

The Minister for the Environment
c/o The Environment Protection Authority
Private Bag 63002
Waterloo Quay Wellington 6140

4 October 2021

Dear Minister Parker,

We are responding to your invitation for comments on an application before you for referral to the Expert Panel under the COVID-19 Response (Fast Track Consenting) Act 2020.

The application is made by ICD Property Group, and is located at 65-71 Federal Street, Auckland Central (Lot 1 DP 100837).

Having reviewed the application material provided, Auckland Council considers it appropriate to refer the project to an expert consenting panel.

Answer to specific questions raised in letter 21 September 2021

1. *Are there any reasons that you consider it more appropriate for the Project, or part of the Project, to proceed through existing Resource Management Act 1991 (RMA) consenting processes rather than the processes in the FTCA?*

The proposal has been briefed to all relevant Council departments, CCO's and specialists (see below under Part 4). The relevant Local Board and Ward Councillor have also been briefed. As a result of comments received, Auckland Council has not identified any reason to oppose this Project being processed under the FTCA. As outlined below, Auckland Council at this stage has not identified any significant issues.

2. *What reports and assessments would normally be required by the council for a project of this nature in this area?*

- Landscape Visual Assessment
- Urban Design Statement
- Wind Tunnel Report
- Transport Assessment
- Acoustic Report
- Infrastructure Report

- Preliminary Site Investigation (to identify any contaminated soils)
- Geotechnical report
- Integrated Traffic Assessment (ITA)
- Construction Traffic Management Plan (CTMP)
- Construction Management Plan
- Evidence of consultation with Mana Whenua groups who have an interest in Nga Wharau a Tako

3. *Does the applicant, or a company owned by the applicant, have any environmental regulatory compliance history in your region?*

Compliance monitoring have looked at the compliance enforcement history of:

- P0012 Auckland NZ Pty Limited
- ICD Property Group (ICD)
- Tao MAI (Director of P0012 Auckland NZ Pty Limited)

Auckland Council has issued a 'notice to fix' two times to P0012 Auckland NZ Pty Limited for failure to comply with Section 108 of the Building Act 2004 (annual building warrant of fitness). Both notices are now listed as compliant. The other aforementioned parties do not have any compliance or enforcement action listed against them. There are no outstanding compliance concerns for the three abovementioned parties that Auckland Council is aware of.

Potential for significant adverse environmental effects

Opinion has been sought from the Local Board, Ward Councillors, Council departments, Council Controlled Organisations and other specialists. The responses in full can be found in attachment one. The following is a summary.

- In terms of urban design, Ms Mein has not identified any significant adverse effects as a result of the proposal, having reviewed the street level interface, Maximum Total Floor Area Ratio (MTFAR) exceedance, height, tower setback, tower 'crown' and Mana Whenua matters in her memo. Ms Mein is generally supportive of the direction in which the application is heading.
- In terms of landscape and visual impacts, Mr Kensington has stated that although the potential for design refinement remains, the proposal is not likely to result in significant landscape effects. It is also noted that Mr Kensington is waiting for additional visual simulations which may necessitate further design refinement.
- In terms of planning, the proposal is broadly consistent with the relevant standards, objectives and policies. It is noted that the proposed Floor Area Ratio (29:1) represents an exceedance of the MTFAR (13:1). The advice of Ms Mein and Mr Kensington is relied upon in that the proposed tower's contribution to the streetscape and skyline will not generate significant adverse effects, noting the potential for further design refinement.

- Auckland Transport (AT) has stated that it does not have enough information to assess the effects of the project. AT requests an Integrated Transport Assessment (ITA), a Construction Traffic Management Plan (CTMP) and more information on the Federal Street upgrades. However, AT has raised no significant concerns.
- Watercare Services Limited (WSL) has indicated that there are some capacity constraints in the downstream wastewater network. More detailed information is required to assess the exact impact of the development on the network and the extent of any potential upgrades. However, WSL have indicated that there are no 'showstoppers'. The water supply network appears to have sufficient capacity.
- Healthy Waters has commented that the site is well serviced for stormwater infrastructure and there does not appear to be any stormwater infrastructure constraints that would impact the proposed development.
- Auckland Council's Development Programme Office does not have significant concerns and has noted the need for future coordination and agreement over funding for the Federal Street upgrade.
- The Local Board have raised no concerns and are generally supportive of the proposal, citing its benefits which include those associated with intensification of the City Centre.
- Councillor Darby has no comment indicating general support of the development.
- Councillor Coom supports the development.

