

Specialist Response

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Overall summary

This response will cover the following aspects of the proposal from a policy perspective:

- the supporting communal facility provision
- Is the Nola Estate development an IRD?
- assessment against the objectives of the NPSUD
- assessment against the Single House zone objectives & policies
- Subsequent subdivision of an IRD

Integrated Residential Development

The AUP(OP) defines “Integrated Residential Development” as (emphasis added):

A residential development on sites greater than 2,000m² which includes supporting communal facilities such as recreation and leisure facilities, supported residential care, welfare and medical facilities (inclusive of hospital care), and other non-residential activities accessory to the primary residential use. For the avoidance of doubt this would include a retirement village.

Therefore, the criteria comprising an IRD are:

- the primary activity is a residential activity
- a development site greater than 2000m²
- provision of supporting communal facilities
- provision of other non-residential activities accessory to the primary residential use.

Supporting communal facilities

Supporting communal facilities are non-residential facilities and /or activities accessory to the primary residential use, available for communal use by residents within an IRD.

Using the [Oxford English Dictionary](#) the term is broken down into its individual components. The most appropriate meaning of the respective word was taken from the definition in the dictionary, which aligns with the intent and outcomes of the term.

Supporting:

6. *That provides support for a main part, ...; secondary.*

Communal:

2. *a. Of, relating to, or belonging to a commune*

3. *Participated in or shared by the whole community or by members of a group; owned in common; collective.*

Facilities:

6 c. Originally U.S. In plural: the physical means or equipment required for doing something, or the service provided by this; frequently with modifying word, as **educational facilities, postal facilities, retail facilities**, etc. In singular: a service or feature of a specified kind; (also) a building or establishment that provides such a service.

Oxford Advanced Learner's Dictionary: [plural] buildings, services, equipment, etc. that are provided for a particular purpose

Considering the above definitions of each word which comprise the term, and in the context of an IRD, “supporting communal facilities” are a range of amenities and services, secondary to the residential component, under the common ownership and for the use of the residents. It is implied therefore that supporting communal facilities would be for the exclusive use of the residents of the IRD, because the facilities were established to be complementary to the primary residential use of the development, of which the general public do not have access to. Notwithstanding friends and family accompanying a resident or owner, would be able to share in the use of the facilities.

The decision declining a residentially focused IRD on Single House zoned land at 30 & 40 Sandspit Road¹ discussed the inadequacy of its proposed supporting communal facility provision stating:

we have determined that these facilities or activities are insufficient to distinguish this proposal from any other apartment development and could pave the way for any proposal with similar – or even fewer – facilities to claim IRD status, thus potentially undermining the provisions of the AUP.

In light of the above assertion, supporting communal facilities should be over and above what one would expect to find in a standard residential development. It is this component of an IRD, along with the minimum site size, which enables the IRD activity to be distinguishable over a standard residential development.

If the supporting communal facilities, were intended to be made available for public use, the facilities would not be considered ‘supporting communal facilities’ because, they would be considered to be ‘public’ facilities for the use of the general public, not just for the use of the residents of the IRD.

Assessment

This section will assess the Nola Estate IRD proposal against the criteria that comprise an IRD.

The previous policy advice provided by council, included in the preapplication minutes² was assessing an earlier version of the proposal where the proposed supporting communal facilities had not yet been designed. Since then, the proposal has been updated to contain a central green space designed to be a central open play reserve area with a Multi-Use Games Area (MUGA), a playground, barbeque areas and a fruit tree orchard.

¹ Para 86, Decision BUN60324132: 30 and 40 Sandspit Road, Shelly Park and 2 and 4 Reydon Place, Cockle Bay; 12 August 2019

² Appendix 6 - Auckland Council meeting minutes: Plans & Places Policy feedback

Residential is the primary land use activity

The proposal will have 246 residential units and therefore meets the first criteria of what comprises an IRD.

Development site greater than 2000m²

The proposal is a residential development across 4.3 ha and therefore meets the second criteria of being on sites greater than 2000m².

Assessment of proposed supporting communal facilities

The proposed supporting communal facilities are:

1. A central open play reserve area, Multi Use Games Area (MUGA), playground and barbeque areas.
2. A community orchard area located across from the central reserves and the MUGA.
3. Passive landscaped reserve areas of varying sizes dotted throughout the development.

The **central open play reserve area, Multi Use Games Area (MUGA), playground and barbeque areas** are supporting communal facilities. This is because:

- the reserve containing these facilities is located centrally within the development site
- the reserve will be maintained via a resident's association or equivalent body and will not be publicly vested
- upon the subsequent subdivision, the allotment that contains these facilities will be amalgamated to 36 of the proposed residential allotments
- this is significant enough in function, for it to be considered a supporting communal facility.

