



**RECORD OF TITLE
UNDER LAND TRANSFER ACT 2017
FREEHOLD
Search Copy**



R. W. Muir
Registrar-General
of Land

Identifier NA29A/231
Land Registration District North Auckland
Date Issued 26 March 1974

Prior References

NA670/136

Estate Fee Simple
Area 1011 square metres more or less
Legal Description Lot 22 Deposited Plan 19309

Registered Owners

Nola Holdings Limited

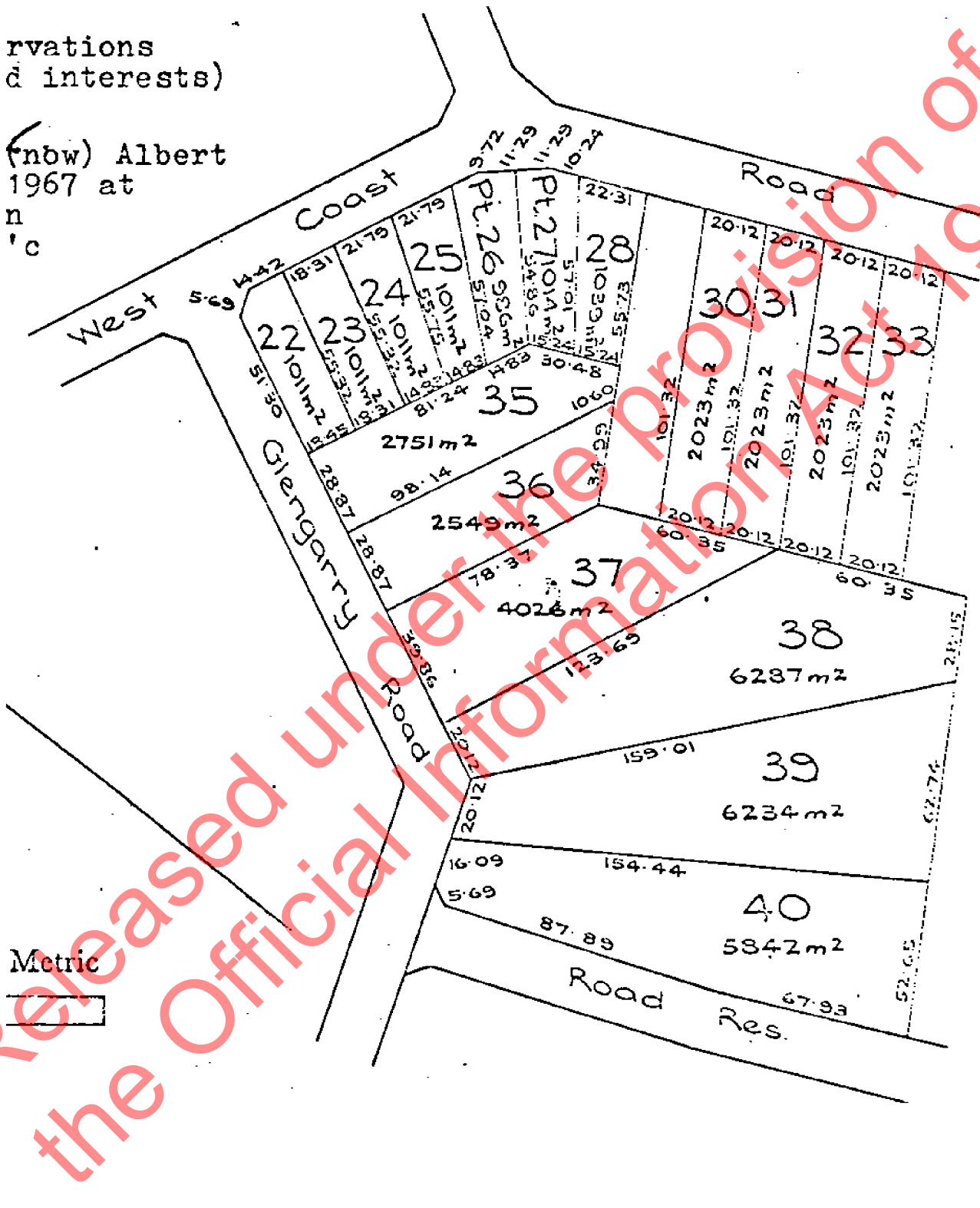
Interests

294903.1 CERTIFICATE UNDER SECTION 96 OF THE RATING ACT 1967 - 2.12.1974 AT 9.13 AM

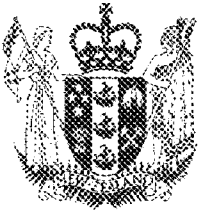
C129749.1 CHARGING ORDER UNDER SECTION 158 OF THE RATING POWERS ACT 1988 - 20.4.1990 AT 3.00 PM

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Prior References

NA670/136

Estate Fee Simple
Area 1011 square metres more or less
Legal Description Lot 23 Deposited Plan 19309

Registered Owners

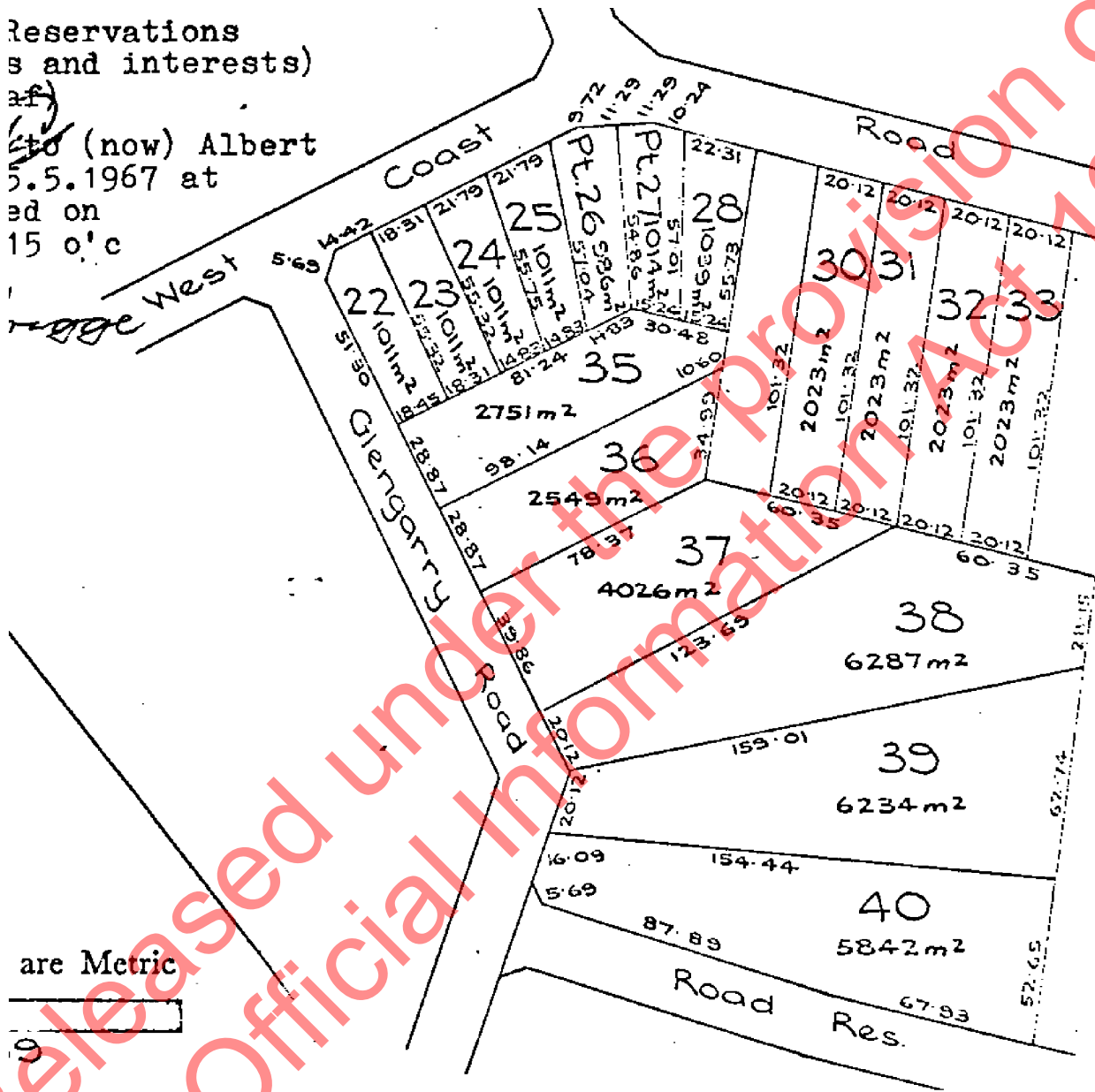
Nola Holdings Limited

Interests

294903.1 CERTIFICATE UNDER SECTION 96 OF THE RATING ACT 1967 - 2.12.1974 AT 9.13 AM

C129749.1 CHARGING ORDER UNDER SECTION 158 OF THE RATING POWERS ACT 1988 - 20.4.1990 AT 3.00 PM

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the Official Information Act 1982



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R. W. Muir
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Identifier NA29A/233
Land Registration District North Auckland
Date Issued 26 March 1974

Prior References

NA670/136

Estate Fee Simple
Area 1011 square metres more or less
Legal Description Lot 24 Deposited Plan 19309

Registered Owners

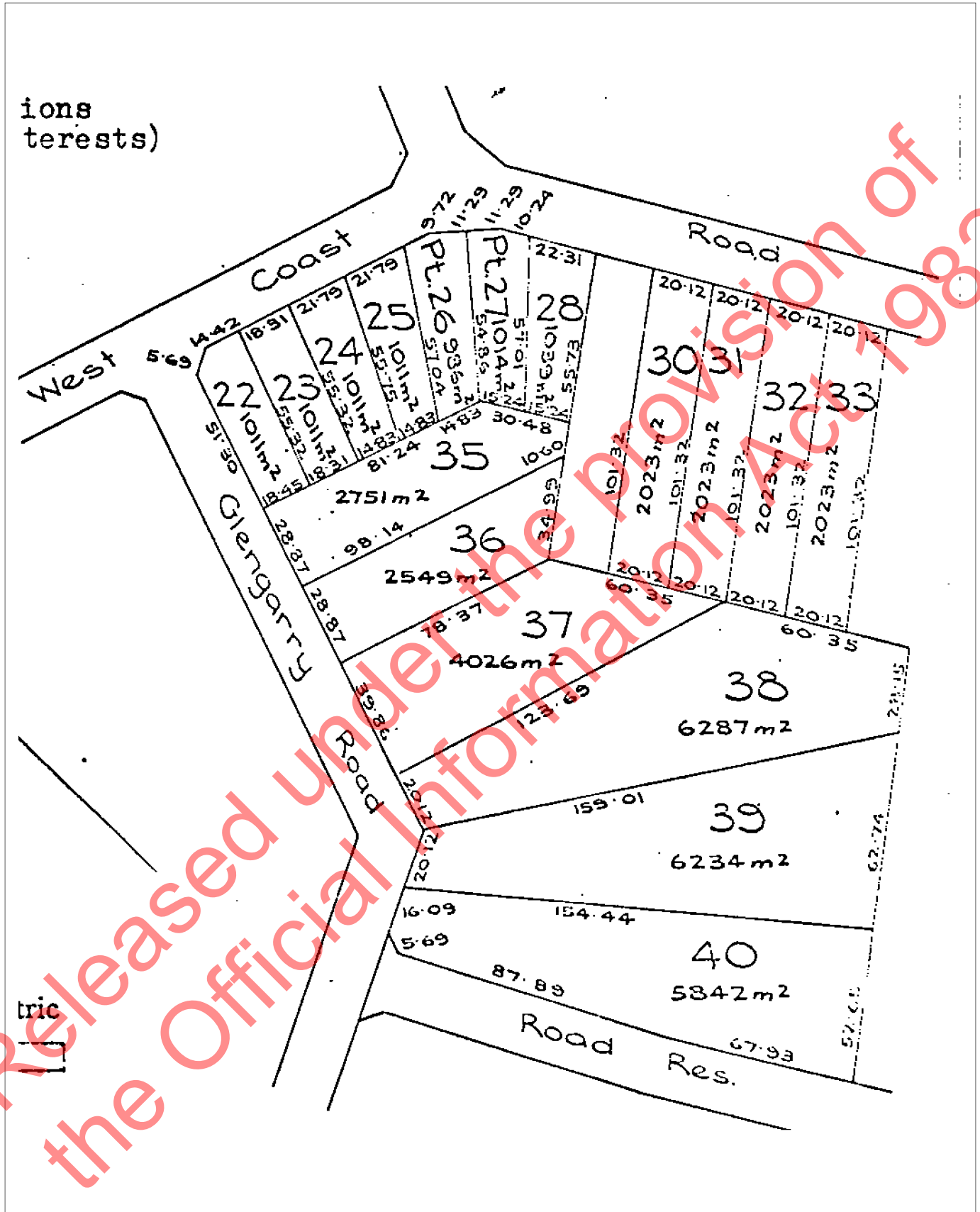
Nola Holdings Limited

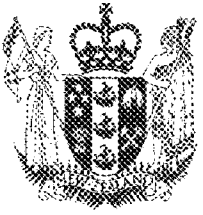
Interests

294903.1 CERTIFICATE UNDER SECTION 96 OF THE RATING ACT 1967 - 2.12.1974 AT 9.13 AM

C129749.1 CHARGING ORDER UNDER SECTION 158 OF THE RATING POWERS ACT 1988 - 20.4.1990 AT 3.00 PM

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**RECORD OF TITLE
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R. W. Muir
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Identifier NA29A/234
Land Registration District North Auckland
Date Issued 26 March 1974

Prior References

NA670/136

Estate Fee Simple
Area 1011 square metres more or less
Legal Description Lot 25 Deposited Plan 19309

Registered Owners

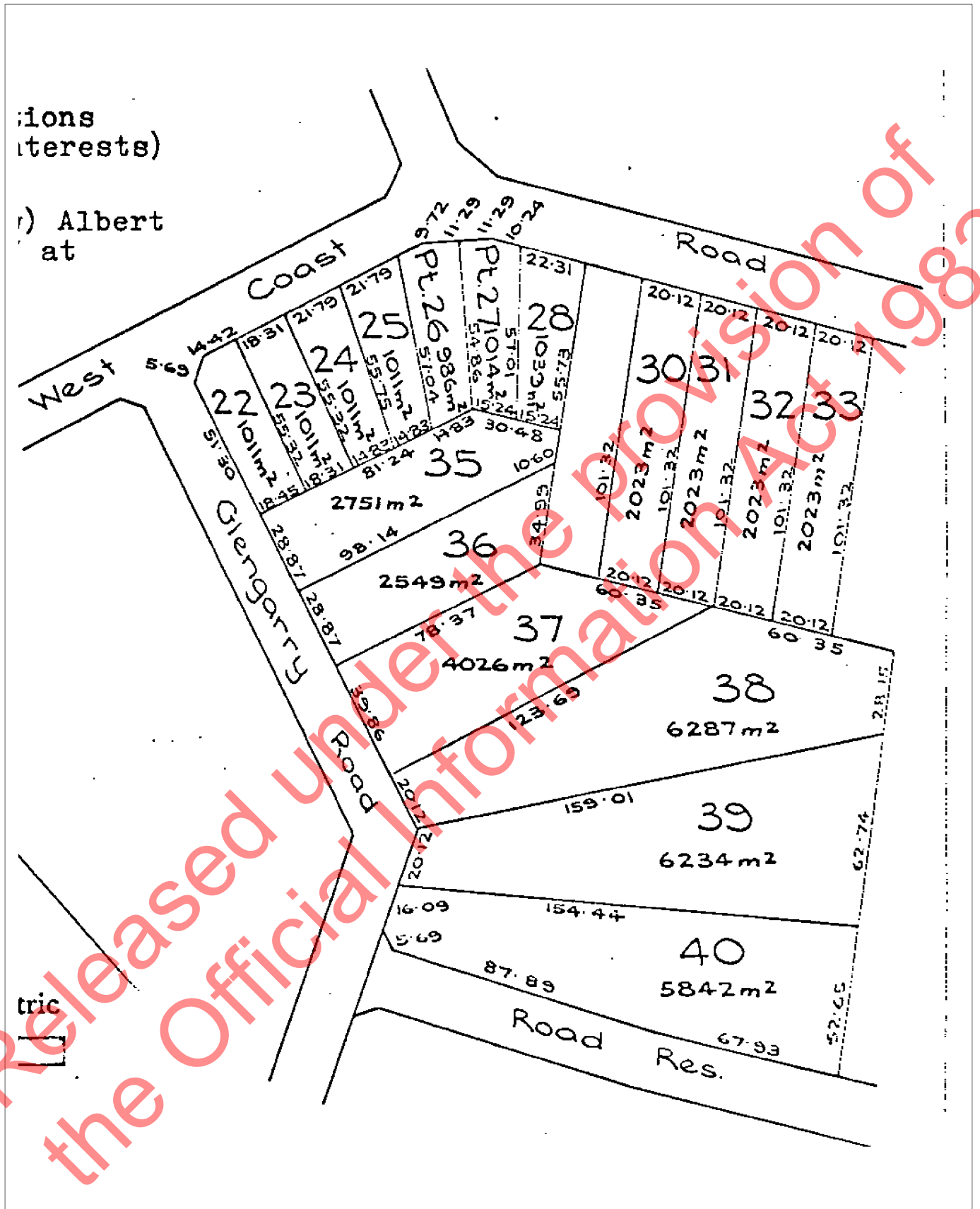
Nola Holdings Limited

Interests

C129749.1 STATUTORY LAND CHARGE PURSUANT TO SECTION 158 RATING POWERS ACT 1988 -
20.4.1990 AT 3.00 PM

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Prior References

NA670/136

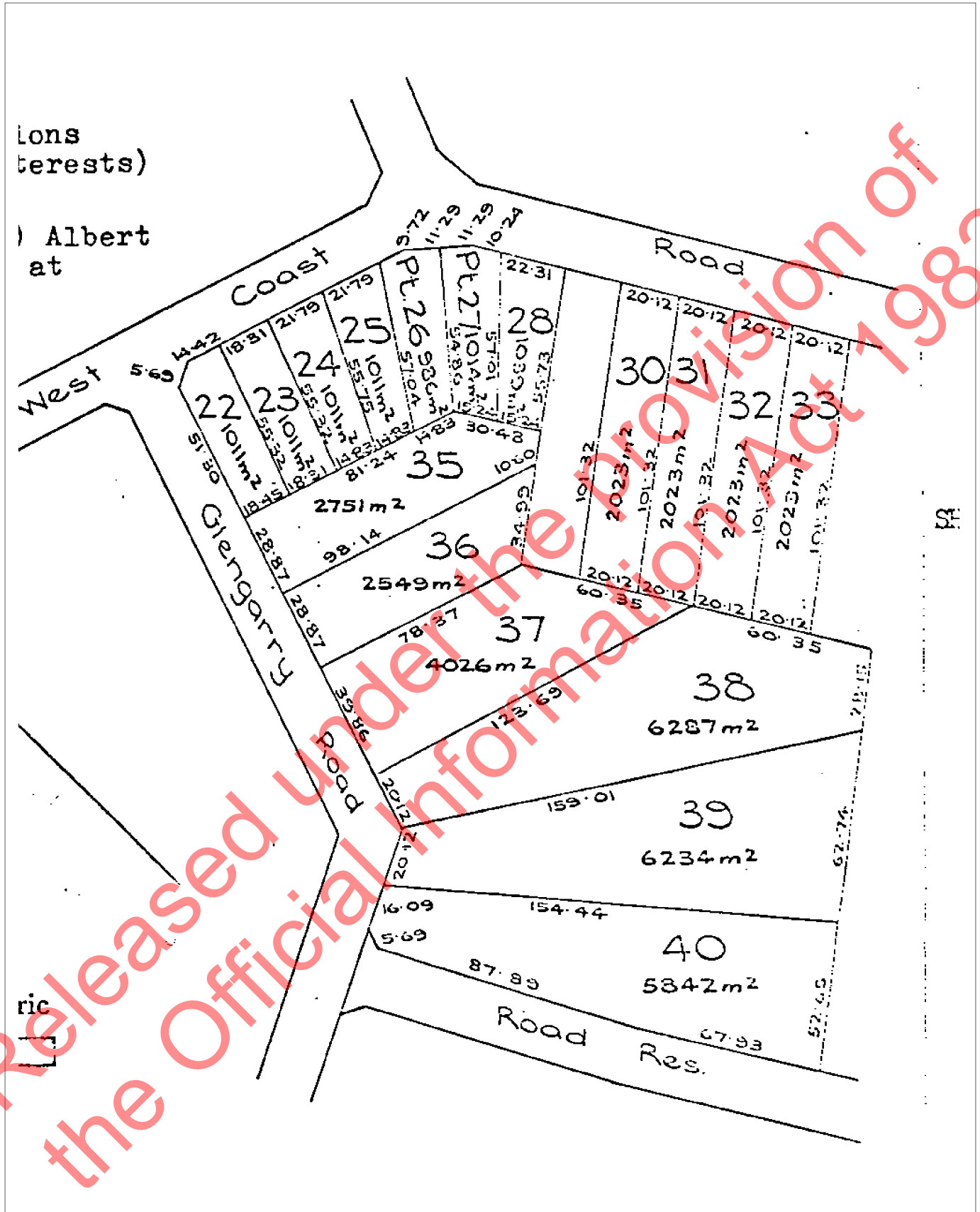
Estate Fee Simple
Area 986 square metres more or less
Legal Description Part Lot 26 Deposited Plan 19309

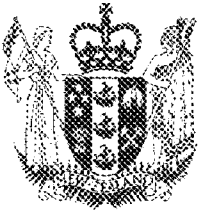
Registered Owners

Nola Holdings Limited

Interests

C129749.1 STATUTORY LAND CHARGE PURSUANT TO SECTION 158 RATING POWERS ACT 1988 -
20.4.1990 AT 3.00 PM





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Identifier NA29A/236
Land Registration District North Auckland
Date Issued 26 March 1974

Prior References

NA670/136

Estate Fee Simple
Area 1014 square metres more or less
Legal Description Part Lot 27 Deposited Plan 19309

Registered Owners

Nola Holdings Limited

Interests

B888573.1 CERTIFICATE PURSUANT TO SECTION 643(2) LOCAL GOVERNMENT ACT 1974 (AFFECTS CT NA29A/237) - 14.9.1988 AT 2.37 PM

C129749.1 STATUTORY LAND CHARGE PURSUANT TO SECTION 158 RATING POWERS ACT 1988 - 20.4.1990 AT 3.00 PM

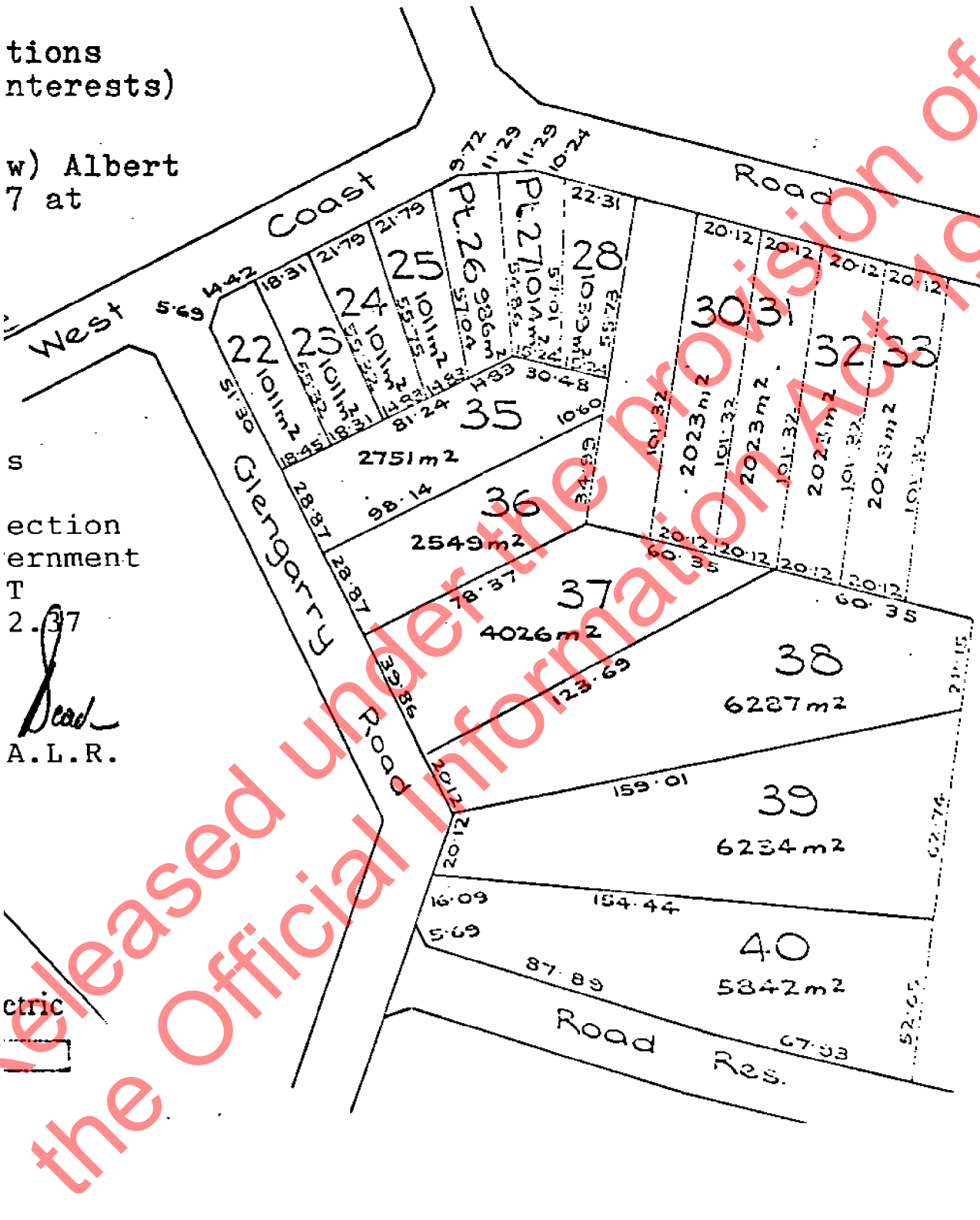
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of Land

Identifier NA29A/237
Land Registration District North Auckland
Date Issued 26 March 1974

Prior References

NA686/23

Estate Fee Simple
Area 1039 square metres more or less
Legal Description Lot 28 Deposited Plan 19309

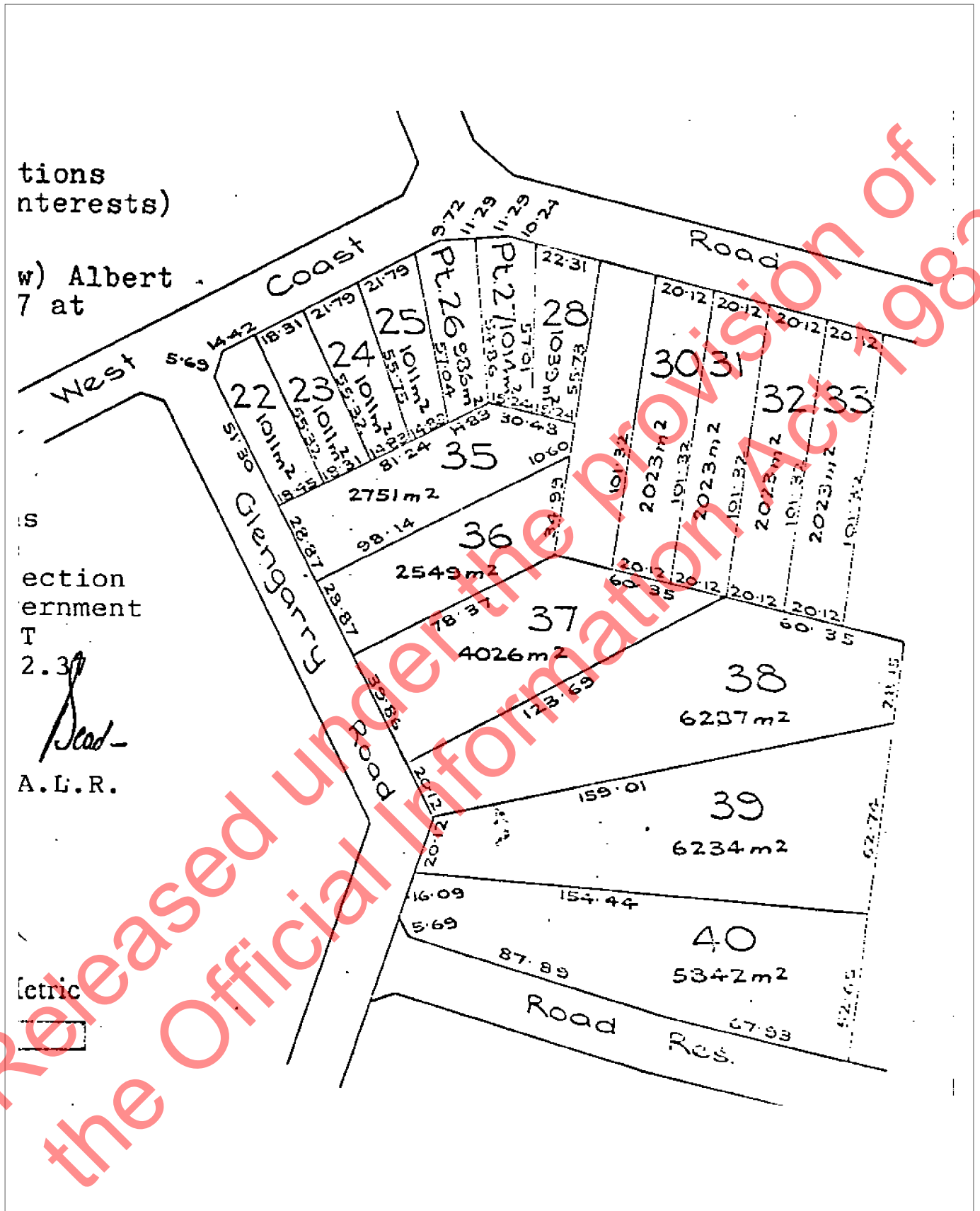
Registered Owners

Nola Holdings Limited

Interests

B888573.1 CERTIFICATE PURSUANT TO SECTION 643(2) LOCAL GOVERNMENT ACT 1974 (AFFECTS CT NA29A/236) - 14.9.1988 AT 2.37 PM

C129749.1 STATUTORY LAND CHARGE PURSUANT TO SECTION 158 RATING POWERS ACT 1988 - 20.4.1990 AT 3.00 PM



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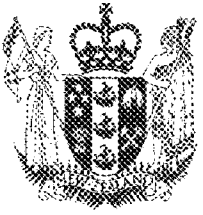
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R. W. Muir
Registrar-General
of Land

Identifier NA35A/1265
Land Registration District North Auckland
Date Issued 22 September 1977

Prior References

NA29A/238

Estate Fee Simple
Area 2023 square metres more or less
Legal Description Lot 30 Deposited Plan 19309

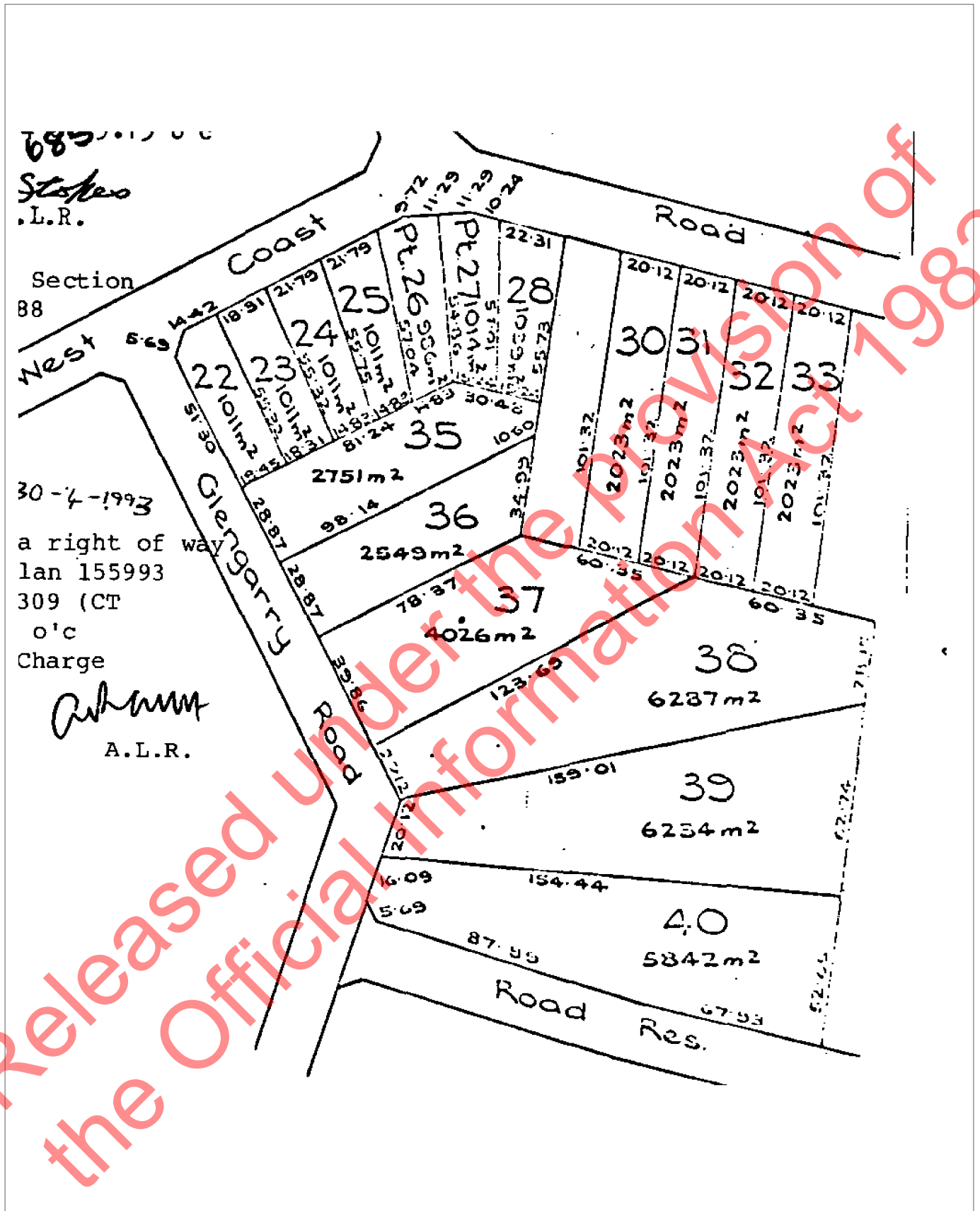
Registered Owners

Nola Holdings Limited

Interests

C129749.1 CHARGING ORDER PURSUANT TO SECTION 158 RATING POWERS ACT 1988 - 20.4.1990 AT 3.00 PM

Subject to a right of way over part marked B on Plan 155993 created by Transfer C519977.2 - 24.9.1993 at 10.11 am





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R. W. Muir
Registrar-General
of Land

Identifier NA35A/1266
Land Registration District North Auckland
Date Issued 22 September 1977

Prior References

NA29A/239

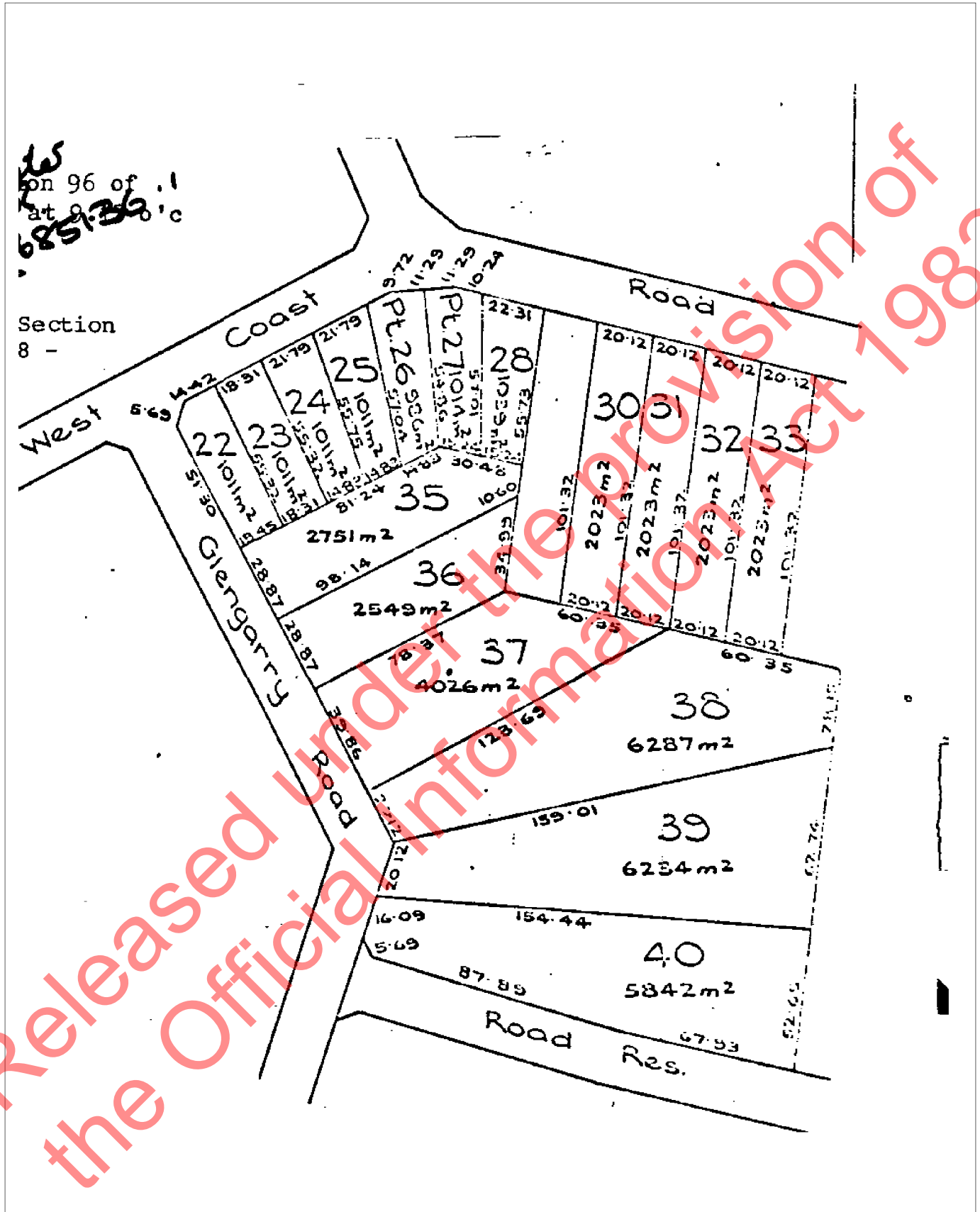
Estate Fee Simple
Area 2023 square metres more or less
Legal Description Lot 31 Deposited Plan 19309

Registered Owners

Nola Holdings Limited

Interests

C129749.1 STATUTORY LAND CHARGE PURSUANT TO SECTION 158 RATING POWERS ACT 1988 -
20.4.1990 AT 3.00 PM





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UNDER LAND TRANSFER ACT 2017
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R. W. Muir
Registrar-General
of Land

Identifier NA35A/1267
Land Registration District North Auckland
Date Issued 22 September 1977

Prior References

NA29A/240

Estate Fee Simple
Area 2023 square metres more or less
Legal Description Lot 32 Deposited Plan 19309

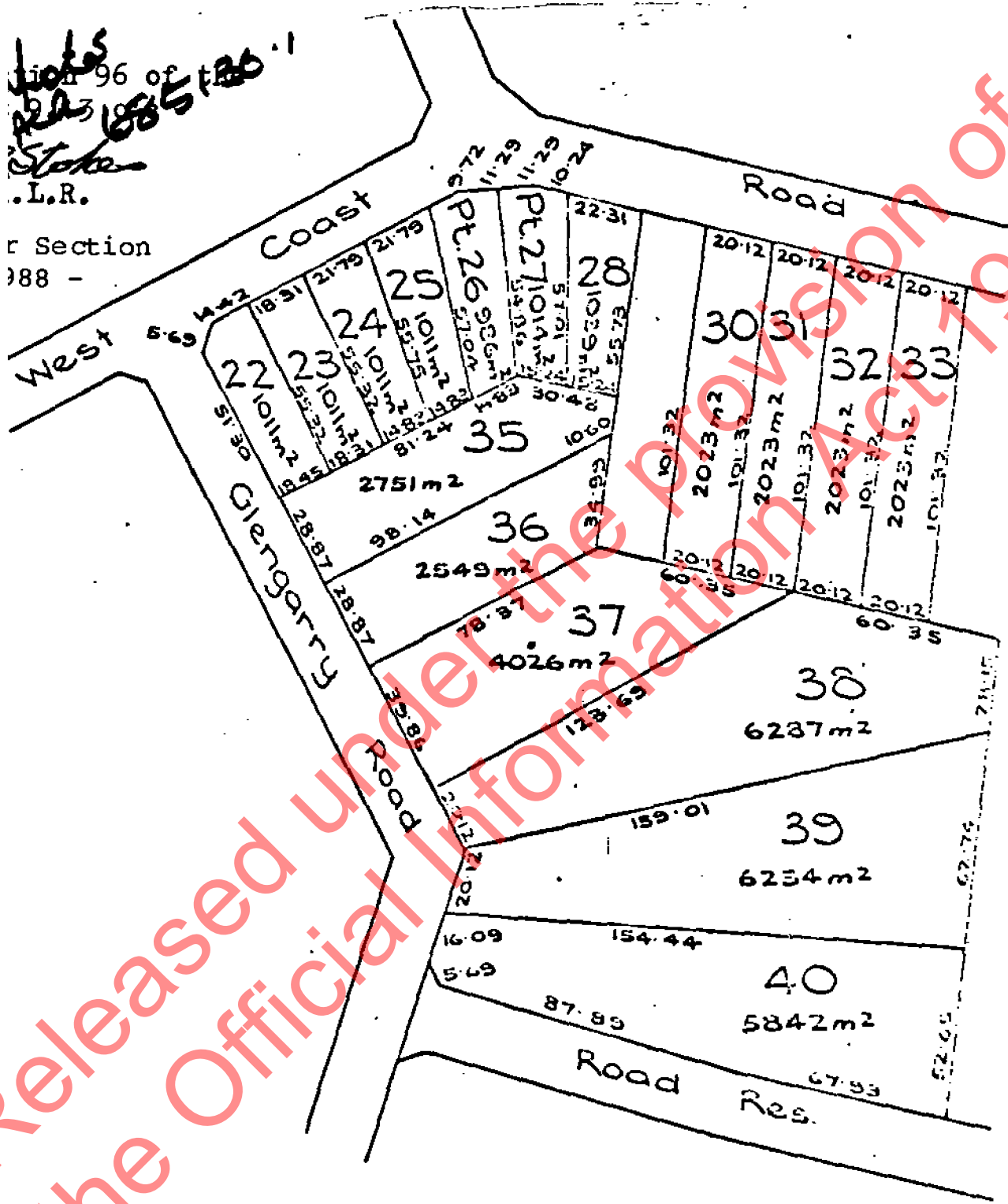
Registered Owners
Nola Holdings Limited

Interests

C129749.1 STATUTORY LAND CHARGE PURSUANT TO SECTION 158 RATING POWERS ACT 1988 -
20.4.1990 AT 3.00 PM

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UNDER LAND TRANSFER ACT 2017
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R. W. Muir
Registrar-General
of Land

Identifier NA35A/1268
Land Registration District North Auckland
Date Issued 22 September 1977

Prior References

NA29A/242

Estate Fee Simple
Area 2751 square metres more or less
Legal Description Lot 35 Deposited Plan 19309

Registered Owners

Nola Holdings Limited

Interests

C129749.1 STATUTORY LAND CHARGE PURSUANT TO SECTION 158 RATING POWERS ACT 1988 -
20.4.1990 AT 3.00 PM

ASSISTANT Land Registrar

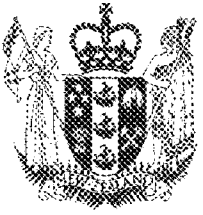
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UNDER LAND TRANSFER ACT 2017
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R. W. Muir
Registrar-General
of Land

Identifier NA35A/1269
Land Registration District North Auckland
Date Issued 22 September 1977

Prior References

NA29A/243

Estate Fee Simple
Area 2549 square metres more or less
Legal Description Lot 36 Deposited Plan 19309

Registered Owners

Nola Holdings Limited

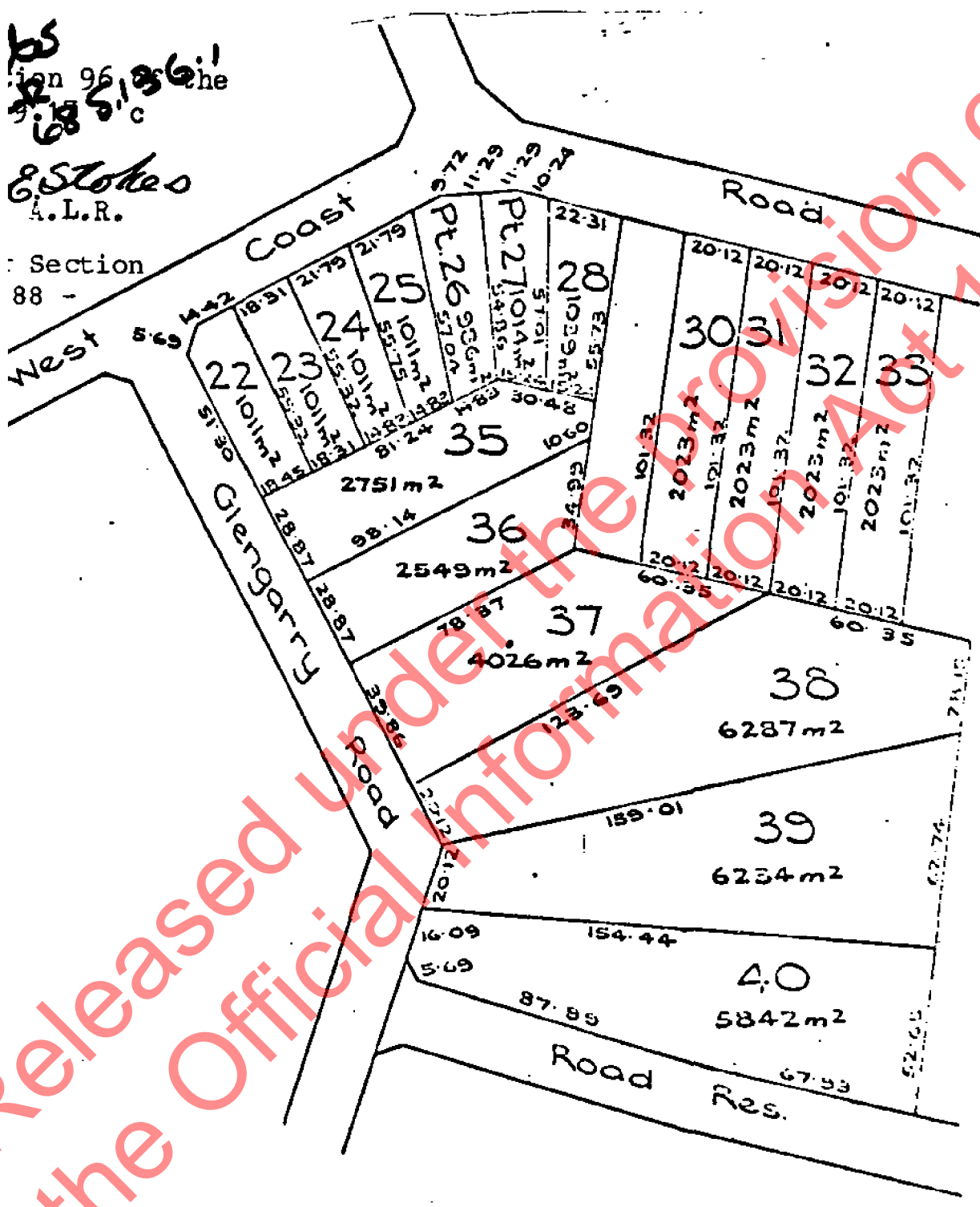
Interests

C129749.1 STATUTORY LAND CHARGE PURSUANT TO SECTION 158 RATING POWERS ACT 1988 -
20.4.1990 AT 3.00 PM

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UNDER LAND TRANSFER ACT 2017
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R. W. Muir
Registrar-General
of Land

Identifier NA35A/1270
Land Registration District North Auckland
Date Issued 22 September 1977

Prior References

NA29A/244

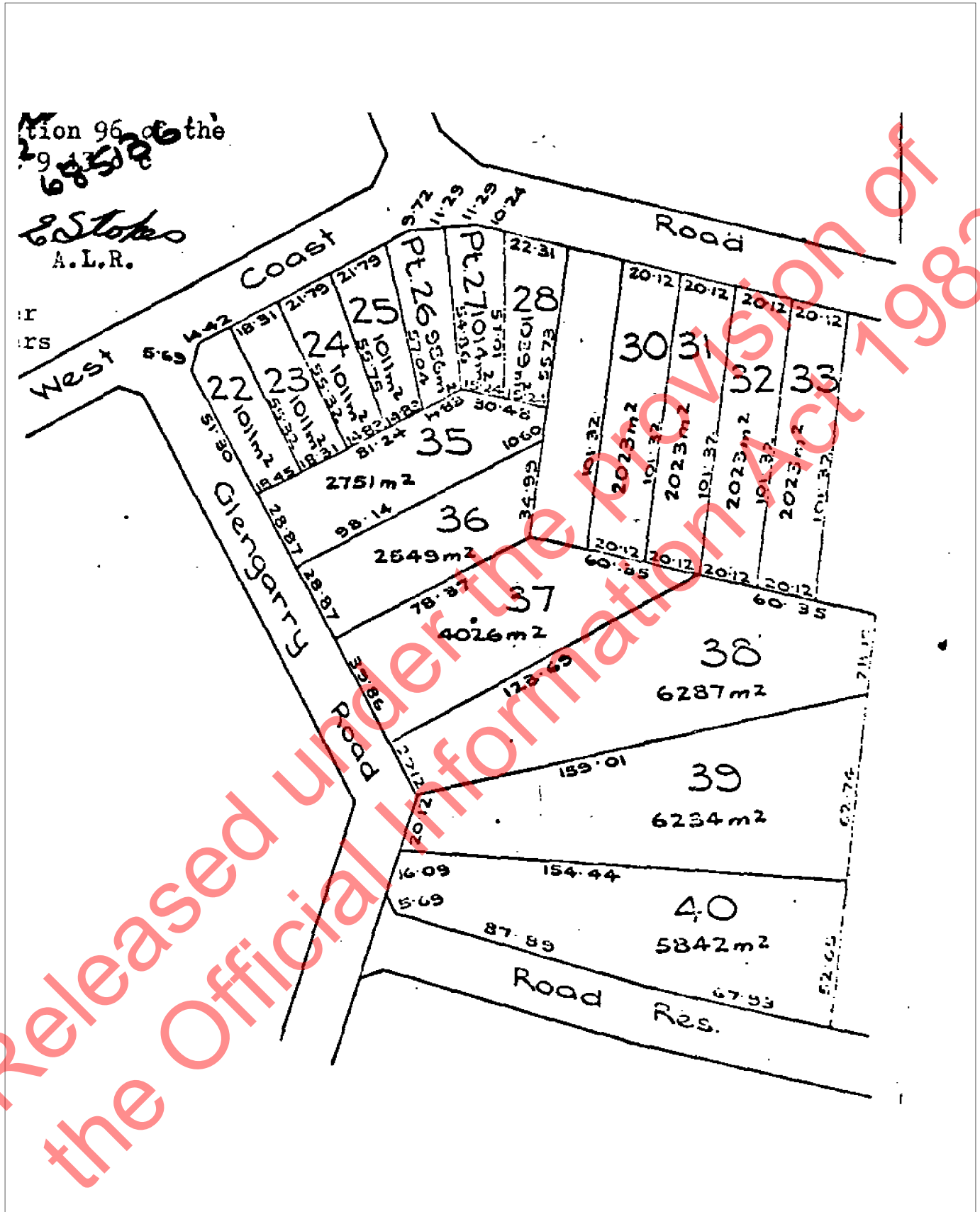
Estate Fee Simple
Area 4026 square metres more or less
Legal Description Lot 37 Deposited Plan 19309

Registered Owners

Nola Holdings Limited

Interests

C129749.1 STATUTORY LAND CHARGE PURSUANT TO SECTION 158 RATING POWERS ACT 1988 -
20.4.1990 AT 3.00 PM



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UNDER LAND TRANSFER ACT 2017
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R. W. Muir
Registrar-General
of Land

Identifier NA35A/1271
Land Registration District North Auckland
Date Issued 22 September 1977

Prior References

NA29A/245

Estate Fee Simple
Area 6287 square metres more or less
Legal Description Lot 38 Deposited Plan 19309

Registered Owners

Nola Holdings Limited

Interests

Subject to a drainage right created by Transfer 201773

C129749.1 STATUTORY LAND CHARGE PURSUANT TO SECTION 158 RATING POWERS ACT 1988 -
20.4.1990 AT 3.00 PM

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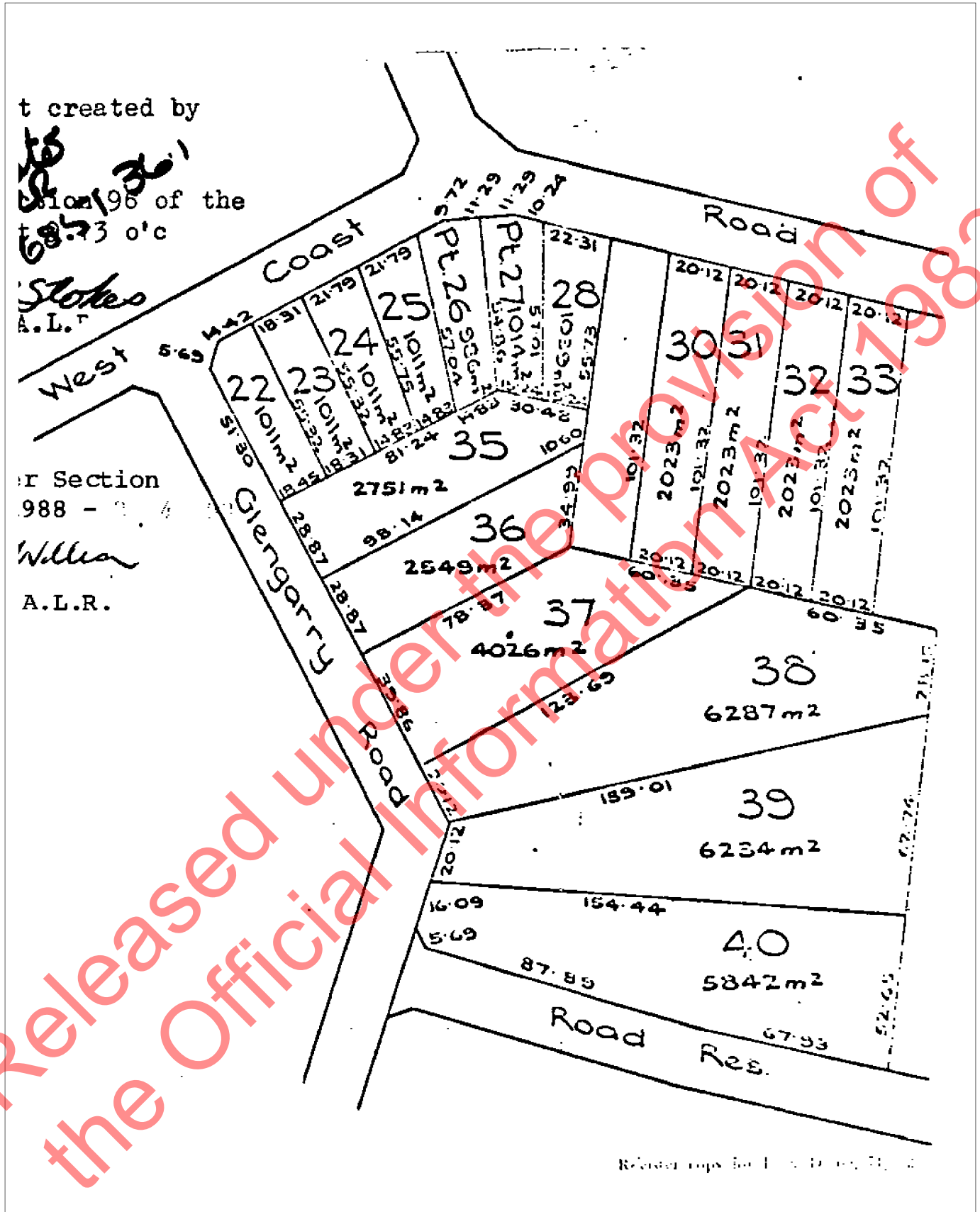
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UNDER LAND TRANSFER ACT 2017
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R. W. Muir
Registrar-General
of Land

Identifier NA35A/1272
Land Registration District North Auckland
Date Issued 22 September 1977

Prior References

NA29A/246

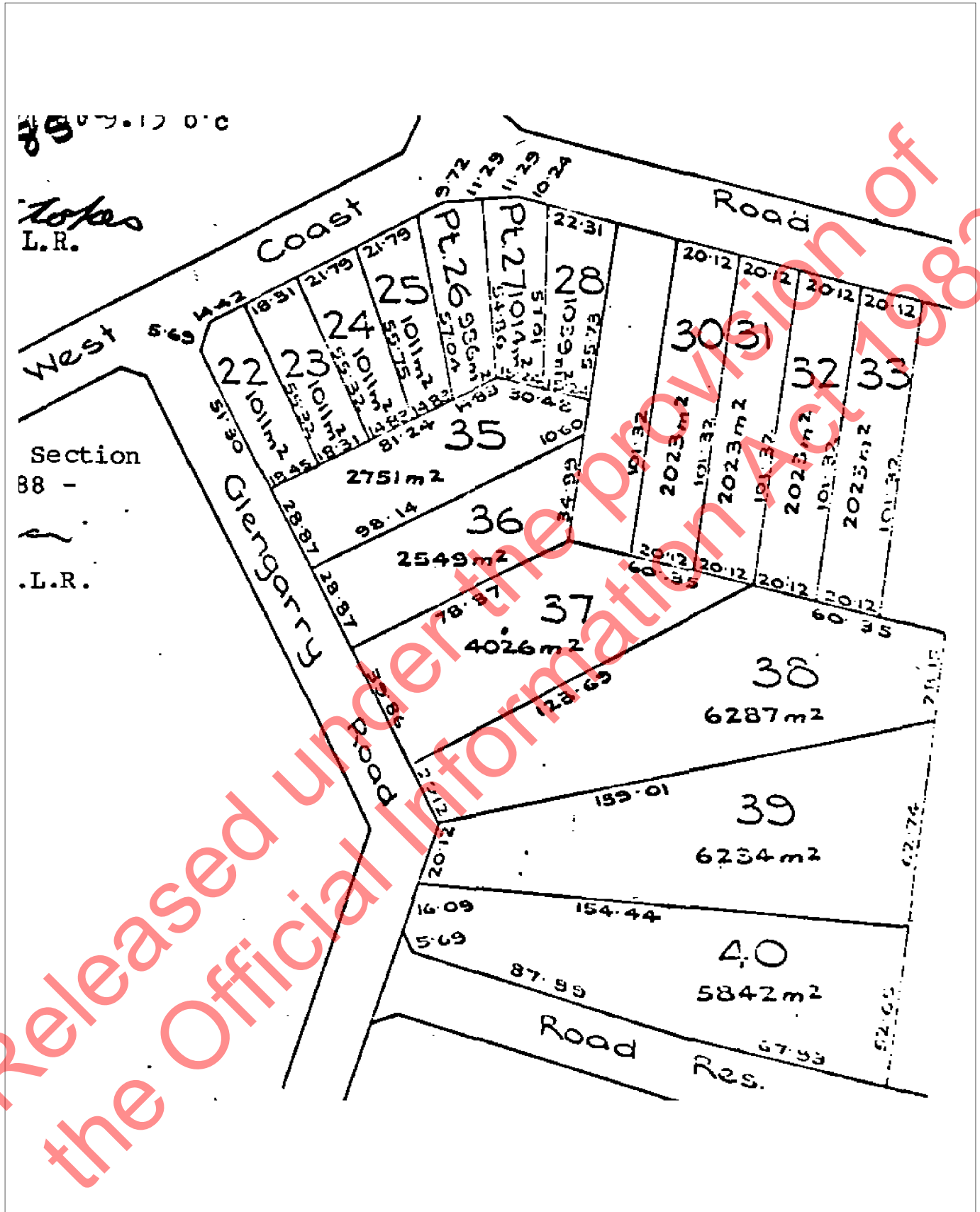
Estate Fee Simple
Area 6234 square metres more or less
Legal Description Lot 39 Deposited Plan 19309

Registered Owners

Nola Holdings Limited

Interests

C129749.1 STATUTORY LAND CHARGE PURSUANT TO SECTION 158 RATING POWERS ACT 1988 -
20.4.1990 AT 3.00 PM





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R. W. Muir
Registrar-General
of Land

Identifier NA35A/1273
Land Registration District North Auckland
Date Issued 22 September 1977

Prior References

NA29A/247

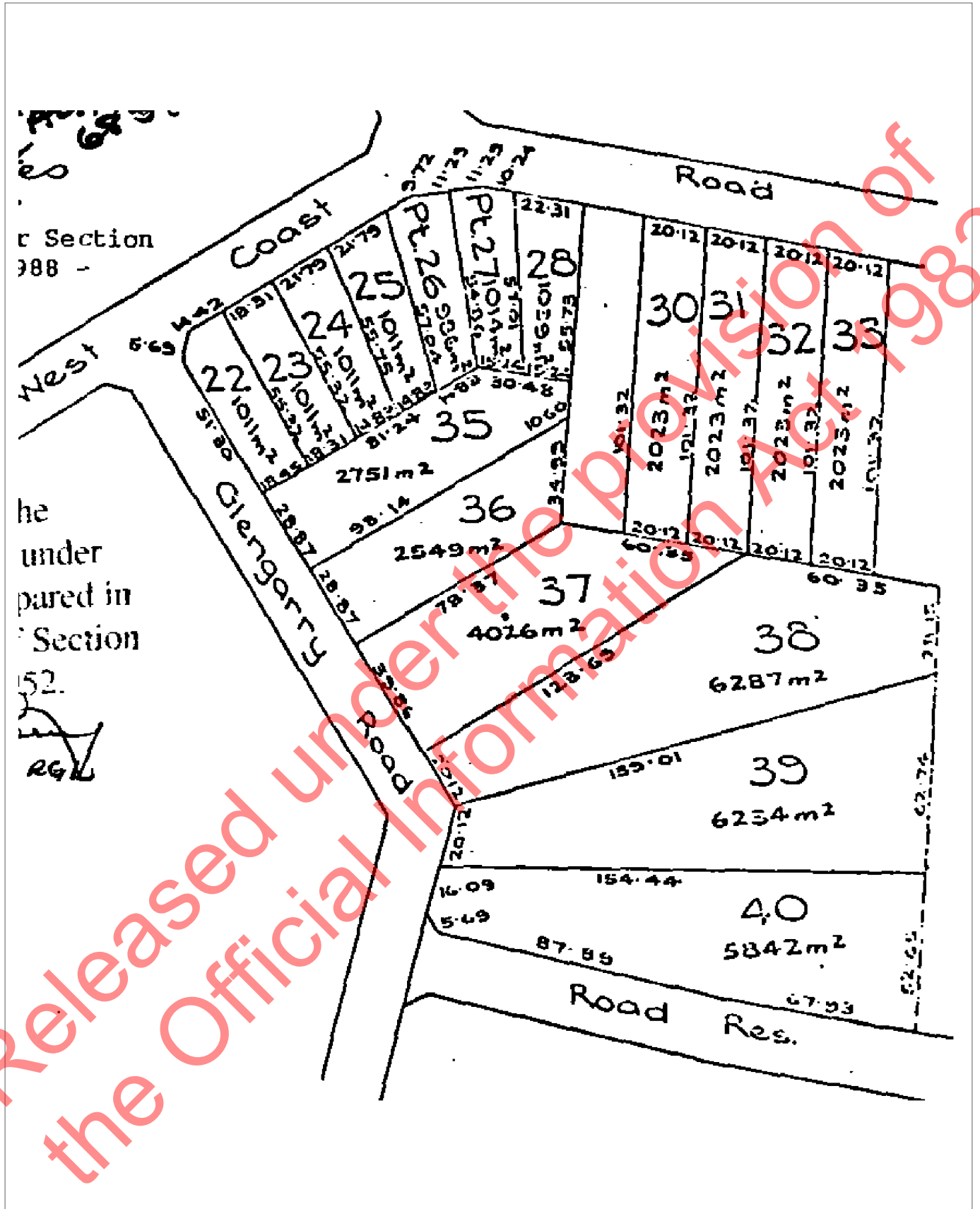
Estate Fee Simple
Area 5842 square metres more or less
Legal Description Lot 40 Deposited Plan 19309

Registered Owners

Nola Holdings Limited

Interests

C129749.1 CHARGING ORDER PURSUANT TO SECTION 158 RATING POWERS ACT 1988 - 20.4.1990 AT 3.00 PM





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R. W. Muir
Registrar-General
of Land

Identifier NA93A/899
Land Registration District North Auckland
Date Issued 24 September 1993

Prior References

NA441/261

Estate Fee Simple
Area 529 square metres more or less
Legal Description Lot 1 Deposited Plan 155993

Registered Owners

Laxmanbhai Morarbhai Patel and Nileshkumari Laxmanbhai Patel

Interests

Fencing Agreement in Transfer 204379

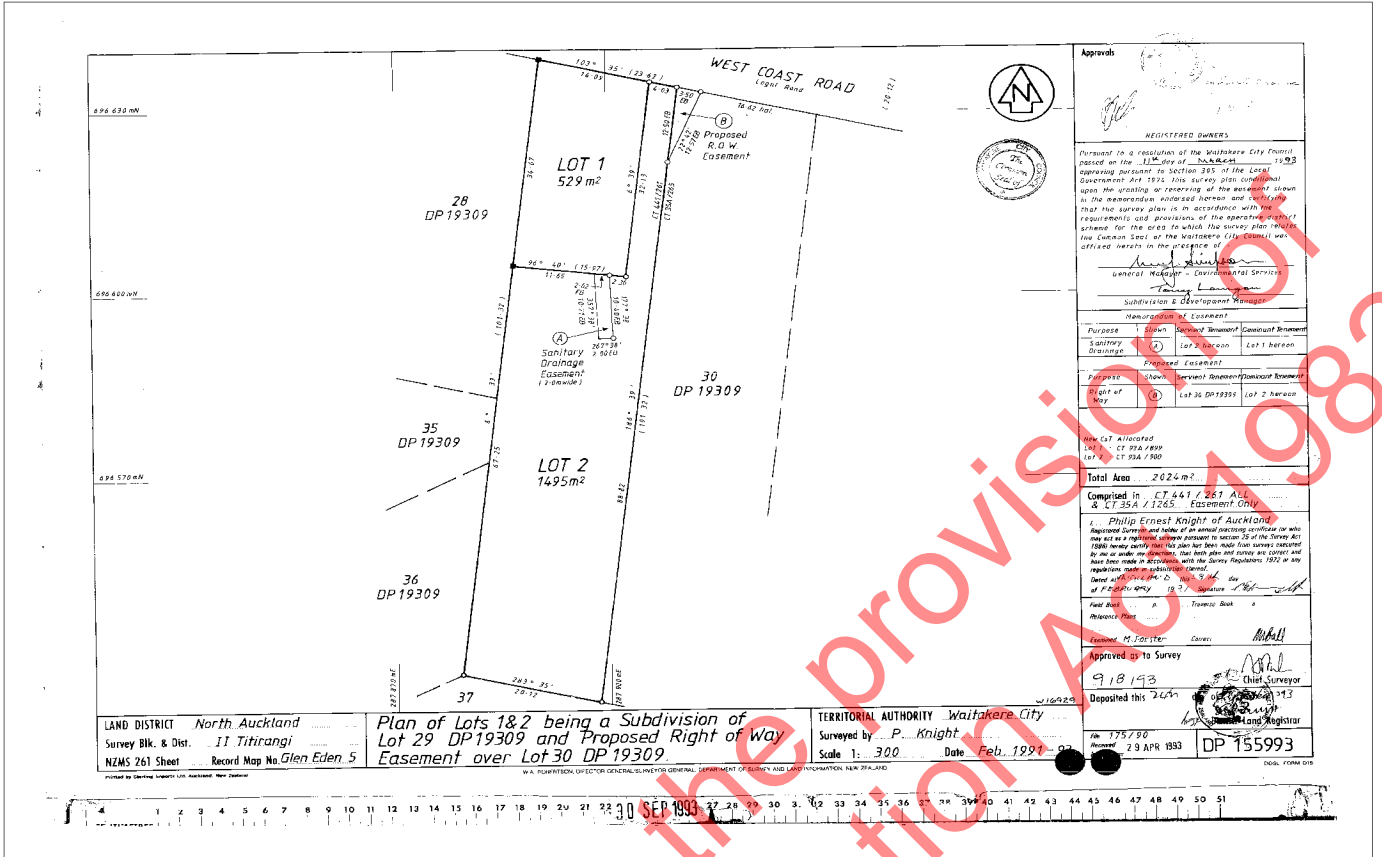
Appurtenant hereto is a right of way created by Transfer C519977.2 - 24.9.1993 at 10.11 am

Appurtenant hereto is a sewage drainage right specified in Easement Certificate C519977.4 - 24.9.1993 at 10.11 am

The easements specified in Easement Certificate C519977.4 are subject to Section 309 (1) (a) Local Government Act 1974

Fencing Covenant in Transfer C561896.1 - 27.1.1994 at 9.16 am

9285372.3 Mortgage to ASB Bank Limited - 24.1.2013 at 12:17 pm



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R. W. Muir
Registrar-General
of Land

Identifier NA93A/900
Land Registration District North Auckland
Date Issued 24 September 1993

Prior References

NA441/261

Estate Fee Simple
Area 1495 square metres more or less
Legal Description Lot 2 Deposited Plan 155993

Registered Owners

John Terence Burley as Executor

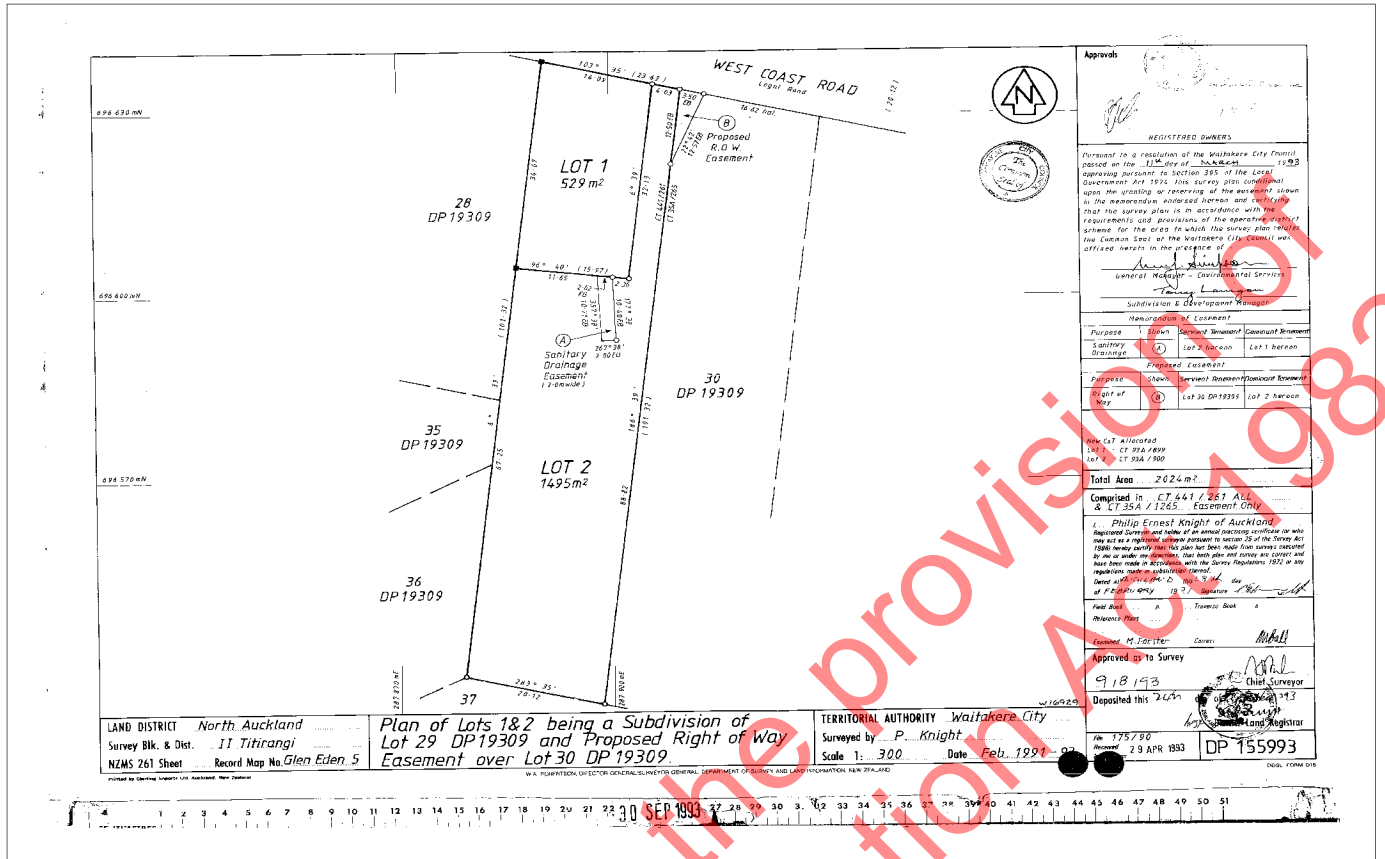
Interests

Fencing Agreement in Transfer 204379

Appurtenant hereto is a right of way created by Transfer C519977.2 - 24.9.1993 at 10.11 am

Subject to a sewage drainage right over part marked A on DP 155993 specified in Easement Certificate C519977.4 - 24.9.1993 at 10.11 am

The easements specified in Easement Certificate C519977.4 are subject to Section 309 (1) (a) Local Government Act 1974



AGREEMENT FOR SALE AND PURCHASE OF REAL ESTATE

This form is approved by the Real Estate Institute of New Zealand Incorporated and by Auckland District Law Society Incorporated.

