

Before the Expert Fast-Track Consenting Panel

In the Matter of the COVID-19 Recovery (Fast-Track Consenting)
Act 2020

And

In the Matter of an application by P0012 Auckland NZ Pty Limited in
relation to the Federal Street Residences

**Statement of Evidence of Ross Edward Cooper on behalf of P0012 Auckland NZ
Pty Limited in Response to Invited Comments Received on the Federal Street
Residences Project**

Dated 28 June 2022

Jeremy Brabant
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Introduction

1. My full name is Ross Edward Cooper. I am a planning consultant and am employed in the position of Associate at Tattico Limited (**Tattico**), an independent, specialist planning consultancy operating out of Auckland. I hold a Bachelor of Planning (**BPlan**) from the University of Auckland, which I gained in 2004.
2. I am an intermediate member of the New Zealand Planning Institute. I am also a member of the Resource Management Law Association of New Zealand and through Tattico am a member of the Property Council of New Zealand.
3. I have 17 years' experience in planning roles, initially with Auckland City Council and Auckland Council (collectively referred to as '**Council**' below) between 2005 and 2014, and with Tattico since May 2014.
4. During my time with Council, I was employed in a number of planning roles that focussed exclusively on the Auckland city centre and included both resource consent and planning policy functions. I processed a large number of city centre resource consents of various scales ranging from changes in use and modest external alterations through to new buildings including:
 - a. University of Auckland Thomas Building Extension (16-24 Princes Street)
 - b. ASB North Wharf (10-26 Jellicoe Street)
 - c. ASB Theatre North Wharf (138 Halsey Street)
 - d. Kauri Timber Company Building (104 Fanshawe Street)
 - e. Kordia building (162 Victoria Street West); and
 - f. AECOM building (8 Mahuhu Crescent, Quay Park)
5. Relevant to the immediate locality surrounding the application site, I was the processing planner for the resource consent application for the extension of the Rydges Hotel along the Kingston Street frontage of the site,

and a residential development at 75 Victoria Street West that was never constructed.

6. Prior to leaving Auckland Council, I was the lead planner responsible for case managing the processing of Auckland Transport's notices of requirement for the City Rail Link. The notices of requirement authorised the 3-dimensional footprint of the twin rail tunnels linking Britomart Train Station with the Western Rail Line in the vicinity of the Mount Eden Rail Station, including the establishment of three new stations in the city centre and Newton. Relevant to the current application for the Federal Street Residences, the City Rail Link included cut and cover excavation along the length of Albert Street through the city centre, just one block to the east of the application site, to facilitate construction of the rail tunnels and a new station between Victoria Street and Wellesley Street.
7. During my time with Tattico, I have provided planning advice to public and private sector clients on a range of regulatory and policy matters across greenfield, brownfield and highly urbanised settings including the Auckland city centre, and under various pieces of legislation including the Resource Management Act 1991, Housing Accord and Special Housing Areas Act 2013, and more recently the Covid-19 Recovery (Fast-Track Consenting) Act 2020. Resource consents obtained include:
 - a. Metlifecare (Pohutukawa Landing village, Beachlands)
 - b. Auckland Transport (Silverdale Park and Ride)
 - c. Tamaki Regeneration Limited:
 - Fenchurch neighbourhood (Framework Plan and 12 stages of development)
 - Overlea neighbourhood (Framework Plan and three stages of development); and
 - Line Epping neighbourhood (one integrated consent)

- d. Shundi Tamaki Village Limited (Stage 1A of the Te Tauoma mixed use development)
8. Relevant to the current application, I was the applicant planner for Auckland City Mission's recently completed Mission HomeGround development at 136 Hobson Street.
 9. I am very familiar with the provisions of the Auckland Unitary Plan (Operative in Part) (**Unitary Plan**) relating to the City Centre zone and have significant experience dealing with the city centre floor area ratio provisions over the course of my professional career.
 10. Tattico was engaged by ICD Property Group, being an Australian entity, in early 2018 to provide planning advice relating to the potential redevelopment of the site at 65-71 Federal Street, Auckland Central, including input into an international design competition. I have been providing planning advice / planning services to ICD Property Group, and P0012 Auckland NZ Pty Limited (**the Applicant**) following the establishment of the New Zealand based entity, on the project since that time.
 11. I am familiar with the area to which the application for resource consent relates and have visited the site on numerous occasions, most recently on Friday 8 April 2022.
 12. Although this is not a hearing before the Environment Court, I record that I have read and agree to and abide by the Environment Court's Code of Conduct for Expert Witnesses as specified in the Environment Court's Practice Note 2014. This evidence is within my area of expertise, except where I state that I rely upon the evidence of other expert witnesses as presented to this hearing. I have not omitted to consider any material facts known to me that might alter or detract from the opinions expressed.

Scope of Evidence

13. My evidence has been prepared in response to matters raised in written comments received from those parties notified about the Applicant's

application to the Environmental Protection Authority for Federal Street Residences at 65-71 Federal Street, Auckland Central.

14. In preparing this evidence, I confirm that I have read each of the written comments received carefully. I have produced a table that summarises the matters raised in the written comments received with matters categorised into themes and sub-themes, which also serves as a 'road map' regarding the applicant responses to those matters raised (refer "Federal Street Residences – Summary of the Applicant responses to written comments received" at **Attachment 1** to this response). My evidence is based around those themes and sub-themes.
15. The evidence that follows references an updated suite of conditions being proffered by the Applicant (refer **Attachment 3A** to this response) following consideration of the written feedback received.
16. My evidence is based around those themes and sub-themes, as noted below:
 - a. Construction effects
 - I. Construction traffic
 - II. Construction noise and vibration
 - III. Construction duration
 - IV. Construction management / Support for the creation of a Construction Liaison Group
 - V. Crime at unattended construction sites
 - b. Operational traffic
 - I. Valet Parking / potential for queues
 - II. Access ramp width / design and pedestrian safety
 - III. Cycle parking shortfall