Notwithstanding, there are issues relating to the ownership and accessibility of these supporting communal facilities. These facilities are proposed on Lot 504. This allotment along Lot 503 (passive recreation reserve located to the west extending from Glengarry Road) is proposed to be amalgamated only with residential allotments 58 to 93. I acknowledge that the AEE states that all the reserve areas will be managed by a resident's association or equivalent body, however with regards to the concept of communal ownership, the subdivision specifies certain allotments having ownership over certain reserves which legally infers that this supporting communal facility is only for the owners and residents of these allotments and not for the other residents of the proposed development. This undermines the intent of what is supporting communal facilities should be in an IRD, as it will only be those who will hold it in common ownership which is not all of the proposed residents and landowners of the IRD.

Furthermore, the AEE states that the main central reserves being Lots 504 and 503 will be accessible to the public, which also undermines the intent of what a supporting communal facility should be. These proposed supporting communal facilities will not be for the exclusive use of the residents of the IRD because the general public will have access to them. Rather than these being supporting communal facilities this will have the appearance of a public amenity.

The **Community Orchard** proposed on lot 505 is also considered to be a supporting communal facility. This is because:

- the community orchard is located centrally within the development site
- the community orchard will be maintained via a resident's association or equivalent body
- upon the subsequent subdivision, the allotment that contains the community orchard will be amalgamated to 15 of the proposed residential allotments
- this is significant enough in function for it to be considered a supporting communal facility.

Notwithstanding, the same issues relating to the ownership and accessibility of this community orchard is of concern. The amalgamation of this facility to only 15 of the residential allotments implies that this facility, which produces fruit, will only be for those who own it and not all of the residents of the IRD. As with all of the reserves, these are proposed to be accessible to the public and therefore not for the exclusive use of the residents of the IRD.

In the future issues could arise for these landowners with regards to their responsibilities around the maintenance and upkeep of these supporting communal facilities when it's open and accessible to the public.

Notwithstanding, it's still can still be considered as being supporting and communal, despite being accessible to the public. The is because these facilities are not owned by the territorial authority. They are to be held in common ownership by some of the future landowners of the dwellings in the IRD.

However, the **passive landscaped reserve areas** of varying sizes dotted throughout the development are not considered to be supporting communal facilities. This is because:

- They do not have the appearance of having been purposefully designed to be a supporting communal facility and their respective lack of relationship, have an appearance of being leftover pieces of land that cannot be used for residential purposes because of the bulk and location of the built form.
- There are no components or indicators that a recreational activity could take place in them or an inviting space for residents to commune, or an element that make this distinguishable as a supporting communal facility over standard landscaped areas that one would expect to find in a standard residential development.

Please refer to Figure 1 below which shows in orange the location of the passive landscaped reserve areas compared to the location of the community orchard and the central open play reserve area shown in blue.



Assessment of non-residential activities accessory to the primary residential use.

The proposed non-residential activities accessory to the primary residential use are a commercial node consisting of three 100m² shops, a 100m² café, and a 100m² community centre.

Commercial Node

The proposed commercial node activity falls outside the ambit of a non-residential activity in the context of an IRD. All though these non-residential activities have the potential to support the residents of the IRD, they are proposed to support the local community in general rather than them being exclusively supporting the residents of the IRD. This is contrary to the word 'communal'. Therefore, this component should be considered as a separate activity to the integrated residential development activity.

Furthermore, this was not the intent of the Independent Hearings Panel in creating IRD activity. They recommended changes to the plan to:

to provide for 'integrated residential developments', which include retirement villages, recognising that while a range of activities may be provided on site, they are essentially for residential purposes³

This commercial node is not for residential purposes. The applicant is correct in applying for these as separate activities outside of an IRD.

In conclusion, the proposed Nola Estate IRD can be classified as an IRD. However, there are fundamental issues relating to the ownership and accessibility of the supporting communal facility provision which had the potential to undermine the integrity of the IRD activity.

National Policy Statement: Urban Development

The NPS-UD provisions seek to enable intensification through council plans in appropriate locations, such as places in or close to urban centres where people can access many jobs, services and amenities; places that are well-served by public transport; other areas with high demand for housing and business space.

The NPS-UD came into force in August 2020, replacing the National Policy Statement - Urban Development Capacity. All of the objectives in section 2.1 became operative. Relevant provisions of the NPS-UD must be considered in terms of section 104 of the RMA.