DATE: 10 July 2020

VENDOR: [REDACTED] s 9(2)(a)

PURCHASER: CPM 2019 Limited and/or nominee

The vendor is registered under the GST Act in respect of the transaction evidenced by this agreement and/or will be so registered at settlement: Yes/No

PROPERTY
 Address: 466A West Coast Road, Glen Eden

Estate: FREEHOLD ~~LEASEHOLD~~ ~~STRATUM IN FREEHOLD~~ ~~STRATUM IN LEASEHOLD~~ ~~CROSS-LEASE (FREEHOLD)~~ ~~CROSS-LEASE (LEASEHOLD)~~

If none of the above are deleted, the estate being sold is the first option of freehold.

Legal Description:
 Area (more or less): 1,495 sqm Lot/Flat/Unit: 2 DP: 155993 Record of Title (unique identifier): NA93A/900

PAYMENT OF PURCHASE PRICE
 Purchase price: \$ [REDACTED] Plus GST (if any) OR Inclusive of GST (if any)
 If neither is deleted, the purchase price includes GST (if any).
 GST date (refer clause 13.0):

Deposit (refer clause 2.0): \$ refer Further Term clause 24

Balance of purchase price to be paid or satisfied as follows:
 (1) By payment in cleared funds on the settlement date which is _____
 OR
 (2) In the manner described in the Further Terms of Sale. Interest rate for late settlement: 10 % p.a.

CONDITIONS (refer clause 9.0)

Finance required (subclause 9.1):	Yes/No	OIA consent required (subclause 9.6):	Yes/No
Finance date:		OIA date (subclause 9.8):	
LIM required (subclause 9.3):	Yes/No	Land Act consent required (subclause 9.7):	Yes/No
Building report required (subclause 9.4):	Yes/No	Land Act date (subclause 9.8):	
Toxicology report required (subclause 9.5):	Yes/No		

TENANCIES Yes/No

Name of Tenant(s): Vacant Possession

Particulars of any tenancies are set out in Schedule 3 or another schedule attached to this agreement by the parties.

SALE BY: Colliers International

Licensed Real Estate Agent under Real Estate Agents Act 2008

It is agreed that the vendor sells and the purchaser purchases the property, and the chattels listed in Schedule 2, on the terms set out above and in the General Terms of Sale and any Further Terms of Sale.

GENERAL TERMS OF SALE

1.0 Definitions, time for performance, notices, and interpretation

1.1 Definitions

- (1) Unless the context requires a different interpretation, words and phrases not otherwise defined have the same meanings ascribed to those words and phrases in the Goods and Services Tax Act 1985, the Property Law Act 2007, the Resource Management Act 1991 or the Unit Titles Act 2010.
- (2) "Accessory unit", "owner", "principal unit", "unit", and "unit plan" have the meanings ascribed to those terms in the Unit Titles Act.
- (3) "Agreement" means this document including the front page, these General Terms of Sale, any Further Terms of Sale, and any schedules and attachments.
- (4) "Associated person", "conveyancer", "offshore RLWT person", "residential land purchase amount", "RLWT", "RLWT certificate of exemption" and "RLWT rules" have the meanings ascribed to those terms in the Income Tax Act 2007.
- (5) "Building", "building consent", "code compliance certificate", "commercial on-seller", "compliance schedule" and "household unit" have the meanings ascribed to those terms in the Building Act.
- (6) "Building Act" means the Building Act 1991 and/or the Building Act 2004.
- (7) "Building warrant of fitness" means a building warrant of fitness supplied to a territorial authority under the Building Act.
- (8) "Cleared funds" means:
 - (a) An electronic transfer of funds that has been made strictly in accordance with the requirements set out in the PLS Guidelines; or
 - (b) A bank cheque, but only in the circumstances permitted by the PLS Guidelines and only if it has been paid strictly in accordance with the requirements set out in the PLS Guidelines.
- (9) "Commissioner" has the meaning ascribed to that term in the Tax Administration Act 1994.
- (10) "Default GST" means any additional GST, penalty (civil or otherwise), interest, or other sum imposed on the vendor (or where the vendor is or was a member of a GST group its representative member) under the GST Act or the Tax Administration Act 1994 by reason of non-payment of any GST payable in respect of the supply made under this agreement but does not include any such sum levied against the vendor (or where the vendor is or was a member of a GST group its representative member) by reason of a default or delay by the vendor after payment of the GST to the vendor by the purchaser.
- (11) "Electronic instrument" has the same meaning as ascribed to that term in the Land Transfer Act 2017.
- (12) "Going concern", "goods", "principal place of residence", "recipient", "registered person", "registration number", "supply", "taxable activity" and "taxable supply" have the meanings ascribed to those terms in the GST Act.
- (13) "GST" means Goods and Services Tax arising pursuant to the Goods and Services Tax Act 1985 and "GST Act" means the Goods and Services Tax Act 1985.
- (14) "Landonline Workspace" means an electronic workspace facility approved by the Registrar-General of Land pursuant to the provisions of the Land Transfer Act 2017.
- (15) "Leases" means any tenancy agreement, agreement to lease (if applicable), lease, sublease, or licence to occupy in respect of the property, and includes any receipt or other evidence of payment of any bond and any formal or informal document or letter evidencing any variation, renewal, extension, review, or assignment.
- (16) "LIM" means a land information memorandum issued pursuant to the Local Government Official Information and Meetings Act 1987.
- (17) "LINZ" means Land Information New Zealand.
- (18) "Local authority" means a territorial authority or a regional council.
- (19) "OIA consent" means consent to purchase the property under the Overseas Investment Act 2005.
- (20) "PLS Guidelines" means the most recent edition, as at the date of this agreement, of the Property Transactions and E-Dealing Practice Guidelines prepared by the Property Law Section of the New Zealand Law Society.
- (21) "Proceedings" means any application to any court or tribunal or any referral or submission to mediation, adjudication or arbitration or any other dispute resolution procedure.
- (22) "Property" means the property described in this agreement.
- (23) "Purchase price" means the total purchase price stated in this agreement which the purchaser has agreed to pay the vendor for the property and the chattels included in the sale.
- (24) "Regional council" means a regional council within the meaning of the Local Government Act 2002.
- (25) "Remote settlement" means settlement of the sale and purchase of the property by way of the purchaser's lawyer paying the moneys due and payable on the settlement date directly into the trust account of the vendor's lawyer, in consideration of the vendor agreeing to meet the vendor's obligations under subclause 3.8(2), pursuant to the protocol for remote settlement recommended in the PLS Guidelines.
- (26) "Residential (but not otherwise sensitive) land" has the meaning ascribed to that term in the Overseas Investment Act 2005.
- (27) "Rules" means body corporate operational rules under the Unit Titles Act.
- (28) "Secure web document exchange" means an electronic messaging service enabling messages and electronic documents to be posted by one party to a secure website to be viewed by the other party immediately after posting.
- (29) "Settlement" means (unless otherwise agreed by the parties in writing) the moment in time when the vendor and purchaser have fulfilled their obligations under subclause 3.8.
- (30) "Settlement date" means the date specified as such in this agreement.
- (31) "Settlement statement" means a statement showing the purchase price, plus any GST payable by the purchaser in addition to the purchase price, less any deposit or other payments or allowances to be credited to the purchaser, together with apportionments of all incomings and outgoings apportioned at the settlement date.
- (32) "Tax information" and "tax statement" have the meanings ascribed to those terms in the Land Transfer Act 2017.
- (33) "Territorial authority" means a territorial authority within the meaning of the Local Government Act 2002.
- (34) "Title" includes where appropriate a record of title within the meaning of the Land Transfer Act 2017.

- (35) "Unit title" means a unit title under the Unit Titles Act.
- (36) "Unit Titles Act" means the Unit Titles Act 2010.
- (37) "Working day" means any day of the week other than:
- (a) Saturday, Sunday, Waitangi Day, Good Friday, Easter Monday, Anzac Day, the Sovereign's Birthday, and Labour Day;
 - (b) if Waitangi Day or Anzac Day falls on a Saturday or Sunday, the following Monday;
 - (c) a day in the period commencing on the 24th day of December in any year and ending on the 5th day of January (or in the case of subclause 9.3(2) the 15th day of January) in the following year, both days inclusive; and
 - (d) the day observed as the anniversary of any province in which the property is situated.
- A working day shall be deemed to commence at 9.00 am and to terminate at 5.00 pm.

1.2 Unless a contrary intention appears on the front page or elsewhere in this agreement:

- (1) the interest rate for late settlement is equivalent to the interest rate charged by the Inland Revenue Department on unpaid tax under the Tax Administration Act 1994 during the period for which the interest rate for late settlement is payable, plus 5% per annum; and
- (2) a party is in default if it did not do what it has contracted to do to enable settlement to occur, regardless of the cause of such failure.

1.3 Time for Performance

- (1) Where the day nominated for settlement or the fulfilment of a condition is not a working day, then the settlement date or the date for fulfilment of the condition shall be the last working day before the day so nominated.
- (2) Any act done pursuant to this agreement by a party, including service of notices, after 5.00 pm on a working day, or on a day that is not a working day, shall be deemed to have been done at 9.00 am on the next succeeding working day.
- (3) Where two or more acts done pursuant to this agreement, including service of notices, are deemed to have been done at the same time, they shall take effect in the order in which they would have taken effect but for subclause 1.3(2).

1.4 Notices

The following apply to all notices between the parties relevant to this agreement, whether authorised by this agreement or by the general law:

- (1) All notices must be served in writing.
- (2) Any notice under section 28 of the Property Law Act 2007, where the purchaser is in possession of the property, must be served in accordance with section 353 of that Act.
- (3) All other notices, unless otherwise required by the Property Law Act 2007, must be served by one of the following means:
 - (a) on the party as authorised by sections 354 to 361 of the Property Law Act 2007, or
 - (b) on the party or on the party's lawyer:
 - (i) by personal delivery; or
 - (ii) by posting by ordinary mail; or
 - (iii) by email; or
 - (iv) in the case of the party's lawyer only, by sending by document exchange or, if both parties' lawyers have agreed to subscribe to the same secure web document exchange for this agreement, by secure web document exchange.
- (4) In respect of the means of service specified in subclause 1.4(3)(b), a notice is deemed to have been served:
 - (a) in the case of personal delivery, when received by the party or at the lawyer's office;
 - (b) in the case of posting by ordinary mail, on the third working day following the date of posting to the address for service notified in writing by the party or to the postal address of the lawyer's office;
 - (c) in the case of email:
 - (i) when sent to the email address provided for the party or the party's lawyer on the back page; or
 - (ii) any other email address notified subsequently in writing by the party or the party's lawyer (which shall supersede the email address on the back page); or
 - (iii) if no such email address is provided on the back page or notified subsequently in writing, the office email address of the party's lawyer's firm appearing on the firm's letterhead or website;
 - (d) in the case of sending by document exchange, on the second working day following the date of sending to the document exchange number of the lawyer's office;
 - (e) in the case of sending by secure web document exchange, on the first working day following the date of sending to the secure web document exchange.
- (5) Any period of notice required to be given under this agreement shall be computed by excluding the day of service.

1.5 Interpretation

- (1) If there is more than one vendor or purchaser, the liability of the vendors or of the purchasers, as the case may be, is joint and several.
- (2) Where the purchaser executes this agreement with provision for a nominee, or as agent for an undisclosed or disclosed but unidentified principal, or on behalf of a company to be formed, the purchaser shall at all times remain liable for all obligations on the part of the purchaser.
- (3) If any inserted term (including any Further Terms of Sale) conflicts with the General Terms of Sale the inserted term shall prevail.
- (4) Headings are for information only and do not form part of this agreement.
- (5) References to statutory provisions shall be construed as references to those provisions as they may be amended or re-enacted or as their application is modified by other provisions from time to time.

2.0 Deposit

- 2.1 The purchaser shall pay the deposit to the vendor or the vendor's agent immediately upon execution of this agreement by both parties and/or at such other time as is specified in this agreement.

- 2.2 If the deposit is not paid on the due date for payment, the vendor may at any time thereafter serve on the purchaser notice requiring payment. If the purchaser fails to pay the deposit on or before the third working day after service of the notice, time being of the essence, the vendor may cancel this agreement by serving notice of cancellation on the purchaser. No notice of cancellation shall be effective if the deposit has been paid before the notice of cancellation is served.
- 2.3 The deposit shall be in part payment of the purchase price.
- 2.4 The person to whom the deposit is paid shall hold it as a stakeholder until:
- (1) the requisition procedure under clause 6.0 is completed without either party cancelling this agreement; and
 - (2) where this agreement is entered into subject to any condition(s) expressed in this agreement, each such condition has been fulfilled or waived; and
 - (3) where the property is a unit title:
 - (a) a pre-settlement disclosure statement, certified correct by the body corporate, under section 147 of the Unit Titles Act; and
 - (b) an additional disclosure statement under section 148 of the Unit Titles Act (if requested by the purchaser within the time prescribed in section 148(2)),have been provided to the purchaser by the vendor within the times prescribed in those sections or otherwise the purchaser has given notice under section 149(2) of the Unit Titles Act to postpone the settlement date until after the disclosure statements have been provided; or
 - (4) this agreement is:
 - (a) cancelled pursuant to:
 - (i) subclause 6.2(3)(c); or
 - (ii) sections 36 or 37 of the Contract and Commercial Law Act 2017; or
 - (b) avoided pursuant to subclause 9.10(5); or
 - (5) where the property is a unit title and the purchaser, having the right to cancel this agreement pursuant to section 151(2) of the Unit Titles Act, has cancelled this agreement pursuant to that section, or has elected not to cancel by giving notice to the vendor, or by completing settlement of the purchase.
- 2.5 Where the person to whom the deposit is paid is a real estate agent, the period for which the agent must hold the deposit as a stakeholder pursuant to subclause 2.4 shall run concurrently with the period for which the agent must hold the deposit under section 123 of the Real Estate Agents Act 2008, but the agent must hold the deposit for the longer of those two periods, or such lesser period as is agreed between the parties in writing as required by section 123 of the Real Estate Agents Act 2008, but in no event shall the deposit be released prior to the expiry of the requisition period under clause 6.0, unless the requisition period is expressly waived in writing after the effect of the same is explained to the purchaser by the agent or by the purchaser's lawyer or conveyancer.

3.0 Possession and Settlement

Possession

- 3.1 Unless particulars of a tenancy are included in this agreement, the property is sold with vacant possession and the vendor shall so yield the property on the settlement date.
- 3.2 If the property is sold with vacant possession, then subject to the rights of any tenants of the property, the vendor shall permit the purchaser or any person authorised by the purchaser in writing, upon reasonable notice:
- (1) to enter the property on one occasion prior to the settlement date for the purposes of examining the property, chattels and fixtures which are included in the sale; and
 - (2) to re-enter the property no later than the day prior to the settlement date to confirm compliance by the vendor with any agreement made by the vendor to carry out any work on the property, the chattels and the fixtures.
- 3.3 Possession shall be given and taken on the settlement date. Outgoings and incomings in respect of the settlement date are the responsibility of and belong to the vendor.
- 3.4 On the settlement date, the vendor shall make available to the purchaser keys to all exterior doors that are locked by key, electronic door openers to all doors that are opened electronically, and the keys and/or security codes to any alarms. The vendor does not have to make available keys, electronic door openers, and security codes where the property is tenanted and these are held by the tenant.

Settlement

- 3.5 The vendor shall prepare, at the vendor's own expense, a settlement statement. The vendor shall tender the settlement statement to the purchaser or the purchaser's lawyer a reasonable time prior to the settlement date.
- 3.6 The purchaser's lawyer shall:
- (1) within a reasonable time prior to the settlement date create a Landonline Workspace for the transaction, notify the vendor's lawyer of the dealing number allocated by LINZ, and prepare in that workspace a transfer instrument in respect of the property; and
 - (2) prior to settlement:
 - (a) lodge in that workspace the tax information contained in the transferee's tax statement; and
 - (b) certify and sign the transfer instrument.
- 3.7 The vendor's lawyer shall:
- (1) within a reasonable time prior to the settlement date prepare in that workspace all other electronic instruments required to confer title on the purchaser in terms of the vendor's obligations under this agreement; and
 - (2) prior to settlement:
 - (a) lodge in that workspace the tax information contained in the transferor's tax statement; and
 - (b) have those instruments and the transfer instrument certified, signed and, where possible, pre-validated.

- 3.8 On the settlement date:
- (1) the balance of the purchase price, interest and other moneys, if any, shall be paid by the purchaser in cleared funds or otherwise satisfied as provided in this agreement (credit being given for any amount payable by the vendor under subclause 3.12 or 3.13, or for any deduction allowed to the purchaser under subclause 5.2, or for any compensation agreed by the vendor in respect of a claim made by the purchaser pursuant to subclause 10.2(1), or for any interim amount the purchaser is required to pay to a stakeholder pursuant to subclause 10.8);
 - (2) the vendor's lawyer shall immediately thereafter:
 - (a) release or procure the release of the transfer instrument and the other instruments mentioned in subclause 3.7(1) so that the purchaser's lawyer can then submit them for registration;
 - (b) pay to the purchaser's lawyer the LINZ registration fees on all of the instruments mentioned in subclause 3.7(1), unless these fees will be invoiced to the vendor's lawyer by LINZ directly; and
 - (c) deliver to the purchaser's lawyer any other documents that the vendor must provide to the purchaser on settlement in terms of this agreement, including where this agreement provides for the property to be sold tenanted, all leases relating to the tenancy that are held by the vendor and a notice from the vendor to each tenant advising them of the sale of the property and directing them to pay to the purchaser as landlord, in such manner as the purchaser may prescribe, all rent or other moneys payable under the leases.
- 3.9 All obligations under subclause 3.8 are interdependent.
- 3.10 The parties shall complete settlement by way of remote settlement, provided that where payment by bank cheque is permitted under the PLS Guidelines, payment may be made by the personal delivery of a bank cheque to the vendor's lawyer's office, so long as it is accompanied by the undertaking from the purchaser's lawyer required by those Guidelines.

Last-Minute Settlement

- 3.11 If due to the delay of the purchaser, settlement takes place between 4.00 pm and 5.00 pm on the settlement date ("last-minute settlement"), the purchaser shall pay the vendor:
- (1) one day's interest at the interest rate for late settlement on the portion of the purchase price paid in the last-minute settlement; and
 - (2) if the day following the last-minute settlement is not a working day, an additional day's interest (calculated in the same manner) for each day until, but excluding, the next working day.

Purchaser Default: Late Settlement

- 3.12 If any portion of the purchase price is not paid upon the due date for payment, then, provided that the vendor provides reasonable evidence of the vendor's ability to perform any obligation the vendor is obliged to perform on that date in consideration for such payment:
- (1) the purchaser shall pay to the vendor interest at the interest rate for late settlement on the portion of the purchase price so unpaid for the period from the due date for payment until payment ("the default period"); but nevertheless, this stipulation is without prejudice to any of the vendor's rights or remedies including any right to claim for additional expenses and damages. For the purposes of this subclause, a payment made on a day other than a working day or after the termination of a working day shall be deemed to be made on the next following working day and interest shall be computed accordingly; and
 - (2) the vendor is not obliged to give the purchaser possession of the property or to pay the purchaser any amount for remaining in possession, unless this agreement relates to a tenanted property, in which case the vendor must elect either to:
 - (a) account to the purchaser on settlement for incomings in respect of the property which are payable and received during the default period, in which event the purchaser shall be responsible for the outgoings relating to the property during the default period; or
 - (b) retain such incomings in lieu of receiving interest from the purchaser pursuant to subclause 3.12(1).
 - (3) If the parties are unable to agree upon any amount payable under this subclause 3.12, either party may make a claim under clause 10.0.

Vendor Default: Late Settlement or Failure to Give Possession

- 3.13 (1) For the purposes of this subclause 3.13:
- (a) the default period means:
 - (i) in subclause 3.13(2), the period from the settlement date until the date when the vendor is able and willing to provide vacant possession and the purchaser takes possession; and
 - (ii) in subclause 3.13(3), the period from the date the purchaser takes possession until the date when settlement occurs; and
 - (iii) in subclause 3.13(5), the period from the settlement date until the date when settlement occurs; and
 - (b) the vendor shall be deemed to be unwilling to give possession if the vendor does not offer to give possession.
- (2) If this agreement provides for vacant possession but the vendor is unable or unwilling to give vacant possession on the settlement date, then, provided that the purchaser provides reasonable evidence of the purchaser's ability to perform the purchaser's obligations under this agreement:
- (a) the vendor shall pay the purchaser, at the purchaser's election, either:
 - (i) compensation for any reasonable costs incurred for temporary accommodation for persons and storage of chattels during the default period; or
 - (ii) an amount equivalent to interest at the interest rate for late settlement on the entire purchase price during the default period; and

- (b) the purchaser shall pay the vendor an amount equivalent to the interest earned or which would be earned on overnight deposits lodged in the purchaser's lawyer's trust bank account on such portion of the purchase price (including any deposit) as is payable under this agreement on or by the settlement date but remains unpaid during the default period less:
- (i) any withholding tax; and
 - (ii) any bank or legal administration fees and commission charges; and
 - (iii) any interest payable by the purchaser to the purchaser's lender during the default period in respect of any mortgage or loan taken out by the purchaser in relation to the purchase of the property.
- (3) If this agreement provides for vacant possession and the vendor is able and willing to give vacant possession on the settlement date, then, provided the purchaser provides reasonable evidence of the purchaser's ability to perform the purchaser's obligations under this agreement, the purchaser may elect to take possession in which case the vendor shall not be liable to pay any interest or other moneys to the purchaser but the purchaser shall pay the vendor the same amount as that specified in subclause 3.13(2)(b) during the default period. A purchaser in possession under this subclause 3.13(3) is a licensee only.
- (4) Notwithstanding the provisions of subclause 3.13(3), the purchaser may elect not to take possession when the purchaser is entitled to take it. If the purchaser elects not to take possession, the provisions of subclause 3.13(2) shall apply as though the vendor were unable or unwilling to give vacant possession on the settlement date.
- (5) If this agreement provides for the property to be sold tenanted then, provided that the purchaser provides reasonable evidence of the purchaser's ability to perform the purchaser's obligations under this agreement, the vendor shall on settlement account to the purchaser for incomings which are payable and received in respect of the property during the default period less the outgoings paid by the vendor during that period. Apart from accounting for such incomings, the vendor shall not be liable to pay any other moneys to the purchaser but the purchaser shall pay the vendor the same amount as that specified in subclause 3.13(2)(b) during the default period.
- (6) The provisions of this subclause 3.13 shall be without prejudice to any of the purchaser's rights or remedies including any right to claim for any additional expenses and damages suffered by the purchaser.
- (7) If the parties are unable to agree upon any amount payable under this subclause 3.13, either party may make a claim under clause 10.0.

Deferment of Settlement and Possession

3.14 If

- (1) this is an agreement for the sale by a commercial on-seller of a household unit; and
- (2) a code compliance certificate has not been issued by the settlement date in relation to the household unit,

then, unless the parties agree otherwise (in which case the parties shall enter into a written agreement in the form (if any) prescribed by the Building (Forms) Regulations 2004), the settlement date shall be deferred to the fifth working day following the date upon which the vendor has given the purchaser notice that the code compliance certificate has been issued (which notice must be accompanied by a copy of the certificate).

3.15 In every case, if neither party is ready, willing, and able to settle on the settlement date, the settlement date shall be deferred to the third working day following the date upon which one of the parties gives notice it has become ready, willing, and able to settle.

3.16 If

- (1) the property is a unit title;
- (2) the settlement date is deferred pursuant to either subclause 3.14 or subclause 3.15; and
- (3) the vendor considers on reasonable grounds that an extension of time is necessary or desirable in order for the vendor to comply with the warranty by the vendor in subclause 8.2(3),

then the vendor may extend the settlement date:

- (a) where there is a deferment of the settlement date pursuant to subclause 3.14, to the tenth working day following the date upon which the vendor gives the purchaser notice that the code compliance certificate has been issued, provided the vendor gives notice of the extension to the purchaser no later than the second working day after such notice; or
- (b) where there is a deferment of the settlement date pursuant to subclause 3.15, to the tenth working day following the date upon which one of the parties gives notice that it has become ready, willing, and able to settle, provided the vendor gives notice of the extension to the purchaser no later than the second working day after such notice.

New Title Provision

3.17 (1) Where

- (a) the transfer of the property is to be registered against a new title yet to be issued; and
- (b) a search copy, as defined in section 60 of the Land Transfer Act 2017, of that title is not obtainable by the tenth working day prior to the settlement date,

then, unless the purchaser elects that settlement shall still take place on the agreed settlement date, the settlement date shall be deferred to the tenth working day following the later of the date on which:

- (i) the vendor has given the purchaser notice that a search copy is obtainable; or
- (ii) the requisitions procedure under clause 6.0 is complete.

- (2) Subclause 3.17(1) shall not apply where it is necessary to register the transfer of the property to enable a plan to be deposited and title to the property to be issued.

4.0 Residential Land Withholding Tax

4.1 If the vendor does not have a conveyancer or the vendor and the purchaser are associated persons, then:

- (1) the vendor must provide the purchaser or the purchaser's conveyancer, on or before the second working day before the due date for payment of the first residential land purchase amount payable under this agreement, with:
 - (a) sufficient information to enable the purchaser or the purchaser's conveyancer to determine to their reasonable satisfaction whether section 54C of the Tax Administration Act 1994 applies to the sale of the property; and

- (b) if the purchaser or the purchaser's conveyancer determines to their reasonable satisfaction that section 54C of the Tax Administration Act 1994 does apply, all of the information required by that section and either an RLWT certificate of exemption in respect of the sale or otherwise such other information that the purchaser or the purchaser's conveyancer may reasonably require to enable the purchaser or the purchaser's conveyancer to determine to their reasonable satisfaction the amount of RLWT that must be withheld from each residential land purchase amount;
 - (2) the vendor shall be liable to pay any costs reasonably incurred by the purchaser or the purchaser's conveyancer in relation to RLWT, including the cost of obtaining professional advice in determining whether there is a requirement to withhold RLWT and the amount of RLWT that must be withheld, if any; and
 - (3) any payments payable by the purchaser on account of the purchase price shall be deemed to have been paid to the extent that:
 - (a) RLWT has been withheld from those payments by the purchaser or the purchaser's conveyancer as required by the RLWT rules; and
 - (b) any costs payable by the vendor under subclause 4.1(2) have been deducted from those payments by the purchaser or the purchaser's conveyancer.
- 4.2 If the vendor does not have a conveyancer or the vendor and the purchaser are associated persons and if the vendor fails to provide the information required under subclause 4.1(1), then the purchaser may:
- (1) defer the payment of the first residential land purchase amount payable under this agreement (and any residential land purchase amount that may subsequently fall due for payment) until such time as the vendor supplies that information; or
 - (2) on the due date for payment of that residential land purchase amount, or at any time thereafter if payment has been deferred by the purchaser pursuant to this subclause and the vendor has still not provided that information, treat the sale of the property as if it is being made by an offshore RLWT person where there is a requirement to pay RLWT.
- 4.3 If pursuant to subclause 4.2 the purchaser treats the sale of the property as if it is being made by an offshore RLWT person where there is a requirement to pay RLWT, the purchaser or the purchaser's conveyancer may:
- (1) make a reasonable assessment of the amount of RLWT that the purchaser or the purchaser's conveyancer would be required by the RLWT rules to withhold from any residential land purchase amount if the sale is treated in that manner; and
 - (2) withhold that amount from any residential land purchase amount and pay it to the Commissioner as RLWT.
- 4.4 Any amount withheld by the purchaser or the purchaser's conveyancer pursuant to subclause 4.3 shall be treated as RLWT that the purchaser or the purchaser's conveyancer is required by the RLWT rules to withhold.
- 4.5 The purchaser or the purchaser's conveyancer shall give notice to the vendor a reasonable time before payment of any sum due to be paid on account of the purchase price of:
- (1) the costs payable by the vendor under subclause 4.1(2) that the purchaser or the purchaser's conveyancer intends to deduct; and
 - (2) the amount of RLWT that the purchaser or the purchaser's conveyancer intends to withhold.

5.0 Risk and insurance

- 5.1 The property and chattels shall remain at the risk of the vendor until possession is given and taken.
- 5.2 If, prior to the giving and taking of possession, the property is destroyed or damaged, and such destruction or damage has not been made good by the settlement date, then the following provisions shall apply:
- (1) if the destruction or damage has been sufficient to render the property untenable and it is untenable on the settlement date, the purchaser may:
 - (a) complete the purchase at the purchase price, less a sum equal to any insurance moneys received or receivable by or on behalf of the vendor in respect of such destruction or damage, provided that no reduction shall be made to the purchase price if the vendor's insurance company has agreed to reinstate for the benefit of the purchaser to the extent of the vendor's insurance cover; or
 - (b) cancel this agreement by serving notice on the vendor in which case the vendor shall return to the purchaser immediately the deposit and any other moneys paid by the purchaser, and neither party shall have any right or claim against the other arising from this agreement or its cancellation;
 - (2) if the property is not untenable on the settlement date, the purchaser shall complete the purchase at the purchase price less a sum equal to the amount of the diminution in value of the property which, to the extent that the destruction or damage to the property can be made good, shall be deemed to be equivalent to the reasonable cost of reinstatement or repair;
 - (3) in the case of a property zoned for rural purposes under an operative District Plan, damage to the property shall be deemed to have rendered the property untenable where the diminution in value exceeds an amount equal to 20% of the purchase price; and
 - (4) if the amount of the diminution in value is disputed, the parties shall follow the same procedure as that set out in subclause 10.8 for when an amount of compensation is disputed.
- 5.3 The purchaser shall not be required to take over any insurance policies held by the vendor.

6.0 Title, boundaries and requisitions

- 6.1 The vendor shall not be bound to point out the boundaries of the property except that on the sale of a vacant residential lot which is not limited as to parcels the vendor shall ensure that all boundary markers required by the Cadastral Survey Act 2002 and any related rules and regulations to identify the boundaries of the property are present in their correct positions at the settlement date.
- 6.2 (1) The purchaser is deemed to have accepted the vendor's title except as to objections or requisitions which the purchaser is entitled to make and notice of which the purchaser serves on the vendor on or before the earlier of:
- (a) the tenth working day after the date of this agreement; or
 - (b) the settlement date.

- (2) Where the transfer of the property is to be registered against a new title yet to be issued, the purchaser is deemed to have accepted the title except as to such objections or requisitions which the purchaser is entitled to make and notice of which the purchaser serves on the vendor on or before the fifth working day following the date the vendor has given the purchaser notice that the title has been issued and a search copy of it as defined in section 60 of the Land Transfer Act 2017 is obtainable.
- (3) If the vendor is unable or unwilling to remove or comply with any objection or requisition as to title, notice of which has been served on the vendor by the purchaser, then the following provisions will apply:
- (a) the vendor shall notify the purchaser ("a vendor's notice") of such inability or unwillingness on or before the fifth working day after the date of service of the purchaser's notice;
 - (b) if the vendor does not give a vendor's notice the vendor shall be deemed to have accepted the objection or requisition and it shall be a requirement of settlement that such objection or requisition shall be complied with before settlement;
 - (c) if the purchaser does not on or before the fifth working day after service of a vendor's notice notify the vendor that the purchaser waives the objection or requisition, either the vendor or the purchaser may (notwithstanding any intermediate negotiations) by notice to the other, cancel this agreement.
- 6.3 In the event of cancellation under subclause 6.2(3), the purchaser shall be entitled to the immediate return of the deposit and any other moneys paid under this agreement by the purchaser and neither party shall have any right or claim against the other arising from this agreement or its cancellation. In particular, the purchaser shall not be entitled to any interest or to the expense of investigating the title or to any compensation whatsoever.
- 6.4 (1) If the title to the property being sold is a cross-lease title or a unit title and there are:
- (a) in the case of a cross-lease title:
 - (i) alterations to the external dimensions of any leased structure; or
 - (ii) buildings or structures not intended for common use which are situated on any part of the land that is not subject to a restricted use covenant;
 - (b) in the case of a unit title, encroachments out of the principal unit or accessory unit title space (as the case may be): then the purchaser may requisition the title under subclause 6.2 requiring the vendor;
 - (c) in the case of a cross-lease title, to deposit a new plan depicting the buildings or structures and register a new cross-lease or cross-leases (as the case may be) and any other ancillary dealings in order to convey good title; or
 - (d) in the case of a unit title, to deposit an amendment to the unit plan, a redevelopment plan or new unit plan (as the case may be) depicting the principal and/or accessory units and register such transfers and any other ancillary dealings in order to convey good title.
- (2) The words "alterations to the external dimensions of any leased structure" shall only mean alterations which are attached to the leased structure and enclosed.
- 6.5 The vendor shall not be liable to pay for or contribute towards the expense of erection or maintenance of any fence between the property and any contiguous land of the vendor but this proviso shall not enure for the benefit of any subsequent purchaser of the contiguous land; and the vendor shall be entitled to require the inclusion of a fencing covenant to this effect in any transfer of the property.

7.0 Vendor's warranties and undertakings

- 7.1 The vendor warrants and undertakes that at the date of this agreement the vendor has not:
- (1) received any notice or demand and has no knowledge of any requisition or outstanding requirement:
 - (a) from any local or government authority or other statutory body; or
 - (b) under the Resource Management Act 1991; or
 - (c) from any tenant of the property; or
 - (d) from any other party; or
 - (2) given any consent or waiver, which directly or indirectly affects the property and which has not been disclosed in writing to the purchaser.
- 7.2 The vendor warrants and undertakes that at the date of this agreement the vendor has no knowledge or notice of any fact which might result in proceedings being instituted by or against the vendor or the purchaser in respect of the property.
- 7.3 The vendor warrants and undertakes that at settlement:
- (1) The chattels included in the sale listed in Schedule 2 and all plant, equipment, systems or devices which provide any services or amenities to the property, including, without limitation, security, heating, cooling, or air-conditioning, are delivered to the purchaser in reasonable working order, but in all other respects in their state of repair as at the date of this agreement (fair wear and tear excepted) but failure to do so shall only create a right of compensation.
 - (2) All electrical and other installations on the property are free of any charge whatsoever and all chattels included in the sale are the unencumbered property of the vendor.
 - (3) There are no arrears of rates, water rates or charges outstanding on the property and where the property is subject to a targeted rate that has been imposed as a means of repayment of any loan, subsidy or other financial assistance made available by or through the local authority, the amount required to remove the imposition of that targeted rate has been paid.
 - (4) Where an allowance has been made by the vendor in the settlement statement for incomings receivable, the settlement statement correctly records those allowances including, in particular, the dates up to which the allowances have been made.
 - (5) Where the vendor has done or caused or permitted to be done on the property any works:
 - (a) any permit, resource consent, or building consent required by law was obtained; and
 - (b) to the vendor's knowledge, the works were completed in compliance with those permits or consents; and
 - (c) where appropriate, a code compliance certificate was issued for those works.
 - (6) Where under the Building Act, any building on the property sold requires a compliance schedule:
 - (a) the vendor has fully complied with any requirements specified in any compliance schedule issued by a territorial authority under the Building Act in respect of the building;
 - (b) the building has a current building warrant of fitness; and

- (c) the vendor is not aware of any reason, that the vendor has not disclosed in writing to the purchaser, which would prevent a building warrant of fitness from being supplied to the territorial authority when the building warrant of fitness is next due.
- (7) Since the date of this agreement, the vendor has not given any consent or waiver which directly or indirectly affects the property.
- (8) Any notice or demand received by the vendor, which directly or indirectly affects the property, after the date of this agreement:
- (a) from any local or government authority or other statutory body; or
 - (b) under the Resource Management Act 1991; or
 - (c) from any tenant of the property; or
 - (d) from any other party,
- has been delivered forthwith by the vendor to either the purchaser or the purchaser's lawyer, unless the vendor has paid or complied with such notice or demand. If the vendor fails to so deliver or pay the notice or demand, the vendor shall be liable for any penalty incurred.
- 7.4 If the property is or includes part only of a building, the warranty and undertaking in subclause 7.3(6) does not apply. Instead the vendor warrants and undertakes at the date of this agreement that, where under the Building Act the building of which the property forms part requires a compliance schedule:
- (1) to the vendor's knowledge, there has been full compliance with any requirements specified in any compliance schedule issued by a territorial authority under the Building Act in respect of the building;
 - (2) the building has a current building warrant of fitness; and
 - (3) the vendor is not aware of any reason, that the vendor has not disclosed in writing to the purchaser, which would prevent a building warrant of fitness from being supplied to the territorial authority when the building warrant of fitness is next due.
- 7.5 The vendor warrants and undertakes that on or immediately after settlement:
- (1) If the water and wastewater charges are determined by meter, the vendor will have the water meter read and will pay the amount of the charge payable pursuant to that reading; but if the water supplier will not make special readings, the water and wastewater charges shall be apportioned.
 - (2) Any outgoings included in the settlement statement are paid in accordance with the settlement statement and, where applicable, to the dates shown in the settlement statement, or will be so paid immediately after settlement.
 - (3) The vendor will give notice of sale in accordance with the Local Government (Rating) Act 2002 to the territorial authority and regional council in whose district the land is situated and will also give notice of the sale to every other authority that makes and levies rates or charges on the land and to the supplier of water.
 - (4) Where the property is a unit title, the vendor will notify the body corporate in writing of the transfer of the property and the name and address of the purchaser.

8.0 Unit title and cross-lease provisions

Unit Titles

- 8.1 If the property is a unit title, sections 144 to 153 of the Unit Titles Act require the vendor to provide to the purchaser a pre-contract disclosure statement, a pre-settlement disclosure statement and, if so requested by the purchaser, an additional disclosure statement.
- 8.2 If the property is a unit title, the vendor warrants and undertakes as follows:
- (1) The information in the pre-contract disclosure statement provided to the purchaser was complete and correct.
 - (2) Apart from regular periodic contributions, no contributions have been levied or proposed by the body corporate that have not been disclosed in writing to the purchaser.
 - (3) Not less than five working days before the settlement date, the vendor will provide:
 - (a) a certificate of insurance for all insurances effected by the body corporate under the provisions of section 135 of the Unit Titles Act; and
 - (b) a pre-settlement disclosure statement from the vendor, certified correct by the body corporate, under section 147 of the Unit Titles Act. Any periodic contributions to the operating account shown in that pre-settlement disclosure statement shall be apportioned. There shall be no apportionment of contributions to any long-term maintenance fund, contingency fund or capital improvement fund.
 - (4) There are no other amounts owing by the owner under any provision of the Unit Titles Act.
 - (5) There are no unsatisfied judgments against the body corporate and no proceedings have been instituted against or by the body corporate.
 - (6) No order or declaration has been made by any Court against the body corporate or the owner under any provision of the Unit Titles Act.
 - (7) The vendor has no knowledge or notice of any fact which might result in:
 - (a) the owner or the purchaser incurring any other liability under any provision of the Unit Titles Act; or
 - (b) any proceedings being instituted by or against the body corporate; or
 - (c) any order or declaration being sought against the body corporate or the owner under any provision of the Unit Titles Act.
 - (8) The vendor is not aware of proposals to pass any body corporate resolution relating to its rules nor are there any unregistered changes to the body corporate rules which have not been disclosed in writing to the purchaser.
 - (9) No lease, licence, easement, or special privilege has been granted by the body corporate in respect of any part of the common property which has not been disclosed in writing to the purchaser.
 - (10) No resolution has been passed and no application has been made and the vendor has no knowledge of any proposal for:
 - (a) the transfer of the whole or any part of the common property;
 - (b) the addition of any land to the common property;
 - (c) the cancellation of the unit plan; or

- (d) the deposit of an amendment to the unit plan, a redevelopment plan, or a new unit plan in substitution for the existing unit plan,
which has not been disclosed in writing to the purchaser.
- (11) As at settlement, all contributions and other moneys payable by the vendor to the body corporate have been paid in full.
- 8.3 If the property is a unit title and if the vendor does not provide the certificates of insurance and the pre-settlement disclosure statement under section 147 of the Unit Titles Act in accordance with the requirements of subclause 8.2(3), then in addition to the purchaser's rights under sections 149 and 150 of the Unit Titles Act, the purchaser may:
- (1) postpone the settlement date until the fifth working day following the date on which that information is provided to the purchaser; or
 - (2) elect that settlement shall still take place on the settlement date.
- 8.4 If the property is a unit title, each party specifies that:
- (1) any email address of that party's lawyer provided on the back page of this agreement, or notified subsequently in writing by that party's lawyer shall be an address for service for that party for the purposes of section 205(1)(d) of the Unit Titles Act; and
 - (2) if that party is absent from New Zealand, that party's lawyer shall be that party's agent in New Zealand for the purposes of section 205(2) of the Unit Titles Act.
- 8.5 If the property is a unit title, any costs owing by the purchaser to the vendor pursuant to section 148(5) of the Unit Titles Act for providing an additional disclosure statement shall be included in the moneys payable by the purchaser on settlement pursuant to subclause 3.8(1). Such costs may be deducted from the deposit if the purchaser becomes entitled to a refund of the deposit upon cancellation or avoidance of this agreement.
- 8.6 Unauthorised Structures – Cross-Leases and Unit Titles
- (1) Where structures (not stated in clause 6.0 to be requisitionable) have been erected on the property without:
 - (a) in the case of a cross-lease title, any required lessors' consent; or
 - (b) in the case of a unit title, any required body corporate consent,the purchaser may demand within the period expiring on the earlier of:
 - (i) the tenth working day after the date of this agreement; or
 - (ii) the settlement date,that the vendor obtain the written consent of the current lessors or the body corporate (as the case may be) to such improvements ("a current consent") and provide the purchaser with a copy of such consent on or before the settlement date.
 - (2) Should the vendor be unwilling or unable to obtain a current consent, then the procedure set out in subclauses 6.2(3) and 6.3 shall apply, with the purchaser's demand under subclause 8.6(1) being deemed to be an objection and requisition.
- 9.0 Conditions and mortgage terms**
- 9.1 Finance condition
- (1) If the purchaser has identified that finance is required on the front page of this agreement, this agreement is conditional upon the purchaser arranging finance for such amount as the purchaser may require from a bank or other lending institution of the purchaser's choice on terms and conditions satisfactory to the purchaser in all respects on or before the finance date.
 - (2) If the purchaser avoids this agreement for failing to arrange finance in terms of subclause 9.1(1), the purchaser must provide a satisfactory explanation of the grounds relied upon by the purchaser, together with supporting evidence, immediately upon request by the vendor.
- 9.2 Mortgage terms
- (1) Any mortgage to be arranged pursuant to a finance condition shall be upon and subject to the terms and conditions currently being required by the lender in respect of loans of a similar nature.
- 9.3 LIM condition
- (1) If the purchaser has indicated on the front page of this agreement that a LIM is required:
 - (a) that LIM is to be obtained by the purchaser at the purchaser's cost;
 - (b) the purchaser is to request the LIM on or before the fifth working day after the date of this agreement; and
 - (c) this agreement is conditional upon the purchaser approving that LIM, provided that such approval must not be unreasonably or arbitrarily withheld.
 - (2) If, on reasonable grounds, the purchaser does not approve the LIM, the purchaser shall give notice to the vendor ("the purchaser's notice") on or before the fifteenth working day after the date of this agreement stating the particular matters in respect of which approval is withheld and, if those matters are capable of remedy, what the purchaser reasonably requires to be done to remedy those matters. If the purchaser does not give a purchaser's notice the purchaser shall be deemed to have approved the LIM. If through no fault of the purchaser, the LIM is not available on or before the fifteenth working day after the date of this agreement and the vendor does not give an extension when requested, this condition shall not have been fulfilled and the provisions of subclause 9.10(5) shall apply.
 - (3) The vendor shall give notice to the purchaser ("the vendor's notice") on or before the fifth working day after receipt of the purchaser's notice advising whether or not the vendor is able and willing to comply with the purchaser's notice by the settlement date.
 - (4) If the vendor does not give a vendor's notice, or if the vendor's notice advises that the vendor is unable or unwilling to comply with the purchaser's notice, and if the purchaser does not, on or before the tenth working day after the date on which the purchaser's notice is given, give notice to the vendor that the purchaser waives the objection to the LIM, this condition shall not have been fulfilled and the provisions of subclause 9.10(5) shall apply.
 - (5) If the vendor gives a vendor's notice advising that the vendor is able and willing to comply with the purchaser's notice, this condition is deemed to have been fulfilled, and it shall be a requirement of settlement that the purchaser's notice shall be complied with, and also, if the vendor must carry out work on the property, that the vendor shall obtain the approval of the territorial authority to the work done, both before settlement.

9.4 Building report condition

- (1) If the purchaser has indicated on the front page of this agreement that a building report is required, this agreement is conditional upon the purchaser obtaining at the purchaser's cost on or before the fifteenth working day after the date of this agreement a report on the condition of the buildings and any other improvements on the property that is satisfactory to the purchaser, on the basis of an objective assessment.
- (2) The report must be prepared in good faith by a suitably-qualified building inspector in accordance with accepted principles and methods and it must be in writing.
- (3) Subject to the rights of any tenants of the property, the vendor shall allow the building inspector to inspect the property at all reasonable times upon reasonable notice for the purposes of preparation of the report.
- (4) The building inspector may not carry out any invasive testing in the course of inspection without the vendor's prior written consent.
- (5) If the purchaser avoids this agreement for non-fulfilment of this condition pursuant to subclause 9.10(5), the purchaser must provide the vendor immediately upon request with a copy of the building inspector's report.

9.5 Toxicology report condition

- (1) If the purchaser has indicated on the front page of this agreement that a toxicology report is required, this agreement is conditional upon the purchaser obtaining at the purchaser's cost on or before the fifteenth working day after the date of this agreement, a toxicology report on the property that is satisfactory to the purchaser, on the basis of an objective assessment.
- (2) The purpose of the toxicology report shall be to detect whether the property has been contaminated by the preparation, manufacture or use of drugs including, but not limited to, methamphetamine.
- (3) The report must be prepared in good faith by a suitably-qualified inspector using accepted principles and methods and it must be in writing.
- (4) Subject to the rights of any tenants of the property, the vendor shall allow the inspector to inspect the property at all reasonable times upon reasonable notice for the purposes of carrying out the testing and preparation of the report.
- (5) The inspector may not carry out any invasive testing in the course of the inspection without the vendor's prior written consent.
- (6) If the purchaser avoids this agreement for non-fulfilment of this condition pursuant to subclause 9.10(5), the purchaser must provide the vendor immediately upon request with a copy of the inspector's report.

9.6 OIA consent condition

- (1) If the purchaser has indicated on the front page of this agreement that OIA consent is required, this agreement is conditional upon OIA consent being obtained on or before the OIA date shown on the front page of this agreement on terms and conditions that are satisfactory to the purchaser, acting reasonably, the purchaser being responsible for payment of the application fee.
- (2) If the purchaser has indicated on the front page of this agreement that OIA consent is not required, or has failed to indicate whether it is required, then the purchaser warrants that the purchaser does not require OIA consent.

9.7 If this agreement relates to a transaction to which the Land Act 1948 applies, this agreement is conditional upon the vendor obtaining the necessary consent by the Land Act date shown on the front page of this agreement.

9.8 If the Land Act date or OIA date is not shown on the front page of this agreement that date shall be the settlement date or a date 65 working days from the date of this agreement whichever is the sooner, except where the property comprises residential (but not otherwise sensitive) land in which case that date shall be the settlement date or a date 20 working days from the date of this agreement, whichever is the sooner.

9.9 Resource Management Act condition

- (1) If this agreement relates to a transaction to which section 225 of the Resource Management Act 1991 applies then this agreement is subject to the appropriate condition(s) imposed by that section.

9.10 Operation of conditions

If this agreement is expressed to be subject either to the above or to any other condition(s), then in relation to each such condition the following shall apply unless otherwise expressly provided:

- (1) The condition shall be a condition subsequent.
- (2) The party or parties for whose benefit the condition has been included shall do all things which may reasonably be necessary to enable the condition to be fulfilled by the date for fulfilment.
- (3) Time for fulfilment of any condition and any extended time for fulfilment to a fixed date shall be of the essence.
- (4) The condition shall be deemed to be not fulfilled until notice of fulfilment has been served by one party on the other party.
- (5) If the condition is not fulfilled by the date for fulfilment, either party may at any time before the condition is fulfilled or waived avoid this agreement by giving notice to the other. Upon avoidance of this agreement, the purchaser shall be entitled to the immediate return of the deposit and any other moneys paid by the purchaser under this agreement and neither party shall have any right or claim against the other arising from this agreement or its termination.
- (6) At any time before this agreement is avoided, the purchaser may waive any finance condition and either party may waive any other condition which is for the sole benefit of that party. Any waiver shall be by notice.

10.0 Claims for compensation

10.1 If the purchaser has not purported to cancel this agreement, the breach by the vendor of any term of this agreement does not defer the purchaser's obligation to settle, but that obligation is subject to the provisions of this clause 10.0.

10.2 The provisions of this clause apply if:

- (1) the purchaser claims a right to compensation for:
 - (a) a breach of any term of this agreement; or
 - (b) a misrepresentation; or
 - (c) a breach of section 9 or section 14 of the Fair Trading Act 1986; or
 - (d) an equitable set-off, or

- (2) there is a dispute between the parties regarding any amounts payable:
- (a) under subclause 3.12 or subclause 3.13; or
 - (b) under subclause 5.2.
- 10.3 To make a claim under this clause 10.0:
- (1) the claimant must serve notice of the claim on the other party on or before the last working day prior to the settlement date (except for claims made after the settlement date for amounts payable under subclause 3.12 or subclause 3.13, in respect of which the claimant may serve notice of the claim on the other party at any time after a dispute arises over those amounts); and
 - (2) the notice must:
 - (a) state the particular breach of the terms of the agreement, or the claim under subclause 3.12, subclause 3.13 or subclause 5.2, or for misrepresentation, or for breach of section 9 or section 14 of the Fair Trading Act 1986, or for an equitable set-off; and
 - (b) state a genuine pre-estimate of the loss suffered by the claimant; and
 - (c) be particularised and quantified to the extent reasonably possible as at the date of the notice.
- 10.4 If the claimant is unable to give notice under subclause 10.3 in respect of claims under subclause 10.2(1) or subclause 10.2(2)(b) by the settlement date by reason of the conduct or omission of the other party, the notice may be served on or before the working day immediately preceding the last working day on which settlement must take place under a settlement notice served by either party under subclause 11.1.
- 10.5 If the amount of compensation is agreed, it shall be deducted from or added to the amount to be paid by the purchaser on settlement.
- 10.6 If the purchaser makes a claim for compensation under subclause 10.2(1) but the vendor disputes the purchaser's right to make that claim, then:
- (1) the vendor must give notice to the purchaser within three working days after service of the purchaser's notice under subclause 10.3, time being of the essence; and
 - (2) the purchaser's right to make the claim shall be determined by an experienced property lawyer or an experienced litigator appointed by the parties. If the parties cannot agree on the appointee, the appointment shall be made on the application of either party by the president for the time being of the New Zealand Law Society. The appointee's costs shall be met by the party against whom the determination is made.
- 10.7 If the purchaser makes a claim for compensation under subclause 10.2(1) and the vendor fails to give notice to the purchaser pursuant to clause 10.6, the vendor is deemed to have accepted that the purchaser has a right to make that claim.
- 10.8 If it is accepted, or determined under subclause 10.6, that the purchaser has a right to claim compensation under subclause 10.2(1) but the amount of compensation claimed is disputed, or if the claim is made under subclause 10.2(2) and the amount of compensation claimed is disputed, then:
- (1) an interim amount shall be paid on settlement by the party required to a stakeholder until the amount of the claim is determined;
 - (2) if the parties cannot agree on a stakeholder, the interim amount shall be paid to a stakeholder nominated on the application of either party by the president for the time being of the New Zealand Law Society;
 - (3) the interim amount must be a reasonable sum having regard to all of the circumstances, except that where the claim is under subclause 3.13 the interim amount shall be the lower of the amount claimed, or an amount equivalent to interest at the interest rate for late settlement for the relevant default period on such portion of the purchase price (including any deposit) as is payable under this agreement on or by the settlement date;
 - (4) if the parties cannot agree on the interim amount, the interim amount shall be determined by an experienced property lawyer, an experienced litigator, or, where the claim for compensation is made under subclause 5.2, an experienced registered valuer or quantity surveyor appointed by the parties. The appointee's costs shall be met equally by the parties. If the parties cannot agree on the appointee, the appointment shall be made on the application of either party by the president for the time being of the New Zealand Law Society;
 - (5) the amount of the claim determined to be payable shall not be limited by the interim amount;
 - (6) the stakeholder shall lodge the interim amount on an interest-bearing call deposit with a bank registered under the Reserve Bank of New Zealand Act 1989 in the joint names of the vendor and the purchaser;
 - (7) the interest earned on the interim amount net of any withholding tax and any bank or legal administration fees and commission charges shall follow the destination of the interim amount;
 - (8) apart from the net interest earned on the interim amount, no interest shall be payable by either party to the other in respect of the claim for compensation once the amount of the claim has been determined, provided that if the amount determined is in excess of the interim amount, the party liable to make payment of that excess shall pay interest to the other party at the interest rate for late settlement on the amount of that excess if it is not paid on or before the third working day after the date of notification of the determination, computed from the date of such notification until payment.
- 10.9 Where a determination has to be made under subclause 10.6(2) or subclause 10.8(4) and the settlement date will have passed before the determination is made, the settlement date shall be deferred to the second working day following the date of notification to both parties of the determination. Where a determination has to be made under both of these subclauses, the settlement date shall be deferred to the second working day following the date on which notification to both parties has been made of both determinations.
- 10.10 The procedures prescribed in subclauses 10.1 to 10.9 shall not prevent either party from taking proceedings for specific performance of the contract.
- 10.11 A determination under subclause 10.6 that the purchaser does not have a right to claim compensation under subclause 10.2(1) shall not prevent the purchaser from pursuing that claim following settlement.
- 10.12 Where a determination is made by a person appointed under either subclause 10.6 or subclause 10.8, that person shall not be liable to either party for any costs or losses that either party may claim to have suffered in respect of the determination.

11.0 Notice to complete and remedies on default

- 11.1 (1) If the sale is not settled on the settlement date, either party may at any time thereafter serve on the other party a settlement notice.
- (2) The settlement notice shall be effective only if the party serving it is at the time of service either in all material respects ready, able, and willing to proceed to settle in accordance with clauses 3.0 and 10.0 or is not so ready, able, and willing to settle only by reason of the default or omission of the other party.
- (3) If the purchaser is in possession, the vendor's right to cancel this agreement will be subject to sections 28 to 36 of the Property Law Act 2007 and the settlement notice may incorporate or be given with a notice under section 28 of that Act complying with section 29 of that Act.
- 11.2 Subject to subclause 11.1(3), upon service of the settlement notice the party on whom the notice is served shall settle:
- (1) on or before the twelfth working day after the date of service of the notice; or
- (2) on the first working day after the 13th day of January if the period of twelve working days expires during the period commencing on the 6th day of January and ending on the 13th day of January, both days inclusive, time being of the essence, but without prejudice to any intermediate right of cancellation by either party.
- 11.3 (1) If this agreement provides for the payment of the purchase price by instalments and the purchaser fails duly and punctually to pay any instalment on or within one month from the date on which it fell due for payment then, whether or not the purchaser is in possession, the vendor may immediately give notice to the purchaser calling up the unpaid balance of the purchase price, which shall upon service of the notice fall immediately due and payable.
- (2) The date of service of the notice under this subclause shall be deemed the settlement date for the purposes of subclause 11.1.
- (3) The vendor may give a settlement notice with a notice under this subclause.
- (4) For the purpose of this subclause a deposit is not an instalment.
- 11.4 If the purchaser does not comply with the terms of the settlement notice served by the vendor then, subject to subclause 11.1(3):
- (1) Without prejudice to any other rights or remedies available to the vendor at law or in equity, the vendor may:
- (a) sue the purchaser for specific performance; or
- (b) cancel this agreement by notice and pursue either or both of the following remedies, namely:
- (i) forfeit and retain for the vendor's own benefit the deposit paid by the purchaser, but not exceeding in all 10% of the purchase price; and/or
- (ii) sue the purchaser for damages.
- (2) Where the vendor is entitled to cancel this agreement, the entry by the vendor into a conditional or unconditional agreement for the resale of the property or any part thereof shall take effect as a cancellation of this agreement by the vendor if this agreement has not previously been cancelled and such resale shall be deemed to have occurred after cancellation.
- (3) The damages claimable by the vendor under subclause 11.4(1)(b)(ii) shall include all damages claimable at common law or in equity and shall also include (but shall not be limited to) any loss incurred by the vendor on any bona fide resale contracted within one year from the date by which the purchaser should have settled in compliance with the settlement notice. The amount of that loss may include:
- (a) interest on the unpaid portion of the purchase price at the interest rate for late settlement from the settlement date to the settlement of such resale; and
- (b) all costs and expenses reasonably incurred in any resale or attempted resale; and
- (c) all outgoings (other than interest) on or maintenance expenses in respect of the property from the settlement date to the settlement of such resale.
- (4) Any surplus money arising from a resale shall be retained by the vendor.
- 11.5 If the vendor does not comply with the terms of a settlement notice served by the purchaser, then, without prejudice to any other rights or remedies available to the purchaser at law or in equity the purchaser may:
- (1) sue the vendor for specific performance; or
- (2) cancel this agreement by notice and require the vendor forthwith to repay to the purchaser any deposit and any other money paid on account of the purchase price and interest on such sum(s) at the interest rate for late settlement from the date or dates of payment by the purchaser until repayment.
- 11.6 The party serving a settlement notice may extend the term of the notice for one or more specifically stated periods of time and thereupon the term of the settlement notice shall be deemed to expire on the last day of the extended period or periods and it shall operate as though this clause stipulated the extended period(s) of notice in lieu of the period otherwise applicable; and time shall be of the essence accordingly. An extension may be given either before or after the expiry of the period of the notice.
- 11.7 Nothing in this clause shall preclude a party from suing for specific performance without serving a settlement notice.
- 11.8 A party who serves a settlement notice under this clause shall not be in breach of an essential term by reason only of that party's failure to be ready and able to settle upon the expiry of that notice.

12.0 Non-merger

- 12.1 The obligations and warranties of the parties in this agreement shall not merge with:
- (1) the giving and taking of possession;
- (2) settlement;
- (3) the transfer of title to the property;
- (4) delivery of the chattels (if any); or
- (5) registration of the transfer of title to the property.

13.0 Goods and Services Tax

- 13.1 If this agreement provides for the purchaser to pay (in addition to the purchase price stated without GST) any GST which is payable in respect of the supply made under this agreement, then:
- (1) the purchaser shall pay to the vendor the GST which is so payable in one sum on the GST date;
 - (2) where the GST date has not been inserted on the front page of this agreement the GST date shall be the settlement date;
 - (3) where any GST is not so paid to the vendor, the purchaser shall pay to the vendor:
 - (a) interest at the interest rate for late settlement on the amount of GST unpaid from the GST date until payment; and
 - (b) any default GST;
 - (4) it shall not be a defence to a claim against the purchaser for payment to the vendor of any default GST that the vendor has failed to mitigate the vendor's damages by paying an amount of GST when it fell due under the GST Act; and
 - (5) any sum referred to in this clause is included in the moneys payable by the purchaser on settlement pursuant to subclause 3.8(1).
- 13.2 If the supply under this agreement is a taxable supply, the vendor will deliver a tax invoice to the purchaser on or before the GST date or such earlier date as the purchaser is entitled to delivery of an invoice under the GST Act.
- 13.3
- (1) Without prejudice to the vendor's rights and remedies under subclause 13.1, where any GST is not paid to the vendor on or within one month of the GST date, then whether or not the purchaser is in possession, the vendor may immediately give notice to the purchaser calling up any unpaid balance of the purchase price, which shall upon service of the notice fall immediately due and payable.
 - (2) The date of service of the notice under this subclause shall be deemed the settlement date for the purposes of subclause 11.1.
 - (3) The vendor may give a settlement notice under subclause 11.1 with a notice under this subclause.

14.0 Zero-rating

- 14.1 The vendor warrants that the statement on the front page regarding the vendor's GST registration status in respect of the supply under this agreement and any particulars stated by the vendor in Schedule 1 are correct at the date of this agreement and will remain correct at settlement.
- 14.2 The purchaser warrants that any particulars stated by the purchaser in Schedule 1 are correct at the date of this agreement.
- 14.3 Where the particulars stated on the front page and in Schedule 1 indicate that:
- (1) the vendor is and/or will be at settlement a registered person in respect of the supply under this agreement;
 - (2) the recipient is and/or will be at settlement a registered person;
 - (3) the recipient intends at settlement to use the property for making taxable supplies; and
 - (4) the recipient does not intend at settlement to use the property as a principal place of residence by the recipient or a person associated with the recipient under section 2A(1)(c) of the GST Act,
- GST will be chargeable on the supply under this agreement at 0% pursuant to section 11(1)(mb) of the GST Act.
- 14.4 If GST is chargeable on the supply under this agreement at 0% pursuant to section 11(1)(mb) of the GST Act, then on or before settlement the purchaser will provide the vendor with the recipient's name, address, and registration number if any of those details are not included in Schedule 1 or they have altered.
- 14.5
- (1) If any of the particulars stated by the purchaser in Schedule 1:
 - (a) are incomplete; or
 - (b) alter between the date of this agreement and settlement,the purchaser shall notify the vendor of the particulars which have not been completed and the altered particulars as soon as practicable before settlement.
 - (2) The purchaser warrants that any added or altered particulars will be correct as at the date of the purchaser's notification.
 - (3) If the GST treatment of the supply under this agreement should be altered as a result of the added or altered particulars, the vendor shall prepare and deliver to the purchaser or the purchaser's lawyer an amended settlement statement, if the vendor has already tendered a settlement statement, and a credit note or a debit note, as the case may be, if the vendor has already issued a tax invoice.
- 14.6 If
- (1) the particulars in Schedule 1 state that part of the property is being used as a principal place of residence at the date of this agreement; and
 - (2) that part is still being so used at the time of the supply under this agreement,
- then, the supply of that part will be a separate supply in accordance with section 5(15)(a) of the GST Act.
- 14.7 If
- (1) the particulars stated in Schedule 1 indicate that the recipient intends to use part of the property as a principal place of residence by the recipient or a person associated with the recipient under section 2A(1)(c) of the GST Act; and
 - (2) that part is the same part as that being used as a principal place of residence at the time of the supply under this agreement,
- then the references in subclauses 14.3 and 14.4 to "the property" shall be deemed to mean the remainder of the property excluding that part and the references to "the supply under this agreement" shall be deemed to mean the supply under this agreement of that remainder.
- 14.8 If the particulars stated on the front page and in Schedule 1 indicate in terms of subclause 14.3 that GST will be chargeable on the supply under this agreement at 0% pursuant to section 11(1)(mb) of the GST Act, but any of the particulars stated by the purchaser in Schedule 1 should alter between the date of this agreement and settlement, such that GST no longer becomes chargeable on the supply at 0%, then:
- (1) the purchase price shall be plus GST (if any), even if it has been expressed as being inclusive of GST (if any) on the front page of this agreement; and

- (2) if the vendor has already had to account to the Inland Revenue Department for the GST which is payable in respect of the supply under this agreement and did so on the basis that in accordance with subclause 14.3 the GST would be chargeable at 0%, the purchaser shall pay GST and any default GST to the vendor immediately upon demand served on the purchaser by the vendor (and where any GST or default GST is not so paid to the vendor, the purchaser shall pay to the vendor interest at the interest for late settlement on the amount unpaid from the date of service of the vendor's demand until payment).

