

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

Proposal: To construct 17 new dwellings in the form of terraced housing units with a mixture of two and three storeys at 69 and 71 Roberta Avenue, Glendowie. Along with associated works include the demolition of the existing buildings and clearance of vegetation within the site, earthworks and retaining walls, the construction of access, parking and drainage infrastructure, and landscape treatment. The proposal also involves the creation of 17 freehold residential lots around the dwellings, and a jointly owned access lot (JOAL) for the shared driveway.

These are **REFUSED**. The reasons are set out below.

Application numbers:	BUN60390253, LUC60390254, SUB60390255
Site address:	69 and 71 Roberta Avenue, Glendowie
Applicant:	69 Roberta Avenue Limited
Hearing commenced:	Tuesday 7 June 2022, 9.30am
Hearing panel:	Janine Bell (Chairperson) Gavin Lister David Wren
Appearances:	<p><u>For the Applicant:</u></p> <p>Andrew Braggins, Legal Counsel Kenny Chia, Architecture Todd Langwell, Traffic Jason Evans, Urban Design Josh Going, Landscape Architecture Nick Mattison, Planning Sam Blackbourn, Civil Engineering Bruce Green, Geotechnical</p> <p><u>Submitters:</u></p> <p>Steve Jardine Kristin Edgeworth Lisa Miller Murray Spicer Ross McCarthy The Glenn Group Incorporated –</p> <ul style="list-style-type: none"> • Martin Williams • Stephen Brown • Kevin Thompson • Joanne Hall • Evana Lithgow • Anne McDermott • Aimee Penmann • Roger Dunn • Lauren Hawken

	<ul style="list-style-type: none"> • Karen Sutton <p><u>For Council:</u></p> <p>Matthew Wright, Team Leader Isabel Lam, Planner Vinh Bui, Traffic Engineer Sosene Meredith, Development Engineer Tracy Ogden-Cork, Urban Designer (for Yue Yu) Laura Ager, Senior Hearings Advisor</p>
Hearing adjourned	Wednesday 8 June 2022
Commissioners' site visit	Wednesday 1 June 2022 and Tuesday 21 June 2022
Hearing Closed:	Thursday 23 June 2022

Introduction

1. This decision is made on behalf of the Auckland Council ("**the Council**") by Independent Hearing Commissioners Janine Bell (Chairperson), Gavin Lister and David Wren ("**the Panel**") appointed and acting under delegated authority under sections 34 and 34A of the Resource Management Act 1991 ("**the RMA**").
2. This decision contains the findings from our deliberations on the application for resource consent and has been prepared in accordance with section 113 of the RMA.
3. The applications were publicly notified on 7 December 2021. 212 submissions were received. Of the submissions received 5 were in support with 207 in opposition.

Summary of proposal and activity status

Proposal

4. The applicant proposes to construct 17 new dwellings in the form of terraced housing units with a mixture of two and three storeys at 69 and 71 Roberta Avenue, Glendowie, along with associated works which include the demolition of the existing buildings and clearance of vegetation within the site, earthworks and retaining walls, the construction of access, parking and drainage infrastructure, and landscape treatment. The proposal also involves the creation of 17 freehold residential lots around the dwellings, and a jointly owned access lot (JOAL) for the shared driveway.

Reasons for Consent

5. The proposal requires resource consent for the following reasons, as taken from the section 42A report:

Land use consents (s9) –LUC60390253

Auckland Unitary Plan (Operative in Part)

District land use consents

H4 Residential – Mixed Housing Suburban Zone

- Construction and use of 17 new residential dwellings are a **restricted discretionary activity** under rules H4.4.1 (A4),
- New buildings and additions to buildings which do not comply with H4.6.5 Height in relation to boundary (HIRB) but comply with H4.6.6 Alternative height in relation to boundary (AHIRB) is a **restricted discretionary activity** under rule H4.4.1 (A33).

Proposed unit C6 does not comply with H4.6.5 HIRB but complies with H4.6.6 AHIRB.

- To develop new buildings (and/or any additions to existing), as the development of new buildings or any additions has the same activity status as the land use activity, is a restricted discretionary activity under rule H4.4.1(A34).