- IV. Vehicle parking spaces to be held in ownership by residents and not leased or sold to third parties
- V. Loss of car parking to the area
- c. Geotechnical effects / stability
 - I. Insufficient information / adequacy of information relating to groundwater drawdown / settlement, liquefaction and stability associated with excavations
 - II. Cumulative effects associated with groundwater and settlement effects enabled by the City Rail Link designation
- d. Scale / design of the building
 - I. Size of the development / Maximum Total Floor Area Ratio and setback infringements
 - II. Design, relationship with St Patricks Cathedral
 - III. Loss of eastern bedroom windows of Altitude Apartments
 - IV. Light reflectance
- e. The proposed activity
- f. Streetscape upgrade
 - I. The Baseline Streetscape Upgrade Concept
 - II. Additional approvals needed from Auckland Transport to implement the Baseline upgrade, raising questions as to the applicant's ability to implement the proposal
 - III. Support for bringing Auckland Council's Federal Street Upgrade project forward, need to provide equitable amenity for both sides of the street

- g. Historic Heritage outcomes associated with Heritage Floor Space Bonus
- h. Services infrastructure
 - I. Wastewater capacity
 - II. Water supply for sprinkler system
- i. Financial compensation
- j. Use of the Fast-Track Consenting Process
- k. Communications

Construction effects

Construction traffic

17. Written comments raised a range of matters relating broadly to the management of construction traffic / the effects of construction traffic on the local network. Comments included:
- The overlap of construction with works relating to construction of the City Rail Link on Albert, Victoria and Kingston Streets being undertaken by City Rail Link Limited and the construction of the Te Hā Noa (Victoria Street Upgrades) being delivered by Auckland Council
 - Congestion within Federal and Kingston Streets exacerbated by construction (construction loading, worker parking, loss of car parking on site)
 - Heavy vehicle routing during construction needs to avoid disruption to Rydges Hotel bus parking on Federal Street (Auckland Transport authorised space)

18. Russell Brandon of Flow Transportation Specialists Limited has provided evidence on construction traffic management. I agree with the commentary set out in his evidence (paragraphs 35-39) and do not repeat that here.
19. Three parties, being Auckland Real Estate, New Bay Investments and Auckland Transport have provided specific wording change requests including the need for a CTMP to be certified prior to commencement of works. New Bay Investments also request the need for the CTMP to be approved by Auckland Transport prior to submission to Auckland Council for certification.
20. The above processes are already entrenched within the proffered conditions set. A catch-all requirement for management plans to be submitted to Auckland Council for certification prior to the commencement of works (and / or the commencement of stages of development should the contractor wish to do so) is already included in Condition 9 (Certification of Plans or Further Detail) and is not explicitly stated in the various management plan conditions. Through its standard certification process, Auckland Council will (where necessary) engage directly with its internal specialists and the Council Controlled Organisations including Auckland Transport. While Auckland Council is not the consenting authority in this instance, this application has been put together on the assumption that Auckland Council will be the authority charged with monitoring implementation of the CTMP and other consent requirements.
21. Additional information requirements to be presented within the CTMP for certification by Auckland Council have been included in Condition 19 following review of the specific requests by the aforementioned parties.

Construction noise and vibration

22. Written comments raised a range of matters relating broadly to noise and vibration effects associated with the proposed demolition and construction works. Comments included:
 - The adequacy of information provided relating to 60 Federal Street and 16 Kingston Street (Auckland Real Estate)

- That the 60dB LAeq piling noise level adopted for Rydges Hotel is overly conservative and may lead to higher noise levels than necessary (New Bay Investments)
- Victoria City Apartments rely on opening windows for ventilation and are more susceptible to construction noise (Victoria City Apartments)

23. Thomas Warren of Norman Disney & Young (NDY) has provided evidence on construction noise and vibration matters, and specifically in response to the items raised in written comments, including suggesting amendments to conditions of consent and the provision of an updated Acoustic Report (dated 24 May 2022). I agree with the commentary set out in his evidence and do not repeat that here except where I have additional commentary to make.

24. I highlight that Auckland Council's acoustic specialist confirmed they were satisfied with the level of information provided, the proposed approach to managing construction noise and vibration, and the conditions of consent proffered by the Applicant.

25. New Bay Investments seek amendments to conditions under the heading 'Cosmetic Building Damage'. Their suggested condition 54 is not adopted because the requirement to engage with building representatives where exceedances are anticipated is already entrenched within Condition 7 which requires the Consent Holder to consult with the Construction Liaison Group on the development and content of the CNVMP.

26. New Bay Investments seek amendments to conditions under the heading 'Amenity limits'. The general intent of the changes is already included within the proposed conditions set, although the requirement to advise owners and occupiers of buildings where vibration amenity limit exceedances are anticipated at least 3 days prior to works commencing is adopted in Condition 56.

Construction duration / Support for the establishment of a Construction Liaison Group

27. A number of written comments raise the duration of the proposed works (demolition, excavation and construction) as well as the cumulative impact of the proposed works in the context of the numerous other development projects that have recently been undertaken, are being undertaken and are planned to be undertaken in the vicinity of the application site, including the City Rail Link. I would broadly categorise these concerns as 'construction fatigue'.
28. The indicative construction programme anticipates a 6-month demolition period followed by a 45-month period for excavation and construction works associated with the project. These timeframes are not uncommon for large construction projects within the Auckland city centre but it is acknowledged that there is the potential to result in adverse effects on those nearby. As a baseline, the Unitary Plan provides for 24-month construction as a permitted activity. Resource consent has been sought under rule E40.4.1(A24) of the Unitary Plan to address the longer duration needed to facilitate the works associated with this proposal. In acknowledging the extended construction programme, it is important to note that the works are temporary in nature (in that they are not permanent) and that the Unitary Plan anticipates and seeks to enable construction activities.
29. The various adverse effects arising from the demolition and construction process include construction traffic, noise and vibration and dust / sedimentation. The management of these effects is common within the city centre context, are well understood and able to be dealt with in reliance on relevant standards and / or industry standard best practice methodologies. Management plans are proposed to be developed and subject to certification by Auckland Council prior to implementation to ensure that construction related effects are appropriately managed.
30. Notwithstanding the various management plans to be developed and implemented, the Applicant accepts that the indicative works programme of more than 4-years necessitates the careful management of effects on neighbours in particular. Accordingly, through the proffered conditions of consent, the Applicant proposes to establish and support the ongoing

operation of a Construction Liaison Group (**CLG**) which will provide a vehicle for regular communications and two-way engagement with adjoining property owners / occupiers via delegated representatives from each of those properties.

