

Decision following the hearing of an application for resource consent under the Resource Management Act 1991

Proposal

To remove the existing dwelling and ancillary structures and construct 19 terraced dwelling units, including earthworks, vehicle access, parking and landscaping.

This resource consent is **GRANTED**. The reasons are set out below:

Application number	BUN60355210
Site address:	78 Orakei Road, Orakei
Applicant:	78 Orakei Limited
Hearing commenced:	Tuesday 14 July 2020, 1.00 p.m.
Hearing panel:	Barry Kaye (Chairperson) Richard Blakey
Appearances:	<u>For the Applicant:</u> 78 Orakei Limited represented by: Bill Loutit, Legal Counsel Kurt Gibbons, Corporate Robert Clements, Development Manager Simon Novak, Architect Todd Langwell, Traffic Engineer Vijay Lala, Planner <u>For the Orakei Local Board</u> Troy Churton <u>For Council:</u> Sarishka Gandhi, Traffic Engineer Jackson Morgan, Planner Jennifer Chivers, Team Leader Georgia Pieri, Urban Designer Bevan Donovan, Hearings Advisor
Hearing adjourned	14 July 2020 at 16.05pm
Commissioners' site visit	11 July 2020
Hearing Closed:	17 July 2020

Introduction

1. This decision is made on behalf of the Auckland Council ("**the Council**") by Independent Hearing Commissioners **Barry Kaye (Chairperson)** and **Richard Blakey** appointed and acting under delegated authority under sections 34 and 34A of the Resource Management Act 1991 ("**the RMA**").

2. This decision contains the findings from our deliberations on the application for resource consent and has been prepared in accordance with section 113 of the RMA.
3. The proposal was determined on 3 July 2020 by Duty Commissioner Kaye to proceed on a non-notified basis. Subsequently Commissioner Kaye determined that the application should proceed to a hearing for a section 104 decision in order to interrogate various aspects of the proposal including traffic related matters.

Summary of proposal and activity status

4. The applicant proposes to remove the existing dwelling and ancillary structures and construct 19 terraced dwelling units, including earthworks, vehicle access, parking and landscaping. The proposal requires resource consent for the following reasons.

Land use consents (s9) – LUC60355039

Auckland Unitary Plan (Operative in part)

District land use (operative plan provisions)

H4 Residential – Mixed Housing Suburban Zone

- To construct and use four or more dwellings is a restricted discretionary activity under rule H4.4.1(A4)
- To develop new buildings, as the development of new buildings or any additions has the same activity status as the land use activity, is a restricted discretionary activity under rule H4.4.1(A34)
- The proposal involves use and development under rules H4.4.1(A4) and H4.4.1(A34) that fails to meet the following core standards and is a restricted discretionary activity under rule C.1.9(2):
 - The proposed western boundary retaining walls, being located within 1.5m of a public place and meeting the definition of a building, are located within the rear yard setback, which fails to meet the requirement for buildings to be set back from the rear boundary by 1m, pursuant to Standard H4.6.7(1)
 - The proposed southern boundary access retaining wall, being located within 1.5m of a public place and meeting the definition of a building, is located within the side yard setback, which fails to meet the requirement for buildings to be set back from the side boundary by 1m, pursuant to Standard H4.6.7(1).

E12 Land Disturbance - District

- To undertake general earthworks of 2,524m² and 1,946m³, as the earthworks are greater than 2,500m² and 1,000m³ in a residential zone, is a restricted discretionary activity under rules E12.4.1(A6) and (A9) respectively.

E27 Transport

- The proposal involves accessory parking and access that does not meet the following parking and access standards and is a restricted discretionary activity under rule E27.4.1(A2)
 - Proposed parking spaces #5-#8, #16 and #17 fail to meet the minimum manoeuvring depth of 6.7m required for parking spaces 2.5m in width, pursuant to Table E27.6.3.1.1(T117):
 - Parking space #6 provides for a minimum manoeuvring depth of 6.57m, which fails to meet the minimum manoeuvring depth of 6.7m
 - Parking space #7 provides for a minimum manoeuvring depth of 6.40m, which fails to meet the minimum manoeuvring depth of 7.1m
 - Parking space #8 provides for a minimum manoeuvring depth of 6.23m, which fails to meet the minimum manoeuvring depth of 7.1m
 - Parking space #16 provides for a minimum manoeuvring depth of 6.50m, which fails to meet the minimum manoeuvring depth of 6.7m
 - Parking space #17 provides for a minimum manoeuvring depth of 6.23m, which fails to meet the minimum manoeuvring depth of 6.7m
 - The proposed parking spaces have a gradient of 1 in 16, which fail to meet the minimum gradient of 1 in 20 pursuant to Standard E27.6.3.6(3)(b).
 - The proposed vehicle crossing at the boundary has a minimum width of 3.5m where it serves 19 parking spaces, which fails to meet the minimum width of 5.5m for vehicle crossings at the site boundary serving 10 or more parking spaces, pursuant to Table E27.6.4.3.2(T151)
 - The proposed access has a maximum gradient of 1 in 5, which fails to meet the minimum gradient of 1 in 8 for an access used by heavy vehicles (rubbish truck) pursuant to Table E27.6.4.4.1(T158)
 - The proposed access has a gradient of 1 in 16 for the first 4m as measured from the road boundary, which fails to meet the minimum gradient of 1 in 20 required under Standard E27.6.4.4.1(3)
 - To construct or use a vehicle crossing where a Vehicle Access Restriction applies under Standard E27.6.4.1(3)(a) & (c), with the existing vehicle crossing being located within 10m of an intersection and having a frontage to an arterial road, is a restricted discretionary activity under rule E27.4.1(A5).
5. Overall, the proposal has been considered as a Restricted Discretionary Activity.

Procedural matters

6. The applicant sought a waiver under sections 37 and 37A of the RMA in regards to giving 10 days' notice of the hearing and this was granted.

Relevant statutory provisions considered

7. In accordance with section 104 of the RMA, we have had regard to the relevant statutory provisions including the relevant sections of Part 2 and sections 104C, 108 and 108AA.

Relevant standards, policy statements and plan provisions considered

8. In accordance with section 104(1)(b)(i)-(vi) of the RMA, we have had regard to the relevant policy statements and plan provisions of the following documents:
 - Auckland Unitary Plan (Operative in Part), including:
 - B2-Urban Growth
 - C-General Rules
 - H4 Residential – Mixed Housing Suburban Zone
 - E12 Land Disturbance - District
 - E27 Transport
9. We note that there were no other matters found to be relevant and reasonably necessary to determine the application in accordance with section 104(1)(c) of the RMA.

Local Board and Interested Parties

10. Both the Orakei Local Board and a number of interested persons including neighbours communicated with the Council and those communications were taken into account in reaching our decision notwithstanding that they do not constitute formal submissions given that the application was not limited or publicly notified. The communications included a peer review of the traffic related aspects of the proposal carried out by Mr P Brown of TEAM. Mr Brown noted that due to the Covid 19 lockdown he had not been able to visit the site. We also were provided with a traffic assessment by a layperson, Mr Tweed, who has local knowledge of traffic conditions in the locality.

Summary of evidence heard

11. The Council planning officer's recommendation report, prepared by Jackson Morgan, was circulated prior to the hearing and taken as read.
12. The evidence presented at the hearing responded to the Council planning officer's recommendation report, the application itself and also commented on the statements made by Mr Churton of the Orakei Local Board who attended and spoke about the proposal using the section 15 LGA opportunity.
13. The evidence presented by the applicant at the hearing is summarised below.

Legal Submissions

14. Mr Bill Loutit presented opening legal submissions for the applicant. He noted that the application meets almost all the standards of the AUP(OP). Those standards that are not

met are minor infringements, and largely technical. He noted also that the Council's consultant planner, Mr Morgan, had found that the proposal is consistent with the relevant statutory documents and legislation and will result in acceptable or adequately mitigated effects on the environment. As a restricted discretionary activity, Mr Loutit submitted that care needs to be taken to ensure the Panel's assessment of the application does not go beyond the reservation of discretion. While on its face the matters of discretion in the Mixed Housing Suburban zone are broad, they need to be interpreted in the context of the development standards, which set out what is an acceptable and anticipated level of development on the site.

15. He said that in this case the proposal meets the standards for building height, height in relation to boundary and front, side and rear yards (but for one technical infringement). It also meets standards for maximum impervious area, landscaping, outlook space, daylight, fences and walls and minimum dwellings sizes. Notably there are no density controls.
16. He acknowledged the opposition of neighbours and some members of the Local Board to the application. However, he said, as described in Mr Lala's evidence statement, the proposal complies entirely with the AUP(OP) standards controls and the outcomes the AUP(OP) seeks to achieve, with very minor technical exceptions. He went on to note that as the Environment Court has emphasised, plan provisions are to be taken as they are found, not as some might otherwise like them. This, he said is not the appropriate forum for interested persons to oppose the provisions of the AUP(OP). Any criticisms are a matter for submission and evidence at the time a plan is reviewed.
17. Furthermore, Mr Loutit submitted, failing to give proper effect to the AUP(OP) provisions risks setting an adverse precedent in the way the plan is applied. This would arise if a higher standard of rigor were to be imposed on applications because of rigorous neighbourhood opposition, where there is no basis for such concern in terms of effects or breach of the AUP(OP) standards. It was, he submitted, appropriate to grant consent to the application. No adverse effects of any materiality have been identified by expert witnesses that have not been adequately mitigated through conditions of consent. The application will result in positive effects by contributing much needed housing stock to the Auckland market, in a central location and of high design quality. It was he said, a testament to the applicant's strong track record of residential development that 18 of the 19 dwellings have been pre-purchased.
18. The application he said, is consistent with the relevant provisions in the AUP(OP) and meets the objectives sought to be achieved through the RPS. It is consistent with the objectives and policies in the Mixed Housing Suburban zone which seeks to increase housing capacity, intensity and choice with quality on-site residential amenity for residents and adjoining sites and the street. The application, therefore, clearly warranted consent subject to appropriate conditions.
19. Mr Loutit then called his witnesses.

Kurt Gibbons-Corporate

20. Kurt Gibbons confirmed in his statement of evidence that 18 of the 19 dwellings in the proposed development were already under contract. Of these, 16 purchasers were owner-

occupiers and six were first home buyers. The remainder of the purchasers were widowers or downsizers, who were now able to purchase a property within a neighbourhood that they had lived in for years, while freeing up capital for their retirement.

21. Mr Gibbons' evidence also described several previous projects that he and his team have worked on that are in a similar style to the application. In particular, he highlighted two recently completed projects in Mission Bay and St Heliers, and the very positive feedback he has received from the new residents. He noted that they deliver 100m² three-bedroom units and 80m² two-bedroom units.
22. Each has its own private outdoor area and carpark. All units have 2.7 metre stud ceilings, oak floors, oak staircases, architectural glass balustrades, tiled bathrooms with a choice of different colour pallets to suit each individual purchaser's needs. He said that they do not deviate from achieving these bottom lines.
23. He referenced attachments to his evidence being photographs of two previous developments. Those photographs demonstrated he said, the high-quality urban design that Gibbons & Co are now known for and that will be embraced in the current application at 78 Orakei Road. He said their experience demonstrates a strong track record of delivering high quality projects, that not only deliver for their future residents but also result in good urban design outcomes for the surrounding area. His team he said, are very experienced in delivering these kinds of residential developments. Each development incorporated slight tweaks and improvements from the last, learning from their experiences. Each dwelling has a similar interior layout, with different appearances on the outside.
24. From their experience of similar projects, they believed that these types of developments work and that people love living in them. In terms of the anticipated overall occupancy numbers on the site which had been raised by the Local Board he noted that based on his experience it was unlikely that there would ever be as many as 102 persons in total. In relation to questions from the Panel he noted that there would be a resident's society or like entity that could deal with maintenance of various communal assets including the refuse management area and driveway surfacing. He also confirmed that this development would not have a gated entry.

Simon Novak- Architect

25. Mr Simon Novak's evidence described the urban design philosophy and approach underpinning the Application. His firm, Novak + Middleton have been involved in several other projects with the applicant creating similar designed residential terraced housing and can attest to the high-quality outcomes they have achieved. He noted that photographs of these previous projects were attached to Kurt Gibbons' evidence statement.
26. In summary, Mr Novak's evidence described the design intent of the application as providing:
 - (a) High quality, contemporary, medium density, sustainable housing.
 - (b) Healthy, safe, comfortable, and efficient homes that are designed for modern living.