15.0 Supply of a Going Concern

- 15.1 If there is a supply under this agreement to which section 11(1)(mb) of the GST Act does not apply but which comprises the supply of a taxable activity that is a going concern at the time of the supply, then, unless otherwise expressly stated in this agreement:
- (1) each party warrants that it is a registered person or will be so by the date of the supply;
 - (2) each party agrees to provide the other party by the date of the supply with proof of its registration for GST purposes;
 - (3) the parties agree that they intend that the supply is of a taxable activity that is capable of being carried on as a going concern by the purchaser; and
 - (4) the parties agree that the supply made pursuant to this agreement is the supply of a going concern on which GST is chargeable at 0%.
- 15.2 If it subsequently transpires that GST is payable in respect of the supply and if this agreement provides for the purchaser to pay (in addition to the purchase price without GST) any GST which is payable in respect of the supply made under this agreement, then the provisions of clause 13.0 of this agreement shall apply.

16.0 Limitation of Liability

- 16.1 If any person enters into this agreement as trustee of a trust and if that person has no right to or interest in any assets of the trust, except in that person's capacity as a trustee of the trust, then that person's liability under this agreement will not be personal and unlimited but will be limited to the actual amount recoverable from the assets of the trust from time to time ("the limited amount").
- 16.2 If the right of that person to be indemnified from the trust assets has been lost or impaired, that person's liability will become personal but limited to the extent of that part of the limited amount which cannot be recovered from any other person.

17.0 Counterparts

- 17.1 This agreement may be executed and delivered in any number of counterparts (including scanned and emailed PDF counterparts).
- 17.2 Each executed counterpart will be deemed an original and all executed counterparts together will constitute one (and the same) instrument.
- 17.3 This agreement shall not come into effect until each person required to sign has signed at least one counterpart and both vendor and purchaser have received a counterpart signed by each person required to sign.
- 17.4 If the parties cannot agree on the date of this agreement, and counterparts are signed on separate dates, the date of the agreement is the date on which the last counterpart was signed and delivered to all parties.

18.0 Agency

- 18.1 If the name of a licensed real estate agent is recorded on this agreement, it is acknowledged that the sale evidenced by this agreement has been made through that agent whom the vendor has appointed as the vendor's agent according to an executed agency agreement.
- 18.2 The scope of the authority of the agent under subclause 18.1 does not extend to making an offer, counteroffer, or acceptance of a purchaser's offer or counteroffer on the vendor's behalf without the express authority of the vendor for that purpose. That authority, if given, should be recorded in the executed agency agreement.
- 18.3 The vendor shall be liable to pay the agent's charges including GST in accordance with the executed agency agreement.

19.0 Collection of Sales Information

- 19.1 Once this agreement has become unconditional in all respects, the agent may provide certain information relating to the sale to the Real Estate Institute of New Zealand Incorporated (REINZ).
- 19.2 This information will be stored on a secure password protected network under REINZ's control and may include (amongst other things) the sale price and the address of the property, but will not include the parties' names or other personal information under the Privacy Act 1993.
- 19.3 This information is collected, used and published for statistical, property appraisal and market analysis purposes, by REINZ, REINZ member agents and others.
- 19.4 Despite the above, if REINZ does come to hold any of the vendor or purchaser's personal information, that party has a right to access and correct that personal information by contacting REINZ at info@reinz.co.nz or by post or telephone.

FURTHER TERMS OF SALE

See attached

Released under the provision of
the Official Information Act 1982

FURTHER TERMS OF SALE

20. RESOURCE CONSENT CONDITION

- 20.1 This agreement is conditional upon the Purchaser obtaining a resource consent for the Purchaser's proposed development of the Property from the relevant authority on terms and conditions which are acceptable to the Purchaser in its sole discretion.
- 20.2 The date for satisfaction of the condition in clause 20.1 shall be 6 calendar months from the date of this Agreement.
- 20.3 If the condition in clause 20.1 is not satisfied by the relevant date for satisfaction provided in clause 20.2 then, subject to clause 20.5 either party may, at any time before such condition is satisfied by the Purchaser, cancel this Agreement by giving written notice to the other.
- 20.4 The condition in clause 20.1 is inserted for the sole benefit of the Purchaser and may at any time prior to fulfilment be waived by the Purchaser by written notice to the Vendor.
- 20.5 If the condition in 20.1 is unlikely to be satisfied by the relevant date for satisfaction, but the Purchaser has made reasonable progress towards satisfying the condition, the Purchaser may give the Vendor written notice that the date for satisfaction of the condition is extended for a further 2 calendar months.

21. ACCESS TO INFORMATION

- 21.1 The Vendor agrees to provide to the Purchaser, any relevant information and documents relating to the Property (including reports for the development of the Property previously obtained, valuations etc.) in the possession or under the control of the Vendor, and the Vendor shall when reasonably necessary supply to the Purchaser all such information and documents in the possession or under the control of the Vendor for the purposes of applying for an obtaining a resource consent. The Purchaser will, if requested, reimburse the Vendor for its reasonable out of pocket costs in providing the information.

22. ACCESS TO PROPERTY

- 22.1 The Vendor agrees from the date of the Agreement to:
- (a) allow the Purchaser at all reasonable times and upon receipt of reasonable written notice by the Purchaser's agent, employees, valuers and engineers together with necessary materials and equipment reasonable access to, from and around the Property for the purposes of inspection, testing and valuation;
 - (b) allow the Purchaser reasonable access to the Property, at all reasonable times and upon receipt of reasonable written notice, to permit any reports as required by the Purchaser (in which regard the Purchaser shall be the sole judge) to be carried out in connection with:
 - (i) ground support;
 - (ii) geotechnical and environmental surveys (including soil and mineral surveys); and
 - (iii) site survey in respect of the Property; and
 - (c) generally use its reasonable endeavours to assist and provide the Purchaser with all such information and assistance as may be required by the Purchaser to facilitate the conduct by the Purchaser of the Purchaser's enquires and investigations.

In accessing the Property the Purchaser must not cause disruption to the tenants and occupiers of the Property, and not breach or cause the Vendor to breach any of the Vendor's obligations as Landlord under the lease of the Property (including licences and tenancy agreements).

- 22.2 The Vendor agrees that on and from the date of the Agreement, the Purchaser shall, subject to obtaining the consent of the Vendor (such consent not to be unreasonably withheld) subject to obtaining all necessary consents and permission from the relevant authority (if required), be granted a licence to enter onto the

FURTHER TERMS OF SALE

Property to erect and maintain a non permanent model display unit /show home and site office and signage for advertising purposes ("**Licence**"). The Licence shall expire on the Settlement Date or the date that this Agreement is terminated ("**Licence Term**"). If the Licence comes to an end as a result of termination of this Agreement, the Purchaser shall have 20 working days from the expiry of the Licence Term to remove the display unit/site office and related curtilage and signage from the Property and restore that part of the Property to its original condition (and shall be granted reasonable access by the Vendor to enable it to do so). The Purchaser shall indemnify the Vendor from or against any cost of loss the Vendor may suffer or incur arising as a result of a breach of this clause by the Purchaser.

23. PURCHASER'S RESOURCE CONSENT

- 23.1 The Purchaser shall, at the Purchaser's expense prepare the application for a resource consent for the Purchaser's proposed development and submit the application to the relevant authority.
- 23.2 As at the date of this agreement the Purchaser's intention is to design a scheme for consenting which will consist of intensified residential terraced housing together with the retention of a commercial component for local convenience around the corner of the property opposite the traffic island.
- 23.3 The Vendor agrees, and to procure its directors and shareholders to agree, to not object to, or make any submission in respect of, the Purchaser's applications and agrees to provide all necessary support, written consents and approvals to the Purchaser required for the purpose of any applications for consent and authorisations. The Purchaser will if requested reimburse the Vendor for its reasonable out of pocket costs in providing the information.
- 23.4 The Purchaser shall keep the Vendor regularly informed each month of progress with the resource consent application.
- 23.5 If this Agreement is terminated, then except in the case of a Vendor default, the Purchaser shall assign to the Vendor any consents and licences already obtained by the Purchaser in connection with the Property to the extent they do not run with the land.

24. PAYMENT OF DEPOSIT

- 24.1 Subject to satisfaction of the condition at clause 31.1(a), the Purchaser shall pay to the Vendor a non-refundable deposit of [REDACTED] on the date of this Agreement or on satisfaction of that condition (whichever is the later). The [REDACTED] payment shall be in part payment of the purchase price. The [REDACTED] sum may be released to the Vendor immediately upon receipt.
- 24.2 A further deposit of [REDACTED] shall be paid to the Vendors solicitor ("**Stakeholder**") on the date 6 months after the date of the Agreement in the event the Purchaser wishes to keep the Agreement alive but the condition contained in clause 20.1 has not as yet been satisfied or waived. Except in the case of a Vendor default this deposit is non-refundable. The Stakeholder shall hold the deposit as Stakeholder in accordance with the provisions of clause 24.4.
- 24.3 A further and final deposit of [REDACTED] shall be paid to the Stakeholder on the date the condition contained in clause 20.1 is satisfied or waived.
- 24.4 The Stakeholder shall hold the deposit and all interest earned thereon on trust for the Vendor and the Purchaser on the following terms and conditions:
- (a) following payment of the deposit by the Purchaser, the deposit shall be promptly invested by the Stakeholder in an interest-bearing trust account with a registered bank in New Zealand as the Stakeholder determines ("**Stakeholder Account**");
 - (b) the Stakeholder Account shall be established, managed and audited under the Lawyers and Conveyancers Act 2008 in accordance with the Lawyers and Conveyancers Act (Trust Account) Regulations 2008 hereunder; and

FURTHER TERMS OF SALE

- (c) subject to clause 24.5, on the Settlement Date, the Deposit and all interest earned on it (less withholding tax and any other properly deductible or paid tax or levy and less any fees deducted by any bank) shall be paid to the Vendor.

The parties acknowledge that they have agreed to an increased deposit amount and it being non refundable in nature (except in the case of Vendor default) due to the length of the conditional period and the time during which the property is taken off the market.

- 24.5 The Vendor shall be entitled to any interest earned on the deposit unless the Purchaser cancels this Agreement following default by the Vendor prior to the Settlement Date in which case the Purchaser shall be entitled to the deposit together with all interest thereon.
- 24.6 The Purchaser acknowledges that resident/non-resident (as the case may be) withholding tax will be deducted from the interest earned on the deposit at such rate or rates determined or required by the Inland Revenue Department from time to time together with an administration fee. During the period of the stakeholding, the Vendor shall be liable to pay all withholding tax payable in respect of all of the interest earned on the deposit. The Vendor and the Purchaser hereby irrevocably and unconditionally authorise the Stakeholder to pay such withholding tax and administration fee on behalf of the Vendor by deduction from time to time out of the interest earned on the deposit.

25. SETTLEMENT

- 25.1 Settlement shall be 60 working days after:

- (a) the date the condition contained in clause 20.1 is satisfied or waived; or
(b) the date the condition contained in clause 31.1(b) is satisfied,

whichever is the later ("**Settlement Date**").

- 25.2 The balance of the purchase price shall be paid on the Settlement Date.

- 25.3 The Vendor shall arrange on or prior to settlement removal of all charging orders and certificates on the titles relating to the Rating Act 1967 and the Rating Power Act 1988.

26. CONFIDENTIALITY

- 26.1 Until the final settlement as contemplated by this Agreement is complete, the Vendor and the Purchaser will keep confidential the commercial terms of this Agreement and shall not disclose the commercial terms of this Agreement save to the extent that such disclosure of the Agreement or parts of the commercial terms of this Agreement is:

- (a) authorised in writing by the other party;
(b) required by law;
(c) it is, or becomes, public with the authority of the other party and without breach by that party of this provision or any other confidentiality obligation in law.
(d) to legal, accounting and other professional advisers of the Vendor or Purchaser.

Each party will require its representatives to comply with this provision and be responsible for non-compliance by any of them.

27. CONFLICT

- 27.1 Where there is any conflict between the General Terms of Sale and these Further Terms of Sale, the relevant provision(s) of the Further Terms of Sale shall apply, to the extent of any such conflict.

28. VENDOR FAMILY LEGACY

FURTHER TERMS OF SALE

- 28.1 The Purchaser acknowledges the importance to the wider Vendor family of the "Nola" family history name being in some way connected to the future use and development of the Property. While it is early days for the Purchaser, and its proposed development, the Purchaser agrees to:
- (a) consult with the family of the Vendor in relation to preservation of the family name in some way in the Purchaser's proposed development;
 - (b) promote the "Nola" family name as road names for any future internal roading;
 - (c) consider utilising the "Nola" family name in some way in any commercial precinct and, in particular, to the name of a fruit and vegetable outlet if that use was consented, commercially viable, and incorporated into the commercial precinct.

29. [INTENTIONALLY LEFT BLANK]

30. PURCHASE PRICE

- 30.1 The Purchase Price is the total purchase price payable for the Property, comprised and allocated as follows:

Structures (including houses)	██████ inclusive of GST (if any)
Land	██████ inclusive of GST (if any)
Total	██████ inclusive of GST (if any)

- 30.2 **Lowest price:** For purposes of the financial arrangements rules in the Income Tax Act 2007, the parties agree that the Purchase Price:
- (a) is the lowest price they would have agreed for the Property, on the date this agreement was entered into, if payment would have been required in full at the time the first right in the contracted property was transferred; and
 - (b) is the value of the Property.
- 30.3 **Sliding value:** If for any reason it is determined that the allocation of the Purchase Price described above is inadequate or otherwise does not reflect the actual market value of any part of the Property, then the allocations shall be adjusted to the extent necessary to reflect their actual market value.

31. CONTEMPORANEOUS SETTLEMENTS

- 31.1 This agreement is conditional upon:

- (a) The Purchaser entering into an agreement with Nola Holdings Limited ("**Other Agreement**") to purchase the properties set out in Schedule 5; and
- (b) The satisfaction of all conditions in the Other Agreement, to the intent that both agreements are contemporaneously declared unconditional.

- 31.2 The parties shall be obliged to contemporaneously settle this agreement and the Other Agreement, and a default under the Other Agreement shall be deemed a default under this agreement, and vice versa.

- 31.3 For the avoidance of doubt:

- (a) Should the Other Agreement be cancelled for any reason, this agreement shall in turn (but without prejudice to any non-defaulting party's rights) be deemed to be cancelled, and vice versa; and
- (b) The Purchaser shall not be obliged to settle under either agreement unless the vendors under both agreements settle on the Settlement Date.

FURTHER TERMS OF SALE

31.4 The Vendor acknowledges that it has been provided with a copy of the Other Agreement, and in signing this agreement, the Vendor acknowledges that it fully understands and accepts the implications of this clause as it relates to the Other Agreement.

32. GENERAL

32.1 **Entire Agreement** – This agreement constitutes the entire understanding and agreement of the parties relating to this agreement, and supersedes and extinguishes all prior agreements.

32.2 **Amendments** – No amendment to this agreement will be effective unless it is in writing and signed by, or on behalf of, the Vendor and the Purchaser.

32.3 **Partial invalidity** – The illegality, invalidity or unenforceability of a provision of this agreement under any law not affect the legality, validity or enforceability of that provision under any other law, or the legality, validity or enforceability of any other provision.

32.4 **Further assurances** – The Vendor and the Purchaser will each sign, execute and do all deeds, schedules, acts, documents and things as may be reasonably required by the other to effectively carry out, and give effect to, the terms and intentions of this agreement.

33. EXECUTOR'S LIABILITY

33.1 The Vendor enters into this Agreement as executor of the estate of Brian Joseph Nola ("the deceased") and therefore:

- (a) Clause 7.1(1) is limited to any notice or demand received by the Vendor after the death of the deceased (and with respect to clause 7.1(2) to any consent or waiver received by the Vendor after the death of the deceased);
- (b) Clauses 7.3(1) and 7.3(2) are varied to the extent that the Vendor makes no warranty as to the serviceability, condition or fitness of the chattels nor as to the serviceability, condition or fitness of any fittings, fixtures and equipment and the Purchaser acknowledges that the Purchaser purchases such items relying solely on its own judgement;
- (c) Clauses 7.3(5) and 7.3(6) are deleted;
- (d) The Purchaser shall be deemed to have purchased the property with full knowledge of any defects; and
- (e) The Vendor's liability under this Agreement will not be personal or unlimited but will be limited to the actual amount recoverable from the assets of the estate of the deceased which are available to meet such liability at the time a written demand is made.

SCHEDULE 1

(GST Information – see clause 14.0)

This Schedule must be completed if the vendor has stated on the front page that the vendor is registered under the GST Act in respect of the transaction evidenced by this agreement and/or will be so registered at settlement. Otherwise there is no need to complete it.

Section 1 Vendor	
1(a) The vendor's registration number (if already registered):	
1(b) (i) Part of the property is being used as a principal place of residence at the date of this agreement.	Yes/No
(ii) That part is: (e.g. "the main farmhouse" or "the apartment above the shop".)	Yes/No
(iii) The supply of that part will be a taxable supply:	Yes/No
Section 2 Purchaser	
2(a) The purchaser is registered under the GST Act and/or will be so registered at settlement.	Yes/No
2(b) The purchaser intends at settlement to use the property for making taxable supplies.	Yes/No
If the answer to either or both of questions 2(a) and 2(b) is "No", go to question 2(e)	
2(c) The purchaser's details are as follows:	
(i) Full name:	CAM 2019 LTD
(ii) Address:	[REDACTED] s 9(2)(a)
(iii) Registration number (if already registered):	
2(d) The purchaser intends at settlement to use the property as a principal place of residence by the purchaser or by a person associated with the purchaser under section 2A(1)(c) of the GST Act (connected by blood relationship, marriage, civil union, de facto relationship or adoption).	Yes/No
OR The purchaser intends at settlement to use part of the property (and no other part) as a principal place of residence by the purchaser or by a person associated with the purchaser under section 2A(1)(c) of the GST Act. That part is: (e.g. "the main farmhouse" or "the apartment above the shop")	Yes/No
2(e) The purchaser intends to direct the vendor to transfer title to the property to another party ("nominee").	Yes/No
If the answer to question 2(e) is "Yes", then please continue. Otherwise, there is no need to complete this Schedule any further.	
Section 3 Nominee	
3(a) The nominee is registered under the GST Act and/or is expected by the purchaser to be so registered at settlement.	Yes/No
3(b) The purchaser expects the nominee at settlement to use the property for making taxable supplies.	Yes/No
If the answer to either or both of questions 3(a) and 3(b) is "No", there is no need to complete this Schedule any further.	
3(c) The nominee's details (if known to the purchaser) are as follows:	
(i) Full name:	
(ii) Address:	
(iii) Registration number (if already registered):	
3(d) The purchaser expects the nominee to intend at settlement to use the property as a principal place of residence by the nominee or by a person associated with the nominee under section 2A(1)(c) of the GST Act (connected by blood relationship, marriage, civil union, de facto relationship or adoption).	Yes/No
OR The purchaser expects the nominee to intend at settlement to use part of the property (and no other part) as a principal place of residence by the nominee or by a person associated with the nominee under section 2A(1)(c) of the GST Act. That part is: (e.g. "the main farmhouse" or "the apartment above the shop".)	Yes/No

SCHEDULE 2
List all chattels included in the sale
(strike out or add as applicable)

Stove	Rangehood	Wall oven	Cooktop
Dishwasher	Kitchen waste disposal	Light fittings	Smoke detector(s)
Burglar alarm	Heated towel rail(s)	Heat pump(s)	Garage door remote control(s)
Blinds	Curtains	Fixed floor coverings	

SCHEDULE 3
Residential Tenancies

Name of Tenant(s):

Rent: Term: Bond:

Commercial/Industrial Tenancies
(If necessary complete on a separate schedule)

1. Name of Tenant(s):
Rent: Term: Right of Renewal: Other:

2. Name of Tenant(s):
Rent: Term: Right of Renewal: Other:

WARNING (This warning does not form part of this agreement)
This is a binding contract. Read the information set out on the back page before signing.

Acknowledgements

Where this agreement relates to the sale of a residential property and this agreement was provided to the parties by a real estate agent, or by a licensee on behalf of the agent, the parties acknowledge that they have been given the guide about the sale of residential property approved by the Real Estate Authority.

Where this agreement relates to the sale of a unit title property, the purchaser acknowledges that the purchaser has been provided with a pre-contract disclosure statement under section 146 of the Unit Titles Act.

Signature of Purchaser(s):



Director / Trustee / Authorised Signatory / Agent / Attorney*
Delete the options that do not apply
If no option is deleted, the signatory is signing in their personal capacity

Signature of Vendor(s):

 as Executor

Director / Trustee / Authorised Signatory / Agent / Attorney*
Delete the options that do not apply
If no option is deleted, the signatory is signing in their personal capacity

Director / Trustee / Authorised Signatory / Agent / Attorney*
Delete the options that do not apply
If no option is deleted, the signatory is signing in their personal capacity

Director / Trustee / Authorised Signatory / Agent / Attorney*
Delete the options that do not apply
If no option is deleted, the signatory is signing in their personal capacity

*If this agreement is signed under:

- (i) a Power of Attorney – please attach a Certificate of non-revocation (available from ADLS: 4098WFP or REINZ); or
- (ii) an Enduring Power of Attorney – please attach a Certificate of non-revocation and non-suspension of the enduring power of attorney (available from ADLS: 4997WFP or REINZ); or
- (iii) where the attorney signs for a trustee, a Certificate in the relevant form in Schedule 4 to the Trustee Act 1956.

Also insert the following wording for the Attorney's Signature above:
Signed for [full name of the donor] by his or her Attorney [attorney's signature].

SCHEDULE 5

Registered proprietor: Nola Holdings Limited

RECORD OF TITLE	LEGAL DESCRIPTION	ADDRESS
NA29A/231	Lot 22 Deposited Plan 19309	345 Glengarry Road
NA29A/232	Lot 23 Deposited Plan 19309	478 West Coast Road
NA29A/233	Lot 24 Deposited Plan 19309	476 West Coast Road
NA29A/234	Lot 25 Deposited Plan 19309	472 West Coast Road
NA29A/235	Lot 26 Deposited Plan 19309	474 West Coast Road
NA29A/236	Lot 27 Deposited Plan 19309	468 West Coast Road
NA29A/237	Lot 28 Deposited Plan 19309	470 West Coast Road
NA35A/1265	Lot 30 Deposited Plan 19309	464 West Coast Road
NA35A/1266	Lot 31 Deposited Plan 19309	462 West Coast Road
NA35A/1267	Lot 32 Deposited Plan 19309	460 West Coast Road
NA35A/1268	Lot 35 Deposited Plan 19309	343 Glengarry Road
NA35A/1269	Lot 36 Deposited Plan 19309	341 Glengarry Road
NA35A/1270	Lot 37 Deposited Plan 19309	329-335 Glengarry Road
NA35A/1271	Lot 38 Deposited Plan 19309	325-327 Glengarry Road
NA35A/1272	Lot 39 Deposited Plan 19309	321-323 Glengarry Road
NA35A/1273	Lot 40 Deposited Plan 19309	317-319 Glengarry Road

h

BEFORE SIGNING THE AGREEMENT

- Note: the purchaser is entitled to a copy of any signed offer at the time it is made.
- It is recommended both parties seek professional advice before signing. This is especially so if:
 - there are any doubts. Once signed, this will be a binding contract with only restricted rights of termination.
 - the purchaser is not a New Zealand citizen. There are strict controls on the purchase of a property in New Zealand by persons who are not New Zealand citizens.
 - property such as a hotel or a farm is being sold. The agreement is designed primarily for the sale of residential and commercial property.
 - the property is vacant land in the process of being subdivided or there is a new unit title or cross-lease to be issued. In these cases additional clauses may need to be inserted.
 - there is any doubt as to the position of the boundaries.
 - the purchaser wishes to check the weathertightness and soundness of construction of any dwellings or other buildings on the land.
- Both parties may need to have customer due diligence performed on them by their lawyer or conveyancer in accordance with the Anti-Money Laundering and Countering Financing of Terrorism Act 2009 which is best done prior to the signing of this agreement.
- The purchaser should investigate the status of the property under the Council's District Plan. The property and those around it are affected by zoning and other planning provisions regulating their use and future development.
- The purchaser should investigate whether necessary permits, consents and code compliance certificates have been obtained from the Council where building works have been carried out. This investigation can be assisted by obtaining a LIM from the Council.
- The purchaser should compare the title plans against the physical location of existing structures where the property is a unit title or cross-lease. Structures or alterations to structures not shown on the plans may result in the title being defective.
- In the case of a unit title, before the purchaser enters into the agreement:
 - the vendor must provide to the purchaser a pre-contract disclosure statement under section 146 of the Unit Titles Act;
 - the purchaser should check the minutes of the past meetings of the body corporate, enquire whether there are any issues affecting the units and/or the common property, check the body corporate's long-term maintenance plan and enquire whether the body corporate has imposed or proposed levies for a long-term maintenance fund or any other fund for the maintenance of, or remedial or other work to, the common property.
- The vendor should ensure the warranties and undertakings in clauses 7.0 and 8.0:
 - are able to be complied with; and if not
 - the applicable warranty is deleted from the agreement and any appropriate disclosure is made to the purchaser.
- Both parties should ensure the chattels list in Schedule 2 is accurate.
- Both parties should seek professional advice regarding the GST treatment of the transaction. This depends upon the GST information supplied by the parties and could change before settlement if that information changes.

THE ABOVE NOTES ARE NOT PART OF THIS AGREEMENT AND ARE NOT A COMPLETE LIST OF MATTERS WHICH ARE IMPORTANT IN CONSIDERING THE LEGAL CONSEQUENCES OF THIS AGREEMENT.

PROFESSIONAL ADVICE SHOULD BE SOUGHT REGARDING THE EFFECT AND CONSEQUENCES OF ANY AGREEMENT ENTERED INTO BETWEEN THE PARTIES.

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AGREEMENT FOR SALE AND PURCHASE OF REAL ESTATE

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DATE:

VENDOR: § 9(2)(a)

Contact Details:

VENDOR'S LAWYERS:
 Firm: McVeagh Fleming
 Individual Acting: John Burley
 Email:
 Contact Details:

Email Address for Service of Notices:
 (subclause 1.4)

PURCHASER:
 CPM 2019 Limited

Contact Details: § 9(2)(a)

PURCHASER'S LAWYERS:
 Firm: Burton Partners
 Individual Acting: Tony Nicholson
 Email: § 9(2)(a)
 Contact Details:
 PO Box 8889
 Symonds Street
 Auckland 1150

Fax: § 9(2)(a) DDI: § 9(2)(a)

Email Address for Service of Notices:
 (subclause 1.4)

LICENSED REAL ESTATE AGENT:
 Agent's Name: Colliers International
 Manager:
 Salesperson: Josh Coburn
 Contact Details:

AGREEMENT FOR SALE AND PURCHASE OF REAL ESTATE

This form is approved by the Real Estate Institute of New Zealand Incorporated and by Auckland District Law Society Incorporated.

DATE: 01/07/20

VENDOR: Nola Holdings Limited

PURCHASER: CPM 2019 Limited

and/or nominee

The vendor is registered under the GST Act in respect of the transaction evidenced by this agreement and/or will be so registered at settlement:	Yes/No
--	--------

PROPERTY			
Address: Corner West Coast Road and Glengarry Road, Glen Eden			
Estate:	FREEHOLD	LEASEHOLD-	STRATUM IN FREEHOLD-
	STRATUM IN LEASEHOLD	CROSS-LEASE (FREEHOLD)	CROSS-LEASE (LEASEHOLD)
If none of the above are deleted, the estate being sold is the first option of freehold.			
Legal Description:			
Area (more or less):	Lot/Flat/Unit:	DP:	Record of Title (unique identifier):
See attached Schedule 5			

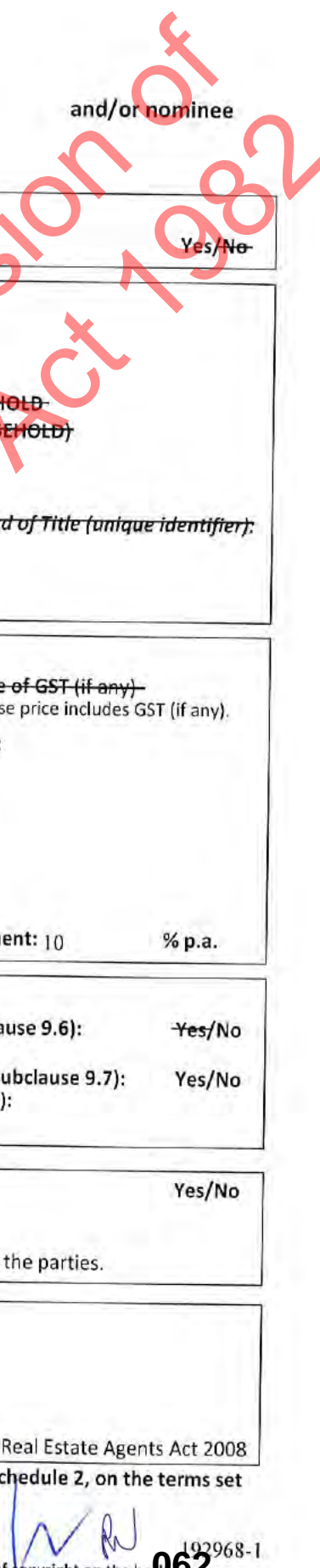
PAYMENT OF PURCHASE PRICE	
Purchase price: \$ XXXXXXXXXX	Plus GST (if any) OR Inclusive of GST (if any) If neither is deleted, the purchase price includes GST (if any).
	GST date (refer clause 13.0):
Deposit (refer clause 2.0): \$ refer Further Term clause 24	
Balance of purchase price to be paid or satisfied as follows:	
(1) By payment in cleared funds on the settlement date which is _____	
OR	
(2) In the manner described in the Further Terms of Sale.	Interest rate for late settlement: 10 % p.a.

CONDITIONS (refer clause 9.0)			
Finance required (subclause 9.1):	Yes/No	OIA consent required (subclause 9.6):	Yes/No
Finance date:		OIA date (subclause 9.8):	
LIM required (subclause 9.3):	Yes/No	Land Act consent required (subclause 9.7):	Yes/No
Building report required (subclause 9.4):	Yes/No	Land Act date (subclause 9.8):	
Toxicology report required (subclause 9.5):	Yes/No		

TENANCIES		
Name of Tenant(s): Vacant Possession		Yes/No
Particulars of any tenancies are set out in Schedule 3 or another schedule attached to this agreement by the parties.		

SALE BY: Colliers International
Licensed Real Estate Agent under Real Estate Agents Act 2008

It is agreed that the vendor sells and the purchaser purchases the property, and the chattels listed in Schedule 2, on the terms set out above and in the General Terms of Sale and any Further Terms of Sale.



GENERAL TERMS OF SALE

1.0 Definitions, time for performance, notices, and interpretation

1.1 Definitions

- (1) Unless the context requires a different interpretation, words and phrases not otherwise defined have the same meanings ascribed to those words and phrases in the Goods and Services Tax Act 1985, the Property Law Act 2007, the Resource Management Act 1991 or the Unit Titles Act 2010.
- (2) "Accessory unit", "owner", "principal unit", "unit", and "unit plan" have the meanings ascribed to those terms in the Unit Titles Act.
- (3) "Agreement" means this document including the front page, these General Terms of Sale, any Further Terms of Sale, and any schedules and attachments.
- (4) "Associated person", "conveyancer", "offshore RLWT person", "residential land purchase amount", "RLWT", "RLWT certificate of exemption" and "RLWT rules" have the meanings ascribed to those terms in the Income Tax Act 2007.
- (5) "Building", "building consent", "code compliance certificate", "commercial on-seller", "compliance schedule" and "household unit" have the meanings ascribed to those terms in the Building Act.
- (6) "Building Act" means the Building Act 1991 and/or the Building Act 2004.
- (7) "Building warrant of fitness" means a building warrant of fitness supplied to a territorial authority under the Building Act.
- (8) "Cleared funds" means:
 - (a) An electronic transfer of funds that has been made strictly in accordance with the requirements set out in the PLS Guidelines; or
 - (b) A bank cheque, but only in the circumstances permitted by the PLS Guidelines and only if it has been paid strictly in accordance with the requirements set out in the PLS Guidelines.
- (9) "Commissioner" has the meaning ascribed to that term in the Tax Administration Act 1994.
- (10) "Default GST" means any additional GST, penalty (civil or otherwise), interest, or other sum imposed on the vendor (or where the vendor is or was a member of a GST group its representative member) under the GST Act or the Tax Administration Act 1994 by reason of non-payment of any GST payable in respect of the supply made under this agreement but does not include any such sum levied against the vendor (or where the vendor is or was a member of a GST group its representative member) by reason of a default or delay by the vendor after payment of the GST to the vendor by the purchaser.
- (11) "Electronic instrument" has the same meaning as ascribed to that term in the Land Transfer Act 2017.
- (12) "Going concern", "goods", "principal place of residence", "recipient", "registered person", "registration number", "supply", "taxable activity" and "taxable supply" have the meanings ascribed to those terms in the GST Act.
- (13) "GST" means Goods and Services Tax arising pursuant to the Goods and Services Tax Act 1985 and "GST Act" means the Goods and Services Tax Act 1985.
- (14) "Landonline Workspace" means an electronic workspace facility approved by the Registrar-General of Land pursuant to the provisions of the Land Transfer Act 2017.
- (15) "Leases" means any tenancy agreement, agreement to lease (if applicable), lease, sublease, or licence to occupy in respect of the property, and includes any receipt or other evidence of payment of any bond and any formal or informal document or letter evidencing any variation, renewal, extension, review, or assignment.
- (16) "LIM" means a land information memorandum issued pursuant to the Local Government Official Information and Meetings Act 1987.
- (17) "LINZ" means Land Information New Zealand.
- (18) "Local authority" means a territorial authority or a regional council.
- (19) "OIA consent" means consent to purchase the property under the Overseas Investment Act 2005.
- (20) "PLS Guidelines" means the most recent edition, as at the date of this agreement, of the Property Transactions and E-Dealing Practice Guidelines prepared by the Property Law Section of the New Zealand Law Society.
- (21) "Proceedings" means any application to any court or tribunal or any referral or submission to mediation, adjudication or arbitration or any other dispute resolution procedure.
- (22) "Property" means the property described in this agreement.
- (23) "Purchase price" means the total purchase price stated in this agreement which the purchaser has agreed to pay the vendor for the property and the chattels included in the sale.
- (24) "Regional council" means a regional council within the meaning of the Local Government Act 2002.
- (25) "Remote settlement" means settlement of the sale and purchase of the property by way of the purchaser's lawyer paying the moneys due and payable on the settlement date directly into the trust account of the vendor's lawyer, in consideration of the vendor agreeing to meet the vendor's obligations under subclause 3.8(2), pursuant to the protocol for remote settlement recommended in the PLS Guidelines.
- (26) "Residential (but not otherwise sensitive) land" has the meaning ascribed to that term in the Overseas Investment Act 2005.
- (27) "Rules" means body corporate operational rules under the Unit Titles Act.
- (28) "Secure web document exchange" means an electronic messaging service enabling messages and electronic documents to be posted by one party to a secure website to be viewed by the other party immediately after posting.
- (29) "Settlement" means (unless otherwise agreed by the parties in writing) the moment in time when the vendor and purchaser have fulfilled their obligations under subclause 3.8.
- (30) "Settlement date" means the date specified as such in this agreement.
- (31) "Settlement statement" means a statement showing the purchase price, plus any GST payable by the purchaser in addition to the purchase price, less any deposit or other payments or allowances to be credited to the purchaser, together with apportionments of all incomings and outgoings apportioned at the settlement date.
- (32) "Tax information" and "tax statement" have the meanings ascribed to those terms in the Land Transfer Act 2017.
- (33) "Territorial authority" means a territorial authority within the meaning of the Local Government Act 2002.
- (34) "Title" includes where appropriate a record of title within the meaning of the Land Transfer Act 2017.

- (35) "Unit title" means a unit title under the Unit Titles Act.
- (36) "Unit Titles Act" means the Unit Titles Act 2010.
- (37) "Working day" means any day of the week other than:
- Saturday, Sunday, Waitangi Day, Good Friday, Easter Monday, Anzac Day, the Sovereign's Birthday, and Labour Day;
 - if Waitangi Day or Anzac Day falls on a Saturday or Sunday, the following Monday;
 - a day in the period commencing on the 24th day of December in any year and ending on the 5th day of January (or in the case of subclause 9.3(2) the 15th day of January) in the following year, both days inclusive; and
 - the day observed as the anniversary of any province in which the property is situated.
- A working day shall be deemed to commence at 9.00 am and to terminate at 5.00 pm.

1.2 Unless a contrary intention appears on the front page or elsewhere in this agreement:

- the interest rate for late settlement is equivalent to the interest rate charged by the Inland Revenue Department on unpaid tax under the Tax Administration Act 1994 during the period for which the interest rate for late settlement is payable, plus 5% per annum; and
- a party is in default if it did not do what it has contracted to do to enable settlement to occur, regardless of the cause of such failure.

1.3 Time for Performance

- Where the day nominated for settlement or the fulfilment of a condition is not a working day, then the settlement date or the date for fulfilment of the condition shall be the last working day before the day so nominated.
- Any act done pursuant to this agreement by a party, including service of notices, after 5.00 pm on a working day, or on a day that is not a working day, shall be deemed to have been done at 9.00 am on the next succeeding working day.
- Where two or more acts done pursuant to this agreement, including service of notices, are deemed to have been done at the same time, they shall take effect in the order in which they would have taken effect but for subclause 1.3(2).

1.4 Notices

The following apply to all notices between the parties relevant to this agreement, whether authorised by this agreement or by the general law:

- All notices must be served in writing.
- Any notice under section 28 of the Property Law Act 2007, where the purchaser is in possession of the property, must be served in accordance with section 353 of that Act.
- All other notices, unless otherwise required by the Property Law Act 2007, must be served by one of the following means:
 - on the party as authorised by sections 354 to 361 of the Property Law Act 2007, or
 - on the party or on the party's lawyer:
 - by personal delivery; or
 - by posting by ordinary mail; or
 - by email; or
 - in the case of the party's lawyer only, by sending by document exchange or, if both parties' lawyers have agreed to subscribe to the same secure web document exchange for this agreement, by secure web document exchange.
- In respect of the means of service specified in subclause 1.4(3)(b), a notice is deemed to have been served:
 - in the case of personal delivery, when received by the party or at the lawyer's office;
 - in the case of posting by ordinary mail, on the third working day following the date of posting to the address for service notified in writing by the party or to the postal address of the lawyer's office;
 - in the case of email:
 - when sent to the email address provided for the party or the party's lawyer on the back page; or
 - any other email address notified subsequently in writing by the party or the party's lawyer (which shall supersede the email address on the back page); or
 - if no such email address is provided on the back page or notified subsequently in writing, the office email address of the party's lawyer's firm appearing on the firm's letterhead or website;
 - in the case of sending by document exchange, on the second working day following the date of sending to the document exchange number of the lawyer's office;
 - in the case of sending by secure web document exchange, on the first working day following the date of sending to the secure web document exchange.
- Any period of notice required to be given under this agreement shall be computed by excluding the day of service.

1.5 Interpretation

- If there is more than one vendor or purchaser, the liability of the vendors or of the purchasers, as the case may be, is joint and several.
- Where the purchaser executes this agreement with provision for a nominee, or as agent for an undisclosed or disclosed but unidentified principal, or on behalf of a company to be formed, the purchaser shall at all times remain liable for all obligations on the part of the purchaser.
- If any inserted term (including any Further Terms of Sale) conflicts with the General Terms of Sale the inserted term shall prevail.
- Headings are for information only and do not form part of this agreement.
- References to statutory provisions shall be construed as references to those provisions as they may be amended or re-enacted or as their application is modified by other provisions from time to time.

2.0 Deposit

- 2.1 The purchaser shall pay the deposit to the vendor or the vendor's agent immediately upon execution of this agreement by both parties and/or at such other time as is specified in this agreement.

- 2.2 If the deposit is not paid on the due date for payment, the vendor may at any time thereafter serve on the purchaser notice requiring payment. If the purchaser fails to pay the deposit on or before the third working day after service of the notice, time being of the essence, the vendor may cancel this agreement by serving notice of cancellation on the purchaser. No notice of cancellation shall be effective if the deposit has been paid before the notice of cancellation is served.
- 2.3 The deposit shall be in part payment of the purchase price.
- 2.4 The person to whom the deposit is paid shall hold it as a stakeholder until:
- (1) the requisition procedure under clause 6.0 is completed without either party cancelling this agreement; and
 - (2) where this agreement is entered into subject to any condition(s) expressed in this agreement, each such condition has been fulfilled or waived; and
 - (3) where the property is a unit title:
 - (a) a pre-settlement disclosure statement, certified correct by the body corporate, under section 147 of the Unit Titles Act; and
 - (b) an additional disclosure statement under section 148 of the Unit Titles Act (if requested by the purchaser within the time prescribed in section 148(2)),
 have been provided to the purchaser by the vendor within the times prescribed in those sections or otherwise the purchaser has given notice under section 149(2) of the Unit Titles Act to postpone the settlement date until after the disclosure statements have been provided; or
 - (4) this agreement is:
 - (a) cancelled pursuant to:
 - (i) subclause 6.2(3)(c); or
 - (ii) sections 36 or 37 of the Contract and Commercial Law Act 2017; or
 - (b) avoided pursuant to subclause 9.10(5); or
 - (5) where the property is a unit title and the purchaser, having the right to cancel this agreement pursuant to section 151(2) of the Unit Titles Act, has cancelled this agreement pursuant to that section, or has elected not to cancel by giving notice to the vendor, or by completing settlement of the purchase.
- 2.5 Where the person to whom the deposit is paid is a real estate agent, the period for which the agent must hold the deposit as a stakeholder pursuant to subclause 2.4 shall run concurrently with the period for which the agent must hold the deposit under section 123 of the Real Estate Agents Act 2008, but the agent must hold the deposit for the longer of those two periods, or such lesser period as is agreed between the parties in writing as required by section 123 of the Real Estate Agents Act 2008, but in no event shall the deposit be released prior to the expiry of the requisition period under clause 6.0, unless the requisition period is expressly waived in writing after the effect of the same is explained to the purchaser by the agent or by the purchaser's lawyer or conveyancer.

3.0 Possession and Settlement

Possession

- 3.1 Unless particulars of a tenancy are included in this agreement, the property is sold with vacant possession and the vendor shall so yield the property on the settlement date.
- 3.2 If the property is sold with vacant possession, then subject to the rights of any tenants of the property, the vendor shall permit the purchaser or any person authorised by the purchaser in writing, upon reasonable notice:
- (1) to enter the property on one occasion prior to the settlement date for the purposes of examining the property, chattels and fixtures which are included in the sale; and
 - (2) to re-enter the property no later than the day prior to the settlement date to confirm compliance by the vendor with any agreement made by the vendor to carry out any work on the property, the chattels and the fixtures.
- 3.3 Possession shall be given and taken on the settlement date. Outgoings and incomings in respect of the settlement date are the responsibility of and belong to the vendor.
- 3.4 On the settlement date, the vendor shall make available to the purchaser keys to all exterior doors that are locked by key, electronic door openers to all doors that are opened electronically, and the keys and/or security codes to any alarms. The vendor does not have to make available keys, electronic door openers, and security codes where the property is tenanted and these are held by the tenant.

Settlement

- 3.5 The vendor shall prepare, at the vendor's own expense, a settlement statement. The vendor shall tender the settlement statement to the purchaser or the purchaser's lawyer a reasonable time prior to the settlement date.
- 3.6 The purchaser's lawyer shall:
- (1) within a reasonable time prior to the settlement date create a Landonline Workspace for the transaction, notify the vendor's lawyer of the dealing number allocated by LINZ, and prepare in that workspace a transfer instrument in respect of the property; and
 - (2) prior to settlement:
 - (a) lodge in that workspace the tax information contained in the transferee's tax statement; and
 - (b) certify and sign the transfer instrument.
- 3.7 The vendor's lawyer shall:
- (1) within a reasonable time prior to the settlement date prepare in that workspace all other electronic instruments required to confer title on the purchaser in terms of the vendor's obligations under this agreement; and
 - (2) prior to settlement:
 - (a) lodge in that workspace the tax information contained in the transferor's tax statement; and
 - (b) have those instruments and the transfer instrument certified, signed and, where possible, pre-validated.

3.8 On the settlement date:

- (1) the balance of the purchase price, interest and other moneys, if any, shall be paid by the purchaser in cleared funds or otherwise satisfied as provided in this agreement (credit being given for any amount payable by the vendor under subclause 3.12 or 3.13, or for any deduction allowed to the purchaser under subclause 5.2, or for any compensation agreed by the vendor in respect of a claim made by the purchaser pursuant to subclause 10.2(1), or for any interim amount the purchaser is required to pay to a stakeholder pursuant to subclause 10.8);
- (2) the vendor's lawyer shall immediately thereafter:
 - (a) release or procure the release of the transfer instrument and the other instruments mentioned in subclause 3.7(1) so that the purchaser's lawyer can then submit them for registration;
 - (b) pay to the purchaser's lawyer the LINZ registration fees on all of the instruments mentioned in subclause 3.7(1), unless these fees will be invoiced to the vendor's lawyer by LINZ directly; and
 - (c) deliver to the purchaser's lawyer any other documents that the vendor must provide to the purchaser on settlement in terms of this agreement, including where this agreement provides for the property to be sold tenanted, all leases relating to the tenancy that are held by the vendor and a notice from the vendor to each tenant advising them of the sale of the property and directing them to pay to the purchaser as landlord, in such manner as the purchaser may prescribe, all rent or other moneys payable under the leases.

3.9 All obligations under subclause 3.8 are interdependent.

3.10 The parties shall complete settlement by way of remote settlement, provided that where payment by bank cheque is permitted under the PLS Guidelines, payment may be made by the personal delivery of a bank cheque to the vendor's lawyer's office, so long as it is accompanied by the undertaking from the purchaser's lawyer required by those Guidelines.

Last-Minute Settlement

3.11 If due to the delay of the purchaser, settlement takes place between 4.00 pm and 5.00 pm on the settlement date ("last-minute settlement"), the purchaser shall pay the vendor:

- (1) one day's interest at the interest rate for late settlement on the portion of the purchase price paid in the last-minute settlement; and
- (2) if the day following the last-minute settlement is not a working day, an additional day's interest (calculated in the same manner) for each day until, but excluding, the next working day.

Purchaser Default: Late Settlement

3.12 If any portion of the purchase price is not paid upon the due date for payment, then, provided that the vendor provides reasonable evidence of the vendor's ability to perform any obligation the vendor is obliged to perform on that date in consideration for such payment:

- (1) the purchaser shall pay to the vendor interest at the interest rate for late settlement on the portion of the purchase price so unpaid for the period from the due date for payment until payment ("the default period"); but nevertheless, this stipulation is without prejudice to any of the vendor's rights or remedies including any right to claim for additional expenses and damages. For the purposes of this subclause, a payment made on a day other than a working day or after the termination of a working day shall be deemed to be made on the next following working day and interest shall be computed accordingly; and
- (2) the vendor is not obliged to give the purchaser possession of the property or to pay the purchaser any amount for remaining in possession, unless this agreement relates to a tenanted property, in which case the vendor must elect either to:
 - (a) account to the purchaser on settlement for incomings in respect of the property which are payable and received during the default period, in which event the purchaser shall be responsible for the outgoings relating to the property during the default period; or
 - (b) retain such incomings in lieu of receiving interest from the purchaser pursuant to subclause 3.12(1).
- (3) If the parties are unable to agree upon any amount payable under this subclause 3.12, either party may make a claim under clause 10.0.

Vendor Default: Late Settlement or Failure to Give Possession

3.13 (1) For the purposes of this subclause 3.13:

- (a) the default period means:
 - (i) in subclause 3.13(2), the period from the settlement date until the date when the vendor is able and willing to provide vacant possession and the purchaser takes possession; and
 - (ii) in subclause 3.13(3), the period from the date the purchaser takes possession until the date when settlement occurs; and
 - (iii) in subclause 3.13(5), the period from the settlement date until the date when settlement occurs; and
 - (b) the vendor shall be deemed to be unwilling to give possession if the vendor does not offer to give possession.
- (2) If this agreement provides for vacant possession but the vendor is unable or unwilling to give vacant possession on the settlement date, then, provided that the purchaser provides reasonable evidence of the purchaser's ability to perform the purchaser's obligations under this agreement:
- (a) the vendor shall pay the purchaser, at the purchaser's election, either:
 - (i) compensation for any reasonable costs incurred for temporary accommodation for persons and storage of chattels during the default period; or
 - (ii) an amount equivalent to interest at the interest rate for late settlement on the entire purchase price during the default period; and

- (b) the purchaser shall pay the vendor an amount equivalent to the interest earned or which would be earned on overnight deposits lodged in the purchaser's lawyer's trust bank account on such portion of the purchase price (including any deposit) as is payable under this agreement on or by the settlement date but remains unpaid during the default period less:
- (i) any withholding tax; and
 - (ii) any bank or legal administration fees and commission charges; and
 - (iii) any interest payable by the purchaser to the purchaser's lender during the default period in respect of any mortgage or loan taken out by the purchaser in relation to the purchase of the property.
- (3) If this agreement provides for vacant possession and the vendor is able and willing to give vacant possession on the settlement date, then, provided the purchaser provides reasonable evidence of the purchaser's ability to perform the purchaser's obligations under this agreement, the purchaser may elect to take possession in which case the vendor shall not be liable to pay any interest or other moneys to the purchaser but the purchaser shall pay the vendor the same amount as that specified in subclause 3.13(2)(b) during the default period. A purchaser in possession under this subclause 3.13(3) is a licensee only.
- (4) Notwithstanding the provisions of subclause 3.13(3), the purchaser may elect not to take possession when the purchaser is entitled to take it. If the purchaser elects not to take possession, the provisions of subclause 3.13(2) shall apply as though the vendor were unable or unwilling to give vacant possession on the settlement date.
- (5) If this agreement provides for the property to be sold tenanted then, provided that the purchaser provides reasonable evidence of the purchaser's ability to perform the purchaser's obligations under this agreement, the vendor shall on settlement account to the purchaser for incomings which are payable and received in respect of the property during the default period less the outgoings paid by the vendor during that period. Apart from accounting for such incomings, the vendor shall not be liable to pay any other moneys to the purchaser but the purchaser shall pay the vendor the same amount as that specified in subclause 3.13(2)(b) during the default period.
- (6) The provisions of this subclause 3.13 shall be without prejudice to any of the purchaser's rights or remedies including any right to claim for any additional expenses and damages suffered by the purchaser.
- (7) If the parties are unable to agree upon any amount payable under this subclause 3.13, either party may make a claim under clause 10.0.

Deferment of Settlement and Possession

- 3.14 If
- (1) this is an agreement for the sale by a commercial on-seller of a household unit; and
 - (2) a code compliance certificate has not been issued by the settlement date in relation to the household unit,
- then, unless the parties agree otherwise (in which case the parties shall enter into a written agreement in the form (if any) prescribed by the Building (Forms) Regulations 2004), the settlement date shall be deferred to the fifth working day following the date upon which the vendor has given the purchaser notice that the code compliance certificate has been issued (which notice must be accompanied by a copy of the certificate).
- 3.15 In every case, if neither party is ready, willing, and able to settle on the settlement date, the settlement date shall be deferred to the third working day following the date upon which one of the parties gives notice it has become ready, willing, and able to settle.
- 3.16 If
- (1) the property is a unit title;
 - (2) the settlement date is deferred pursuant to either subclause 3.14 or subclause 3.15; and
 - (3) the vendor considers on reasonable grounds that an extension of time is necessary or desirable in order for the vendor to comply with the warranty by the vendor in subclause 8.2(3),
- then the vendor may extend the settlement date.
- (a) where there is a deferment of the settlement date pursuant to subclause 3.14, to the tenth working day following the date upon which the vendor gives the purchaser notice that the code compliance certificate has been issued, provided the vendor gives notice of the extension to the purchaser no later than the second working day after such notice; or
 - (b) where there is a deferment of the settlement date pursuant to subclause 3.15, to the tenth working day following the date upon which one of the parties gives notice that it has become ready, willing, and able to settle, provided the vendor gives notice of the extension to the purchaser no later than the second working day after such notice.

New Title Provision

- 3.17 (1) Where
- (a) the transfer of the property is to be registered against a new title yet to be issued; and
 - (b) a search copy, as defined in section 60 of the Land Transfer Act 2017, of that title is not obtainable by the tenth working day prior to the settlement date,
- then, unless the purchaser elects that settlement shall still take place on the agreed settlement date, the settlement date shall be deferred to the tenth working day following the later of the date on which:
- (i) the vendor has given the purchaser notice that a search copy is obtainable; or
 - (ii) the requisitions procedure under clause 6.0 is complete.
- (2) Subclause 3.17(1) shall not apply where it is necessary to register the transfer of the property to enable a plan to be deposited and title to the property to be issued.

4.0 Residential Land Withholding Tax

- 4.1 If the vendor does not have a conveyancer or the vendor and the purchaser are associated persons, then:
- (1) the vendor must provide the purchaser or the purchaser's conveyancer, on or before the second working day before the due date for payment of the first residential land purchase amount payable under this agreement, with:
 - (a) sufficient information to enable the purchaser or the purchaser's conveyancer to determine to their reasonable satisfaction whether section 54C of the Tax Administration Act 1994 applies to the sale of the property; and

- (b) if the purchaser or the purchaser's conveyancer determines to their reasonable satisfaction that section 54C of the Tax Administration Act 1994 does apply, all of the information required by that section and either an RLWT certificate of exemption in respect of the sale or otherwise such other information that the purchaser or the purchaser's conveyancer may reasonably require to enable the purchaser or the purchaser's conveyancer to determine to their reasonable satisfaction the amount of RLWT that must be withheld from each residential land purchase amount;
- (2) the vendor shall be liable to pay any costs reasonably incurred by the purchaser or the purchaser's conveyancer in relation to RLWT, including the cost of obtaining professional advice in determining whether there is a requirement to withhold RLWT and the amount of RLWT that must be withheld, if any; and
- (3) any payments payable by the purchaser on account of the purchase price shall be deemed to have been paid to the extent that:
 - (a) RLWT has been withheld from those payments by the purchaser or the purchaser's conveyancer as required by the RLWT rules; and
 - (b) any costs payable by the vendor under subclause 4.1(2) have been deducted from those payments by the purchaser or the purchaser's conveyancer.
- 4.2 If the vendor does not have a conveyancer or the vendor and the purchaser are associated persons and if the vendor fails to provide the information required under subclause 4.1(1), then the purchaser may:
 - (1) defer the payment of the first residential land purchase amount payable under this agreement (and any residential land purchase amount that may subsequently fall due for payment) until such time as the vendor supplies that information; or
 - (2) on the due date for payment of that residential land purchase amount, or at any time thereafter if payment has been deferred by the purchaser pursuant to this subclause and the vendor has still not provided that information, treat the sale of the property as if it is being made by an offshore RLWT person where there is a requirement to pay RLWT.
- 4.3 If pursuant to subclause 4.2 the purchaser treats the sale of the property as if it is being made by an offshore RLWT person where there is a requirement to pay RLWT, the purchaser or the purchaser's conveyancer may:
 - (1) make a reasonable assessment of the amount of RLWT that the purchaser or the purchaser's conveyancer would be required by the RLWT rules to withhold from any residential land purchase amount if the sale is treated in that manner; and
 - (2) withhold that amount from any residential land purchase amount and pay it to the Commissioner as RLWT.
- 4.4 Any amount withheld by the purchaser or the purchaser's conveyancer pursuant to subclause 4.3 shall be treated as RLWT that the purchaser or the purchaser's conveyancer is required by the RLWT rules to withhold.
- 4.5 The purchaser or the purchaser's conveyancer shall give notice to the vendor a reasonable time before payment of any sum due to be paid on account of the purchase price of:
 - (1) the costs payable by the vendor under subclause 4.1(2) that the purchaser or the purchaser's conveyancer intends to deduct; and
 - (2) the amount of RLWT that the purchaser or the purchaser's conveyancer intends to withhold.

5.0 Risk and insurance

- 5.1 The property and chattels shall remain at the risk of the vendor until possession is given and taken.
- 5.2 If, prior to the giving and taking of possession, the property is destroyed or damaged, and such destruction or damage has not been made good by the settlement date, then the following provisions shall apply:
 - (1) if the destruction or damage has been sufficient to render the property untenable and it is untenable on the settlement date, the purchaser may:
 - (a) complete the purchase at the purchase price, less a sum equal to any insurance moneys received or receivable by or on behalf of the vendor in respect of such destruction or damage, provided that no reduction shall be made to the purchase price if the vendor's insurance company has agreed to reinstate for the benefit of the purchaser to the extent of the vendor's insurance cover; or
 - (b) cancel this agreement by serving notice on the vendor in which case the vendor shall return to the purchaser immediately the deposit and any other moneys paid by the purchaser, and neither party shall have any right or claim against the other arising from this agreement or its cancellation;
 - (2) if the property is not untenable on the settlement date, the purchaser shall complete the purchase at the purchase price less a sum equal to the amount of the diminution in value of the property which, to the extent that the destruction or damage to the property can be made good, shall be deemed to be equivalent to the reasonable cost of reinstatement or repair;
 - (3) in the case of a property zoned for rural purposes under an operative District Plan, damage to the property shall be deemed to have rendered the property untenable where the diminution in value exceeds an amount equal to 20% of the purchase price; and
 - (4) if the amount of the diminution in value is disputed, the parties shall follow the same procedure as that set out in subclause 10.8 for when an amount of compensation is disputed.
- 5.3 The purchaser shall not be required to take over any insurance policies held by the vendor.

6.0 Title, boundaries and requisitions

- 6.1 The vendor shall not be bound to point out the boundaries of the property except that on the sale of a vacant residential lot which is not limited as to parcels the vendor shall ensure that all boundary markers required by the Cadastral Survey Act 2002 and any related rules and regulations to identify the boundaries of the property are present in their correct positions at the settlement date.
- 6.2 (1) The purchaser is deemed to have accepted the vendor's title except as to objections or requisitions which the purchaser is entitled to make and notice of which the purchaser serves on the vendor on or before the earlier of:
 - (a) the tenth working day after the date of this agreement; or
 - (b) the settlement date.

- (2) Where the transfer of the property is to be registered against a new title yet to be issued, the purchaser is deemed to have accepted the title except as to such objections or requisitions which the purchaser is entitled to make and notice of which the purchaser serves on the vendor on or before the fifth working day following the date the vendor has given the purchaser notice that the title has been issued and a search copy of it as defined in section 60 of the Land Transfer Act 2017 is obtainable.
- (3) If the vendor is unable or unwilling to remove or comply with any objection or requisition as to title, notice of which has been served on the vendor by the purchaser, then the following provisions will apply:
- the vendor shall notify the purchaser ("a vendor's notice") of such inability or unwillingness on or before the fifth working day after the date of service of the purchaser's notice;
 - if the vendor does not give a vendor's notice the vendor shall be deemed to have accepted the objection or requisition and it shall be a requirement of settlement that such objection or requisition shall be complied with before settlement;
 - if the purchaser does not on or before the fifth working day after service of a vendor's notice notify the vendor that the purchaser waives the objection or requisition, either the vendor or the purchaser may (notwithstanding any intermediate negotiations) by notice to the other, cancel this agreement.
- 6.3 In the event of cancellation under subclause 6.2(3), the purchaser shall be entitled to the immediate return of the deposit and any other moneys paid under this agreement by the purchaser and neither party shall have any right or claim against the other arising from this agreement or its cancellation. In particular, the purchaser shall not be entitled to any interest or to the expense of investigating the title or to any compensation whatsoever.
- 6.4 (1) If the title to the property being sold is a cross-lease title or a unit title and there are:
- in the case of a cross-lease title:
 - alterations to the external dimensions of any leased structure; or
 - buildings or structures not intended for common use which are situated on any part of the land that is not subject to a restricted use covenant;
 - in the case of a unit title, encroachments out of the principal unit or accessory unit title space (as the case may be); then the purchaser may requisition the title under subclause 6.2 requiring the vendor:
 - in the case of a cross-lease title, to deposit a new plan depicting the buildings or structures and register a new cross-lease or cross-leases (as the case may be) and any other ancillary dealings in order to convey good title; or
 - in the case of a unit title, to deposit an amendment to the unit plan, a redevelopment plan or new unit plan (as the case may be) depicting the principal and/or accessory units and register such transfers and any other ancillary dealings in order to convey good title.
- (2) The words "alterations to the external dimensions of any leased structure" shall only mean alterations which are attached to the leased structure and enclosed.
- 6.5 The vendor shall not be liable to pay for or contribute towards the expense of erection or maintenance of any fence between the property and any contiguous land of the vendor but this proviso shall not enure for the benefit of any subsequent purchaser of the contiguous land; and the vendor shall be entitled to require the inclusion of a fencing covenant to this effect in any transfer of the property.

7.0 Vendor's warranties and undertakings

- 7.1 The vendor warrants and undertakes that at the date of this agreement the vendor has not:
- received any notice or demand and has no knowledge of any requisition or outstanding requirement:
 - from any local or government authority or other statutory body; or
 - under the Resource Management Act 1991; or
 - from any tenant of the property; or
 - from any other party; or
 - given any consent or waiver, which directly or indirectly affects the property and which has not been disclosed in writing to the purchaser.
- 7.2 The vendor warrants and undertakes that at the date of this agreement the vendor has no knowledge or notice of any fact which might result in proceedings being instituted by or against the vendor or the purchaser in respect of the property.
- 7.3 The vendor warrants and undertakes that at settlement:
- The chattels included in the sale listed in Schedule 2 and all plant, equipment, systems or devices which provide any services or amenities to the property, including, without limitation, security, heating, cooling, or air-conditioning, are delivered to the purchaser in reasonable working order, but in all other respects in their state of repair as at the date of this agreement (fair wear and tear excepted) but failure to do so shall only create a right of compensation.
 - All electrical and other installations on the property are free of any charge whatsoever and all chattels included in the sale are the unencumbered property of the vendor.
 - There are no arrears of rates, water rates or charges outstanding on the property and where the property is subject to a targeted rate that has been imposed as a means of repayment of any loan, subsidy or other financial assistance made available by or through the local authority, the amount required to remove the imposition of that targeted rate has been paid.
 - Where an allowance has been made by the vendor in the settlement statement for incomings receivable, the settlement statement correctly records those allowances including, in particular, the dates up to which the allowances have been made.
 - Where the vendor has done or caused or permitted to be done on the property any works:
 - any permit, resource consent, or building consent required by law was obtained; and
 - to the vendor's knowledge, the works were completed in compliance with those permits or consents; and
 - where appropriate, a code compliance certificate was issued for those works.
 - Where under the Building Act, any building on the property sold requires a compliance schedule:
 - the vendor has fully complied with any requirements specified in any compliance schedule issued by a territorial authority under the Building Act in respect of the building;
 - the building has a current building warrant of fitness; and

- (c) the vendor is not aware of any reason, that the vendor has not disclosed in writing to the purchaser, which would prevent a building warrant of fitness from being supplied to the territorial authority when the building warrant of fitness is next due.
- (7) Since the date of this agreement, the vendor has not given any consent or waiver which directly or indirectly affects the property.
- (8) Any notice or demand received by the vendor, which directly or indirectly affects the property, after the date of this agreement:
- from any local or government authority or other statutory body; or
 - under the Resource Management Act 1991; or
 - from any tenant of the property; or
 - from any other party,
- has been delivered forthwith by the vendor to either the purchaser or the purchaser's lawyer, unless the vendor has paid or complied with such notice or demand. If the vendor fails to so deliver or pay the notice or demand, the vendor shall be liable for any penalty incurred.
- 7.4 If the property is or includes part only of a building, the warranty and undertaking in subclause 7.3(6) does not apply. Instead the vendor warrants and undertakes at the date of this agreement that, where under the Building Act the building of which the property forms part requires a compliance schedule:
- to the vendor's knowledge, there has been full compliance with any requirements specified in any compliance schedule issued by a territorial authority under the Building Act in respect of the building;
 - the building has a current building warrant of fitness; and
 - the vendor is not aware of any reason, that the vendor has not disclosed in writing to the purchaser, which would prevent a building warrant of fitness from being supplied to the territorial authority when the building warrant of fitness is next due.
- 7.5 The vendor warrants and undertakes that on or immediately after settlement:
- If the water and wastewater charges are determined by meter, the vendor will have the water meter read and will pay the amount of the charge payable pursuant to that reading; but if the water supplier will not make special readings, the water and wastewater charges shall be apportioned.
 - Any outgoings included in the settlement statement are paid in accordance with the settlement statement and, where applicable, to the dates shown in the settlement statement, or will be so paid immediately after settlement.
 - The vendor will give notice of sale in accordance with the Local Government (Rating) Act 2002 to the territorial authority and regional council in whose district the land is situated and will also give notice of the sale to every other authority that makes and levies rates or charges on the land and to the supplier of water.
 - Where the property is a unit title, the vendor will notify the body corporate in writing of the transfer of the property and the name and address of the purchaser.

8.0 Unit title and cross-lease provisions

Unit Titles

- 8.1 If the property is a unit title, sections 144 to 153 of the Unit Titles Act require the vendor to provide to the purchaser a pre-contract disclosure statement, a pre-settlement disclosure statement and, if so requested by the purchaser, an additional disclosure statement.
- 8.2 If the property is a unit title, the vendor warrants and undertakes as follows:
- The information in the pre-contract disclosure statement provided to the purchaser was complete and correct.
 - Apart from regular periodic contributions, no contributions have been levied or proposed by the body corporate that have not been disclosed in writing to the purchaser.
 - Not less than five working days before the settlement date, the vendor will provide:
 - a certificate of insurance for all insurances effected by the body corporate under the provisions of section 135 of the Unit Titles Act, and
 - a pre-settlement disclosure statement from the vendor, certified correct by the body corporate, under section 147 of the Unit Titles Act. Any periodic contributions to the operating account shown in that pre-settlement disclosure statement shall be apportioned. There shall be no apportionment of contributions to any long-term maintenance fund, contingency fund or capital improvement fund.
 - There are no other amounts owing by the owner under any provision of the Unit Titles Act.
 - There are no unsatisfied judgments against the body corporate and no proceedings have been instituted against or by the body corporate.
 - No order or declaration has been made by any Court against the body corporate or the owner under any provision of the Unit Titles Act.
 - The vendor has no knowledge or notice of any fact which might result in:
 - the owner or the purchaser incurring any other liability under any provision of the Unit Titles Act; or
 - any proceedings being instituted by or against the body corporate; or
 - any order or declaration being sought against the body corporate or the owner under any provision of the Unit Titles Act.
 - The vendor is not aware of proposals to pass any body corporate resolution relating to its rules nor are there any unregistered changes to the body corporate rules which have not been disclosed in writing to the purchaser.
 - No lease, licence, easement, or special privilege has been granted by the body corporate in respect of any part of the common property which has not been disclosed in writing to the purchaser.
 - No resolution has been passed and no application has been made and the vendor has no knowledge of any proposal for:
 - the transfer of the whole or any part of the common property;
 - the addition of any land to the common property;
 - the cancellation of the unit plan; or

- (d) the deposit of an amendment to the unit plan, a redevelopment plan, or a new unit plan in substitution for the existing unit plan,
which has not been disclosed in writing to the purchaser.
- (11) As at settlement, all contributions and other moneys payable by the vendor to the body corporate have been paid in full.
- 8.3 If the property is a unit title and if the vendor does not provide the certificates of insurance and the pre-settlement disclosure statement under section 147 of the Unit Titles Act in accordance with the requirements of subclause 8.2(3), then in addition to the purchaser's rights under sections 149 and 150 of the Unit Titles Act, the purchaser may:
- (1) postpone the settlement date until the fifth working day following the date on which that information is provided to the purchaser; or
 - (2) elect that settlement shall still take place on the settlement date.
- 8.4 If the property is a unit title, each party specifies that:
- (1) any email address of that party's lawyer provided on the back page of this agreement, or notified subsequently in writing by that party's lawyer shall be an address for service for that party for the purposes of section 205(1)(d) of the Unit Titles Act; and
 - (2) if that party is absent from New Zealand, that party's lawyer shall be that party's agent in New Zealand for the purposes of section 205(2) of the Unit Titles Act.
- 8.5 If the property is a unit title, any costs owing by the purchaser to the vendor pursuant to section 148(5) of the Unit Titles Act for providing an additional disclosure statement shall be included in the moneys payable by the purchaser on settlement pursuant to subclause 3.8(1). Such costs may be deducted from the deposit if the purchaser becomes entitled to a refund of the deposit upon cancellation or avoidance of this agreement.
- 8.6 Unauthorised Structures – Cross-Leases and Unit Titles
- (1) Where structures (not stated in clause 6.0 to be requisitionable) have been erected on the property without:
 - (a) in the case of a cross-lease title, any required lessors' consent; or
 - (b) in the case of a unit title, any required body corporate consent,
 the purchaser may demand within the period expiring on the earlier of:
 - (i) the tenth working day after the date of this agreement; or
 - (ii) the settlement date,
 that the vendor obtain the written consent of the current lessors or the body corporate (as the case may be) to such improvements ("a current consent") and provide the purchaser with a copy of such consent on or before the settlement date.
 - (2) Should the vendor be unwilling or unable to obtain a current consent, then the procedure set out in subclauses 6.2(3) and 6.3 shall apply, with the purchaser's demand under subclause 8.6(1) being deemed to be an objection and requisition.
- 9.0 **Conditions and mortgage terms**
- 9.1 Finance condition
- (1) If the purchaser has identified that finance is required on the front page of this agreement, this agreement is conditional upon the purchaser arranging finance for such amount as the purchaser may require from a bank or other lending institution of the purchaser's choice on terms and conditions satisfactory to the purchaser in all respects on or before the finance date.
 - (2) If the purchaser avoids this agreement for failing to arrange finance in terms of subclause 9.1(1), the purchaser must provide a satisfactory explanation of the grounds relied upon by the purchaser, together with supporting evidence, immediately upon request by the vendor.
- 9.2 Mortgage terms
- (1) Any mortgage to be arranged pursuant to a finance condition shall be upon and subject to the terms and conditions currently being required by the lender in respect of loans of a similar nature.
- 9.3 LIM condition
- (1) If the purchaser has indicated on the front page of this agreement that a LIM is required:
 - (a) that LIM is to be obtained by the purchaser at the purchaser's cost;
 - (b) the purchaser is to request the LIM on or before the fifth working day after the date of this agreement; and
 - (c) this agreement is conditional upon the purchaser approving that LIM, provided that such approval must not be unreasonably or arbitrarily withheld.
 - (2) If, on reasonable grounds, the purchaser does not approve the LIM, the purchaser shall give notice to the vendor ("the purchaser's notice") on or before the fifteenth working day after the date of this agreement stating the particular matters in respect of which approval is withheld and, if those matters are capable of remedy, what the purchaser reasonably requires to be done to remedy those matters. If the purchaser does not give a purchaser's notice the purchaser shall be deemed to have approved the LIM. If through no fault of the purchaser, the LIM is not available on or before the fifteenth working day after the date of this agreement and the vendor does not give an extension when requested, this condition shall not have been fulfilled and the provisions of subclause 9.10(5) shall apply.
 - (3) The vendor shall give notice to the purchaser ("the vendor's notice") on or before the fifth working day after receipt of the purchaser's notice advising whether or not the vendor is able and willing to comply with the purchaser's notice by the settlement date.
 - (4) If the vendor does not give a vendor's notice, or if the vendor's notice advises that the vendor is unable or unwilling to comply with the purchaser's notice, and if the purchaser does not, on or before the tenth working day after the date on which the purchaser's notice is given, give notice to the vendor that the purchaser waives the objection to the LIM, this condition shall not have been fulfilled and the provisions of subclause 9.10(5) shall apply.
 - (5) If the vendor gives a vendor's notice advising that the vendor is able and willing to comply with the purchaser's notice, this condition is deemed to have been fulfilled, and it shall be a requirement of settlement that the purchaser's notice shall be complied with, and also, if the vendor must carry out work on the property, that the vendor shall obtain the approval of the territorial authority to the work done, both before settlement.