The full commentary provided by the Local Board, Council departments, Council Controlled Organisations and other specialists are included in this response as attachment 1. Overall Auckland Council consider that there are no significant adverse environmental effects associated with the proposal.

Iwi and Iwi Authorities

There are sixteen Mana Whenua groups noted as having an interest at 65-71 Federal Street, Auckland Central. A list with contact details has been provided to the applicant.

- Ngāi Tai Ki Tāmaki
- Ngāti Maru
- Ngāti Paoa Iwi Trust
- Ngāti Paoa Trust Board
- Ngāti Tamaoho
- Ngāti Tamaterā
- Ngāti Te Ata Waiohū
- Ngāti Whanaunga
- Ngāti Whātua o Kaipara
- Ngāti Whātua Ōrākei
- Te Ahiwaru Waiohū
- Te Ākitai Waiohū
- Te Kawerau ā Maki
- Te Patukirikiri

- Te Rūnanga o Ngāti Whātua
- Waikato – Tainui

Other comments

- There are no joint management agreements, Mana Whakahono ā Rohe, transfer of power, memorandum of understanding, or other relationship agreements under the RMA, including the parties involved that are applicable to this application.
- The applicant has provided an economic impact assessment in support of the proposal. The report assesses the proposal against the assessment criteria in section 19 of the Act. Auckland Council considers that the proposal will help to achieve the purpose of the Act.
- There are no other significant matters that Auckland Council considers that the Minister should be aware of when deciding whether the project should be referred to an expert consenting panel.

Yours sincerely,



Ian Smallburn
General Manager – Resource Consents

Enclosed as Attachment 1:

- Comments from asset owners being Auckland Transport, Watercare and Healthy Waters
- Comments from Council experts for planning, urban design, visual landscape and the Development Programme office
- Comments from Waitemata Local Board

Asset Owner / Specialist Response

From: Lisa Mein, Principal Urban Design consultant on behalf of Auckland Council

Date: 28 September 2021

Overall Summary:

Overall, I am supportive of the proposal from an urban design perspective. The applicant and its design team has worked collaboratively with myself and other Council specialists to address issues raised in 2018/2019 and improve the quality of the building, acknowledge its location within a site of significance to mana whenua (Ngāti Pāoa and Ngāti Whātua) and strengthen its offering to the city centre. In my opinion the proposal offers a considerable opportunity to act as a catalyst for the redevelopment of this mid-block of Federal Street (including the streetscape upgrade), and give effect to Transformational move 3: Waihorotiu / Queen Street Valley of the City Centre Masterplan by improving the relationship between the built form and public realm along Federal and Kingston Streets (part of the laneway circuit) and increasing the residential population to support the ongoing regeneration of the city centre.

The site is located within a “special height area” in the AUP, falling within the Aotea Square Height Control Plane (H8.6.4). The purpose of this control is to ensure that Aotea Square receives adequate sunlight when the space is most used, to maintain views from Aotea Square to landmark buildings and views to Aotea Square and so that tall buildings do not dominate the open character of Aotea Square. At 183m, the proposed development falls well within the height limit.

Building height and bulk is also controlled by the maximum total floor area ratio (MTFAR) standard (H8.6.21). The maximum for this site is 13:1. The proposed development is approximately 29:1, and is therefore a non-complying activity. The purpose of the MTFAR is to manage the overall scale of development in the city centre. From an urban design perspective, the issues to be addressed are the impact the building has on the comfort of the street environment for pedestrians and the impact on the overall cityscape. Wind information provided suggests wind levels at street level will be acceptable and can be mitigated by conditions of consent. The tower is reasonably slender however, it would benefit from tapering towards the upper levels and a “top” or crown in deference to the Sky Tower, which would also create a stronger connection to place. While not a show-stopper, refinement of this design along those lines would improve the visual aspects of development on the cityscape.