- (c) Housing that is well orientated for sun, privacy and makes the most of the site's desirable location and relationship with the Waiata Reserve.
 - (d) Houses that are long and low and follow the contours of the landscape; and
 - (e) Housing that has been carefully crafted to work within the surrounding neighbourhood.
27. Mr Novak also described the location of the refuse area and the proposed landscaping and screening which he considered will block the refuse area from view of any neighbouring sites. Sketches of that proposed area and photographs of similar refuse areas in previous projects were attached to Mr Novak's evidence and illustrated the effectiveness of the proposed screening.
28. In addition, Mr Novak said that to alleviate any outstanding concerns that the Panel may have, the Application has volunteered to add a condition of consent requiring the refuse area to be collected twice weekly, and to be fully washed and cleaned once a month. That he said, will more than resolve any potential concerns regarding odour or mess. Mr Novak responded to questions about the height of the refuse enclosure in relation to driver visibility. The proposed concave mirror was to enhance safety for pedestrians and drivers. Commissioner Blakey questioned the edge treatment of the driveway noting that without a nib wall or kerb there was a likelihood of a vehicle running off the edge. Mr Langwell agreed that an 'edging' would be useful.

Todd Langwell -Traffic Engineer

29. Mr Langwell's evidence statement addressed transportation-related matters for the application and confirmed his professional opinion that the application will not result in adverse transport related effects. That conclusion was, he noted, also supported by the Council's traffic engineer, Mr Sarishka Gandhi (subject to proposed conditions, which the Applicant has accepted).
30. Mr Langwell's evidence addressed parking, vehicle access, pedestrian access, visibility sight lines, vehicle trip generation, refuse collection, Orakei Road (and its associated traffic volumes and safety issues) and the relevant AUP(OP) standards and assessment criteria.
31. In his evidence he undertook a detailed assessment of the relevant consent matters, the matters for discretion and assessment criteria. That included specific analysis of the Orakei Road traffic environment, safety issues associated with the vehicle crossing, Ara Street and Orakei Road and specific operational matters relating to the accessway.
32. He advised in response to a question that vehicles parked in car parks 18 or 19 would at times have to reverse manoeuvre to the opposite end of the car park to turn around. That he said, was not a safety issue and that often there would be a vacant car park space that could be used for manoeuvring.
33. Mr Langwell confirmed that in his opinion as an expert traffic engineer the entry/exiting or vehicles onto/from Orakei Road could be carried out safely in terms of both vehicles and pedestrian movements.

34. Mr Langwell then concluded that the development can be accommodated within the site and the road network without compromising its function, capacity or safety. Furthermore, Mr Langwell did not consider that the proposed gradient of the driveway (1 in 16) will create issues for car manoeuvring. He also noted that Green Gorilla, who are contracted to undertake refuse collection for the development, confirmed that their collection truck is capable of traversing a 1 in 5 gradient (which he said was far steeper than what is proposed in the application).
35. Mr Langwell responded to a question by advising that the traffic generation rate used for calculating the traffic effects of the proposal was 5 vehicle trips per day per household.

Vijay Lala – Planner

36. Mr Lala, an experienced qualified planner, presented evidence focusing on the matters outlined in the hearing direction as requiring further information and particularly in relation to:
- (a) Traffic and refuse; and
 - (b) Urban design/density.
37. He noted that as the above matters are addressed by Mr Langwell and Mr Novak in detail in their evidence, he had focused on the proposed conditions of consent. He noted that the application material, further information responses, Council technical reports and comments/reports from the neighbours and Local Board have addressed all relevant matters in detail and that material had already been provided to the Commissioners.
38. He also noted that several conditions have been recommended relating to a convex mirror (proposed condition 29), a high friction surface along the accessway (proposed condition 27) and compliance with the Site Waste Management Plan (proposed condition 1).
39. In relation to refuse disposal he advised that it will occur in accordance with the Site Waste Management and Minimisation Plan. That requires private contractors to empty bins twice weekly and clean out the bins and bin area. The refuse area is fitted with a drain so that all wastewater is discharged to a reticulated system. In his view, in order to ensure that the key elements of the refuse disposal requirements are carried out in accordance with this plan, he recommended the imposition of the following condition to address private refuse collection and disposal:

“Refuse storage and disposal shall occur from the proposed rubbish area as identified on drawing RC-03/4, in accordance with Site Waste Management and Minimisation Plan and Section 92 Response from Green Gorilla, both referenced in condition 1. In particular, refuse disposal shall:

- *Occur twice weekly*
- *Comply with the Ventilation, Washing, Vermin Control, Aesthetics and Noise Control requirements set out in section 2.4 of the Site Waste Management and Minimisation Plan*

- *Undertake all operations between 9am to 4pm weekdays*
- *Undertake monthly cleaning of the refuse area”*

40. In addition, he noted noise conditions have been proposed (proposed condition 31) in order to ensure compliance with the noise standards for the zone as set out by the AUP(OP).
41. He said that the design approach has always been to create compact medium density development that provides quality indoor and outdoor amenity while respecting the amenity of adjoining properties. To that end, the designs rarely seek to modify any of the development standards, particularly those relating to height and height in relation to boundary. In his opinion the design outcome of the proposal will result in a high quality and high amenity development, particularly in relation to the masterplan, dwellings, external form and landscaping, as outlined in Mr Novak’s evidence.
42. There were, he said, a number of conditions proposed that address the overall architecture, design and landscaping of the site. These conditions will ensure that a high-quality development occurs, as set out in the plans and reports submitted with the application.
43. In conclusion he noted that:
- The proposed development is considered to be consistent with the planned outcomes for the locality and the Mixed Housing Suburban Zone and the Auckland-wide Transport provisions of the Auckland Unitary Plan. For the record, the proposal is also considered to be consistent with the other relevant Auckland Unitary Plan provisions.*
 - The proposed scale, design, location of the proposed development, including stepped building profiles, orientation of outlook, interface with Waiata Reserve and separation from site boundaries, will maintain the amenity values of neighbours as anticipated by the Auckland Unitary Plan and provide quality on site amenity for future residents.*
 - In terms of transport and traffic effects, Mr Langwell has reviewed the design and operation of the accessway and the provision of a passing bay, pedestrian path and width of the accessway, together with the proposed convex mirror and high friction surface will ensure its safe and efficient operation. With regard to entry and exit to and from the site, Mr Langwell has further reviewed this matter and based on sound traffic evidence, intersection operation, existing and future traffic movements as well as existing sight distances, confirms that these movements can occur in a safe and efficient matter. Therefore, the design outcome is considered to be appropriate in this location for this development.*
 - In terms of the refuse area, Mr Novak has provided further detail on the design and operation of this area. It will also be cleaned regularly in order to ensure it maintains health and safety standards. The refuse area, the driveway and carpark area include a close boarded timber fence along adjoining neighbour*

boundaries and in some instances a retaining wall. This further mitigates effects including noise on adjoining properties. I have also recommended a further condition on refuse management in order to ensure these outcomes are achieved.

Local Board

44. Mr Troy Churton from the Orakei Local Board used his ability under section 15(2) Local Government Auckland Council Act to appear and speak to us regarding a range of issues the Board (and reflecting interested local persons) has concerns with.
45. The Board view was that while a site may be zoned for intensification, each site within a zone must be assessed on its context, and that there will be some sites that do not always lend themselves to optimal transformative infill as the zone objectives may allow. Some lesser degree that still meets the zone's objectives may be possible. Overall, the Board does not support the intensity of the development on this site and has concerns for the traffic effects and urban design effects of the proposal from this location.
46. The views of the Board may allow for construction of clear conditions which can be read as being in support of a development, albeit not at the scale consent has been applied for.
47. Overall, the Board's preference was that the proposal be re-submitted with reduced scale and number of units, generous set back from the reserve, greater on-site parking and improved access ways.
48. He said intensification and related traffic effects were far more than minor for the following reasons:
 - The 19-unit development can house up to 102 people. The development supplies 19 car parks on site. It can be expected there will be demand for 38 +/- on-street parks (if the ratio is three cars per property)
 - That there is a very likely effect there will be parking spill on to the main road and surrounding side roads. Ara Street is a narrow side street that is already filled with parked cars
 - The traffic effects were not in the local community interest - at a location right beside a pedestrian access to a reserve
 - If fewer parks were needed, then public transport may get a boost. He said out various issues they saw with Orakei Road and the street traffic environment noting that Orakei Road is sized as a Local Road but categorised as an Arterial Road. Speeds are regularly more than 50 kph. There was he said, a pinch point on Orakei Road between Ara Street and Combes and Komaru Roads. That heightens already poor sight line risks for residents on the western side of Orakei Road between Ara Street and Combes/Komaru Roads.
49. The Board therefore preferred that before a development of this degree was granted or as a condition of traffic management related to it that:

1. A lit pedestrian crossing to service the bus stops on the southern corners of Orakei Road with Combes and Komaru Roads

2. Speed reduction systems as are seen on other arterials in the area (Shore road for example, e.g. speed humps) beginning south of Orakei Road's intersection with Ara Street and ending north of the Orakei intersections with Combes and Komaru Roads

3. Areas of No Parking At All Times to mitigate poor sight lines, implemented on the western side of Orakei Road beginning around 90 metres south of the intersection with Ara Street and ending on the northern side of the interaction with Combes and Komaru Roads.

50. Mr Churton commented on the proximity of the development to the Waiata Reserve access which is used by residents and their young families.
51. He also referenced various correspondence between the Council and the applicant noting that the Board cannot see anything that proves that the effects of such infill design on the receiving environment will be adequately mitigated visually at all. The Board considered that as the proposal builds to the external boundaries almost of the entire site it presents a very stark relationship to the reserve areas. He also advised that the Board is aware of the stormwater and wastewater catchment of this reserve area already being under strain and the addition of a further development of this scale and density will generate greater strain on that, which in their view was a clear adverse effect.
52. Overall, the Board's preference was that the proposal be re-submitted with a reduced number of units, generous setbacks from the reserve and more on-site parking and improved access ways.

Council Officers Reply

53. Mr Morgan led the officers reply. Mr Gandhi the Councils traffic engineer advised that he stood by his earlier assessment and that he was in support of the proposal subject to the proposed conditions.
54. Ms Georgia Pieri, the Council's urban design expert confirmed that she supported the proposal. She provided comment on the interface between the units and the reserve following a question from the Panel on that matter. In her opinion while there was a need for some boundary treatment to provided security that should not be to a degree that it created an adverse visual outcome.
55. Mr Morgan confirmed his recommendation to grant consent subject to conditions including additional conditions that emerged as being appropriate and/or necessary during the course of the hearing.

Applicant Reply

56. The applicant's right of reply was given by Mr Loutit.
57. Mr Loutit basically reiterated his earlier submissions and noted that the Board was not a submitter but was speaking under their powers under s15 of the LGA thus we needed to

take their comments in that context. In regard to Mr Churton's view that the proposal was 'pushing the boundaries' Mr Loutit referred us to the relevant objectives and policies for the zone noting the expectations therein in respect of a variety of housing forms. He said that subject to conditions the proposal was exactly what is expected under the AUP(OP) provisions. The proposal was acceptable in relation to urban design and traffic effects especially and that stemmed from the level of thought that the applicant had put into designing the proposal.

Principal issues in contention

58. After analysis of the application and evidence (including proposed mitigation measures), undertaking a site visit, reviewing the Council planning officer's recommendation report and concluding the hearing process, we find that the proposed activity essentially raises only one primary issue for consideration, being whether the proposal would give rise to unacceptable effects on the safety and efficiency of Orakei Road, including considerations for safe movements within the site itself, and in relation to:

- Sightlines along Orakei Road at the entry/ exit.
- The width of the access, including the passing bay.
- Management of the refuse area and the management of the textured drive surface; and
- Location and use of a convex mirror to enhance safety.

Main findings on the principal issues in contention

59. As noted, the primary issue in contention relates to the effects of the proposal on the safety and efficiency of Orakei Road and safety effects within the site. In this respect we note that the evidence of Mr Langwell was in general alignment with that of the Council's traffic specialist, Mr Gandhi. We were assisted by Mr Langwell, in particular, with respect to his clarification that the proposed passing bay within the access is additional to the requirements of the AUP(OP), where adequate visibility is available for on-coming traffic from within the site. Mr Langwell also confirmed his expert opinion that the exit/entry point and characteristics thereof was appropriate and did not raise any safety concerns. Mr Gandhi was of the same opinion. Additional plans provided for the hearing by Mr Novak also clarified that the refuse area would have a flat gradient to ensure that rubbish bins can be moved safely to the adjacent carparking area for collection. Messrs Langwell and Novak also acknowledged the likely benefit in adding a kerb along the raised part of the accessway to minimise the potential for vehicles to veer off into the adjacent landscape area, or into the adjacent reserve access, and this has been added into the updated conditions provided by the applicant following adjourning the hearing.

