessment and Ecological assessments discuss the issue of the poisoned trees. Originally it was considered that the dead trees should be retained insitu and allow the wood to fritter away gradually. This position has since been reviewed following further site investigations. It was noted that regenerative growth has not sprouted from the root systems of the Pohutukawa trees (as originally thought), and the trees have since revealed that the dead scaffold material is dying fast and breaking up, presenting a hazard for personnel working at the site during the clearance and revegetation stages. The Arborist also noted there is a substantial amount of low growing native vegetation on the cliff line which is considered important to foster in order the complement the proposed revegetation planting. He therefore considers it would be undesirable to have large dead wood potentially falling onto this native vegetation.
- 10.48 On the basis of findings and recommendations of the Arboricultural and Ecological Reports it is agreed that the deal material at the cliff top should be removed down the truck boles at a height above ground deemed safe to leave standing. This will encourage the ongoing growth of newly generating native vegetation and provide a safe environment for implementing revegetation as proposed in the landscape plan. The Arborist considers that any dead material further down the cliff face can remain as it is as there is no public access at the bottom of the cliff and will not affect public safety.
- 10.49 The regeneration of low growing native vegetation and the planting of new native vegetation along the cliff top will enhance existing site values and will mitigate the adverse effects that have resulted from the poisoning of the Pohutukawa trees.

### **Removal of the Bush Covenant**

- 10.50 The Arboricultural Assessment notes that the only vegetation of any ecological value in the existing bush covenant is the stand of semi mature Kanuka at the western end of the covenant adjacent to the boundary with No 4 Tizard. The report supports the removal of the bush covenant, noting that the protection offered by the SEA is greater than that provided in the wording of the existing covenant. In responding to an assessment criterion questioning the need for a bond or covenant the Report also states:

*“...the imposition of a bond or a covenant is not warranted in this case. All areas of the site that contain significant native vegetation are now covered by the Significant Ecological Areas overlay - which contains detailed and robust objectives and policies designed to manage potential adverse effects on significant ecological areas in terrestrial and marine environments, as well providing for strong measures to manage any future application to remove vegetation. I consider that these policies will be more effective in protecting the existing stand of Kanuka trees than the words in the existing covenant as well as the words proposed in Condition 43 of the Council decision made on 30 January 2013 approving an amendment made to the existing covenant.*

*“Notwithstanding that, it is expected that Council would outline some conditions of consent pertaining to the protection of the retained vegetation, and that the suite of such measures offered in this report would form the basis of such conditions”*

- 10.51 The recommendations of the ecological and arboricultural assessment are accepted by the Applicant and can be attached as a condition of consent. It is considered that the measures proposed in each of these reports will ensure any ecological effect of removing native vegetation and carrying out works within the root zone of native trees will be less than minor. It is considered that the measures proposed to mitigate the effects of the poisoned trees will minimise the potential adverse effects created by this action. It is also agreed that the removal of the bush protection covenant and reliance on the SEA to ensure ongoing protection of ecologically significant vegetation in this overlay will be a stronger and more effective way of protecting ecologically significant vegetation in the future.

### ***Earthworks***

- 10.52 There is potential for adverse effects to be generated by earthworks by way of an increase in erosion and sediment entering the receiving environment.
- 10.53 The engineering report and drawings propose sediment and erosion controls that will be provided for the duration of the works. The earthworks and associated mitigation measures will be carried out using best practice and in accordance with TP90. Taking account of the proposed controls and the methodology provided in the engineering report it is considered that the earthworks can be carried out with less than minor effects on the environment.
- 10.54 Overall the ecosystem effects are less than minor.

### **Effects on natural and physical resources**

- 10.55 The proposal will result in change to natural and physical resources. Many of the changes and use of natural and physical resources have been contemplated by the provisions in the AUP.
- 10.56 The site has been zoned for urban residential use, however the proposed development exceeds the level of change anticipated in the Single House zone. The application is proposing to develop ten apartments within one building complex. The neighbourhood and visual effects of the development have already been discussed above. In terms of the effects of the use on natural and physical resources, it is considered that the proposal will have positive effects. The development will make efficient use of the existing infrastructure services and the site will provide increased housing supply in a location that is close to public transportation connections to the wider Auckland region.
- 10.57 The proposal has been designed to ensure that existing natural resources on site (in particular significant native vegetation) are not adversely affected by the development. In addition it is proposing planting of new native vegetation that has ecological significance and will be protected by way of its inclusion in the SEA. An area of approximately 40m<sup>2</sup> of native vegetation is proposed to be removed from the SEA however the ecological and arboricultural assessments have confirmed that the vegetation to be removed is of low ecological value and the additional landscaping and planting will more than offset the loss of this vegetation. Overall, it is considered that the effects of the proposal on natural and physical resources will be less than minor.

### **Summary of Actual and Potential Effects**

- 10.58 Based on the above assessment it is considered that the actual and potential effects generated by the proposal will be no more than minor.