31. While the earlier conditions set referred to a Community Construction Liaison Group, I have shortened this to Construction Liaison Group to keep the reference more succinct and to ensure that there is no misconception as to a broader community liaison role. The intent of the CLG has not changed, in that it is to provide neighbouring property owners and occupiers with information on the project, a degree of review and input into the preparation of the various management plans proposed to ensure the appropriate management of adverse effects, and a direct point of contact with the project.
32. A number of written comments identify support for the development of the CLG. Some written comments have also sought amendments to the conditions of consent relating to the scope of the CLG.
33. Auckland Real Estate sought the inclusion of 16 Kingston Street within the CLG, and this has been accepted (refer Condition 5). Auckland Real Estate and New Bay Investments also sought changes to Condition 7 regarding the frequency of meetings of the CLG and more specificity around the need to respond to all reasonable issues / queries raised by the CLG including any comments received on draft management plans. A number of these requests have been adopted within the revised Condition 7.
34. Rather than committing to scheduling a CLG meeting at least every two-months, I suggest it is more appropriate that two-monthly meetings are held in the lead up to and during the demolition and excavation phases of the Project, and at least once every six months following. The rationale for this timing is that it is the earlier phases of the construction programme (demolition and excavation) that will give rise to the most significant adverse effects, while the actual construction phase will see effects upon neighbours comparatively reduced. I am aware of other Projects with more regular meeting requirements where the CLG function has become onerous

within later phases of construction when public / neighbour interest in the works reduces, the construction settles into a rhythm and there is not much new to talk about.

35. While it is common for a CLG to be established to support large public construction processes, such as the City Rail Link, it is not something that would always be needed for a private development of this nature. The Applicant has offered the CLG in this instance given the duration of construction works, the relatively tight street environment within which the construction process will occur and given the extent of other development works being undertaken in the nearby area concurrently with the Federal Street Residences development. My view is that given the private nature of this development on a single city centre site, and the relatively localised impacts the construction phase will have, it is appropriate to somewhat limit the scope of the CLG and the obligations on the developer. Accordingly, the proffered conditions provide for more frequent and detailed engagement through the CLG prior to and during the early Stages of construction, and a reduced meeting and reporting requirement once construction of the above-ground structure commences.

Construction management

36. Written comments raised concerns around standard construction management matters including dust (and the need to clean neighbouring buildings), fumes, erosion and sediment control and hours of operation. Victoria City Apartments noted that their north-facing dwellings rely on operable windows for ventilation and may therefore be more susceptible to impacts of dust emanating from the works.
37. The Applicant has proffered conditions of consent (Conditions 14-16) relating to the development and implementation of a Construction Management Plan (CMP). Standard site management techniques including dust suppression during demolition and earthworks, in conjunction with standard erosion and sediment controls, will in my view ensure that dust impacts resulting from the works are appropriately managed. Notwithstanding that, and in response to the matters raised, Condition 16

has been updated to include an obligation to review whether it is necessary to undertake cleaning of neighbouring buildings and the adjoining streetscape. I am of the view that such a review should happen at the end of the demolition phase of the Project, and again at the completion of earthworks.

38. Regarding hours of operation, Icon has confirmed that their indicative construction programme relies on the six-day working week (Monday to Saturday) for construction enabled within the city centre under the Unitary Plan. If works are limited to Monday to Friday as requested in written comments (by Body Corporate Altitude Apartments), this will only serve to extend the duration of construction.
39. Kordia Limited raised a concern around the potential for the crane arm to intercept / interfere with its Digital Microwave Link from Sky Tower and sought a condition of consent to establish a 5m radius clearance around the link path. I note that the plan provided by Kordia shows the Link traversing across the neighbouring site, not the property at 65-71 Federal Street. Icon Construction has confirmed that the crane will operate within the application site and over public street, and that they are able to put GPS limits on the movement of the crane to ensure the requested exclusion zone is achieved. Condition 16 has been updated to include a specific requirement to ensure this outcome.
40. New Bay Investments have raised an uncertain future for hotel operations (particularly given the recent events of the COVID-19 pandemic and the anticipated revival of tourism within New Zealand in the next 5 years following the opening of the border to other countries) and the potential for the construction works to significantly disrupt their operation of the Rydges Hotel. In my view, the proposed conditions of consent are sufficient to ensure that the adverse effects arising from the demolition, excavation and construction phase of the Project are mitigated appropriately. Comments on some of the individual elements of construction effects (noise and vibration, traffic, etc) are addressed separately throughout my evidence. Additionally, I note that access to all neighbouring sites will need to be maintained at all times.

Crime at unattended sites

41. Written comment from 1947 Limited raised a concern around the potential for thefts from unattended construction sites outside of hours of operation. That is a concern for the developer undertaking the construction. The Applicant acknowledges the potential issue and confirm that the site will be fully fenced and subject to high levels of security. This is part of standard operations for a development project of this scale. No conditions of consent are considered necessary to manage this item.