In the context of the Nola Estate IRD proposal, objective 8 is a provision of the NPS UD that is required to be considered when determining whether to grant or refuse an application for resource consent. The objective states:

Objective 8: New Zealand's urban environments:

- a) *support reductions in greenhouse gas emissions;*
- b) *are resilient to the current and future effects of climate change.*

The focus of objective 8 is on development supporting reductions in greenhouse gas emissions and development being resilient to the current and future effects of climate change.

Page 49 of the AEE states:

Therefore, on a per house basis, the development will produce much less greenhouse gas than a typical residential subdivision in the zone.

I agree with the applicant's planner in that terraced housing is inherently more energy efficient than stand-alone houses in terms of insulation. Also, each dwelling will have separate stormwater detention and retention systems. These aspects of the development along with the findings of the stormwater capacity assessment satisfy the resilience to the current and future effects of climate change leg of the objective. However the terraced housing typology is not anticipated within this zone.

Page 50 of the AEE states:

³ IHP report 059 to 063 Residential zones 2016-07-22 , page 5

The site has good access to the local public transport network and reasonably convenient (including easy cycling access) to the Auckland Rapid Transit Network (or a 20-minute walk), thereby minimising the reliance on private motor vehicles. A park and ride rail and bus station is 2km to the east at the Glen Eden town centre, and access to bus stop 5053 only three minutes' walk away at Parrs Cross Road. This will assist with reduction of vehicle emissions as a consequence of an increase in density of development on the site.

It is proposed that the number of residential car parks in the proposal are limited to 242, with units allocated one park per unit (except for four units in Block T), and 45 street parks, and 4 parks for visitors. This capping of car parks encourages the use of alternative modes of transport.

There are 246 residential units proposed and 242 car parks proposed which is four less than having one car parking space per residential unit. The AEE states that the subject site has good access to local public transport, however it is not considered that this development will be within a walkable catchment to an RTN or an FTN. Therefore, residents of this development will be likely to use their own private mode of transport, which this development accommodates through its parking provision.

The proposed location of this development will result in its residents being dependent on their cars because of the site's location is on the fringes of Auckland's urban area. This in turn will not result in supporting reductions in greenhouse gas emissions and negates any savings in terms of greenhouse gas emissions as expressed on page 49 of the AEE.

In conclusion, the Nola Estate IRD has the potential increase car dependency which contravenes supporting the reduction of greenhouse gas emissions.

Single House zone policy framework

The assessment against the Single House Zone objectives and policies provided in the previous policy advice from council, is relevant, still applies and is not repeated here.

Proposed density

The applicant's planner (page 11 of the PDF AEE (page numbering in AEE is incorrect)) and Mr Ian Munroe (urban design report), use the Single House zone 'hidden density' argument (principal dwelling, splitting of a dwelling into two & minor unit) as a justification to warrant such a high density in this proposal. Despite their assertions, this is not equivalent comparison as these activities are tied to the use of the land, and the intention is that these dwellings would not be subdivided off, unless they can meet the density provisions being 1 dwelling per 600m². Disposing of these units onto sites less than 600m² is expressly prohibited. That signals a very strong message about the perpetuation of the Single House Zone's density.

Another area of particular concern is the applicant's planner's understanding around the purpose of an IRD on page 12 (PDF) and on page 92 (PDF) of the AEE

..proposing an IRD respectful of the receiving SHZ character and SHZ objectives and policies, and also respectful of the purpose of an IRD to

provide higher density on larger sites, demonstrates compliance with the zone rules, and the subdivision of this land use simply rationalises the land use approved in tenure terms

The planner has interpreted the purpose of the IRD activity is to enable high density multi unit development on a large site. The planner's apparent subsequent logic is that just because the Single House zone provides for IRD's in its activity table, then high density multi unit developments are anticipated in this zone. This assertion is untrue.

IRDs are activities provided for in each residential zone, however a high density multi unit IRD cannot be replicated in each residential zone, because the density, scale and bulk of an IRD is not intended to be the same in each zone.

The density, scale and bulk of an IRD are informed by the anticipated built form described in the zone description, further articulated in the objectives and policies, with the IRD's building envelope defined by the respective zones development standards.

The low density residential zones: Large Lot, Rural and Coastal Settlement and Single House zones have particular nuances around density, scale and bulk to which an IRD is to align to, in its design.

In low density zones such as the Single House zone, the density is a matter that needs to be considered in the design of an IRD, along with scale, building bulk and its compatibility with both the existing and planned suburban character. The anticipated density of the Single House zone is informed by the name of the zone, reinforced by the non-complying activity status of more than one dwelling per site, bolstered by the Single House zone minimum site size in the E38 Urban Subdivision chapter.

Table 1 below looks at how IRD's are referred to in the policy framework of low density residential zones. It shows that it is only the Single House Zone that contains a policy for IRDs, and within that policy, it stipulates that IRD's are to be provided for on larger sites.