Since its first iteration, the design has evolved to include a clearly distinguishable podium and tower. While the tower setback from Federal and Kingston Streets is 3m, rather than the required 6m minimum, I consider the proposed setback together with canopy and façade treatment achieve a sufficient distinction between the podium and tower when viewed from Federal or Kingston Streets. The podium also contributes to a human scale when viewed from these streets. At the street level, the marketplace is supported in principle, however this requires greater detail to ensure it achieves the desired activation of the street edge, not just the internal spaces.

The site is identified as a Site of Significance to Mana Whenua. I understand from the Applicant that they have undertaken ongoing engagement with Ngāti Pāoa and Ngāti Whātua Ōrākei to develop a narrative and give effect to it through the design. The narrative has clearly been woven into the revised design, and I would encourage that this dialogue with mana whenua continues to inform the design, including offering a gathering space at street level as well as spaces for the needs of tangata whenua within the amenity levels.

I consider the application documents present the proposed development at a preliminary stage. While I am generally supportive of the direction the proposal is heading in (as outlined above), I welcome the opportunity to continue to work with the applicant design team to refine the design, both the response to the street level interface and the upper levels and “top” of the tower, to ensure it enhances its public offering to Federal Street and positively contributes to the skyline of Tāmaki Makaurau.

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the Official Information Act 1982

Asset Owner / Specialist Response

From: Peter Kensington, consultant landscape architect KPLC Limited (for Auckland Council)



Date: 28 September 2021

Overall Summary:

In my opinion, from the information that I have reviewed to date¹, the proposal is not likely to result in significant adverse landscape effects and has the potential to result in a positive contribution to the urban landscape of the Tāmaki Makaurau city centre.

Potential adverse effects of the proposal on the streetscape and cityscape (city centre skyline) have been considered by the applicant within the application document prepared by Isthmus Group Limited, titled '65-71 Federal Street, ICD Property, Landscape + visual + urban design effects', dated 23 August 2021 and authored by Gavin Lister (applicant's expert assessment).

I agree with the applicant's expert assessment that the site is an appropriate location for a residential tower and that the design seeks to achieve appropriate streetscape outcomes; as a significant improvement from the low quality of built-form that exists on site at present.

The proposed design quality and attention to well considered building bulk (including a slender tower) and facade treatment, all contribute to this appropriate outcome, which appears consistent with the relevant AUP(OP) objectives, policies and assessment criteria.

The potential for design refinement remains, for example in relation to the building 'crown' and proposed landscape design elements. It is understood that the applicant is seeking to undertake this design refinement to achieve an improved quality of outcome than currently proposed, including through ongoing engagement with mana whenua. It will be important to ensure that the positive design features are not lost or 'watered-down' prior to construction.

The opportunity for this proposal to be a catalyst that contributes to the transformation of Federal Street (between Victoria Street West and Kingston Street), through remodelling of the public street environment as a 'shared space', is an outcome that should be realised, if possible, through this approval process (via the most appropriate mechanism).

The above response is provided on a 'without prejudice' basis, because there may be matters of relevance that arise following my review of the additional application material that is yet to be lodged (for example, the additional visual simulations²). I will primarily be looking to review the

¹ Noting the applicant has indicated, in pre-application meetings with Auckland Council, that the design of the proposal is likely to be further refined, with additional assessment undertaken (including the presentation of additional visual simulations), prior to consideration by the EPA.

² Note: the current application visualisations do not appear to include the 'NDG Tower' on Elliot Street.

relationship of the proposed tower with that of the proximate 'Sky Tower' when seen 'in the round' from viewpoints to the north, south, east and west. It is possible that my final review opinion recommends that the proposal is slightly too tall, for example.

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the Official Information Act 1982

Asset Owner / Specialist Response

From: Patrick Moss, Senior Planner, Central Resource Consents

Date: 29 September 2021

Overall Summary:

In terms of the relevant planning standards under the Auckland Unitary Plan (Operative in Part) it is noted that the proposed Floor Area Ratio (29:1) represents an exceedance of the Basic Floor Area Ratio (BFAR) which is 8:1 and the Maximum Total Floor Area Ratio (MTFAR) which is 13:1.