9.4 Building report condition

- (1) If the purchaser has indicated on the front page of this agreement that a building report is required, this agreement is conditional upon the purchaser obtaining at the purchaser's cost on or before the fifteenth working day after the date of this agreement a report on the condition of the buildings and any other improvements on the property that is satisfactory to the purchaser, on the basis of an objective assessment.
- (2) The report must be prepared in good faith by a suitably-qualified building inspector in accordance with accepted principles and methods and it must be in writing.
- (3) Subject to the rights of any tenants of the property, the vendor shall allow the building inspector to inspect the property at all reasonable times upon reasonable notice for the purposes of preparation of the report.
- (4) The building inspector may not carry out any invasive testing in the course of inspection without the vendor's prior written consent.
- (5) If the purchaser avoids this agreement for non-fulfilment of this condition pursuant to subclause 9.10(5), the purchaser must provide the vendor immediately upon request with a copy of the building inspector's report.

9.5 Toxicology report condition

- (1) If the purchaser has indicated on the front page of this agreement that a toxicology report is required, this agreement is conditional upon the purchaser obtaining at the purchaser's cost on or before the fifteenth working day after the date of this agreement, a toxicology report on the property that is satisfactory to the purchaser, on the basis of an objective assessment.
- (2) The purpose of the toxicology report shall be to detect whether the property has been contaminated by the preparation, manufacture or use of drugs including, but not limited to, methamphetamine.
- (3) The report must be prepared in good faith by a suitably-qualified inspector using accepted principles and methods and it must be in writing.
- (4) Subject to the rights of any tenants of the property, the vendor shall allow the inspector to inspect the property at all reasonable times upon reasonable notice for the purposes of carrying out the testing and preparation of the report.
- (5) The inspector may not carry out any invasive testing in the course of the inspection without the vendor's prior written consent.
- (6) If the purchaser avoids this agreement for non-fulfilment of this condition pursuant to subclause 9.10(5), the purchaser must provide the vendor immediately upon request with a copy of the inspector's report.

9.6 OIA consent condition

- (1) If the purchaser has indicated on the front page of this agreement that OIA consent is required, this agreement is conditional upon OIA consent being obtained on or before the OIA date shown on the front page of this agreement on terms and conditions that are satisfactory to the purchaser, acting reasonably, the purchaser being responsible for payment of the application fee.
- (2) If the purchaser has indicated on the front page of this agreement that OIA consent is not required, or has failed to indicate whether it is required, then the purchaser warrants that the purchaser does not require OIA consent.

9.7 If this agreement relates to a transaction to which the Land Act 1948 applies, this agreement is conditional upon the vendor obtaining the necessary consent by the Land Act date shown on the front page of this agreement.

9.8 If the Land Act date or OIA date is not shown on the front page of this agreement that date shall be the settlement date or a date 65 working days from the date of this agreement whichever is the sooner, except where the property comprises residential (but not otherwise sensitive) land in which case that date shall be the settlement date or a date 20 working days from the date of this agreement, whichever is the sooner.

9.9 Resource Management Act condition

- (1) If this agreement relates to a transaction to which section 225 of the Resource Management Act 1991 applies then this agreement is subject to the appropriate condition(s) imposed by that section.

9.10 Operation of conditions

If this agreement is expressed to be subject either to the above or to any other condition(s), then in relation to each such condition the following shall apply unless otherwise expressly provided:

- (1) The condition shall be a condition subsequent.
- (2) The party or parties for whose benefit the condition has been included shall do all things which may reasonably be necessary to enable the condition to be fulfilled by the date for fulfilment.
- (3) Time for fulfilment of any condition and any extended time for fulfilment to a fixed date shall be of the essence.
- (4) The condition shall be deemed to be not fulfilled until notice of fulfilment has been served by one party on the other party.
- (5) If the condition is not fulfilled by the date for fulfilment, either party may at any time before the condition is fulfilled or waived avoid this agreement by giving notice to the other. Upon avoidance of this agreement, the purchaser shall be entitled to the immediate return of the deposit and any other moneys paid by the purchaser under this agreement and neither party shall have any right or claim against the other arising from this agreement or its termination.
- (6) At any time before this agreement is avoided, the purchaser may waive any finance condition and either party may waive any other condition which is for the sole benefit of that party. Any waiver shall be by notice.

10.0 Claims for compensation

10.1 If the purchaser has not purported to cancel this agreement, the breach by the vendor of any term of this agreement does not defer the purchaser's obligation to settle, but that obligation is subject to the provisions of this clause 10.0.

10.2 The provisions of this clause apply if:

- (1) the purchaser claims a right to compensation for:
 - (a) a breach of any term of this agreement; or
 - (b) a misrepresentation; or
 - (c) a breach of section 9 or section 14 of the Fair Trading Act 1986; or
 - (d) an equitable set-off, or

- (2) there is a dispute between the parties regarding any amounts payable:
- (a) under subclause 3.12 or subclause 3.13; or
 - (b) under subclause 5.2.
- 10.3 To make a claim under this clause 10.0:
- (1) the claimant must serve notice of the claim on the other party on or before the last working day prior to the settlement date (except for claims made after the settlement date for amounts payable under subclause 3.12 or subclause 3.13, in respect of which the claimant may serve notice of the claim on the other party at any time after a dispute arises over those amounts); and
 - (2) the notice must:
 - (a) state the particular breach of the terms of the agreement, or the claim under subclause 3.12, subclause 3.13 or subclause 5.2, or for misrepresentation, or for breach of section 9 or section 14 of the Fair Trading Act 1986, or for an equitable set-off; and
 - (b) state a genuine pre-estimate of the loss suffered by the claimant; and
 - (c) be particularised and quantified to the extent reasonably possible as at the date of the notice.
- 10.4 If the claimant is unable to give notice under subclause 10.3 in respect of claims under subclause 10.2(1) or subclause 10.2(2)(b) by the settlement date by reason of the conduct or omission of the other party, the notice may be served on or before the working day immediately preceding the last working day on which settlement must take place under a settlement notice served by either party under subclause 11.1.
- 10.5 If the amount of compensation is agreed, it shall be deducted from or added to the amount to be paid by the purchaser on settlement.
- 10.6 If the purchaser makes a claim for compensation under subclause 10.2(1) but the vendor disputes the purchaser's right to make that claim, then:
- (1) the vendor must give notice to the purchaser within three working days after service of the purchaser's notice under subclause 10.3, time being of the essence; and
 - (2) the purchaser's right to make the claim shall be determined by an experienced property lawyer or an experienced litigator appointed by the parties. If the parties cannot agree on the appointee, the appointment shall be made on the application of either party by the president for the time being of the New Zealand Law Society. The appointee's costs shall be met by the party against whom the determination is made.
- 10.7 If the purchaser makes a claim for compensation under subclause 10.2(1) and the vendor fails to give notice to the purchaser pursuant to clause 10.6, the vendor is deemed to have accepted that the purchaser has a right to make that claim.
- 10.8 If it is accepted, or determined under subclause 10.6, that the purchaser has a right to claim compensation under subclause 10.2(1) but the amount of compensation claimed is disputed, or if the claim is made under subclause 10.2(2) and the amount of compensation claimed is disputed, then:
- (1) an interim amount shall be paid on settlement by the party required to a stakeholder until the amount of the claim is determined;
 - (2) if the parties cannot agree on a stakeholder, the interim amount shall be paid to a stakeholder nominated on the application of either party by the president for the time being of the New Zealand Law Society;
 - (3) the interim amount must be a reasonable sum having regard to all of the circumstances, except that where the claim is under subclause 3.13 the interim amount shall be the lower of the amount claimed, or an amount equivalent to interest at the interest rate for late settlement for the relevant default period on such portion of the purchase price (including any deposit) as is payable under this agreement on or by the settlement date;
 - (4) if the parties cannot agree on the interim amount, the interim amount shall be determined by an experienced property lawyer, an experienced litigator, or, where the claim for compensation is made under subclause 5.2, an experienced registered valuer or quantity surveyor appointed by the parties. The appointee's costs shall be met equally by the parties. If the parties cannot agree on the appointee, the appointment shall be made on the application of either party by the president for the time being of the New Zealand Law Society;
 - (5) the amount of the claim determined to be payable shall not be limited by the interim amount;
 - (6) the stakeholder shall lodge the interim amount on an interest-bearing call deposit with a bank registered under the Reserve Bank of New Zealand Act 1989 in the joint names of the vendor and the purchaser;
 - (7) the interest earned on the interim amount net of any withholding tax and any bank or legal administration fees and commission charges shall follow the destination of the interim amount;
 - (8) apart from the net interest earned on the interim amount, no interest shall be payable by either party to the other in respect of the claim for compensation once the amount of the claim has been determined, provided that if the amount determined is in excess of the interim amount, the party liable to make payment of that excess shall pay interest to the other party at the interest rate for late settlement on the amount of that excess if it is not paid on or before the third working day after the date of notification of the determination, computed from the date of such notification until payment.
- 10.9 Where a determination has to be made under subclause 10.6(2) or subclause 10.8(4) and the settlement date will have passed before the determination is made, the settlement date shall be deferred to the second working day following the date of notification to both parties of the determination. Where a determination has to be made under both of these subclauses, the settlement date shall be deferred to the second working day following the date on which notification to both parties has been made of both determinations.
- 10.10 The procedures prescribed in subclauses 10.1 to 10.9 shall not prevent either party from taking proceedings for specific performance of the contract.
- 10.11 A determination under subclause 10.6 that the purchaser does not have a right to claim compensation under subclause 10.2(1) shall not prevent the purchaser from pursuing that claim following settlement.
- 10.12 Where a determination is made by a person appointed under either subclause 10.6 or subclause 10.8, that person shall not be liable to either party for any costs or losses that either party may claim to have suffered in respect of the determination.

11.0 Notice to complete and remedies on default

- 11.1 (1) If the sale is not settled on the settlement date, either party may at any time thereafter serve on the other party a settlement notice.
- (2) The settlement notice shall be effective only if the party serving it is at the time of service either in all material respects ready, able, and willing to proceed to settle in accordance with clauses 3.0 and 10.0 or is not so ready, able, and willing to settle only by reason of the default or omission of the other party.
- (3) If the purchaser is in possession, the vendor's right to cancel this agreement will be subject to sections 28 to 36 of the Property Law Act 2007 and the settlement notice may incorporate or be given with a notice under section 28 of that Act complying with section 29 of that Act.
- 11.2 Subject to subclause 11.1(3), upon service of the settlement notice the party on whom the notice is served shall settle:
- (1) on or before the twelfth working day after the date of service of the notice; or
- (2) on the first working day after the 13th day of January if the period of twelve working days expires during the period commencing on the 6th day of January and ending on the 13th day of January, both days inclusive, time being of the essence, but without prejudice to any intermediate right of cancellation by either party.
- 11.3 (1) If this agreement provides for the payment of the purchase price by instalments and the purchaser fails duly and punctually to pay any instalment on or within one month from the date on which it fell due for payment then, whether or not the purchaser is in possession, the vendor may immediately give notice to the purchaser calling up the unpaid balance of the purchase price, which shall upon service of the notice fall immediately due and payable.
- (2) The date of service of the notice under this subclause shall be deemed the settlement date for the purposes of subclause 11.1.
- (3) The vendor may give a settlement notice with a notice under this subclause.
- (4) For the purpose of this subclause a deposit is not an instalment.
- 11.4 If the purchaser does not comply with the terms of the settlement notice served by the vendor then, subject to subclause 11.1(3):
- (1) Without prejudice to any other rights or remedies available to the vendor at law or in equity, the vendor may:
- (a) sue the purchaser for specific performance; or
- (b) cancel this agreement by notice and pursue either or both of the following remedies, namely:
- (i) forfeit and retain for the vendor's own benefit the deposit paid by the purchaser, but not exceeding in all 10% of the purchase price; and/or
- (ii) sue the purchaser for damages.
- (2) Where the vendor is entitled to cancel this agreement, the entry by the vendor into a conditional or unconditional agreement for the resale of the property or any part thereof shall take effect as a cancellation of this agreement by the vendor if this agreement has not previously been cancelled and such resale shall be deemed to have occurred after cancellation.
- (3) The damages claimable by the vendor under subclause 11.4(1)(b)(ii) shall include all damages claimable at common law or in equity and shall also include (but shall not be limited to) any loss incurred by the vendor on any bona fide resale contracted within one year from the date by which the purchaser should have settled in compliance with the settlement notice. The amount of that loss may include:
- (a) interest on the unpaid portion of the purchase price at the interest rate for late settlement from the settlement date to the settlement of such resale; and
- (b) all costs and expenses reasonably incurred in any resale or attempted resale; and
- (c) all outgoings (other than interest) or maintenance expenses in respect of the property from the settlement date to the settlement of such resale.
- (4) Any surplus money arising from a resale shall be retained by the vendor.
- 11.5 If the vendor does not comply with the terms of a settlement notice served by the purchaser, then, without prejudice to any other rights or remedies available to the purchaser at law or in equity the purchaser may:
- (1) sue the vendor for specific performance; or
- (2) cancel this agreement by notice and require the vendor forthwith to repay to the purchaser any deposit and any other money paid on account of the purchase price and interest on such sum(s) at the interest rate for late settlement from the date or dates of payment by the purchaser until repayment.
- 11.6 The party serving a settlement notice may extend the term of the notice for one or more specifically stated periods of time and thereupon the term of the settlement notice shall be deemed to expire on the last day of the extended period or periods and it shall operate as though this clause stipulated the extended period(s) of notice in lieu of the period otherwise applicable; and time shall be of the essence accordingly. An extension may be given either before or after the expiry of the period of the notice.
- 11.7 Nothing in this clause shall preclude a party from suing for specific performance without serving a settlement notice.
- 11.8 A party who serves a settlement notice under this clause shall not be in breach of an essential term by reason only of that party's failure to be ready and able to settle upon the expiry of that notice.

12.0 Non-merger

- 12.1 The obligations and warranties of the parties in this agreement shall not merge with:
- (1) the giving and taking of possession;
- (2) settlement;
- (3) the transfer of title to the property;
- (4) delivery of the chattels (if any); or
- (5) registration of the transfer of title to the property.

13.0 Goods and Services Tax

- 13.1 If this agreement provides for the purchaser to pay (in addition to the purchase price stated without GST) any GST which is payable in respect of the supply made under this agreement, then:
- (1) the purchaser shall pay to the vendor the GST which is so payable in one sum on the GST date;
 - (2) where the GST date has not been inserted on the front page of this agreement the GST date shall be the settlement date;
 - (3) where any GST is not so paid to the vendor, the purchaser shall pay to the vendor:
 - (a) interest at the interest rate for late settlement on the amount of GST unpaid from the GST date until payment; and
 - (b) any default GST;
 - (4) it shall not be a defence to a claim against the purchaser for payment to the vendor of any default GST that the vendor has failed to mitigate the vendor's damages by paying an amount of GST when it fell due under the GST Act; and
 - (5) any sum referred to in this clause is included in the moneys payable by the purchaser on settlement pursuant to subclause 3.8(1).
- 13.2 If the supply under this agreement is a taxable supply, the vendor will deliver a tax invoice to the purchaser on or before the GST date or such earlier date as the purchaser is entitled to delivery of an invoice under the GST Act.
- 13.3
- (1) Without prejudice to the vendor's rights and remedies under subclause 13.1, where any GST is not paid to the vendor on or within one month of the GST date, then whether or not the purchaser is in possession, the vendor may immediately give notice to the purchaser calling up any unpaid balance of the purchase price, which shall upon service of the notice fall immediately due and payable.
 - (2) The date of service of the notice under this subclause shall be deemed the settlement date for the purposes of subclause 11.1.
 - (3) The vendor may give a settlement notice under subclause 11.1 with a notice under this subclause.

14.0 Zero-rating

- 14.1 The vendor warrants that the statement on the front page regarding the vendor's GST registration status in respect of the supply under this agreement and any particulars stated by the vendor in Schedule 1 are correct at the date of this agreement and will remain correct at settlement.
- 14.2 The purchaser warrants that any particulars stated by the purchaser in Schedule 1 are correct at the date of this agreement.
- 14.3 Where the particulars stated on the front page and in Schedule 1 indicate that:
- (1) the vendor is and/or will be at settlement a registered person in respect of the supply under this agreement;
 - (2) the recipient is and/or will be at settlement a registered person;
 - (3) the recipient intends at settlement to use the property for making taxable supplies; and
 - (4) the recipient does not intend at settlement to use the property as a principal place of residence by the recipient or a person associated with the recipient under section 2A(1)(c) of the GST Act,
- GST will be chargeable on the supply under this agreement at 0% pursuant to section 11(1)(mb) of the GST Act.
- 14.4 If GST is chargeable on the supply under this agreement at 0% pursuant to section 11(1)(mb) of the GST Act, then on or before settlement the purchaser will provide the vendor with the recipient's name, address, and registration number if any of those details are not included in Schedule 1 or they have altered.
- 14.5
- (1) If any of the particulars stated by the purchaser in Schedule 1:
 - (a) are incomplete, or
 - (b) alter between the date of this agreement and settlement,
 the purchaser shall notify the vendor of the particulars which have not been completed and the altered particulars as soon as practicable before settlement.
 - (2) The purchaser warrants that any added or altered particulars will be correct as at the date of the purchaser's notification.
 - (3) If the GST treatment of the supply under this agreement should be altered as a result of the added or altered particulars, the vendor shall prepare and deliver to the purchaser or the purchaser's lawyer an amended settlement statement, if the vendor has already tendered a settlement statement, and a credit note or a debit note, as the case may be, if the vendor has already issued a tax invoice.
- 14.6 If
- (1) the particulars in Schedule 1 state that part of the property is being used as a principal place of residence at the date of this agreement; and
 - (2) that part is still being so used at the time of the supply under this agreement,
- then, the supply of that part will be a separate supply in accordance with section 5(15)(a) of the GST Act.
- 14.7 If
- (1) the particulars stated in Schedule 1 indicate that the recipient intends to use part of the property as a principal place of residence by the recipient or a person associated with the recipient under section 2A(1)(c) of the GST Act; and
 - (2) that part is the same part as that being used as a principal place of residence at the time of the supply under this agreement,
- then the references in subclauses 14.3 and 14.4 to "the property" shall be deemed to mean the remainder of the property excluding that part and the references to "the supply under this agreement" shall be deemed to mean the supply under this agreement of that remainder.
- 14.8 If the particulars stated on the front page and in Schedule 1 indicate in terms of subclause 14.3 that GST will be chargeable on the supply under this agreement at 0% pursuant to section 11(1)(mb) of the GST Act, but any of the particulars stated by the purchaser in Schedule 1 should alter between the date of this agreement and settlement, such that GST no longer becomes chargeable on the supply at 0%, then:
- (1) the purchase price shall be plus GST (if any), even if it has been expressed as being inclusive of GST (if any) on the front page of this agreement; and

- (2) If the vendor has already had to account to the Inland Revenue Department for the GST which is payable in respect of the supply under this agreement and did so on the basis that in accordance with subclause 14.3 the GST would be chargeable at 0%, the purchaser shall pay GST and any default GST to the vendor immediately upon demand served on the purchaser by the vendor (and where any GST or default GST is not so paid to the vendor, the purchaser shall pay to the vendor interest at the interest for late settlement on the amount unpaid from the date of service of the vendor's demand until payment).

15.0 Supply of a Going Concern

- 15.1 If there is a supply under this agreement to which section 11(1)(mb) of the GST Act does not apply but which comprises the supply of a taxable activity that is a going concern at the time of the supply, then, unless otherwise expressly stated in this agreement:
- (1) each party warrants that it is a registered person or will be so by the date of the supply;
 - (2) each party agrees to provide the other party by the date of the supply with proof of its registration for GST purposes;
 - (3) the parties agree that they intend that the supply is of a taxable activity that is capable of being carried on as a going concern by the purchaser; and
 - (4) the parties agree that the supply made pursuant to this agreement is the supply of a going concern on which GST is chargeable at 0%.
- 15.2 If it subsequently transpires that GST is payable in respect of the supply and if this agreement provides for the purchaser to pay (in addition to the purchase price without GST) any GST which is payable in respect of the supply made under this agreement, then the provisions of clause 13.0 of this agreement shall apply.

16.0 Limitation of Liability

- 16.1 If any person enters into this agreement as trustee of a trust and if that person has no right to or interest in any assets of the trust, except in that person's capacity as a trustee of the trust, then that person's liability under this agreement will not be personal and unlimited but will be limited to the actual amount recoverable from the assets of the trust from time to time ("the limited amount").
- 16.2 If the right of that person to be indemnified from the trust assets has been lost or impaired, that person's liability will become personal but limited to the extent of that part of the limited amount which cannot be recovered from any other person.

17.0 Counterparts

- 17.1 This agreement may be executed and delivered in any number of counterparts (including scanned and emailed PDF counterparts).
- 17.2 Each executed counterpart will be deemed an original and all executed counterparts together will constitute one (and the same) instrument.
- 17.3 This agreement shall not come into effect until each person required to sign has signed at least one counterpart and both vendor and purchaser have received a counterpart signed by each person required to sign.
- 17.4 If the parties cannot agree on the date of this agreement, and counterparts are signed on separate dates, the date of the agreement is the date on which the last counterpart was signed and delivered to all parties.

18.0 Agency

- 18.1 If the name of a licensed real estate agent is recorded on this agreement, it is acknowledged that the sale evidenced by this agreement has been made through that agent whom the vendor has appointed as the vendor's agent according to an executed agency agreement.
- 18.2 The scope of the authority of the agent under subclause 18.1 does not extend to making an offer, counteroffer, or acceptance of a purchaser's offer or counteroffer on the vendor's behalf without the express authority of the vendor for that purpose. That authority, if given, should be recorded in the executed agency agreement.
- 18.3 The vendor shall be liable to pay the agent's charges including GST in accordance with the executed agency agreement.

19.0 Collection of Sales Information

- 19.1 Once this agreement has become unconditional in all respects, the agent may provide certain information relating to the sale to the Real Estate Institute of New Zealand Incorporated (REINZ).
- 19.2 This information will be stored on a secure password protected network under REINZ's control and may include (amongst other things) the sale price and the address of the property, but will not include the parties' names or other personal information under the Privacy Act 1993.
- 19.3 This information is collected, used and published for statistical, property appraisal and market analysis purposes, by REINZ, REINZ member agents and others.
- 19.4 Despite the above, if REINZ does come to hold any of the vendor or purchaser's personal information, that party has a right to access and correct that personal information by contacting REINZ at info@reinz.co.nz or by post or telephone.

FURTHER TERMS OF SALE

See attached

Released under the provision of
the Official Information Act 1982

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FURTHER TERMS OF SALE

20. RESOURCE CONSENT CONDITION

- 20.1 This agreement is conditional upon the Purchaser obtaining a resource consent for the Purchaser's proposed development of the Property from the relevant authority on terms and conditions which are acceptable to the Purchaser in its sole discretion.
- 20.2 The date for satisfaction of the condition in clause 20.1 shall be 6 calendar months from the date of this Agreement.
- 20.3 If the condition in clause 20.1 is not satisfied by the relevant date for satisfaction provided in clause 20.2 then, subject to clause 20.5 either party may, at any time before such condition is satisfied by the Purchaser, cancel this Agreement by giving written notice to the other.
- 20.4 The condition in clause 20.1 is inserted for the sole benefit of the Purchaser and may at any time prior to fulfilment be waived by the Purchaser by written notice to the Vendor.
- 20.5 If the condition in 20.1 is unlikely to be satisfied by the relevant date for satisfaction, but the Purchaser has made reasonable progress towards satisfying the condition, the Purchaser may give the Vendor written notice that the date for satisfaction of the condition is extended for a further 2 calendar months.

21. ACCESS TO INFORMATION

- 21.1 The Vendor agrees to provide to the Purchaser, any relevant information and documents relating to the Property (including reports for the development of the Property previously obtained, valuations etc.) in the possession or under the control of the Vendor, and the Vendor shall when reasonably necessary supply to the Purchaser all such information and documents in the possession or under the control of the Vendor for the purposes of applying for an obtaining a resource consent. The Purchaser will, if requested, reimburse the Vendor for its reasonable out of pocket costs in providing the information.

22. ACCESS TO PROPERTY

- 22.1 The Vendor agrees from the date of the Agreement to
- (a) allow the Purchaser at all reasonable times and upon receipt of reasonable written notice by the Purchaser's agent, employees, valuers and engineers together with necessary materials and equipment reasonable access to, from and around the Property for the purposes of inspection, testing and valuation;
 - (b) allow the Purchaser reasonable access to the Property, at all reasonable times and upon receipt of reasonable written notice, to permit any reports as required by the Purchaser (in which regard the Purchaser shall be the sole judge) to be carried out in connection with:
 - (i) ground support;
 - (ii) geotechnical and environmental surveys (including soil and mineral surveys); and
 - (iii) site survey in respect of the Property; and
 - (c) generally use its reasonable endeavours to assist and provide the Purchaser with all such information and assistance as may be required by the Purchaser to facilitate the conduct by the Purchaser of the Purchasers enquires and investigations.

In accessing the Property the Purchaser must not cause disruption to the tenants and occupiers of the Property, and not breach or cause the Vendor to breach any of the Vendor's obligations as Landlord under the lease of the Property (including licences and tenancy agreements).

- 22.2 The Vendor agrees that on and from the date of the Agreement, the Purchaser shall, subject to obtaining the consent of the Vendor (such consent not to be unreasonably withheld) subject to obtaining all necessary consents and permission from the relevant authority (if required), be granted a licence to enter onto the

FURTHER TERMS OF SALE

Property to erect and maintain a non permanent model display unit /show home and site office and signage for advertising purposes ("**Licence**"). The Licence shall expire on the Settlement Date or the date that this Agreement is terminated ("**Licence Term**"). If the Licence comes to an end as a result of termination of this Agreement, the Purchaser shall have 20 working days from the expiry of the Licence Term to remove the display unit/site office and related curtilage and signage from the Property and restore that part of the Property to its original condition (and shall be granted reasonable access by the Vendor to enable it to do so). The Purchaser shall indemnify the Vendor from or against any cost of loss the Vendor may suffer or incur arising as a result of a breach of this clause by the Purchaser.

23. PURCHASER'S RESOURCE CONSENT

- 23.1 The Purchaser shall, at the Purchaser's expense prepare the application for a resource consent for the Purchaser's proposed development and submit the application to the relevant authority.
- 23.2 As at the date of this agreement the Purchaser's intention is to design a scheme for consenting which will consist of intensified residential terraced housing together with the retention of a commercial component for local convenience around the corner of the property opposite the traffic island.
- 23.3 The Vendor agrees, and to procure its directors and shareholders to agree, to not object to, or make any submission in respect of, the Purchaser's applications and agrees to provide all necessary support, written consents and approvals to the Purchaser required for the purpose of any applications for consent and authorisations. The Purchaser will if requested reimburse the Vendor for its reasonable out of pocket costs in providing the information.
- 23.4 The Purchaser shall keep the Vendor regularly informed each month of progress with the resource consent application.
- 23.5 If this Agreement is terminated, then except in the case of a Vendor default, the Purchaser shall assign to the Vendor any consents and licences already obtained by the Purchaser in connection with the Property to the extent they do not run with the land.

24. PAYMENT OF DEPOSIT

- 24.1 Subject to satisfaction of the condition at clause 31.1(a), the Purchaser shall pay to the Vendor a non-refundable deposit of [REDACTED] on the date of this Agreement or on satisfaction of that condition (whichever is the later). The [REDACTED] payment shall be in part payment of the purchase price. The [REDACTED] sum may be released to the Vendor immediately upon receipt.
- 24.2 A further deposit of [REDACTED] shall be paid to the Vendors solicitor ("**Stakeholder**") on the date 6 months after the date of the Agreement in the event the Purchaser wishes to keep the Agreement alive but the condition contained in clause 20.1 has not as yet been satisfied or waived. Except in the case of a Vendor default this deposit is non-refundable. The Stakeholder shall hold the deposit as Stakeholder in accordance with the provisions of clause 24.4.
- 24.3 A further and final deposit of [REDACTED] shall be paid to the Stakeholder on the date the condition contained in clause 20.1 is satisfied or waived.
- 24.4 The Stakeholder shall hold the deposit and all interest earned thereon on trust for the Vendor and the Purchaser on the following terms and conditions:
- following payment of the deposit by the Purchaser, the deposit shall be promptly invested by the Stakeholder in an interest-bearing trust account with a registered bank in New Zealand as the Stakeholder determines ("**Stakeholder Account**");
 - the Stakeholder Account shall be established, managed and audited under the Lawyers and Conveyancers Act 2008 in accordance with the Lawyers and Conveyancers Act (Trust Account) Regulations 2008 hereunder; and

FURTHER TERMS OF SALE

- (c) subject to clause 24.5, on the Settlement Date, the Deposit and all interest earned on it (less withholding tax and any other properly deductible or paid tax or levy and less any fees deducted by any bank) shall be paid to the Vendor.

The parties acknowledge that they have agreed to an increased deposit amount and it being non refundable in nature (except in the case of Vendor default) due to the length of the conditional period and the time during which the property is taken off the market.

- 24.5 The Vendor shall be entitled to any interest earned on the deposit unless the Purchaser cancels this Agreement following default by the Vendor prior to the Settlement Date in which case the Purchaser shall be entitled to the deposit together with all interest thereon.

- 24.6 The Purchaser acknowledges that resident/non-resident (as the case may be) withholding tax will be deducted from the interest earned on the deposit at such rate or rates determined or required by the Inland Revenue Department from time to time together with an administration fee. During the period of the stakeholding, the Vendor shall be liable to pay all withholding tax payable in respect of all of the interest earned on the deposit. The Vendor and the Purchaser hereby irrevocably and unconditionally authorise the Stakeholder to pay such withholding tax and administration fee on behalf of the Vendor by deduction from time to time out of the interest earned on the deposit.

25. SETTLEMENT

- 25.1 Settlement shall be 60 working days after:

- (a) the date the condition contained in clause 20.1 is satisfied or waived; or
(b) the date the condition contained in clause 31.1(b) is satisfied.

whichever is the later ("**Settlement Date**").

- 25.2 The balance of the purchase price shall be paid on the Settlement Date.

- 25.3 The Vendor shall arrange on or prior to settlement removal of all charging orders and certificates on the titles relating to the Rating Act 1967 and the Rating Power Act 1988.

26. CONFIDENTIALITY

- 26.1 Until the final settlement as contemplated by this Agreement is complete, the Vendor and the Purchaser will keep confidential the commercial terms of this Agreement and shall not disclose the commercial terms of this Agreement save to the extent that such disclosure of the Agreement or parts of the commercial terms of this Agreement is:

- (a) authorised in writing by the other party;
(b) required by law;
(c) it is, or becomes, public with the authority of the other party and without breach by that party of this provision or any other confidentiality obligation in law.
(d) to legal, accounting and other professional advisers of the Vendor or Purchaser.

Each party will require its representatives to comply with this provision and be responsible for non-compliance by any of them.

27. CONFLICT

- 27.1 Where there is any conflict between the General Terms of Sale and these Further Terms of Sale, the relevant provision(s) of the Further Terms of Sale shall apply, to the extent of any such conflict.

28. VENDOR FAMILY LEGACY

FURTHER TERMS OF SALE

28.1 The Purchaser acknowledges the importance to the wider Vendor family of the "Nola" family history name being in some way connected to the future use and development of the Property. While it is early days for the Purchaser, and its proposed development, the Purchaser agrees to:

- (a) consult with the family of the Vendor in relation to preservation of the family name in some way in the Purchaser's proposed development;
- (b) promote the "Nola" family name as road names for any future internal roading;
- (c) consider utilising the "Nola" family name in some way in any commercial precinct and, in particular, to the name of a fruit and vegetable outlet if that use was consented, commercially viable, and incorporated into the commercial precinct.

29. FIRST RIGHT TO NEGOTIATE BY VENDOR

29.1 The Vendor has expressed interest in purchasing part of the commercial precinct once consented, developed and completed by the Purchaser. The Purchaser shall include in its application at least 4 commercial units in the commercial precinct (the Vendor identifying suggested uses as a café, fruit and vegetable, butcher and fish and chip shop) and use its best endeavours to get that consented, developed and completed. As soon as the Purchaser achieves certainty on what developed parts of the commercial precinct are consented and will be available to purchase (the intention being the 4 units suggested by the Vendor), the Purchaser will notify the Vendor of the commercial units available and the terms upon which the Purchaser is prepared to sell them. The Vendor shall have 30 days to consult and agree with the Purchaser on any units the Vendor may wish to purchase. The parties shall act in good faith during this 30 day period. If at the end of the 30 day period agreement has not been reached, the Purchaser shall be free to deal with all the property as it sees fit without further reference to the Vendor.

30. PURCHASE PRICE

30.1 The Purchase Price is the total purchase price payable for the Property, comprised and allocated as follows:

Structure at 341, 343 and 345 Glengarry Road	████████ plus GST (if any)
Structure at 468 and 470 West Coast Road	████████ plus GST (if any)
Structure at 476 West Coast Road	████████ plus GST (if any)
Balance land	████████ plus GST (if any)
Total	████████ plus GST (if any)

30.2 **Lowest price:** For purposes of the financial arrangements rules in the Income Tax Act 2007, the parties agree that the Purchase Price:

- (a) is the lowest price they would have agreed for the Property, on the date this agreement was entered into, if payment would have been required in full at the time the first right in the contracted property was transferred; and
- (b) is the value of the Property.

30.3 **Sliding value:** If for any reason it is determined that the allocation of the Purchase Price described above is inadequate or otherwise does not reflect the actual market value of any part of the Property, then the allocations shall be adjusted to the extent necessary to reflect their actual market value.

31. CONTEMPORANEOUS SETTLEMENTS

31.1 This agreement is conditional upon:

FURTHER TERMS OF SALE

- (a) The Purchaser entering into an agreement with John Terence Burley as executor of the estate of Brian Joseph Nola ("**Other Agreement**") to purchase the property described and comprised in record of title NA93A/900; and
 - (b) The satisfaction of all conditions in the Other Agreement, to the intent that both agreements are contemporaneously declared unconditional.
- 31.2 The parties shall be obliged to contemporaneously settle this agreement and the Other Agreement, and a default under the Other Agreement shall be deemed a default under this agreement, and vice versa.
- 31.3 For the avoidance of doubt:
- (a) Should the Other Agreement be cancelled for any reason, this agreement shall in turn (but without prejudice to any non-defaulting party's rights) be deemed to be cancelled, and vice versa; and
 - (b) The Purchaser shall not be obliged to settle under either agreement unless the vendors under both agreements settle on the Settlement Date.
- 31.4 The Vendor acknowledges that it has been provided with a copy of the Other Agreement, and in signing this agreement, the Vendor acknowledges that it fully understands and accepts the implications of this clause as it relates to the Other Agreement.

32. GENERAL

- 32.1 **Entire Agreement** – This agreement constitutes the entire understanding and agreement of the parties relating to this agreement, and supersedes and extinguishes all prior agreements.
- 32.2 **Amendments** – No amendment to this agreement will be effective unless it is in writing and signed by, or on behalf of, the Vendor and the Purchaser.
- 32.3 **Partial invalidity** – The illegality, invalidity or unenforceability of a provision of this agreement under any law not affect the legality, validity or enforceability of that provision under any other law, or the legality, validity or enforceability of any other provision.
- 32.4 **Further assurances** – The Vendor and the Purchaser will each sign, execute and do all deeds, schedules, acts, documents and things as may be reasonably required by the other to effectively carry out, and give effect to, the terms and intentions of this agreement.

SCHEDULE 1

(GST Information – see clause 14.0)

This Schedule must be completed if the vendor has stated on the front page that the vendor is registered under the GST Act in respect of the transaction evidenced by this agreement and/or will be so registered at settlement. Otherwise there is no need to complete it.

Section 1 Vendor	
1(a) The vendor's registration number (if already registered):	
1(b) (i) Part of the property is being used as a principal place of residence at the date of this agreement.	Yes/No
(ii) That part is: (e.g. "the main farmhouse" or "the apartment above the shop".)	Yes/No
(iii) The supply of that part will be a taxable supply.	Yes/No
Section 2 Purchaser	
2(a) The purchaser is registered under the GST Act and/or will be so registered at settlement.	Yes/No
2(b) The purchaser intends at settlement to use the property for making taxable supplies.	Yes/No
If the answer to either or both of questions 2(a) and 2(b) is "No", go to question 2(e)	
2(c) The purchaser's details are as follows:	
(i) Full name:	CAM 2019 LTD
(ii) Address:	s 9(2)(a)
(iii) Registration number (if already registered):	
2(d) The purchaser intends at settlement to use the property as a principal place of residence by the purchaser or by a person associated with the purchaser under section 2A(1)(c) of the GST Act (connected by blood relationship, marriage, civil union, de facto relationship or adoption).	Yes/No
OR The purchaser intends at settlement to use part of the property (and no other part) as a principal place of residence by the purchaser or by a person associated with the purchaser under section 2A(1)(c) of the GST Act. That part is: (e.g. "the main farmhouse" or "the apartment above the shop")	Yes/No
2(e) The purchaser intends to direct the vendor to transfer title to the property to another party ("nominee").	Yes/No
If the answer to question 2(e) is "Yes", then please continue. Otherwise, there is no need to complete this Schedule any further.	
Section 3 Nominee	
3(a) The nominee is registered under the GST Act and/or is expected by the purchaser to be so registered at settlement.	Yes/No
3(b) The purchaser expects the nominee at settlement to use the property for making taxable supplies.	Yes/No
If the answer to either or both of questions 3(a) and 3(b) is "No", there is no need to complete this Schedule any further.	
3(c) The nominee's details (if known to the purchaser) are as follows:	
(i) Full name:	
(ii) Address:	
(iii) Registration number (if already registered):	
3(d) The purchaser expects the nominee to intend at settlement to use the property as a principal place of residence by the nominee or by a person associated with the nominee under section 2A(1)(c) of the GST Act (connected by blood relationship, marriage, civil union, de facto relationship or adoption).	Yes/No
OR The purchaser expects the nominee to intend at settlement to use part of the property (and no other part) as a principal place of residence by the nominee or by a person associated with the nominee under section 2A(1)(c) of the GST Act. That part is: (e.g. "the main farmhouse" or "the apartment above the shop".)	Yes/No

SCHEDULE 2

List all chattels included in the sale
(strike out or add as applicable)

Stove	Rangehood	Wall oven	Cooktop
Dishwasher	Kitchen waste disposal	Light fittings	Smoke detector(s)
Burglar alarm	Heated towel rail(s)	Heat pump(s)	Garage door remote control(s)
Blinds	Curtains	Fixed floor coverings	

SCHEDULE 3

Residential Tenancies

Name of Tenant(s): _____

Rent: _____ Term: _____ Bond: _____

Commercial/Industrial Tenancies
(If necessary complete on a separate schedule)

1. Name of Tenant(s): _____

Rent: _____ Term: _____ Right of Renewal: _____ Other: _____

2. Name of Tenant(s): _____

Rent: _____ Term: _____ Right of Renewal: _____ Other: _____

WARNING (This warning does not form part of this agreement)

This is a binding contract. Read the information set out on the back page before signing.

Acknowledgements

Where this agreement relates to the sale of a residential property and this agreement was provided to the parties by a real estate agent, or by a licensee on behalf of the agent, the parties acknowledge that they have been given the guide about the sale of residential property approved by the Real Estate Authority.

Where this agreement relates to the sale of a unit title property, the purchaser acknowledges that the purchaser has been provided with a pre-contract disclosure statement under section 146 of the Unit Titles Act.

Signature of Purchaser(s): _____

Signature of Vendor(s): _____

Director / Trustee / Authorised Signatory / Agent / Attorney*
Delete the options that do not apply
If no option is deleted, the signatory is signing in their personal capacity

Director / Trustee / Authorised Signatory / Agent / Attorney*
Delete the options that do not apply
If no option is deleted, the signatory is signing in their personal capacity

Director / Trustee / Authorised Signatory / Agent / Attorney*
Delete the options that do not apply
If no option is deleted, the signatory is signing in their personal capacity

Director / Trustee / Authorised Signatory / Agent / Attorney*
Delete the options that do not apply
If no option is deleted, the signatory is signing in their personal capacity

*If this agreement is signed under:

- (i) a Power of Attorney – please attach a **Certificate of non-revocation** (available from ADLS: 4098WFP or REINZ); or
- (ii) an Enduring Power of Attorney – please attach a **Certificate of non-revocation and non-suspension of the enduring power of attorney** (available from ADLS: 4997WFP or REINZ); or
- (iii) where the attorney signs for a trustee, a Certificate in the relevant form in Schedule 4 to the Trustee Act 1956.

Also insert the following wording for the Attorney's Signature above:

Signed for [full name of the donor] by his or her Attorney [attorney's signature].

SCHEDULE 5

Registered proprietor: Nola Holdings Limited

RECORD OF TITLE	LEGAL DESCRIPTION	ADDRESS
NA29A/231	Lot 22 Deposited Plan 19309	345 Glengarry Road
NA29A/232	Lot 23 Deposited Plan 19309	478 West Coast Road
NA29A/233	Lot 24 Deposited Plan 19309	476 West Coast Road
NA29A/234	Lot 25 Deposited Plan 19309	472 West Coast Road
NA29A/235	Lot 26 Deposited Plan 19309	474 West Coast Road
NA29A/236	Lot 27 Deposited Plan 19309	468 West Coast Road
NA29A/237	Lot 28 Deposited Plan 19309	470 West Coast Road
NA35A/1265	Lot 30 Deposited Plan 19309	464 West Coast Road
NA35A/1266	Lot 31 Deposited Plan 19309	462 West Coast Road
NA35A/1267	Lot 32 Deposited Plan 19309	460 West Coast Road
NA35A/1268	Lot 35 Deposited Plan 19309	343 Glengarry Road
NA35A/1269	Lot 36 Deposited Plan 19309	341 Glengarry Road
NA35A/1270	Lot 37 Deposited Plan 19309	329-335 Glengarry Road
NA35A/1271	Lot 38 Deposited Plan 19309	325-327 Glengarry Road
NA35A/1272	Lot 39 Deposited Plan 19309	321-323 Glengarry Road
NA35A/1273	Lot 40 Deposited Plan 19309	317-319 Glengarry Road

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BEFORE SIGNING THE AGREEMENT

- Note: the purchaser is entitled to a copy of any signed offer at the time it is made.
- It is recommended both parties seek professional advice before signing. This is especially so if:
 - there are any doubts. Once signed, this will be a binding contract with only restricted rights of termination.
 - the purchaser is not a New Zealand citizen. There are strict controls on the purchase of a property in New Zealand by persons who are not New Zealand citizens.
 - property such as a hotel or a farm is being sold. The agreement is designed primarily for the sale of residential and commercial property.
 - the property is vacant land in the process of being subdivided or there is a new unit title or cross-lease to be issued. In these cases additional clauses may need to be inserted.
 - there is any doubt as to the position of the boundaries.
 - the purchaser wishes to check the weathertightness and soundness of construction of any dwellings or other buildings on the land.
- Both parties may need to have customer due diligence performed on them by their lawyer or conveyancer in accordance with the Anti-Money Laundering and Countering Financing of Terrorism Act 2009 which is best done prior to the signing of this agreement.
- The purchaser should investigate the status of the property under the Council's District Plan. The property and those around it are affected by zoning and other planning provisions regulating their use and future development.
- The purchaser should investigate whether necessary permits, consents and code compliance certificates have been obtained from the Council where building works have been carried out. This investigation can be assisted by obtaining a LIM from the Council.
- The purchaser should compare the title plans against the physical location of existing structures where the property is a unit title or cross-lease. Structures or alterations to structures not shown on the plans may result in the title being defective.
- In the case of a unit title, before the purchaser enters into the agreement:
 - the vendor must provide to the purchaser a pre-contract disclosure statement under section 146 of the Unit Titles Act;
 - the purchaser should check the minutes of the past meetings of the body corporate, enquire whether there are any issues affecting the units and/or the common property, check the body corporate's long-term maintenance plan and enquire whether the body corporate has imposed or proposed levies for a long-term maintenance fund or any other fund for the maintenance of, or remedial or other work to, the common property.
- The vendor should ensure the warranties and undertakings in clauses 7.0 and 8.0:
 - are able to be complied with, and if not
 - the applicable warranty is deleted from the agreement and any appropriate disclosure is made to the purchaser.
- Both parties should ensure the chattels' list in Schedule 2 is accurate.
- Both parties should seek professional advice regarding the GST treatment of the transaction. This depends upon the GST information supplied by the parties and could change before settlement if that information changes.

THE ABOVE NOTES ARE NOT PART OF THIS AGREEMENT AND ARE NOT A COMPLETE LIST OF MATTERS WHICH ARE IMPORTANT IN CONSIDERING THE LEGAL CONSEQUENCES OF THIS AGREEMENT.

PROFESSIONAL ADVICE SHOULD BE SOUGHT REGARDING THE EFFECT AND CONSEQUENCES OF ANY AGREEMENT ENTERED INTO BETWEEN THE PARTIES.

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AGREEMENT FOR SALE AND PURCHASE OF REAL ESTATE

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DATE:

VENDOR:
Nola Holdings Limited

Contact Details:
s 9(2)(a)

VENDOR'S LAWYERS:
Firm: McVeagh Fleming
Individual Acting: John Burley
Email: s 9(2)(a)
Contact Details:
s 9(2)(a)

Email Address for Service of Notices:
(subclause 1.4)

PURCHASER:
CPM 2019 Limited

Contact Details: *Kieran Doe*
s 9(2)(a)

PURCHASER'S LAWYERS:
Firm: Burton Partners
Individual Acting: Tony Nicholson
Email: s 9(2)(a)
Contact Details:
PO Box 8889
Symonds Street
Auckland 1150

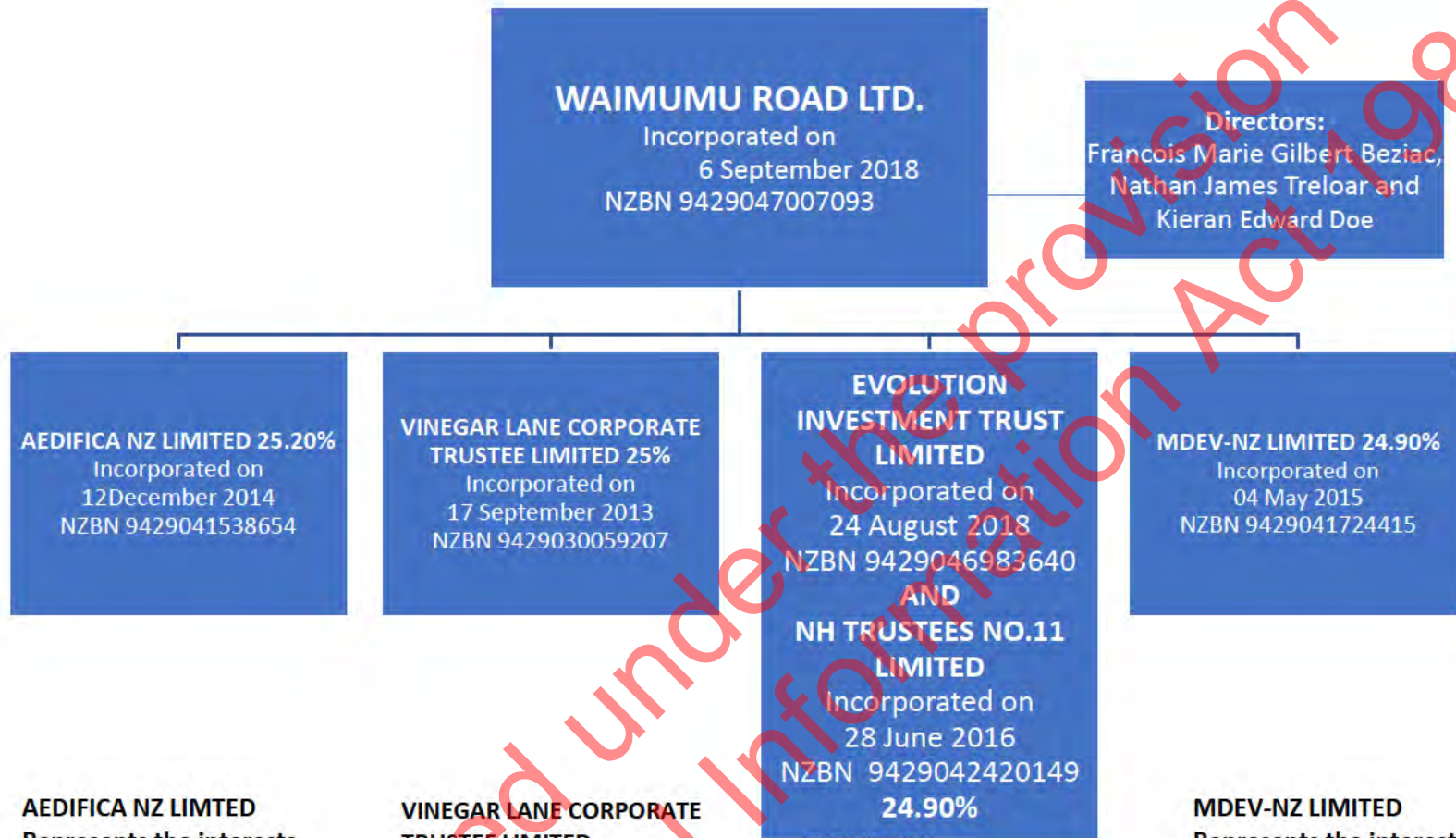
Fax: s 9(2)(a) DDI: s 9(2)(a)

Email Address for Service of Notices:
(subclause 1.4)

LICENSED REAL ESTATE AGENT:
Agent's Name: Colliers International
Manager:
Salesperson: Josh Coburn
Contact Details:



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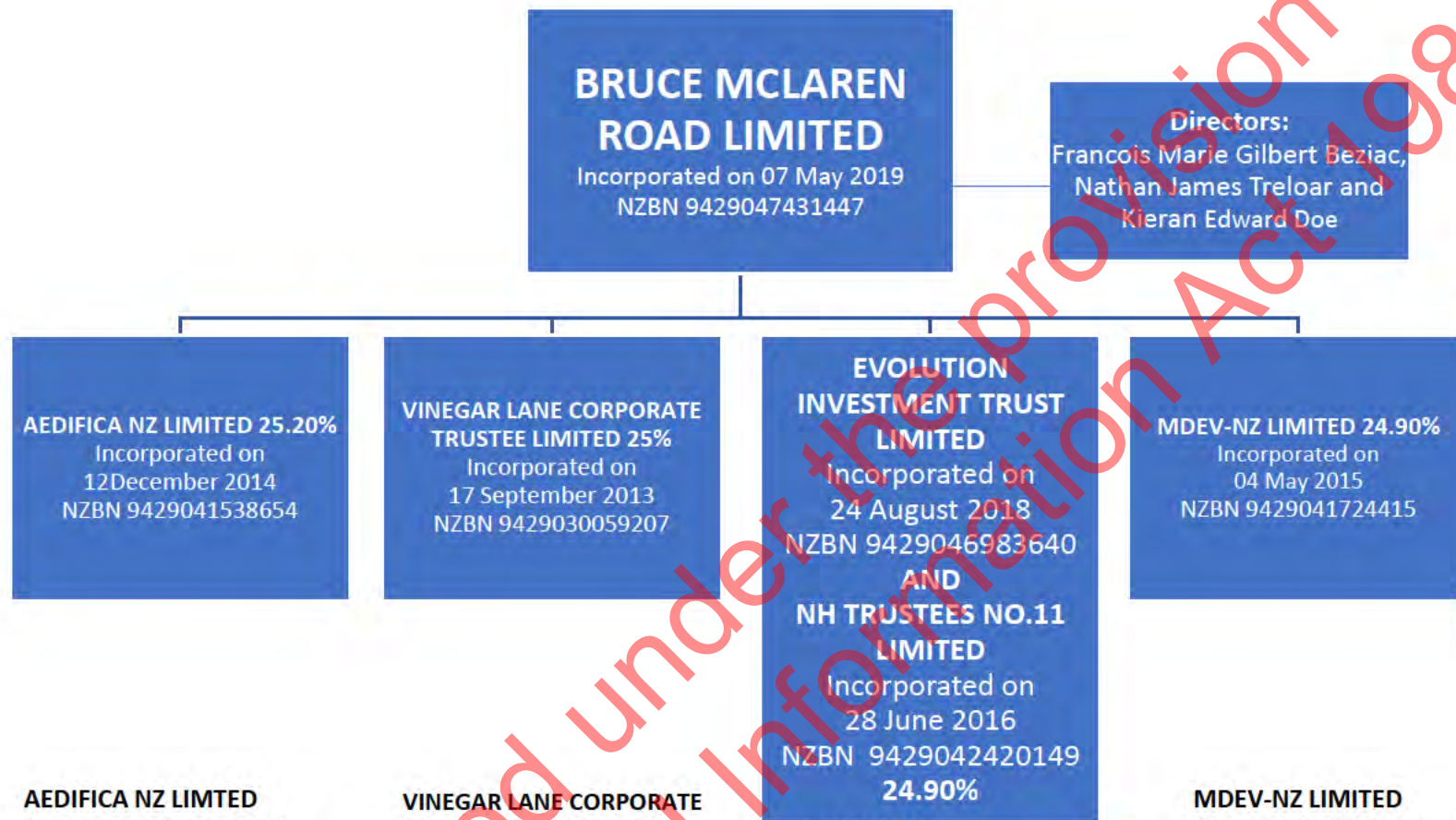
AEDIFICA NZ LIMITED
Represents the interests
of Francois Marie Gilbert
Beziac

VINEGAR LANE CORPORATE TRUSTEE LIMITED
Is the corporate trustee of the
Vinegar Lane Trust which
represents the interests of
Kieran Edward Doe

EVOLUTION INVESTMENT TRUST LIMITED AND NH TRUSTEES NO.11 LIMITED are the corporate trustees of the Evolution Trading Trust which represents the interests of Nathan James Treloar

MDEV-NZ LIMITED
Represents the interests of
Rene Hermana Malmezac
and other Malmezac family
members

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NFK
&CO.

recent & current projects

PORTFOLIO

→
KAURI
RESIDENCES
Artist's
impression



NFK
&CO.

MEET THE TEAM

→
NFK & CO
FOUNDERS
Kieran Doe,
Nathan Treloar
& Francois Beziac

Founders Nathan Treloar, Francois Beziac and Kieran Doe partnered to form NFK & Co, with a focus on providing Auckland with solution-driven property developments.

With a collective 60-year history of successful property development projects under their belts, and supported by an experienced management team, NFK & Co's core values are built around long-term quality outcomes.

With 15 current projects valued at more than s 9(2)(b)(ii), NFK & Co has the backing of the s 9(2)(b)(ii), a highly diversified Asset Management Investment group of companies.



TOWNHOUSES

→
ORCHARD LANE
The sister development to
Woodglen Ridge. Located
on the cusp between West
Auckland's Glen Eden,
Henderson and Oratia.

Orchard Lane



Artist's impressions

TOWNHOUSES

→
WOODGLEN RIDGE
A development of 47 two and three bedroom terrace townhouses in Glen Eden. Construction is underway.

BUILT BY
G.J. Gardner.
HOMES

NFK
&CO.



Artist's Impressions

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Woodglen Ridge

TOWNHOUSES

→
WAIMANA RISE
29-unit terrace townhouse
development in West Auckland.
Sold out and construction near
completion.

BUILT BY
G.J. Gardner.
HOMES



Artist's Impressions

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Waimana Rise

TOWNHOUSES

→
BLUEBIRD CRESCENT
A recently completed
development of 6 townhouses
in Unsworth Heights.



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Bluebird Crescent

TOWNHOUSES

→
KAIPATIKI RISE
A sold out boutique
development of 9 terrace
townhouses in Glenfield.
Construction completed 2020

Kaipatiki Rise



Artist's impressions

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TOWNHOUSES

→
ROSALIND TERRACES
A sold out development of
7 townhouses in Glenfield.
Construction near completion.

Rosalind Terraces



Artist's impressions

TOWNHOUSES

→
CAMELOT TERRACES
A recently launched boutique
development of 13 townhouses
in Glenfield. 85% already sold..

Camelot Terraces



Artist's impressions

TOWNHOUSES

→
CHIVALRY TERRACES
The sister development to
Camelot Terraces in Glenfield.

Chivalry Terraces



Artist's impressions

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SUBDIVISION

→
SCOTT POINT ESTATE
5.4 hectare residential
subdivision of 71 lots in
Hobsonville.

IN PARTNERSHIP WITH
Aedifice
PROPERTY

NFK
&CO.

Scott Point Estate



Artist's impressions

TOWNHOUSES

→
SCOTT TERRACES
A boutique development of 16 townhouses just one block back from the water's edge in Scott Point Estate in Hobsonville.

IN PARTNERSHIP WITH
Aedifice
PROPERTY

NFK
&CO.



Artist's Impressions

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TOWNHOUSES

→
BALMAIN & WAIPA
A sold out boutique
development of 8 two and
three bedroom terrace
townhouses in Birkenhead.

Balmain & Waipa
3, 1
NFK & CO.



Artist's Impressions

APARTMENTS

→
KAURI RESIDENCES
A boutique collection of 53
beautifully appointed luxury
apartments in Browns Bay.

Kauri Residences



Artist's Impressions

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TOWNHOUSES

Riverside Residences

→ RIVERSIDE RESIDENCES
A new development of townhouses in Wanaka, designed Matz Architects.

IN PARTNERSHIP WITH
Aedifice
PROPERTY

NFK
&CO.



Artist's Impressions

APARTMENTS & TOWNHOUSES

→
LA RESIDENCE
DE LA MER
A 31 unit apartment and
terraced townhouse
development in Orewa.
Construction well underway
with completion due Q4 2020.

IN PARTNERSHIP WITH



Residence de la Mer



Artist's impressions

APARTMENTS
& TOWNHOUSES

→
LA RESIDENCE
DE LA PLAGE
A development of 1 and 2
bedroom apartments and 3
bedroom townhouses in Orewa.
Construction completed.

IN PARTNERSHIP WITH
Aedifice
PROPERTY

NFK
&CO.

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Residence de la Plage



APARTMENTS

→
SOMA APARTMENTS
Constructed by Federal
Group, this sold out
6-level development of 38
apartments and commercial
space in Grey Lynn was
completed in 2018.

Soma Apartments



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APARTMENTS

→
LA RESIDENCE
DU PARC
A sold out 48-unit luxury
apartment project in
Queenstown. Construction
completed.

IN PARTNERSHIP WITH
Aedifice
PROPERTY

NFK
&CO.

Residence du Parc



Artist's impressions

APARTMENTS

La Residence du Lac

→
LA RESIDENCE
DU LAC
A luxury apartment
development on the shores
of Lake Wakatipu in
Queenstown. Construction
completed.

IN PARTNERSHIP WITH
Aedifice
PROPERTY

NFK
&CO.



Artist's impressions

22 September 2020

Nathan Treloar
NFK Limited
Auckland

Dear Nathan,

NFK LIMITED - KIWIBUILD

This letter is to confirm that NFK has successfully engaged with KiwiBuild on two projects in West Auckland, being 105 Waimumu Road, Massey and 119 Bruce McLaren Road, Henderson. KiwiBuild has been very pleased with these projects.

KiwiBuild is currently assessing a third project from NFK at Nola Estate, located at West Coast Road and Glen Garry Road, Glen Eden for delivery of further KiwiBuild homes.

If you have any queries, please don't hesitate to contact us.

Yours sincerely



Joanne Johnson
Manager, KiwiBuild Underwrite
Mob: s 9(2)(a)
Email: s 9(2)(a)

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Assessment - design

KiwiBuild – Buying off the plans

A. Overview

Recommendation	Advance
Respondent	CPM 2019 Ltd (NFK & Co)
Proposed development	Nola Estate West Coast Road and Glengarry Road Glen Eden, Auckland
Summary of dwellings	<p>KiwiBuild:</p> <ul style="list-style-type: none"> • 81 x 2-bed, 1.5 bath • 50 x 3-bed, 1.5 bath • 12 x 4-bed, 2.5 bath • 143 total <p>Market:</p> <ul style="list-style-type: none"> • 27 x 2-bed, 1.5 bath • 48 x 3-bed, 1.5 bath • 25 x 4-bed, 2.5 bath • 100 total <p>Total 243 dwellings</p>
Description	Terrace house development with supporting café, commercial units, community centre and reserve. Site plan next page:

Site plan



- 4 BEDROOM UNITS - 37
(11 Kwi Build, 26 Open Market)
 - 3 BEDROOM UNITS - 96
(50 Kwi Build, 46 Open Market)
 - 2 BEDROOM UNITS - 108
(81 Kwi Build, 27 Open Market)
- Total: 243 UNITS**
Approximately 272 Car Parks
(Including Public Road Parking)
(Excluding Commercial Block)
- 3 STOREY UNITS
 - 2 STOREY UNITS
 - CAFE
(120m² area over single level)
 - COMMERCIAL UNITS
(4 units @ 120.00m² over single level)
 - GYM STATIONS
(9 stations @ 80m² of area per station)
 - COMMUNITY CENTRE
(220m² area over single level)
 - COMMUNAL FACILITIES
(95m² area over single level)



PRELIMINARY
REV 07
NOLA ESTATE - GLEN EDEN

KINGDOM CONSULTANTS
05-549-29
2018-2019

Summary

This development is promising, albeit there are various issues to resolve/address.

Note the 'Issues' and 'Actions' in **D. Detailed Review** below.

Strengths and Weaknesses below.

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Strengths

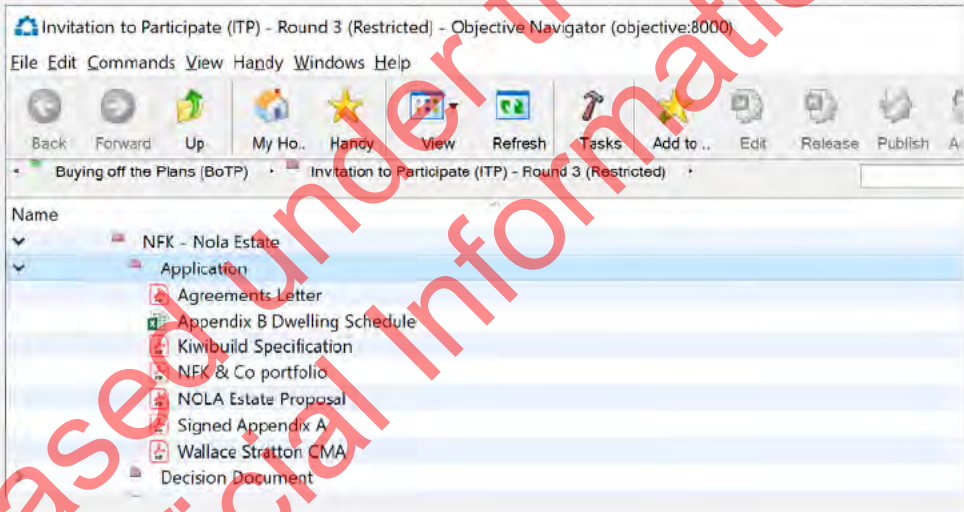




- Good location, including on-site amenities
- Known developer and solid looking design team
- Architectural precedents are encouraging
- Generally solid layouts
- Potential for universal design

Weaknesses

- Unable to fully assess architecture and landscaping
- Site layout has potential for improvement eg, some block orientations can be improved, central road could be deleted
- Blocks likely to need breaking up
- Site is clearly split between KB and market houses
- May be too many 2-bed type A houses (small)
- Unsure of appetite for Homestar

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B. Review history

Review	Documents reviewed	Link
V1	<p>Nola Estate Proposal</p> <p>Updated scheme plan. Replaces site plan in "Nola Estate Proposal" above</p> <p>KiwiBuild Specification</p> <p>Supporting application information</p> 	 NOLA Estate Proposal.obr  Nola Estate - Scheme Plan REV 07  Kiwibuild Specification.obr  Application.obr

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C. Development qualification

Mandatory Requirements	Pass	Fail
<ul style="list-style-type: none"> Proposed KiwiBuild dwellings are priced at or below the applicable KiwiBuild Price Caps 		Ref DM
<ul style="list-style-type: none"> The Respondent is proposing at least 10 KiwiBuild dwellings in a single development 	✓	
<ul style="list-style-type: none"> The Respondent owns the land or entered into an agreement for sale and purchase for the land 		Ref DM
<ul style="list-style-type: none"> Mandatory Requirements are assessed on a Pass/Fail basis. Registrations must meet these mandatory requirements. Registrations which fail to meet one or more will be eliminated from further consideration 		

Evaluation criteria	Pass	Fail
<ul style="list-style-type: none"> Respondent credentials: The Respondent can evidence prior relevant development experience, capacity and ability to deliver a turnkey development 		Ref DM
<ul style="list-style-type: none"> Proposed development: The Respondent has proposed a development (and dwellings) that are well aligned to the KiwiBuild Unit's requirements and meet good urban design standards 		Needs resolving
<ul style="list-style-type: none"> Value for money: In addition to conforming with the KiwiBuild Price Caps, the proposed dwellings must also represent good value for money, including price and quality 		Ref DM
<ul style="list-style-type: none"> Registrations which meet all of the mandatory Requirements will be assessed on their merits according to the evaluation criteria in the table below 		

D. Detailed review

1. NEIGHBOURHOOD CONTEXT – 3 possibly 4/5

The location of the development relative to meeting residents' needs (eg, access to community facilities such as leisure centres, health care, and schools.)

The site is located in Glen Eden, Auckland:



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Comment

Reasonably well-placed to existing amenities, including:

Walkable:

- Various bus stops on West Coast Rd
- Parrs Park
- Oratia Primary School, Best Start Seymour Rd Kindy

2km to Glen Eden

Wider development also includes a commercial area, café, community centre and a green reserve. An existing dairy looks like it is remaining. These are promising and it would be good to see them in more detail.