Table 1: IRD's in the policy framework & activity tables of the low-density residential zones			
Low Density Residential Zones	Contains Policy referring to IRDs	Activity table	
		<i>Integrated Residential Developments</i>	<i>More than 1 dwelling</i>
H1 Residential - Large Lot Zone	X	Discretionary	Discretionary
H2 Residential - Rural and Coastal Settlement Zone	X	Discretionary	Non-complying
H3 Residential - Single House Zone	<i>To provide for integrated residential development on larger sites.</i>	Discretionary	Non-complying

Table 2 below looks at how IRD's are referred to in the policy framework in high density residential zones where there are no controls around density. The policy referring to IRD's in the two Mixed Housing zones, is promoting a more efficient use of larger sites which the Single House zone does not.

This is because an IRD in the Single House zone should be in keeping with scale and intensity of the development anticipated by the zone. The zone description states that multi unit development is not anticipated and development should be consistent with a suburban built character. The character of the receiving environment for this proposed IRD is low density, with standalone one to two storey residential buildings on spacious sites and with space around each dwelling. An IRD in this area should be designed to reflect that established character.

In high density zones, there are no controls around density and it can be interpreted that the efficient use of a larger site in these zones is around increasing density. This is also bolstered by the fact, that in the high density residential zones' activity tables, the activity status for an IRD and 4 or more dwellings is the same.

Table 2: IRD's in the policy framework & activity tables of the High-density residential zones			
High Density Residential Zones	Contains Policy referring to IRDs	Activity table	
		<i>Integrated Residential Developments</i>	<i>4 or more dwellings per site</i>
H4 Residential - Mixed Housing Suburban Zone	<i>Enable more efficient use of larger sites by providing for integrated residential development.</i>	Restricted Discretionary	Restricted Discretionary
H5 Residential - Mixed Housing Urban Zone	<i>Enable more efficient use of larger sites by providing for integrated residential development.</i>	Restricted Discretionary	Restricted Discretionary
H6 Residential - Terraced Housing & Apartment Buildings	<i>Enable a variety of housing types at high densities including terrace housing and apartments and integrated residential development such as retirement villages.</i>	Restricted Discretionary	Restricted Discretionary

Following on from that, the form of an IRD should also change in the high density zones because there is a different building bulk and scale of development anticipated in each of these zones.

The form of an IRD, in terms of the intensity of its built form, density, scale and bulk is informed by the anticipated built form articulated within the policy framework of the receiving zone. The applicants planners view on the purpose of an IRD is incorrect because the IRD activity was not intended by the Independent Hearings Panel, to be used as a vehicle to introduce high density multi unit development into low density zones.

Subdivision of an IRD

The application documents do not provide any clarity in relation to how the IRD activity is perpetuated post subdivision. The applicant is applying for subdivision around and approved land use. Page 40 of the AEE it states:

The land use consent contains a covenant which requires the entire land holding to be developed in accordance with the land-use consent, so there is confidence that the staging of the subdivision aspect will not undermine the integrated development of the site.

Beyond that, the application documents are silent on this issue. It is not clear if the integrity of the IRD activity is going to be upheld post subdivision, where the subdivision will result in allotments that will have:

- a residential component
- supporting communal facilities component
- site areas of 2000m².

The IRD activity is the land use activity that this subdivision (Rule E38.4.2(A14)) is to be applied to. Therefore, it would not be fanciful that the subdivision is to result multiple IRD's.

Furthermore, each stage of the subdivision should be a subdivision around the approved land use (IRD). Therefore, each stage should the clear and identifying how it is an IRD i.e. a residential component and supporting communal facilities.

There is an inference in the application that this could be possible through the proposed use of amalgamation conditions holding the reserve, COAL, parking spaces and residential dwellings together. However, it is not clear in the application documents if these amalgamated sites would equate to site areas of 2000m² or more.

Conclusions

The residentially focused Nola Estate IRD and its subsequent subdivision has the potential to undermine the IRD activity in the AUP. It could set a conflicting precedent wherein, the land use seeks to create a residential development with non-residential components integrated into it, with the subsequent subdivision undoing what the land use seeks to create. The subdivision will fragment the development, through the vesting of the public road network and creating complicated structures of ownership of supporting communal facilities through the amalgamation conditions.

Furthermore, the Nola Estate IRD is proposed at a density, scale and bulk which is not commensurate with the anticipated outcomes of the Single House Zone. The approval of this consent will have a spatially transformative impact upon the character of this Single House zoned area and could signal to the development sector that the IRD activity can be used to introduce high density multi-unit developments into the Single House Zone.