The proposed new dwellings are a restricted discretionary activity as it has the same activity status as the use (i.e., four or more dwellings (A4)).

- The proposal fails to meet the following core standards and is a **restricted discretionary activity** under rule C.1.9(2):

H4.6.4 Maximum height

No building must exceed 8m in height except that 50% of a building's roof in elevation, measured vertically from the junction between the wall and roof, may exceed this height by 1m, where the entire roof slopes 15 degrees or more.

- Block A exceeds the maximum height by 0.8m over a length of 6.7m.
- Block B exceeds the maximum height by 0.9m over a length of 12.7m.
- Block C exceeds the maximum height by 0.7m over a length of 8.5m.

H4.6.5 Height in relation to boundary

Buildings must not project beyond a 45-degree recession plane measured from a point 2.5m vertically above ground level along the side and rear boundaries. The proposed development infringes the control along the western site boundaries.

- Proposed unit A1 will infringe by a maximum height of 0.7m tapering to 0.5m over a length of 9.7m.
- Proposed unit D1 will infringe by a maximum height of 0.6m tapering to 0.2m over a length of 8m.

H4.6.7 Yards

Buildings must be setback from the front boundary of the site by 3m and side and rear boundaries by 1m.

- Proposed unit A7 encroaches the front yard by a maximum depth of 0.7m.
- Proposed block B encroaches the front yard by a maximum depth of 0.3m.
- Proposed block C encroaches the front yard by a maximum depth of 1.3m.
- Retaining walls will be constructed at the road boundary therefore fully encroaching the front yard

E12 Land Disturbance - District

To undertake general earthworks of 1868m² and 1689m³, as the earthworks are greater than 1000m² and 1000m³ in a residential zone, is a restricted discretionary activity under rules E12.4.1 (A5) and (A9) respectively.

E27 Transport

- Parking, loading and access which is an accessory activity, but which does not comply with the standards for parking, loading and access is a **restricted discretionary activity** under rule E27.4.1(A2).

E27.6.3.4 Reverse manoeuvring

Sufficient space must be provided on the site so vehicles do not need to reverse off the site or onto or off the road from any site where four or more parking spaces are served by a single access. The proposed private refuse collection trucks are proposed to reverse into / out of the site. The site serves a total of 17 parking spaces.

E27.6.4.2 Width and number of vehicle crossing

The width of a vehicle crossing must meet the minimum width and not exceed the maximum width as specified in Table E27.6.4.3.2.

The proposed width of the crossing at the site boundary is 3m (one way) being a shortfall of 2.5m (two-way) serving 17 parking spaces and required under table E27.4.3.2 (A151).

Subdivision consent (s11) – SUB60390255

Auckland Unitary Plan (Operative in part)

E38 Subdivision – Urban

- Subdivision in accordance with an approved land use resource consent complying with Standard E38.8.2.1 is a **restricted discretionary activity** under rule E38.4.2 (A14).

The proposed subdivision will be undertaken around the proposed development of 17 dwellings as well as creating one commonly owned access lot.

- Any subdivision in this activity table not meeting the standards in E38.8 standards for subdivision in residential zones is a **discretionary activity** under rule E38.4.2 (A31).

E38.8.1.2 Access to rear sites

- A single jointly owned access lot or right of way easement must not serve more than ten proposed rear sites.

The proposal incorporates 15 rear sites accessed via the shared accessway with a minimum legal width of 6.5m.

6. The proposed subdivision is a **discretionary activity**.

Relevant statutory provisions considered

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

Relevant standards, policy statements and plan provisions considered

8. In accordance with section 104(1)(b)(i)-(vi) of the RMA, we have had regard to the relevant policy statements and plan provisions of the following documents:
 - National Policy Statement on Urban Development (NPS UD);
 - Auckland Unitary Plan Operative in Part (AUP (OP)).
9. In accordance with section 104(1)(c) of the RMA, consideration was given to the Resource Management (Enabling Housing Supply and other matters) Amendment Act.

Local Board comments

10. The application was sent to the Orakei Local Board. On 24 January 2022, Troy Churton, spokesperson for the Local Board advised that the Local Board reserved its right statutory right under s15(2) Local Government Auckland Council Act to inform

the hearing panel of its views and preferences. There was no appearance by the Local Board at the hearing.