## **11 OVERALL CONSIDERATION OF APPLICATION**

- 11.1 With reference to Section 8 above, a non-complying activity requires consideration of Section 104, 104B and 104D of the Resource Management Act including:
- the actual and potential effects of allowing activities on the environment
  - the relevant objectives and policies of the planning documents
  - and any other matter that is relevant and necessary to determine the application.
- The provisions of section 104 are also subject to the matters set out in Part II of the Act which sets out the purpose and principles of the Act.
- 11.2 Based on the above assessment of environmental effects it considered that the actual and potential effects generated by the proposal will be no more than minor.
- 11.3 Based on an assessment of the proposal against the relevant objectives and policies it is considered that the proposal is not contrary to relevant objectives and policies in the AUP
- 11.4 It is considered that there are no other matters that are relevant and reasonably necessary to determine the application.
- 11.5 In terms of Part 2 RMA, it is considered that the proposal is consistent with Sections 5 - 8 and can be described as a sustainable management of natural and physical resources in this urban setting. The site will be used for an identified purpose and will enable people and communities to be provided for their social, economic and cultural well-being. The proposal protects the natural environment from any additional adverse effects in the manner described in this AEE

## 12 NOTIFICATION OF APPLICATION

12.1 The RMA allows the consent authority to determine if notification of an application is required. Section 95A sets out the criteria for public notification and Section 95B sets out the criteria for limited notification. This proposal was originally limited notified to neighbours in the immediate vicinity. Those who submitted were heard before Planning Commissioners at the first hearing in December 2019. The redesign of the proposal has addressed alleged potential adverse visual effects so that they are remedied or mitigated as described in this AEE and in the attached Urban Design report.

### ***Section 95A – Public Notification***

12.2 A consent authority can require public notification of the application if:

- a. The activity will have or is likely to have adverse effects on the environment that are more than minor; or
- b. The applicant requests public notification of the application; or
- c. A rule or national environment standard requires public notification of the application.

12.3 Based on the above criteria it is considered that the application should not be subject to public notification. The assessment of environmental effects has demonstrated that the effects will be no more than minor and there is no specific rule or national environmental standard that requires notification of the application.

12.4 The applicant requests that the application be processed on a non-notified basis.

### ***Section 95B – Limited Notification***

12.5 A consent authority can carry out limited notification of the application if:

- a. It decides that a person is an affected person, in relation to any activity, if the activity adverse effects on the person are minor or more than minor;
- b. It decides that a customary rights group is affected even if a rule or national environmental standard precludes public or limited notification.

12.6 Based on the assessment of environmental effects, the effects on any person generated by the proposal are less than minor. Accordingly, no person or customary rights group will be adversely affected by the proposal.

12.7 It is therefore concluded, taking into account the assessment of the redesign, that notification (either public or limited) is not required in relation to this application and the application should be processed on a non-notified basis.

### 13. CONCLUSION

- 13.1 The proposal is seeking consent for an integrated residential development that is designed specifically for the site.
- 13.2 A key issue in the previous (2018) application was the character of the surrounding neighbourhood and the potential adverse effects that might arise as result of the scale and height of the development when viewed from the Harbour. Updated plans, visual assessments and expert reports/assessments have been undertaken which show that development will not adversely affect the character the surrounding neighbourhood, nor will it appear visually intrusive when viewed from more distant landscapes, including the Waitemata Harbour. The slope of the site, the design of the development (stepped down the landscape) and the use of vegetation (both existing and proposed) means that the development will be seen as a single or two storey building when viewed from nearby properties and Tizard Road. Notwithstanding the changes in the landscape plan (with some of the proposed specimen Pohutukawa trees being removed immediately in front of the building) the development will be framed by vegetation and will not be visually intrusive when viewed from the Harbour. The development will have planting along the eastern boundary so that it provides an attractive interface with Hinemoa Park.
- 13.3 Part of the site is covered by a Significant Ecological Area (SEA-T) and it is proposed to remove two small patches of low value native vegetation including 40m<sup>2</sup> of *gorse-rārahu scrub* and 24 m<sup>2</sup> of *māhoe-mapou-karamu scrub*. This has been assessed as having low values and it proposed not only to mitigate this loss, but also to significantly enhance indigenous biodiversity values on the site through a comprehensive coastal revegetation planting program that will meet the objectives and policies in Chapter D9.
- 13.4 It proposed to remove the existing Bush Covenant which will be redundant and the words contained in the existing covenant are considered weaker and provide less protection than that provided by the SEA which now covers all significant native vegetation that is within the existing covenant.
- 13.5 Earthworks are required to allow the development to be implemented and appropriate sediment and erosions controls will be employed for the duration of those works. A geotechnical report (and associated groundwater drawdown and settlement monitoring contingency plan) provides a detailed risk assessment, earthworks and foundation design that will ensure the stability and safety of surrounding land, buildings and structures and a construction and traffic management plan has been submitted to manage potential adverse effects during the construction process.
- 13.6 The assessment of environmental effects and the assessment of the proposal against the relevant objectives and policies in the AUP concludes any potential effects will be no more than minor and that the proposal meets the relevant objectives and policies. It is considered that proposal will not compromise the character of the neighbourhood or amenity of neighbouring residents; and the development will not be visually intrusive when viewed from the various viewing points identified in the Visual Impact Assessment. The proposal achieves the intended outcomes of the new NPSUD and will contribute to the AUP objectives of achieving a quality compact city in so far as this might be envisaged for the Single House zone in this highly accessible location. Overall the proposal is considered to be a good outcome for the site and will provide a high quality integrated residential development.
- 13.7 It is therefore concluded that the proposal is not contrary to the relevant objectives and policies of the AUP and effects of the development on the environment will be no more than minor. It is requested that the resource consent be granted consent subject to appropriate conditions of consent.

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