Below are precedent images from the site plan, including a promising image of a café:



Action

- NFK to explain and show more about the non-residential amenities. The delivery of these is likely to form part of the contract conditions

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2. SITE CONTEXT – 3 TBC/5

Integration of the development into the existing and/or planned site and local context. This includes consideration of existing features (eg, heritage buildings, vegetation, land forms, and materials), environmental conditions (eg, sunlight, winds) and views (eg, open space, distant features).

The existing site:



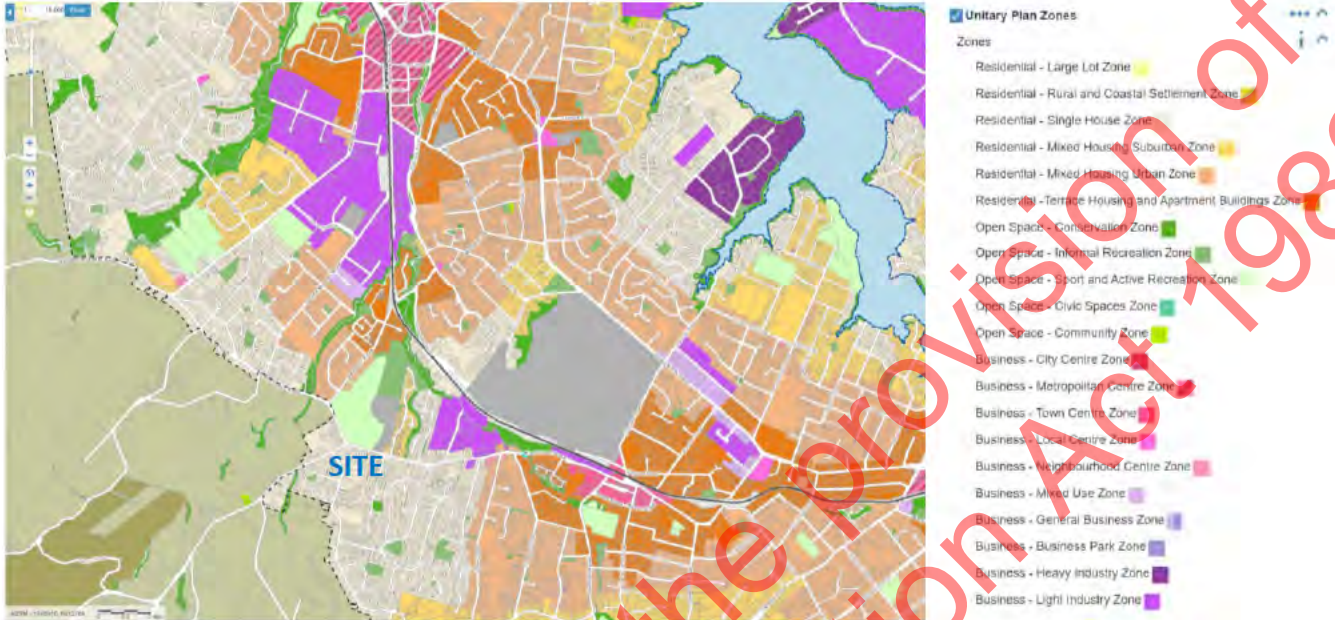
Snapshots of surrounding areas:



Comment	Action
<p>The neighbourhood is typical west Auckland late 20c, predominantly standalone residential housing. The site itself is mainly an orchard, and looks to be essentially flat (drawings don't show falls).</p> <p>The Unitary Plan zone is Single House. Per the UP map below, more-dense Mixed Housing Urban zones are nearby (light orange), showing the site is on the fringe of denser areas. Considering the proposal has promise, including introducing some social amenities to the neighbourhood, it is potentially worth supporting.</p> <p>The site has a clear structure with entry points off both roads. The entry off West Coast Rd (WCR) passes through the commercial area, thus providing a buffer for the dwellings in that area from the busy activity along WCR. The other entry points are off Glengarry Rd which would be quieter than WCR. The street layout is generally clear and provides options to navigate the site.</p> <p>Lot and house placements should allow for good sun and reasonable privacy, notwithstanding many KB units have street-facing outdoor areas. That said, there are some blocks where the unit orientations could be refined (see marked site plan below).</p> <p>The application is supported by promising statements from Helen Mellsoop (landscaping) and Ian Munro (urban design).</p> <p>The site is split with a clear division between KB and Open Market houses. This should be discussed further.</p> <p>There are a large portion of 2-bed units (81 KB, 27 Market; 108 total). The KB units are also quite compact (see 19. LAYOUT/AMENITY), so are riskier.</p>	<ol style="list-style-type: none"> a. NFK to provide a more-developed set of design drawings including 3D views, plans, elevations and sections. These should show accurate and more-detailed information (eg, more architectural information, landscaping) and show both site-wide and closer views b. NFK – see marked site plan below which identifies blocks where dwellings orientations should be swapped to optimise street frontage, private yards and sun. Discuss with KOHC c. NFK/KOHC to discuss mixing KB and OM houses together, not with a clear split as currently shown d. NFK/KOHC to discuss the proportion of type A 2-bed units

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Unitary Plan map:



Site plan showing blocks where dwelling orientations should be swapped (in order to front onto streets and provide more private yards that still receive sun):



Note, some other blocks' dwelling orientations could also be swapped, albeit they need more consideration eg, these blocks on West Coast Rd, where swapping would improve street frontage and privacy but would then receive less sun

Blocks where dwelling orientations should swap

3. LANDSCAPE – 3 TBC/5

The relative balance of impervious surfaces and the ability of the site to provide vegetation that improves, outlook, privacy and softens building forms. The degree of consideration given to greater intensity of use and maintenance requirements.

Comment	Action
No landscaping drawings submitted yet, but the statement from Helen Mellsop is promising.	a. NFK to provide landscaping drawings

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4. OUTDOOR LIVING SPACE – 3 TBC/5

The provision, location, size and quality of communal and private space.

Comment	Action
<p>These are not shown on drawings yet, but based on the site plan and individual house plans, the OLS's should be reasonable.</p>	<p>a. KOHC to check LS drawings for quality of OLS areas</p>
<p>Many KB dwellings have OLS's fronting onto streets, so these will need good screening and other ways of providing privacy and relating well to the street.</p>	<p>b. NFK to confirm vesting of roads and reserves. If not vested, will they be managed by a residents society or such like?</p>
<p>Some small common reserves are shown (managing an overland flow path). If landscaped well, these could provide a positive shared space for residents.</p>	
<p>Note that Parrs Park is opposite the site on WCR, and provides a large public green area.</p>	

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5. CAR PARKING AND ACCESS – 3 TBC/5

The visual dominance of car parking and associated access ways

Comment	Action
<p>Car parking is generally logical and placed behind blocks, so not visible to the public and reasonably convenient for residents. Each dwelling has 1 park.</p> <p>The site looks generally walkable with footpaths alongside carriageways and some connecting paths. There may be opportunities to add more paths to improve connectivity further.</p> <p>Of note, there may be opportunity to delete the central public road, as shown below. This may create more space for other uses, including residential lots, non-vehicle movement and the reserve.</p> <p>There are two entry points into the site on WCR – one as general entry and one as entry to the commercial units. The site plan indicates that these may have different surfacing to differentiate them. Differentiation between these two entries in general will be important to avoid residential and commercial unit traffic from clashing.</p>	<ol style="list-style-type: none"> a. NFK to provide drawing showing car parking in more detail. In particular showing visitor parking if any b. NFK to consider deleting the central road as shown below c. NFK to show (on landscaping drawings?) how the two vehicle entries on West Coast Road will be differentiated d. NFK/KOHC to discuss adding more path connections. This may also help break some long blocks up



- 4 BEDROOM UNITS - 97
(12 Kar Block, 26 Open Market)
- 3 BEDROOM UNITS - 96
(16 Kar Block, 40 Open Market)
- 2 BEDROOM UNITS - 108
(11 Kar Block, 27 Open Market)
- Total: 243 UNITS**
Approximately 22.5 Car Parks
(Excluding Public Road Parking)
(Excluding Commercial Block)
- 3 STOREY UNITS
- 2 STOREY UNITS
- CAPE
(120m² area near drop-off)
- COMMERCIAL UNITS
(18 units @ 75m² @ 100m² max)
- GYM STATIONS
(8 stations @ 100m² @ 100m² max)
- COMMUNITY CENTRE
(220m² area one or two levels)
- COMMUNAL FACILITIES
(100m² and over single level)



Deleting this central road would create more space for other uses. If done, some other comments in this report might be affected

6. SERVICE AREAS AND UTILITIES – TBC/5


The extent to which service areas (eg, washing lines, rubbish bins) and utilities (eg, air conditioning units, meter boxes satellite dishes) are efficiently provided, accessible and screened from view.

Comment	Action
Not enough info yet	a. Check ability to hide/screen objects including storage sheds

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7. HORIZONTAL MODULATION – 3 TBC/5

The way a building ‘sits’ on the ground and perception of its vertical height and horizontal rhythm.

Comment	Action
<p>No detailed information yet, but the architectural precedents are promising. BDG Architects have a solid portfolio of work including Roskill South for Kāinga Ora.</p> <p>Below is an excerpt from the Proposal document:</p> 	<p>a. KOHC to assess full design docs</p>

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8. CONTINUOUS BUILDING LINE – TBC/5

The perception of building length and depth through use of vertical detailing steps in plan and/or building separation.

Comment	Action
A number of blocks have about a dozen units without obvious breaks. These will need to be broken up and/or sufficiently varied.	a. NFK to address long blocks of units (especially those of 9 units or more) to ensure sufficient variety and interest. Provide drawings for KOHC to review

9. ROOFLINE – TBC/5

The contribution roof forms provide to the perceived vertical height and bulk of buildings (excluding services and utilities).

Comment	Action
Precedents look promising.	a. NFK to provide more-developed architectural drawings

10. FAÇADE ARTICULATION – TBC/5

The level of detail provided on building façades that adds to a sense of depth, visual interest and human scale.

Comment	Action
As above	a. -

11. MATERIALS – 3 TBC/5

The texture, colour, modular patterns, durability and treatment of façade materials that provide visual interest, particularly in relation to the size of a person.

Schedule of proposed selections:

Structure and exterior	Proposed selections
Foundation, sub-floor	Ribraft/conventional slab
Wall framing/structure	Engineered design timber frame 2.4m stud
Floor structure	Pine joists 20mm Strandfloor Fibre Cement flooring to wet areas
IT wall	GIB Barrierline system or similar Please confirm system including STC rating
Insulation	Pink Batts or similar R3.2 ceiling R2.2 walls
Cladding	BGC/James Hardie sheet Timber Brick, natural mortar
Exterior joinery, incl. hardware	Powder coated Aluminium Double glazing Colour TBC
Entry door(s)	Powder coated Aluminium Colour TBC Please confirm more detailed selection
Garage/vehicle door(s)	Please confirm
Soffitt	Fibre cement soffit lining with PVC jointers Paint finish
Roofing, including trims	Long run roofing Metal fascia and spouting Please confirm more detailed selection
Rainwater systems	PVC Black
Landscaping	TBC
Outdoor storage	Powder coat finish shed
Clothes drying	Please confirm

Structure and exterior	Proposed selections
Hose taps	<p>Please confirm</p> <ul style="list-style-type: none"> that 1 hose tap is provided for each private yard what water supply is provided for shared areas
Exterior lighting	<p>Included</p> <ul style="list-style-type: none"> Please confirm more detailed selection Is lighting provided for the front door? If so, is it sensor-operated?

Interior	Proposed selections
Linings – wet	Wet per below
Linings – dry	10mm plasterboard, L4, Dulux paint
Wall finishes – bathroom	See Flooring - hard
Ceiling heights	2.4m
Flooring – soft	<p>Solution Dyed Nylon</p> <p>11mm underlay</p> <p>Colour TBC</p> <p>Please confirm where carpet will be laid</p>
Flooring – hard	<ul style="list-style-type: none"> Ground floor – Solid Plastic Composite (SPC) vinyl planking, colour TBC Porcelain tiles with skirting - 600x600mm, to bathrooms/WC, colour TBC
Trims – architraves, skirtings, scotias	<p>60x10mm bevel edge skirting</p> <p>Square stop</p>
Handrail	Round pine on brackets
Doors	<p>Flat panel, hollow core</p> <p>30mm grooved jamb</p> <p>Stainless steel handles</p> <p>Stainless steel door stops</p>
Cupboards	Please confirm cupboard provisions such as shelves
Wardrobes	<p>MDF rail/shelf configuration to suit</p> <p>Please confirm the configurations</p>
Hot water system	180L cylinder
Heating/ventilation	<p>2000w panel heater to living area</p> <p>Optional upgrade to heat pump</p> <p>Need a way to advise KB buyers of heat pump option (and any other possible upgrades)</p>

Interior	Proposed selections
Lighting	Warm white LED downlight
Power	Assume provided
Data, phone, TV	TV point in living area Please confirm provision of data and phone outlets
Security	Battery powered smoke alarms
Kitchen	
Benchtop	20mm Engineered Stone
Cabinetry	Melamine
Cutlery drawer insert	Please confirm
Bins	Please confirm
Sink	Stainless steel
Splashback	Tiled, bench width to range height
Kitchen tapware	Armada sink mixer or similar
HOB	Haier HCE604TB2 ceramic cooktop
Oven	Haier HW060S4MX1 built in oven
Rangehood/extract	F&P powerpack HP60ICSX3
Dishwasher	Please confirm
Refrigerator	Space only
Bathroom	
Shower enclosure	900x900mm square sliding shower unit Acrylic walls and base
Shower tapware	Armada shower mixer or similar Armada slide rail multifunction or similar
Basin/vanity	Wall hung Please confirm more detailed selection
Basin tapware	Armada basin mixer or similar
Splashback	Please confirm
Bathroom extract	Manrose 100mm extractor or similar
Toilet	Back to wall toilet Soft close lid Please confirm more detailed selection
Mirror	To suit vanity

Interior	Proposed selections
Towel rail/rings	Stainless steel towel rail and roll holder
Laundry	
Tub	Looks like none. Please confirm
Laundry tapware	Please confirm
Washing machine	Please confirm or space only?
Dryer	Please confirm

Comment	Action
Generally reasonable early indication	a. NFK to provide full schedule confirming all selections in more detail, including red queries in list above

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12. STREET EDGE CONTINUITY AND ENCLOSURE – 3 TBC/5

The contribution to the definition of public space and achieving a sense of enclosure of the street through building width and height and set back from the road boundary.

Comment	Action
See comment in 2. SITE CONTEXT about swapping some dwelling orientations.	a. See request for more-detailed drawings in 2. SITE CONTEXT
Of note, with more-detailed drawings it will be important to see the landscaping, how the buildings address streets/lanes/public areas, and how the likes of corners and site entry points are addressed by ‘marker’ buildings.	
See the mark-up below which identifies notable locations:	



- 4 BEDROOM UNITS - 97
(12 four beds, 25 three beds)
- 3 BEDROOM UNITS - 96
(30 four beds, 40 three beds)
- 2 BEDROOM UNITS - 108
(21 four beds, 27 three beds)
- Total: 243 UNITS**
Approximately 272 Car Parks
(Excluding Public Road/Parking)
(Excluding Commercial Block)
- 3 STOREY UNITS
- 2 STOREY UNITS
- CAFE
(1000m² area over single level)
- COMMERCIAL UNITS
(8 units @ 1200m² over single level)
- GYM STATIONS
(8 stations @ 500m² each over single level)
- COMMUNITY CENTRE
(2200m² area over single level)
- COMMUNAL FACILITIES
(500m² area over single level)



Notable locations where street/public frontage, and ‘marker’ buildings need further assessment (albeit all interfaces need checking)

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13. BUILDING ENTRANCES – TBC/5

The contribution of developments to the level of pedestrian activity and safety adjacent to the street and way finding of visitors and occupants.

Comment	Action
<p>All house layouts have a clear entry/front and back/rear end. Once dwelling orientations are optimised, the entrances should be easy to see and find.</p> <p>For some blocks there is potential for entry to be off a public street, through the private yard, and in via patio doors. This is an unconventional way of entering a dwelling and needs more-detailed assessment.</p>	<p>a. Resolve as part of assessing other criteria</p>

14. FAÇADE OPENINGS/PASSIVE SURVEILLANCE – 3/5

The potential for informal surveillance and interaction with the street for safety and sense of community (excludes garages).

Comment	Action
<p>Most designs have living spaces at both ends, so there is good potential for passive surveillance. Types B and E have a bedroom at one end which may face the street, but in some cases these rooms may be the likes of an office or playroom so still have potential to provide surveillance.</p>	<p>a. -</p>

15. STREET BOUNDARY TREATMENT – 3 TBC/5

The degree of physical and visual separation from the street at ground level with regard to public safety considerations balanced with the provision of boundary planting to improve street amenity and soften development forms.

Comment	Action
	<p>a. Resolve as part of assessing other criteria</p>

16. INTERNAL/EXTERNAL RELATIONSHIPS – 3/5

The level of coordination between the internal layout of units and external features, such as private open space.

Comment	Action
Indoor living spaces will connect to outdoor areas. These relationships will improve when dwelling orientations are optimised.	a. Resolve as part of assessing other criteria

17. VISUAL PRIVACY – TBC/5

The degree that upper level windows directly overlook into neighbouring buildings and outdoor living spaces where there is minimal building set back distance. (This assumes that ground level windows can be adequately screened).

Comment	Action
Landscaping and definition of private vs public property will be important as some private yards front onto public areas.	a. Resolve as part of assessing other criteria


18. ASPECT/NATURAL VENTILATION – 3 TBC/5

The relationship between depth, width and ceiling height of units and associated openings that allow daylight to penetrate and fresh air to circulate.

Comment	Action
Reasonably typical terrace designs. 2.4m ceiling. Capable of good window sizes.	a. Resolve as part of assessing other criteria


19. LAYOUT/AMENITY – 3/5

Logical internal layout and provision of appropriate amenity.

Comment	Action	Drawing
<p>KB type A</p> <ul style="list-style-type: none"> Generally solid, albeit compact at 64m² (vs market type D 67m² which has room for a larger kitchen and separate dining space); a typical 2-bed terrace layout Kitchen and general living area will need to be attractively finished to be appealing enough to offset small size Need to assess placements on-site, including how storage sheds/bins/clotheslines are hidden No laundry tubs 	<p>a. NFK to confirm ownership structure for all units (unit title?) In particular, if/how maintenance will be managed, including common areas</p> <p>b. NFK to provide drawings showing interior design of living spaces, notably the kitchen</p>	<p style="text-align: center;">Type A</p> <p style="text-align: center;">2 bedroom + 1.5 bathroom 64m²</p>  <p style="text-align: right;">NFK ECO</p>

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Comment	Action	Drawing
<p>KB type B</p> <ul style="list-style-type: none"> Generally solid; a typical 3-bed terrace The ground floor bedroom provides good amenity – could be an office, playroom, storage Need to assess pantry size The 1st floor bedrooms need refining so that the main bedroom has a larger wardrobe The main bedroom should also be the largest The wardrobes for the 1st floor bedrooms are small 	<p>a. NFK to provide drawings showing the under-stair pantry/cupboards</p> <p>b. NFK to refine layout per comments left</p>	<p style="text-align: center;">Type B</p> <p style="text-align: center;">3 bedroom + 1.5 bathroom 81m²</p> <p style="text-align: center;">FIRST FLOOR 46.62m²</p> <p style="text-align: center;">FIRST FLOOR 34.15m²</p> <p style="text-align: right;">NFK ECO</p> <p style="font-size: small; text-align: center;">Floor plans and areas are indicative only and subject to final measurements</p>

Comment	Action	Drawing
<p>KB type B</p> <ul style="list-style-type: none"> Generally solid For many people the fourth bedroom will be an auxiliary room 	<p>c.</p>	 <p>Type C 4 bedroom + 2.5 bathroom 104m²</p> <p>GROUND FLOOR 33.2m²</p> <p>FIRST FLOOR 35.52m²</p> <p>SECOND FLOOR 35.52m²</p> <p>NFK</p>

20. ENERGY AND EFFICIENCY – TBC/5

Homes that are warm, dry, efficient and easy on the environment.

Comment	Action
The proposal mentions NFK and Olive + Hero's sustainable and energy efficient ethos (p26). This should be encouraged with recognised certification like Homestar.	a. NFK/KOHC to discuss Homestar certification; it should be a condition of KiwiBuild support
Proposal document also mentions installing EV chargers in common areas.	b. NFK to confirm and show locations of EV chargers

21. UNIVERSAL DESIGN – 3 TBC/5

Homes that are usable by all people, to the greatest extent possible.

Comment	Action
There is potential to explore universal design for type B.	a. NFK/KOHC to discuss obtaining a universal design rating such as Lifemark. In particular, making type B a baseline universal design option (as well as site-wide assessment)

Area	Element	Universal design indicators
EXTERNAL ACCESS	Car park	<ul style="list-style-type: none"> Car park width: minimum 1 carpark for the unit which is 3000mm wide and can be adapted to a minimum width of 3500mm with a level, firm, slip resistant flat surface of maximum slope 1:20
EXTERNAL ACCESS	Car park	<ul style="list-style-type: none"> Car park length, external: 5000mm minimum clear
EXTERNAL ACCESS	Car park	<ul style="list-style-type: none"> Car park length, internal: 5500mm minimum clear. 6000mm ideal
EXTERNAL ACCESS	Paths	<ul style="list-style-type: none"> Able to install a wide 1200mm path from front of property or car park to entry door, and to washing line and refuse area
EXTERNAL ACCESS	Paths	<ul style="list-style-type: none"> Able to install paths at 1:20 maximum slope and 1:50 maximum crossfall. Lower slopes are preferred

Area	Element	Universal design indicators
EXTERNAL ACCESS	Paths	<ul style="list-style-type: none"> Pathway to property is externally lit with a light switch at the dwelling entrance (a sensor switch is better)
EXTERNAL ACCESS	Paths	<ul style="list-style-type: none"> Able to install an external maximum 1:12 ramp in future (or lift). Lower gradients are preferred
EXTERNAL ACCESS	Paths	<ul style="list-style-type: none"> Able to install exterior stairs that are accessible (180mm max. riser, 310mm min. tread), graspable handrail on one side, 1200mm wide. Multi-unit residences should install them at the outset
EXTERNAL ACCESS	Entrance	<ul style="list-style-type: none"> Entry door: 860mm leaf, opening in
EXTERNAL ACCESS	Entrance	<ul style="list-style-type: none"> Entry landing: 1200mm square minimum
EXTERNAL ACCESS	Entrance	<ul style="list-style-type: none"> Entry landing: slip-resistant, level threshold at entry door (max. 20mm), switch-operated lighting (a sensor switch is better)
EXTERNAL ACCESS	Entrance	<ul style="list-style-type: none"> Entry landing: 1200mm square shelter over landing
INTERNAL ACCESS	Internal doors	<ul style="list-style-type: none"> Internal doors on primary living level minimum 860mm leaf (or able to provide an 810mm opening). 810mm leaf (760mm opening) for internal doors not on primary living level. Does not apply to cupboards, wardrobes
INTERNAL ACCESS	Internal doors	<ul style="list-style-type: none"> All doors to all rooms have level transition and threshold (differences in flooring materials are okay)
INTERNAL ACCESS	Circulation	<ul style="list-style-type: none"> Interior enclosed circulation routes minimum 1050mm wide eg, hallways
INTERNAL ACCESS	Circulation	<ul style="list-style-type: none"> Interior stairs are main private (190mm max. riser, 280mm min. tread)
INTERNAL ACCESS	Circulation	<ul style="list-style-type: none"> Interior stairs 1050mm wide minimum. 900mm clearance between wall and handrail
INTERNAL ACCESS	Circulation	<ul style="list-style-type: none"> Interior stairs handrail on one side
INTERNAL ACCESS	Circulation	<ul style="list-style-type: none"> Stairways to be straight with no winder treads or spiral design
INTERNAL ACCESS	Circulation	<ul style="list-style-type: none"> Reinforced stairway walls for the future installation of stair lifts and handrails on both sides
INTERNAL ACCESS	Circulation	<ul style="list-style-type: none"> Stairways with light switches at the top and bottom
INTERNAL ACCESS	Circulation	<ul style="list-style-type: none"> Stairs suitable for moving large furniture eg, queen size bed

Area	Element	Universal design indicators
INTERNAL ACCESS	Circulation	<ul style="list-style-type: none"> Clear, straight circulation paths that avoid or minimise turning and navigating around, past and between objects. For example, 900mm minimum clear circulation route through the entire primary living level (including to the outdoor area), wardrobes, cupboards and pantries that are in a straight line and with no 'pinch points'
INTERNAL ACCESS	Circulation	<ul style="list-style-type: none"> Ceiling height 2.4-3m
FITTINGS/FIXTURES	Light switches	<ul style="list-style-type: none"> Light switches and other service controls aligned with door handles at 900-1200mm above finished floor level
FITTINGS/FIXTURES	Powerpoints	<ul style="list-style-type: none"> Electrical, TV, phone, data sockets min. 300mm above floor (500mm better)
FITTINGS/FIXTURES	Windows	<ul style="list-style-type: none"> Lever handles and operable with one hand
FITTINGS/FIXTURES	Doors	<ul style="list-style-type: none"> Lever handles, operable with one hand and aligned with light switches. Bathroom handles to be privacy type, openable from outside the room
FITTINGS/FIXTURES	Taps	<ul style="list-style-type: none"> Single lever, push button or electric
BEDROOMS	Sleeping space	<ul style="list-style-type: none"> Space on primary living level for a single bed (900mm x 1900mm) with minimum 800mm clear space to one side and foot of bed. Minimum 800mm wide path from door to side of bed
BEDROOMS	Bedrooms	<ul style="list-style-type: none"> Main bedroom 10sqm minimum excl. wardrobe, 2.9m minimum length/width
BEDROOMS	Bedrooms	<ul style="list-style-type: none"> Other (double) bedroom 9sqm minimum excl. wardrobe, 2.9m minimum length/width
BEDROOMS	Bedrooms	<ul style="list-style-type: none"> Wardrobe doors hinged or sliding
FACILITIES	Laundry	<ul style="list-style-type: none"> Minimum 1050mm clearance in front of fixed benches and appliances
FACILITIES	Kitchen	<ul style="list-style-type: none"> Kitchen space is not a main thoroughfare in the home; circulation route can be adjacent
FACILITIES	Kitchen	<ul style="list-style-type: none"> 1200mm minimum clearance provided in front of fixed benches, major appliances and fitting
FACILITIES	Kitchen	<ul style="list-style-type: none"> 1500mm turning circle in kitchen, measured minimum 250mm above floor
FACILITIES	Kitchen	<ul style="list-style-type: none"> Slip resistant flooring to kitchens

Area	Element	Universal design indicators
FACILITIES	Kitchen	<ul style="list-style-type: none"> Easily usable handles - lever, bow or equivalents such as 100mmx50mm cutouts
FACILITIES	Kitchen	<ul style="list-style-type: none"> Kitchen storage below bench level is at least 50% drawers, not cupboards
FACILITIES	Kitchen	<ul style="list-style-type: none"> Appliances minimum 300mm from internal corner
FACILITIES	Bathroom	<ul style="list-style-type: none"> Able to provide space on primary living level for future installation of a toilet that includes a centre line of the toilet pan that is 450mm from the wall, and a minimum 800mm clear space beside the toilet (measured from the outside edge of the toilet). Read with next item
FACILITIES	Bathroom	<ul style="list-style-type: none"> For dwellings with the primary bathroom on the primary living floor - provide the ability to convert the bathroom space to be minimum 1.9m x 2.1m. If the primary bathroom is not on the primary living level, ensure the stairs are capable of installing a stair lift (see stair criteria)
FACILITIES	Bathroom	<ul style="list-style-type: none"> Current and future toilet/shower walls are reinforced to provide a fixing surface for grab rails and seats to be easily installed in future
FACILITIES	Bathroom	<ul style="list-style-type: none"> Slip resistant flooring to bathrooms
FACILITIES	Bathroom	<ul style="list-style-type: none"> Separate toilets minimum clear width 1050mm
FACILITIES	Bathroom	<ul style="list-style-type: none"> Single spout level tap
MULTI-STOREY ACCESS	Building access	Use applicable features such as park and path widths, service area clearances, in providing communal amenities such as car parks, bike/scooter parks, pick-up/drop-off zones
MULTI-STOREY ACCESS	Building access	Buildings with shared common entry have accessible units on ground floor
MULTI-STOREY ACCESS	Building access	Lift access for buildings of 4 or more levels. Lift size/capacity suitable for accessibility and moving emergency equipment

Assessor declaration

The Assessor has previously completed a Conflict of Interest Declaration which is unchanged Yes

This assessment is by Phillip Tai, Design Manager V1: 22/09/2020

Rating	Scoring definition	Pass/Fail
Acceptable Meets the criteria in full	Generally satisfies or exceeds the criteria. Demonstration by the Respondent of the relevant ability, understanding, experience, skills, resource, and quality measures required to meet the criteria, with supporting evidence.	Pass
Unacceptable Significant issues not capable of being resolved	Does not meet or major reservations about meeting the criteria. Does not comply and/or insufficient information provided to demonstrate that the Respondent has the ability, understanding, experience, skills, resource and quality measures required to meet the criteria.	

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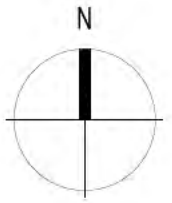
3 Bedroom Units - 144
 (72 Kiwi Build, 72 Open Market)

2 Bedroom Units - 105
 (78 Kiwi Build, 27 Open Market)

Total: 249 Units
 Approximately 260 Car Parks
 (Excluding Public Road Parking)
 (Excluding Commercial Block)

3 Storey Units

2 Storey Units



Precedent

DRAFT

REV 06
NOLA ESTATE - GLEN EDEN

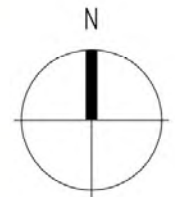


- 4 BEDROOM UNITS - 47
(22 Kiwi Build, 25 Open Market)
- 3 BEDROOM UNITS - 100
(52 Kiwi Build, 48 Open Market)
- 2 BEDROOM UNITS - 101
(74 Kiwi Build, 27 Open Market)

Total: 248 UNITS
 Approximately 265 Car Parks
 (Excluding Public Road Parking)
 (Excluding Commercial Block)

- 3 STOREY UNIT
105m² GFA, 4 Bedrooms, 2.5 bathroom, Kitchen, Dining, Living, 1x off street park.
- 3 STOREY UNIT
86m² GFA, 3 Bedrooms, 1.5 bathroom, Kitchen, Dining, Living, 1x off street park.
- 2 STOREY UNIT
81m² GFA, 3 Bedrooms, 1.5 bathroom, Kitchen, Dining, Living, 1x off street park.
- 2 STOREY UNIT
64m² GFA, 2 Bedrooms, 1.5 bathroom, Kitchen, Dining, Living, 1x off street park.
- CAFE
(100m² GFA over single level)
- COMMERCIAL UNITS
(3 units @ 100.00m² GFA over single level)
- COMMUNITY CENTRE
(100m² GFA over single level)

Typology	Total	GFA	Coverage	Bedrooms
	47	105m ² (4,935m ²)	36m ² (1,692m ²)	4 (188)
	95	81m ² (7,695m ²)	47m ² (4,465m ²)	3 (285)
	5	86m ² (430m ²)	35m ² (175m ²)	3 (15)
	101	64m ² (6,464m ²)	32m ² (3,232m ²)	2 (202)
Total	248	19,524m²	9,564m²	690



PRECEDENT

REV 10
 NOLA ESTATE - GLEN EDEN



Pre-Application Consenting Memo

Pre-Application No. PRR00035146	
Date of request	04/08/2020
Customer	CPM 2019 Limited
Contact details	Phone s 9(2)(a)
	Email s 9(2)(a)
Site address	460, 462, 464, 466A, 468-470, 474, 476 & 478 West Coast Road 317-319, 321-323, 325-327, 329-335, 345 & 347 Glengarry Road
Proposal	Construction of 249 dwellings, plus a commercial block fronting West Coast Road, subdivision around consented development, alongside yet to be confirmed site / enabling works. Internal reserves proposed along with 260 car parks (excluding public road parking and approx. 16-17 spaces associated with the commercial block).
Plans and information	Plan prepared by Phillips Associates, undated, Draft Rev 05 Information submitted as part of the vetting application process by MfE for the Covid 19 Fast Track process https://1drv.ms/u/s!AqO7cEcs-wELgVmY5aCuNKM0cFzF?e=6lXWMj

*Please note that there may be hyperlinks throughout the memo which are underlined.
Please click on the highlighted text for further information.*

Resource Management Documents		
Auckland Unitary Plan (Operative in part)	Zoning	Single House Zone
	Precinct	-
	Overlays	-
	Controls	Macroinvertebrate Community Index – Urban Arterial Road – West Coast Road
	Designations	-
	Appeals	-
Regional Plans	-	
National Environmental Standards	National Environmental Standard – Freshwater Management	
National Policy Statements	National Policy Standard – Urban Development	
Other Relevant Acts		

Statutory Acknowledgement Areas	Te Kawerau a Maki - Te Wai o Pareira / Henderson Creek and tributaries
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Property Information	
Legal Description	Various – See Appendix 1 of Fast Track information
Certificate of Title	<input checked="" type="checkbox"/> Supplied – must be less than 3 months old <input checked="" type="checkbox"/> Easements <input type="checkbox"/> Building line restriction <input type="checkbox"/> Consent notice <input type="checkbox"/> Limited to parcels
Relevant Consenting History	<p>Noted the Nola's orchard shop burnt down in first week of January.</p> <p>A comprehensive look into the consent history has not been undertaken given the numerous sites covered by the application and that nothing is to remain as part of the proposal.</p>

Site constraints Type	Y	N	Site constraints Type	Y	N
(Potential) Contaminated Land	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Coastal Erosion	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Land Instability	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Coastal Storm Inundation	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Floodplain	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Coastal Storm Inundation (plus 1m sea level rise)	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Overland flow paths (ephemeral/intermittent/permanent stream)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Cultural Heritage Inventory	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Flood Sensitive	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Combined Network	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Arterial Roads	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Building Frontage Control	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Vehicle Access Restriction Control	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Geology (rock breaking)	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Meeting Record

Meeting Record	
Date and Time	MS Teams Meeting, 9 September 2020, 1 – 2pm
Council Officers	Kay Panther Knight, Principal Planner / Planning Consultant, Meeting lead Brogan McQuoid, Team Leader Tessa Craig, Auckland Transport, Principal Development Planner

	<p>Mitra Prasad, Auckland Transport, Development Planning Team Leader North West</p> <p>Sam Shumane, Consultant Traffic Engineer</p> <p>Ethan Fu, Senior Development Engineer</p> <p>Michael Kibblewhite, Specialist Urban Designer</p> <p>Melanie McKelvie, Team Leader Design Review</p>
Customer	<p>Nick Mattison, Planning, Civix – Lead Planner</p> <p>Lance Hessel, Planning, Civix</p> <p>Daniel Phillips, Architecture / Urban Design, Phillips Associates</p> <p>Mustafa Demiralp, Architecture / Urban Design, Phillips Associates</p> <p>Andrew Braggins, Legal, Berry Simons</p> <p>Tamsin Gorman, Legal, Berry Simons</p> <p>Todd Langwell, Traffic Engineer, Traffic Planning Consultants Ltd</p> <p>Arran Baikie, Civil engineering, Civix</p> <p>Apologies: Kieran Doe, Nathan Treloar, Ian Munro</p>
Additional Information provided at meeting	Nil

Outcome of Planning Provisions

Residential - Single House Zone	<p>The purpose of the Residential – Single House Zone is to maintain and enhance the amenity values of established residential neighbourhoods in number of locations. The particular amenity values of a neighbourhood may be based on special character informed by the past, spacious sites with some large trees, a coastal setting or other factors such as established neighbourhood character. To provide choice for future residents, Residential – Single House Zone zoning may also be applied in greenfield developments.</p> <p>To support the purpose of the zone, multi-unit development is not anticipated, with additional housing limited to the conversion of an existing dwelling into two dwellings and minor dwelling units. The zone is generally characterised by one to two storey high buildings consistent with a suburban built character.</p>
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Site Constraints/ Managing Hazards

Flooding Potential	<p>The site has been identified as being potentially subject to flooding. Before any proposal is progressed, a full understanding of the flood hazard will need to be provided. This means that a suitably qualified professional will need to be engaged to assess and prepare a hazard risk</p>
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	<p>assessment. The hazard risk assessment should describe the scale, frequency, risk and entry / exit points that the hazard poses to the site and surrounding environment. This information will heavily influence any proposal, and how the flooding effects are managed and incorporated into any proposal, e.g. the type of activity, placement and minimum floor level of buildings, site layout, earthworks, etc. The proposal should not exacerbate this hazard onto neighbouring properties or the wider surroundings.</p> <p>Please note the flowpath / floodplain shown on Council's GIS Viewer is only indicative, and specific site surveys and modelling may be required.</p>
<p>Contamination (NES only)</p>	<p>The subject site either is currently, has previously, or is more likely than not to have been occupied by a potentially soil contaminating activity for the following reason:</p> <ul style="list-style-type: none"> • Current horticultural use <p>Your proposal may involve one (or more) of the following:</p> <ul style="list-style-type: none"> • removing or replacing a fuel storage system, • sampling the soil, • disturbing the soil, • subdividing land, and • changing the use of the piece of land. <p>Accordingly, it is necessary to give consideration to the National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health 2011. This provides a national environmental standard for activities on pieces of land where soil may be contaminated in such a way as to be a risk to human health. It is recommended you engage a suitably qualified and experienced practitioner to assist in preparing any preliminary and / or detailed site investigations that may be required in this regard.</p>
<p>Contamination (Regional)</p>	<p>Careful consideration is needed to address the effects of the discharge of contaminants from contaminated land into air, or into water, or onto or into land, and to ensure those effects are managed to protect the environment and human health and to enable land to be used for suitable activities now and in the future. This takes into account all of the following:</p>

	<ul style="list-style-type: none"> • the direct discharges arising from investigation activities on land containing elevated levels of contaminants; • discharges associated with soil disturbance that may liberate contaminants; • longer term discharges occurring as a result of residual contaminants, often known as passive discharges; • legacy discharges associated with past incidents; and • the assessment of risk around ongoing discharges.
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Relevant matters	
<p>Fast-track Application concurrent with Pre-application with Council</p>	<p>Nick Mattison explained that the Applicant had lodged an application with the Ministry for the Environment for a Fast-Track process. This process is expected to take approximately 8-9 weeks and will also require input or feedback from the Council to assist the Ministry. To this end, the Applicant wishes to run a pre-application process with the Council while awaiting the Ministry's decision on whether or not to accept the application for fast-tracking.</p> <p>If the applicants are accepted into the Fast Track process then any processing by Council for an RC or Pre-app will stop immediately as there cannot be dual processing.</p>
<p>Definition of IRD and subsequent activity status / acceptability in principle, including advice from Plans and Places</p>	<p>Kay Panther Knight outlined her view, supported by policy advice within Council, and consistently applied in other circumstances, that the proposal does not represent an Integrated Residential Development. Kay explained her view hinged on the lack of integrated communal facilities for the residential scheme, noting that the commercial block was clearly a separate and public / commercial enterprise in its own right, and that the reserves appeared to be required a) for compliance (or attempting to comply) with Single House zone landscaped area standards, and b) for overland flow path conveyance. Further, as supported by policy advice, the reserves did not appear to provide a sufficient quantum of space, nor were they clearly described in the information supplied to date or designed in such a way as to form a communal facility beyond standard open spaces associated with any residential development, i.e. not integrated or differentiated in any way from a residential subdivision.</p> <p>Brogan McQuoid outlined that Council would expect the Applicant to apply all rules in the Single House zone, regardless of whether or not the Applicant disagreed that the Integrated Residential Development definition was applicable. To this end, the proposal as it stands comprises a non-complying activity pursuant to H3.4.1(A6), as well as a discretionary activity under H3.4.1(A9).</p> <p>Kay outlined her opinion that the current proposal represented significant over-development and a character of development wholly unlike the anticipated character of the Single House zone. The proposal comprises</p>

two and three storey terraced house development that would be more appropriate in a Mixed Housing Urban or Terraced Housing and Apartment Building zone. The scheme is therefore not supported from a planning perspective given its excessive intensity. The proposed reserves and commercial space do not provide any sufficient mitigation.

Nick noted that the scheme complies with all coverage controls in the Single House zone. Kay noted this seemed unlikely and that there was no information presented to confirm this either way. Michael Kibblewhite and Melanie McKelvie provided their views from an urban design perspective regarding compliance with standards and the extent to which the “bare minimum” would suffice in this instance, and this is further elaborated upon in the minutes below under Heading 5.

Lance Hessel queried whether relocation of the commercial block more centrally within the residential development would improve upon its consideration as forming an integrated residential development. Kay considered this approach but noted that without any further detail regarding the function of that commercial block, the design and location of it relative to the reserves and the design and function of the reserves themselves, it is difficult to provide any confirmed advice. Kay suggests considering presenting the site layout options noted by the Applicant’s team and perhaps in presentation to the Urban Design Panel, to provide rationale and further explanation of how the Applicant thinks the commercial block as currently located and designed, or elsewhere, can be considered an integrated component of this scheme.

Key outcomes / actions (if relevant)

Council will supply the policy advice received on the scheme and present the questions raised in that advice regarding what further information would be necessary to determine whether or not the scheme could be defined as an integrated residential development.

Council will supply the legal advice received to date regarding both the integrated residential development definition, its application, and the Council approach to requiring consent under both H3.4.1(A6) and (A9).*

Post meeting advice

Kay provided Nick with the list of questions from Ciaran Power, Planner, Plans & Places with regards to further clarities required to see whether the proposal can meet the definition of an IRD.

A summary of the legal opinion was provided to the applicant’s planner and legal representative (Mr Braggins). Mr Braggins sought further input in relation to Council in relation to the summary response provided. Council sought further feedback from their legal services and this response was provided to Mr Braggins. (A summary of this can be found under the legal advice section below).

<p>Traffic Matters, including input from Auckland Transport</p>	<p>Sam Shumane, for Council, and Mitra Prasad and Tessa Craig gave feedback regarding the roading layout, including confirming there are concerns regarding direct access from West Coast Road, and that AT's preference is for all residential traffic to access the site from Glengarry Road, noting that further assessment needs to be undertaken in respect of traffic generation and effects on queuing.</p> <p>Todd Langwell confirmed surveys were being undertaken but that they were delayed due to the recent Auckland Covid-19 lockdown. These would be produced in due course, and consideration is being given to signaling the intersection of West Coast Road and Glengarry Road. Mitra raised concern regarding assuming a signalized intersection, noting that may be out of character with the rural nature of the network further west, and that consideration should be given to all options, particularly considering the proximity of the roundabout intersection of West Coast Road with Parris Cross Road.</p> <p>Concern was raised by Sam regarding the one-way component internal to the site, noting that this gives rise to safety and efficiency effects. The road reserve appeared wide enough to accommodate two-way traffic and the Applicant undertook to consider that.</p> <p>Discussion was had regarding ensuring appropriate width within road reserves for all services.</p> <p>Sam identified some further consideration needed to be given to geometry of the roads relative to AT standards, but that would follow in further detailed design.</p> <p>Visibility assessments would need to form part of the transport assessment being prepared.</p> <p><u>Key outcomes / actions (if relevant)</u> Applicant to complete its surveys and transport assessment, and to reconsider internal road layout, particularly the one-way component.</p>
<p>Auckland Transport post meeting feedback (Tessa Craig)</p>	<p>Further to the input captured in the meeting (above);</p> <p><u>Preliminary Comments</u> West Coast Road Vehicle Access</p> <ol style="list-style-type: none"> 1. AT has concerns with an additional vehicle access onto West Coast Road, due to the proximity of the new road to the roundabout, sited where drivers on West Coast Road diverge to form two lanes. When drivers queue on the kerbside lane, visibility to the inner lane is obstructed. City bound drivers (west bound to Great North Road) would favour the inner lane (northernmost lane) so they can U-turn at the roundabout. 2. Additionally, misuse of the 'Lane' and new road off West Coast Road is expected with vehicles cutting through to Glengarry Road. Therefore, it would be best to eliminate vehicle access from

the residential part of the development, through to West Coast Road.

3. The proposal should provide a pedestrian and cycle link only from the residential part of the development through to West Coast Road. This would remove potentially significant effects that the application could have on the existing environment, movement, and safety of users which the applicant would have need to mitigate to AT's satisfaction.
4. In reference to the above point, appropriate connection to West Coast Road for active modes are desired and encouraged. Providing accessways (8m wide) with ample passive surveillance from neighbouring dwellings and appropriate lighting and landscaping should achieve this objective.
5. If vehicle access onto West Coast Rd is absolutely necessary, it will be required to be a left-in, left-out access arrangement. This will need to be sited further away from the intersection, ideally where the 'Lane' is proposed, which has a single approach lane. An extended solid median island would also be required to prevent right turns.
6. Details of loading for the commercial premises alongside loading for the existing dairy will be required.

Internal Roads

7. All internal roads should be vested as public roads. A 13-metre road reserve is wide enough to be a two-way operation and the internal roads should all be two-way. If there is a high inconvenience for residents (those who travel the long way around to exit the development), drivers will flout proposed one-way operation.
8. All internal roads should comply with the Transport Design Manual in terms of provision of cycle facilities or safe mixed traffic environments. Internal roads require speed calming, 1.8m footpaths and may require broken yellow lines along sections of narrow carriageway.
9. The proposed public roads (particularly the longest straight internal road connecting with the commercial area) should be designed carefully to reduce speed and make it safe. Horizontal traffic calming features/devices should be implemented (i.e. minimum lane width and low maintenance low planting to visually narrow down the carriageway without impeding visibility).
10. In terms of alignment, the sharp corners in the property boundary may not achieve appropriate road corridor width to provide a bend. The detailed design should include demonstration of the turning and parking manoeuvres.
11. Provision for indented on-street parking is required. Consideration of fewer, larger raingardens is required for stormwater management.

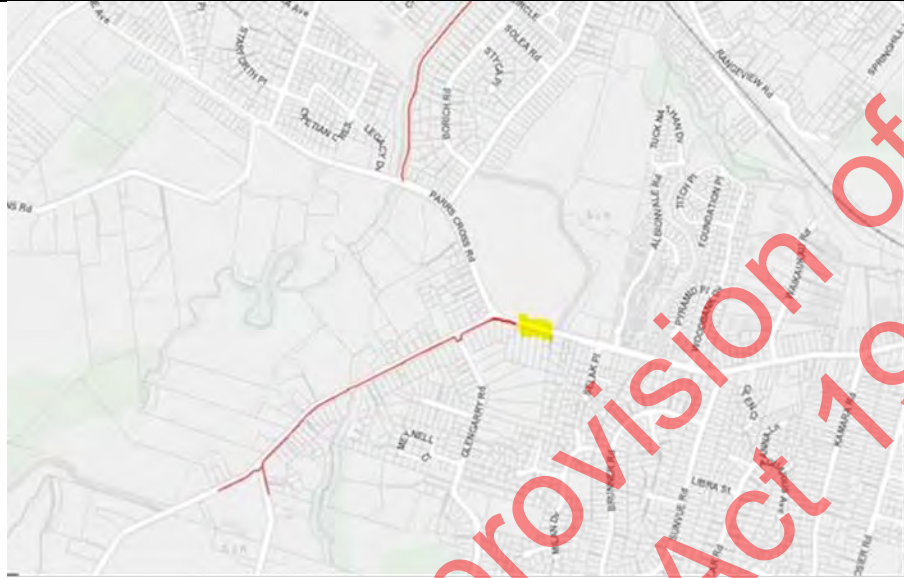
12. AT is supportive of rear access and access vial JOALS. We suggest re-orientating some of the end dwellings to give better street frontage orientation and natural surveillance.
13. A 30kph speed environment is required on the new internal road network.

Existing Roads

14. If no improvements are proposed for the Glengarry Road/ West Coast Road intersection, vehicles from the proposed development will likely exit onto West Coast Road to negate having to right turn out of Glengarry Road. AT therefore suggests a roundabout or signalisation at the Glengarry Road/West Coast Road intersection.
15. Modelling is required to show the impact of the development on the West Coast Road/Parrs Cross Road intersection and the West Coast Road/Glengarry Road intersection and mitigation should be proposed in line with the results of the modelling. A 30kph speed environment is required along West Coast Road and Glengarry Road.

Active Modes

16. There is concern about the safety of the roundabout at West Coast Road/Parr Cross Road, especially for pedestrians and cyclists. There is also concern about the movement of people to and from the bus stop on Parrs Cross Road for service going toward Henderson which have come from Glen Eden/New Lynn. A pedestrian facility is required to the north of the West Coast Road/Parrs Cross Road roundabout.
17. Safe crossing points across Glengarry Road are required. The pedestrian crossing points at intersections are unclear. Clarification is needed on the pedestrian movement across West Coast Road and crossing on all arms are required.
18. The raised courtesy crossing on Glengarry Road (near the intersection with West Coast Road) will require upgrading to improve pedestrian and cyclist safety as the development will increase their exposure to additional traffic.
19. Any proposed improvements on Glengarry Road need to tie in with existing shared path on West Coast Road to the north of the property boundary.
20. The existing shared path on the north of the site is located as per the red line below. This stops part way along the site at a crossing to Parrs Park, but this should be extended along the full length of the site to provide safe and attractive access past the convenience store in the draft plan and enable future connections to the east (yellow).



21. Safe and attractive access should also be provided from the entrances to the site on Glengarry Road to the existing facility.
22. Future drawings need to show the zebra crossing on West Coast Road outside the proposed 'Commercial' property and the existing shared path along the property frontage.
23. A strong crossing feature should be provided between the reserve and adjacent green space across the currently proposed one-way street.

Metro / Public Transport

24. Part VIII of the application references Policy 3(c)(i)1 of the NPSUD and its application to this proposal. The local bus stops are not Rapid Transit Stops. The station on the western rail only can be regarded as future Rapid Transit but does not currently meet the Rapid Transit Definition.² This location does not meet the criteria to be considered in walking distance of a Rapid Transit Station. The application should be corrected and clearly state the proposal is not within walking distance of a current or planned Rapid Transit Stop / Station. A reasonable walking distance to a Rapid Transit Stop / Station is ten minutes or 800 metres on reasonably level ground.
25. There are bus routes on all the road frontages of this site; the 152 to the west on Glengarry Road, and the 151 and 154 on West Coast Road. The services have their 'inbound' stops on both frontage roads and share a common 'outbound' stop to the north of the roundabout, on Parrs Cross Road. None of these routes are part of the Frequent Transit Network.
26. Given the expected increase in patronage for the services mentioned above the development should upgrade of all these stops (especially stop: 5468 without a shelter) and improve the

¹ In relation to tier 1 urban environment, regional policy statements and district plans must enable: building heights of least 6 storeys within at least a walkable catchment of the following: existing and planned rapid transit stops

² Rapid Transit must have an exclusive corridor and a headway of at least 15 minutes from 7am to 7pm, 7 days a week and service through to at least 11pm at night (midnight at 15 minutes headways for City Centre services).

	pedestrian crossings (particularly to the common stop to the north).
Urban Design	<p>Michael queried the Kiwibuild component, asking whether it would be integrated with the open market housing. Nick confirmed that the intention was it would be, and that the proportion shown on the masterplan was indicative only, noting that the Applicant expected an approximately 60% uptake by Kiwibuild for the scheme.</p> <p>Post meeting advice:</p> <p>The applicant’s planner was supplied with dates for the Urban Design Panel, along with information requirements and timeframes post meeting. The preliminary date is set for 22 October.</p>
Urban Design post meeting feedback (Michael Kibblewhite)	<p>Integrated Residential Development (IRD):</p> <ul style="list-style-type: none"> • Notwithstanding the comments provided from a planning and policy perspective on IRD, from an urban design perspective we would expect any communal facilities proposed to have the following characteristics: <ul style="list-style-type: none"> ○ Easily accessible to all residents; ○ Size of the facilities to be proportionate to the scale of the development; ○ Provide a high level of amenity with appropriately sized, furnished and located formal and informal play spaces that are suitable for the intended housing mix and future resident demographics, particularly children. Noting the proximity of Parrs Park and the facilities provided there (playgrounds, basketball court, walking paths, skate ramp etc) it is expected that the proposed communal facilities would provide a different offering to that already provided at Parrs Park; ○ Use both soft landscaping (trees, shrubs, grass, planted beds etc) and hard landscaping (paving, furniture, fixtures etc) to define areas; ○ Appropriately designed edges – offering good natural surveillance (e.g. not the back of dwellings); ○ Have an appropriate management structure to ensure long term maintenance. • It is understood that the proposed communal reserves are also an overland flowpath (OLFP). Confirmation would be required that the use and design of this space is not constrained by the OLFP and could accommodate planting and structures to support its use as a communal facility. • The narrow strip of reserve (marked as A in the diagram below) between two terrace blocks appears to be more of a pedestrian path serving those blocks rather than a usable reserve space for

a greater range of typologies including standalone and duplexes, which will assist in integrating the development into the surrounding neighborhood.

- Noting that the Single House Zone contains little onsite amenity controls due to the anticipated larger site size (e.g. no standards relating to outdoor living space, outlook, daylight etc) the applicant is encouraged to consider what development standards would most appropriately be applied to the site (Mixed Housing Suburban is considered to be the most appropriate as a transition from the Single House Zone).
- There are some particularly long, unbroken blocks. It is recommended that more breaks in the built form are provided to ensure consistency with the anticipated character of a spacious setting.
- Given the scale of the development, a range of cladding and colour scheme palettes should be developed. The built form should also allow for variation in façade treatment, horizontal and vertical articulation and roof forms. The end of each row of terraces should also respond to its corner context (i.e. not present a side elevation to the street).

Street Network / Site Layout:

- The proposed street network is logical from an urban design perspective, notwithstanding comments from AT and development engineering. However, the proposed one-way road is not supported.
- The proposed arrangement of terraces adjacent to the roundabout presents a challenge in terms of amenity and privacy for future residents. The applicant is encouraged to consider whether the location of the commercial premises would be more appropriately located on the corner, adjacent to the intersection. A commercial use could more easily mediate this difficult interface and provide a landmark to the corner.
- Further consideration will need to be given to the 'back of house' functions of the commercial facility and how this will interface with adjacent residential uses/streets etc.
- There is an historic paper road south of the site's southern boundary (315a Glengarry Rd) which has been rezoned to residential and will be marketed for sale shortly. The applicant is encouraged to discuss with Panuku (current owners) options around incorporation of this property with the development.

Street/Reserve Interfaces

- Those units fronting West Coast Road (a busy arterial road) immediately adjoins a 3m shared pedestrian/cycle path, with no grass berm or street tree planting. For those units fronting the street, it is strongly recommended that additional depth and

elevation above the street is provided to create separation and privacy for users, in response to this context. A typical 4-5m outdoor space depth is not considered sufficient to mediate this interface.

- A minimum front yard setback of 3m should be provided to all units in accordance with the Single House Zone standards.
- Several blocks have north-south orientation but provide outdoor living spaces to the street. Where orientation allows, it is recommended that outdoor living spaces should be located to the rear of the dwellings and the dwellings pushed closer to the street (as is proposed on the block fronting Glengarry Rd, with outdoor space to the rear) to provide for clear public fronts and private back yards.
- Two terrace blocks are proposed either side of the linear reserve. It is not clear which is the front or back of these units. As noted previously, this linear reserve space is not considered to contribute to a communal reserve.

Site Facilities:

- Site facilities such as washing lines, refuse bins, storage sheds, detention tanks etc should not be located within private outdoor living spaces. It is recommended that a service courtyard is provided in between the JOAL parking spaces to accommodate these facilities, thereby maintaining the usability of the private outdoor courts. The ADM Design Element: Site Amenities provides further guidance on integration of these facilities into a development (http://content.aucklanddesignmanual.co.nz/regulations/design-for-the-rules/Documents/Design_Element_R8-Site_Amenities.pdf)
- Communal refuse enclosures are encouraged. The applicant is directed to the ADM Design Element: Waste for further guidance in this regard. http://content.aucklanddesignmanual.co.nz/regulations/design-for-the-rules/Documents/Design_Element_R7_Design_for_Waste.pdf

Rear Lanes:

- Rear lanes will be servicing a large number of dwellings so will need to provide landscaping that will add to the amenity of the development, lighting, waste storage and other site facilities such as detention tanks.

Auckland Urban Design Panel

- The proposed development meets the criteria for the AUDP. Currently available dates are: 8th, 22nd, 29th October. Please confirm with Michael Kibblewhite as soon as possible to secure a panel date, noting that a draft panel pack would be required two weeks prior to the panel date. Please refer to the panel

	<p>information requirements here: http://content.aucklanddesignmanual.co.nz/resources/design-panels/Documents/Information%20Requirements%20Checklist%202018.pdf</p>
<p>Plans & Places Policy feedback (Ciaran Power, Planner, Plans & Places)</p>	<p>Does the proposal comprise an “integrated residential development”?</p> <p>The AUP defines an integrated residential development as:</p> <p><i>Integrated residential development</i></p> <p><i>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.</i></p> <p>My analysis focuses on assessing the development against of this definition to conclude whether it can be classed as an “integrated residential development”. Therefore, there are essentially two criteria to consider:</p> <ol style="list-style-type: none"> 1. Is the proposal a residential activity on a site greater than 2000m²? The IRD is proposed over 18 parcels of land comprising of approximately 43,000m². The proposal therefore meets the first criteria for an IRD; it is a residential development on a group of contiguous sites that have a combined total area greater than 2000m². 2. Are there supporting communal facilities and other non-residential activities accessory to the primary residential use, proposed? Mr. Lance Hessel, Senior Planner at Civix supplied a document that sets out the proposal and its regulatory framework. It is called: <i>The Nola Estate: Application Details Relating to an Application under the COVID-19 Recovery (Fast Track Consenting) Act 2020</i>. <p>The proposal is described on page 3 as:</p> <p><i>The proposal involves a 249 unit Integrated Residential Development and a commercial centre with associated subdivision in the Residential Single House Zone (RSHZ) under the Auckland Unitary Plan Operative in Part (AUP(OP)).</i></p> <p><u>Non-Residential Activity</u></p> <p>A commercial centre is not a supporting communal facility however it is technically a non-residential activity. Notwithstanding, the intent behind this provision in the definition of an integrated residential development (IRD) is that any non-residential activity should be ancillary and supporting to the primary activity.</p> <p>The information provided in the application details document does not detail any further information as to what the commercial activity will be. Appendix D which is the masterplan of the proposal shows two possible buildings in red to the north east of the development. The larger of the two buildings is proposed to be separated from the residential component of the development by proposed a proposed crossroad intersection.</p> <p>Therefore, it can be assumed that the commercial activity will not be for the exclusive use of the development’s residents, but it will be a commercial activity for both the development’s residents and the general public to interact with.</p>

Released under the Official Information Act 1982



Considering the above, the commercial activity falls outside of the ambit of a non-residential activity in the context of an IRD. This is not a supporting communal activity. Therefore, this component of the development should be considered as a separate activity to the IRD activity and not be considered as a component of the IRD.

Referring to the commerce section (A16 - A20) of the Single House Zone H3.4.1 Activity table, Dairies, Restaurants and Cafes up to 100m², along with Service stations on arterial roads are provided for by way of a resource consent with activity statuses ranging from a restricted discretionary to discretionary. If the proposed commercial activity falls outside of these types of commercial activities, then the activity is not provided for and an additional reason for consent may need to be applied for under (A1) Activities not provided for – noncomplying activity.

Roads and reserves

It is not clear in the application documents if the roads and reserves are to be public or private. The application documents refer to the green spaces as reserves and being supporting communal facilities. Furthermore, the roads appear that they are to be constructed to a public AT standard.

If the reserves and are to be vested to council, then this would preclude them from being considered a supporting communal facility to the IRD because they would not be integrated into the development. This would mean that the proposal would not have any supporting communal facilities and will defer to being a regular residential development.

Furthermore, if the roads are to be vested, then this would have the effect of breaking up the subject site and the development, into separated blocks of residentially developed land. As above the roads would not be integrated into the development and would defer to being a regular residential development.

Supporting Communal Facilities

Supporting communal facilities are interpreted to be non-residential facilities accessory to the primary residential use, and that are available for communal use by residents within the IRD.

An IRD is required to include supporting communal facilities and I don't think the supporting communal facilities are clearly identified in the application. For example, under the Regulatory Framework section on page 6, Mr. Hessel states:

The application approach as directed by the AUPOIP RSHZ is therefore to design a proposal which...Provides supporting communal facilities (such as recreation and leisure facilities – i.e. reserves as proposed).

This is the only mention of any supporting communal facilities in the proposal. Following is the extent of its provision within the development. There are no other communal facilities proposed.



I identify three issues with the proposed supporting communal facility.

- **Scale of provision of the supporting communal facility:**
The amount of area proposed to be set aside as supporting communal facility, which in this case is just the reserve areas, does not appear to be enough relative to the number of residents it is intended to serve. Also, it is not clear from the documentation as to how these reserves are intended to function as supporting communal facilities.
- The reserves (supporting communal facilities) don't appear to have been given much consideration in the design. The supporting communal facility of an IRD is a component that should be integrated into the development. The proposed reserves to the east appear to have been an afterthought

	<p>where leftover spaces which could not accommodate a residential dwelling were made to be a reserve. These reserves are to be the distinguishing components that make up the IRD.</p> <ul style="list-style-type: none"> • The type of communal facility: The only identified supporting communal facility proposed are reserves. There is no detail in the design of the reserves to indicate that it would either be a recreation and/or a leisure facility. There are no components such as a seating area, outdoor barbeque areas that could be an indicators that a recreational activity could take place or an inviting space for residents to commune. As discussed earlier, the proposed commercial components are unlikely to be considered as being part of the supporting communal facilities of the IRD. • H3.6.11. Landscaped area standard With little detail supplied in the documentation, it appears that the reserves make up a large of component of the standard landscaped area requirements under the Single House Zone H3.6.11 Landscaped area standard (minimum of 40% of the site to be covered with landscaping). This standard would have to be complied with regardless of this development being proposed as an IRD. Therefore, the reserves wouldn't necessarily be a component that distinguishes the IRD as being different to a regular residential development. <p>Further Information Required</p> <ol style="list-style-type: none"> 1. What is the area of the proposed reserves (supporting communal facilities) and 2. How many actual residents is the IRD proposing to accommodate? 3. How are the reserves, which are identified as being the only supporting communal facilities in this IRD, going to be distinguishably different from the regular landscaping requirements of standard residential development? 4. Are the proposed roads to be for the exclusive use of the residents? 5. or are they proposed to be vested to AT after completion? 6. Are these to be constructed to AT standards?? 7. What is the intention with regards to the management of the reserve's? 8. Are the proposed reserves intended to be vested to council? 9. How will the reserves be used recreationally? 10. Are there any other components of the IRD that are intended to be supporting communal facilities? 11. What percentage of the total subject site is covered in landscaping and 12. What percentage do the reserves makes up of the subject site (areas proposed to be set aside as supporting communal facility)? <p>There is the question of how the developments reserves (supporting communal facilities) and roads (if not to be vested) are to be managed. Will there be a body corporate put in place? However, this is technically a matter that outside of what council can look at.</p> <p>Objectives of Single House Zone</p> <p>The objectives and policies in the Single House Zone are the anchors that this proposal needs to be assess against:</p> <table border="1"> <thead> <tr> <th>H3.2</th> <th>Objectives</th> <th>Comment</th> </tr> </thead> <tbody> <tr> <td>(1)</td> <td>Development maintains and is in keeping with the amenity values of</td> <td>This development does not appear to be maintaining, nor in keeping with the amenity values of established</td> </tr> </tbody> </table> <table border="1"> <tbody> <tr> <td></td> <td>established residential neighbourhoods including those based on special character informed by the past, spacious sites with some large trees, a coastal setting or other factors such as established neighbourhood character.</td> <td>residential neighbourhood. There is not much vegetation proposed which is a characteristic of the surround neighbourhood. 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	<p>All Rules Apply</p> <p>The density of the proposed development indicates that there will be more than 1 dwelling per site over the base parcels. In light of the 'Budden' Declaration, the applicant will also need to apply for an additional reason for resource consent under the Single House Zone activity table H3.4.1 (A6) More than one dwelling per site being a non-complying activity.</p> <p>Conclusions</p> <p>On the face of it, this proposal appears to be a standard residential development that would be more appropriately located within a Mixed Housing Zone where the proposed density would be commensurate. Notwithstanding, the lack of specificity around the definition of an IRD is a problem which may contribute to growing trend of IRD proposals in Single House zone coming through to resource consents.</p> <p>The lack of specificity around the definition of an IRD means the AUP does not provide any indication as to what the scale the supporting communal facility provision should be.</p> <p>Furthermore, the AUP does not provide a definition of 'supporting communal facilities' and the examples provided in the IRD definition refer to facilities usually associated with retirement villages. As this is not a retirement village, there is no other information in the AUP which indicates what type of communal facility would be appropriate to support a residential development.</p> <p>Therefore, it cannot be argued that the provision of the supporting communal facility, which in this instance is the reserves, is inadequate for the plan provides no metric.</p> <p>Neither can it be argued that a reserve is not appropriate to be considered as a supporting communal facility for the plan provided no indication of what would be appropriate for this form of IRD.</p> <p>However, if the reserves are intended to be vested to council upon completion of the development, then these stated components of the IRD will be separated onto their own titles and managed by the territorial authority, quite separate from how the IRD may be managed. This will mean that the proposed IRD won't be classed as an IRD anymore. This is not a desirable outcome.</p> <p>However, a supporting communal facility should be a component in an IRD which distinguishes it from a regular residential development. It is because of this, that I don't think the reserves are a feature that will distinguish this development from a regular residential development.</p> <p>The brief assessment against the objectives of the Single House Zone alone indicates that the proposal in its current form would be hard to support.</p> <p>Notwithstanding, an IRD is possible to be accommodated on the subject site, but I suggest that it would need to be redesigned with smaller number of residential units commensurate with the anticipated density and the bulk would need to be at a scale that is in keeping with the planned built character of predominantly one to two storey dwellings within a generally spacious setting. The terraced housing typology is not a typology one associated with being found on generally spacious settings because they are by their very nature, attached dwellings which imply that their respective associated outdoor spaces are squashed together, which is not suggestive of a spacious environment.</p>
<p>Development engineering and services</p>	<p>Ethan Fu noted that a flood hazard assessment will be required to understand the overland flow path conveyance and associated effects.</p> <p>Ethan noted insufficient information had been provided by the Applicant in advance of this meeting to comment in any detail on other services or development engineering matters.</p> <p>Nick noted that earthworks calculations were being completed and would be available in due course, as would a geotechnical report, and separately as an aside, a detailed site investigation relative to the site's previous HAIL use.</p> <p>Key outcomes/actions</p> <p>Nick to send through updated link with latest specialist reports, including geotech.</p>
<p>Legal advice</p>	<p>Councils position regarding the application in terms of legal advice is summarised below:</p>

With respect to all rules applying:

Council's legal advice was received in relation to an application at 2 & 2A Tizard Road (dated 10 September 2019). The legal advice confirmed that Council's position was accurate and that it is clear the activity is for more than one dwelling on a site. As neither rule (the IRD rule under (A9) in Table H3.4.1 or the more than one dwelling under rule (A6) in Table H3.4.1) excludes the application of the other, both rules apply to the application. Under rule (A6) the application is considered non-complying. Under the bundling principle, the activity should therefore be assessed as a non-complying activity.

This approach is considered consistent with Council's assessment requirements following the decisions of the Environment Court in the *Auckland Council v Budden* ([Auckland Council v London Pacific Family Trust NZEnvC 030 \[2018\]](#)) declaration proceedings. There is often more than one reason for resource consent and application under all relevant rules in a zone activity table will be required.

We will remain consistent with this approach unless the Environment Court in the Sandspit proceedings (30 and 40 Sandspit Road) declares otherwise.

With respect to assistance with defining an integrated residential development:

The aforementioned legal advice confirms that Council's current interpretation of 'IRD' is accurate. This relates to a residential development on a site greater than 2,000m², that has supporting communal facilities, such as recreation and leisure facilities (i.e. a communal gym, pool, and toilets) falls within the definition. It notes that while the communal facilities will need to be more than standard communal areas provided as part of say an apartment complex, such as a lobby, shared access and garage facilities, the Council will need to make an assessment as to the status of the activity as IRD or otherwise on a case by case basis. It also noted there is nothing in the definition of IRD that requires an element of on-site control for a proposal to be considered an IRD. It found that the application for 2 and 2A Tizard fell within the definition of an IRD. It is noted that in relation to that application it proposed the construction of a four-storey building containing a total of ten residential dwellings (apartments) and associated amenities (gym, pool, terrace area and shower, toilet, changing area). No form of on-site management was proposed, either in the form of a manager's office or apartment.