60. The applicant's witnesses also acknowledged the need for the proposed non-skid surface within the driveway to be maintained in perpetuity, and this was also added to the suggested conditions (*SUB60355212 Condition 40*)

61. As previously noted, Mr Churton was concerned at the provision for on-site parking, as measured against the theoretical occupancy levels which he said would lead to a total occupancy of some 102 persons. However, we do not consider that such conjecture aligns with the evidence that we heard from Messrs Gibbons/Clement, who cited examples of existing purchasers where occupancy was well below the five-person average suggested

by Mr Churton. We also consider that the proposed dwelling layouts do not lend themselves to such occupancy levels, being limited to two- and three-bedroom units. We further note that the AUP(OP) requires less parking than previous district plans, and while some households may have more than one vehicle, that is a matter that they will need to consider when deciding to purchase or occupy one of the units. Regardless, the proposed level of parking is compliant with the AUP(OP), and we have no discretion to require additional parking even were we to conclude that this was necessary.

62. The location and width of the passing bay was debated and having questioned Mr Langwell in particular on various aspects we conclude that the driveway and passing bay in particular are 'fit for purpose' and will be adequate. We note that the dominant proportion of traffic on the site will be regular users, noting that no visitor parks are provided on the site. We also explored in some detail the ability of the refuse area to be serviced easily by a suitable vehicle and noting Condition 33, requiring a Site Waste Management and Minimisation Plan, we are satisfied that the waste management aspects of the development can be satisfactorily managed.
63. As noted by Mr Loutit, the proposal is more or less compliant with the development control standards for the site noting coverage is only at 41.8% compared to the permitted activity standard of 40%. The driveway width is unchanged (from the existing) by the proposal but is non-compliant at 3.5m wide versus the 5.5m standard. The use of a passing bay, a concave mirror, and generally good visibility means that the driveway and car parking design is acceptable. The best location for the concave mirror was traversed a condition of consent is proposed which references a plan showing its location. We were satisfied by Mr Langwell's and Mr Gandhi's assessments noting that there was no fundamental disagreement between them. There was no other traffic related evidence that provided us with a contrary view.
64. Overall, we consider that the proposal is an appropriate development for the subject site
65. We have therefore adopted the recommended reasons for our decision that were set out in Mr Morgan's recommendation report, with some minor amendments. Those reasons therefore encapsulate our findings on the additional matters to be determined on these applications, notwithstanding that they were not identified as matters of contention for the hearing. We also adopt the conditions as provided by the applicant following the adjournment, subject to some minor amendments as necessary, and which we consider will address the potential adverse effects of the proposal and which fall within the scope of our discretion under sections 108 and 108AA.

Decision

In exercising our delegation under sections 34 and 34A of the RMA and having regard to the foregoing matters, sections 104, 104C and 108 and 108AA and Part 2 of the RMA, we determine that resource consent to remove the existing dwelling and ancillary structures and construct 19 terraced dwelling units, including earthworks, vehicle access, parking and landscaping is **granted** for the reasons and subject to the conditions set out below.

Reasons for the decision

1. The application is for restricted discretionary resource consent, and as such under s104C only those matters over which the Council has restricted its discretion have been considered. Those matters are:
 - H4.8.1(2) – four or more dwellings
 - H4.8.1(4) – for dwellings that do not comply with Standard H4.6.7 Yards
 - E12.8.1(1) – Land disturbance – District
 - E27.8.1(9) – any activity or development which infringes the standards for design of parking and loading areas or access under Standards E27.6.3, E27.6.4.3 and E27.6.4.4
 - E27.8.1(12) – construction or use of a vehicle crossing where a Vehicle Access Restriction applies under Standard E27.6.4.1(2) and Standard E27.6.4.1(3); and
 - C1.9(3) – Infringement of standards.
2. In accordance with an assessment under sections 104(1)(a) and (ab) of the RMA the actual and potential effects from the proposal will be acceptable as:
 - a. The proposed units have been designed to keep within the anticipated building envelope, with the exception of a minor building coverage exceedance (1.8 percent). Modulation, articulation and material variety has been effectively utilised within the design of the dwellings so to achieve an appearance that is consistent with the planned suburban character for the Residential – Mixed Housing Suburban (MHS) Zone.
 - b. In terms of bulk and visual dominance, the proposed units will be grouped and separated to avoid long, continuous buildings as viewed from neighbouring residential sites. The nature of the topography in the area will also mean that the units will generally sit at a lower elevation in relation to neighbouring outlooks and outdoor living spaces. As noted above, the built form will comply with HIRB recession planes and yard setbacks as it relates to neighbouring residential sites, and when combined with the modulation, articulation, and material variety afforded, will ensure that the proposed bulk is effectively broken-up. Further, proposed boundary landscaping, including Kowhai trees, hedging and climbers, will aid in screening and contrasting the development.
 - c. As the proposal relates to Waiata Reserve, the proposed units will provide for an interactive frontage, with outdoor living spaces and outlooks orientated towards the reserve, while maintaining an appearance appropriate for the zone. The units and retaining walls, which have limited heights, will be separated from the public footpath traversing the valley by a minimum of ~100m, while the public access strip to the south is a thoroughfare and will be occupied temporary for short periods, ensuring any visual dominance effects will be within acceptable levels.

- d. With respect to shading, any effects on neighbouring sites will be within acceptable levels, noting that the units fully comply with the HIRB recession planes; are generally situated at a lower elevation in relation to neighbouring outdoor living spaces and outlooks; or are located south of neighbouring sites.
- e. In terms of privacy, as above, the proposed units comply with the HIRB recession planes and are situated at a lower elevation in relation to neighbouring sites. Notwithstanding, any upper-level outlooks will be from bedrooms or bathrooms, which are unlikely to be occupied frequently or for extended periods and will be well-separated or offset in relation to neighbouring habitable rooms and outdoor living spaces.
- f. All proposed units are large in size and have direct access to adequately sized and functional outdoor living space which has access to sunlight throughout the day, in addition to access being provided into Waiata Reserve. The proposed landscaping scheme and depth of outlooks will ensure that a spacious setting and level of green amenity that is appropriate within the MHS Zone is achieved.
- g. The proposal accommodates sufficiently safe and legible pedestrian movement throughout the site, noting the provision of a demarcated pedestrian access and lighting and wayfinding signage to be provided under condition of consent, ensuring acceptable safety effects in this regard.
- h. The proposed dwellings are appropriately serviced by wastewater and stormwater infrastructure and will connect to the water reticulation system. The public wastewater network has the capacity to cope with the increase in usage, while the proposed detention tanks will ensure the public stormwater network capacity will not be exceeded with discharge managed to an acceptable level.
- i. The proposed earthworks will be temporary in nature and are deemed to be necessary in order to enable the development. Ongoing and temporary instability, noise, odour, lighting and traffic effects relating to the earthworks and construction activities on neighbouring sites and the wider environment will be appropriately managed and mitigated, with finalising Construction Management and Construction Traffic Management Plans to be provided under conditions of consent for certification.
- j. The provided geotechnical report has not detected any instability on the site or reasons why the site should not be developed; however, given the level of cut earthworks proposed and the nature of the soil, site recommendations have been provided to avoid any instability of the site and adjacent land.
- k. With respect to onsite amenity, the proposed cut retaining walls will be located and separated from the proposed outlooks to ensure internal dominance and amenity effects are acceptable, noting also the proposed landscaping soften the walls.
- l. The proposed parking arrangement will provide for adequate manoeuvring depths and gradients, ensuring that vehicles can turn on-site in a safe and reasonably efficient manner to exit the site in a forward motion. A convex mirror will ensure clear sightlines are provided along the access. High-friction surfacing within the driveway will ensure that all vehicle types can safely traverse the access and stop

before reaching the footpath, while an adequately dimensioned passing bay will ensure vehicles have an opportunity to pass one-another, avoiding the need to reverse back onto the road or into the parking area.

- m. In terms of effects on the functioning and safety of the wider transport network, no underlying safety issues have been identified and it has been demonstrated that there are clear sight distances in both directions at the road boundary, ensuring exiting vehicles can observe oncoming pedestrian and vehicle traffic. The provision of the passing bay, in addition to Ara Street being governed by a stop sign, means that the impact of additional vehicle trips (average of 10 during peak hours) will be within acceptable levels.
 - n. In terms of positive effects, an additional 18 dwellings will be added to the Auckland Region housing supply.
 - o. With reference to s104(1)(ab), there are no specific offsetting or environmental compensation measures proposed or agreed to by the applicant to ensure positive effects on the environment and/or within the relevant matters of discretion.
3. In accordance with an assessment under s104(1)(b) of the RMA the proposal is consistent with the relevant statutory documents, insofar as they relate to the matters over which discretion is restricted. In particular:

H4.2 Objectives, H4.3 Policies and H4.8.2 Assessment criteria – Residential – Mixed Housing Suburban Zone

- o The zone provides for a variety of forms, of which terraced housing falls under, and anticipates development to include “two storey detached and attached housing”, which the proposed development is consistent with. The height, bulk and form is limited so to generally keep within the anticipated building envelope, and while the overall building coverage exceeds the maximum for the zone by 1.8 percent, the proposed units are designed and located to avoid any long, continuous and blank stretches of building as it relates to neighbouring sites. The development will have a high-quality appearance that is suitable for the MHS Zone, noting the modulation, articulation, material variety and landscaping of the dwellings as described above.
- o The proposed units generally keep within the anticipated building envelope, are well-modulated and articulated, and are situated at a lower topography compared to neighbouring sites. Accordingly, the development will maintain a reasonable standard of sunlight and privacy to adjoining sites, while effectively minimising visual dominance effects.
- o All proposed units will have access to full-depth outlooks and adequately sized and functional outdoor living spaces, while maintaining an appropriate level of privacy between units, noting the proposed partition fencing and the avoidance of principal outlooks facing adjacent habitable rooms. The proposed units will have living rooms orientated to the north or west, ensuring occupants will have appropriate access to sunlight.
- o Impervious surfaces will be restricted so to ensure that stormwater runoff generated by the site will be drained to the public network via detention tanks or accommodated

by proposed pervious paving, ensuring adverse effects on water quality and quantity are avoided. The proposed planting scheme, including boundary planting, will contrast the paved areas, themselves of which will vary in terms of colour and finish, ensuring adverse effects relating to amenity are adequately mitigated.

- With respect to pedestrian safety and access, a demarcated strip is provided within the access that connects to the internal pathways, of which vehicles will have clear sightlines over, noting the convex mirror proposed. The internal pathway providing access to Units 1-13 is of an adequate width to accommodate efficient pedestrian movement and will be bounded by the proposed units' kitchen windows, ensuring a sense of passive overlooking, and retaining walls limited to 1.5m in height and covered by climbers, mitigating any sense of dominance. Lighting will also be provided along the entrance strip and within the site, with a final plan to be provided to Council for approval under condition of consent.
- The windows of the proposed units will be located and orientated to optimise privacy, cross ventilation and daylight and sunlight access. The windows of the principal living rooms will be orientated to the north or west and will not look into rooms of other proposed units. Relative to the size of the windows, the dwelling floor space will ensure sufficient daylight and sunlight penetration. Each unit will provide adequate and accessible storage.
- Future residents' accessibility to the proposed waste enclosure will be acceptable, noting that rubbish can be deposited when accessing the carpark to leave the site. The bins will be screened from public view via max. 1.8m high fencing.
- There is adequate capacity within the public water supply and wastewater networks to cater to, the development, while detention tanks are proposed to mitigate flows into the stormwater network.

E12.2 Objectives, E12.3 Policies and E12.8.2 Assessment criteria – Land disturbance – District

- The proposal includes measures to ensure the land disturbance required for the development protects the safety of people and will not result in sediment run-off to the surrounding area, or instability on adjacent site or the wider environment, avoiding adverse effects on the stormwater system and natural environment and avoiding subsidence on other sites. Appropriate measures will be taken to manage and mitigate noise, odour, dust, lighting and traffic effects resulting from the construction activity.