Operational traffic

Valet parking / potential for queues

42. Written comment from Auckland Transport raised concerns regarding the operation of the valet parking service and the potential for queues to develop onto Kingston Street during the afternoon peak traffic period.
43. Russell Brandon of Flow Transportation Specialists Limited has provided evidence on operational traffic matters. Regarding the operation of the proposed valet parking, lift functionality and the potential for queues onto Kingston Street, I agree with the commentary set out in paragraphs 9-24 of Mr Brandon's evidence and do not repeat that here other than to confirm the Auckland Transport's suggestion for a Traffic and Valet Parking Management Plan (**TVPMP**) has been adopted (refer new Condition CC1) and is to be established and certified prior to the residential occupation of the building.

Access ramp width / design and pedestrian safety

44. Auckland Transport and New Bay Investments raised concerns regarding the design, location and function of the proposed vehicle access to Kingston Street and the associated safety of pedestrians traveling along the adjoining footpath, particularly from west to east.
45. Russell Brandon of Flow Transportation Specialists Limited has provided evidence on operational traffic matters including pedestrian safety. I agree

with the commentary set out in his evidence (paragraphs 25-27) and do not repeat that here. I confirm that the design and location of the vehicle crossing has not been amended in response to the concerns raised by parties and agree that on balance the proposed location is the most appropriate option. I consider that the mitigation offered, including signage, mirrors, a speed hump and warning cameras / flashing signs to make drivers aware of pedestrians approaching on the footpath are appropriate and sufficient in this instance.

Cycle parking shortfall

46. Auckland Transport has raised a concern regarding the shortfall in cycle parking provision for this development. The Unitary Plan requires a total of 360 secure cycle parking spaces and 21 visitor cycle parking spaces, whereas a total of 304 secure cycle parking spaces are provided.
47. Russell Brandon of Flow Transportation Specialists Limited has provided evidence on operational traffic matters including the proposed cycle parking space shortfall. I agree with the commentary set out in his evidence (paragraphs 28-34) and do not repeat that here. Significant cycle parking provision is included within the proposed development, while other storage opportunities are afforded within the building including in storage lockers and in apartments which may appeal to residents who own expensive bikes or do not cycle frequently. The Applicant is also investigating opportunities to provide communal cycle facilities such as shared e-bike resources within the building. Additionally, numerous on-street personal mobility options exist such as e-scooters, while a range of publicly available rent by the minute resources are available on Auckland city centre streets.

Vehicle parking spaces to be held by residents and not leased or sold to third parties

48. This matter is one I would expect to be canvassed and covered off as part of the future unit title subdivision of the Proposed building. However, for clarity, no subdivision is proposed as part of this current application and

accordingly, all parts of the building are to remain in the ownership of the Applicant.

49. In the longer term, it is anticipated that the areas set aside for residential parking within the Proposed building will remain in the ownership of residents and / or the Body Corporate and will be for the exclusive use of the residents of the building.

Loss of car parking to the area

50. The loss of publicly available parking resource has been raised by Jing Xie, which I understand to be a reference to the demolition of the car parking building that occupies the site at present. My view is that this sits comfortably within Auckland Council and Auckland Transport's policies for the Auckland city centre. Ultimately, while I can acknowledge the sense of loss, the building is a privately-owned resource and any perceived public benefit is not protected. The Applicant is at liberty to cease parking operations at any time.

Geotechnical effects / stability

Insufficient information / adequacy of information relating to groundwater drawdown / settlement, liquefaction and stability associated with excavations

51. Auckland Council and City Rail Link Limited raised concerns relating to the level of technical information provided to support conclusions around groundwater drawdown / settlement, liquefaction and the stability associated with excavations. Auckland Council recommended a suite of additional conditions of consent that they state would, in addition to the conditions proffered as part of the application, ensure the necessary information is available to inform the appropriate mitigation approach and design tolerances.

52. Following receipt of comments, WSP has held discussions with Peter Millar of Tonkin & Taylor who is providing the Panel with technical geotechnical advice as part of its review of the application. WSP agreed a suite of additional investigations that would be undertaken now to fill the information gaps identified, which would be supported by an updated suite of conditions proffered by the Applicant. Specifically, WSP has provided:
- a. Federal Street Residences: Geotechnical Report for Consenting dated 22 June 2022 (Project Number: 1-43855.V8, Revision 0) (refer **Attachment 7** to this response)
 - b. Federal Street Residences: Assessment of Dewatering Effects dated 22 June 2022 (Project Number: 1-43855.V8, Revision 02) (refer **Attachment 8** to this response)
53. The new WSP assessments are to be read in conjunction with their reports and memos that already form part of the application. I do not repeat the technical assessment of the matters covered in the additional WSP reports. No new reasons for consent have been identified, however the WSP assessments provide further information to support those conclusions. WSP's additional assessments have been supported by an updated Construction Staging document prepared by Icon (refer **Attachment 10** to this response).
54. Auckland Council's primary concern with the proffered conditions of consent is that they *"do not reflect the total settlement (mechanical settlement due to retaining wall deflection and consolidation settlement due to groundwater drawdown), differential settlement and retaining wall deflection predications"*. While the Groundwater and Settlement Monitoring Contingency Plan (**GSMCP**) and associated conditions for the groundwater permit have generally been accepted by the Council, they recommended a significant number of conditions requiring the establishment and implementation of a Settlement and Monitoring Contingency Plan (**SMCP**) be applied to the land use consent.
55. WSP has advised that the GSMCP incorporates all of the information and mitigation associated with both the groundwater drawdown and

mechanical settlement effects arising from the proposed works, and that separate management plans are unnecessary and only seek to duplicate the management of effects that ultimately will be monitored and managed together. The updated suite of conditions proffered by the Applicant seek to clarify this relationship, and WSP has provided specific comments relating to this relationship at Section 10 of their Geotechnical Report for Consenting.