Summary of evidence heard

11. The evidence in this case includes the application, the supporting documentation, the Council officer's report, and the submissions received. This information is all part of the public record and is not repeated. In accordance with s103B, the Council's planning officer's report and the statements of evidence prepared by expert witnesses, appearing on behalf of the applicant, were circulated prior to the hearing. The statements of evidence were taken as read with the witnesses provided with the opportunity to highlight the main points raised in their expert evidence and to respond to questions from the Commissioners. The following is a summary of the evidence presented at the hearing.

Applicant

12. **Mr Andrew Braggins**, the applicant's counsel, introduced the applicant and the team of expert witnesses who had prepared the application. Statements of expert evidence in support of the application had been pre-circulated, along with an affidavit from Mr Ian Munro, the applicant's urban designer.
13. Mr Braggins described the proposal, the site and surrounding environment. He also took the panel through the background to the application explaining that on 26 July 2021 resource consents for the development of the same activity (BUN60371837, LUC60371838, SUB60371839) had been granted¹. That a judicial review had been lodged to the consents and as a consequence, those consents had been surrendered and the judicial review proceeding discontinued.
14. The current applications were for the same activity, with some amendments. The applicant, in lodging the application, had requested it be dealt with on a notified basis. That application differed from what was presently before the panel as the applicant had made further amendments to the proposal on 28 January 2022. He also noted the Council's reporting officer comments in the s42A report that whilst the present application mirrored the earlier non-notified application neither they nor the applicant had placed any reliance on this in forming their respective assessments. He advised he considered this the right approach.
15. Mr Braggins noted the Council officer's conclusions and recommendations that consent to both the subdivision and land use applications should be granted. That the adverse effects of the proposal were on balance acceptable and that adverse effects had been managed or adequately mitigated.
16. Turning to the submissions received, he identified the key resource management matters raised were the change to the neighbourhood character and planned suburban built character and the number and size of dwellings. "Those concerns manifested as concerns about neighbourhood character, building intensity, scale,

¹ Legal submissions, Andrew Braggins, page 1, paragraph 1.6

location, form, appearance, traffic, infrastructure capacity and land disturbance of the development”².

17. Mr Braggins outlined that his submissions focussed on three key legal issues being (1) the bundling of consents; (2) the existing / future environment; and (3) the permitted baseline.
18. In relation to the bundling of the land use and subdivision consents he agreed with the Council officer’s report that bundling was unnecessary and contrary to applicable case law guidance. Although he advised that the previously granted 4 vacant lot subdivision should form part of the existing environment and an appropriate permitted baseline against which to compare effects.
19. Mr Braggins advised the Panel that there were two lawful permitted baseline scenarios to consider. The “extremely conservative” 2 lot permitted baseline with 6 dwellings which still demonstrates that the site will change with a terraced style typology and a number of dwellings and bedrooms can be established that face out onto 67 Roberta Avenue. He highlighted that the zone description emphasises that this site is anticipated to be used for intensification. He felt it was “not only permissible but necessary to take the future state of the environment into account when considering neighbourhood character and amenity”³.
20. He advised that the applicant’s assessment had addressed the relevant matters of discretion, assessment criteria and he provided detailed cross reference from the evidence for the zone provisions for the land use consent.
21. Mr Braggins noted there were no material differences in opinion between the applicant and the Council and that there was no relevant technical evidence supplied by the submitters. Overall, the experts who had assessed the current application agreed that the effects of the application will be minimal, and that consent should therefore be granted. He provided a draft set of conditions of consent.
22. Prior to the commencement of the hearing, Mr Braggins circulated a memorandum in relation to the St Andrew’s Village submission⁴. In the memorandum he advised that discussions had occurred between the submitter and the applicant around the proposed conditions and an agreement had been reached between the parties to a condition relating to stormwater drainage and retaining walls. He also advised that because of the design changes made in January 2022, the other conditions of consent and this additional condition the stormwater and other matters raised in the St Andrew’s Village submission were resolved. As a consequence, while St Andrew’s Village maintained its submission, it would not be filing evidence or appearing at the hearing.
23. **Mr Hoi Siong (Kenny) Chia**, a registered architect, spoke to his pre-circulated statement of evidence. He advised the company he worked for had been commissioned to provide full architectural services for the development at 69 - 71 Roberta Avenue. The project brief “was to create a medium density housing project

² Ibid, page 3, paragraph 1.15.