The legal view agreed with the Council's approach that facilities must be genuinely communal, and extend beyond required shared spaces such a lobbies, access and garage facilities associated with an apartment complex. This would need to be considered in context on a case-by-case basis. It found that there must be some reasonable limits to what can be considered an IRD, so that the intention of the Plan is not simply subverted by the inclusion of token 'communal facilities'. In making this finding it referred to the; Auckland Unitary Plan Independent Hearings Panel, Report to Auckland Council Hearing topics 059 - 063: Residential zones, July 2016, at 7.2 which stated:

The Panel has not provided for a particular class of activity called 'retirement village' but has instead provided for 'integrated residential developments', which would include a retirement village.

...

...the Panel does not support a definition of retirement villages being limited to that in the Retirement Villages Act 2003. It is the Panel's view that a retirement village is essentially a residential activity. While a range of other complementary activities (such as recreation, social, community, cultural and health) may be offered in an integrated manner, it is still essentially part of a residential activity. In the Panel's view **any residential activity that offers a range of other complementary activities** (other than for retirement purposes) should be treated in the same way as a retirement village and vice versa.

Accordingly a class of activity termed **'integrated residential development' has been defined and could apply to a range of activities** such retirement villages, campus-style student accommodation, community and cultural style residential developments.

[emphasis added]

Additional information:

Please also note that a key advantage of the alternative view that the non-complying multiple dwelling rule does not apply will disappear on 30th September, when the RMA Amendment Act removes the non-notification presumption for discretionary residential activities. I.e. you will need to do the full section 95A whether it be only a Discretionary IRD, or a combined IRD and Non-complying 'More than one Dwelling' consent.

Felicity Wach, Council's Senior Solicitor further confirmed the below:

1. The opinion was prepared for an application for an IRD in the Single House Zone on Tizard Road, Birkenhead. It was withheld in order to maintain legal professional privilege under section 7(2)(g) of the Local Government Official Information and Meetings Act 1987 (LGOIMA). There were no other considerations which rendered it in the public interest to make the opinion available under section 7(1) of the LGOIMA.
2. Council provided a short summary of the opinion only, specifically to avoid waiving privilege, whilst attempting to be helpful to the applicant. It is considered that privilege has not been waived. Ms Wach is satisfied that you will be able to advise your client sufficiently without a copy of the opinion.
3. The activity status of IRDs in the Single House Zone is a live issue in another application for an IRD at 30 and 40 Sandspit Road, Cockle Bay. That application is subject to an Environment Court appeal, ENV-2019-AKL-000176-Box Property Investment Ltd v Auckland Council, which is currently on-hold while an application for direct referral is made with an amended design. The direct referral is expected to be notified in late September. It is likely that the activity status will be determined by the Environment Court in the Sandspit Road proceedings, unless they are settled prior to a

	<p>hearing. The interpretation taken by Council is consistent between applications, and will ultimately be determined by the Court in due course on the Sandspit Road matter.</p> <p>4. The other point that is worth noting is that because this application will be lodged after the RMAA 2020, the activity status will not affect the decision on notification or the rights to appeal, as it does for applications lodged prior to the RMA 2020 coming into force.</p>
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Preliminary view on outcome / process

Having regard to the foregoing and based on the information received from the applicant to date, Council does not support the proposal nor its intended outcomes. This position is based on the following:

- Council does not agree that the proposal represents an IRD that provides any significant and/or meaningful integrated communal facilities, and especially not at a scale and function that would appropriately support the proposed density of residential development;
- Council does not agree that the reserves and commercial activity are appropriately or sufficiently integrated with the residential development so as to render this proposal distinct from any other standard residential subdivision, further bolstering the interpretation above that the proposal does not represent an IRD; and
- At the intensity, character and layout proposed, the scheme represents considerable over-development of the site in the Single House zone and does not align with that zone's intended outcome for suburban built character in a manner that maintains or enhances the amenity values of the established residential neighbourhood within which the site is located.

Having regard to the likely notification assessment, based on the information to hand, Council considers that the application would be likely to be publicly notified.

This is a preliminary view only. A final determination on whether Council can support the consent or not can only be made upon receipt of a formal application, site visit and review.

Resource Consent Strategy

Application Documentation

A good quality application starts with a good quality proposal, one that includes all relevant information and documentation required for us to process your consent smoothly. This will help to reduce confusion, delay and cost, as we do not accept applications which have missing information.

We recommend you [engage a professional](#) (architect or consultant) to prepare your application, as the requirements are technical.

	<p>It is important that your application accurately identifies all of the reasons that your project will require resource consent. This may also include any Overlays, Precincts or other features such as flooding or instability, there will be other rules that apply to your site and you will need to demonstrate that you comply with these or state that you are applying for consent.</p> <p>Your consent application must include an Assessment of Environmental Effects (AEE). An AEE is a written statement identifying the effects of your proposed activity on the environment, and information on how you might negate or modify these effects.</p>
<p>Specialist Assessments</p>	<p>You may need to provide written specialist report(s) to support your application, depending on the scale and significance of your proposal.</p> <p>As described above, in this case the following is considered necessary:</p> <ul style="list-style-type: none"> • DSI/RAP • Geotechnical Report • Flooding hazard assessment • Infrastructure report • Transport assessment including survey and visibility assessment • Refuse collection details <p>Important Note: <i>The specialist assessments required above are advised based on the proposal provided for the pre-application meeting, should the nature and extent of proposal change, further specialist assessments may be required.</i></p>
<p>Hazard Risk Assessment</p>	<p>A hazard risk assessment must be undertaken when subdivision, use or development requiring resource consent is proposed to be undertaken on land which may be subject to any one or more of the following:</p> <ul style="list-style-type: none"> • coastal erosion; • coastal storm inundation 1 per cent annual exceedance probability (AEP); • coastal storm inundation 1 per cent annual exceedance probability (AEP) plus 1m seal level rise; • coastal hazards; • the 1 per cent annual exceedance probability (AEP) floodplain; • overland flow paths; or • land instability.

	<p>The level of information required to be provided should be proportionate to the hazard risk, the nature of the hazard. It should also be appropriate to the scale, nature and location of the development and reflective of the scale of the activity proposed. For coastal hazards this should include a consideration of the effects of climate change over at least a 100 year timeframe.</p> <p>The hazard risk assessment, which does not need to duplicate an AEE, that addresses all of the following:</p> <ul style="list-style-type: none"> a) the type, frequency and scale of the natural hazard and whether adverse effects on the development will be temporary or permanent; b) the type of activity being undertaken and its vulnerability to natural hazard events; c) the consequences of a natural hazard event in relation to the proposed activity and the people likely to be involved in that activity; d) the potential effects on public safety and other property; e) any exacerbation of an existing natural hazard risks or creation of a new natural hazard risks; f) whether any building, structure or activity located on land subject to natural hazards near the coast can be relocated in the event of severe coastal erosion, coastal storm inundation or shoreline retreat; g) the ability to use of non-structural solutions, such as planting or the retention or enhancement of natural landform buffers to avoid, remedy or mitigate the hazard, rather than hard engineering solutions or protection structures; h) the design and construction of buildings and structures to mitigate the effects of natural hazards; i) the effect of structures used to mitigate hazards on landscape values and public access; j) site layout and management to avoid or mitigate the adverse effects of natural hazards, including access and exit during a natural hazard event; k) the duration of consent and how this may limit the exposure for more or less vulnerable activities to the effects of natural hazards including the effects of climate change; and l) any measures and/ or plans proposed to mitigate the natural hazard or the effects of the natural hazard.
<p><u>Engaging with mana whenua</u></p>	<p>Mana whenua have a special cultural and spiritual relationship with the environment, which is a matter of national importance under the Resource Management Act.</p>

	<p>This includes their relationship with their:</p> <ul style="list-style-type: none"> • waahi tapu (sacred sites) • taonga (treasures) • water • ancestral lands. <p>Resource consent applicants are expected to consult with iwi authorities when developments affect mana whenua values.</p> <p>The best way to identify these values and take these into account is through consultation with the relevant iwi authorities.</p> <p>As part of the consent application process, new developments may need to provide a Cultural Values Assessments (CVA), prepared by mana whenua or their nominee. A CVA documents mana whenua's cultural values, interests, and associations with an area or natural resource.</p> <p>Not all resource consent applications will require a CVA. This needs to be decided by the relevant iwi authority.</p> <p>To find out who the relevant iwi authorities are for a particular site or location, email us, clearly stating the location's address.</p> <p>If you need help on how to engage with different iwi authorities, contact us.</p> <p>We can advise and guide you on engaging with iwi to ensure the best outcomes for both you and mana whenua. We recommend you get this advice if you have not engaged with iwi before.</p> <p>Alternatively, once an application is lodged, we can provide facilitators who can begin the engagement process for you. However, by this stage, other aspects of your project may have progressed and could be disrupted. Because of this, we recommend you engage before you lodge the application.</p>
<p>How to apply</p>	<p>You are encouraged to apply online. This will save time and printing costs and you can track the progress of your application.</p> <p>Alternatively, you can post your application or come into one of our service centres.</p>

Fees and deposit	<p>You must include the relevant lodgement deposit with your resource consent application, to cover initial application processing costs.</p> <p>If the actual cost is less than the deposit amount, we will refund the difference.</p> <p>If the actual cost exceeds the deposit amount, which happens in most cases, we will invoice you for the additional costs.</p> <p>The deposit calculator gives an estimate of the deposit required.</p>
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General Information	
Auckland Design Manual	<p>The Auckland Design Manual (ADM) provides a resource for everyone involved in design, building and development to either share their great design stories with others, or to seek inspiration, tools and best practice advice from those who have already been successful. Auckland's planning rulebook, the Auckland Unitary Plan will articulate the rules for the future growth, whilst the ADM illustrates how to achieve the quality outcomes sought by the AUP (OP).</p> <p>The Auckland Design Manual provides advice on design elements such as site layout, privacy, outdoor spaces and designing for the sun.</p> <ul style="list-style-type: none"> ○ Auckland Design Manual detached house guide ○ Auckland Design Manual terraced housing guide ○ Auckland Design Manual apartments guide
Development Contributions	<p>Development contributions are the fees charged by the council for extra community and network infrastructure needed as a result of development projects. You will pay development contributions for residential and commercial development such as new houses, and subdivisions. The money collected from development contributions pays for the cost of public infrastructure that is needed to meet the additional demand from growth. This includes network infrastructure such as stormwater and transport, open space reserves and community facilities. To get an indication of the contribution please use the Development Contributions Estimator.</p> <p>Water supply and wastewater services are not included in the Development Contribution. This is covered in the infrastructure growth charge. This charge is administered by Watercare.</p>

Important Information

The purpose of a pre-application is to facilitate communication between applicants and the council so that the applicant can make informed decisions about applying for consents, permits or licences.

The views expressed by council staff in or following a pre-application are those officers' preliminary views, made in good faith, on the applicant's proposal. The council makes no warranty, express or implied, nor assumes any legal liability or responsibility for the accuracy, correctness, completeness or use of any information or views communicated as part of the pre-application process.

The applicant is not required to amend their proposal to accommodate the views expressed by council staff. Further, it remains the applicant's responsibility to get their own professional advice when making an application for consents, permits or licences, and to rely solely on that advice, in making any application for consents, permits or licences.

To the extent permissible by law, the council expressly disclaims any liability to the applicant (under the theory of law including negligence) in relation to the pre-application process. The council acknowledges that the confidential nature of pre-application meetings is important to encourage future applicants to engage with the council and attend pre-application meetings. By attending a pre-application meeting, both parties expect that the meetings are held in confidence and the intention is that the associated information that is provided to the council at these meetings, and the meeting minutes, will remain confidential. However, under the Local Government Official Information and Meetings Act 1987 any person may request any information that is held by the council. There is a presumption that information is made available unless there is good reason for withholding it, which is not outweighed by the public interest in making the information available. This is assessed on a case by case basis.

All consent applications become public information once lodged with council. Please note that council compiles, on a weekly basis, summaries of lodged resource consent applications and distributes these summaries to all local boards and all mana whenua groups in the Auckland region. Local boards and mana whenua groups then have an opportunity to seek further details of applications and provide comment for council to take into account.

Prepared by:


Name: Kay Panther Knight
Title: Consultant Principal Planner

Signed:



Date: 23 September 2020

Reviewed by:

Name: Brogan McQuoid
Title: Team Leader, Resource Consents
Signed: 
Date: 23/09/2020

Released under the provision of
the Official Information Act 1982



2 October 2020

Rebecca Perrett
Senior Policy Analyst
Ministry for the Environment
Manatū Mō Te Taiao

For: Rebecca Perrett
Email: [REDACTED] s 9(2)(a)

Dear Rebecca

LEGAL OPINION - INTEGRATED RESIDENTIAL DEVELOPMENTS IN THE
RESIDENTIAL SINGLE HOUSE ZONE AND THE NOLA ESTATE PROJECT

1. INTRODUCTION

1.1 CPM 2019 Ltd ("CPM") has asked us to write to you regarding its proposed fast tracking Project and some issues which have been raised by Auckland Council, namely:

- (a) Whether CPM's Project for the Nola Estate project ("Project") is an integrated residential development ("IRD") under the partly operative Auckland Unitary Plan ("the AUP").
- (b) The Single House Zone rule in activity table H3.4.1 (A6) "more than one dwelling per site" applies so that the Project is a non-complying activity.

1.2 In addressing the above, this letter is structured as follows:

- (a) Description of the site and Project (Section 3);
- (b) Relevant AUP provisions (Section 4);
- (c) Auckland Council's feedback on the Project (Section 5);
- (d) Plan interpretation principles (Section 6);
- (e) Analysis: Purpose of IRDs (Section 7);
- (f) Analysis: Context and scheme of the plan (Section 8);
- (g) Analysis: Regional Policy Statement (Section 9);
- (h) Analysis: History of plan provisions (Section 10);

- (i) Auckland Council's application of IRDs (Section 11);
- (j) Analysis of Auckland Council's concerns (Section 12);
- (k) Additional reason for consent – More than one dwelling in the Single House Zone (Section 13); and
- (l) Conclusion (Section 14).

1.3 We provide a brief summary of our advice in Section 2 below.

2. SUMMARY

2.1 In summary, based on our assessment and for the reasons outlined below, our conclusion is that the Project meets the definition of an IRD pursuant to the AUP:

- (a) The commercial activities proposed are sufficiently small scale and accessory to the residential component to be considered "accessory to the primary residential use" as the AUP definition requires:
 - (i) The Rev 06 design has 500m² of commercial space (excluding the café), which is only 2.5% of the residential GFA;¹ and
 - (ii) The Rev 10 design has even less commercial space (excluding the café) at 400m², which is only 2% of the residential GFA.
- (b) The communal facilities (including the commercial centre and café) are of a scale appropriate to the development. In this case for Rev 10 they comprise a total area of 4,890m² (11.4% of the total site size).
- (c) Even if the expert consenting panel (if the Project gets to that stage) disagrees, they are able to grant consent as the commercial component is at worst a non-complying activity, though the café is expressly enabled as a discretionary activity and a number of commercial activities in the Rev10 designs would be discretionary (e.g. healthcare, vet clinics and restaurants). Accordingly the status of the commercial activities is far from being a critical issue.
- (d) The Council's suggestion that there needs to be an evaluative exercise undertaken to determine whether the quality and quantum of communal space is acceptable is incorrect. So long as the site size is sufficient and there is some communal space, a development can be assessed as an IRD.
- (e) In any event and contrary to the council's assertion that the size/quality of the communal space in Rev 06 is inadequate, the Rev 10 design compares favourably against other consented IRDs, see the detailed assessment table at 11.1. and is supported by summary statements from:
 - (i) Ian Munro (Urban Design);
 - (ii) Helen Mellsop (Landscape); and
 - (iii) Craig Jones (Recreational and leisure space consultant).

¹ Residential GFA of Rev 06 is 20,376.28m².

- (f) The Council's suggestion that the proposed development is too intensive is not a relevant consideration in terms of evaluating whether it is an IRD. In any event:
- (i) The proposal is much less intensive than other IRDs which the Council has granted consent for, again see 11.1.
 - (ii) The proposal compares well against a conventional residential development of the site, with less coverage, slightly greater GFA but much greater residential capacity and a far greater component of affordable housing. See the benchmarking exercise set out in Annexure E.
- (g) The Council's endeavours to disregard the reserve space is mistaken as:
- (i) The reserves will not be vested. They will be owned and operated by the community.
 - (ii) The landscaping rules of the zone are not applicable to IRD's.
 - (iii) The overland flow path simply enables 1:10 year ARI overflows to be catered for. It does not impact on the day to day utilisation of the reserve.
- (h) The Council have incorrectly applied Activity (A6) (more than one dwelling per site) as an additional reason for consent. (A6) does not apply because:
- (i) The activities are provided for separately in the activity table of the zone.
 - (ii) The activities are defined distinctly in the definitions section of the AUP.
 - (iii) The nesting table definition of "Residential" identifies the activities as distinct activities, not as sub-sets of one another; and
 - (iv) There will be associated subdivision and, consequently, there will not be more than one residential dwelling per site.

3. DESCRIPTION OF THE SITE AND PROJECT

The site

- 3.1 The Project is located at 460 to 478 West Coast Road (excluding 466 West Coast Road) and 317 to 345 Glengarry Road, Glen Eden, with a combined area of approximately 4.3ha.
- 3.2 The site is zoned Residential Single House Zone ("Single House Zone") under the AUP.
- 3.3 The site is located 2km from Glen Eden town centre and is opposite Parrs Park, a 24.18 ha public park with regional-scale recreation opportunities. Public transport is located nearby, with bus stops accessible along West Coast Road and a train station in Glen Eden.

- 3.4 The site is subject to a control: Macroinvertebrate Community Index – Urban. This control applies to the majority of sites within the AUP and addresses the quality of freshwater (such as streams and rivers), by measuring the number of macroinvertebrates present in the water source. For the purposes of this advice, the overlay is irrelevant.
- 3.5 West Coast Road is an arterial road and consequently a vehicle access restriction control applies to the boundary of the site adjoining West Coast Road.

The Project

- 3.6 The Project involves an integrated residential development ("IRD"), presently two design formulations are actively being considered:
- (a) Rev 06, which is a 249 unit Integrated Residential Development (IRD) including a 500m² local commercial centre and 100m² café, along with 1,705m² of reserve area; and
 - (b) Rev 10 which is a which is a 248 unit Integrated Residential Development (IRD) including a 300m² local commercial centre and 100m² cafe, along with a 100m² community centre and 2,886m² of communal open space area (across eight areas). The main internal reserve (1,698m²) will include a pre-school/junior play area, shaded seating, barbeque and gathering areas, a multi-use games area (MUGA), and open lawns for informal recreation;
- 3.7 Whichever design is chosen there will be some form of day-to-day supervision of the communal facilities on the site by way of:
- (a) a manager or supervisor engaged by the residents' society (or similar legal structure); and
 - (b) the various consultants and contractors who will be engaged and report to the manager on a day to day basis.
- 3.8 That is not to say that the manager will be on-site every day, nor will they necessarily live on site. The reality is though that there will need to be a point of contact available 24 hours / 7 days a week who is able to respond to issues and emergencies as they arise and maintain oversight of day-to-day operations during normal business hours. We note that on-site management is not a requirement of IRDs but is nevertheless a point which may require clarification.

- 3.9 An IRD in the Single House Zone of the AUP has a discretionary activity status.²

4. RELEVANT AUP PROVISIONS

Activity table

- 4.1 In light of the Council's concerns the following are the relevant activities and activity status in the Single House Zone in the AUP:³

² AUP, H3 Residential – Single House Zone, H3.4.1 Activity table (A9).

³ AUP, H3 Residential – Single House Zone, H3.4.1 Activity table.

Activity		Activity status	Standards to be complied with
Residential			
(A6)	More than one dwelling per site (other than the conversion of a principal dwelling in Rule H3.4.1(A4) or minor dwellings in Rule a H3.4.1(A5))	NC	
(A9)	Integrated Residential Development	D	

4.2 Notably, the column to the right of Activity (A9) IRD, titled "Standards to be complied with", is empty. The Council has previously stated that this means no standards are strictly applicable, requiring the application to be assessed on its merits as a discretionary activity.⁴

Definition of dwelling

4.3 Dwelling is defined in the AUP as:⁵

"Dwelling

Living accommodation used or designed to be used for a residential purpose as a single household residence contained within one or more buildings, and served by a food preparation facility/kitchen.

A food preparation facility/kitchen includes all of the following:

- *means for cooking food, food rinsing, utensil washing and waste water disposal; and*
- *space for food preparation (including a suitable surface) and food storage including a refrigerator or a perishable food storage area capable of being cooled.*

This definition is nested within the Residential nesting table."

Definition of IRD

4.4 IRD is defined in the AUP as:⁶

"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."

4.5 Therefore, for an activity to be an IRD it must satisfy all of the following criteria:

- (a) A primarily residential development;
- (b) On a site greater than 2,000m²; and

⁴ Hearing Report for LUC60009332 (Malibu Investments Ltd) dated 25 May 2017, page 16.

⁵ AUP, J1 Definitions, page 36.

⁶ Ibid, page 63.

- (c) Including:
 - (i) supporting communal facilities;
 - (ii) supported residential care, welfare and medical facilities; or
 - (iii) other non-residential activities accessory to the primary residential use.

5. **AUCKLAND COUNCIL'S FEEDBACK ON THE PROJECT**

5.1 On 14 September 2020 the Council's processing planner, Kay Panther-Knight provided CPM with feedback on the Rev O6 Project (attached as Annexure A). At that time, the Project only included communal reserves and did not include a community centre, cafe, playground and BBQ area.

5.2 There were a range of concerns relating to the design details of Rev O6 (e.g. one way streets). Those aspects are not the focus of this opinion, which relates to whether the Project is an IRD and whether it should be assessed as a restricted discretionary activity.

5.3 In summary, we understand that the concerns that the Project is not an IRD were:

- (a) The commercial activity will not be for the exclusive use of the development's residents and falls outside of the ambit of a non-residential activity in the context of an IRD.
- (b) The type / nature of communal facility is inadequate, in that:
 - (i) An apparent misunderstanding that the reserve communal area would be vested (which is not the intention). If the reserves are to be vested to the Council, then this would preclude them from being considered a supporting communal facility to the IRD because they would not be integrated into the development; and
 - (ii) the provision of reserves without detail as to how they would function as a recreation and/or a leisure facility.
- (c) The supporting communal facility is not large enough relative to the number of residents it intends to serve.
- (d) The reserves are not a component which distinguishes the Project from a regular residential development and are needed in order to comply with landscaping requirements or overland flow path requirements.
- (e) If the roads are to be vested to the Council, then this would have the effect of breaking up the subject site and the development into separated blocks of residentially developed land. Consequently, the roads would not be integrated into the development and the application would defer to being a regular residential development.

- (f) In light of the *Budden*⁷ declaration, an additional reason for consent was applicable due to the rule at activity table H3.4.1 (A6) that more than one dwelling is a non-complying activity.
- 5.4 The consequence of the Council's view at 5.3(f) that there is an additional reason for consent pursuant to Activity (A6) is that is that would render an application for an IRD a non-complying activity status overall.⁸
- 5.5 The Council concluded that:

"On the face of it, this proposal [Project] appears to be a standard residential development that would be more appropriately located within a Mixed Housing Zone where the proposed density would be commensurate. Notwithstanding, the lack of specificity around the definition of an IRD, is a problem which may contribute to growing trend of IRD proposals in Single House zone coming through to resource consents."

- 5.6 On 15 September 2020 Ms Panther-Knight provided Civix and Berry Simons with further advice regarding the Council's general interpretation of an IRD:⁹

"The aforementioned legal advice [in relation to an application at 2 & 2A Tizard Road (dated 10 September 2019)] confirms that Council's current interpretation of 'IRD' is accurate. This relates to a residential development on a site greater than 2,000m², that has supporting communal facilities, such as recreation and leisure facilities (i.e. a communal gym, pool, and toilets) falls within the definition. It notes that while the communal facilities will need to be more than standard communal areas provided as part of say an apartment complex, such as a lobby, shared access and garage facilities, the Council will need to make an assessment as to the status of the activity as IRD or otherwise on a case by case basis. It also noted there is nothing in the definition of IRD that requires an element of on-site control for a proposal [Project] to be considered an IRD. It found that the application for 2 and 2A Tizard fell within the definition of an IRD. It is noted that in relation to that application it proposed the construction of a four-storey building containing a total of ten residential dwellings (apartments) and associated amenities (gym, pool, terrace area and shower, toilet, changing area). No form of on-site management was proposed, either in the form of a manager's office or apartment.

The legal view agreed with the Council's approach that facilities must be genuinely communal, and extend beyond required shared spaces such a lobbies, access and garage facilities associated with an apartment complex. This would need to be considered in context on a case-by-case basis. It found that there must be some reasonable limits to what can be considered an IRD, so that the intention of the Plan is not simply subverted by the inclusion of token 'communal facilities'. In making this finding it referred to the; Auckland Unitary Plan Independent Hearings Panel, Report to Auckland Council

⁷ *Auckland Council v Budden* [2017] NZEnvC 209; *Auckland Council v Budden* (No 2) [2018] NZEnvC 003; *Auckland Council v Budden* (No 3) [2018] NZEnvC 030.

⁸ AUP, C General rules, C1.6(2).

⁹ Attached as Annexure B.

Hearing topics 059 - 063: Residential zones, July 2016, at 7.2 which stated:

The Panel has not provided for a particular class of activity called 'retirement village' but has instead provided for 'integrated residential developments', which would include a retirement village.

...

...the Panel does not support a definition of retirement villages being limited to that in the Retirement Villages Act 2003. It is the Panel's view that a retirement village is essentially a residential activity. While a range of other complementary activities (such as recreation, social, community, cultural and health) may be offered in an integrated manner, it is still essentially part of a residential activity. In the Panel's view any residential activity that offers a range of other complementary activities (other than for retirement purposes) should be treated in the same way as a retirement village and vice versa.

Accordingly a class of activity termed 'integrated residential development' has been defined and could apply to a range of activities such retirement villages, campus-style student accommodation, community and cultural style residential developments."

[emphasis added]

- 5.7 In relation to the activity status feedback, on 21 September Ms McQuoid at the Council further advised that:

"The activity status of IRDs in the Single House Zone is a live issue in another application for an IRD at 30 and 40 Sandspit Road, Cockle Bay. That application is subject to an Environment Court appeal, ENV-2019-AKL-000176-Box Property Investment Ltd v Auckland Council, which is currently on-hold while an application for direct referral is made with an amended design. The direct referral is expected to be notified in late September. It is likely that the activity status will be determined by the Environment Court in the Sandspit Road proceedings, unless they are settled prior to a hearing. The interpretation taken by Council is consistent between applications, and will ultimately be determined by the Court in due course on the Sandspit Road matter."

- 5.8 We consider that the Council are incorrectly applying a narrow definition of an IRD without properly considering the context of the plan, specifically that the definition of an IRD does not place controls on the quality or quantum of supporting communal facilities or non-residential activities accessory to the primary residential use, and that because IRDs are provided for in higher-intensity residential zones consequently it is incorrect to solely look at the Single House Zone provisions and controls when defining an IRD.

- 5.9 We have sought a copy of the legal advice that the Council relies on for their position, but they are unwilling to provide it to us. On that basis, we are unclear as to how or why they have reached such a narrow interpretation of the definition of an IRD.

6. PLAN INTERPRETATION PRINCIPLES

6.1 In *Commerce Commission v Fonterra Co-operative Group Ltd*, the Supreme Court has emphasised the important role of a statute's purpose in statutory interpretation, even where the meaning may appear clear in isolation.¹⁰

6.2 To similar effect is the decision of Chambers J in *Beach Road Preservation Society Incorporated v Whangarei District Council*, where the High Court held:¹¹

"I also note s 76 of the Resource Management Act...Subsection (2) provides that every such rule is to have the force and effect of a regulation in force under the Act. The effect of subs. (2) is to make the Interpretation Act 1999 applicable to the interpretation of rules included in a district plan...Section 5(1) of the Interpretation Act requires the meaning of an enactment, which includes a rule by virtue of s 76(2) of the Resource Management Act and the definition of 'enactment' in s 29 of the Interpretation Act, to 'be ascertained from its text and in the light of its purpose'. That provision clearly requires the 'purpose' to be looked at."

(Emphasis added)

6.3 While it is appropriate to have regard to the plain meaning of a plan provision, this exercise should not be undertaken in a vacuum and regard must be had to the immediate context in which the text arises. Further, it will not always be appropriate to require rigid adherence to the wording of a particular rule. In *Powell v Dunedin City Council*, the Court of Appeal held (referring to the earlier decision of the same Court in *J Rattray & Son Limited v Christchurch City Council*)¹² that:¹³

"While we accept it is appropriate to seek the plain meaning of a rule from the words themselves, it is not appropriate to undertake that exercise in a vacuum. As this Court made clear in Rattray, regard must be had to the immediate context...and, where any obscurity or ambiguity arises, it may be necessary to refer to the other sections of the plan and the objectives and policies of the plan itself. Interpreting a rule by a rigid adherence to the wording of the particular rule itself would not, in our view, be consistent with a judgement of this Court in Rattray or with the requirements of the Interpretation Act."

6.4 Having regard to the above cases, the relevant factors to consider in interpretation of a district or regional (or unitary) plan prepared under the Act have been summarised by the Environment Court as follows:¹⁴

- (a) The text of the relevant provision in the plan and its immediate context;

¹⁰ *Commerce Commission v Fonterra Co-operative Group Ltd* [2007] 3 NZLR 767 (SC), [2007] NZSC 36 at [22].

¹¹ Section 5(1) Interpretation Act 1999; *Beach Road Preservation Society Incorporated v Whangarei District Council* CP27/00 [2001] NZRMA 176 (HC), at [34].

¹² *J Rattray & Son Limited v Christchurch City Council* CA29/84 (1984) 10 NZTPA 59 (CA).

¹³ *Powell v Dunedin City Council* [2004] 3 NZLR 721 (CA), at [35].

¹⁴ *Brownlee v Christchurch City Council* [2001] NZRMA 539 (EC), at [25]; *Landco Mt Wellington Limited v Auckland City Council* EnvC Auckland A101/05 23 June 2005, at [19]; *Wakatipu Cleanfill Limited v Queenstown-Lakes District Council* EnvC Christchurch C130/08, 27 November 2008, at [30]; *NZ Building and Projects Limited and Anor v Auckland Council* [2017] NZEnvC 175 (EC), at [9]-[11].

- (b) The purpose of the provision;
- (c) The context and scheme of the plan and other indications in it;
- (d) The history of the plan;
- (e) The purpose and scheme of the Act being the statute under which the plan is prepared and under which it operates; and
- (f) Any other permissible guides to meaning (including the common law principles or presumptions of statutory interpretation).
- 6.5 Finally, an interpretation that avoids absurdity and anomalous outcomes is to be preferred.¹⁵
- 6.6 Accordingly, the issue is whether the definition of an IRD applies to the Project after having considered the matters listed in (b) through (f) above.
7. ANALYSIS: PURPOSE OF IRDS
- 7.1 The purpose of an IRD is to allow a more flexible consenting regime than that of a pure residential activity in order to facilitate the efficient (more intense) development of larger sites and provide additional housing choice.
- 7.2 We reach this conclusion on the basis for the following reasons:
- (a) The AUP specifically enables IRDs as a separate activity to that of a residential activity along with a separate activity status (i.e. the activity of more than one dwelling in the Single House Zone is a non-complying activity while an IRD is a discretionary activity).
- (b) IRDs are not subject to any of the usual compliance limits set by development controls; such as maximum height, and height in relation to boundary, building coverage and impervious surfaces; accordingly, there is a reasonable expectation that IRDs will not comply with these development controls.
- (c) In the notified proposed AUP (2013), the plan did not contain an activity of "integrated residential development". Rather, in the residential zones there was the activity of retirement villages (either discretionary or non-complying) as well as a Special Purpose Retirement Village Zone.
- (d) Following subsequent consultation with the public and a decision to remove the Special Purpose Retirement Village Zone and include specific retirement village provisions in the business and residential zones, the Independent Hearings Panel ("the IHP") recommended the introduction of a new activity, the IRD.
- (e) The purpose of the IHP's recommendation was to "*enable a more flexible consenting regime for multi-dwelling/unit developments and integrated residential developments*"¹⁶ and to delete specific provisions for retirement

¹⁵ *Nanden v Wellington City Council* CP89/00 [2000] NZRMA 562 (HC), at [48].

¹⁶ Notwithstanding that the IHP subsequently recommended the activity of an IRD in the Single House Zone as a restricted discretionary activity.

villages and incorporate that form of development under the category of integrated residential developments.¹⁷

- (f) The IHP considered that an IRD encompassed not only retirement villages but other communal-type living arrangements:¹⁸

"In the Panel's view any residential activity that offers a range of other complementary activities (other than for retirement purposes) should be treated in the same way as a retirement village and vice versa.

Accordingly a class of activity termed 'integrated residential development' has been defined and could apply to a range of activities such retirement villages, campus-style student accommodation, community and cultural style residential developments."

- (g) The IHP recommended the activity status for integrated residential developments as restricted discretionary in the main residential zones (Single House Zone, Mixed Housing Suburban, Mixed Housing Urban and the Terrace Housing and Apartment Buildings).

7.3 The Council adopted the recommendation, but with the exception that an IRD was a discretionary activity in Single House Zone. In the mediations undertaken as part of the IHP hearings, the Council advised that retirement villages were not a good fit in the Single House Zone from a bulk and scale perspective.¹⁹

8. ANALYSIS: CONTEXT AND SCHEME OF THE PLAN

Definition

8.1 The AUP provides only a broad definition of IRD without a specific definition of "supporting communal facilities" but does provide further information as to what that might mean by the drafting, in that the sentence concludes "*such as recreation and leisure facilities*". What those might be has to be inferred from other related definitions, including "Communal facilities", "Entertainment facility", "Informal recreation", "Recreation facility", and "Sport and recreation structure" (set out in Annexure D).

8.2 Informal recreation includes "*A pastime, leisure, sport or exercise activity*". A pastime is a hobby and so could include activities such as cooking, painting, knitting, woodworking, pottery, music, and board or video games. A recreation facility is a facility where the primary purpose is to provide for sport and recreation activities. Therefore, a recreation facility is a facility able to support any of those example activities, along with any type of sport. For example, cycling, running, football, cricket and basketball. In short, the definition of a recreation facility is extremely broad.

8.3 Consequently, it appears that there is a broad range of communal facilities which can form part of a development in order to meet the definition of IRD.

¹⁷ Auckland Unitary Plan Independent Hearings Panel, Report to Auckland Council Hearing topics 059 - 063: Residential zones, July 2016, at 1.3(ii)-(iii).

¹⁸ Auckland Unitary Plan Independent Hearings Panel, Report to Auckland Council Hearing topics 059 - 063: Residential zones, July 2016, at 7.2.

¹⁹ Auckland Unitary Plan Independent Hearings Panel, Mediation joint statement for hearing topic 061 Retirement Villages And Housing Affordability, May 2015, page 7.

- 8.4 Additionally, the definition of IRD includes "*and other non-residential activities accessory to the primary residential use*". This indicates that commercial activities are appropriate within an IRD. "Accessory activities" is defined in the AUP as activities "*incidental to, and serves a supportive function of the primary activity*" and includes carparking.²⁰ Incidental indicates that any accessory activities would be minor and ancillary, i.e. small and supportive. Nowhere in the definition of an IRD or accessory activity does it state that there must be exclusivity for residents of the IRD.

Use of the definition in context

- 8.5 IRDs as an activity are found in multiple zones of the AUP:
- (a) Residential – Single House zone as a discretionary activity (and no development standards apply);
 - (b) Residential – Mixed Housing Suburban, Mixed Housing Urban and Terrace Housing and Apartment Buildings zone as a restricted discretionary activity (with certain development controls applying to height, bulk and location, but not coverage);
 - (c) Business City Centre zone, where Table H8.6.11.1 Bonus floor area provides bonus floor area for IRDs; and
 - (d) Business – Metropolitan Centre and the Business Mixed Use zones, where IRDs are provided for as a restricted discretionary activity where undertaken as part of a building conversion and permitted as a stand alone activity.
- 8.6 Focusing on the objectives and policies of the most closely related zones, the residential zones:
- (a) Single House zone policy H3.3(8) states to provide for integrated residential development on larger sites.
 - (b) Mixed Housing Suburban zone:
 - (i) Policy H4.3(1) is to enable a variety of housing types including integrated residential development such as retirement villages.
 - (ii) Policy H4.3(8) is to enable more efficient use of larger sites by providing for integrated residential development.
 - (c) Mixed Housing Urban zone:
 - (i) Policy H5.3(1) is to enable a variety of housing types at higher densities, including low-rise apartments and integrated residential development such as retirement villages.

²⁰

We note that the definition of "accessory activities" under the AUP limits accessory activities to those on the same *site* as the primary activity. Due to the associated subdivision, the non-residential accessory activities in the proposal will be located in separate certificates of title and therefore are not consistent with the definition of site. Consequently, the non-residential activities proposed do not strictly meet the definition of accessory activity under the AUP. The definition of accessory activity is still useful however to indicate the hierarchy of activities.

- (ii) Policy H5.3(9) Enable more efficient use of larger sites by providing for integrated residential development.
 - (d) Terrace Housing and Apartment Buildings Zone:
 - (i) Policy H6.4(1) is to enable a variety of housing types at high densities including terrace housing and apartments and integrated residential development such as retirement villages.
- 8.7 Aside from the classification of IRDs as a discretionary activity within the Single House Zone, it is difficult to discern any material difference across the zones. The word "provide for" is used in the Single House Zone in contrast to "enable" in some of the others, but "provide for" is widely used. There is no express reference to enabling the efficient use of larger sites in the Single House Zone, but this seems unlikely to be significant as:
- (a) That was part of the reason for the panel enabling IRDs;
 - (b) The absence of the reference does not necessarily mean that it was not a reason; just that it was not the sole or necessarily prime reason;
 - (c) The Regional Policy Statement provisions of the AUP identify a regional need to optimise the efficient development of the urban area and these provisions apply to the Single House zone.
 - (d) Utilising a larger site is a pre-requisite of the definition, so is implicit in the Single House zone policies in any event; and
 - (e) The efficient development of sites is a corollary of the absence of applicable development controls for bulk, location and coverage and so is implicit in the rules of the Single House Zone.

9. ANALYSIS: HIGHER LEVEL POLICY PROVISION – REGIONAL POLICY STATEMENT

- 9.1 The provisions of the AUP have to give effect to the regional policy statement ("the RPS"). The RPS chapter on urban growth and form has a focus on:
- (a) Optimising the efficient use of the existing urban area;²¹
 - (b) Accommodating growth within the existing (2016) urban area;²²
 - (c) Providing housing choice;²³
 - (d) Avoiding intensification in areas where there are scheduled natural or physical resource constraints, natural hazards or infrastructure constraints; and.²⁴
 - (e) A quality compact urban form.

²¹ B2.1(3), B2.3.1(1)(d)

²² B2.2.1(2) and B2.2.2(4)

²³ B2.3.1(1)(c), B2.3.2(3) and B2.4.1(4)

²⁴ B2.3.1(1)(a0, B2.4.2(4), (5) and (6)

9.2 Against this context, particularly where the Single House Zone is typically used as the underlying zone in areas subject to environmental protection overlays (e.g. heritage or character) and natural hazards, it is understandable why IRDs in the Single House Zone are classified as a full discretionary activity.

9.3 Importantly though, none of these provisions signal an intent that the question of whether a Project is (or is not) an IRD should be different across the zones.

9.4 While it may be that the size and intensity of an IRD in one zone might be acceptable but not in another zone (for example, an IRD that is over 15m high might be acceptable in the THAB, but not in the Single House Zone), that is a matter of evaluation not definition.

10. ANALYSIS: HISTORY OF THE PLAN PROVISIONS

10.1 With regards to the implementation of the Single House Zone under the proposed AUP, the IHP quoted the Council:²⁵

"The purpose of this zone provides for low density suburban housing to:

- provide for development that complements identified natural and built heritage values within identified areas; or

- recognise the limited ability of areas with significant environmental or infrastructure constraints to support more intensive development; and

- recognise the limited ability of areas which are not in close proximity to the City Centre, Metropolitan, Town or Local Centres, the public transport network or large urban facilities to support more intensive development.

10.2 However, the IHP recognised that the Single House Zone was not so constrained, saying:²⁶

"The Panel's view is that the zone does not only provide for "low density suburban housing" and the zone is not only applied to areas "not in close proximity to the City Centre, Metropolitan, Town or Local Centres, the public transport network or large urban facilities" as was set out in the notified Plan. The zone is applied to:

i. some inner city suburbs, albeit with the special character overlay;

ii. some coastal settlements (e.g. Kawakawa Bay); and

iii. other established suburban areas with established neighbourhoods (e.g. parts of Howick, Cockle Bay, Pukekohe and Warkworth)."

(Emphasis added)

²⁵ IHP report to AC Topic 059 Residential zones 2016-07-22, page 13.

²⁶ Ibid, page 14.

10.3 In this case, the site does not have identified natural or built heritage values, nor does it contain any areas of significant ecological value and its location is only 2km from the local town centre of Glen Eden and is close to public transport.

11. HISTORY OF AUCKLAND COUNCIL'S APPLICATION OF IRDS

11.1 While we do not know all of the IRDs that Auckland Council has consented under the AUP, the following section provides a comparison between the Nola Estate and a small subsection of IRDs (where consent was granted) that we are aware of. Inevitably, there will be more examples of granted IRDs across Auckland.

Consent	Nola Estate (Rev 10)	R/LUC/2015/1280, R/REG/2015/1281 and R/REG/2015/1282	BUN20427979	LUC60070192	<i>Summerset Villages (St Johns) Limited v Auckland Council [2019] NZEnvC 173</i>
Date granted	N/A	12 January 2016	16 October 2017	19 April 2018	1 November 2019
Consent holder	N/A	The BeGroup New Zealand Limited	Malibu Investments Ltd	Coastal Properties Ltd	Summerset Villages (St Johns) Limited
Site address	460 to 478 West Coast Road (excluding 466 West Coast Road) and 317 to 345 Glengarry Road, Glen Eden	14 Rangitoto Ave, Remuera	387 and 389 Hibiscus Coast Highway, Orewa	23-35 Annalise Place and 488 and 495C Hibiscus Coast Highway, Orewa	188 St Johns Road, Auckland
Site size (m ²)	43,000	6,052	3,851	11,523	26,000
Building coverage (m ²)	10,350	3,820	1,666.27	5,025.6	10,350
Building coverage (%)	24.1	63.2	43.3	43.6	39.8
GFA	20,476	10,141	4,209.12	15,538	25,655.46
GFA communal space internal (m ²)	500	731	NIL	726.94	1,324.9
GFA communal space external (m ²)	2,330 (reserve areas) plus 1504 (surrounding the commercial and community spaces) and 557 (six additional grassed areas)	226 (external lawn area)	595 (accessible landscaped area)	1,105 (Bowling green and accessible outdoor landscape area plus decks)	6,279 (external grounds and paths), plus 513 (bowling green)
Maximum height	9.5m	11.26m	14.2m	17.9m	20.95m
Maximum height of zone	Single House Zone: 8m + 1m roof	Single House Zone: 8m + 1m roof Mixed Housing Suburban Zone: 8m + 1m roof	Single House Zone: 8m + 1m roof Mixed Housing Suburban Zone: 8m + 1m roof	Mixed Housing Urban Zone: 11m + 1m roof	Mixed Housing Suburban Zone: 8m + 1m roof

11.2 It can be seen from the above that:

- (a) The size of the Site is extremely large, it is 4–10 times larger the other examples, excluding St Johns.
- (b) The average building coverage for the above granted consents is 47.48%. In contrast, the Project's building coverage is only 24.1%; a much less intensive IRD than the comparison examples;
- (c) In terms of GFA, the Project sits at just under half of the site size area whereas for the consented developments, the GFA is the same as or exceeds that of the site size (due to multiple storey development) and again highlights that this is a less intensive development than the comparison examples;
- (d) The GFA of the communal space proposed is a total of 4,890m², comprising 24.48% of the amount of residential GFA. In comparison:
 - (i) The other examples sit at 9.43%, 14.15%, 11.79% and 31.64% respectively.
 - (ii) The Project therefore provides more communal GFA than most of the examples, the 31% figure comes from the St John's development which has a lot of communal ground floor area, which it is able to achieve by having a maximum height of twice the permitted height, whereas the Project largely complies with max height (only a few buildings will exceed 9m).
 - (iii) Averaged, the communal GFA of the consented development examples is 16.75%, which the GFA of the Project exceeds;
- (e) Regarding maximum height, each of the example IRDs exceeded the maximum height of the underlying zone standard (though not applicable to the IRD in the Single House Zone as a discretionary activity), by 25.1%, 57.8%, and 49.2% and 132.8% respectively. In contrast, the Project includes a maximum building height of 9.5m, an infringement of 5.5%. While the maximum height standard is not applicable to an IRD in the Single House Zone, should it be taken into consideration, the infringement is much less than that of the consented examples.

12. ANALYSIS OF THE COUNCIL'S CONCERNS

Other matters

Commercial activities

12.1 There is a clear intent for commercial activities (as non-residential activities) to be included within an IRD, as discussed above at 8.4.

12.2 The applicant has an agreement with the prior owner of the land that it will endeavour to include within the development a food market called "Nola's" selling local produce, in acknowledgment of the site's prior history. The applicant would like to achieve this.

12.3 To the extent that there is a proposed commercial activity within the IRD, it is a subservient, accessory activity because of its small size in comparison to the entire development:

- (a) In relation to Rev06, the design has 500m² of commercial space, which is only 2.5% of the residential GFA;²⁷ and
- (b) In relation to Rev 10 the GFA of residential activities is 19,976m² while the GFA for the commercial activity is 4x100m² (including a café). This is about 2% of the residential GFA.

12.4 Nowhere in the definition of an IRD or accessory activity does it state that there must be exclusivity for residents of the IRD. Therefore, while the commercial activity will be available for the use of the public, this does not preclude it from being included within an IRD, nor is its inclusion inconsistent with the definition of an IRD itself. Indeed, so long as the scale of the commercial activity is appropriate, having facilities which are also available for the wider public to use will tend to make the commercial activities more attractive and resilient and enhance the ability of people within the wider neighbourhood to obtain goods or services within a walkable catchment.

12.5 Even if the expert consenting panel disagrees with us in this respect:

- (a) The commercial activities do not render the development a prohibited activity. At worst, the activity status would be non-complying which is a status that the expert consenting panel is still able to grant consent to under the fast-tracking legislation.
- (b) The commercial areas are discrete and independent of the wider residential development and so could be unbundled and consented separately to the remainder of the development;
- (c) The café can be consented as a discretionary activity, because café's in the zone are expressly provided for as a discretionary activity;
- (d) The other commercial spaces in Rev 10 can cater for a range of activities which are expressly provided for as discretionary activities in the zone (though CPM does want the buildings to be able to be used for a wide range of activities). For example:
 - (i) dairies;
 - (ii) restaurants; and
 - (iii) healthcare or veterinary clinics.

Quality and quantum of communal facilities

12.6 The Council have raised concerns with the quality and quantum of the facilities to be provided. Nowhere in the AUP or the RPS does it specify the quality and quantum of supporting communal facilities or other non-residential activities accessory to the primary residential use to be provided in an IRD.

²⁷ Residential GFA of Rev 06 is 20,376.28m².

12.7 We agree that facilities such as individually owned car parks and lobbies cannot be taken into account as “communal facilities” as they are either private or facilities for access. We do not accept that additional uncertain restrictions should be read into the definition, so that:

- (a) the activity needs to distinguish itself from other apartment type developments; and
- (b) the definition itself becomes an evaluative exercise.

12.8 Our reasons for this view are that:

- (a) The primary determining factor is that the site is over 2,000m² and the additional flexibility which should be enabled on larger sites in order to facilitate intensification.
- (b) There are plenty of sites less than 2,000m² which are capable of hosting apartment buildings and so the site size alone will distinguish IRD applications from ordinary apartment developments.
- (c) There is no obligation for apartment buildings on sites 2,000m² or larger to have communal space.
- (d) Even if, hypothetically, all sites larger than 2,000m² across Auckland sought to develop into IRDs, so long as each development proposal contained some supporting communal facilities, the proposal would comply with the definition of IRD in the AUP. The Council cannot seek to make IRDs a scarce kind of development by reading in restrictions which require an element of exceptionalism or even mandatory unusual elements. In other words, a typical apartment complex with a communal pool and bbq area on a site over 2,000m² would be an IRD; just as Auckland Council decided in the Malibu decision.
- (e) It seems likely that many developments on sites over 2,000m² will end up having communal facilities because the site size lends itself to the provision of such facilities and the optimising of development intensity (particularly given the additional development flexibility obtained by the exclusion of bulk, location and coverage development controls).
- (f) If there is a concern that the definition is too broad, this should be remedied by a plan change.
- (g) If there is a concern about the quality of the IRD development, that should be done by way of an evaluation against the relevant plan provisions, not a re-imagining of a definition.

12.9 It follows that we disagree with the Council’s concerns that the quality and quantum of reserve area is insufficient.

12.10 In any event, even if quality and quantum are relevant, it is clear that the Nola Project (Rev 10) substantially increases the area of communal reserve and community facilities in this regard:

- (a) The design includes a 100m² community centre;

- (b) There is 2,329.87m² of reserve area comprising grass open space, two barbeque areas, a playground and a multi-purpose games area; and
- (c) There is an additional 5567m² (over six areas, the largest being 177m²) of additional grassed areas on the site which the residents can make use of, for example local communal vegetable gardens.

Vesting of reserves and roads

- 12.11 The suggestion that the vesting of reserves and roads prevents a development from being an IRD is absurd. None of the plan provisions we have identified relate to the vesting of roads nor suggest that the vesting of roads is fatal to the establishment of an IRD.
- 12.12 So long as the legal relationship between all of the units and the common property is addressed in the resource consent conditions, so that:
 - (a) the unit owners will have rights to participate in deciding how the communal facilities will be used; and
 - (b) the unit occupants and visitors can use the communal facilities

the IRD will comply with what is required by the Unitary Plan.

- 12.13 The alternative is to require that all IRDs become gated communities. That would be an absurd outcome and one which has no clear link to the relevant RPS or zone provisions.

Landscaping within the IRD

- 12.14 The Council has raised a concern is that the communal reserve land is needed in order to comply with landscaping requirements or overland flow path requirements.
- 12.15 As stated above at 4.2, the standards column to the right of the activity of an IRD within the Single House Zone is empty. Consequently, there are no standards that apply to an IRD, reflecting its dictionary status; a position recognised by the Council in the hearing report for the Malibu Investments Limited consent (LUC60009332).
- 12.16 That the Council has referred to the landscaping standards of the Single House Zone highlights their misunderstanding and misinterpretation of the definition of an IRD. For example, in an IRD it may be appropriate to have a reduced amount of privately owned landscaped areas to facilitate larger communal spaces that are used more often and by a greater range of recreational activities.
- 12.17 Regarding the Council's concerns around the reserve being necessary to comply with overland flowpath requirements, while there is an overland flowpath through the site it is to support stormwater overflows in a one-in-ten-year event (i.e. exceptionally rarely). The flowpath enables the overland flow, but it doesn't restrict use of the site i.e. that the flowpath must be incorporated within a reserve. For comparison, roads are often used to convey overland flow paths, but that doesn't detract from their primary role as a road.

Density of development within IRD in Single House Zone

- 12.18 At a broader level, the Council considers that the density of the proposed IRD is commensurate with that of the Mixed Housing zones; higher density zones than the Single House Zone. In doing so, the Council is implying that an IRD in the Single House Zone cannot exceed the density and development controls of the Single House Zone and to do so would render it incompatible with the definition of an IRD.
- 12.19 Whilst we disagree with the concern that the proposed development is too intense, particularly in light of the benchmarking exercise attached as Annexure E, the most relevant points are that:
- (a) IRDs are provided for in each of the relevant residential zones and that they are a full discretionary activity in the Single House zone.
 - (b) IRDs are not directly subject to any development controls relating to intensity, bulk, location or coverage. Thus determining whether or not a Project is an IRD on the basis of its intensity is the antithesis of the purpose and function of IRDs.
 - (c) Concerns about the environmental effects of an IRD and its resultant consistency with the plan's objectives and policies are assessed under s104(1)(a) and (1)(b) of the RMA; they do not go to issues of definition.
 - (d) The 'intensity' of an IRD should not be compared to the intensity of a regular development in another zone, it is a false equivalence. This is particularly the case if the intensity of consented IRD's in the Mixed Housing Suburban are considered, where Summerset were granted a consent for buildings up to 20m high against a permitted height of 8m+1m for roof slope.

13. CONSENT FOR MORE THAN ONE DWELLING PER SITE IN SINGLE HOUSE ZONE

13.1 The Council have advised that:

"In light of the 'Budden' Declaration, the applicant will also need to apply for an additional reason for resource consent under the Single House Zone activity table H3.4.1 (A6) More than one dwelling per site being a non-complying activity."

13.2 We disagree that a consent is required for Activity (A6) because the activity of 'dwellings' and the activity of an IRD are distinct and do not overlap.

13.3 The reasons for our view are that:

- (a) The activities are provided for separately in the activity table of the zone (as set out at 4.1 above);
- (b) The activities are defined distinctly in the definitions section of the AUP (as set out in Appendix B); and
- (c) The nesting table definition of "Residential" identifies the activities as distinct activities, not as sub-sets of one another.

13.4 The relevant nesting table is as follows:

Table J1.3.5 Residential

Dwellings	
Home occupations	
Visitor accommodation	
Camping grounds	
Boarding houses	Student accommodation
Integrated residential development	
Retirement village	
Supported residential care	

13.5 Rules J1.1.1 and J1.1.2 of the AUP explain how nesting tables work:

J1.1.1. Using Nesting Tables

There are five nesting tables which gather specific land use activities into general groups: Commerce, Community, Industry, Residential and Rural. Within each table, activities are listed with the more general on the left and the more specific on the right. For example, in the Commerce nesting table, retail is the more general activity which includes food and beverage, large format retail and trade suppliers as more specific activities. Those more specific components may also include more specific activities.

Where an activity table for an overlay, zone, Auckland-wide or precinct lists a general activity in a nesting table, that general activity includes all of the nested specific activities unless otherwise specified in that activity table.

J1.1.2. Application of Nesting Tables

(1) *Where an activity is included in a nesting table, the class or activity status of that activity in any activity table also applies to the nested activities set out to the right of that activity in the nesting table, unless an activity table expressly provides otherwise for a particular overlay, zone, Auckland-wide or precinct.*

(2) *Where a specific activity is nested under a general activity, then:*

(a) *any standard in an overlay, zone, Auckland-wide or precinct for that specific activity will apply despite the class or activity status of the general activity; and*

(b) *any standard for the general activity will also apply to the specific activity where there is no corresponding standard for the specific activity.*

13.6 Importantly, dwellings and IRDs are each listed on the left hand column of the nesting table. If IRD were listed in the right-hand column, then it would be a subset of another activity. That is not the case. An IRD is its own activity.

13.7 Consequently, H3.4.1 Activity table in the Single House Zone correctly addresses them as separate activities. For this reason, H3.4.1(A6) does not apply to IRDs;

in the same way that retirement villages are not dwellings. By contrast, student accommodation is a subset of a boarding house.

- 13.8 In further support of our view is the way in which the nesting table of rural activities is treated:

Table J1.3.6 Rural

Rural commercial services	Animal breeding or boarding
Farming	Horticulture
	Free-range poultry farming
	Poultry hatcheries
	Conservation planting
Produce sales	
Intensive farming	Intensive poultry farming
Forestry	
Quarries – farm or forestry	
Equestrian centres	
Rural industries	
On-site primary produce manufacturing	
Post-harvest facilities	

- 13.9 This nesting table shows that “farming” and “intensive farming” are both farming but they are addressed by different rules because of their inclusion in the left-hand column (and one is not the subset of the other; by comparison “horticulture” is a subset of “farming”).
- 13.10 If this distinction between the left-hand column activities and the right-hand column of subset of activities were not the case, the AUP would make no sense. Should both the left-hand column and the right-hand column be treated the same, this would result in IRDs being a non-complying activity in the Single House Zone, even though they are expressly provided for as a discretionary activity; likewise every time farming was classified as a permitted activity, that would mean so too was intensive farming (which is not the case).
- 13.11 Notably other definitions within the plan refer to IRDs separately to dwellings, for example the definition of “activities sensitive to noise”.
- 13.12 This approach is aligned the Environment Court’s decision in *Kumeu Property Ltd v Auckland Council* [2018] NZEnvC 27 where it undertook an interpretive exercise on the use of the nesting tables.²⁸

²⁸ *Kumeu Property Ltd v Auckland Council* [2018] NZEnvC 27 at [38]–[40], attached as Annexure F.

14. CONCLUSION

14.1 We trust the above is clear and sufficient for present purposes. We are happy to discuss any aspect of this advice with you further, if that would assist.

Yours sincerely



Andrew Braggins | Tamsin Gorman
Partner | Solicitor

DDI: s 9(2)(a)
Mobile: s 9(2)(a)
Email: s 9(2)(a)

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the Official Information Act 1982

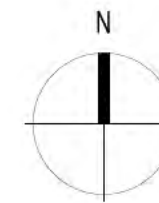
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- 3 Bedroom Units - 144
(72 Kiwi Build, 72 Open Market)
- 2 Bedroom Units - 105
(78 Kiwi Build, 27 Open Market)

Total: 249 Units
 Approximately 260 Car Parks
 (Excluding Public Road Parking)
 (Excluding Commercial Block)

- 3 Storey Units
- 2 Storey Units

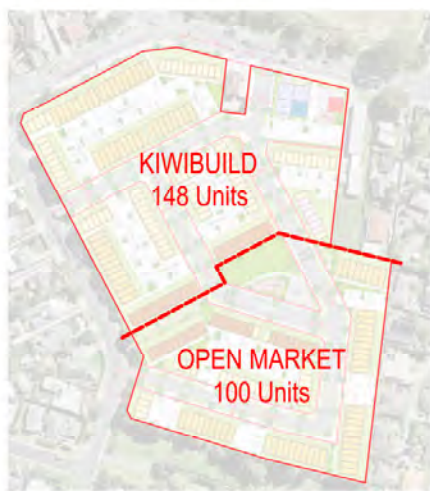


Precedent

DRAFT

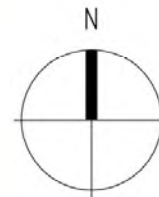
REV 06

NOLA ESTATE - GLEN EDEN



- 4 BEDROOM UNIT**
3 Level: 105m² GFA, 4 Bedrooms, 2.5 bathroom, Kitchen, Dining, Living, 1x off street park. (22 Kiwi Build, 25 Open Market)
 - 3 BEDROOM UNIT**
3 level: 86m² GFA, 3 Bedrooms, 1.5 bathroom, Kitchen, Dining, Living, 1x off street park. (6 Kiwi Build)
 - 3 BEDROOM UNIT**
2 Level: 84m² GFA, 3 Bedrooms, 2.5 bathroom, Kitchen, Dining, Living, 1x off street park. (48 Open Market)
 - 3 BEDROOM UNIT**
2 Level: 81m² GFA, 3 Bedrooms, 1.5 bathroom, Kitchen, Dining, Living, 1x off street park. (46 Kiwi Build)
 - 2 BEDROOM UNIT**
2 Level: 67m² GFA, 2 Bedrooms, 1.5 bathroom, Kitchen, Dining, Living, 1x off street park. (74 Kiwi Build, 27 Open Market)
- Total: 248 UNITS**
Approximately 265 Car Parks
(Excluding Public Road Parking)
(Excluding Commercial Block)
- CAFE**
(100m² GFA over single level)
 - COMMERCIAL UNITS**
(3 units @ 100.00m² GFA over single level)
 - COMMUNITY CENTRE**
(100m² GFA over single level)

Typology	Total	GFA	Coverage	Bedrooms
	47	105m ² (4,935m ²)	36m ² (1,692m ²)	4 (188)
	46	81m ² (3,726m ²)	47m ² (2,162m ²)	3 (138)
	48	84m ² (4,032m ²)	49m ² (2,352m ²)	3 (144)
	6	86m ² (516m ²)	35m ² (210m ²)	3 (18)
	101	67m ² (6,767m ²)	34m ² (3,434m ²)	2 (202)
Total	248	19,976m²	9,850m²	690



PRECEDENT

REV 10
NOLA ESTATE - GLEN EDEN



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Does the proposal comprise an “integrated residential development”?

The AUP defines an integrated residential development as:

Integrated residential development

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.

My analysis focuses on assessing the development against of this definition to conclude whether it can be classed as an “integrated residential development”. Therefore, there are essentially two criteria to consider:

1. Is the proposal a residential activity on a site greater than 2000m²?
The IRD is proposed over 18 parcels of land comprising of approximately 43,000m². The proposal therefore meets the first criteria for an IRD; it is a residential development on a group of contiguous sites that have a combined total area greater than 2000m².
2. Are there supporting communal facilities and other non-residential activities accessory to the primary residential use, proposed?
Mr. Lance Hessel, Senior Planner at Civix supplied a document that sets out the proposal and its regulatory framework. It is called: *The Nola Estate: Application Details Relating to an Application under the COVID-19 Recovery (Fast Track Consenting) Act 2020*.

The proposal is described on page 3 as:

The proposal involves a 249 unit Integrated Residential Development and a commercial centre with associated subdivision in the Residential Single House Zone (RSHZ) under the Auckland Unitary Plan Operative in Part (AUPOIP).

Non-Residential Activity

A commercial centre is not a supporting communal facility however it is technically a non-residential activity. Notwithstanding, the intent behind this provision in the definition of an integrated residential development (IRD) is that any non -residential activity should be ancillary and supporting to the primary activity.

The information provided in the application details document does not detail any further information as to what the commercial activity will be. Appendix D which is the masterplan of the proposal shows two possible buildings in red to the north east of the development. The larger of the two buildings is proposed to be separated from the residential component of the development by proposed a proposed crossroad intersection.

Therefore, it can be assumed that the commercial activity will not be for the exclusive use of the development’s residents, but it will be a commercial activity for both the development’s residents and the general public to interact with.



Considering the above, the commercial activity falls outside of the ambit of a non-residential activity in the context of an IRD. This is not a supporting communal activity. Therefore, this component of the development should be considered as a separate activity to the IRD activity and not be considered as a component of the IRD.

Referring to the commerce section (A16 - A20) of the Single House Zone H3.4.1 Activity table, Dairies, Restaurants and Cafes up to 100m², along with Service stations on arterial roads are provided for by way of a resource consent with activity statuses ranging from a restricted discretionary to discretionary. If the proposed commercial activity falls outside of these types of commercial activities, then the activity is not provided for and an additional reason for consent may need to be applied for under (A1) Activities not provided for – noncomplying activity.

Roads and reserves

It is not clear in the application documents if the roads and reserves are to be public or private. The application documents refer to the green spaces as reserves and being supporting communal facilities. Furthermore, the roads appear that they are to be constructed to a public AT standard.

If the reserves and are to be vested to council, then this would preclude them from being considered a supporting communal facility to the IRD because they would not be integrated into the development. This would mean that the proposal would not have any supporting communal facilities and will defer to being a regular residential development.

Furthermore, if the roads are to be vested, then this would have the effect of breaking up the subject site and the development, into separated blocks of residentially developed land. As above the roads would not be integrated into the development and would defer to being a regular residential development.

Supporting Communal Facilities

Supporting communal facilities are interpreted to be non-residential facilities accessory to the primary residential use, and that are available for communal use by residents within the IRD.

An IRD is required to include supporting communal facilities and I don't think the supporting communal facilities are clearly identified in the application. For example, under the Regulatory Framework section on page 6, Mr. Hessel states:

The application approach as directed by the AUPOIP RSHZ is therefore to design a proposal which...Provides supporting communal facilities (such as recreation and leisure facilities – i.e. reserves as proposed).

This is the only mention of any supporting communal facilities in the proposal. Following is the extent of its provision within the development. There are no other communal facilities proposed.



I identify three issues with the proposed supporting communal facility.

- Scale of provision of the supporting communal facility:

The amount of area proposed to be set aside as supporting communal facility, which in this case is just the reserve areas, does not appear to be enough relative to the number of residents it is intended to serve. Also, it is not clear from the documentation as to how these reserves are intending to function as supporting communal facilities.

The reserves (supporting communal facilities) don't appear to have been given much consideration in the design. The supporting communal facility of an IRD is a component that should be integrated into the development. the proposed reserves to the east appear to have been an afterthought

where leftover spaces which could not accommodate a residential dwelling were made to be a reserve. These reserves are to be the distinguishing components that make up the IRD.

- The type of communal facility:

The only identified supporting communal facility proposed are reserves. There is no detail in the design of the reserves to indicate that it would either be a recreation and/or a leisure facility. There are no components such as a seating area, outdoor barbeque areas that could be an indicators that a recreational activity could take place or an inviting space for residents to commune.

As discussed earlier, the proposed commercial components are unlikely to be considered as being part of the supporting communal facilities of the IRD.

- H3.6.11. Landscaped area standard

With little detail supplied in the documentation, it appears that the reserves make up a large of component of the standard landscaped area requirements under the Single House Zone H3.6.11. Landscaped area standard (minimum of 40% of the site to be covered with landscaping). This standard would have to be complied with regardless of this development being proposed as an IRD. Therefore, the reserves wouldn't necessarily be a component that distinguishes the IRD as being different to a regular residential development.

Further Information Required

1. What is the area of the proposed reserves (supporting communal facilities) and
2. How many actual residents is the IRD proposing to accommodate?
3. How are the reserves, which are identified as being the only supporting communal facilities in this IRD, going to be distinguishably different from the regular landscaping requirements of standard residential development?
4. Are the proposed roads to be for the exclusive use of the residents?
5. or are they proposed to be vested to AT after completion?
6. Are these to be constructed to AT standards??
7. What is the intention with regards to the management of the reserve's?
8. Are the proposed reserves intended to be vested to council?
9. How will the reserves be used recreationally?
10. Are there any other components of the IRD that are intended to be supporting communal facilities?
11. What percentage of the total subject site is covered in landscaping and
12. What percentage do the reserves makes up of the subject site (areas proposed to be set aside as supporting communal facility)?

There is the question of how the developments reserves (supporting communal facilities) and roads (if not to be vested) are to be managed. Will there be a body corporate put in place? However, this is technically a matter that outside of what council can look at.

Objectives of Single House Zone

The objectives and policies in the Single House Zone are the anchors that this proposal needs to be assess against:

H3.2.	Objectives	Comment
(1)	Development maintains and is in keeping with the amenity values of	This development does not appear to be maintaining, nor in keeping with the amenity values of established

	established residential neighbourhoods including those based on special character informed by the past, spacious sites with some large trees, a coastal setting or other factors such as established neighbourhood character.	residential neighbourhood. There is not much vegetation proposed which is a characteristic of the surround neighbourhood. The density is much higher than the zone anticipates and higher than the surrounding properties in the Single House Zone.
(2)	Development is in keeping with the neighbourhood's existing or planned suburban built character of predominantly one to two storeys buildings	The development is not in keeping with the neighbourhood's existing or planned suburban built character. This is a high-density development with blocks of terraced housing which is not reflective of the planned built character of the Single House Zone
(3)	Development provides quality on-site residential amenity for residents and for adjoining sites and the street.	This zone enables more spacious sites for housing. All of the sites proposed are not spacious but compact, therefore providing the opposite of what the zone is seeking

All Rules Apply

The density of the proposed development indicates that there will be more than 1 dwelling per site over the base parcels. In light of the ['Budden' Declaration](#), the applicant will also need to apply for an additional reason for resource consent under the Single House Zone activity table H3.4.1 (A6) More than one dwelling per site being a non-complying activity.

Conclusions

On the face of it, this proposal appears to be a standard residential development that would be more appropriately located within a Mixed Housing Zone where the proposed density would be commensurate. Notwithstanding, the lack of specificity around the definition of an IRD is a problem which may contribute to growing trend of IRD proposals in Single House zone coming through to resource consents.

The lack of specificity around the definition of an IRD means the AUP does not provide any indication as to what the scale the supporting communal facility provision should be.

Furthermore, the AUP does not provide a definition of 'supporting communal facilities' and the examples provided in the IRD definition refer to facilities usually associated with retirement villages. As this is not a retirement village, there is no other information in the AUP which indicates what type of communal facility would be appropriate to support a residential development.

Therefore, it cannot be argued that the provision of the supporting communal facility, which in this instance is the reserves, is inadequate for the plan provides no metric.

Neither can it be argued that a reserve is not appropriate to be considered as a supporting communal facility for the plan provided no indication of what would be appropriate for this form of IRD.

However, if the reserves are intended to be vested to council upon completion of the development, then these stated components of the IRD will be separated onto their own titles and managed by the territorial authority, quite separate from how the IRD may be managed. This will mean that the proposed IRD won't be classed as an IRD anymore. This is not a desirable outcome.

However, a supporting communal facility should be a component in an IRD which distinguishes it from a regular residential development. It is because of this, that I don't think the reserves are a feature that will distinguish this development from a regular residential development.