56. I agree with the WSP position, but do note the potential for mechanical settlement to be considered in isolation of groundwater drawdown effects where excavation and basement construction is undertaken above the groundwater table / perched groundwater (i.e. above the point at which groundwater would be intercepted). Accordingly, Conditions AA6 to AA18 have broadly been adopted from Auckland Council's submission to account for excavation and retaining works that may be undertaken above the groundwater table. An acknowledgement of the relationship between the mechanical settlement and groundwater drawdown conditions is set out in an advice note under Condition AA5. It acknowledges the significant overlap identified by WSP, and sets out that in the event that the Conditions of Water Permit WAT60399231 are met, the corresponding requirements of Conditions AA7 to AA19 may be deemed to be satisfied also. For clarify, the full requirements of the SMCP (Condition AA6) can be met as part of the GSMCP (Conditions 82-84).

57. The abovementioned assessments and updated suite of proffered conditions are, in my opinion, sufficient to address the asserted information gaps identified by Auckland Real Estate, RL Senojak and Others and Alice Li relating to potential settlement effects associated with groundwater drawdown, and to determine and appropriately manage those potential effects on adjoining buildings.

Cumulative effects associated with groundwater and settlement effects enabled by the City Rail Link designation

58. City Rail Link Limited raised a concern relating to the cumulative effects associated with groundwater and settlement effects associated with the

Proposal in the context of the approved groundwater and settlement effects arising from the City Rail Link construction.

59. As part of their updated modelling, WSP has considered the cumulative groundwater take effects that arise in conjunction with other groundwater take activities. They have not raised any concerns in their Assessment of Dewatering Effects relating to the potential for settlement effects to overlap with those of the City Rail Link works.

Scale / design of the building

Size of the development / Maximum total floor area ratio and setback infringements

60. Written comments received from Auckland Real Estate and Maitre Systems Limited relate generally to the scale of the proposed development, with concerns raised relating to the loss of outlook / views as well as visual impact on the broader Auckland city centre skyline including interruption of views of the landmark Sky Tower. Other parties simply noted a lack of support for the design of the building.
61. For completeness, I note that Auckland Council (including their specialist planning, urban design and landscape architect advisors) supports the proposed building design and the associated infringements.
62. I have provided a detailed assessment of the relevant planning matters relating to the scale and design of the Proposal within the Planning Report submitted as part of the application before the Panel. I do not repeat that assessment here, but direct the reader to the following sections of my Planning Report:
- a. Section 9 (Environmental Effects Assessment), with sub-sections 9.5 (Character and amenity) and 9.6 (Dominance, shading and privacy) particularly addressing the scale of the building and the infringement of the MTFAR and setback standards.

b. Section 13.4 (Auckland Regional Policy Statement)

c. Section 14.1 (Auckland Unitary Plan) District level objectives and policies, including in particular H8 (City Centre zone).

63. In addition to the above, I make the following response to the matter raised at paragraph 25 of the written comment by Auckland Real Estate, where they state, *“ARE acknowledges that the Unitary Plan does not provide any direct protection of private views from residential or commercial buildings. However, it nonetheless notes that the direct effect of the Proposal’s significant infringement of the Unitary Plan MTFAR and tower setback standards will be a significant reduction in the outlook and views from the ARE Properties to the west...”*.

64. I agree that the Unitary Plan does not protect private views from residential or commercial buildings. I do not agree that the MTFAR infringement creates the impact on western views from the Auckland Real Estate properties being referenced. Rather, I consider the impact to arise from the infringements to the setback standard. **Figure 18** in my Planning Report and the associated commentary clearly articulate two baseline schemes (one residential, one commercial) that comply with the 13:1 MTFAR limit for the site, both of which are taller than all existing buildings on the Auckland Real Estate properties. In this regard, the only actual existing view being compromised is the oblique view across the north-eastern corner of the subject site where the setback infringements to Federal and Kingston Streets intersect. Existing views from 60 Federal Street (built to the street edge for 20 storeys) navigate a path through the 14m wide Kingston Street between the Altitude Apartments at 34-38 Kingston Street (built to the street edge for 21 storeys) and the Rydges Hotel at 59 Federal Street (built to the street edge for 15 storeys).

65. The Proposal retains a 13m gap to the south of the proposed tower form, enabling broader views above the podium across that part of the Site than may otherwise result from the commercial baseline scheme mentioned above.

66. Subsequent to submitting this application, Auckland Council released its “Preliminary Response” to the Government’s National Policy Statement on Urban Development (**NPS:UD**) and the Medium Density Residential Standards (**MDRS**). It will release its formal response in the form of changes to the Unitary Plan in August 2022. While acknowledging it is only a preliminary position, the Council clearly articulated their intention to remove the Gross Floor Area (GFA) and GFA Bonus standards (and the General Height standard). While carrying no legal weight, I find this useful context given a significant element of this current application from the perspective of relevant plan provisions is a gross floor area infringement.

67. No changes to the design or scale of the building or the conditions proffered by the Applicant are proposed to address this matter.

Design, relationship with St Patricks Cathedral

68. Written comment from John and Patricia Roberts note a concern that the scale of the building ‘undermines’ St Patricks Cathedral.

69. Gavin Lister of Isthmus has provided an assessment of the Landscape + Visual + Urban Design Effects of the Proposal including specific comment on the relationship between the Proposal relative to the ‘bookends’ of Federal Street, being St Patricks Cathedral and the Sky Tower (refer paragraphs 7.29 to 7.33). Mr Lister concludes that the change in view from St Patricks Cathedral / St Patricks Square will be positive, noting that the current view over the existing car parking building on the application site is ‘not especially remarkable’.

70. I agree with Gavin Lister’s assessment and conclusions. In my view, the physical separation between the Proposal and St Patricks Cathedral, including all the intervening development, means that the relationship between the Cathedral and the Proposal is as a reference point rather than anything more tangible.

71. No changes to the design or scale of the building or the conditions proffered by the Applicant are proposed to address this matter.