³ Ibid, page 5, paragraph 2.4.

⁴ Memorandum from Andrew Braggins to the Panel regarding proposed condition dated 25 May 2022

that would suit the area and provide new opportunities for first home buyers, young professionals and down sizers”⁵.

24. He provided an overview of the development design and rationale explaining it resulted from combining the brief with the site constraints. That the houses needed to be spatially efficient with a minimum of one carpark. The units had been split into blocks and arranged around the site boundaries, creating an open area for the carpark in the centre of the site.
25. The site zoning and character of the surrounding area had influenced the design of the houses. Yards and landscape area were provided to enhance the living environment for the project, and he had worked closely with the landscape architect to ensure there was a balance in permeable and impermeable area. Each unit had direct access to an outdoor living area accessed directly from the primary living space.
26. In his view the proposal had been through a robust design process that evolved over time with input from multiple experts that was “appropriate for the area and the planned future environment.”⁶
27. **Mr Joshua Going**, a landscape architect, had prepared the landscape plan for the proposed development that was included as part of the resource consent application. He outlined that the intention of the landscape design focused on the integration of the proposed development into the landscape and providing high value amenity on site for future residents.
28. Mr Going considered that the proposed development would result in noticeable visual changes for neighbouring sites. In his opinion the proposed landscape design would enhance the amenity of the surrounding area by providing fencing and planting along the boundary interfaces. The planting would provide screening for privacy and provide softening to the proposed development for neighbouring residents. He advised that a “rich and diverse mix of native and exotic plant species has been selected to provide visual amenity and interest throughout the year.”⁷ with “specimen trees located throughout the site to assist with breaking up the mass and form of the buildings”⁸.
29. He responded to the matters raised by submitters in relation to the removal of existing trees, landscaping and fencing. In relation to tree removal, he noted that the extent of the proposed earthworks on site would critically compromise the health of all trees by significantly impacting on their root zones. Noting none of the trees were specifically protected in the AUP(OP) and could be removed at any time without the need for a resource consent. The removal of the trees would be compensated by the proposed planting of seven large native trees and 21 narrow foliaged trees around the street fronting perimeter. The vegetation selection chosen to be in keeping with the overall character of the local area.
30. In relation to landscaping and fencing Mr Going disagreed with the submissions received that the landscape design and proposed fencing treatments of frontages were

⁵ Statement of Evidence of Kenny Chia, page 3, paragraph 4.1.

⁶ Ibid, page 8, paragraph 6.2

⁷ Statement of evidence of Robert Pryor, page 8, paragraph 6.4.

⁸ Ibid.

not in keeping with the wider landscape context of the neighbourhood. He outlined that the proposed species selection and configuration reflected the existing plant signatures of the local environment and would be complementary to the proposed architecture. The hardscape provides a functional and visually interesting spatial character which would also complement the proposed architectural signatures of the site and wider landscape context. In relation to the front fencing he noted that there was a highly varied mix of fence heights, designs and materials in the local area. He considered the proposed fencing was a logical and aesthetical response specifically selected to be sympathetic with the receiving environment.