The brief assessment against the objectives of the Single House Zone alone indicates that the proposal in its current form would be hard to support.

Notwithstanding, an IRD is possible to be accommodated on the subject site, but I suggest that it would need to be redesigned with smaller number of residential units commensurate with the anticipated density and the bulk would need to be at a scale that is in keeping with the planned built character of predominantly one to two storey dwellings within a generally spacious setting. The terraced housing typology is not a typology one associated with being found on generally spacious settings because they are by their very nature, attached dwellings which imply that their respective associated outdoor spaces are squashed together, which is not suggestive of a spacious environment.

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Pre-Application Consenting Memo

Pre-Application No. PRR00035146	
Date of request	04/08/2020
Customer	CPM 2019 Limited
Contact details	Phone s 9(2)(a)
	Email s 9(2)(a)
Site address	460, 462, 464, 466A, 468-470, 474, 476 & 478 West Coast Road 317-319, 321-323, 325-327, 329-335, 345 & 347 Glengarry Road
Proposal	Construction of 249 dwellings, plus a commercial block fronting West Coast Road, subdivision around consented development, alongside yet to be confirmed site / enabling works. Internal reserves proposed along with 260 car parks (excluding public road parking and approx. 16-17 spaces associated with the commercial block).
Plans and information	Plan prepared by Phillips Associates, undated, Draft Rev 05 Information submitted as part of the vetting application process by MfE for the Covid 19 Fast Track process https://1drv.ms/u/s!AqO7cEcs-wELgVmY5aCuNKM0cFzF?e=6lXWMj

*Please note that there may be hyperlinks throughout the memo which are underlined.
Please click on the highlighted text for further information.*

Resource Management Documents		
Auckland Unitary Plan (Operative in part)	Zoning	Single House Zone
	Precinct	-
	Overlays	-
	Controls	Macroinvertebrate Community Index – Urban Arterial Road – West Coast Road
	Designations	-
	Appeals	-
Regional Plans	-	
National Environmental Standards	National Environmental Standard – Freshwater Management	
National Policy Statements	National Policy Standard – Urban Development	
Other Relevant Acts		

Statutory Acknowledgement Areas	Te Kawerau a Maki - Te Wai o Pareira / Henderson Creek and tributaries
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Property Information	
Legal Description	Various – See Appendix 1 of Fast Track information
Certificate of Title	<input checked="" type="checkbox"/> Supplied – must be less than 3 months old <input checked="" type="checkbox"/> Easements <input type="checkbox"/> Building line restriction <input type="checkbox"/> Consent notice <input type="checkbox"/> Limited to parcels
Relevant Consenting History	<p>Noted the Nola's orchard shop burnt down in first week of January.</p> <p>A comprehensive look into the consent history has not been undertaken given the numerous sites covered by the application and that nothing is to remain as part of the proposal.</p>

Site constraints Type	Y	N	Site constraints Type	Y	N
(Potential) Contaminated Land	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Coastal Erosion	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Land Instability	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Coastal Storm Inundation	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Floodplain	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Coastal Storm Inundation (plus 1m sea level rise)	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Overland flow paths (ephemeral/intermittent/permanent stream)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Cultural Heritage Inventory	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Flood Sensitive	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Combined Network	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Arterial Roads	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Building Frontage Control	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Vehicle Access Restriction Control	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Geology (rock breaking)	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Meeting Record

Meeting Record	
Date and Time	MS Teams Meeting, 9 September 2020, 1 – 2pm
Council Officers	Kay Panther Knight, Principal Planner / Planning Consultant, Meeting lead Brogan McQuoid, Team Leader Tessa Craig, Auckland Transport, Principal Development Planner

	<p>Mitra Prasad, Auckland Transport, Development Planning Team Leader North West</p> <p>Sam Shumane, Consultant Traffic Engineer</p> <p>Ethan Fu, Senior Development Engineer</p> <p>Michael Kibblewhite, Specialist Urban Designer</p> <p>Melanie McKelvie, Team Leader Design Review</p>
Customer	<p>Nick Mattison, Planning, Civix – Lead Planner</p> <p>Lance Hessel, Planning, Civix</p> <p>Daniel Phillips, Architecture / Urban Design, Phillips Associates</p> <p>Mustafa Demiralp, Architecture / Urban Design, Phillips Associates</p> <p>Andrew Braggins, Legal, Berry Simons</p> <p>Tamsin Gorman, Legal, Berry Simons</p> <p>Todd Langwell, Traffic Engineer, Traffic Planning Consultants Ltd</p> <p>Arran Baikie, Civil engineering, Civix</p> <p>Apologies: Kieran Doe, Nathan Treloar, Ian Munro</p>
Additional Information provided at meeting	Nil

Outcome of Planning Provisions

Residential - Single House Zone	<p>The purpose of the Residential – Single House Zone is to maintain and enhance the amenity values of established residential neighbourhoods in number of locations. The particular amenity values of a neighbourhood may be based on special character informed by the past, spacious sites with some large trees, a coastal setting or other factors such as established neighbourhood character. To provide choice for future residents, Residential – Single House Zone zoning may also be applied in greenfield developments.</p> <p>To support the purpose of the zone, multi-unit development is not anticipated, with additional housing limited to the conversion of an existing dwelling into two dwellings and minor dwelling units. The zone is generally characterised by one to two storey high buildings consistent with a suburban built character.</p>
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Site Constraints/ Managing Hazards

Flooding Potential	<p>The site has been identified as being potentially subject to flooding. Before any proposal is progressed, a full understanding of the flood hazard will need to be provided. This means that a suitably qualified professional will need to be engaged to assess and prepare a hazard risk</p>
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	<p>assessment. The hazard risk assessment should describe the scale, frequency, risk and entry / exit points that the hazard poses to the site and surrounding environment. This information will heavily influence any proposal, and how the flooding effects are managed and incorporated into any proposal, e.g. the type of activity, placement and minimum floor level of buildings, site layout, earthworks, etc. The proposal should not exacerbate this hazard onto neighbouring properties or the wider surroundings.</p> <p>Please note the flowpath / floodplain shown on Council's GIS Viewer is only indicative, and specific site surveys and modelling may be required.</p>
<p>Contamination (NES only)</p>	<p>The subject site either is currently, has previously, or is more likely than not to have been occupied by a potentially soil contaminating activity for the following reason:</p> <ul style="list-style-type: none"> • Current horticultural use <p>Your proposal may involve one (or more) of the following:</p> <ul style="list-style-type: none"> • removing or replacing a fuel storage system, • sampling the soil, • disturbing the soil, • subdividing land, and • changing the use of the piece of land. <p>Accordingly, it is necessary to give consideration to the National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health 2011. This provides a national environmental standard for activities on pieces of land where soil may be contaminated in such a way as to be a risk to human health. It is recommended you engage a suitably qualified and experienced practitioner to assist in preparing any preliminary and / or detailed site investigations that may be required in this regard.</p>
<p>Contamination (Regional)</p>	<p>Careful consideration is needed to address the effects of the discharge of contaminants from contaminated land into air, or into water, or onto or into land, and to ensure those effects are managed to protect the environment and human health and to enable land to be used for suitable activities now and in the future. This takes into account all of the following:</p>

	<ul style="list-style-type: none"> • the direct discharges arising from investigation activities on land containing elevated levels of contaminants; • discharges associated with soil disturbance that may liberate contaminants; • longer term discharges occurring as a result of residual contaminants, often known as passive discharges; • legacy discharges associated with past incidents; and • the assessment of risk around ongoing discharges.
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Relevant matters	
Fast-track Application concurrent with Pre-application with Council	<p>Nick Mattison explained that the Applicant had lodged an application with the Ministry for the Environment for a Fast-Track process. This process is expected to take approximately 8-9 weeks and will also require input or feedback from the Council to assist the Ministry. To this end, the Applicant wishes to run a pre-application process with the Council while awaiting the Ministry's decision on whether or not to accept the application for fast-tracking.</p> <p>If the applicants are accepted into the Fast Track process then any processing by Council for an RC or Pre-app will stop immediately as there cannot be dual processing.</p>
Definition of IRD and subsequent activity status / acceptability in principle, including advice from Plans and Places	<p>Kay Panther Knight outlined her view, supported by policy advice within Council, and consistently applied in other circumstances, that the proposal does not represent an Integrated Residential Development. Kay explained her view hinged on the lack of integrated communal facilities for the residential scheme, noting that the commercial block was clearly a separate and public / commercial enterprise in its own right, and that the reserves appeared to be required a) for compliance (or attempting to comply) with Single House zone landscaped area standards, and b) for overland flow path conveyance. Further, as supported by policy advice, the reserves did not appear to provide a sufficient quantum of space, nor were they clearly described in the information supplied to date or designed in such a way as to form a communal facility beyond standard open spaces associated with any residential development, i.e. not integrated or differentiated in any way from a residential subdivision.</p> <p>Brogan McQuoid outlined that Council would expect the Applicant to apply all rules in the Single House zone, regardless of whether or not the Applicant disagreed that the Integrated Residential Development definition was applicable. To this end, the proposal as it stands comprises a non-complying activity pursuant to H3.4.1(A6), as well as a discretionary activity under H3.4.1(A9).</p> <p>Kay outlined her opinion that the current proposal represented significant over-development and a character of development wholly unlike the anticipated character of the Single House zone. The proposal comprises</p>

two and three storey terraced house development that would be more appropriate in a Mixed Housing Urban or Terraced Housing and Apartment Building zone. The scheme is therefore not supported from a planning perspective given its excessive intensity. The proposed reserves and commercial space do not provide any sufficient mitigation.

Nick noted that the scheme complies with all coverage controls in the Single House zone. Kay noted this seemed unlikely and that there was no information presented to confirm this either way. Michael Kibblewhite and Melanie McKelvie provided their views from an urban design perspective regarding compliance with standards and the extent to which the “bare minimum” would suffice in this instance, and this is further elaborated upon in the minutes below under Heading 5.

Lance Hessel queried whether relocation of the commercial block more centrally within the residential development would improve upon its consideration as forming an integrated residential development. Kay considered this approach but noted that without any further detail regarding the function of that commercial block, the design and location of it relative to the reserves and the design and function of the reserves themselves, it is difficult to provide any confirmed advice. Kay suggests considering presenting the site layout options noted by the Applicant’s team and perhaps in presentation to the Urban Design Panel, to provide rationale and further explanation of how the Applicant thinks the commercial block as currently located and designed, or elsewhere, can be considered an integrated component of this scheme.

Key outcomes / actions (if relevant)

Council will supply the policy advice received on the scheme and present the questions raised in that advice regarding what further information would be necessary to determine whether or not the scheme could be defined as an integrated residential development.

Council will supply the legal advice received to date regarding both the integrated residential development definition, its application, and the Council approach to requiring consent under both H3.4.1(A6) and (A9).*

Post meeting advice

Kay provided Nick with the list of questions from Ciaran Power, Planner, Plans & Places with regards to further clarities required to see whether the proposal can meet the definition of an IRD.

A summary of the legal opinion was provided to the applicant’s planner and legal representative (Mr Braggins). Mr Braggins sought further input in relation to Council in relation to the summary response provided. Council sought further feedback from their legal services and this response was provided to Mr Braggins. (A summary of this can be found under the legal advice section below).

<p>Traffic Matters, including input from Auckland Transport</p>	<p>Sam Shumane, for Council, and Mitra Prasad and Tessa Craig gave feedback regarding the roading layout, including confirming there are concerns regarding direct access from West Coast Road, and that AT's preference is for all residential traffic to access the site from Glengarry Road, noting that further assessment needs to be undertaken in respect of traffic generation and effects on queuing.</p> <p>Todd Langwell confirmed surveys were being undertaken but that they were delayed due to the recent Auckland Covid-19 lockdown. These would be produced in due course, and consideration is being given to signaling the intersection of West Coast Road and Glengarry Road. Mitra raised concern regarding assuming a signalized intersection, noting that may be out of character with the rural nature of the network further west, and that consideration should be given to all options, particularly considering the proximity of the roundabout intersection of West Coast Road with Parrs Cross Road.</p> <p>Concern was raised by Sam regarding the one-way component internal to the site, noting that this gives rise to safety and efficiency effects. The road reserve appeared wide enough to accommodate two-way traffic and the Applicant undertook to consider that.</p> <p>Discussion was had regarding ensuring appropriate width within road reserves for all services.</p> <p>Sam identified some further consideration needed to be given to geometry of the roads relative to AT standards, but that would follow in further detailed design.</p> <p>Visibility assessments would need to form part of the transport assessment being prepared.</p> <p><u>Key outcomes / actions (if relevant)</u> Applicant to complete its surveys and transport assessment, and to reconsider internal road layout, particularly the one-way component.</p>
<p>Auckland Transport post meeting feedback (Tessa Craig)</p>	<p>Further to the input captured in the meeting (above);</p> <p><u>Preliminary Comments</u> West Coast Road Vehicle Access</p> <ol style="list-style-type: none"> 1. AT has concerns with an additional vehicle access onto West Coast Road, due to the proximity of the new road to the roundabout, sited where drivers on West Coast Road diverge to form two lanes. When drivers queue on the kerbside lane, visibility to the inner lane is obstructed. City bound drivers (west bound to Great North Road) would favour the inner lane (northernmost lane) so they can U-turn at the roundabout. 2. Additionally, misuse of the 'Lane' and new road off West Coast Road is expected with vehicles cutting through to Glengarry Road. Therefore, it would be best to eliminate vehicle access from

the residential part of the development, through to West Coast Road.

3. The proposal should provide a pedestrian and cycle link only from the residential part of the development through to West Coast Road. This would remove potentially significant effects that the application could have on the existing environment, movement, and safety of users which the applicant would have need to mitigate to AT's satisfaction.
4. In reference to the above point, appropriate connection to West Coast Road for active modes are desired and encouraged. Providing accessways (8m wide) with ample passive surveillance from neighbouring dwellings and appropriate lighting and landscaping should achieve this objective.
5. If vehicle access onto West Coast Rd is absolutely necessary, it will be required to be a left-in, left-out access arrangement. This will need to be sited further away from the intersection, ideally where the 'Lane' is proposed, which has a single approach lane. An extended solid median island would also be required to prevent right turns.
6. Details of loading for the commercial premises alongside loading for the existing dairy will be required.

Internal Roads

7. All internal roads should be vested as public roads. A 13-metre road reserve is wide enough to be a two-way operation and the internal roads should all be two-way. If there is a high inconvenience for residents (those who travel the long way around to exit the development), drivers will flout proposed one-way operation.
8. All internal roads should comply with the Transport Design Manual in terms of provision of cycle facilities or safe mixed traffic environments. Internal roads require speed calming, 1.8m footpaths and may require broken yellow lines along sections of narrow carriageway.
9. The proposed public roads (particularly the longest straight internal road connecting with the commercial area) should be designed carefully to reduce speed and make it safe. Horizontal traffic calming features/devices should be implemented (i.e. minimum lane width and low maintenance low planting to visually narrow down the carriageway without impeding visibility).
10. In terms of alignment, the sharp corners in the property boundary may not achieve appropriate road corridor width to provide a bend. The detailed design should include demonstration of the turning and parking manoeuvres.
11. Provision for indented on-street parking is required. Consideration of fewer, larger raingardens is required for stormwater management.

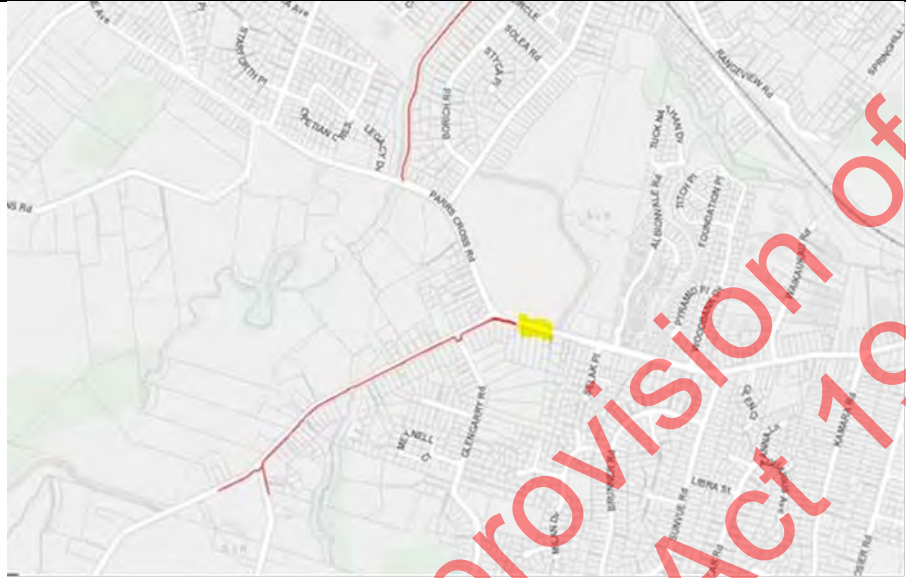
12. AT is supportive of rear access and access vial JOALS. We suggest re-orientating some of the end dwellings to give better street frontage orientation and natural surveillance.
13. A 30kph speed environment is required on the new internal road network.

Existing Roads

14. If no improvements are proposed for the Glengarry Road/ West Coast Road intersection, vehicles from the proposed development will likely exit onto West Coast Road to negate having to right turn out of Glengarry Road. AT therefore suggests a roundabout or signalisation at the Glengarry Road/West Coast Road intersection.
15. Modelling is required to show the impact of the development on the West Coast Road/Parrs Cross Road intersection and the West Coast Road/Glengarry Road intersection and mitigation should be proposed in line with the results of the modelling. A 30kph speed environment is required along West Coast Road and Glengarry Road.

Active Modes

16. There is concern about the safety of the roundabout at West Coast Road/Parr Cross Road, especially for pedestrians and cyclists. There is also concern about the movement of people to and from the bus stop on Parrs Cross Road for service going toward Henderson which have come from Glen Eden/New Lynn. A pedestrian facility is required to the north of the West Coast Road/Parrs Cross Road roundabout.
17. Safe crossing points across Glengarry Road are required. The pedestrian crossing points at intersections are unclear. Clarification is needed on the pedestrian movement across West Coast Road and crossing on all arms are required.
18. The raised courtesy crossing on Glengarry Road (near the intersection with West Coast Road) will require upgrading to improve pedestrian and cyclist safety as the development will increase their exposure to additional traffic.
19. Any proposed improvements on Glengarry Road need to tie in with existing shared path on West Coast Road to the north of the property boundary.
20. The existing shared path on the north of the site is located as per the red line below. This stops part way along the site at a crossing to Parrs Park, but this should be extended along the full length of the site to provide safe and attractive access past the convenience store in the draft plan and enable future connections to the east (yellow).



21. Safe and attractive access should also be provided from the entrances to the site on Glengarry Road to the existing facility.
22. Future drawings need to show the zebra crossing on West Coast Road outside the proposed 'Commercial' property and the existing shared path along the property frontage.
23. A strong crossing feature should be provided between the reserve and adjacent green space across the currently proposed one-way street.

Metro / Public Transport

24. Part VIII of the application references Policy 3(c)(i)1 of the NPSUD and its application to this proposal. The local bus stops are not Rapid Transit Stops. The station on the western rail only can be regarded as future Rapid Transit but does not currently meet the Rapid Transit Definition.² This location does not meet the criteria to be considered in walking distance of a Rapid Transit Station. The application should be corrected and clearly state the proposal is not within walking distance of a current or planned Rapid Transit Stop / Station. A reasonable walking distance to a Rapid Transit Stop / Station is ten minutes or 800 metres on reasonably level ground.
25. There are bus routes on all the road frontages of this site; the 152 to the west on Glengarry Road, and the 151 and 154 on West Coast Road. The services have their 'inbound' stops on both frontage roads and share a common 'outbound' stop to the north of the roundabout, on Parrs Cross Road. None of these routes are part of the Frequent Transit Network.
26. Given the expected increase in patronage for the services mentioned above the development should upgrade of all these stops (especially stop: 5468 without a shelter) and improve the

¹ In relation to tier 1 urban environment, regional policy statements and district plans must enable: building heights of least 6 storeys within at least a walkable catchment of the following: existing and planned rapid transit stops

² Rapid Transit must have an exclusive corridor and a headway of at least 15 minutes from 7am to 7pm, 7 days a week and service through to at least 11pm at night (midnight at 15 minutes headways for City Centre services).

	<p>pedestrian crossings (particularly to the common stop to the north).</p>
<p>Urban Design</p>	<p>Michael queried the Kiwibuild component, asking whether it would be integrated with the open market housing. Nick confirmed that the intention was it would be, and that the proportion shown on the masterplan was indicative only, noting that the Applicant expected an approximately 60% uptake by Kiwibuild for the scheme.</p> <p>Post meeting advice:</p> <p>The applicant’s planner was supplied with dates for the Urban Design Panel, along with information requirements and timeframes post meeting. The preliminary date is set for 22 October.</p>
<p>Urban Design post meeting feedback (Michael Kibblewhite)</p>	<p>Integrated Residential Development (IRD):</p> <ul style="list-style-type: none"> • Notwithstanding the comments provided from a planning and policy perspective on IRD, from an urban design perspective we would expect any communal facilities proposed to have the following characteristics: <ul style="list-style-type: none"> ○ Easily accessible to all residents; ○ Size of the facilities to be proportionate to the scale of the development; ○ Provide a high level of amenity with appropriately sized, furnished and located formal and informal play spaces that are suitable for the intended housing mix and future resident demographics, particularly children. Noting the proximity of Parrs Park and the facilities provided there (playgrounds, basketball court, walking paths, skate ramp etc) it is expected that the proposed communal facilities would provide a different offering to that already provided at Parrs Park; ○ Use both soft landscaping (trees, shrubs, grass, planted beds etc) and hard landscaping (paving, furniture, fixtures etc) to define areas; ○ Appropriately designed edges – offering good natural surveillance (e.g. not the back of dwellings); ○ Have an appropriate management structure to ensure long term maintenance. • It is understood that the proposed communal reserves are also an overland flowpath (OLFP). Confirmation would be required that the use and design of this space is not constrained by the OLFP and could accommodate planting and structures to support its use as a communal facility. • The narrow strip of reserve (marked as A in the diagram below) between two terrace blocks appears to be more of a pedestrian path serving those blocks rather than a usable reserve space for

all residents and would essentially be privatised by the adjacent units. This area would not be considered a communal space for the wider development.

- Left over spaces around car parking areas are not considered to be of a suitable size or shape to contribute to a communal space and should instead be integrated into the adjacent lots and landscaped (e.g. areas marked B, C & D).



Single House Zone Character:

- The proposed intensity of development is significantly more intense than the existing and/or anticipated built character within the Single House Zone, and is not supported from an urban design perspective. The applicant is encouraged to undertake an analysis of the density of the surrounding neighbourhood (noting that the legacy district plan provisions allowed for lot sizes of 450m², less than the current 600m² lot size), to enable a more appropriate response on the edges in particular, to this existing character, in accordance with Policy H3.3(1).
- The applicant is strongly encouraged to increase lot sizes at the periphery of the site to provide for a more appropriate transition to the existing neighborhood character. This should include standalone and duplex typologies to better reflect the existing suburban built character.

Built Form:

- The Single House Zone is characterized by one to two storey high buildings consistent with a suburban built character. Whilst IRD's are enabled, the zone objectives and policies provide an indication of the anticipated built form outcome. As presented, the proposal represents a significant departure from this character due to the intensity and single typology proposed (terraces) with relatively long block lengths. The applicant is strongly encouraged to provide

a greater range of typologies including standalone and duplexes, which will assist in integrating the development into the surrounding neighborhood.

- Noting that the Single House Zone contains little onsite amenity controls due to the anticipated larger site size (e.g. no standards relating to outdoor living space, outlook, daylight etc) the applicant is encouraged to consider what development standards would most appropriately be applied to the site (Mixed Housing Suburban is considered to be the most appropriate as a transition from the Single House Zone).
- There are some particularly long, unbroken blocks. It is recommended that more breaks in the built form are provided to ensure consistency with the anticipated character of a spacious setting.
- Given the scale of the development, a range of cladding and colour scheme palettes should be developed. The built form should also allow for variation in façade treatment, horizontal and vertical articulation and roof forms. The end of each row of terraces should also respond to its corner context (i.e. not present a side elevation to the street).

Street Network / Site Layout:

- The proposed street network is logical from an urban design perspective, notwithstanding comments from AT and development engineering. However, the proposed one-way road is not supported.
- The proposed arrangement of terraces adjacent to the roundabout presents a challenge in terms of amenity and privacy for future residents. The applicant is encouraged to consider whether the location of the commercial premises would be more appropriately located on the corner, adjacent to the intersection. A commercial use could more easily mediate this difficult interface and provide a landmark to the corner.
- Further consideration will need to be given to the ‘back of house’ functions of the commercial facility and how this will interface with adjacent residential uses/streets etc.
- There is an historic paper road south of the site’s southern boundary (315a Glengarry Rd) which has been rezoned to residential and will be marketed for sale shortly. The applicant is encouraged to discuss with Panuku (current owners) options around incorporation of this property with the development.

Street/Reserve Interfaces

- Those units fronting West Coast Road (a busy arterial road) immediately adjoins a 3m shared pedestrian/cycle path, with no grass berm or street tree planting. For those units fronting the street, it is strongly recommended that additional depth and

elevation above the street is provided to create separation and privacy for users, in response to this context. A typical 4-5m outdoor space depth is not considered sufficient to mediate this interface.

- A minimum front yard setback of 3m should be provided to all units in accordance with the Single House Zone standards.
- Several blocks have north-south orientation but provide outdoor living spaces to the street. Where orientation allows, it is recommended that outdoor living spaces should be located to the rear of the dwellings and the dwellings pushed closer to the street (as is proposed on the block fronting Glengarry Rd, with outdoor space to the rear) to provide for clear public fronts and private back yards.
- Two terrace blocks are proposed either side of the linear reserve. It is not clear which is the front or back of these units. As noted previously, this linear reserve space is not considered to contribute to a communal reserve.

Site Facilities:

- Site facilities such as washing lines, refuse bins, storage sheds, detention tanks etc should not be located within private outdoor living spaces. It is recommended that a service courtyard is provided in between the JOAL parking spaces to accommodate these facilities, thereby maintaining the usability of the private outdoor courts. The ADM Design Element: Site Amenities provides further guidance on integration of these facilities into a development (http://content.aucklanddesignmanual.co.nz/regulations/design-for-the-rules/Documents/Design_Element_R8-Site_Amenities.pdf)
- Communal refuse enclosures are encouraged. The applicant is directed to the ADM Design Element: Waste for further guidance in this regard. http://content.aucklanddesignmanual.co.nz/regulations/design-for-the-rules/Documents/Design_Element_R7_Design_for_Waste.pdf

Rear Lanes:

- Rear lanes will be servicing a large number of dwellings so will need to provide landscaping that will add to the amenity of the development, lighting, waste storage and other site facilities such as detention tanks.

Auckland Urban Design Panel

- The proposed development meets the criteria for the AUDP. Currently available dates are: 8th, 22nd, 29th October. Please confirm with Michael Kibblewhite as soon as possible to secure a panel date, noting that a draft panel pack would be required two weeks prior to the panel date. Please refer to the panel

	<p>information requirements here: http://content.aucklanddesignmanual.co.nz/resources/design-panels/Documents/Information%20Requirements%20Checklist%202018.pdf</p>
<p>Plans & Places Policy feedback (Ciaran Power, Planner, Plans & Places)</p>	<p>Does the proposal comprise an “integrated residential development”?</p> <p>The AUP defines an integrated residential development as:</p> <p><i>Integrated residential development</i></p> <p><i>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.</i></p> <p>My analysis focuses on assessing the development against of this definition to conclude whether it can be classed as an “integrated residential development”. Therefore, there are essentially two criteria to consider:</p> <ol style="list-style-type: none"> 1. Is the proposal a residential activity on a site greater than 2000m²? The IRD is proposed over 18 parcels of land comprising of approximately 43,000m². The proposal therefore meets the first criteria for an IRD; it is a residential development on a group of contiguous sites that have a combined total area greater than 2000m². 2. Are there supporting communal facilities and other non-residential activities accessory to the primary residential use, proposed? Mr. Lance Hessel, Senior Planner at Civix supplied a document that sets out the proposal and its regulatory framework. It is called: <i>The Nola Estate: Application Details Relating to an Application under the COVID-19 Recovery (Fast Track Consenting) Act 2020</i>. <p>The proposal is described on page 3 as:</p> <p><i>The proposal involves a 249 unit Integrated Residential Development and a commercial centre with associated subdivision in the Residential Single House Zone (RSHZ) under the Auckland Unitary Plan Operative in Part (AUP OIP).</i></p> <p><u>Non-Residential Activity</u></p> <p>A commercial centre is not a supporting communal facility however it is technically a non-residential activity. Notwithstanding, the intent behind this provision in the definition of an integrated residential development (IRD) is that any non-residential activity should be ancillary and supporting to the primary activity.</p> <p>The information provided in the application details document does not detail any further information as to what the commercial activity will be. Appendix D which is the masterplan of the proposal shows two possible buildings in red to the north east of the development. The larger of the two buildings is proposed to be separated from the residential component of the development by proposed a proposed crossroad intersection.</p> <p>Therefore, it can be assumed that the commercial activity will not be for the exclusive use of the development’s residents, but it will be a commercial activity for both the development’s residents and the general public to interact with.</p>



Considering the above, the commercial activity falls outside of the ambit of a non-residential activity in the context of an IRD. This is not a supporting communal activity. Therefore, this component of the development should be considered as a separate activity to the IRD activity and not be considered as a component of the IRD.

Referring to the commerce section (A16 - A20) of the Single House Zone H3.4.1 Activity table, Dairies, Restaurants and Cafes up to 100m², along with Service stations on arterial roads are provided for by way of a resource consent with activity statuses ranging from a restricted discretionary to discretionary. If the proposed commercial activity falls outside of these types of commercial activities, then the activity is not provided for and an additional reason for consent may need to be applied for under (A1) Activities not provided for – noncomplying activity.

Roads and reserves

It is not clear in the application documents if the roads and reserves are to be public or private. The application documents refer to the green spaces as reserves and being supporting communal facilities. Furthermore, the roads appear that they are to be constructed to a public AT standard.

If the reserves and are to be vested to council, then this would preclude them from being considered a supporting communal facility to the IRD because they would not be integrated into the development. This would mean that the proposal would not have any supporting communal facilities and will defer to being a regular residential development.

Furthermore, if the roads are to be vested, then this would have the effect of breaking up the subject site and the development, into separated blocks of residentially developed land. As above the roads would not be integrated into the development and would defer to being a regular residential development.

Supporting Communal Facilities

Supporting communal facilities are interpreted to be non-residential facilities accessory to the primary residential use, and that are available for communal use by residents within the IRD.

An IRD is required to include supporting communal facilities and I don't think the supporting communal facilities are clearly identified in the application. For example, under the Regulatory Framework section on page 6, Mr. Hessell states:

The application approach as directed by the AUPOIP RSHZ is therefore to design a proposal which...Provides supporting communal facilities (such as recreation and leisure facilities – i.e. reserves as proposed).

This is the only mention of any supporting communal facilities in the proposal. Following is the extent of its provision within the development. There are no other communal facilities proposed.



I identify three issues with the proposed supporting communal facility.

- **Scale of provision of the supporting communal facility:**
The amount of area proposed to be set aside as supporting communal facility, which in this case is just the reserve areas, does not appear to be enough relative to the number of residents it is intended to serve. Also, it is not clear from the documentation as to how these reserves are intended to function as supporting communal facilities.
- The reserves (supporting communal facilities) don't appear to have been given much consideration in the design. The supporting communal facility of an IRD is a component that should be integrated into the development. The proposed reserves to the east appear to have been an afterthought

	<p>where leftover spaces which could not accommodate a residential dwelling were made to be a reserve. These reserves are to be the distinguishing components that make up the IRD.</p> <ul style="list-style-type: none"> • The type of communal facility: The only identified supporting communal facility proposed are reserves. There is no detail in the design of the reserves to indicate that it would either be a recreation and/or a leisure facility. There are no components such as a seating area, outdoor barbeque areas that could be an indicators that a recreational activity could take place or an inviting space for residents to commune. As discussed earlier, the proposed commercial components are unlikely to be considered as being part of the supporting communal facilities of the IRD. • H3.6.11. Landscaped area standard With little detail supplied in the documentation, it appears that the reserves make up a large of component of the standard landscaped area requirements under the Single House Zone H3.6.11 Landscaped area standard (minimum of 40% of the site to be covered with landscaping). This standard would have to be complied with regardless of this development being proposed as an IRD. Therefore, the reserves wouldn't necessarily be a component that distinguishes the IRD as being different to a regular residential development. <p>Further Information Required</p> <ol style="list-style-type: none"> 1. What is the area of the proposed reserves (supporting communal facilities) and 2. How many actual residents is the IRD proposing to accommodate? 3. How are the reserves, which are identified as being the only supporting communal facilities in this IRD, going to be distinguishably different from the regular landscaping requirements of standard residential development? 4. Are the proposed roads to be for the exclusive use of the residents? 5. or are they proposed to be vested to AT after completion? 6. Are these to be constructed to AT standards?? 7. What is the intention with regards to the management of the reserve's? 8. Are the proposed reserves intended to be vested to council? 9. How will the reserves be used recreationally? 10. Are there any other components of the IRD that are intended to be supporting communal facilities? 11. What percentage of the total subject site is covered in landscaping and 12. What percentage do the reserves makes up of the subject site (areas proposed to be set aside as supporting communal facility)? <p>There is the question of how the developments reserves (supporting communal facilities) and roads (if not to be vested) are to be managed. Will there be a body corporate put in place? However, this is technically a matter that outside of what council can look at.</p> <p>Objectives of Single House Zone</p> <p>The objectives and policies in the Single House Zone are the anchors that this proposal needs to be assess against.</p> <table border="1" data-bbox="459 1485 1393 1559"> <thead> <tr> <th>H3.2</th> <th>Objectives</th> <th>Comment</th> </tr> </thead> <tbody> <tr> <td>(1)</td> <td>Development maintains and is in keeping with the amenity values of</td> <td>This development does not appear to be maintaining, nor in keeping with the amenity values of established</td> </tr> </tbody> </table> <table border="1" data-bbox="459 1662 1393 2024"> <tbody> <tr> <td></td> <td>established residential neighbourhoods including those based on special character informed by the past, spacious sites with some large trees, a coastal setting or other factors such as established neighbourhood character.</td> <td>residential neighbourhood. 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	<p>All Rules Apply</p> <p>The density of the proposed development indicates that there will be more than 1 dwelling per site over the base parcels. In light of the 'Budden' Declaration, the applicant will also need to apply for an additional reason for resource consent under the Single House Zone activity table H3.4.1 (A6) More than one dwelling per site being a non-complying activity.</p> <p>Conclusions</p> <p>On the face of it, this proposal appears to be a standard residential development that would be more appropriately located within a Mixed Housing Zone where the proposed density would be commensurate. Notwithstanding, the lack of specificity around the definition of an IRD is a problem which may contribute to growing trend of IRD proposals in Single House zone coming through to resource consents.</p> <p>The lack of specificity around the definition of an IRD means the AUP does not provide any indication as to what the scale the supporting communal facility provision should be.</p> <p>Furthermore, the AUP does not provide a definition of 'supporting communal facilities' and the examples provided in the IRD definition refer to facilities usually associated with retirement villages. As this is not a retirement village, there is no other information in the AUP which indicates what type of communal facility would be appropriate to support a residential development.</p> <p>Therefore, it cannot be argued that the provision of the supporting communal facility, which in this instance is the reserves, is inadequate for the plan provides no metric.</p> <p>Neither can it be argued that a reserve is not appropriate to be considered as a supporting communal facility for the plan provided no indication of what would be appropriate for this form of IRD.</p> <p>However, if the reserves are intended to be vested to council upon completion of the development, then these stated components of the IRD will be separated onto their own titles and managed by the territorial authority, quite separate from how the IRD may be managed. This will mean that the proposed IRD won't be classed as an IRD anymore. This is not a desirable outcome.</p> <p>However, a supporting communal facility should be a component in an IRD which distinguishes it from a regular residential development. It is because of this, that I don't think the reserves are a feature that will distinguish this development from a regular residential development.</p> <p>The brief assessment against the objectives of the Single House Zone alone indicates that the proposal in its current form would be hard to support.</p> <p>Notwithstanding, an IRD is possible to be accommodated on the subject site, but I suggest that it would need to be redesigned with smaller number of residential units commensurate with the anticipated density and the bulk would need to be at a scale that is in keeping with the planned built character of predominantly one to two storey dwellings within a generally spacious setting. The terraced housing typology is not a typology one associated with being found on generally spacious settings because they are by their very nature, attached dwellings which imply that their respective associated outdoor spaces are squashed together, which is not suggestive of a spacious environment.</p>
<p>Development engineering and services</p>	<p>Ethan Fu noted that a flood hazard assessment will be required to understand the overland flow path conveyance and associated effects.</p> <p>Ethan noted insufficient information had been provided by the Applicant in advance of this meeting to comment in any detail on other services or development engineering matters.</p> <p>Nick noted that earthworks calculations were being completed and would be available in due course, as would a geotechnical report, and separately as an aside, a detailed site investigation relative to the site's previous HAIL use.</p> <p>Key outcomes/actions</p> <p>Nick to send through updated link with latest specialist reports, including geotech.</p>
<p>Legal advice</p>	<p>Councils position regarding the application in terms of legal advice is summarised below:</p>

With respect to all rules applying:

Council's legal advice was received in relation to an application at 2 & 2A Tizard Road (dated 10 September 2019). The legal advice confirmed that Council's position was accurate and that it is clear the activity is for more than one dwelling on a site. As neither rule (the IRD rule under (A9) in Table H3.4.1 or the more than one dwelling under rule (A6) in Table H3.4.1) excludes the application of the other, both rules apply to the application. Under rule (A6) the application is considered non-complying. Under the bundling principle, the activity should therefore be assessed as a non-complying activity.

This approach is considered consistent with Council's assessment requirements following the decisions of the Environment Court in the Auckland Council v Budden ([Auckland Council v London Pacific Family Trust NZEnvC 030 \[2018\]](#)) declaration proceedings. There is often more than one reason for resource consent and application under all relevant rules in a zone activity table will be required.

We will remain consistent with this approach unless the Environment Court in the Sandspit proceedings (30 and 40 Sandspit Road) declares otherwise.

With respect to assistance with defining an integrated residential development:

The aforementioned legal advice confirms that Council's current interpretation of 'IRD' is accurate. This relates to a residential development on a site greater than 2,000m², that has supporting communal facilities, such as recreation and leisure facilities (i.e. a communal gym, pool, and toilets) falls within the definition. It notes that while the communal facilities will need to be more than standard communal areas provided as part of say an apartment complex, such as a lobby, shared access and garage facilities, the Council will need to make an assessment as to the status of the activity as IRD or otherwise on a case by case basis. It also noted there is nothing in the definition of IRD that requires an element of on-site control for a proposal to be considered an IRD. It found that the application for 2 and 2A Tizard fell within the definition of an IRD. It is noted that in relation to that application it proposed the construction of a four-storey building containing a total of ten residential dwellings (apartments) and associated amenities (gym, pool, terrace area and shower, toilet, changing area). No form of on-site management was proposed, either in the form of a manager's office or apartment.

The legal view agreed with the Council's approach that facilities must be genuinely communal, and extend beyond required shared spaces such a lobbies, access and garage facilities associated with an apartment complex. This would need to be considered in context on a case-by-case basis. It found that there must be some reasonable limits to what can be considered an IRD, so that the intention of the Plan is not simply subverted by the inclusion of token 'communal facilities'. In making this finding it referred to the; Auckland Unitary Plan Independent Hearings Panel, Report to Auckland Council Hearing topics 059 - 063: Residential zones, July 2016, at 7.2 which stated:

The Panel has not provided for a particular class of activity called 'retirement village' but has instead provided for 'integrated residential developments', which would include a retirement village.

...

...the Panel does not support a definition of retirement villages being limited to that in the Retirement Villages Act 2003. It is the Panel's view that a retirement village is essentially a residential activity. While a range of other complementary activities (such as recreation, social, community, cultural and health) may be offered in an integrated manner, it is still essentially part of a residential activity. In the Panel's view **any residential activity that offers a range of other complementary activities** (other than for retirement purposes) should be treated in the same way as a retirement village and vice versa.

Accordingly a class of activity termed '**integrated residential development**' **has been defined and could apply to a range of activities** such retirement villages, campus-style student accommodation, community and cultural style residential developments.

[emphasis added]

Additional information:

Please also note that a key advantage of the alternative view that the non-complying multiple dwelling rule does not apply will disappear on 30th September, when the RMA Amendment Act removes the non-notification presumption for discretionary residential activities. I.e. you will need to do the full section 95A whether it be only a Discretionary IRD, or a combined IRD and Non-complying 'More than one Dwelling' consent.

Felicity Wach, Council's Senior Solicitor further confirmed the below:

1. The opinion was prepared for an application for an IRD in the Single House Zone on Tizard Road, Birkenhead. It was withheld in order to maintain legal professional privilege under section 7(2)(g) of the Local Government Official Information and Meetings Act 1987 (LGOIMA). There were no other considerations which rendered it in the public interest to make the opinion available under section 7(1) of the LGOIMA.
2. Council provided a short summary of the opinion only, specifically to avoid waiving privilege, whilst attempting to be helpful to the applicant. It is considered that privilege has not been waived. Ms Wach is satisfied that you will be able to advise your client sufficiently without a copy of the opinion.
3. The activity status of IRDs in the Single House Zone is a live issue in another application for an IRD at 30 and 40 Sandspit Road, Cockle Bay. That application is subject to an Environment Court appeal, ENV-2019-AKL-000176-Box Property Investment Ltd v Auckland Council, which is currently on-hold while an application for direct referral is made with an amended design. The direct referral is expected to be notified in late September. It is likely that the activity status will be determined by the Environment Court in the Sandspit Road proceedings, unless they are settled prior to a

	<p>hearing. The interpretation taken by Council is consistent between applications, and will ultimately be determined by the Court in due course on the Sandspit Road matter.</p> <p>4. The other point that is worth noting is that because this application will be lodged after the RMAA 2020, the activity status will not affect the decision on notification or the rights to appeal, as it does for applications lodged prior to the RMA 2020 coming into force.</p>
--	---

Preliminary view on outcome / process

Having regard to the foregoing and based on the information received from the applicant to date, Council does not support the proposal nor its intended outcomes. This position is based on the following:

- Council does not agree that the proposal represents an IRD that provides any significant and/or meaningful integrated communal facilities, and especially not at a scale and function that would appropriately support the proposed density of residential development;
- Council does not agree that the reserves and commercial activity are appropriately or sufficiently integrated with the residential development so as to render this proposal distinct from any other standard residential subdivision, further bolstering the interpretation above that the proposal does not represent an IRD; and
- At the intensity, character and layout proposed, the scheme represents considerable over-development of the site in the Single House zone and does not align with that zone's intended outcome for suburban built character in a manner that maintains or enhances the amenity values of the established residential neighbourhood within which the site is located.

Having regard to the likely notification assessment, based on the information to hand, Council considers that the application would be likely to be publicly notified.

This is a preliminary view only. A final determination on whether Council can support the consent or not can only be made upon receipt of a formal application, site visit and review.

Resource Consent Strategy

Application Documentation

A good quality application starts with a good quality proposal, one that includes all relevant information and documentation required for us to process your consent smoothly. This will help to reduce confusion, delay and cost, as we do not accept applications which have missing information.

We recommend you [engage a professional](#) (architect or consultant) to prepare your application, as the requirements are technical.

	<p>It is important that your application accurately identifies all of the reasons that your project will require resource consent. This may also include any Overlays, Precincts or other features such as flooding or instability, there will be other rules that apply to your site and you will need to demonstrate that you comply with these or state that you are applying for consent.</p> <p>Your consent application must include an Assessment of Environmental Effects (AEE). An AEE is a written statement identifying the effects of your proposed activity on the environment, and information on how you might negate or modify these effects.</p>
<p>Specialist Assessments</p>	<p>You may need to provide written specialist report(s) to support your application, depending on the scale and significance of your proposal.</p> <p>As described above, in this case the following is considered necessary:</p> <ul style="list-style-type: none"> • DSI/RAP • Geotechnical Report • Flooding hazard assessment • Infrastructure report • Transport assessment including survey and visibility assessment • Refuse collection details <p>Important Note: <i>The specialist assessments required above are advised based on the proposal provided for the pre-application meeting, should the nature and extent of proposal change, further specialist assessments may be required.</i></p>
<p>Hazard Risk Assessment</p>	<p>A hazard risk assessment must be undertaken when subdivision, use or development requiring resource consent is proposed to be undertaken on land which may be subject to any one or more of the following:</p> <ul style="list-style-type: none"> • coastal erosion; • coastal storm inundation 1 per cent annual exceedance probability (AEP); • coastal storm inundation 1 per cent annual exceedance probability (AEP) plus 1m seal level rise; • coastal hazards; • the 1 per cent annual exceedance probability (AEP) floodplain; • overland flow paths; or • land instability.

	<p>The level of information required to be provided should be proportionate to the hazard risk, the nature of the hazard. It should also be appropriate to the scale, nature and location of the development and reflective of the scale of the activity proposed. For coastal hazards this should include a consideration of the effects of climate change over at least a 100 year timeframe.</p> <p>The hazard risk assessment, which does not need to duplicate an AEE, that addresses all of the following:</p> <ul style="list-style-type: none"> a) the type, frequency and scale of the natural hazard and whether adverse effects on the development will be temporary or permanent; b) the type of activity being undertaken and its vulnerability to natural hazard events; c) the consequences of a natural hazard event in relation to the proposed activity and the people likely to be involved in that activity; d) the potential effects on public safety and other property; e) any exacerbation of an existing natural hazard risks or creation of a new natural hazard risks; f) whether any building, structure or activity located on land subject to natural hazards near the coast can be relocated in the event of severe coastal erosion, coastal storm inundation or shoreline retreat; g) the ability to use of non-structural solutions, such as planting or the retention or enhancement of natural landform buffers to avoid, remedy or mitigate the hazard, rather than hard engineering solutions or protection structures; h) the design and construction of buildings and structures to mitigate the effects of natural hazards; i) the effect of structures used to mitigate hazards on landscape values and public access; j) site layout and management to avoid or mitigate the adverse effects of natural hazards, including access and exit during a natural hazard event; k) the duration of consent and how this may limit the exposure for more or less vulnerable activities to the effects of natural hazards including the effects of climate change; and l) any measures and/ or plans proposed to mitigate the natural hazard or the effects of the natural hazard.
<p><u>Engaging with mana whenua</u></p>	<p>Mana whenua have a special cultural and spiritual relationship with the environment, which is a matter of national importance under the Resource Management Act.</p>

	<p>This includes their relationship with their:</p> <ul style="list-style-type: none"> • waahi tapu (sacred sites) • taonga (treasures) • water • ancestral lands. <p>Resource consent applicants are expected to consult with iwi authorities when developments affect mana whenua values.</p> <p>The best way to identify these values and take these into account is through consultation with the relevant iwi authorities.</p> <p>As part of the consent application process, new developments may need to provide a Cultural Values Assessments (CVA), prepared by mana whenua or their nominee. A CVA documents mana whenua's cultural values, interests, and associations with an area or natural resource.</p> <p>Not all resource consent applications will require a CVA. This needs to be decided by the relevant iwi authority.</p> <p>To find out who the relevant iwi authorities are for a particular site or location, email us, clearly stating the location's address.</p> <p>If you need help on how to engage with different iwi authorities, contact us.</p> <p>We can advise and guide you on engaging with iwi to ensure the best outcomes for both you and mana whenua. We recommend you get this advice if you have not engaged with iwi before.</p> <p>Alternatively, once an application is lodged, we can provide facilitators who can begin the engagement process for you. However, by this stage, other aspects of your project may have progressed and could be disrupted. Because of this, we recommend you engage before you lodge the application.</p>
<p>How to apply</p>	<p>You are encouraged to apply online. This will save time and printing costs and you can track the progress of your application.</p> <p>Alternatively, you can post your application or come into one of our service centres.</p>

Fees and deposit	<p>You must include the relevant lodgement deposit with your resource consent application, to cover initial application processing costs.</p> <p>If the actual cost is less than the deposit amount, we will refund the difference.</p> <p>If the actual cost exceeds the deposit amount, which happens in most cases, we will invoice you for the additional costs.</p> <p>The deposit calculator gives an estimate of the deposit required.</p>
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General Information	
Auckland Design Manual	<p>The Auckland Design Manual (ADM) provides a resource for everyone involved in design, building and development to either share their great design stories with others, or to seek inspiration, tools and best practice advice from those who have already been successful. Auckland's planning rulebook, the Auckland Unitary Plan will articulate the rules for the future growth, whilst the ADM illustrates how to achieve the quality outcomes sought by the AUP (OP).</p> <p>The Auckland Design Manual provides advice on design elements such as site layout, privacy, outdoor spaces and designing for the sun.</p> <ul style="list-style-type: none"> ○ Auckland Design Manual detached house guide ○ Auckland Design Manual terraced housing guide ○ Auckland Design Manual apartments guide
Development Contributions	<p>Development contributions are the fees charged by the council for extra community and network infrastructure needed as a result of development projects. You will pay development contributions for residential and commercial development such as new houses, and subdivisions. The money collected from development contributions pays for the cost of public infrastructure that is needed to meet the additional demand from growth. This includes network infrastructure such as stormwater and transport, open space reserves and community facilities. To get an indication of the contribution please use the Development Contributions Estimator.</p> <p>Water supply and wastewater services are not included in the Development Contribution. This is covered in the infrastructure growth charge. This charge is administered by Watercare.</p>

Important Information

The purpose of a pre-application is to facilitate communication between applicants and the council so that the applicant can make informed decisions about applying for consents, permits or licences.

The views expressed by council staff in or following a pre-application are those officers' preliminary views, made in good faith, on the applicant's proposal. The council makes no warranty, express or implied, nor assumes any legal liability or responsibility for the accuracy, correctness, completeness or use of any information or views communicated as part of the pre-application process.

The applicant is not required to amend their proposal to accommodate the views expressed by council staff. Further, it remains the applicant's responsibility to get their own professional advice when making an application for consents, permits or licences, and to rely solely on that advice, in making any application for consents, permits or licences.

To the extent permissible by law, the council expressly disclaims any liability to the applicant (under the theory of law including negligence) in relation to the pre-application process. The council acknowledges that the confidential nature of pre-application meetings is important to encourage future applicants to engage with the council and attend pre-application meetings. By attending a pre-application meeting, both parties expect that the meetings are held in confidence and the intention is that the associated information that is provided to the council at these meetings, and the meeting minutes, will remain confidential. However, under the Local Government Official Information and Meetings Act 1987 any person may request any information that is held by the council. There is a presumption that information is made available unless there is good reason for withholding it, which is not outweighed by the public interest in making the information available. This is assessed on a case by case basis.

All consent applications become public information once lodged with council. Please note that council compiles, on a weekly basis, summaries of lodged resource consent applications and distributes these summaries to all local boards and all mana whenua groups in the Auckland region. Local boards and mana whenua groups then have an opportunity to seek further details of applications and provide comment for council to take into account.

Prepared by:


Name: Kay Panther Knight
Title: Consultant Principal Planner

Signed:



Date: 23 September 2020

Reviewed by:

Name: Brogan McQuoid
Title: Team Leader, Resource Consents
Signed: 
Date: 23/09/2020

Released under the provision of
the Official Information Act 1982

Annexure D: Additional AUP definitions

14.2 Further to the definition of IRD and communal facilities, we note the following potentially relevant definitions from the AUP:²⁹

Accessory activities

Activities located on the same site as the primary activity, where the activity is incidental to, and serves a supportive function of the primary activity.

Includes:

- *permitted or required car parking*

Activities sensitive to noise

Any dwelling, visitor accommodation, boarding house, marae, papakāinga, integrated residential development, retirement village, supported residential care, care centres, lecture theatres in tertiary education facilities, classrooms in education facilities and healthcare facilities with an overnight stay facility.

Communal facilities

Facilities for the well-being of the community, generally on a not for profit basis.

Includes:

- *arts and cultural centres (including art galleries and museums);*
- *places of worship;*
- *community centres;*
- *halls;*
- *libraries;*
- *marae;*
- *Citizens Advice Bureau;*
- *community correction facilities; and*
- *justice facilities.*

Excludes:

- *entertainment facilities;*
- *care centres; and*
- *healthcare facilities.*

This definition is nested within the Community nesting table.

²⁹ AUP, J1 Definitions.

Entertainment facility

Facility used for leisure or entertainment.

Includes:

- *nightclubs;*
- *theatres; and*
- *concert venues.*

This definition is nested within the Commerce nesting table.

Informal recreation

A pastime, leisure, sport or exercise activity that occurs on an ad-hoc basis or irregularly and contributes to a person's enjoyment and/or relaxation.

Excludes:

- *regular organised sport and recreation.*

This definition is nested within the Community nesting table.

Recreation facility

A facility where the primary purpose is to provide for sport and recreation activities.

Includes:

- *recreation centres;*
- *aquatic facilities, swimming pools, both indoor and outdoor;*
- *fitness centres and gymnasiums; and*
- *indoor sports centres.*

Site

Any area of land which meets one of the descriptions set out below:

- (a) *an area of land which is:*
 - (i) *comprised of one allotment in one certificate of title, or two or more contiguous allotments held together in one certificate of title, in such a way that the allotments cannot be dealt with separately without the prior consent of the council; or*
 - (ii) *contained in a single lot on an approved survey plan of subdivision for which a separate certificate of title*

could be issued without any further consent of the council;

being in any case the smaller area of clauses (i) or (ii) above; or

...

Sport and recreation structure

Accessory structure required to undertake a sport or recreational activity associated with a park or sports field.

Includes:

- *goal posts;*
- *courts;*
- *artificial playing surfaces;*
- *fences;*
- *scoreboards (fixed or moveable);*
- *floodlight poles and transformers;*
- *fences associated with the sport e.g. ball nets, crowd control, safety barriers;*
- *sideline shelters;*
- *site screens;*
- *cricket nets;*
- *skate parks;*
- *cycle parking structures;*
- *basketball bowls;*
- *horse jumps;*
- *BMX tracks and jump structures;*
- *mountain bike downhill structures; and*
- *public address systems.*

Excludes:

- *clubrooms*

Annexure E: Benchmarking exercise

	Conventional subdivision	IRD (V2)	Change
GFA	18,770m ² (residential) Total: 18,770m ²	18,735m ² (residential) 100m ² (café) 480m ² (commercial units) 125 ² community centre Total: 19,440m ²	Increase: 670m ² 3.6% more GFA than a conventional subdivision GFA
Building Coverage	10,485m ² (residential) Total: 10,485m ²	9,394m ² (residential) 100m ² (café) 480m ² (commercial units) 125 ² community centre Total: 10,009m ²	Decrease: 476m ² less 95.5% of a conventional subdivision building coverage
Dwellings	106	248	142 additional dwellings. 133% increase in dwellings.
Bedrooms	468	690	222 or 47% increase in bedroom; residential living capacity
People (maximum occupancy)	Master bedrooms: 106 dwellings x 2 people: 106 x 2 = 212 Other bedrooms: 1 person for every additional bedroom: 468 total bedrooms -106 master bedrooms: 468-106 = 362): Total: 212 + 362 = 574	Master bedrooms: 248 dwellings x 2 people: 248 x 2 = 496 Other bedrooms: 1 person for every additional bedroom: 690 total bedrooms - 248 master bedrooms: 690 – 248 = 442): Total: 496 + 448 = 938	364 additional people, or 63% increase in residential capacity.
Affordability	No affordable dwellings	Approximately 143 Kiwibuild units. Additionally, open market units are expected to sell for affordable prices.	200+ additional affordable dwellings, compared to a conventional subdivision.

1st October 2020

Nick Mattison
CIVIX Ltd
Via email

Re: Concept Summary, 460-478 West Coast Road & 317-347 Glengarry Road, Glen Eden

Dear Nick,

1. I can provide the following initial advice regarding the community, recreation, and leisure facility components of the proposed concept (for an integrated residential development at the above site).
2. I believe the concept plan will provide residents' access to a range of functional recreation and leisure facilities (which complement those already available in the large adjacent public reserve and playing fields). The concept design offers facilities that meet the needs of residents at varying life stages (from youth, young families, and older adults).
3. The key community, recreation, and leisure facility components of the concept are:
 - a. **An Informal Grass Active Recreation Open Space:**

This space is centralised in the development making it easily accessible and surrounded by a low speed street network to maximise safety. It is designed for both active informal recreational activities (such as ball and frisbee play) and passive use. The dimensions adequately accommodate informal sport and recreation activities. This asset will appeal to residents of all age cohorts.
 - b. **A Youth Playground with Adjoining Adult Fitness Equipment:**

The youth playground is scaled to accommodate younger users and will be aligned to a 'nature playground' concept. A module of adult fitness equipment will be located adjoining the playground so parents and caregivers can exercise while maintaining good sightlines over the playground.
 - c. **A Multi Use Games Area (MUGA):**

A MUGA will be established to serve informal active ball sports play, especially for older youth and adults. The MUGA will be configured to enable one or more small teams to play modified sports such as football (futsal), basketball and cricket. The fenced playing arena prevents balls striking users of the adjoining leisure assets and going onto the road.
 - d. **BBQ Areas:**

Two BBQ areas (with permanent BBQ and tables) will be developed enabling multiple groups to use facilities at the same time. One BBQ will primarily serve the MUGA and Playground while the other serves the grass active area and playground. One of the BBQs will be covered to enable it to be used during periods of inclement weather.

e. Walking and Passive Leisure:

The design with its multiple footpaths, plantings, and passive resting areas offers residents a pleasant walking environment. This is complemented by low speed street network.

f. A Potential Community Garden:

A location for a community garden has been identified that can be activated should resident's desire. These spaces are in demand regionally as more communities are coming together in joint gardening initiatives.

g. A Bookable Community Space:

A bookable indoor multi-purpose community space has been included to enable residents' space for meetings and functions.

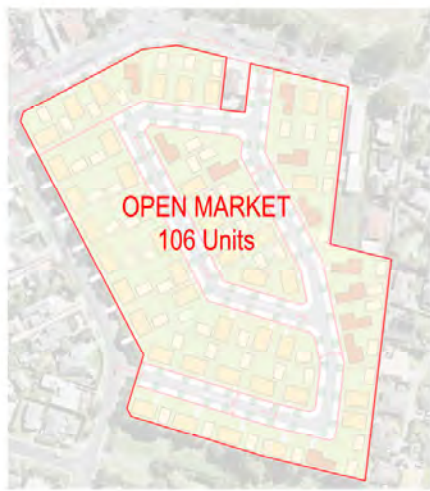
4. The current concept has undergone several iterations to arrive at an optimised plan. I believe this concept reflects best practice in functional community leisure and recreational planning. Additional fine tuning will be undertaken in future, more detailed, design stages to further maximise community recreation and leisure benefits. For example, as the MUGA, community space, and potential community garden is conceptualised in greater detail.

Please make contact should you wish to discuss the above summary in greater detail.

Regards



Craig Jones
BA, MA (Hons), PGDipBusAdmin(Dist).
Director
Visitor Solutions Ltd
Community, Sports, Leisure and Tourism Planners



- 7 BEDROOM UNITS - 44
(MAIN DWELLING)
 - 6 BEDROOM UNITS - 9
(MAIN DWELLING)
 - 2 BEDROOM UNITS - 53
(MINOR DWELLING)
- Total: 106 UNITS
Total: 53 SITES
(Minimum 600m² lot area)
- 2 STOREY UNIT
290m² GFA, 7 Bedrooms, 3.5 bathroom,
Kitchen, Dining, Living, Double Garage.
 - 2 STOREY UNIT
285m² GFA, 6 Bedrooms, 3.5 bathroom,
Kitchen, Dining, Living, Double Garage
 - 1 STOREY UNIT
65m² GFA, 2 Bedrooms, 1 bathroom,
Kitchen, Dining, Living, 1x off street parking

Typology	Total	GFA	Coverage	Bedrooms
	44	290m ² (12,760m ²)	145m ² (6,380m ²)	7 (308)
	9	285m ² (2,565m ²)	145m ² (1,305m ²)	6 (54)
	53	65m ² (3,445m ²)	65m ² (3,445m ²)	2 (106)
Total	106	18,770m²	10,485m²	468



PRECEDENT



PRELIMINARY

REV 08

NOLA ESTATE - GLEN EDEN

NOLA ESTATE DEVELOPMENT

24/09/2020

Job # 2430

01

21 August 2020

Nick Mattison
Civix Limited

By Email: s 9(2)(a)

Dear Nick,

*460-478 WEST COAST ROAD & 317-347 GLENGARRY ROAD, GLEN EDEN
PRELIMINARY CONCEPT – TRANSPORT*

I can provide the following preliminary advice regarding the proposed concept for an integrated residential development at the above site. A copy of the general site layout has been enclosed and is anticipated to yield about 250 residential dwellings, a small commercial/retail centre, and a series of public and private roads to provide access to the wider road network.

The concept plan has been developed with my input and alongside other professionals and I consider that this will have a successful transport outcome that will integrate well in the surrounding road network.

The proposal can make the most of the opportunities to promote walking and cycling. It aims to provide for the daily needs of pedestrian and cyclist movements by:

- a) Creating footpaths along both sides of the new street that meet Auckland Transport standards.
- b) Connecting new footpaths with the existing footpath network immediately outside the site.
- c) Pedestrian crossing facilities will be incorporated into the intersection layouts,
- d) Vehicle crossings are limited providing rear lanes for lot access and minimising the conflicts on footpaths; and
- e) Providing a low-speed street network that allows cyclists and vehicles to share the same carriageway on an equal basis.

The proposal follows best practice road design principles that will meet Auckland Transport standards and expectations for residential street:

- a) A design speed of 30km/hr on all new roads with traffic calming at regular intervals.
- b) Roads will have a road reserve width that will accommodate all users and support safe and efficient use.
- c) New intersections will be sufficiently separated from others intersection reducing the conflicts and congestion.
- d) Appropriate intersection controls can be established to provide safe and clear priority for all users.

Auckland Office:
P O Box 60-255, Titirangi, Auckland 0642
Level 1, 400 Titirangi Road, Titirangi Village
Tel: (09) 817 2500
Fax: (09) 817 2504
www.trafficplanning.co.nz

I have engaged with Auckland Transport to seek initial feedback on the concept and they are generally supportive of the proposal. Some key areas they have raised that will need to be addressed with further design development and assessment are as follows. I anticipate these additional measures can be accommodated within the current road reserve or subject site and without any land acquisition required.

1. Potential upgrade to the Glengarry Road/ West Coast Road intersection to support the additional flows and assist with pedestrian movement.
2. Pedestrian and cycling facilities around the perimeter of the site to support additional active mode trips.
3. Any proposed road onto West Coast Road on the northern property frontage will need to be left in left and assessment of the separation to the existing roundabout.

We trust that the above provides sufficient information. However, should you have any further queries in relation to the above, we would be happy discuss further if needed.

Yours faithfully
TRAFFIC PLANNING CONSULTANTS LTD



Todd Langwell
Director

Attachment 1
Concept Design

Released under the provision of
the Official Information Act 1982



3 Bedroom Units - 144
(72 Kiwi Build, 72 Open Market)

2 Bedroom Units - 105
(78 Kiwi Build, 27 Open Market)

Total: 249 Units

Approximately 260 Car Parks
(Excluding Public Road Parking)
(Excluding Commercial Block)

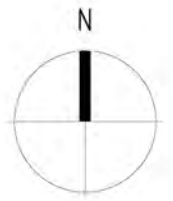
Precedent



DRAFT

REV 05C

NOLA ESTATE - GLEN EDEN



Park Block Alternative Layout



245
ASSOCIATES
URBAN DESIGN & ARCHITECTURE

1 October 2020

Nick Mattison
Civix Limited

By Email: s 9(2)(a)

Dear Nick,

*460-478 WEST COAST ROAD & 317-347 GLENGARRY ROAD, GLEN EDEN
PRELIMINARY CONCEPT – TRANSPORT*

I can provide the following preliminary advice regarding the proposed concept for an integrated residential development at the above site. A copy of the general site layout has been enclosed and is anticipated to yield about 250 residential dwellings, a small commercial/retail centre, a community centre and a series of public and private roads to provide access to the wider road network.

The concept plan has been developed with my input and alongside other professionals and I consider that this will have a successful transport outcome that will integrate well in the surrounding road network.

The proposal can make the most of the opportunities to promote walking and cycling. It aims to provide for the daily needs of pedestrian and cyclist movements by:

- a) Creating footpaths along both sides of the new street that meet Auckland Transport standards.
- b) Connecting new footpaths with the existing footpath network immediately outside the site.
- c) Pedestrian crossing facilities will be incorporated into the intersection layouts,
- d) Vehicle crossings are limited providing rear lanes for lot access and minimising the conflicts on footpaths; and
- e) Providing a low-speed street network that allows cyclists and vehicles to share the same carriageway on an equal basis.

The proposal intends to follow best practice road design principles that will meet Auckland Transport standards and expectations for residential street:

- a) A design speed of 30km/hr on all new roads with traffic calming at regular intervals.
- b) Roads will have a road reserve width that will accommodate all users and support safe and efficient use.
- c) New intersections will be sufficiently separated from others intersection reducing the conflicts and congestion.
- d) Appropriate intersection controls can be established to provide safe and clear priority for all users.

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I have engaged with Auckland Transport to seek initial feedback on the concept and they are generally supportive of the proposal. Some key areas they have raised that will need to be addressed with further design development and assessment are as follows. I anticipate these additional measures can be accommodated within the current road reserve or subject site and without any land acquisition required.

1. Potential upgrade to the Glengarry Road/ West Coast Road intersection to support the additional flows and assist with pedestrian movement.
2. Assessment of the capacity of the West Coast Road / Parrs Cross Road intersection.
3. Pedestrian and cycling facilities around the perimeter of the site to support additional active mode trips.
4. Traffic calming on Glengarry Road to support walking and cycle safety.
5. Any proposed road onto West Coast Road on the northern property frontage will need to be left in left and assessment of the separation to the existing roundabout and any extraneous traffic.

We trust that the above provides sufficient information. However, should you have any further queries in relation to the above, we would be happy discuss further if needed.