E27.2 Objectives, E27.3 Policies and E27.8.2 Assessment criteria – Transport

- The proposed access and parking arrangement will be designed to provide for safe, effective and efficient movement to and from the road. The proposed parking and access gradients are workable and adequate manoeuvring aisles are provided. A convex mirror will ensure adequate internal sightlines and a passing bay will allow for oncoming vehicles to safely pass one-another. Adequate sight distances are available at the site boundary and high-friction surfacing will be provided within the

driveway, ensuring potential conflicts between vehicles, pedestrians and cyclists are minimised.

- The increase in vehicle trips generated by the proposal (average of 10 during peak hours), in combination with the adequate sight distances and passing bay, will ensure the transport network can continue to function in an effective, efficient and safe manner. No alternative access point is feasible for the proposed development.
4. As a restricted discretionary activity, the other matters that can be considered under s104(1)(c) of the RMA must relate to the matters of discretion restricted under the plan. In this case, no other matters are considered to be relevant.
 5. In the context of this restricted discretionary activity application for land use, where the relevant objectives and policies and matters for discretion in the relevant statutory documents were prepared having regard to Part 2 of the RMA, they capture all relevant planning considerations and contain a coherent set of policies designed to achieve clear environmental outcomes. They also provide a clear framework for assessing all relevant potential effects and there is no need to go beyond these provisions and look to Part 2 in making this decision as an assessment against Part 2 would not add anything to the evaluative exercise.
 6. Overall, the proposal is consistent with the relevant statutory documents and legislation and will result in acceptable or adequately mitigated effects on the environment.

Conditions

Under sections 108 and 108AA of the RMA, this consent is subject to the following conditions:

1. This consent shall be carried out in accordance with the documents and drawings and all supporting additional information submitted with the application, detailed below, and all referenced by the Council as resource consent number LUC60355039.
 - Application Form and Assessment of Environmental Effects prepared by Vijay Lala, of Tattico Limited, dated March 2020
 - Section 92 response letter by Vijay Lala of Tattico, dated 16 April 2020
 - Section 92 response letters by Simon Novak of Novak+Middleton, dated 23 April 2020 and 13 May 2020
 - Section 92 response letter by Todd Langwell of Traffic Planning Consultants, dated 23 April 2020
 - Section 92 response letter by Fiona Lawrence of Green Gorilla, dated 17.04.2020
 - Section 92 response letters by James Kim of Maven Associates, dated 22 April 2020 and 15 May 2020: and
 - Section 92 response emails by Vijay Lala of Tattico Limited, dated 15.04.2020, 17.04.2020, 29.04.2020, 5.05.2020, 13.05.2020, 19.05.2020 and 26.05.2020.

Report title and reference	Author	Rev	Dated
Infrastructure Report, Ref: 109009	Maven Associates	B	March 2020
Stormwater Modelling Report, Ref: 109009	Maven Associates	C	15.05.20
Geotechnical Investigation Report, Ref: AKL2020-0006AD	CMW Geosciences	1	12 March 2020
Geotechnical Investigation Report – Second Stage, Ref: AKL2020-0006AD	CMW Geosciences	1	19 May 2020
Traffic Impact Assessment, Ref: 19668	Traffic Planning Consultants Ltd	B	13.03.2020
Remuera Townhouses SCH01 Soft Landscape Specification, Ref: 2001-1112	Local Landscape Architecture Collective	A	10 March 2020
Site Waste Management & Minimisation Plan 78 Orakei Road	Green Gorilla	-	05.05.2020

Drawing title and reference	Author	Rev	Dated
Plans as listed on 'Cover, Drawing No. RC-01/5	Novak+Middleton	-	14.07.2020
Topographical Survey Plan, Drawing No. C050	Maven Associates	B	01/20
Proposed Concept Plan, Drawing No. C100	Maven Associates	D	05/20
Proposed Earthworks Plan, Drawing No. C200	Maven Associates	D	05/20
Proposed Earthworks Plan, Drawing No. C201	Maven Associates	C	05/20
Proposed Sediment Control Standard Details, Drawing No. C202	Maven Associates	C	05/20
Proposed Sediment Control Standard Details, Drawing No. C203	Maven Associates	C	05/20
Proposed Sediment Control Standard Details, Drawing No. C204	Maven Associates	C	05/20
Proposed Retaining Plan, Drawing No. C270	Maven Associates	A	03/20
Proposed Roding Plan, Drawing No. C300	Maven Associates	B	05/20
Proposed Roding Details, Drawing No. C301	Maven Associates	A	03/20
Proposed Stormwater Plan, Drawing No. C400	Maven Associates	G	05/20

Proposed Stormwater Longsection, Drawing No. C410	Maven Associates	E	05/20
Proposed Stormwater Longsection, Drawing No. C411	Maven Associates	E	05/20
Proposed Accessway Private Stormwater Plan, Drawing No. C420	Maven Associates	A	05/20
Proposed Detention Tank Section, Drawing No. C421	Maven Associates	A	05/20
Proposed Wastewater Plan, Drawing No. C500	Maven Associates	E	05/20
Proposed Wastewater Longsection, Drawing No. C510	Maven Associates	D	05/20
Proposed Wastewater Longsection, Drawing No. C511	Maven Associates	C	04/20
Proposed Water Supply and Service Overview, Drawing No. C600	Maven Associates	C	04/20
Proposed Water Supply and Service Plan, Drawing No. C600	Maven Associates	C	04/20
Reference Plan, Drawing No. LA1.00	Local Landscape Architecture Collective	D	24.04.20
Tree Planting Plan, Drawing No. LA1.10	Local Landscape Architecture Collective	D	24.04.20
Planting Plan 01, Drawing No. LA1.20	Local Landscape Architecture Collective	C	24.04.20
Planting Plan 02, Drawing No. LA1.21	Local Landscape Architecture Collective	C	24.04.20
Planting Plan 03, Drawing No. LA1.22	Local Landscape Architecture Collective	C	24.04.20
Planting Plan 04, Drawing No. LA1.20	Local Landscape Architecture Collective	C	24.04.20
Planting Plan 05, Drawing No. LA1.20	Local Landscape Architecture Collective	B	24.04.20
Planting Plan 06, Drawing No. LA1.20	Local Landscape Architecture Collective	C	24.04.20

Planting Details, Drawing No. LA2.00	Local Landscape Architecture Collective	A	10.03.20
Planting Schedule, Drawing No. LA3.00	Local Landscape Architecture Collective	C	24.04.20

2. Under section 125 of the RMA, this consent lapses five years after the date it is granted unless:
 - a. The consent is given effect to; or
 - b. The Council extends the period after which the consent lapses.
3. The consent holder shall pay the Council an initial consent compliance monitoring charge of \$1,005 (inclusive of GST), plus any further monitoring charge or charges to recover the actual and reasonable costs incurred to ensure compliance with the conditions attached to this consent.

Advice note:

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

Pre-commencement conditions

Architectural Design Plans:

4. Prior to the lodgement of Building Consent for the dwellings, a finalised set of architectural detail drawings and materials specifications shall be submitted to Council for written certification by Council's Team Leader Monitoring – Central. The information shall include the following:
 - (a) details of the building's façade treatment / architectural features; and
 - (b) materials schedule and specification, sample palette of materials, surface finishes, and colour schemes (including colour swatches) referenced on the architectural elevations.

The finalised set of drawings shall ensure that the building's proposed architectural treatment and finished appearance is consistent with the plans and information referenced at condition 1.

All works shall then be carried out with the details certified by council, and thereafter retained and maintained, to the satisfaction of Council's Team Leader Monitoring - Central.

Advice Note:

As part of the condition monitoring process, Council's monitoring inspectors will liaise with members of the Council's Auckland Design Office to ensure that the submitted details are consistent with the approved plans and information.

Wayfinding signage

5. Prior to commencement of any work on site, except for demolition, earthworks, drainage, foundations and retaining (i.e. prior to the approval of Building Consent for the dwellings), the consent holder shall provide detailed information to illustrate the finalised design details of the proposed wayfinding signage, including the proposed locations, dimensions, colours, materials, and surface finishes. The finalised design details certified by Council shall be established prior to the development hereby consented being first occupied, and thereafter retained and maintained, to the satisfaction of Council's Team Leader Compliance Monitoring – Central.

Advice note:

As part of the certification process, Council's monitoring officers will liaise with members of the Council's Auckland Design Office to ensure that the proposed signage contributes positively to pedestrian wayfinding and unit legibility.

Lighting plans

6. Prior to the lodgement of Building Consent for the dwellings, the consent holder shall provide a lighting plan and certification/specifications prepared by a qualified lighting engineer, to Council's Team Leader Compliance Monitoring – Central. The purpose of this condition is to provide adequate lighting for the safety of people residing, working or visiting the premises and the accessway and its immediate environs outside of daylight hours.

The lighting plan shall:

- (a) include all accessible areas of the premises where movement of people are expected. Such locations include, but are not limited to the shared driveway, carpark, pedestrian routes, building entrances and communal refuse storage areas.
- (b) include proposed locations, lux levels and types of lighting (i.e. manufacturer's specifications once a lighting style has been determined) and any light support structures required to control timing, level of lighting, or to minimise light spill, glare, and loss of night time viewing.
- (c) Demonstrate compliance with the relevant standards in E24.6.1 Lighting of the Auckland Unitary Plan (Operative in Part).
- (d) Demonstrate compliance with the AS/NZS 1158 P requirements and clearly specify what P Category the lighting design will achieve. The selection criteria for the chosen lighting category should also be presented (i.e. pedestrian/cycle activity, risk of crime etc.).

- (e) Include an executive summary of the above information in plain English that outlines the relevant requirements to their application and their design response to them.

The finalised design details certified by the qualified lighting engineer shall be established prior to the development hereby consented being first occupied, and thereafter retained and maintained, to the satisfaction of Council's Team Leader Compliance Monitoring – Central.

Advice Note:

The purpose of this condition is to ensure that adequate lighting is provided to frequently used areas within the proposed development for the safety of users. Adequate lighting is the amount of lighting at eye level for a person with average eyesight so they can identify any potential threat approaching them from at least a 15-metre distance.

Finalised landscape design drawings, specifications and maintenance requirements

- 7. Prior to the commencement of any work on site, except for demolition, earthworks, drainage, foundations and retaining, the consent holder shall provide to the Council's Team Leader Compliance Monitoring – Central for approval, a finalised set of detailed landscape design drawings and supporting written documentation which have been prepared by a landscape architect or suitably qualified professional. The submitted information shall be consistent with the consented landscape concept plan(s) and architectural plans listed in condition 1 and, at a minimum, shall include landscape design drawings, specifications and maintenance requirements including:
 - (a) An annotated planting plan(s) which communicate the proposed location and extent of all areas of planting, including any revegetation, reinstatement planting, mitigation planting and natural revegetation (if relevant)
 - (b) Annotated cross-sections and/or design details with key dimensions to illustrate that adequate widths and depths are provided for planter boxes / garden beds
 - (c) A plant schedule based on the submitted planting plan(s) which details specific plant species, plant sourcing, the number of plants, height and/or grade (litre) / Pb size at time of planting, and estimated height / canopy spread at maturity
 - (d) Details of draft specification documentation for any specific drainage, soil preparation, tree pits, staking, irrigation and mulching requirements
 - (e) An annotated pavement plan and related specifications, detailing proposed site levels and the materiality and colour of all proposed hard surfacing the finished details of concrete banding (treatment and oxide). Exposed aggregate and brushed concrete - both treated with a darker oxide,
 - (f) Details of the proposed retaining and hedge along the boundary with Waiata Reserve for units 1 to 13, which confirms the combined height of the retaining and hedge shall not exceed 1.5m in height above the Waiata Reserve ground level at the common site boundary at any time.

- (g) A landscape maintenance plan (report) and related drawings and specifications for all aspects of the finalised landscape design, including in relation to the following requirements:
- i. Irrigation
 - ii. Weed and pest control
 - iii. Plant replacement
 - iv. Inspection timeframes
 - v. Contractor responsibilities
 - vi. Maintenance and replacement planting methodologies to ensure the combined height of the retaining and hedge shall not exceed 1.5m in height above the Waiata reserve ground level measured at the common site boundary (between the application site and Waiata Reserve) at any time.

The finalised landscape design shall be consistent with the landscape design intent / objectives identified in the conceptual plans and information referenced at condition 1 and confirm responsibilities for ongoing maintenance requirements.