Loss of eastern bedroom windows of Altitude Apartments

72. RL Senojak and Others have raised a concern relating to the existing windows in the eastern wall of the Altitude Apartments.
73. As noted in the submission, the proposed tower is 3.7m from the eastern wall of the adjoining building. I do not believe that there is a *“...risk that the eastern wall apartments will no longer comply with code and the Owners will be required to reconfigure the light provision in these apartments.”*
74. The Altitude Apartment construction pre-dates the outlook requirement within the Auckland city centre (which came into effect circa 2005) and the introduction of a setback requirement (which become operative in 2016). Accordingly, the Altitude Apartments are built to the shared boundary with the application site for the full height of that building. Despite this, I note that up until 2016 it would have been possible to redevelop the application site right up to that same shared boundary, meaning there was no security to the light or outlook derived from any of the east-facing windows in the façade of the adjoining building until late 2016.
75. Acknowledging the change in planning provisions in 2016 when the Unitary Plan become operative in part, I consider it an unreasonable expectation that windows in the Altitude Apartments (which informally borrows outlook and gains light over the Application Site) will retain the existing light and outlook given that when constructed those windows were able to be built out, and under the current rules the ‘infringement’ is greater on the Altitude Apartments side than that it is in the Proposal.
76. Notwithstanding the above, Woods Bagot Peddle Thorp have considered the amenity of those windows and the functions of those rooms and have accordingly positioned bedrooms opposite bedrooms. In his Landscape + Visual + Urban Design Effects assessment, Gavin Lister notes, *“While the north-west corner of the tower is only 3.7m from the adjacent building, that part of the neighbouring building is side wall with very small windows, the end apartments of that building otherwise have outlook over Kingston Street or the south”*.

77. I consider that the proposed design ensures that privacy concerns are appropriately managed by way of a separation of 3.7m, the location of bedrooms opposite bedrooms, and the very small size of those existing windows in the eastern wall of the Altitude Apartments. While not directly relevant in the city centre context, I note as a reference that the urban residential standards within the Unitary Plan only require a 1m x 1m outlook from secondary bedrooms.

78. No changes to the design or scale of the building or the conditions proffered by the Applicant are proposed to address this matter.

Light reflectance

79. Auckland Council and Auckland Real Estate both raised the need for light reflectance from the building to comply with Unitary Plan standard H8.6.29 (Glare). I agree and acknowledge an oversight in the initial condition set. I have recommended the inclusion of this requirement as an extension to Condition 20 and have adopted a hybrid of the wording suggested from Auckland Council and Auckland Real Estate.

80. I have not included Auckland Real Estate's request that the design not generate unreasonable glare lines to nearby buildings including 60 Federal Street and 16 Kingston Street. The rationale for this is that compliance with the standard will ensure that adverse effects are being appropriately managed.

Proposed activity

81. Written comments from Jarrod Barlow and Jingzu Xu object to the concept of a new hotel and a new 50-level residential building within the city centre respectively.

82. While part of the earlier proposition discussed with Auckland Council through the design competition phase and pre-application process, the

hotel component was removed from the Proposal prior to formal lodgement as a direct response to the COVID-19 pandemic.

83. While I accept that the scale of the building is the subject of this resource consent application, the residential activity proposed is a permitted activity.
84. No changes to the design or scale of the building or the conditions proffered by the Applicant are proposed to address this matter.

Streetscape upgrade

The Baseline Streetscape Upgrade Concept

85. Auckland Transport raised issues with the Baseline Streetscape Upgrade Concept in that it does not account for the existing needs of the transport network (loading bays and disabled parking on Federal Street and reserved police parking on Kingston Street) and falls short of the Council's intended outcomes for Federal and Kingston Streets as it does not account for dedicated cycle lane or the provision of pedestrian facilities through shared spaces. On the basis of the above, Auckland Transport requested that the Baseline Streetscape Upgrade Concept be removed from the Proposal.
86. To be clear, the Baseline Streetscape Upgrade Concept is in no way intended to deliver an upgrade in place of Auckland Council's Federal Street Upgrade project. The intention is that it forms a minimum baseline expectation that would be delivered as mitigation for the impact the proposal is having on the adjoining streets – being the removal of existing loading and disabled parking spaces on Federal Street and the establishment of a wider footpath along the Federal and Kingston Street frontages. The rationale for this request is that the Wind Report necessitates a pedestrian canopy of some 3m in depth, meaning that a physical change within the road reserve is needed. Having established the necessity for works within the street and the location of those works (i.e., the existing footpath and loading / parking spaces within 4m of the site boundary), the Applicant seek to facilitate an

improved pedestrian environment immediately adjoining the Site and to support the active ground floor edges to the proposed building.

87. Further to the above intent, it appears that the Baseline Streetscape Upgrade Concept as lodged has been misunderstood in terms of what it actually includes. Auckland Transport noted that the Baseline Upgrades “will remove paid parking, mobility parking, loading spaces and reserved police parking over Federal Street and Kingston Street.” This is not accurate, although I acknowledge that the Baseline Streetscape Upgrade Concept shows the removal of disabled and loading spaces from the western side of Federal Street and does not show those existing parking arrangements on the eastern side of Federal Street (paid parking and the temporary cycle lane) or the northern side of Kingston Street (reserved police parking). Accordingly, an updated Baseline Streetscape Concept has been prepared that shows the proposed works in the context of the existing on-street facilities that are to be retained.
88. On behalf of the Applicant, Phil Eaton (Greenstone Group) and I met with Auckland Transport and Auckland Council’s Development Programme Office (**DPO**) (who are responsible for the Federal Street Upgrade) representatives on Thursday 19 May 2022 to clarify the scope of the proposed Baseline works and to discuss their feedback and potential design solutions to address the matters they raised. We reiterated that the existing pedestrian infrastructure on Federal Street adjoining the application site is particularly poor (the footpath is approximately 1.8m in width and includes signage poles, sitting between the existing building on the application site and loading bays / disabled parking spaces, and two existing vehicle crossings to the Site sit within this space also) and that removing the Baseline Streetscape Upgrade Concept from the application would be detrimental to the public. This was accepted.
89. Following what was a positive session, an updated Baseline Streetscape Concept has been prepared (refer **Attachment 11** to this response) which takes account of the following feedback from Auckland Transport (email from Hannah Miln to Ross Cooper dated 10 June 2022 – refer **Attachment 12** to this response):

- Pedestrians remain the top priority of the movement hierarchy within the CBD and deserve priority. While there is merit with street activation by occupation of adjacent land use (such as outdoor dining), people movement along footpaths within the CBD should remain unimpeded at all times.
- Rather than relocate the mobility parking and loading spaces to the eastern side of Federal Street, these have been positioned along the western side of Federal Street to avoid potential conflicts with traffic (unloading from within the live traffic flows) and the existing cycle lane (albeit this is an existing scenario with the paid parking adjoining the cycle lane at present).
- the Applicant confirms that the 'drop off' area on the Kingston Street frontage is not privatised. This is identified as "P5 Loading / Drop off bay".