Yours faithfully
TRAFFIC PLANNING CONSULTANTS LTD



Todd Langwell
Director

Attachment 1
Concept Design

Released under the provision of
the Official Information Act 1982



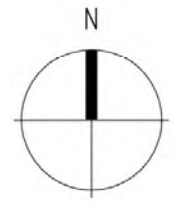
- 4 BEDROOM UNITS - 47
(22 Kiwi Build, 25 Open Market)
- 3 BEDROOM UNITS - 100
(52 Kiwi Build, 48 Open Market)
- 2 BEDROOM UNITS - 101
(74 Kiwi Build, 27 Open Market)

Total: 248 UNITS

Approximately 265 Car Parks
(Excluding Public Road Parking)
(Excluding Commercial Block)

- 3 STOREY UNIT
105m² GFA, 4 Bedrooms, 2.5 bathroom,
Kitchen, Dining, Living, 1x off street park.
- 3 STOREY UNIT
86m² GFA, 3 Bedrooms, 1.5 bathroom,
Kitchen, Dining, Living, 1x off street park.
- 2 STOREY UNIT
81m² GFA, 3 Bedrooms, 1.5 bathroom,
Kitchen, Dining, Living, 1x off street park.
- 2 STOREY UNIT
64m² GFA, 2 Bedrooms, 1.5 bathroom,
Kitchen, Dining, Living, 1x off street park.
- CAFE
(100m² GFA over single level)
- COMMERCIAL UNITS
(3 units @ 100.00m² GFA over single level)
- COMMUNITY CENTRE
(100m² GFA over single level)

Typology	Total	GFA	Coverage	Bedrooms
	47	105m ² (4,935m ²)	36m ² (1,692m ²)	4 (188)
	95	81m ² (7,695m ²)	47m ² (4,465m ²)	3 (285)
	5	86m ² (430m ²)	35m ² (175m ²)	3 (15)
	101	64m ² (6,464m ²)	32m ² (3,232m ²)	2 (202)
Total	248	19,524m²	9,564m²	690



PRECEDENT

REV 10
NOLA ESTATE - GLEN EDEN



Todd Langwell's feedback on Auckland Transport's concerns raised at pre-application meeting on 9 September 2020

	AT comment	High level response
	Traffic Matters, including input from Auckland Transport	
1.	Sam Shumane, for Council, and Mitra Prasad and Tessa Craig for Auckland Transport, gave feedback regarding the roading layout, including confirming there are concerns regarding direct access from West Coast Road and the proximity of the intersection to the roundabout, noting that further assessment needs to be undertaken in respect of traffic generation and effects on queuing and weaving of traffic. There is also a preference for left turn movements only at this intersection.	<ul style="list-style-type: none"> • Impact of access onto West Coast Road is part of the detailed assessment. • The proposal has two access points onto Glengarry Road, so this is workable if required, though may be less desirable for other reasons, e.g. urban design.
2.	Todd Langwell confirmed surveys were being undertaken but that they were delayed due to the recent Auckland Covid-19 lockdown. These would be produced in due course, and consideration is being given to signalling the intersection of West Coast Road and Glengarry Road. Mitra raised concern regarding assuming a signalised intersection, noting that may be out of character with the rural nature of the network further west, and that consideration should be given to all options, particularly considering the proximity of the roundabout intersection of West Coast Road with Parrs Cross Road.	<ul style="list-style-type: none"> • Todd confirmed that all options are being considered. • The intersection, if there was one, would be entirely surrounded by residentially zoned land rather than rural zoned land and it would be unusual to make a traffic safety decision on the basis of rural character in a residentially zoned part of Auckland.
3.	Concern was raised by Sam regarding the one-way component internal to the site, noting that this gives rise to safety and efficiency effects. The road reserve appeared wide enough to accommodate two-way traffic and the Applicant undertook to consider that.	<ul style="list-style-type: none"> • AT had previously agreed to a one way road in this location. • Nevertheless a two-way road is feasible. • Alternative design shows a 15m corridor with two way access
4.	Discussion was had regarding ensuring appropriate width within road reserves for all services. Sam identified some further consideration needed to be given to geometry of the roads relative to AT standards, but that would follow in further detailed design. Visibility assessments would need to form part of the transport assessment being prepared.	<ul style="list-style-type: none"> • These are matters of detailed design
5.	Key outcomes / actions (if relevant) Applicant to complete its surveys and transport assessment, and to reconsider internal road layout, particularly the one-way component.	<ul style="list-style-type: none"> • Road layout re-examined. • Detailed traffic assessment underway

	AT comment	High level response
	Auckland Transport post meeting feedback (Tessa Craig)	
6.	<p>West Coast Road Vehicle Access</p> <p>1. AT has concerns with an additional vehicle access onto West Coast Road, due to the proximity of the new road to the roundabout, sited where drivers on West Coast Road diverge to form two lanes. When drivers queue on the kerbside lane, visibility to the inner lane is obstructed. City bound drivers (west bound to Great North Road) would favour the inner lane (northernmost lane) so they can U-turn at the roundabout.</p>	<ul style="list-style-type: none"> • Access onto West Coast Road not critical, but removal will only serve to increase congestion at other parts of the network. • Alternatively the positioning of the access onto West Coast Road could be altered. • Therefore, this is a matter to be resolved in detailed design. • This could be largely addressed if traffic lights were installed at the Glengarry Road intersection giving residents an efficient alternative.
7.	<p>2. Additionally, misuse of the 'Lane' and new road off West Coast Road is expected with vehicles cutting through to Glengarry Road. Therefore, it would be best to eliminate vehicle access from the residential part of the development, through to West Coast Road.</p>	<ul style="list-style-type: none"> • Matter of detailed design. • Removal of access inconsistent with AUP policies for connectivity. • Road anticipated to be addressed with traffic calming to manage speeds and extraneous traffic.
8.	<p>3. The proposal should provide a pedestrian and cycle link only from the residential part of the development through to West Coast Road. This would remove potentially significant effects that the application could have on the existing environment, movement, and safety of users which the applicant would have need to mitigate to AT's satisfaction.</p>	<ul style="list-style-type: none"> • This comment highlights that it is a matter to be resolved through detailed design. • AT's suggesting is achievable if the detailed transport assessment recommends this as the most appropriate outcome, taking all inputs into account.
9.	<p>4. In reference to the above point, appropriate connection to West Coast Road for active modes are desired and encouraged. Providing accessways (8m wide) with ample passive surveillance from neighbouring dwellings and appropriate lighting and landscaping should achieve this objective.</p>	<ul style="list-style-type: none"> • Matter of detailed design.
10.	<p>5. If vehicle access onto West Coast Rd is absolutely necessary, it will be required to be a left-in, left-out access arrangement. This will need to be sited further away from the intersection, ideally where the 'Lane' is proposed, which has a single approach lane. An extended solid median island would also be required to prevent right turns.</p>	<ul style="list-style-type: none"> • If necessary, this is achievable but a matter for detailed design.
11.	<p>6. Details of loading for the commercial premises alongside loading for the existing dairy will be required.</p>	<ul style="list-style-type: none"> • Matter of detailed design.

	AT comment	High level response
12.	<p>Internal Roads</p> <p>7. All internal roads should be vested as public roads. A 13-metre road reserve is wide enough to be a two-way operation and the internal roads should all be two-way. If there is a high inconvenience for residents (those who travel the long way around to exit the development), drivers will flout proposed one-way operation.</p>	<ul style="list-style-type: none"> • Matter of detailed design. • All roads can be two way. • AT does not have discretion over whether or not a road or lane is vested in it. Nevertheless, CPM is looking to have all roads vested. This will enable management and enforcement by the appropriate authority for any traffic offences.
13.	<p>8. All internal roads should comply with the Transport Design Manual in terms of provision of cycle facilities or safe mixed traffic environments. Internal roads require speed calming, 1.8m footpaths and may require broken yellow lines along sections of narrow carriageway.</p>	<ul style="list-style-type: none"> • Matter of detailed design.
14.	<p>9. The proposed public roads (particularly the longest straight internal road connecting with the commercial area) should be designed carefully to reduce speed and make it safe. Horizontal traffic calming features/devices should be implemented (i.e. minimum lane width and low maintenance low planting to visually narrow down the carriageway without impeding visibility).</p>	<ul style="list-style-type: none"> • Matter of detailed design.
15.	<p>10. In terms of alignment, the sharp corners in the property boundary may not achieve appropriate road corridor width to provide a bend. The detailed design should include demonstration of the turning and parking manoeuvres.</p>	<ul style="list-style-type: none"> • Matter of detailed design.
16.	<p>11. Provision for indented on-street parking is required. Consideration of fewer, larger raingardens is required for stormwater management.</p>	<ul style="list-style-type: none"> • Matter of detailed design.
17.	<p>12. AT is supportive of rear access and access via JOALS. We suggest re-orientating some of the end dwellings to give better street frontage orientation and natural surveillance.</p>	<ul style="list-style-type: none"> • Matter of detailed design.
18.	<p>13. A 30kph speed environment is required on the new internal road network.</p>	<ul style="list-style-type: none"> • Matter of detailed design.

	AT comment	High level response
19.	<p>Existing Roads</p> <p>14. If no improvements are proposed for the Glengarry Road/ West Coast Road intersection, vehicles from the proposed development will likely exit onto West Coast Road to negate having to right turn out of Glengarry Road. AT therefore suggests a roundabout or signalisation at the Glengarry Road/West Coast Road intersection.</p>	<ul style="list-style-type: none"> • • Addressed above at (6) and (7).
20.	<p>15. Modelling is required to show the impact of the development on the West Coast Road/Parrs Cross Road intersection and the West Coast Road/Glengarry Road intersection and mitigation should be proposed in line with the results of the modelling. A 30kph speed environment is required along West Coast Road and Glengarry Road.</p>	<ul style="list-style-type: none"> • Modelling being undertaken • Detailed design issue
21.	<p>Active Modes</p> <p>16. There is concern about the safety of the roundabout at West Coast Road/Parr Cross Road, especially for pedestrians and cyclists. There is also concern about the movement of people to and from the bus stop on Parrs Cross Road for service going toward Henderson which have come from Glen Eden/New Lynn. A pedestrian facility is required to the north of the West Coast Road/Parrs Cross Road roundabout.</p>	<ul style="list-style-type: none"> • These are highlighted as existing concerns with the existing environment. • Matter of detailed design.
22.	<p>17. Safe crossing points across Glengarry Road are required. The pedestrian crossing points at intersections are unclear. Clarification is needed on the pedestrian movement across West Coast Road and crossing on all arms are required.</p>	<ul style="list-style-type: none"> • Matter of detailed design.
23.	<p>18. The raised courtesy crossing on Glengarry Road (near the intersection with West Coast Road) will require upgrading to improve pedestrian and cyclist safety as the development will increase their exposure to additional traffic.</p>	<ul style="list-style-type: none"> • Matter of detailed design.
24.	<p>19. Any proposed improvements on Glengarry Road need to tie in with existing shared path on West Coast Road to the north of the property boundary.</p>	<ul style="list-style-type: none"> • Matter of detailed design.

	AT comment	High level response
25.	20. The existing shared path on the north of the site is located as per the red line below. This stops part way along the site at a crossing to Parrs Park, but this should be extended along the full length of the site to provide safe and attractive access past the convenience store in the draft plan and enable future connections to the east (yellow).	<ul style="list-style-type: none"> Matter of detailed design.
26.	21. Safe and attractive access should also be provided from the entrances to the site on Glengarry Road to the existing facility.	<ul style="list-style-type: none"> Matter of detailed design.
27.	22. Future drawings need to show the zebra crossing on West Coast Road outside the proposed 'Commercial' property and the existing shared path along the property frontage.	<ul style="list-style-type: none"> Matter of detailed design.
28.	23. A strong crossing feature should be provided between the reserve and adjacent green space across the currently proposed one-way street.	<ul style="list-style-type: none"> Matter of detailed design.
29.	<p>Metro / Public Transport</p> <p>24. Part VIII of the application references Policy 3(c)(i)1 of the NPSUD and its application to this proposal. The local bus stops are not Rapid Transit Stops. The station on the western rail only can be regarded as future Rapid Transit but does not currently meet the Rapid Transit Definition.² This location does not meet the criteria to be considered in walking distance of a Rapid Transit Station. The application should be corrected and clearly state the proposal is not within walking distance of a current or planned Rapid Transit Stop / Station. A reasonable walking distance to a Rapid Transit Stop / Station is ten minutes or 800 metres on reasonably level ground.</p>	<ul style="list-style-type: none"> Noted, application amended, though comment on definition of rapid transit is incorrect. In the NPS it has a different definition to AT's definition, it is defined as: <ul style="list-style-type: none"> <i>rapid transit service means any existing or planned frequent, quick, reliable and high-capacity public transport service that operates on a permanent route (road or rail) that is largely separated from other traffic</i> While the Glen-Eden rail Station is 2km to the east, this is still walkable within 20 minutes should people choose to do so. The existing services could be changed in future to AT's definition of rapid transit should population increases in the location qualify this change. Proposals such as this may precipitate this change, which is particularly practical in this location in proximity to Glen Eden station. In this regard, it is not considered appropriate to completely disregard consideration of NPSUD Policy 3(c)(i)1.

	AT comment	High level response
30.	25. There are bus routes on all the road frontages of this site; the 152 to the west on Glengarry Road, and the 151 and 154 on West Coast Road. The services have their 'inbound' stops on both frontage roads and share a common 'outbound' stop to the north of the roundabout, on Parrs Cross Road. None of these routes are part of the Frequent Transit Network.	<ul style="list-style-type: none"> • Noted, application amended. • It is also noted that these services will connect and pass by train stations, given people the ability using their integrated ticketing to connect to a wider road network.
31.	26. Given the expected increase in patronage for the services mentioned above the development should upgrade of all these stops (especially stop: 5468 without a shelter) and improve the pedestrian crossings (particularly to the common stop to the north).	<ul style="list-style-type: none"> • Matter of detailed design.

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Info

Legend

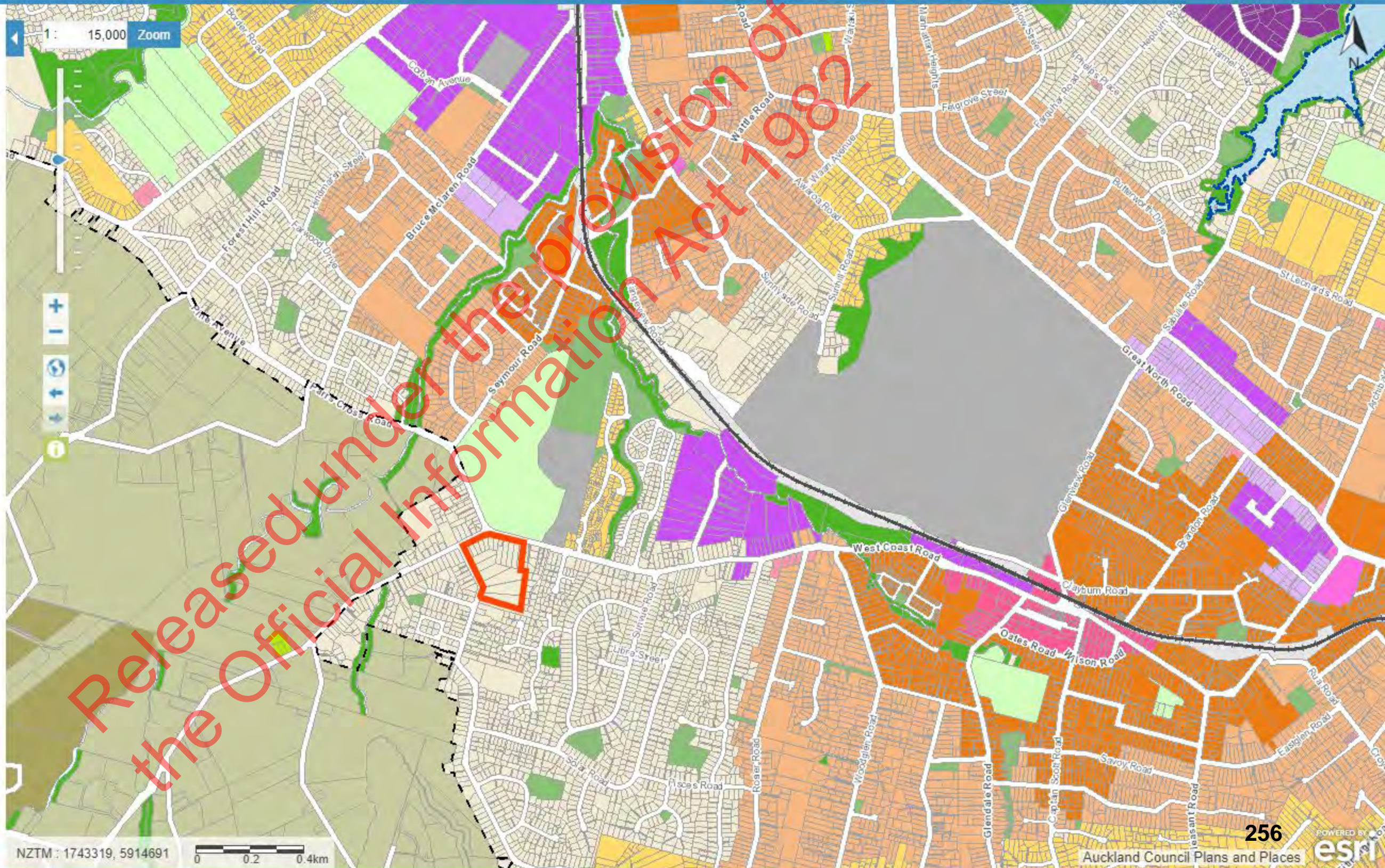
Results

Unitary Plan Zones

Zones

- Residential - Large Lot Zone
- Residential - Rural and Coastal Settlement Zone
- Residential - Single House Zone
- Residential - Mixed Housing Suburban Zone
- Residential - Mixed Housing Urban Zone
- Residential - Terrace Housing and Apartment Buildings Zone
- Open Space - Conservation Zone
- Open Space - Informal Recreation Zone
- Open Space - Sport and Active Recreation Zone
- Open Space - Civic Spaces Zone
- Open Space - Community Zone
- Business - City Centre Zone
- Business - Metropolitan Centre Zone
- Business - Town Centre Zone
- Business - Local Centre Zone
- Business - Neighbourhood Centre Zone
- Business - Mixed Use Zone
- Business - General Business Zone
- Business - Business Park Zone
- Business - Heavy Industry Zone
- Business - Light Industry Zone
- Future Urban Zone
- Green Infrastructure Corridor (Operative in some Special Housing Areas)

[View the full legend](#)



NZTM : 1743319, 5914691

Scale bar: 0, 0.2, 0.4km



Info

Legend

Results

- Community Groups
- Emergency Management
- Places
- TangataWhenua
 - Marae
 - Maori Freehold Land
 - Tangata Whenua Management Area
 - Tupuna Maunga Affected Areas
 - Treaty Settlements
 - Mana Whenua Areas of Interest
- Address
- Contours
- Landbase
- Basemap



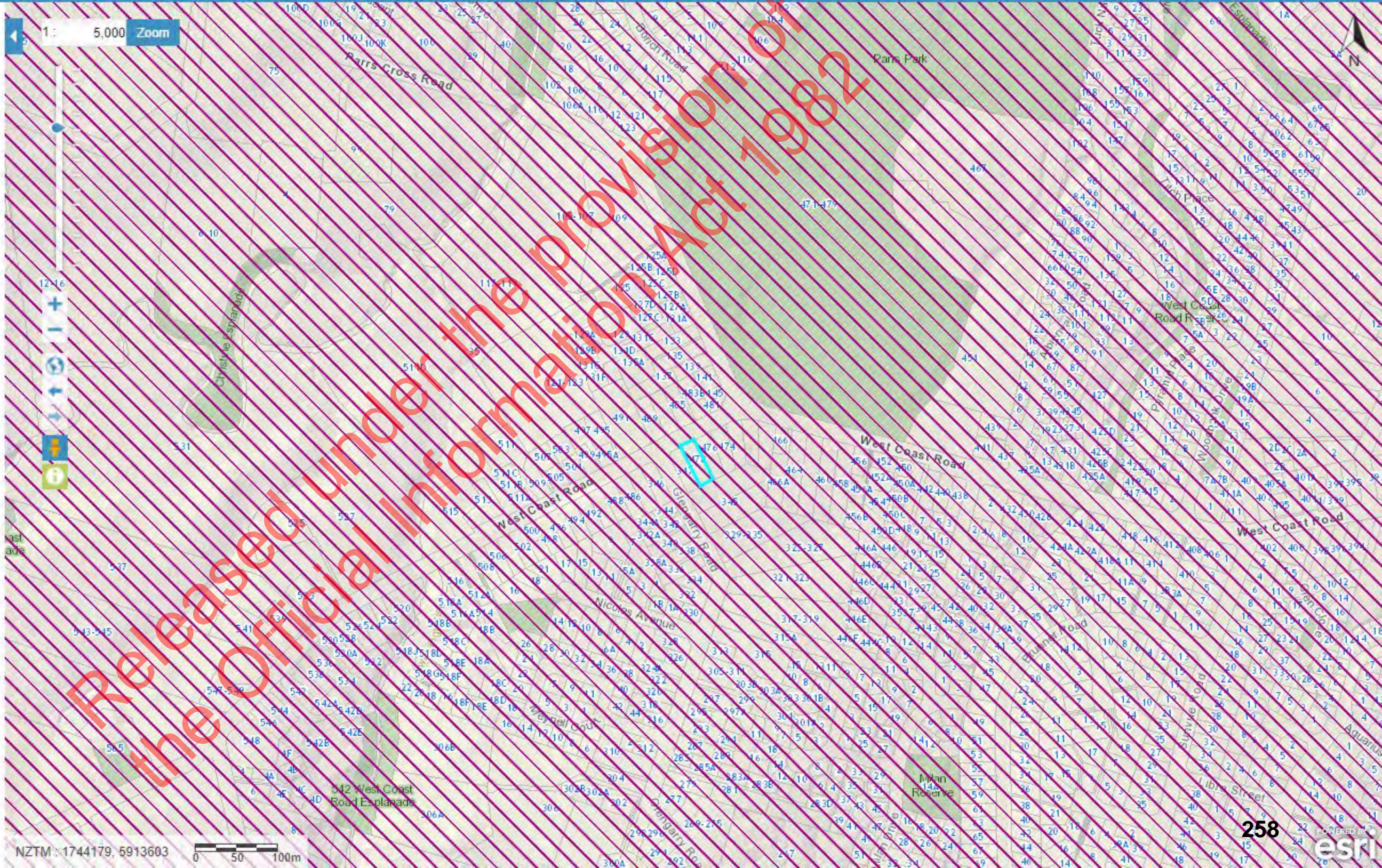


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 - Treaty settlement alert layer
 - Statutory acknowledgements
- Mana Whenua Areas of Interest
 - Marutūahu Tribal Region
 - Ngāti Wai Tribal Region
 - Ngāti Whātua Tribal Region
 - Waiohūa - Tāmaki Tribal Region
 - Waikato-Tainui Tribal Region
 - Tribal Area Overlaps
- Address
- Contours
- Landbase
- Basemap



From: Lance Hessell [s 9(2)(a)]

Sent: Tuesday, 18 August 2020 2:18 PM

To: [s 9(2)(a)]

Cc: Nick Mattison [s 9(2)(a)]; Andrew Braggins [s 9(2)(a)]

Subject: Cultural Values Consultation: 249 Dwelling units and Lots at 460 to 478 West Coast Road & 317 to 345 Glengarry Road, Glen Eden

Kia ora

Civix Ltd is assisting CPM 2019 Ltd with a proposal for 249 residential units and lots at 460 to 478 West Coast Road & 317 to 345 Glengarry Road, Glen Eden.

The site is located in the Residential Single House Zone under the Auckland Unitary Plan, and the application will be for an Integrated Residential Development as a discretionary activity.

The attached document sets out the proposal and its regulatory framework. It also sets out how the proposal is to be applied for under the Covid-19 Recovery (Fast Track Consenting) Act 2020 in order to obtain the most efficient processing pathway.

We would appreciate your time to review this and provide feedback with regard to any issues regarding the natural and physical environment in terms of cultural values.

Please contact me if you require any clarification.

Kind regards,

Lance Hessell | CIVIX | Senior Planner | M [s 9(2)(a)] | W www.civix.co.nz

The Nola Estate: Application Details Relating to an Application under the COVID-19 Recovery (Fast Track Consenting) Act 2020.

1. Introduction

Civix Ltd is a Planning, Surveying and Engineering company assisting CPM 2019 Limited with a proposal for 249 dwelling units and lots, with a small commercial centre fronting West Coast Road. The proposal will be applied for as an Integrated Residential Development (IRD) in the Residential Single House Zone (SHZ) of the Auckland Unitary Plan Operative in Part (AUPOIP).

The proposal is located at 460 to 478 West Coast Road & 317 to 345 Glengarry Road, Glen Eden (the site), with an area of approximately 4.3ha.

The proposal is sought to be processed under the fast-tracked process under the Covid-19 Recovery (Fast Track Consenting) Act 2020 (C19FTCA).

At this stage, no detailed resource consent application has been drafted, so the following details are at a broad level aimed at seeking approval from the Minister for the Environment for processing under the C19FTCA.

The following sets out the application details and regulatory framework. It is noted that the site is located within the Te Kawerau a Maki Statutory Acknowledgement Area as shown on the Auckland Council GIS, although there is no identifiable impact on Deeds of settlement relating to the settlement land identified in the AUPOIP Chapter E21 – Appendix 21 Treaty Settlement Legislation – statutory acknowledgements as detailed further below. Further, there are no identified items of cultural or historical significance in the Council's GIS.

We seek your feedback to this proposal regarding any particular cultural value aspects relating to the natural and physical environment of interest to you.

2. Geographical Location and Site Description

The proposal is located at 460 to 478 West Coast Road & 317 to 345 Glengarry Road, Glen Eden. The site plan and location plan are shown below.

The site is within a 20-minute walk to the Glen Eden Park and Ride and rail station, and close to public open spaces and Glen Eden commercial centre.



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The current use of this site is mostly as an orchard with a small orchard stall. There is also a dairy, a small café, and seven dwellings on the total site area of approximately 4.3ha.

The current use of the majority the site as an orchard (approximately 3ha) represents use of a financially unviable activity over land zoned for residential development.

The Site contains no significant waterbodies. An ecological assessment of the overland flowpath identified on the Council's GIS system shows this is not classified as a watercourse, given the absence of flowing water and wetland species and other items for consideration under the AUPOIP identification of what constitutes a watercourse.

The proposal will be readily able to control any sediment runoff into any waterbodies, given the generally flat topography, and the application of appropriate sediment control measures.

In this regard, the proposed change in use to provide for 249 residential units targeted as affordable dwellings to assist to address the affordable housing shortfall in Auckland is a substantial net environmental positive effect.

3. Proposal Description

The proposal involves a 249 unit Integrated Residential Development and a commercial centre with associated subdivision in the Residential Single House Zone (RSHZ) under the Auckland Unitary Plan Operative in Part (AUPOIP).

It is intended that Kiwi Build be a partner to the development, with a share of 150 lots and dwellings, and the remaining 99 lots and dwellings are to be put on the private market.

The dwellings are a mix of three-bedroom dwellings (144) and two-bedroom units (105) within a mix of two and three level dwellings, ensuring that the three level dwellings are located away from the peripheral boundaries to existing sites.

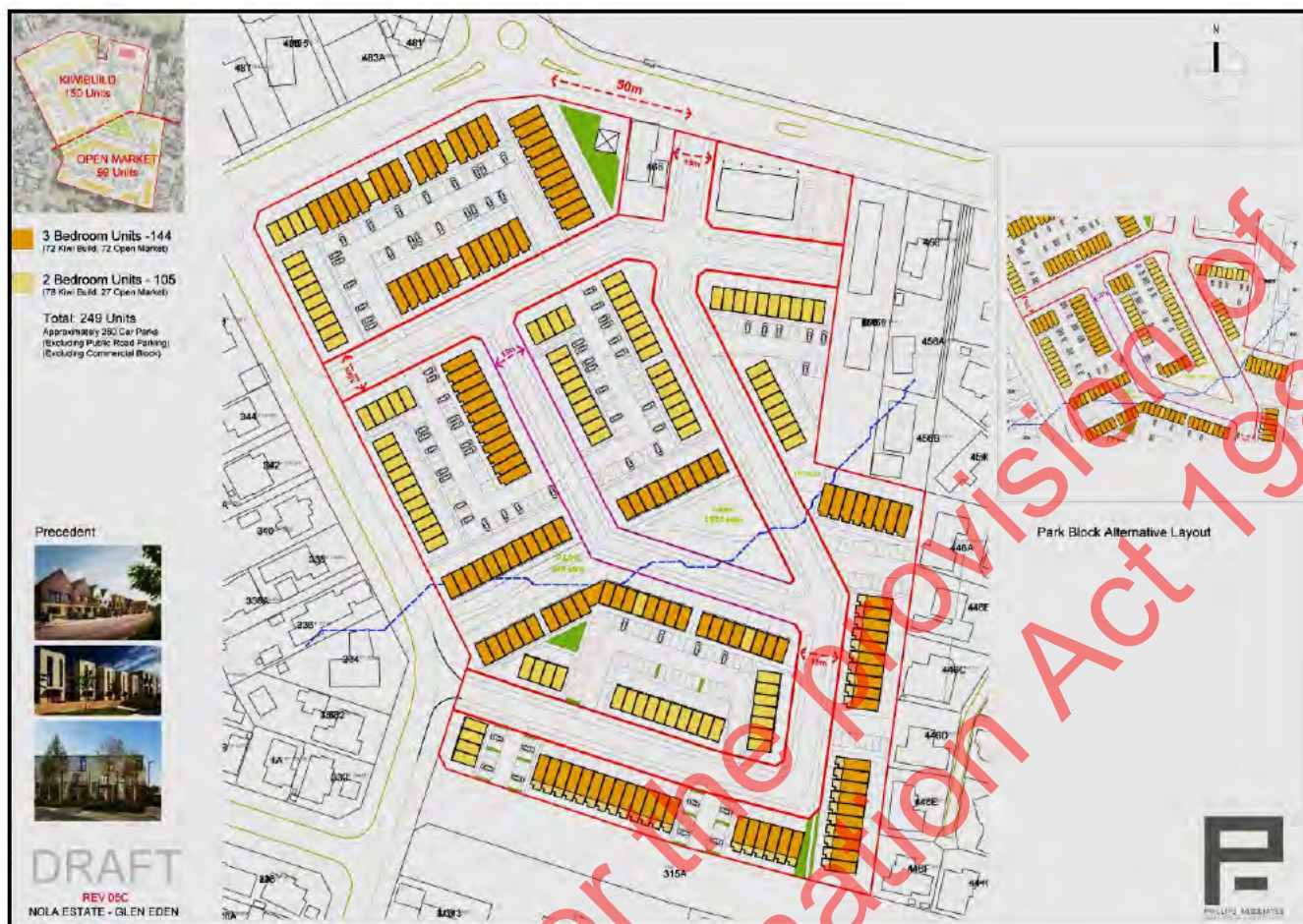
The proposed Master Plan is shown below. This has been prepared with input from urban design, traffic, engineering, economic, and ecological experts.

Reserve areas are shown where residents can recreate or gather, providing a communal facility of benefit to the neighbourhood.

Public services are available to the site.

It is proposed that horizontal construction (site preparation earthworks and roading) will start late March 2021 with a clear objective of completing the civil construction programme within 9 months from the start date. It is expected that there will be sufficient civil construction activity within the first 6 months to allow vertical construction (underground services) to occur within part of the site.

Vertical construction will progress from October 21 and it is expected that the construction of 249 homes and 400sqm of commercial will conclude within 27 months from the start date.



4. Potential Adverse Effects on the Environment

The only adverse effects are potential adverse effects relating to:

- Increased local traffic on the road network – although a mitigating factor is the Glen Eden Rail Park and Ride and Commercial Centre which are only a 20-minute walk approximately 2km to the east along West Coast Road.
- Perceived amenity effects from the increased use on surrounding residential neighbours.
- Temporary works during the construction and development of the site – i.e. noise, vibration, traffic, and odour.
- Infrastructure effects in terms of wastewater and water supply demand and capacities, and stormwater discharges.

These potential adverse effects can be readily addressed through:

- Assessment against anticipated effects of activities provided for in the RSHZ.
- The ability of the road network to absorb additional traffic.
- Use of standard engineering methods for earthworks and construction of infrastructure (roads & services).

- A high standard of urban design providing a high intensity of residential use at a scale complementary to the surrounding area.

5. Regulatory Framework

Auckland Unitary Plan Operative in Part

With regard to effects anticipated under the SHZ, the following sets out the key Zone Statement, Objectives and Policies, and provisions in support of this proposal. These are as these provisions relate to the activity of “*Integrated Residential Development*”.

Definition

An *Integrated Residential Development* is defined as:

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.

Activity Status

The AUPOIP Activity Table Rule H3.4.1(A9) states an Integrated Residential Development is a **Discretionary Activity**. The Activity Table does not specify any development standards to be met.

Objectives and Policies

Without exhaustive listing of these, they can be summarised as:

- Complementing established or **planned** residential character of predominantly one to two storey dwellings.
- Provision of quality on-site and off-site residential amenity through urban design, landscaping, and safety (e.g. encouraging passive surveillance of public spaces).
- Non-residential activities provide for the community’s social, economic, and cultural well-being, while keeping in scale with the character of development **anticipated** by the zone.
- Mitigating adverse effects on water quality through controlling impervious areas.
- To **provide for** integrated residential development on larger sites.

Standards and Application Approach

As a discretionary activity, there are no specific matters for which assessment is restricted to. Therefore, proposals must be guided by the outcomes anticipated under objectives and policies, and for the activity as defined.

It is noted that the Activity Table does not specify any development standards to be met, signalling that proposals can be designed according to best practicable outcomes, rather than being restricted by specific adherence to standards. There is no explanation provided in the AUPOIP RSHZ for not referring to standards, however, it is reasonable to consider that flexibility in design is intentional to best help accommodate additional provision of affordable housing in Auckland.

The application approach as directed by the AUPOIP RSHZ is therefore to design a proposal which:

- Responds to Policy H3.3(8) of **providing for** integrated residential development on larger sites.
- Responds to an appropriate scale of built form complementary to the RSHZ anticipated character.
- Achieves high amenity outcomes through high quality urban design.
- Provides supporting communal facilities (such as recreation and leisure facilities – i.e. reserves as proposed).
- Can be serviced by existing public infrastructure (roads and underground services).
- Respects matters of significance to iwi.
- Is responsive to effects on natural resources such as watercourses and natural features.

This approach therefore responds to any known and potential adverse effects on the environment with the outcome being significant **net positive environmental effects** when considered against the planning framework of the AUPOIP.

National Policy Statement on Urban Development

The NPSUD took effect on 20 July 2020 and replaces the National Policy Statement on Urban Capacity 2016. The NPSUD sets out the objectives and policies for planning for well-functioning urban environments under the Resource Management Act 1991 and **seeks the provision of sufficient development capacity to meet the different needs of people and communities.**

It contributes to the Urban Growth Agenda (UGA) which aims to remove barriers to the supply of land and infrastructure to make room for cities to grow up and out. The NPSUD does this by addressing constraints in our planning system to ensure growth is enabled and well-functioning urban environments are supported.

The MFE website on the NPSUD states that it contains objectives and policies that Councils **must give effect to in their resource management decisions.**

The NPSUD sets out time frames for implementing objectives and policies for three “Tiers” of Councils, with Auckland Council being a “Tier 1” Council.

The summary structure and timeframes of the NPSUD is:

- Objectives and policies take **immediate effect.**
- Plans changes implementing intensification policies must be notified within two years for Tier 1 & 2 Councils, although Housing and Business Assessments (HBAs) on capacity, and Future Development Strategies (FDSs) to inform plan changes are required to be completed in time to inform 2024 long term plans.
- Plan Changes are to follow as soon as soon as monitoring of development supply against demand is completed (being annually), with plan changes to supply additional capacity where needed to be provided within 12 months of the relevant monitoring report. This means new rules in Council plans addressing additional supply are in the order of 6 years away.

- Planning is required to be **responsive to proposals addressing development capacity**, including unanticipated or out of sequence development.
- Councils are required to prepare a Future Development Strategy (FDS) every six years and update them every three years and provide an implementation plan for their FDS.

While the timeframes for plan changes implementing **rules** through plan changes are some way off, the NPSUYD requires adequate **consideration of its Objectives and Policies now**.

In this regard, there are several objectives and policies in support of intensification satisfying certain criteria such as:

- Provision of a variety of homes in terms of price, location, and different households.
- Enabling Māori to express their cultural traditions and norms.
- Proximity to urban centres or rapid transport.
- Supporting reductions in greenhouse gas emissions.
- Responding to the effects of climate change.

The overall intent of the NPSUD is clear in that where intensification is practical, Councils are required to be **responsive** to such proposals – **particularly in relation to proposals that would supply significant development capacity**, as set out in **Objective 6, Policy 6, and Policy 8**.

The proposed design responds in terms of anticipated residential amenity under the AUPOIP provisions relating to integrated residential developments in the SHZ.

The proximity to rapid transit will discourage unnecessary vehicle trips, to some degree mitigating potential greenhouse effects by reducing potential emissions from vehicles.

The proposal aligns strongly with the outcomes anticipated under the NPSUD.

National Policy Statement for Fresh Water Management 2014 (Amended 2017 – noting the draft September 2020 NPS to take effect on 3 September 2020)

This sets out the objectives and policies for freshwater management, including:

- Recognition of Te Mana o te Wai in freshwater management.
- Reflection of tangata whenua values and interests in decision making.
- Improving degraded water bodies using bottom lines as defined in the NPS.
- Safeguarding and enhancing the life-supporting capacity of water and associated ecosystems, including threatened ecosystems.
- Work towards targets for fish abundance, diversity and passage.
- An integrated approach to management of land and freshwater and coastal water.

The Site contains no significant waterbodies. An ecological assessment of the overland flowpath identified on the Council's GIS system shows this is not classified as a watercourse, given the absence of flowing water and wetland species and other items for consideration under the AUPOIP identification of what constitutes a watercourse.

The proposal will be readily able to control any sediment runoff into any waterbodies, given the flat topography, and the application of appropriate sediment control measures.

The proposal does not compromise any outcomes anticipated in the NPSFWM.

National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health (NESCS)

The National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health (NESCS) is a nationally consistent set of planning controls and soil contaminant values. It ensures that land affected by contaminants in soil is appropriately identified and assessed before it is developed - and if necessary, the land is remediated, or the contaminants contained to make the land safe for human use.

As the site is subject to use as an orchard, it is necessary to complete a Detailed Site Investigation (DSI) to determine the levels of contaminants from the use of horticulture related chemicals.

If the levels found exceed those for permitted activities under this standard, the site will require remediation and validation of soil quality prior to construction. This is standard practice, and the methods to be followed to remediate and validate any contaminated soil will respond to the outcomes anticipated under the NESCS.

Should any contaminants exceed specified levels, remediation and validation will assure outcomes anticipated under the NESCS.

Treaty Settlements applicable to the location.

The site is located within the Te Kawerau ā Maki Statutory Acknowledgement Area. Deeds of settlement relate to the following settlement land (AUPOIP Chapter E21 – Appendix 21 Treaty Settlement Legislation – statutory acknowledgements).

Statutory acknowledgements within Auckland under Te Kawerau ā Maki Act Claims Settlement Act 2015, location name (deed plan reference):
Taumaihi (part of Te Henga Recreation Reserve) (OTS-106-04)
Motutara Settlement Scenic Reserve and Goldie Bush Scenic Reserve (OTS-106-10)
Swanson Conservation Area (OTS-106-08)
Henderson Valley Scenic Reserve (OTS-106-09)
Motutara Domain (part Muriwai Beach Domain Recreation Reserve) (OTS-106-20)
Whatipu Scientific Reserve (OTS-106-21)
Coastal statutory acknowledgement (OTS-106-14)
Waitakere River and its tributaries (OTS-106-13)
Kumeu River and its tributaries (OTS-106-11)
Rangitopuni Stream and its tributaries (OTS-106-12)
Te Wai-o-Pareira / Henderson Creek and its tributaries (OTS-106-21)

None of these areas relate directly to the location of the Site, noting the AUPOIP has applied a broad Statutory Acknowledgement Area extending beyond these areas.

Outline of types of consents or designations required.

The following table sets out an outline of consents required.

Activity	Resource Consent
Integrated Residential Development in the RSHZ	H3.4(A9) Discretionary Activity
New buildings	H3.4(A36) Discretionary Activity
Subdivision in accordance with an approved land use consent complying with Standard E38.8.2.2.	E38.4.2(A14) Restricted Discretionary
New vehicle crossing to a vehicle access restriction road (West Coast Road is shown as an arterial road in GIS).	E27.4(A5) Restricted Discretionary
Regional and District Earthworks Earthworks greater than 2,500m ² within the Sediment Control Protection Area Earthworks greater than 2,500m ³ Earthworks greater than 2,500m ³	E11.4.1(A9) Restricted Discretionary E12.4.1(A6) Restricted Discretionary E12.4.1(A10) Restricted Discretionary
Stormwater discharges from impervious areas exceeding 5,000m ² .	E8.4.1(A10) Discretionary
* Discharges of contaminants from disturbing soil on land containing elevated levels of contaminants.	E30.4.1(A6) Controlled Activity
Diverting the entry or exit point, piping or reducing the capacity of any part of an overland flow path. Any buildings or other structures, including retaining walls (but excluding permitted fences and walls) located within or over an overland flow path.	E36.4.1(A41) Restricted Discretionary Activity E36.4.1(A42) Restricted Discretionary Activity

* Subject to assessment after completion of a Detailed Site Investigation for soil contamination.

6. Conclusion

The proposal makes the most efficient use of this large site in the SHZ, making a valuable contribution to the affordable housing crisis in Auckland. Environmental effects are able to be mitigated through appropriate construction methods and matters of value to Maori are not adversely affected.

Thank you for taking the time to review and consider this proposal, and we look forward to receiving your feedback. For any further information or clarification, please contact:

Lance Hessel

Senior Planner

Civix Ltd

s 9(2)(a)

M. s 9(2)(a)

Released under the provision of
the Official Information Act 1982

From: Lance Hessel [redacted] s 9(2)(a)
Sent: Tuesday, 18 August 2020 2:50 PM
To: [redacted] s 9(2)(a)
Cc: Nick Mattison [redacted] s 9(2)(a); Andrew Braggins [redacted] s 9(2)(a)
Subject: FW: Local Board Consultation: 249 Dwelling units and Lots at 460 to 478 West Coast Road & 317 to 345 Glengarry Road, Glen Eden

Good afternoon

Civix Ltd is assisting CPM 2019 Ltd with a proposal for 249 residential units and lots at 460 to 478 West Coast Road & 317 to 345 Glengarry Road, Glen Eden.

The site is located in the Residential Single House Zone under the Auckland Unitary Plan, and the application will be for an Integrated Residential Development as a discretionary activity.

The attached document sets out the proposal and its regulatory framework. It also sets out how the proposal is to be applied for under the Covid-19 Recovery (Fast Track Consenting) Act 2020 in order to obtain the most efficient processing pathway.

We would appreciate your time to review this and provide feedback with regard to any issues the Local Board may have, or to provide any support for the proposal which we consider responds extremely well to the National Policy Statement Urban on Development by providing appropriate intensification with a mix of affordable housing types.

Please contact me if you require any clarification.

Kind regards,

Lance Hessel | CIVIX | Senior Planner | M [redacted] s 9(2)(a) | W www.civix.co.nz

The Nola Estate: Application Details Relating to an Application under the COVID-19 Recovery (Fast Track Consenting) Act 2020.

1. Introduction

Civix Ltd is a Planning, Surveying and Engineering company assisting CPM 2019 Limited with a proposal for 249 dwelling units and lots, with a small commercial centre fronting West Coast Road. The proposal will be applied for as an Integrated Residential Development (IRD) in the Residential Single House Zone (SHZ) of the Auckland Unitary Plan Operative in Part (AUPOIP).

The proposal is located at 460 to 478 West Coast Road & 317 to 345 Glengarry Road, Glen Eden (the site), with an area of approximately 4.3ha.

The proposal is sought to be processed under the fast-tracked process under the Covid-19 Recovery (Fast Track Consenting) Act 2020 (C19FTCA).

At this stage, no detailed resource consent application has been drafted, so the following details are at a broad level aimed at seeking approval from the Minister for the Environment for processing under the C19FTCA.

The following sets out the application details and regulatory framework. It is noted that the site is located within the Te Kawerau a Maki Statutory Acknowledgement Area as shown on the Auckland Council GIS, although there is no identifiable impact on Deeds of settlement relating to the settlement land identified in the AUPOIP Chapter E21 – Appendix 21 Treaty Settlement Legislation – statutory acknowledgements as detailed further below. Further, there are no identified items of cultural or historical significance in the Council's GIS.

To assist the application to the Minister under the C19FTCA, we seek comment from the Waitakere Ranges Local Board to this proposal regarding any matters of interest.

2. Geographical Location and Site Description

The proposal is located at 460 to 478 West Coast Road & 317 to 345 Glengarry Road, Glen Eden. The site plan and location plan are shown below.

The site is within a 20-minute walk to the Glen Eden Park and Ride and rail station, and close to public open spaces and Glen Eden commercial centre.



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The current use of this site is mostly as an orchard with a small orchard stall. There is also a dairy, a small café, and seven dwellings on the total site area of approximately 4.3ha.

The current use of the majority the site as an orchard (approximately 3ha) represents use of a financially unviable activity over land zoned for residential development.

The Site contains no significant waterbodies. An ecological assessment of the overland flowpath identified on the Council's GIS system shows this is not classified as a watercourse, given the absence of flowing water and wetland species and other items for consideration under the AUPOIP identification of what constitutes a watercourse.

The proposal will be readily able to control any sediment runoff into any waterbodies, given the generally flat topography, and the application of appropriate sediment control measures.

In this regard, the proposed change in use to provide for 249 residential units targeted as affordable dwellings to assist to address the affordable housing shortfall in Auckland is a substantial net environmental positive effect.

3. Proposal Description

The proposal involves a 249 unit Integrated Residential Development and a commercial centre with associated subdivision in the Residential Single House Zone (RSHZ) under the Auckland Unitary Plan Operative in Part (AUPOIP).

It is intended that Kiwi Build be a partner to the development, with a share of 150 lots and dwellings, and the remaining 99 lots and dwellings are to be put on the private market.

The dwellings are a mix of three-bedroom dwellings (144) and two-bedroom units (105) within a mix of two and three level dwellings, ensuring that the three level dwellings are located away from the peripheral boundaries to existing sites.

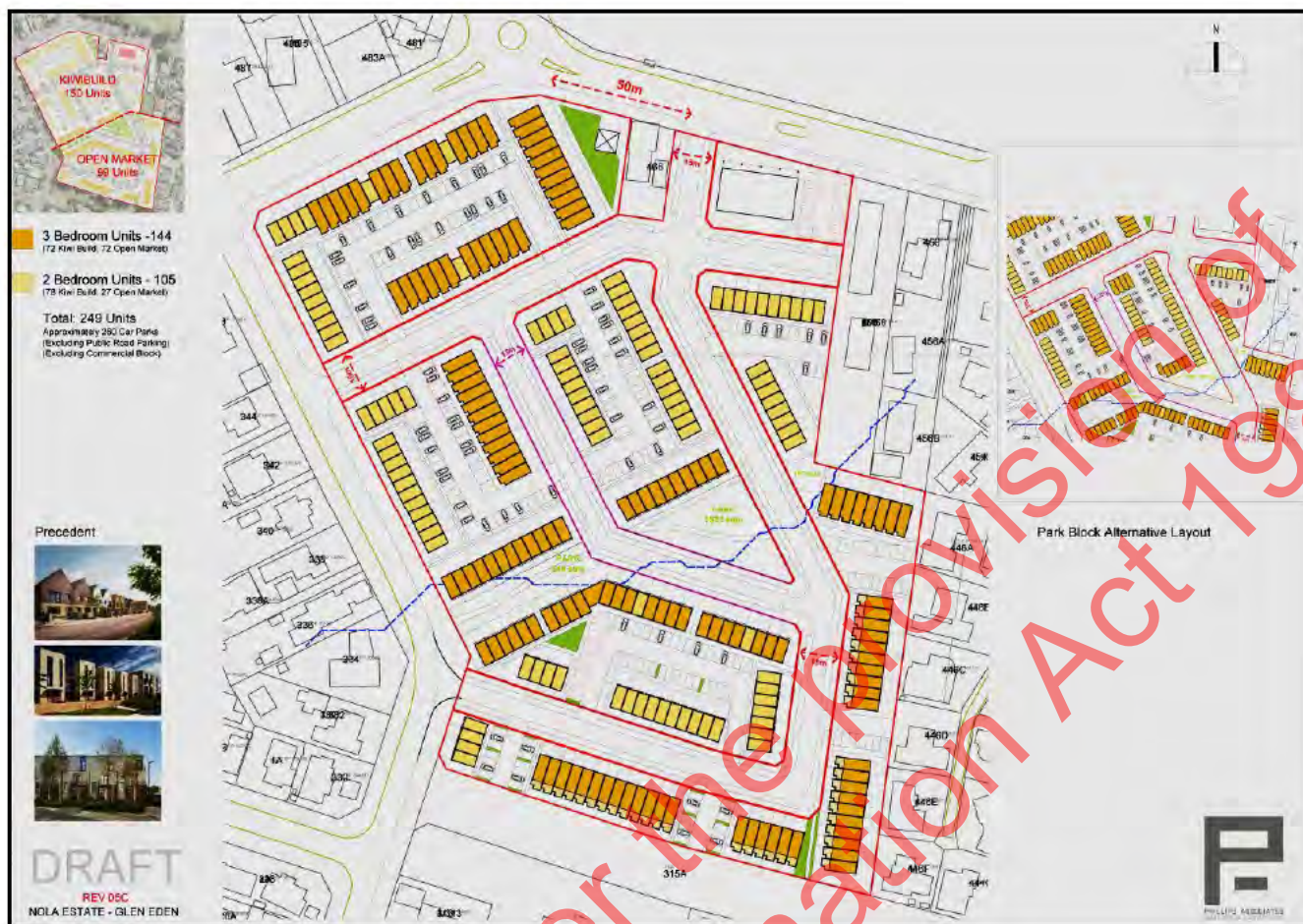
The proposed Master Plan is shown below. This has been prepared with input from urban design, traffic, engineering, economic, and ecological experts.

Reserve areas are shown where residents can recreate or gather, providing a communal facility of benefit to the neighbourhood.

Public services are available to the site.

It is proposed that horizontal construction (site preparation earthworks and roading) will start late March 2021 with a clear objective of completing the civil construction programme within 9 months from the start date. It is expected that there will be sufficient civil construction activity within the first 6 months to allow vertical construction (underground services) to occur within part of the site.

Vertical construction will progress from October 21 and it is expected that the construction of 249 homes and 400sqm of commercial will conclude within 27 months from the start date.



4. Potential Adverse Effects on the Environment

The only adverse effects are potential adverse effects relating to:

- Increased local traffic on the road network – although a mitigating factor is the Glen Eden Rail Park and Ride and Commercial Centre which are only a 20-minute walk approximately 2km to the east along West Coast Road.
- Perceived amenity effects from the increased use on surrounding residential neighbours.
- Temporary works during the construction and development of the site – i.e. noise, vibration, traffic, and odour.
- Infrastructure effects in terms of wastewater and water supply demand and capacities, and stormwater discharges.

These potential adverse effects can be readily addressed through:

- Assessment against anticipated effects of activities provided for in the RSHZ.
- The ability of the road network to absorb additional traffic.
- Use of standard engineering methods for earthworks and construction of infrastructure (roads & services).

- A high standard of urban design providing a high intensity of residential use at a scale complementary to the surrounding area.

5. Regulatory Framework

Auckland Unitary Plan Operative in Part

With regard to effects anticipated under the SHZ, the following sets out the key Zone Statement, Objectives and Policies, and provisions in support of this proposal. These are as these provisions relate to the activity of “*Integrated Residential Development*”.

Definition

An *Integrated Residential Development* is defined as:

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.

Activity Status

The AUPOIP Activity Table Rule H3.4.1(A9) states an Integrated Residential Development is a **Discretionary Activity**. The Activity Table does not specify any development standards to be met.

Objectives and Policies

Without exhaustive listing of these, they can be summarised as:

- Complementing established or **planned** residential character of predominantly one to two storey dwellings.
- Provision of quality on-site and off-site residential amenity through urban design, landscaping, and safety (e.g. encouraging passive surveillance of public spaces).
- Non-residential activities provide for the community’s social, economic, and cultural well-being, while keeping in scale with the character of development **anticipated** by the zone.
- Mitigating adverse effects on water quality through controlling impervious areas.
- To **provide for** integrated residential development on larger sites.

Standards and Application Approach

As a discretionary activity, there are no specific matters for which assessment is restricted to. Therefore, proposals must be guided by the outcomes anticipated under objectives and policies, and for the activity as defined.

It is noted that the Activity Table does not specify any development standards to be met, signalling that proposals can be designed according to best practicable outcomes, rather than being restricted by specific adherence to standards. There is no explanation provided in the AUPOIP RSHZ for not referring to standards, however, it is reasonable to consider that flexibility in design is intentional to best help accommodate additional provision of affordable housing in Auckland.

The application approach as directed by the AUPOIP RSHZ is therefore to design a proposal which:

- Responds to Policy H3.3(8) of **providing for** integrated residential development on larger sites.
- Responds to an appropriate scale of built form complementary to the RSHZ anticipated character.
- Achieves high amenity outcomes through high quality urban design.
- Provides supporting communal facilities (such as recreation and leisure facilities – i.e. reserves as proposed).
- Can be serviced by existing public infrastructure (roads and underground services).
- Respects matters of significance to iwi.
- Is responsive to effects on natural resources such as watercourses and natural features.

This approach therefore responds to any known and potential adverse effects on the environment with the outcome being significant **net positive environmental effects** when considered against the planning framework of the AUPOIP.

National Policy Statement on Urban Development

The NPSUD took effect on 20 July 2020 and replaces the National Policy Statement on Urban Capacity 2016. The NPSUD sets out the objectives and policies for planning for well-functioning urban environments under the Resource Management Act 1991 and **seeks the provision of sufficient development capacity to meet the different needs of people and communities.**

It contributes to the Urban Growth Agenda (UGA) which aims to remove barriers to the supply of land and infrastructure to make room for cities to grow up and out. The NPSUD does this by addressing constraints in our planning system to ensure growth is enabled and well-functioning urban environments are supported.

The MFE website on the NPSUD states that it contains objectives and policies that Councils **must give effect to in their resource management decisions.**

The NPSUD sets out time frames for implementing objectives and policies for three “Tiers” of Councils, with Auckland Council being a “Tier 1” Council.

The summary structure and timeframes of the NPSUD is:

- Objectives and policies take **immediate effect.**
- Plans changes implementing intensification policies must be notified within two years for Tier 1 & 2 Councils, although Housing and Business Assessments (HBAs) on capacity, and Future Development Strategies (FDSs) to inform plan changes are required to be completed in time to inform 2024 long term plans.
- Plan Changes are to follow as soon as monitoring of development supply against demand is completed (being annually), with plan changes to supply additional capacity where needed to be provided within 12 months of the relevant monitoring report. This means new rules in Council plans addressing additional supply are in the order of 6 years away.

- Planning is required to be **responsive to proposals addressing development capacity**, including unanticipated or out of sequence development.
- Councils are required to prepare a Future Development Strategy (FDS) every six years and update them every three years and provide an implementation plan for their FDS.

While the timeframes for plan changes implementing **rules** through plan changes are some way off, the NPSUYD requires adequate **consideration of its Objectives and Policies now**.

In this regard, there are several objectives and policies in support of intensification satisfying certain criteria such as:

- Provision of a variety of homes in terms of price, location, and different households.
- Enabling Māori to express their cultural traditions and norms.
- Proximity to urban centres or rapid transport.
- Supporting reductions in greenhouse gas emissions.
- Responding to the effects of climate change.

The overall intent of the NPSUD is clear in that where intensification is practical, Councils are required to be **responsive** to such proposals – **particularly in relation to proposals that would supply significant development capacity**, as set out in **Objective 6, Policy 6, and Policy 8**.

The proposed design responds in terms of anticipated residential amenity under the AUPOIP provisions relating to integrated residential developments in the SHZ.

The proximity to rapid transit will discourage unnecessary vehicle trips, to some degree mitigating potential greenhouse effects by reducing potential emissions from vehicles.

The proposal aligns strongly with the outcomes anticipated under the NPSUD.

National Policy Statement for Fresh Water Management 2014 (Amended 2017 – noting the draft September 2020 NPS to take effect on 3 September 2020)

This sets out the objectives and policies for freshwater management, including:

- Recognition of Te Mana o te Wai in freshwater management.
- Reflection of tangata whenua values and interests in decision making.
- Improving degraded water bodies using bottom lines as defined in the NPS.
- Safeguarding and enhancing the life-supporting capacity of water and associated ecosystems, including threatened ecosystems.
- Work towards targets for fish abundance, diversity and passage.
- An integrated approach to management of land and freshwater and coastal water.

The Site contains no significant waterbodies. An ecological assessment of the overland flowpath identified on the Council's GIS system shows this is not classified as a watercourse, given the absence of flowing water and wetland species and other items for consideration under the AUPOIP identification of what constitutes a watercourse.

The proposal will be readily able to control any sediment runoff into any waterbodies, given the flat topography, and the application of appropriate sediment control measures.

The proposal does not compromise any outcomes anticipated in the NPSFWM.

National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health (NESCS)

The National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health (NESCS) is a nationally consistent set of planning controls and soil contaminant values. It ensures that land affected by contaminants in soil is appropriately identified and assessed before it is developed - and if necessary, the land is remediated, or the contaminants contained to make the land safe for human use.

As the site is subject to use as an orchard, it is necessary to complete a Detailed Site Investigation (DSI) to determine the levels of contaminants from the use of horticulture related chemicals.

If the levels found exceed those for permitted activities under this standard, the site will require remediation and validation of soil quality prior to construction. This is standard practice, and the methods to be followed to remediate and validate any contaminated soil will respond to the outcomes anticipated under the NESCS.

Should any contaminants exceed specified levels, remediation and validation will assure outcomes anticipated under the NESCS.

Treaty Settlements applicable to the location.

The site is located within the Te Kawerau ā Maki Statutory Acknowledgement Area. Deeds of settlement relate to the following settlement land (AUPOIP Chapter E21 – Appendix 21 Treaty Settlement Legislation – statutory acknowledgements).

Statutory acknowledgements within Auckland under Te Kawerau ā Maki Act Claims Settlement Act 2015, location name (deed plan reference):
Taumaihi (part of Te Henga Recreation Reserve) (OTS-106-04)
Motutara Settlement Scenic Reserve and Goldie Bush Scenic Reserve (OTS-106-10)
Swanson Conservation Area (OTS-106-08)
Henderson Valley Scenic Reserve (OTS-106-09)
Motutara Domain (part Muriwai Beach Domain Recreation Reserve) (OTS-106-20)
Whatipu Scientific Reserve (OTS-106-21)
Coastal statutory acknowledgement (OTS-106-14)
Waitakere River and its tributaries (OTS-106-13)
Kumeu River and its tributaries (OTS-106-11)
Rangitopuni Stream and its tributaries (OTS-106-12)
Te Wai-o-Pareira / Henderson Creek and its tributaries (OTS-106-21)

None of these areas relate directly to the location of the Site, noting the AUPOIP has applied a broad Statutory Acknowledgement Area extending beyond these areas.

Outline of types of consents required.

The following table sets out an outline of consents required.

Activity	Resource Consent
Integrated Residential Development in the RSHZ	H3.4(A9) Discretionary Activity
New buildings	H3.4(A36) Discretionary Activity
Subdivision in accordance with an approved land use consent complying with Standard E38.8.2.2.	E38.4.2(A14) Restricted Discretionary
New vehicle crossing to a vehicle access restriction road (West Coast Road is shown as an arterial road in GIS).	E27.4(A5) Restricted Discretionary
Regional and District Earthworks Earthworks greater than 2,500m ² within the Sediment Control Protection Area Earthworks greater than 2,500m ³ Earthworks greater than 2,500m ³	E11.4.1(A9) Restricted Discretionary E12.4.1(A6) Restricted Discretionary E12.4.1(A10) Restricted Discretionary
Stormwater discharges from impervious areas exceeding 5,000m ² .	E8.4.1(A10) Discretionary
* Discharges of contaminants from disturbing soil on land containing elevated levels of contaminants.	E30.4.1(A6) Controlled Activity
Diverting the entry or exit point, piping or reducing the capacity of any part of an overland flow path. Any buildings or other structures, including retaining walls (but excluding permitted fences and walls) located within or over an overland flow path.	E36.4.1(A41) Restricted Discretionary Activity E36.4.1(A42) Restricted Discretionary Activity

* Subject to assessment after completion of a Detailed Site Investigation for soil contamination.

6. Conclusion

The proposal makes the most efficient use of this large site in the SHZ, making a valuable contribution to the affordable housing crisis in Auckland. Environmental effects are able to be mitigated through appropriate construction methods, and conditions of resource consent.

Thank you for taking the time to review and consider this proposal, and we look forward to receiving your feedback.

For any further information or clarification, please contact:

Lance Hessel

Senior Planner

Civix Ltd

s 9(2)(a)

s 9(2)(a)

Released under the provision of
the Official Information Act 1982

From: Scott Lomas [redacted] s 9(2)(a)
Sent: Friday, 28 August 2020 11:06 AM
To: Lance Hessel [redacted] s 9(2)(a)
Subject: RE: Cultural Values Consultation: Te Kawerau a Maki meeting.

Kia ora Lance,

Thank you for the email and information. I can confirm that Te Kawerau a Maki have cultural interests of this area and wish to engage with this project.

I would suggest that, due to the large scale of this development, we met onsite for a discussion.

Please note our cost-recovery fees at [redacted] s 9(2)(b)(ii).

Some current dates I am free:

- 9th Sept, morning
- 14th Sept, morning
- 16th Sept, morning.

Please let me know if any of these dates are suitable for you.

Nga mihi,



Scott Lomas (MSc)
Heritage and Environment Manager
Te Kawerau Iwi Tribal Authority & Settlement Trust
2/3 Airpark Drive, Airport Oaks, Auckland | PO Box 59-243, Mangere Bridge, Auckland.
Email: [redacted] s 9(2)(a) | Website: www.tekawerau.iwi.nz

From: Lance Hessel [redacted] s 9(2)(a)
Sent: Tuesday, 18 August 2020 2:18 PM
To: [redacted] s 9(2)(a); [redacted] s 9(2)(a) Robin
Taua-Gordon [redacted] s 9(2)(a); [redacted] s 9(2)(a) ; Robin Taua-Gordon [redacted] s 9(2)(a)
[redacted] ; Admin [redacted] s 9(2)(a)
Cc: Nick Mattison [redacted] s 9(2)(a); Andrew Braggins [redacted] s 9(2)(a)
Subject: Cultural Values Consultation: 249 Dwelling units and Lots at 460 to 478 West Coast Road & 317 to 345 Glengarry Road, Glen Eden

Kia ora

Civix Ltd is assisting CPM 2019 Ltd with a proposal for 249 residential units and lots at 460 to 478 West Coast Road & 317 to 345 Glengarry Road, Glen Eden.

The site is located in the Residential Single House Zone under the Auckland Unitary Plan, and the application will be for an Integrated Residential Development as a discretionary activity.

The attached document sets out the proposal and its regulatory framework. It also sets out how the proposal is to be applied for under the Covid-19 Recovery (Fast Track Consenting) Act 2020 in order to obtain the most efficient processing pathway.

We would appreciate your time to review this and provide feedback with regard to any issues regarding the natural and physical environment in terms of cultural values.

Please contact me if you require any clarification.

Kind regards,

Lance Hessel |  | Senior Planner | M  s 9(2)(a) | W www.civix.co.nz

Released under the provision of the Official Information Act 1982

From: Edith Tuhimata [redacted] s 9(2)(a)
Sent: Monday, 31 August 2020 4:07 PM
To: [redacted] s 9(2)(a)
[redacted]
Cc: Nick Mattison [redacted] s 9(2)(a); Andrew Braggins [redacted] s 9(2)(a)
Subject: Re: Cultural Values Consultation: 249 Dwelling units and Lots at 460 to 478 West Coast Road & 317 to 345 Glengarry Road, Glen Eden

Tena Koutou,

Ngati Tamaoho defer this application to our whanaunga Iwi: Nga Maunga Whakaahii and Te Kawerau a Maki.

Nga Mihi
Edith Tuhimata
Kaitiaki Taiao
Ngati Tamaoho
[redacted] s 9(2)(a)

Sent from [Outlook Mobile](#)

From: Lance Hessel [redacted] s 9(2)(a)
Sent: Friday, August 28, 2020 11:16:27 AM
To: [redacted] s 9(2)(a)
[redacted]
Cc: Nick Mattison [redacted] s 9(2)(a); Andrew Braggins [redacted] s 9(2)(a)
Subject: RE: Cultural Values Consultation: 249 Dwelling units and Lots at 460 to 478 West Coast Road & 317 to 345 Glengarry Road, Glen Eden

Kia ora

Further to this correspondence last Tuesday, we thought it appropriate to reach out again to follow up.

Have you had time to consider the contents of the attached details for the proposed 249 units under the Covid-19 Recovery (Fast Track Consenting) Act 2020?

Nga Maunga Whakahii o Kaipara advises it has deferred to Te Kawerau a Maki for comments.

Na mihi,

Lance Hessell |  | Senior Planner | M  | W www.civix.co.nz

From: Lance Hessell

Sent: Tuesday, 18 August 2020 2:18 PM

To:  s 9(2)(a)

Cc: Nick Mattison  s 9(2)(a); Andrew Braggins  s 9(2)(a)

Subject: Cultural Values Consultation: 249 Dwelling units and Lots at 460 to 478 West Coast Road & 317 to 345 Glengarry Road, Glen Eden

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Please contact me if you require any clarification.

Kind regards,

Lance Hessell |  | Senior Planner | M  s 9(2)(a) | W www.civix.co.nz

Released under the Provision of the Official Information Act 1982

From: Tetaritaiao [redacted] s 9(2)(a) >

Sent: Friday, 4 September 2020 8:45 AM

To: Lance Hessel [redacted] s 9(2)(a)

Cc: [redacted] s 9(2)(a)

Subject: RE: Cultural Values Consultation: 249 Dwelling units and Lots at 460 to 478 West Coast Road & 317 to 345 Glengarry Road, Glen Eden

Kia ora Lance

Regarding the CVA consultation for West coast road and Glengarry road, Glen Eden, Nga Maunga Whakahii o Kaipara defer to Te Kawerau a Maki cc'd for comments.

Mauri ora

Pani Gleeson
Kaiarahi Taiao
NGĀTI WHĀTUA O KAIPARA



KAIPARA

P: [redacted] s 9(2)(a)

Nga Maunga Whakahii o Kaipara Development Trust

M: [redacted] s 9(2)(a)

E: [redacted] s 9(2)(a)

16 Commercial Road, PO Box41
Te Awaroa – Helensville 0840
Auckland

The information contained in this email message and any attachments may be confidential and legally privileged intended for the use of the addressee(s) only. If you are not an intended recipient, please: (1) notify me immediately by replying to this message; (2) do not use, disseminate, distribute or reproduce any part of the message or any attachment; and (3) destroy all copies of this message and any attachments.

From: Lance Hessel [redacted] s 9(2)(a)

Sent: Friday, 28 August 2020 11:16 AM

To: [redacted]
[redacted]
(

s 9(2)(a)

Cc: Nick Mattison

s 9(2)(a)

; Andrew Braggins

s 9(2)(a)

Subject: RE: Cultural Values Consultation: 249 Dwelling units and Lots at 460 to 478 West Coast Road & 317 to 345 Glengarry Road, Glen Eden

Kia ora

Further to this correspondence last Tuesday, we thought it appropriate to reach out again to follow up.

Have you had time to consider the contents of the attached details for the proposed 249 units under the Covid-19 Recovery (Fast Track Consenting) Act 2020?

Nga Maunga Whakahii o Kaipara advises it has deferred to Te Kawerau a Maki for comments.

Na mihi,

Lance Hessel | 

| Senior Planner

| M

s 9(2)(a)

| W

www.civix.co.nz

From: Lance Hessel

Sent: Tuesday, 18 August 2020 2:18 PM

To: s 9(2)(a)

Cc: Nick Mattison

s 9(2)(a)

Andrew Braggins

s 9(2)(a)

Subject: Cultural Values Consultation: 249 Dwelling units and Lots at 460 to 478 West Coast Road & 317 to 345 Glengarry Road, Glen Eden

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We would appreciate your time to review this and provide feedback with regard to any issues regarding the natural and physical environment in terms of cultural values.

Please contact me if you require any clarification.

Kind regards,

Lance Hessel | 

| Senior Planner

| M

s 9(2)(a)

| W

www.civix.co.nz

From: TokiTaiao [redacted] s 9(2)(a)
Sent: Monday, 31 August 2020 9:32 AM
To: Lance Hessel [redacted] s 9(2)(a)
Subject: RE: Cultural Values Consultation: 249 Dwelling units and Lots at 460 to 478 West Coast Road & 317 to 345 Glengarry Road, Glen Eden

Tēnā koe Lance,

Ngāti Whātua Ōrākei does not need involvement in this instance but would defer and support our whanaunga of Te Kawerau a Maki as the lead Iwi for direct consultation moving forward on this project.

Ngā mihi,
Toi Whenua Team

From: Lance Hessel [redacted] s 9(2)(a)
Sent: Friday, 28 August 2020 11:16 am
To: [redacted] s 9(2)(a)
[redacted]
Cc: Nick Mattison [redacted] s 9(2)(a); Andrew Braggins [redacted] s 9(2)(a)
Subject: RE: Cultural Values Consultation: 249 Dwelling units and Lots at 460 to 478 West Coast Road & 317 to 345 Glengarry Road, Glen Eden

Kia ora

Further to this correspondence last Tuesday, we thought it appropriate to reach out again to follow up.

Have you had time to consider the contents of the attached details for the proposed 249 units under the Covid-19 Recovery (Fast Track Consenting) Act 2020?

Nga Maunga Whakahii o Kaipara advises it has deferred to Te Kawerau a Maki for comments.

Na mihi,

Lance Hessel |  | Senior Planner | M [redacted] s 9(2)(a) | W www.civix.co.nz

From: Lance Hessel

Sent: Tuesday, 18 August 2020 2:18 PM

To: s 9(2)(a)

Cc: Nick Mattison s 9(2)(a); Andrew Braggins s 9(2)(a)

Subject: Cultural Values Consultation: 249 Dwelling units and Lots at 460 to 478 West Coast Road & 317 to 345 Glengarry Road, Glen Eden

Kia ora

Civix Ltd is assisting CPM 2019 Ltd with a proposal for 249 residential units and lots at 460 to 478 West Coast Road & 317 to 345 Glengarry Road, Glen Eden.

The site is located in the Residential Single House Zone under the Auckland Unitary Plan, and the application will be for an Integrated Residential Development as a discretionary activity.

The attached document sets out the proposal and its regulatory framework. It also sets out how the proposal is to be applied for under the Covid-19 Recovery (Fast Track Consenting) Act 2020 in order to obtain the most efficient processing pathway.

We would appreciate your time to review this and provide feedback with regard to any issues regarding the natural and physical environment in terms of cultural values.

Please contact me if you require any clarification.

Kind regards,

Lance Hessel |  | Senior Planner |  s 9(2)(a) |  www.civix.co.nz

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