Advice Note:

It is recommended that the consent holder consider a minimum three-year management / maintenance programme for plant establishment and provide, in particular, details of maintenance methodology and frequency, allowance for fertilising, weed removal / spraying, replacement of plants, including specimen trees in case plants are severely damaged / die over the first five years of the planting being established and watering to maintain soil moisture. As part of the approval process, the council's monitoring team will liaise with landscape architects from the council's Auckland Design Office to ensure that the submitted drawings and related information are consistent with the originally consented landscape concept plan(s).

Finalised Construction Management Plan

8. The Consent Holder shall submit a finalised Construction Management Plan (CMP) to Team Leader Compliance Monitoring – Central at least two weeks prior to any works commencing on site. The CMP shall specify construction timetable, construction methods, general site management, site reinstatement upon completion of works, and shall be certified by the Team Leader Compliance Monitoring – Central.

Finalised Construction Traffic Management Plan

9. Prior to the commencement of construction or demolition works, the consent holder shall submit a detailed Construction Traffic Management Plan (CTMP) to Auckland Council for certification, in consultation with Auckland Transport. The CTMP shall include the following aspects of the construction process:
- (a) Provide hours of work, staging of the development and construction period.

- (b) Provide parking management plan for visitors and construction traffic.
- (c) Provide location of loading / working areas.
- (d) Construction loading or unloading from the street is to be permitted only with the approval of Auckland Transport.
- (e) Truck operation time including picking up and dropping off machinery shall be limited to between 9am and 4pm on Monday to Friday.
- (f) The CTMP is to prohibit truck and trailer deliveries to or from the site from 7am to 9am and 4pm to 6pm on weekdays.
- (g) Provide cleaning facilities within the site to thoroughly clean all vehicles prior to exit to prevent mud or other excavated material from being dropped on the road. In the event that material is dropped on the road resources should be on hand to clean-up as soon as possible.
- (h) The CTMP needs to address the transportation and parking of oversize vehicles such as cranes.
- (i) Provide traffic management plans in compliance with the latest edition of the NZTA “Code of Practice for Temporary Traffic Management” (COPTTM) document.
- (j) Provide pedestrian management plan including temporary pedestrian routes which must be easily traversable, well-marked and safely separated from moving vehicles.
- (k) The site access point must be clearly signposted and ensuring that access to neighbouring properties is not compromised.

Pre-Start Meeting

10. Prior to the commencement of work, the consent holder shall hold a pre-start meeting that:

- (a) is located on the subject site
- (b) is scheduled not less than 5 days before the anticipated commencement of activity
- (c) includes Auckland Council Monitoring Inspector and Development Engineer Central
- (d) includes the consent holder’s agent and/or engineer/surveyor responsible for ‘signing off’ completion of works in accordance with this resource consent.
- (e) includes representation from the contractors who will undertake the works

The following information shall be made available at the pre-start meeting:

- (i) Resource consent conditions

- (ii) Engineering Plan Approval
- (iii) Erosion Sediment control plans
- (iv) Construction Management Plan
- (v) Approved Temporary Traffic Management Plan
- (vi) Construction Traffic Management Plan

Advice Note:

To arrange the pre-start meeting, required by condition above, please contact Council's Central Monitoring Team (monitoring@aucklandcouncil.govt.nz).

11. Prior to the commencement of any earthworks, the Team Leader Compliance Monitoring – Central, shall be provided with written certification from a suitably qualified professional that all permanent earth bunds, retaining walls, and building foundations have been designed in accordance with the approved plans, Geotechnical investigation report, prepared by CMW Geosciences, Ref: AKL2020-006AD, Rev 1 and dated: 19 May 2020. Written certification shall be in the form of a report, or any other form acceptable to the Council.

Development in progress conditions

Specific foundation design

12. Any proposed residential buildings to be constructed on the lot shall have foundations (including any ancillary structures) specifically designed by a Suitably Qualified Professional in accordance with the recommendation contained in the Geotechnical investigation report prepared by CMW Geosciences, Ref: AKL2020-006AB, Rev 1, dated: 12 March 2020.

Land stability and retaining walls

13. The proposed earthworks including the retaining wall works shall be undertaken as per the recommendation provided by the Geotechnical Investigation Reports prepared by CMW Geosciences, Ref: AKL2020-006AB, Rev 1, dated: 12 March 2020 and Ref: AKL2020-006AD, Rev 1, dated: 19 May 2020 and also in a manner which ensures that the land within the site, and on adjoining properties, remain stable at all times. In this regard.
- a) The consent holder shall employ a CPEng qualified Engineer, Registered Professional Surveyor or other suitably qualified person acceptable to Council to investigate, direct and supervise all construction works, particularly in close proximity to neighbouring properties/ road reserve to ensure that an appropriate design and construction methodology is carried out to maintain the short and long-term stability of the site and surrounds.
 - b) All retaining walls and/or temporary stabilizing works shall be constructed in a timely manner under engineering supervision. The consent holder shall ensure that all necessary design/approvals for retaining walls are obtained and that sufficient

resources are available to construct the required retaining walls, as directed by the engineer, prior to commencement of any significant excavation works.

Advice Note:

A Building Consent is required for (structures, retaining walls, private drainage, demolitions etc) unless exempted under Schedule 1 of the Building Act 2004.

- c) All earthworks shall be managed to ensure that they do not lead to any uncontrolled instability or collapse affecting either the site or adversely affecting any neighbouring properties. In the event that such collapse or instability does occur, it shall immediately be rectified.
- d) The Consent Holder shall provide an engineer's work method written by a suitably qualified geotechnical engineer or engineering geologist for the contractor to undertake the earthworks. The work method statement shall include excavation time frames, temporary propping/weatherproofing and/or sequencing of boundary works. This shall be required to ensure boundary stability is maintained throughout the civil works stage of the development. The work method shall be provided in writing to the satisfaction of the Team Leader Compliance Monitoring – Central at least two weeks prior to earthworks commencing on site. No works onsite are permitted prior to written approval that the engineer's work method has been reviewed and accepted by the Team Leader Compliance Monitoring – Central.
- e) Certification from a suitably qualified engineering professional responsible for supervising the works shall be provided to the Team Leader Compliance Monitoring – Central, confirming that the works have been completed in general accordance with Construction Management Plan / Original Geotechnical Assessment within ten (10) working days following completion. Written certification shall be in the form of a report or letter acceptable to Council.

Earthworks

- 14. All earthworks shall be managed to ensure that no debris, soil, silt, sediment or sediment-laden water is discharged beyond the subject site to either land, stormwater drainage systems, watercourses or receiving waters. In the event that a discharge occurs, works shall cease immediately, and the discharge shall be mitigated and/or rectified to the satisfaction of the Team Leader Compliance Monitoring – Central.
- 15. There shall be no deposition of earth, mud, dirt or other debris on any public road or footpath resulting from earthworks activity on the subject site. In the event that such deposition does occur, it shall immediately be removed. In no instance shall roads or footpaths be washed down with water without appropriate erosion and sediment control measures in place to prevent contamination of the stormwater drainage system, watercourses or receiving waters.

Advice Note:

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

- *provision of a stabilised entry and exit point for vehicles*
- *provision of wheel wash facilities*
- *ceasing of vehicle movement until materials are removed*
- *cleaning of road surfaces using street-sweepers*
- *silt and sediment traps*

In no circumstances should the washing of deposited materials into drains be advised or otherwise condoned.

16. The use of noise generating motorised equipment and vehicles associated with all earthworks and construction activities on the subject site shall be restricted to between the hours 7am to 7pm, Monday to Saturday inclusive. There shall be no operation of noise-generating, motorised equipment and vehicles associated with the activity on the subject site on Sundays or Public Holidays.

Ensure construction and earthworks activities do not obstruct access.

17. There shall be no obstruction of access to public footpaths, berms, private properties, public services/utilities, or public reserves resulting from the construction and earthworks activity, except where reinstatement of the vehicle crossing is required. All materials and equipment shall be stored within the subject site's boundaries.

Ensure effectiveness of sediment and erosion controls

18. The operational effectiveness and efficiency of all erosion and sediment control measures specifically required as a condition of resource consent or by the approved Erosion and Sediment Control Plan shall be maintained throughout the duration of earthworks activity, or until the site is permanently stabilised against erosion. A record of any maintenance work shall be kept and be supplied to the Team Leader Compliance Monitoring – Central on request.

Surveyor roof framing check

19. No building works shall proceed beyond the roof framing stage for dwellings 13 and 17 until a registered surveyor or licensed cadastral surveyor, engaged by the consent holder, has provided written certification to the Team Leader Compliance Monitoring – Central that the works completed:
- have been completed in accordance with the approved plans as referred to in Condition 1 of this consent.

Advice Note:

The purposes of certification at the roof framing stage of construction are to:

- *provide assurance that the building works, to that point, have been undertaken in accordance with the consent; and*
- *reduce the risk of non-compliance as the works are completed.*

Written certification should include the following:

- *the finished ground level is clearly marked on the subject site.*
- *the relevant consent reference number and site address.*
- *levels, calculations, plans and drawings of the structure(s) that are the subject of certification; and*
- *the quantification of the extent of any breach, infringement or non-compliance identified at the time of survey, where this has occurred.*

Written certification is to be provided directly to the officer specified in this condition.

Public stormwater

20. Prior to occupation of the proposed dwellings the consent holder shall ensure that all the necessary pipes and ancillary equipment are supplied and laid to extend the public stormwater system to the subject site. Separate stormwater connections shall be provided for all proposed dwellings.

Advice Note:

An Engineering Plan Approval application for this work is required to be submitted to Auckland Council's Development Engineering and approved prior to the works commencing.

Any existing private stormwater connections for 80, 82 and 84 Orakei Road shall be re-directed towards the new public stormwater system. An Engineering Approval Completion Certificate certifying that all public stormwater pipes and individual stormwater connections have been constructed in accordance with the approved Engineering Plan and the Council's Code of Practice for Land Development and Subdivision – Chapter 4: Stormwater shall be provided prior to occupation of the dwellings.

Public wastewater

21. Prior to occupation of the proposed dwellings the consent holder shall ensure that all necessary pipes and ancillary equipment are supplied and laid to extend the public wastewater system to service proposed development. Separate public wastewater connections shall be provided for all proposed dwellings.

Advice Note:

An Engineering Plan Approval application for this work is required to be submitted to Auckland Council's Development Engineering and approved prior to the works commencing.

The exact location of the existing private wastewater connection serving 84A Orakei Road shall be confirmed as part of this development. Certified as-built shall be provided as part of the 224c application to confirm compliance. Existing private wastewater connection for 80 Orakei Road shall be made public as part of this development. Engineering Approval Completion Certificate (EACC) shall be provided prior to occupation of the dwellings.

Water

22. The consent holder shall provide private water pipes to service all proposed dwellings in accordance with Watercare Code of Practice for Land Development and Subdivision.

Permeable pavement

23. Prior to the occupation of the dwellings, the parking area with permeable paving shall be constructed in accordance with Auckland Council Guideline Document GD2017/001, C2 Pervious Pavements and approved plans; and thereafter maintained to ensure the free flow of stormwater through the paving to the satisfaction of the Team Leader Compliance Monitoring – Central. Impermeable liner under the pavement shall be provided to ensure even distribution of water.

An installation certificate shall be provided to the Team Leader Compliance Monitoring - Central prior to occupation of the dwellings.

Advice Note:

The correct design of the permeable paving will be contingent on the exact soil type in each location where permeable paving is to be used.

Private stormwater mitigation

24. Stormwater disposal from all proposed impervious areas (buildings and driveway areas) shall be managed through stormwater management devices, appropriate to the size of dwellings and capable of attenuating runoff from all the associated impervious areas. The tank(s) must be designed to ensure it/they limit stormwater discharge on the 1 in 10-year ARI design rainfall event to pre-development flow condition.

- (a) The stormwater management system shall be completed in general accordance with the Stormwater Modelling Report, prepared by Maven Associates, ref: 109009, Rev C and dated 15 May 2020.
- (b) The Stormwater management device shall be fully operational prior to occupation of the dwellings.
- (c) The Stormwater management device shall be operated and maintained in accordance with the best practice for the device.
- (d) Certification by Registered Professional Engineer shall be submitted to the Team Leader Compliance Monitoring – Central for compliance of the above condition. This condition shall be complied with on a continuing basis and shall be recorded on Council's Property Characteristics, both at no cost to the Council.