90. Much of the conversation in our meeting focussed on the uncertainty around the timing of the Federal Street Upgrade project. The Applicant supports the Federal Street Upgrade project and would prefer that it is aligned to coincide with the completion of their development. Given the uncertainty around this, the Baseline Streetscape Upgrade Concept has been proposed to ensure that sufficient upgrade works are implemented as a minimum. It has been agreed with Auckland Transport and the DPO that a mechanism be included within the proffered conditions of consent to account for the implementation of the Baseline Streetscape Upgrade Concept, unless at an appropriate time prior to construction of Baseline scheme the Council confirms that the Federal Street Upgrade will be progressed to coincide with the Applicant's development. In such a case, the Baseline scheme would not be implemented and the Applicant would contribute \$500,000 the Council's Federal Street Upgrade project instead. Please refer to Conditions 27A and 27B.

91. Written comments from 1947 Limited and Auckland Real Estate raise concerns relating to the Baseline Streetscape Upgrade Concept being

inequitable in that it disadvantages those on the eastern side of Federal Street.

92. As noted above, the proposed Baseline scheme is mitigation only for the direct impact on the adjoining parking facilities on the western side of Federal Street and the paid parking on the southern side of Kingston Street. The upgrades are considered to be of benefit to the public broadly, particularly when the very poor existing pedestrian amenity along Federal Street is accounted for. The Baseline scheme in no way seeks to replace or influence Auckland Council's design for the Federal Street Upgrade, which will deliver the long-term solution to transport movements, priority and amenity through this part of the city centre. To reiterate, the Applicant would prefer not to have to implement the Baseline scheme at all and instead would happily contribute to the Council's Federal Street Upgrade project.

93. For completeness, while the Applicant will be designing the Baseline scheme, Auckland Transport has sole responsibility and full discretion as to any approval of that design.

94. I also note that Auckland Council's written comments highlighted the implementation of the Baseline Streetscape Upgrade Concept as being critical for achieving the desired activation of the street edge. I agree with this sentiment.

95. Russell Brandon has also provided commentary in response to written comments regarding the Baseline Streetscape Upgrade Concept. I agree with Mr Brandon's statements.

Additional approvals needed from Auckland Transport to implement the Baseline Streetscape Upgrade Concept raises questions as to the applicant's ability to implement the proposal

96. Auckland Real Estate note that as landowner approval is required from Auckland Transport to implement the Baseline upgrade, this raises questions of the applicant's ability to implement the Proposal.

97. I agree that there are a number of separate approvals that will need to be obtained in order to give effect to the Baseline Streetscape Upgrade Concept, including Corridor Access Requests, Vehicle Crossing Permit, Resolution Committee and Engineering Plan Approval for roads and road network activities. This is entirely normal. Resource consent processes are, by definition, a high-level approval for a conceptual development. Numerous landowner approval processes from Auckland Council and its CCO's will be triggered on all large-scale development of this nature, and all of those design and approval processes come after the resource consent process and during the detailed design phase.

98. In my view, it is not necessary to have a full and final Baseline Streetscape Upgrade Concept in place, just to provide confidence that a design that satisfies Auckland Transport is achievable. Through the recent discussions with Auckland Transport and the DPO, the Applicant has sufficient confidence on this matter. For completeness, I note that Auckland Transport no longer wishes to see the Baseline scheme removed from the Proposal.

Support for bringing Auckland Council's Federal Street Upgrade project forward, need to provide equitable amenity for both sides of the street

99. I agree that this is the clear preference. In the event that alignment between the two projects is achieved, the Applicant will not be in charge of the design work associated with the Federal Street Upgrade. They have articulated a desire to be involved in any design process as it relates to the land adjoining their property and would anticipate other property owners would be afforded the same.

Historic heritage outcomes associated with Heritage Floor Space bonus

100. Written comments received from Honourable Carmel Sepuloni, Minister for Arts, Culture and Heritage, and Heritage New Zealand Pouhere

Taonga each raise a concern that no donor site(s) has been identified for the Heritage Floor Space Bonus (**HFSB**), noting that as no detail is provided on which historic heritage place will be used, they are concerned that the Panel will not have oversight on whether it will be adequate to offset the greater floor space, or whether any conservation of the historic heritage place will be appropriate.

101. I note that the approach set out in my Planning Report and the proffered conditions of consent (Conditions 36 and 37) reflects the standard approach taken by Auckland Council over the implementation of HFSB. The conditions establish that prior to the issue of building consent for the 'above-ground structure' Stage of construction (specifically for Level 7 and above), the Consent Holder must provide evidence that the registered owner of the donor site(s) has at no cost to Auckland Council, prepared and entered into a covenant which documents the transfer of the required HFSB. The transfer must also be recorded on the application site by the Consent Holder at the same time.

102. Key to this is that no developer is going to purchase HFSB until resource consent is obtained and they have certainty that they need the bonus floor space. Auckland Council holds a register of all available HFSB which details an ample supply of transferable floor space available within the Auckland market. There are no concerns as to whether the transfer will be achievable.