Mitigation is expected for an exceedance of BFAR, specifically to address standard H8.6.11(1) that anticipates bonus features be provided where the BFAR is exceeded. It is the BFAR and the accumulation of bonuses that allow applicants and their developments to reach the MTFAR. Bonus features may be in the form of the transfer of a heritage floor space bonus (to support heritage restoration elsewhere in the City Centre), residential activities, public amenities or light and outlook.

The City Centre Policies H8.3(27), (31) and (32) anticipate that the above bonus features will be provided to bridge the gap between BFAR (8:1) and MTFAR (13:1). Although the standards clearly anticipate tall buildings in this location, the purpose of MTFAR³ together with the height limit⁴ is to manage the overall scale of development in the city centre. Compliance with the MTFAR may result in a shorter, bulkier tower or may result in a taller, slenderer tower than the one proposed, noting that Council's Consultant Urban Designer, Ms Mein, has commented that the proposed tower is 'reasonably slender'.

There is an expectation (not explicitly stated in the Plan) that any exceedance in MTFAR (noting an exceedance is a non-complying activity) be mitigated by additional public benefit or mitigating features. This may be acknowledgement of its location as a site of significance to Mana Whenua and offerings to the public realm (including but not limited to the streetscape and the skyline). In this respect I am relying on the views of Ms Mein and Mr Kensington who are of the view that although there is potential for further design refinement, there will be no significant adverse effects with regards to Mana Whenua (noting the ongoing dialogue) the streetscape or the skyline.

In terms of the relevant objectives and policies of the City Centre zone, generally speaking these aim to achieve the following:

- Attractive environments
- Design quality
- Growth is accommodated

³ See standard H8.6.21 Maximum total floor area ratio

⁴ The special height limit is determined by the height control plane to Aotea Square. The building is well within this height limit (see AUP Appendix 11 – Business City Centre Zone Sunlight Admission into Public Places)

- Adverse effects (wind and glare effects on public open spaces, including streets, and shading effects on open space zoned land) are avoided, remedied or mitigated.
- A range of (increasingly sustainable) transport modes are able to be accessed

Of particular relevance are the following policies as they relate to bonus features:

- (27) - encouraging the retention and conservation of the city centre's historic heritage through scheduling and through development incentives;
- (31) - maximising light and outlook around buildings; and
- (32) - encouraging public amenities to be provided within developments, including publicly accessible open space, works of art and through site links.

Policy (30) is also relevant with regards to built form. The policy aims to manage adverse effects associated with building height and form by:

- a) transitioning building height and development densities down to neighbourhoods adjoining the city centre and to the harbour edge;
- b) protecting sunlight to identified public open spaces and view shafts;
- c) requiring the height and form of new buildings to respect the valley and ridgeline form of the city centre and building design to be complementary to existing or planned character of precincts; and
- d) managing the scale, form and design of buildings to:
 - i. avoid adverse dominance and/or amenity effects on streets and public open space; and
 - ii. encourage well-designed, slender towers on sites identified within the special height area on Map H8.11.3.

The proposal is broadly consistent with the above objectives and policies. Therefore, I do not consider that the proposal will have significant adverse effects on the environment.

Asset Owner / Specialist Response

From: Hannah Miln, Senior Development Planner, Auckland Transport

Date: Tuesday, 28 September 2021

Overall Summary:

Thank you for the opportunity to provide comment on the referral of 65-71 Federal Street for consideration under the COVID-19 Recovery (Fast-track Consenting) Act 2020 (FTCA). Auckland Transport does not currently have enough information to assess the effects of the Project.

The subject site is located within the Business – City Centre Zone under the Auckland Unitary Plan Operative in Part (AUP(OP)). The proposed 357 residential dwellings and 1,000m² of commercial activities of this nature can be reasonably expected under the City Centre Zone. However, Auckland Transport requests that should this Project be accepted for fast track consenting, the full application material includes an Integrated Transport Assessment (ITA) to enable a complete assessment of the proposal.

Integrated Transport Assessment (ITA)

The ITA for the Project should include assessment on the following key areas.