Advice Note:

A Building Consent is required for private drainage unless exempted under Schedule 1 of the Building Act 2004. A copy of design, location, calculation and details of the detention tanks shall be provided at Building Consent stage.

Post-construction conditions

Access, parking and manoeuvring areas

25. Prior to the occupation of the residential units, all access, parking and manoeuvring areas shall be formed, sealed with an all-weather surface and drained in accordance with the approved plans to the satisfaction of the Team Leader Compliance Monitoring – Central.
26. Prior to the occupation of residential units, the 19 required residential car parking spaces shall be marked and/or identified through signage to the satisfaction of the Team Leader Compliance Monitoring – Central.
27. Prior to the occupation of the residential units, the consent holder shall provide and maintain high friction surface in the localised widened area (where access is widened to allow for passing), to the satisfaction of the Team Leader Compliance Monitoring – Central.
28. Prior to occupation of the residential units, the accessway shall be formed with a kerb or nib along both the northern and southern edges to prevent vehicles from driving off the edge of the accessway.
29. No gate shall be erected at the site boundary or at any point along the accessway to the site.

Lighting

30. Prior to the occupation of the residential units, the consent holder shall install the lighting approved as part of the Lighting Plan certified under condition 6 on this consent.

Convex mirror

31. Prior to the occupation of the residential units, the consent holder shall install and thereafter maintain a convex mirror 600mm in diameter and installed at the location specified on the plan titled 'Driveway, Drawing (RC-03/4)' which is included as part of the Novak and Middleton Plans referenced in condition 1 of this consent.

Implementation and maintenance of approved landscape design

32. Following completion of the works and within an appropriate planting season, the consent holder shall implement the landscape design which has been approved by the Council under condition 7 and thereafter retain and maintain this landscape (planting, pavement and street furniture) for the duration of the consented development, to the satisfaction of the Team Leader Compliance Monitoring – Central and in accordance with the maintenance plan which has been approved under condition 7.

Refuse management

33. Refuse storage and disposal shall occur from the proposed rubbish area as identified on the plan title 'Driveway, Drawing RC-03/4', in accordance with Site Waste Management and Minimisation Plan and Section 92 Response from Green Gorilla, both referenced in condition 1. In particular, refuse collection and operations shall be undertaken by private contractor:

- (a) Twice weekly;

- (b) In compliance with the Ventilation, Washing, Vermin Control, Aesthetics and Noise Control requirements set out in section 2.4 of the Site Waste Management and Minimisation Plan.
 - (c) Between 9am to 4pm weekdays; and
 - (d) Undertake monthly cleaning of the refuse area.
34. The refuse area shall be no higher than 1.1m above existing ground level at its eastern end and shall include a trellis roof over its entire area.
35. Emptying of refuse and recycling into the refuse area shall be prohibited from 10pm until 6am the following day, seven days a week. The door to the refuse area shall include signage that advises all persons that the emptying of refuse and recycling into the refuse area is prohibited from 10pm until 6am the following day, seven days a week.

Fence types and heights

36. Any future fencing for Dwellings 1-13 along the common boundary with Waiata Reserve shall be limited to pool-style fencing, or other visually permeable fence styles, and shall not exceed 1m in height above ground level (inclusive of retaining wall).

Noise limits

37. Noise from the development (excluding construction related noise, which shall comply with the relevant AUP construction noise standards) shall not exceed the following limits when measured at or on the boundary of the subject site/boundary of the nearest affected property(ies), namely 80 and 82 Orakei Road:
- (a) 50dB L_{Aeq} between 7am and 10pm Monday to Saturday inclusive
 - (b) 50dB L_{Aeq} between 9am and 6pm on Sunday
 - (c) 40dB L_{Aeq} and 75dB L_{AFmax} at all other times, and at any time on all public holidays (and any following Monday on which that public holiday is observed).

Advice Note:

The levels for the daytime hours in Table E25.6.2.1 Noise levels in residential zones may be exceeded by intermittent noise for reasonable periods where that noise is associated with normal household activities, such as lawn mowing or home handyman work.

Advice notes

1. Any reference to number of days within this decision refers to working days as defined in s2 of the RMA.
2. For the purpose of compliance with the conditions of consent, “the council” refers to the council’s monitoring inspector unless otherwise specified. Please email monitoring@aucklandcouncil.govt.nz to identify your allocated officer.

3. For more information on the resource consent process with Auckland Council see the council's website: www.aucklandcouncil.govt.nz. General information on resource consents, including making an application to vary or cancel consent conditions can be found on the Ministry for the Environment's website: www.mfe.govt.nz.
4. If you disagree with any of the above conditions, and/or disagree with the additional charges relating to the processing of the application(s), you have a right of objection pursuant to sections 357A and/or 357B of the Resource Management Act 1991. Any objection must be made in writing to the council within 15 working days of your receipt of this decision (for s357A) or receipt of the council invoice (for s357B).
5. The consent holder is responsible for obtaining all other necessary consents, permits, and licences, including those under the Building Act 2004, and the Heritage New Zealand Pouhere Taonga Act 2014. This consent does not remove the need to comply with all other applicable Acts (including the Property Law Act 2007 and the Health and Safety at Work Act 2015), regulations, relevant Bylaws, and rules of law. This consent does not constitute building consent approval. Please check whether a building consent is required under the Building Act 2004.

Vehicle crossing

6. Should the existing vehicle crossing be damaged during construction, the consent holder will be required to reconstruct the crossing to current Auckland Transport standards. A vehicle crossing permit will be required to be obtained from Auckland Transport prior to any reconstruction. See Auckland Transport's website <https://at.govt.nz/about-us/working-on-the-road/vehicle-crossing-application/> for more information.

Accidental Discovery Rule

7. Should the proposed earthworks result in the identification of any previously unknown sensitive materials (i.e. archaeological sites), the requirements of land disturbance - District Accidental Discovery rule [E12.6.1] set out in the Auckland Unitary Plan Operative in part (updated 13 March 2020) shall be complied with.

Heritage New Zealand Pouhere Taonga Act 2014

8. The Heritage New Zealand Pouhere Taonga Act 2014 (hereafter referred to as the Act) provides for the identification, protection, preservation and conservation of the historic and cultural heritage of New Zealand. All archaeological sites are protected by the provisions of the Act (section 42). It is unlawful to modify, damage or destroy an archaeological site without prior authority from Heritage New Zealand Pouhere Taonga. An Authority is required whether or not the land on which an archaeological site may be present is designated, a resource or building consent has been granted, or the activity is permitted under Unitary, District or Regional Plans.

According to the Act (section 6) archaeological site means, subject to section 42(3) – any place in New Zealand, including any building or structure (or part of a building or structure), that –

- 1) *was associated with human activity that occurred before 1900 or is the site of the wreck of any vessel where the wreck occurred before 19; and*
- 2) *provides or may provide, through investigation by archaeological methods, evidence relating to the history of New Zealand; and*
- 3) *includes a site for which a declaration is made under section 43(1).*

It is the responsibility of the consent holder to consult with Heritage New Zealand Pouhere Taonga about the requirements of the Act and to obtain the necessary Authorities under the Act should these become necessary, as a result of any activity associated with the consented proposals.

For information please contact the Heritage New Zealand Pouhere Taonga Archaeologist - 09 307 0413 / archaeologistMN@historic.org.nz.

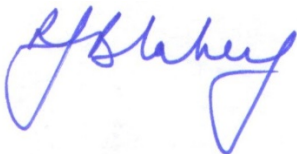
9. *A separate application shall be lodged in Watercare (developments@water.co.nz) for any existing water meter(s) required to be removed or relocated. Only authorised Watercare approved contractor is permitted to remove or relocate any existing water meters on site.*
10. *Watercare Services Ltd advises that at the time of application for a water and/or wastewater connection (or application for demand increase), completed in conjunction with a building consent, an Infrastructure Growth Charge shall apply. Details of this charge are available on the website www.watercare.co.nz.*
11. *Watercare approval is required prior to connecting the proposed units to the public water and/or wastewater network. This application is generally made at the same time as the building consent application. Contact Watercare at connections@water.co.nz to arrange for a Connections Approval.*
12. *A separate application shall be lodged in Watercare (developments@water.co.nz) for any existing water meter(s) required to be removed or relocated. Only authorised Watercare approved contractor is permitted to remove or relocate any existing water meters on site.*
13. *Please ensure a minimum depth to the wastewater invert, at the service connection point, of 1.2m to the lower of the overflow relief gully or the lowest serviced floor level.*
14. *A Corridor Access Request, (CAR), is required for all works undertaken within the 'road corridor'. See Auckland Transport's website <https://at.govt.nz/about-us/working-on-the-road/corridor-access-requests/#applycar> for more information.*
15. *Pervious paving is required to be constructed as per GD01 section C2. Impermeable liner is required to ensure even distribution of water. Detail design shall be checked at Building Consent stage.*
16. *Location and levels of the proposed detention tanks shall be checked at building consent stage.*
17. *The Stormwater, wastewater and supply of water will require engineering approval to be obtained from the council prior to applying for Building Consent. All Stormwater, wastewater and supply of water shall be constructed in accordance with Auckland Code*

of Practice for Land Development and Subdivision. See the council's website (www.aucklandcouncil.govt.nz) for more information on the engineering approval process, or call (09) 301 0101 and ask to speak to a Development Engineer from your local service centre.

18. Under the building consent stage, any building structure in close proximity to the public wastewater drain, needs works over approval, which is required to be submitted to Watercare Services Limited for assessment and or approval. A CCTV inspection of the drain is required to be ordered before any works are started on site. A second CCTV inspection will be required after the footings are constructed, but prior to the continuation of construction. Should any defect found, the applicant would be required to replace or conduct remedial work to the satisfaction of Watercare Services Ltd.
19. Right of entry consent will need to be obtained or reconfirmed for access into the neighbouring property to construct the necessary engineering works. Copy to be provided at pre-construction meeting.
20. Any works done on land affected by an Auckland Transport Designation need written consent from AT before the works can begin.



Barry Kaye
Chairperson



Richard Blakey
Commissioner

23 July 2020

Decision on an application for resource consents under the Resource Management Act 1991



Proposal

To undertake a 21-lot subdivision (strata title in part), including two shared lots and 19 parking lots, around an approved land use consent, reference LUC60355039.

This resource consent is **GRANTED**. The reasons are set out below:

Application number	BUN60355210
Site address:	78 Orakei Road, Orakei
Applicant:	78 Orakei Limited
Hearing commenced:	Tuesday 14 July 2020, 1.00 p.m.
Hearing panel:	Barry Kaye (Chairperson) Richard Blakey
Appearances:	<p><u>For the Applicant:</u> 78 Orakei Limited represented by: Bill Loutit, Legal Counsel Kurt Gibbons, Corporate Robert Clements, Development Manager Simon Novak, Architect Todd Langwell, Traffic Engineer Vijay Lala, Planner</p> <p><u>For the Orakei Local Board</u> Troy Churton</p> <p><u>For Council:</u> Sarishka Gandhi, Traffic Engineer Jackson Morgan, Planner Jennifer Chivers, Team Leader Georgia Pieri, Urban Designer Bevan Donovan, Hearings Advisor</p>
Hearing adjourned	14 July 2020 at 1605pm
Commissioners' site visit	11 July 2020
Hearing Closed:	17 July 2020

Introduction

1. This decision is made on behalf of the Auckland Council (“**the Council**”) by Independent Hearing Commissioners **Barry Kaye (Chairperson)** and **Richard Blakey** appointed and

acting under delegated authority under sections 34 and 34A of the Resource Management Act 1991 (“the RMA”).

2. This decision contains the findings from our deliberations on the application for resource consent and has been prepared in accordance with section 113 of the RMA.
3. The proposal was determined on 3 July 2020 by Duty Commissioner Kaye to proceed on a non-notified basis. Subsequently Commissioner Kaye determined that the application should proceed to a hearing for a section 104 decision in order to interrogate various aspects of the proposal including traffic related matters.

Summary of proposal and activity status

Proposal

4. To undertake a 21-lot subdivision (strata title in part), including two shared lots and 19 parking lots, around an approved land use consent, reference LUC60355039.