103. As noted in paragraph 66 above, Auckland Council is currently contemplating changes to the Unitary Plan in response to the NPS:UD and MDRS. The preliminary response released by Council in May identified their intention to remove all GFA and GFA Bonus Floor Space standards. On the basis that any such rules are no longer in effect at the time the Applicant is required to implement the transfer of heritage floor space, I consider it appropriate to include a condition of consent that acknowledges this situation, and which would remove the obligation to execute the transfer. This would avoid the need for a future variation of any resource consent granted to remove the requirement if the rules in the Unitary Plan that currently identify and enable the transfer of HFSB no longer exist.

Services infrastructure

104. In response to comments made by Watercare Services Limited, Brad Rudsits of WSP has prepared evidence on wastewater capacity and the ability to service the proposed development. I agree with Brad Rudsits evidence and have nothing further to add.
105. WSP has prepared the following additional assessments to support the conclusions reached by Mr Rudsits in his evidence and the agreements made with Watercare Services Limited:
- a. Feasibility Study: 65 Federal Street (Project Number: 1-43855.v7, Revision 2.0) dated 24 June 2022 (refer **Attachment 6A** to this response)
 - b. Memorandum “FTC000055 – Federal Street Residences Wastewater Servicing” (File/Ref: 1-14388.V7, Revision F) dated 24 June 2022 (refer **Attachment 6B** to this response)
106. Proffered Conditions 28, 67 and 68 set out the need for the Consent Holder to obtain Engineering Plan Approval for service infrastructure prior to issue of building consent(s) for the ‘above-ground structure’ Stage of construction, construct infrastructure in accordance with the information referenced in Condition 1, and provide as-built documentation for all new public assets to be vested in Auckland Council. An alternative wastewater solution is now proposed, however no changes to the conditions proffered by the Applicant are considered necessary to address this matter.
107. Watercare Services Limited requested further clarification relating to whether the Proposal includes on-site sprinkler tank storage sufficient for firefighting purposes, or whether supplementary supply from the public network is needed.
108. Martin Feeney of Holmes Fire has prepared a brief memo (refer **Attachment 9** to this response) in response to that request, and has

confirmed that the proposed tank capacity of approximately 208,000 litres is sufficient supply for a sprinklered fire event. Refilling of the tank via the public network is only needed following the fire event and is not relied on during the fire event. The municipal water supply system will be relied on for fire hydrant water supply in the same way as all other buildings within the city centre are.

109. No changes to the conditions proffered by the Applicant are needed to address this matter.

Financial compensation

110. A number of written comments have raised the concept of financial compensation as mitigation for perceived impacts arising from the Proposal. Items raised include:

- a. Compensation if businesses need to be closed due to access restrictions / road closures associated with the construction phase
- b. Reduction in property values
- c. Remedial and compliance costs relating to:
 - Removal of windows on the eastern wall of Altitude Apartments / reconfiguration of light to bedrooms
 - Depth of basement / stability
 - Building damage
- d. Loss of rent or return on sale during construction
- e. Legal costs to neighbours to be covered by the applicant.

111. Jeremy Brabant has covered the legal principles related to the above items in his legal submissions. I note the following brief responses to help guide

an overall understanding of the actual impacts anticipated, and any mitigation proposed.

112. The RMA does not provide consent authorities with a general power to impose conditions requiring an applicant for resource consent to compensate others for adverse environmental effects. The sole exception to this is that a condition requiring a 'financial contribution' may be imposed under Section 108(2)(a) to offset an adverse effect on the environment, but only where for purposes specified in a Plan.

113. While the former Auckland Council District Plan (Central Area Section) included a financial contribution requirement for the maintenance and acquisition of public open space, Auckland Council now relies on a Development Contributions to cover those costs. Accordingly, the Unitary Plan does not include a requirement for financial contributions.

114. Instead, and within the parameters set out in the RMA, proposals are measured against the ability to avoid, remedy or mitigate adverse environmental effects arising from development. In regard to the specific adverse economic effects raised in written comments, I note:

- a. Access to all properties must be maintained at all times. There should be no circumstance where access to private property is not possible.
- b. The Proposal will not result in any non-compliance that dictates a need to remove the eastern bedroom windows of dwellings in the Altitude Apartments.
- c. Building condition surveys are proposed before and after works associated with this development (refer Conditions 57 to 63). This is to protect both the Consent Holder / contractor and neighbours where impacts may occur. The Consent Holder is responsible for identifying and remedying any damage caused.

Use of the Fast-Track Consenting Process

115. Maitre Systems Limited raised a concern around the use of the COVID-19 Recovery (Fast-Track Consenting) Act 2020 (**CRA**) by the Applicant for the Proposal, citing *“a bonus to the applicant to gain approval quicker than standard...this creates a behemoth of a building that would otherwise require a notified application and doubtful approval”*.

116. The process adopted is a lawful option for Applicants where the Minister for the Environment determines that the referral of a project to an Expert Consenting Panel is justified by reference to relevant criteria in the CRA. In this case the Minister accepted the application for referral. For the record, I disagree with Maitre Systems Limited’s description of the building and view that approval (under any valid consenting process) is doubtful.

Communications

117. New Bay Investments raised a concern that the Applicant’s communications with them to date had been insufficient. I disagree.

118. The Applicant gave New Bay Investments an opportunity to be informed about the Proposal, ask questions and to engage specialists in November 2021. Rydges attended an information session in December 2021 with their legal advisors and followed up with their key concerns which were acknowledged. The Applicant then provided those concerns to its consultant team for review and consideration.

119. In early February 2022, Phil Eaton (Greenstone Group) on behalf of the Applicant met with Rydges representatives, discussed their concerns and provided an advance copy of the Draft Construction Traffic Management Plan prepared by Flow Transportation Specialists. Their feedback was again provided to the Applicant’s consultant team.

120. Upon acceptance of the application by the EPA, a full advance copy of the application was sent to New Bay Investments to give them more time to get their specialist advisors to review the application material.

121. The above is all represented in the Engagement Summary prepared by Boyd PR and included as **Attachment M** to the application as lodged.



Ross Cooper

Dated 28 June 2022