- **Pedestrians:** the Council's Federal Street Access for Everyone Report has existing pedestrian counts and future pedestrian counts for 61 Federal Street. The pedestrian count for January 2019 was 400,000 with up to 250 pedestrians per hour. Pedestrian numbers are set to increase to 15,000 over a 2-hour AM peak at 61 Federal Street by 2028⁵. The ITA for this Project must ensure a robust analysis of the pedestrian network. Pedestrian safety, amenity and inter-visibility toward the vehicle access is critical and must be attained within the Project.
- **Access:** tracking must be provided for the vehicle access and waiting area(s) to ensure there are no conflicts with structures or the footpath environment / pedestrian network. A robust queuing analysis must be provided which can ensure that no queuing from this Project occurs within the road reserve, including consideration of network demands for other land uses in this location. Queuing onto Kingston Street/Hobson Street would be unacceptable due to operational and pedestrian safety effects. The assessment is to be supported by trip generation, trip distribution (for all modes of transport), pedestrian visibility splays analysis and detail on the operation of valet servicing and car lifts. Alternative options for access location (including on Kingston Street) that had been considered are to be presented within the ITA.
- **Loading:** tracking for loading and loading details are to be provided. All loading is to be contained within the site due to the City Centre loading constraints. An assessment on loading implications on the surrounding transport network (including hotel operations and Auckland District Court) are to be assessed. It is noted that the Kingston Street cross section did not appear to be able to accommodate on-street loading due to the Project accessway.

⁵ MRCagney. (2019). Federal Street Access for Everyone Report. Auckland Council.

- **Parking:** a cycle parking assessment is to be provided to address the cycle parking non-compliance. Auckland Transport strongly recommends providing minimum cycle parking requirements (or more) to meet the basic needs of future residents and to support the existing and planned cycle infrastructure within the City. A vehicle parking assessment is to be provided including details on the allocation of parking to activities within the Project.

The ITA is to address any other reasons for consent under Chapter E27 of the AUP(OP) and is to clearly show public easements for public / private access within the site.

Construction Management Plan (CTMP)

Auckland Transport requests that any future application material includes a Construction Traffic Management Plan (CTMP). Temporary occupation of road reserves are to be clearly set out, including the area proposed to be occupied and the duration of the occupation. The CTMP will need to address the removal of any crane utilised to develop the Project upon completion. The CTMP will need to address the constrained transport network in this location for both pedestrians and vehicles, including any bus movements to the neighbouring hotel and Auckland District Court transport requirements.

A CTMP to close Federal Street or Kingston Street cannot be approved until Albert Street, Victoria Street West and Kingston Street are open upon the completion of the City Rail Link (CRL) and Te Hā Noa works (late 2023 for CRL and 2024 for Te Hā Noa). This affects the proposed construction start date of January 2023.

Pedestrian through routes are to be maintained during any construction period due to the high pedestrian demand. Furthermore, the Project is outlined for completion in April 2026 (or later due to CTMP constraints), which is after the opening of Aotea Train Station at the end of 2024.

It is noted that the duration of any Fast Track consent is 5 years (s12(2)(b) of the FTCA). With the earliest construction commencement date between 2023 and 2024 (with no CRL / Te Hā Noa delays), this needs to be factored into the duration of consent implementation timeframes for this Project.

Federal Street and Kingston Street Upgrades

Auckland Transport requests that the application material include details on the proposed implementation / delivery of the street upgrades needed to support the Project as shown in the application material. Such material should address developer contribution / funding or financing arrangements to ensure an interim or full delivery of Federal Street and Kingston Street upgrades required to support the Project.

Auckland Transport has not yet ratified any street design for the future Federal Street upgrade. All available design and documentation are based on 'place holder' designs that will be refined when funding is secured.

The Project's proposed interim street designs for Federal Street and Kingston Street will require further consideration and input from Auckland Transport prior to any Engineering Plan Approval being lodged.

Asset Owner / Specialist Response

From: Amir Karimi, Development Engineer, Watercare

Date: 28 September 2021

Overall Summary:

Based on limited data provided, Watercare has completed a high-level assessment for the proposed development at 65-71 Federal Street, Auckland Central. The proposal is proposed to develop a 55-level building comprising 357 residential units, retail and commercial tenancy space, public and private communal open space.

Wastewater:

Based on the information available, there are some capacity constraints in the downstream wastewater network. The wastewater model indicates that the Engineering Overflow Point at the corner of Fanshawe Street and Wolfe Street is currently surcharging more than twice a year. The proposed development is likely to increase the frequency. More detailed information is required to assess the exact impact of the development on the network and the extent of the potential upgrades.