31. Mr Going agreed with the overall conclusion of the Council s42A report, relevant to landscape matters. He considered the proposed species selection and configuration reflected the existing plant signatures of the local environment and would be complementary to the architecture. He concluded that the design was sympathetic to the receiving environment and appropriate for the proposal.
32. **Mr Todd Langwell**, a principal traffic engineer, advised that he had overseen the preparation of the traffic impact assessment (TIA) included in the application. He advised that the proposed development required consent in relation to two design elements related to the proposed access. Firstly, the vehicle access was narrower than permitted to service nine or more parking spaces and secondly truck accessing the site would need to reverse manoeuvre from Roberta Avenue into the site. Both matters were addressed in the TIA and had been assessed against the relevant matters of discretion and assessment criteria.
33. He concluded the design and location of the proposed parking and access arrangements for the development were consistent with the matters of discretion and assessment criteria. He noted the vehicle crossing had suitable sightlines in both directions. The development was expected to generate a low level of traffic (11 peak hour vehicle movements) which would reduce the likelihood of any vehicular conflict at and along the proposed vehicle access. In his opinion the existing traffic conditions would be able to accommodate the additional traffic movements related to the site, that the predicted traffic generation is not significant in the context of future flows along Roberta Avenue and the wider network.
34. He considered the matters of concern raised in submissions to the proposal had been addressed with the proposed access arrangements and he supported the traffic-related conditions of consent proposed in the Council report with the exception of a minor change related to the vehicle crossings. He recommended that condition 33 to the land use consent be amended to make it consistent with Condition 11 of the subdivision consent by requiring the vehicle crossing to be “designed and formed in accordance with the requirements of Auckland Transport”.
35. Mr Langwell concluded that the traffic effects of the proposal could be accommodated on the road network without compromising its function, capacity, or safety.
36. **Mr Jason Evans**, an urban designer advised he had been engaged by the applicant in April 2022 to provide an assessment of the appropriateness of the proposal in terms of its urban design and to provide advice and recommendations in response to matters raised by the submitters. In his opinion the proposed development reflected “a high-

quality approach to the development of the site and delivered a number of good urban design outcomes”⁹.

37. In his opinion the built form of the proposal “provides an attractive and distinctive architectural identity both within the site and in its relationship to both Roberta Avenue and West Tamaki Road”¹⁰. The proposal would not dominate but was complementary to the setting, the style of architecture, and was well-suited to the neighbourhood and the emerging diversity of medium density housing outcomes. The potential effects on neighbouring properties were effectively managed by the site planning, boundary planting and architectural treatments.
38. Mr Evans highlighted the relevant objectives, policies and development standards relevant to his assessment. He considered the Mixed Housing Suburban zone policy framework provided a strong direction towards quality higher density residential development in a variety of forms. In his opinion the proposal responds positively to the policy framework for the zone by providing for a range of living opportunities in a variety of building formats including the provision of three-storey elements to the proposal. In his view the three-storey elements of the buildings are incidental and complementary to the overall built character and are not defining architectural elements to the character of the proposal.
39. He concluded that any adverse urban design effects would at most be minor as the adverse effects had been avoided, remedied or mitigated through the design decisions made and that positive effects resulted from the development being anchored around the design quality of the proposal and its positive relationship to the public realm.
40. **Mr Nicholas Mattison**, a planning and resource management specialist provided a pre-circulated statement of evidence and tabled a summary statement at the hearing. His evidence addressed the site’s characteristics; explained the consent history; provided a description of the proposal and an assessment of effects and responses to the concerns raised in the hearing’s report and by submitters. He agreed with the council reporting officer’s assessment of the proposal against the relevant statutory requirements and provisions. He was also in agreement with the council officer that the actual and potential effects were acceptable in relation to the proposal. He considered the proposal an efficient use of a land resource by increasing housing supply and in accordance with the existing suburban character and future development expectations for the area.
41. Mr Mattison considered the proposal was consistent with the relevant statutory documents, in particular the:
 - a. National Policy Statement for Urban Development.
 - b. Resource Management (Enabling Housing Supply and Other Matters) Amendment Act (“Amendment Act”); and the

⁹Statement of Evidence, Jason Evans, page 3, paragraph 2.1.

¹⁰ Ibid, paragraph 2.2(a)