Resource consent is required for the following reason:

Subdivision consent (s11) – SUB60355212

Auckland Unitary Plan (Operative in part)

Subdivision (operative plan provisions)

E38 Subdivision – Urban

- To subdivide by way of a Strata-title for the proposed units approved under LUC60355039 is a controlled activity under rule E38.4.1(A4)
- To subdivide the parent site into 19 lots, two jointly-owned lots and 19 lots (to be amalgamated) for parking spaces, which is a subdivision in a residential zone that is in accordance with an approved land use resource consent that complies with standard E38.8.2.1, is a restricted discretionary activity under rule E38.4.2(A14).

Overall, the proposal has been considered as a Restricted Discretionary Activity.

Procedural matters

5. No procedural matters under sections 37 and 37A of the RMA arose.

Relevant statutory provisions considered

6. In accordance with section 104 of the RMA, we have had regard to the relevant statutory provisions including the relevant sections of Part 2 and sections 104C, 108 and 108AA.

Relevant standards, policy statements and plan provisions considered

7. In accordance with section 104(1)(b)(i)-(vi) of the RMA, we have had regard to the relevant policy statements and plan provisions of the following documents:

- Auckland Unitary Plan (Operative in Part), including:
 - B2-Urban Growth
 - C-General Rules
 - H4 Residential – Mixed Housing Suburban Zone
 - E12 Land Disturbance - District
 - E27 Transport

8. We note that there were no other matters found to be relevant and reasonably necessary to determine the application in accordance with section 104(1)(c) of the RMA.

Local Board and Interested Parties

9. As noted in the associated land use decision (LUC60355039), both the Orakei Local Board and a number of interested persons including neighbours communicated with the Council and those communications were taken into account in reaching our decision notwithstanding that they do not constitute formal submissions given that the application was not notified. The communications included a peer review of the traffic related aspects of the proposal carried out by Mr P Brown of TEAM. Mr Brown noted that due to the Covid 19 lockdown he had not been able to visit the site. We also were provided with a traffic assessment by a layperson, Mr Tweed, who has local knowledge of traffic conditions in the locality.

Summary of evidence heard

10. This decision follows from the decision to grant consent to a residential development land use (LUC 60355039) application and the evidence for subdivision related matters was heard conjunctively with that for the land use proposal and therefore is not repeated here but has been relied on for decision making.

Decision

Under sections 104, 104C, 106 and Part 2 of the RMA, this resource consent is **GRANTED**.

REASONS

The reasons for this decision follow:

1. The subdivision requires a restricted discretionary resource consent, and as such under s104C only those matters over which Council has restricted its discretion have been considered. Those matters are:
 - E38.11.1(1) – all controlled activities; and
 - E38.12.1(6) – subdivision in accordance with an approved land use resource consent.
2. In accordance with an assessment under ss104(1)(a) and (ab) of the RMA the actual and potential effects from the proposal will be acceptable as:

- a. The suburban built character and amenity of the site will be consistent with that anticipated under the zone and will remain unchanged from the consented land use activity (LUC60355039), ensuring onsite and offsite effects will not go beyond those already assessed and approved.
 - b. While the proposed subdivision will introduce new non-compliances in terms of internal height in relation to boundary standards and site coverages, the lots are of a sufficient size to enable the new dwellings approved under the land use to have sufficient outdoor living area with any coverage effects arising from the subdivision being similar to those already approved under the land use.
 - c. The proposed stratum boundaries will be in accordance with the built form approved under land use consent LUC60355039 and will avoid any adverse effects on the surrounding environment.
 - d. All stormwater and wastewater can be adequately disposed of via proposed connections to the public system and detention tanks (for stormwater runoff), while each lot will be provided with adequate water supply. It has been established that there is adequate capacity in the public networks to cope with the increased residential intensity, provided stormwater runoff is attenuated through detention tanks as proposed. As such, any adverse effects on downstream persons and assets owners will be avoided.
 - e. Each lot will have legal access to the road via a jointly owned access lot.
 - f. With reference to s104(1)(ab), there are no specific offsetting or environmental compensation measures proposed or agreed to by the applicant to ensure positive effects on the environment.
3. In accordance with an assessment under s104(1)(b) of the RMA the proposal is consistent with the relevant statutory documents, insofar as they relate to the matters over which discretion is restricted. In particular:

E38.2 Objectives, E38.3 Policies, E38.11.2 Assessment criteria and E38.12.2 Assessment Criteria – Subdivision – Urban

- The proposed subdivision boundaries create non-compliance in terms of internal HIRB and coverages; however, the approved dwellings are of a bulk and form that is consistent with the character of the zone
- The proposal provides for residential growth while considering and maintaining the suburban character and degree of amenity associated with the Residential – Mixed Housing Suburban Zone
- All lots will have legal access to the road via a jointly owned access lot
- The proposed drainage services meet the Council's standards, meeting the objectives and policies ensuring appropriate provisions of and adequate access to existing and new infrastructure

- The subdivision will be in accordance with an approved land use resource consent thus complying with standard E38.8.2.1, which states any subdivision relating to an approved land use consent must comply with that resource consent.
4. As a restricted discretionary activity, the other matters that can be considered under s104(1)(c) of the RMA must relate to the matters of discretion restricted under the plan. In this case, no other matters are considered to be relevant.
 5. In terms of s106 of the RMA, the proposal is not considered to give rise to a significant risk from natural hazards, and sufficient provision has been made for legal and physical access to the proposed allotments. Accordingly, council is able to grant this subdivision consent subject to the conditions below.
 6. In the context of this restricted discretionary activity subdivision, where the relevant objectives and policies and matters for discretion in the relevant statutory documents were prepared having regard to Part 2 of the RMA, they capture all relevant planning considerations and contain a coherent set of policies designed to achieve clear environmental outcomes. They also provide a clear framework for assessing all relevant potential effects and there is no need to go beyond these provisions and look to Part 2 in making this decision as an assessment against Part 2 would not add anything to the evaluative exercise.
 7. Overall, the proposal is consistent with the relevant statutory documents and legislation and will result in acceptable environmental effects.

CONDITIONS

Under sections 108, 108AA and 220 of the RMA, this consent is subject to the following conditions:

General conditions

1. This subdivision consent shall be carried out in accordance with the documents and drawings and all supporting additional information submitted with the application, detailed below, and all referenced by the Council as resource consent number SUB60355212.
 - Application Form and Assessment of Environmental Effects prepared by Vijay Lala, of Tattico Limited, dated March 2020
 - Section 92 response letter by Vijay Lala of Tattico, dated 16 April 2020
 - Section 92 response letters by Simon Novak of Novak+Middleton, dated 23 April 2020 and 13 May 2020
 - Section 92 response letter by Todd Langwell of Traffic Planning Consultants, dated 23 April 2020
 - Section 92 response letter by Fiona Lawrence of Green Gorilla, dated 17.04.2020

- Section 92 response letters by James Kim of Maven Associates, dated 22 April 2020 and 15 May 2020
- Section 92 response emails by Vijay Lala of Tattico Limited, dated 15.04.2020, 17.04.2020, 29.04.2020, 5.05.2020, 13.05.2020, 19.05.2020 and 26.05.2020

Report title and reference	Author	Rev	Dated
Infrastructure Report, Ref: 109009	Maven Associates	B	March 2020
Stormwater Modelling Report, Ref: 109009	Maven Associates	C	15.05.20
Geotechnical Investigation Report, Ref: AKL2020-0006AD	CMW Geosciences	1	12 March 2020
Geotechnical Investigation Report – Second Stage, Ref: AKL2020-0006AD	CMW Geosciences	1	19 May 2020
Traffic Impact Assessment, Ref: 19668	Traffic Planning Consultants Ltd	B	13.03.2020
Remuera Townhouses SCH01 Soft Landscape Specification, Ref: 2001-1112	Local Landscape Architecture Collective	A	10 March 2020
Site Waste Management & Minimisation Plan 78 Orakei Road	Green Gorilla	-	05.05.2020

Drawing title and reference	Author	Rev	Dated
Proposed Scheme Overview, Drawing No. C150	Maven Associates	B	04/20
Proposed Scheme Plan, Drawing No. C151	Maven Associates	B	04/20
Proposed Scheme Plan, Drawing No. C152	Maven Associates	B	04/20
Proposed Scheme Details, Drawing No. C153	Maven Associates	B	04/20
Proposed Rooding Plan, Drawing No. C300	Maven Associates	B	05/20
Proposed Rooding Details, Drawing No. C301	Maven Associates	A	03/20
Proposed Stormwater Plan, Drawing No. C400	Maven Associates	G	05/20
Proposed Stormwater Longsection, Drawing No. C410	Maven Associates	E	05/20
Proposed Stormwater Longsection, Drawing No. C411	Maven Associates	E	05/20

Proposed Accessway Private Stormwater Plan, Drawing No. C420	Maven Associates	A	05/20
Proposed Detention Tank Section, Drawing No. C421	Maven Associates	A	05/20
Proposed Wastewater Plan, Drawing No. C500	Maven Associates	E	05/20
Proposed Wastewater Longsection, Drawing No. C510	Maven Associates	D	05/20
Proposed Wastewater Longsection, Drawing No. C511	Maven Associates	C	04/20
Proposed Water Supply and Service Overview, Drawing No. C600	Maven Associates	C	04/20
Proposed Water Supply and Service Plan, Drawing No. C600	Maven Associates	C	04/20

2. Under section 125 of the RMA, this consent lapses five years after the date it is granted unless:
 - a. A survey plan is submitted to council for approval under section 223 of the RMA before the consent lapses, and that plan is deposited within three years of the approval date in accordance with section 224 of the RMA; or
 - b. An application under section 125 of the RMA is made to the Council before the consent lapses (five years) to extend the period after which the consent lapses and the Council grants an extension.

Survey plan approval (s223) conditions

3. The consent holder shall submit a survey plan in accordance with the approved resource consent subdivision plan. The survey plan shall show any easements required by this subdivision consent.
4. The party wall easements over Lots 1-19 shall be included in a memorandum of easements endorsed on the survey plan and shall be duly granted or reserved. The consent holder shall meet the costs for the preparation, review and registration of the easement instruments on the relevant records of title.
5. That Lot 1000 hereon (legal access) shall be held as to nineteen undivided one nineteenth shares by the owners of Lots 1-19 hereon as tenants in common in the said shares and that individual Records of Title be issued in accordance therewith.
6. That Lot 2000 hereon (shared lot) shall be held as to nineteen undivided one nineteenth shares by the owners of Lots 1-19 hereon as tenants in common in the said shares and that individual Records of Title be issued in accordance therewith.
7. Lots 1 and 101 hereon are to be held in the same record of title.
8. Lots 2 and 102 hereon are to be held in the same record of title.

9. Lots 3 and 10 hereon are to be held in the same record of title.
10. Lots 4 and 104 hereon are to be held in the same record of title.
11. Lots 5 and 105 hereon are to be held in the same record of title.
12. Lots 6 and 106 hereon are to be held in the same record of title.
13. Lots 7 and 107 hereon are to be held in the same record of title.
14. Lots 8 and 108 hereon are to be held in the same record of title.
15. Lots 9 and 109 hereon are to be held in the same record of title.
16. Lots 10 and 110 hereon are to be held in the same record of title.
17. Lots 11 and 111 hereon are to be held in the same record of title.
18. Lots 12 and 112 hereon are to be held in the same record of title.
19. Lots 13 and 113 hereon are to be held in the same record of title.
20. Lots 14 and 114 hereon are to be held in the same record of title.
21. Lots 15 and 115 hereon are to be held in the same record of title.
22. Lots 16 and 106 hereon are to be held in the same record of title.
23. Lots 17 and 117 hereon are to be held in the same record of title.
24. Lots 18 and 118 hereon are to be held in the same record of title.
25. Lots 19 and 119 hereon are to be held in the same record of title
26. The s223 certification shall not be approved until the dwelling units, that the strata title subdivision relies upon, have been built to a stage that they are physically measurable to ensure party wall easements can be accurately defined.

Street naming

27. The consent holder shall provide and install road naming signs in accordance with the Council's standards for both the new public and private roads, common access lots and access strips that are proposed to serve six or more lots within the subdivision. The names shall be as approved by the Council.

Advice Note:

Land Information New Zealand (LINZ) requires that proposed roads, private roads within common access lots or lot accesses comprising panhandle access strips and/or reciprocal rights of way easements that serve six (6) or more lots are to be named. LINZ has indicated that a name for the road or private road should be in place before the survey plan of subdivision is approved by the council under section 223 of the RMA and advises that if no name is in place this could be problematic when titles are later

requested. The consent holder should obtain evidence of acceptance from LINZ that the proposed names are not duplicated within the Auckland Council area before submitting the names to the council for reporting to the relevant Local Board for approval. In giving its approval, the Local Board will have regard to the relevance of the road names to the locality or determine that the names are otherwise appropriate.