Water Supply:

The water network seems to have sufficient capacity to service this development under typical demands. However, the potential firefighting sprinkler requirements have not been identified and, therefore, have not been assessed at this stage. The developer must carry out the potential upgrades linking to the firefighting requirements based on the agreed solution at no cost to Watercare.

Asset Owner / Specialist Response

From: Mark Iszard, Growth and Development Manager, Health Waters

Date: 22 September 2021

Overall Summary:

The site is well serviced for stormwater infrastructure and there would not seem to be any SW infrastructure constraints that would impact the proposed development.

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Asset Owner / Specialist Response

From: *Oliver Smith, Manager Delivery Programmes, Development Programme Office*

Date: *28 September 2021*

Overall Summary:

There does not look to be any cause for significant concern regarding the proposed Federal Street Residences conflicting with the future Federal Street streetscape upgrade project in the area adjacent the development (Federal Street Stage 3). The documentation for the proposed Federal Street Residences notes street level food and beverage marketplace which would engage with the street and would support the activation of a future streetscape upgrade along the adjacent section of Federal Street.

We would encourage the Federal Street Residences project, including design team, to work with the council family to ensure the integration of the proposed development design does not conflict and is seamless with the future streetscape works in the area.

It is unlikely that the current Federal Street Stage 3 budget is sufficient to redevelop the section of Federal Street between Victoria Street and Wyndham, and a monetary contribution from the applicant to support the streetscape project would assist the advancement of the Federal Street Stage 3 project as well as allow for provision for the integration between the two schemes, both in a design and construction coordination spaces.

We note that there will be other complex construction activities occurring in close proximity over the next 2-3 years, and any redevelopment along Federal Street will need to factor in constraints associated with this other construction work, as there will be cumulative impacts. This includes the Link Alliance activity in Kingston Street as well as the CRL designation area on Victoria Street outside the Federal Street intersection. Council also will be commencing the Victoria Street linear park project from the CRL designation area to Kingston Street from 2023. Albert Street works by the Link Alliance will also be continuing. Any requirements for construction management plans should be cognisant of and factor in the impacts of the surrounding works.

Asset Owner / Specialist Response

From: Waitemata Local Board

Date: 28 September 2021

Overall Summary:

The Waitemata Local Board note that the development proposed will be high and will be big, there will be some breaches to the AUP during the construction from noise and vibration, however the plans for the street area will very much improve the look and feel of the lane, and the apartments themselves seem well-designed. There are also two levels of residential amenity – one is focused on fitness with a pool, gym, yoga studio and outdoor garden space (on the top of the podium bit) and then higher up is a shared library, games room with pool table, seating, private dining room etc. The design proposes that investor and entry level apartments will be in the podium and the owner/occupiers in the tower where there is more light and views. The tower is tinted glass it seems. This is going to be quite high end, but I think will set the bar for other developments.

With regards our broader strategic aspirations as a council we support the aspiration to divert 80% of waste from landfill. The plans include a separating out of food waste and recyclables from general waste. With regard the construction there will be a comprehensive waste plan. Most of all what is proposed will deliver more than 350 apartments in less than a third of a city block. There will be more bicycle parking than car parking and many residents will be able to walk to work and all sorts of recreational opportunities. This is exactly the sort of high quality low carbon life that we aspire to offer people. We would recommend working with the developer to set up the management structures of the company so as to empower future residents and to encourage that people do live there as their primary home.

One issue is the outlook from some of the apartments to the North West that abut against another tall buildings. The gap between buildings is less than 6m in parts. This is in breach of planning rules, however much of the podium space that has poor outlook is being used for car and bicycle parking. Where apartments are close to the next building it seems to affect only the bedroom with the living space looking to the North or over the top of a smaller building to the West (which has a covenant on it). 36 apartments of over 350 will be affected. These ones will be cheaper of course and in the entry-level/ investor bracket. Not for everyone but I suspect the shared amenity will make up for the downsides. The designs proposed are thoughtful. Overall it is our view that if the plans are followed as proposed this development will be a huge asset to the city.

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