Section 224(c) compliance conditions

28. The application for a certificate under section 224(c) of the RMA shall be accompanied by certification from a professionally qualified surveyor or engineer that all the conditions of subdivision consent have been complied with, and that in respect of those conditions that have not been complied with:
- a. a completion certificate has been issued in relation to any conditions to which section 222 applies; and
 - b. a consent notice has been issued in relation to any conditions to which section 221 applies.

Public stormwater

29. All the necessary pipes and ancillary equipment shall be supplied and laid to extend the public stormwater system to the subject site. Separate stormwater connections shall be provided for all proposed lots.

An Engineering Plan Approval application for this work is required to be submitted to Auckland Council's Development Engineering and approved prior to the works commencing.

Advice Note:

Any existing private stormwater connections for 80, 82 and 84 Orakei Road shall be re-directed towards the new public stormwater system. An Engineering Approval Completion Certificate certifying that all public stormwater pipes and individual stormwater connections have been constructed in accordance with the approved Engineering Plan and the Council's Code of Practice for Land Development and Subdivision – Chapter 4: Stormwater shall be provided in support of the section 224(c) application.

Public wastewater

30. All necessary pipes and ancillary equipment shall be supplied and laid to extend the public wastewater system to service proposed development. Separate public wastewater connections shall be provided for all proposed lots.

An Engineering Plan Approval application for this work is required to be submitted to Auckland Council's Development Engineering and approved prior to the works commencing.

Advice Note:

Exact location of the existing private wastewater connection serving 84A Orakei Road shall be confirmed as part of this development. Certified as-built shall be provided as part of the section 224(c) certificate application to confirm compliance. Existing private wastewater connection for 80 Orakei Road shall be made public as part of this development. Engineering Approval Completion Certificate (EACC) shall be provided in support of the section 224(c) certificate application.

Public assets as built

31. All "As-Built" documentation is to be provided to Council for all new public assets to be vested in the Council. The "as-built" shall be approved by Auckland Council, Regulatory Engineering division.

Advice Note:

Requirements are outlined in Council's Code of Practice for stormwater available on council's website / Code of practice for wastewater & water supply on the website of Watercare Ltd / Auckland Transport Code of Practice.

Water

32. The consent holder shall provide private water pipes to service all proposed lots in accordance with Watercare Code of Practice for Land Development and Subdivision.

Advice Note:

A section 224© certificate will not be issued until certification from a Licensed Cadastral Surveyor that the private water pipe is within the easement provided is received by Council.

Permeable Pavement

33. Prior to issue of the section 224(c) certificate, the manoeuvring area with permeable paving shall be constructed in accordance with Auckland Council Guideline Document GD2017/001, C2 Pervious Pavements and approved plans; and thereafter maintained to ensure the free flow of stormwater through the paving to the satisfaction of the Team Leader Regulatory Engineering - Central. An impermeable liner under the pavement shall be provided to ensure even distribution of water.
34. An installation certificate shall be provided to the Team Leader Regulatory Engineering - Central prior to the issue of a section 224(c) certificate.

Advice Note:

The correct design of the permeable paving will be contingent on the exact soil type in each location where permeable paving is to be used.

Jointly Owned Access Lot (JOAL)

35. The jointly owned access lot (Lot 1000) shall be formed, paved and drained to Auckland Council specifications including the provision of stormwater catchpits and/or slot drains within the boundaries of the JOAL (or elsewhere within the site, if appropriate). Where

necessary the provision of kerbing or similar to prevent water flowing on to other properties (including the footpath) shall be provided.

Advice Notes:

An Engineering Common Access Way application for construction for this work is required to be submitted and approved prior to the works commencing.

A building consent will be required for any drainage work required on the accessway.

Shared access lot

36. The shared access lot (Lot 2000) shall be formed and paved to Auckland Council specifications.

Removal of existing buildings

37. The consent holder shall remove any buildings or structures that straddle the new lot boundaries prior to the application for a section 224(c) certificate.

Activity in accordance with plans

38. The dwellings on Lots 1-19 shall be constructed to roof framing stage in accordance with the approved documents set out in condition 1 of the land use consent referenced as LUC60355039.

Consent Notice - Private stormwater management

39. The consent holder shall cause to be registered against the Record of Titles for Lots 1 - 19; a Consent Notice pursuant to section 221 of the Resource Management Act 1991, recording the following condition which is to be complied with on a continuing basis:

“Stormwater runoff from the site is disposed of to the public stormwater system via a private stormwater management device (to manage 10yr flow). The on-going operation and maintenance of the private stormwater device for each lot is the responsibility of the lot owner.”

Covenant-Solicitor Undertaking

40. The consent holder shall provide an undertaking in writing from their solicitor that the solicitor will, at the consent holder’s expense, register a covenant against the records of title for Lots 1-19 (and the Lots which are amalgamated with such Lots) on the survey plan, which covenant sets out the requirements and obligations of each lot owner to establish, repair and maintain in perpetuity the following areas intended to serve the lots within the subdivision, as detailed in the application documents, including the Site Waste Management & Minimisation Plan, referenced in condition 1 of this subdivision consent and the refuse management conditions set out in conditions 33 to 35 (inclusive) of land use consent LUC60355039:

- a) areas of common landscaping on Lots 1000 and 2000;
- b) the communal rubbish area; and

- c) The common accessway and carpark area on Lot 1000.

The documents required in connection with the formation, objectives and requirements of the covenant will include provision for the following items:

- Requirements for all lot owners to be subject to this covenant.
- Details of how the areas identified in 40(a), (b) and (c) above will be managed, maintained and enhanced in perpetuity, including reference to any management plans.
- Ongoing compliance with the relevant resource consent, bylaw or other requirements of the Auckland Council.
- Ensure ongoing safety and maintenance of the accessway and carpark area including the required high friction surface and permeable paving.
- An acceptable method of management of the future affairs of the parties who are subject to the covenant, and for the raising of funds from such parties from time to time to adequately finance any future maintenance and renewal obligations.

The wording, structure, functions and all documentation associated with the establishment of the covenant shall be to the satisfaction of the Council's Solicitor, with all Auckland Council's costs (including external solicitors and implementation costs) to be paid by the consent holder.

Advice notes

1. *Any reference to number of days within this decision refers to working days as defined in s2 of the RMA.*
2. *For the purpose of compliance with the conditions of consent, "the council" refers to the council's monitoring inspector unless otherwise specified. Please email monitoring@aucklandcouncil.govt.nz to identify your allocated officer.*
3. *For more information on the resource consent process with Auckland Council see the council's website: www.aucklandcouncil.govt.nz. General information on resource consents, including making an application to vary or cancel consent conditions can be found on the Ministry for the Environment's website: www.mfe.govt.nz.*
4. *If you disagree with any of the above conditions, and/or disagree with the additional charges relating to the processing of the application(s), you have a right of objection pursuant to sections 357A and/or 357B of the Resource Management Act 1991. Any objection must be made in writing to the council within 15 working days of your receipt of this decision (for s357A) or receipt of the council invoice (for s357B).*
5. *The consent holder is responsible for obtaining all other necessary consents, permits, and licences, including those under the Building Act 2004, and the Heritage New Zealand Pouhere Taonga Act 2014. This consent does not remove the need to*

comply with all other applicable Acts (including the Property Law Act 2007 and the Health and Safety at Work Act 2015), regulations, relevant Bylaws, and rules of law. This consent does not constitute building consent approval. Please check whether a building consent is required under the Building Act 2004.

Vehicle crossing

6. *Should the existing vehicle crossing be damaged during construction, the consent holder will be required to reconstruct the crossing to current Auckland Transport standards. A vehicle crossing permit will be required to be obtained from Auckland Transport prior to any reconstruction. See Auckland Transport's website <https://at.govt.nz/about-us/working-on-the-road/vehicle-crossing-application/> for more information.*

Accidental Discovery Rule

7. *Should the proposed earthworks result in the identification of any previously unknown sensitive materials (i.e. archaeological sites), the requirements of land disturbance - District Accidental Discovery rule [E12.6.1] set out in the Auckland Unitary Plan Operative in part (updated 13 March 2020) shall be complied with.*

Heritage New Zealand Pouhere Taonga Act 2014

8. *The Heritage New Zealand Pouhere Taonga Act 2014 (hereafter referred to as the Act) provides for the identification, protection, preservation and conservation of the historic and cultural heritage of New Zealand. All archaeological sites are protected by the provisions of the Act (section 42). It is unlawful to modify, damage or destroy an archaeological site without prior authority from Heritage New Zealand Pouhere Taonga. An Authority is required whether or not the land on which an archaeological site may be present is designated, a resource or building consent has been granted, or the activity is permitted under Unitary, District or Regional Plans.*

According to the Act (section 6) archaeological site means, subject to section 42(3) – any place in New Zealand, including any building or structure (or part of a building or structure), that –

- 1) *was associated with human activity that occurred before 1900 or is the site of the wreck of any vessel where the wreck occurred before 19; and*
- 2) *provides or may provide, through investigation by archaeological methods, evidence relating to the history of New Zealand; and*
- 3) *includes a site for which a declaration is made under section 43(1).*

It is the responsibility of the consent holder to consult with Heritage New Zealand Pouhere Taonga about the requirements of the Act and to obtain the necessary Authorities under the Act should these become necessary, as a result of any activity associated with the consented proposals.

For information please contact the Heritage New Zealand Pouhere Taonga Archaeologist - 09 307 0413 / archaeologistMN@historic.org.nz.

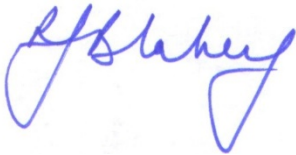
9. A separate application shall be lodged in Watercare (developments@water.co.nz) for any existing water meter(s) required to be removed or relocated. Only authorised Watercare approved contractor is permitted to remove or relocate any existing water meters on site.
10. Watercare Services Ltd advises that at the time of application for a water and/or wastewater connection (or application for demand increase), completed in conjunction with a building consent, an Infrastructure Growth Charge shall apply. Details of this charge are available on the website www.watercare.co.nz.
11. Watercare approval is required prior to connecting the proposed units to the public water and/or wastewater network. This application is generally made at the same time as the building consent application. Contact Watercare at connections@water.co.nz to arrange for a Connections Approval.
12. A separate application shall be lodged in Watercare (developments@water.co.nz) for any existing water meter(s) required to be removed or relocated. Only authorised Watercare approved contractor is permitted to remove or relocate any existing water meters on site.
13. Please ensure a minimum depth to the wastewater invert, at the service connection point, of 1.2m to the lower of the overflow relief gully or the lowest serviced floor level.
14. A Corridor Access Request, (CAR), is required for all works undertaken within the 'road corridor'. See Auckland Transport's website <https://at.govt.nz/about-us/working-on-the-road/corridor-access-requests/#applycar> for more information.
15. Pervious paving is required to be constructed as per GD01 section C2. Impermeable liner is required to ensure even distribution of water. Detail design shall be checked at Building Consent stage.
16. Location and levels of the proposed detention tanks shall be checked at building consent stage.
17. The Stormwater, wastewater and supply of water will require engineering approval to be obtained from the council prior to applying for Building Consent. All Stormwater, wastewater and supply of water shall be constructed in accordance with Auckland Code of Practice for Land Development and Subdivision. See the council's website (www.aucklandcouncil.govt.nz) for more information on the engineering approval process, or call (09) 301 0101 and ask to speak to a Development Engineer from your local service centre.
18. Under the building consent stage, any building structure in close proximity to the public wastewater drain, needs works over approval, which is required to be submitted to Watercare Services Limited for assessment and or approval. A CCTV inspection of the drain is required to be ordered before any works are started on site. A second CCTV inspection will be required after the footings are constructed, but

prior to the continuation of construction. Should any defect found, the applicant would be required to replace or conduct remedial work to the satisfaction of Watercare Services Ltd.

19. *Right of entry consent will need to be obtained or reconfirmed for access into the neighbouring property to construct the necessary engineering works. Copy to be provided at pre-construction meeting.*
20. *Any works done on land affected by an Auckland Transport Designation need written consent from AT before the works can begin.*



Barry Kaye
Chairperson



Richard Blakey
Commissioner

23 July 2020