- c. Auckland Unitary Plan – Operative in Part (AUP OP), Regional Policy Statement, and relevant District and Regional plan objectives and policies, especially those of Chapter H4 for the Mixed Housing Suburban zone.
 - d. Despite proposed Plan Changes in response to the Amendment Act having not yet been notified, he also considered it important to highlight that the proposal complies with the proposed Medium Density Residential Standards (MDRS) except in relation to front yard infringements.
42. Mr Mattison acknowledged that the appearance of greater built intensity from the proposal will result in a noticeable change in character to Roberta Avenue and West Tamaki Road which are predominately single standalone homes. Based on the evidence of Mr Munro and Mr Evans, Mr Mattison highlighted that the proposed layout, orientation of buildings and quality design response will maintain a level of amenity on the site and within the surrounding environment. He also considered it to be compatible with the existing neighbourhood character and anticipated change in character as a result of the upcoming MDRS and NPS UD amendments to the AUP.
43. Based on specialist evidence in respect to traffic, earthworks, infrastructure and geotechnical effects, Mr Mattison considered the effects from the proposal to be acceptable in relation to the use of the site for a residential development. In relation to the subdivision consent, he considered that it could be unbundled from the land use consent as the effects do not overlap.
44. In response to submitter's concerns during the notification phase, Mr Mattison noted that the proposal has been redesigned to largely fit within the development controls and achieve a greater extent of compliance. In conjunction with separation distances, urban design and landscape features, he considered that potential dominance, overlooking and privacy effects on adjoining sites had been appropriately mitigated.
45. Mr Mattison disagreed with the council officer's assessment and disregard of the four-lot subdivision consent as a permitted baseline in assessing adverse effects in relation to building intensity. He considered that as s223 certificates had been granted for the subdivision, and full compliance with the Mixed Housing Suburban zone standards could be demonstrated, such a development is not fanciful and therefore should be applied as part of the permitted baseline. Mr Mattison also considered it appropriate to recognise the removal of buildings and trees, and construction and operational noise as permitted activities.
46. He accepted the land use conditions with a request for minor corrections and modifications for consistency and clarity. He also accepted the subdivision conditions with a request to change condition 11 and the vehicle access.
47. Mr Mattison concluded that any potential adverse effects are minor or less than minor and can be mitigated through conditions of consent. He considered that the proposal is consistent with the planned character of the surrounding locality and is at a built scale and intensity which can be considered acceptable and therefore could be granted consent.

48. **Dr Sam Blackbourn**, a chartered civil engineer provided a written brief of evidence that addressed the infrastructure associated with the proposed development including earthworks, erosion and sediment controls, stormwater and wastewater servicing and water supply. He advised that he had overseen and reviewed the design and production of the Infrastructure Report and Drawings to support this resource consent application and responded to the Council's requests for further information.
49. In his opinion the environmental effects from the proposed earthworks could be mitigated through the proposed erosion and sediment controls discussed in the Report and shown in the associated drawings. There was adequate capacity in the network to service the proposed development's requirements for water supply, firefighting, wastewater and other servicing requirements provided through new connections and network extensions within the site.
50. While there is no existing public stormwater infrastructure available within the site and the network proposed is undersized for the catchment it serves, Mr Blackbourn considered the impacts of the development could be appropriately and adequately mitigated through the use of stormwater detention tanks.
51. He confirmed that the proposal was feasible, from a civil engineering perspective, and provision had been made to fully service the site in terms of three waters and earthworks required.
52. **Mr Bruce Green**, a geotechnical engineer also provided a written brief of evidence that addressed the seismic site class in accordance with NZS1170.5:2004 and geotechnical recommendations relating to the proposed foundations and retaining design requirements. He advised his main role with respect to the reporting undertaken had been quality assurance in respect of the release of the Main Report (1 April 2021) and the review and authorisation of the s92 Report.
53. In his opinion from a geotechnical perspective, the site was suitable for the development provided the recommendations in the Main Report, the s92 Report and his evidence were observed. He concluded that the earthworks required were reasonable and the impacts could be appropriately managed through the erosion and sediment controls proposed.
54. The proposed conditions of consent were sufficient to manage the risk(s) raised in connection with the impacts on the neighbouring property at 67 Roberta Avenue. The design modification proposed to the spacing of the poles in the s92 response were more conservative than the earlier design. In addition, he had recommended additional steps to the works that would limit the construction plant to the minimum required to install the wall, avoid the placement of fill requiring vibration within 10m of the site boundary until the retaining in close proximity to the house was fully completed. In addition, he recommended the requirement for a pre-construction meeting with the retaining wall contractor to ensure there was a clear understanding of risks, the intended mitigating works and the need for adherence to the design.
55. An affidavit from **Mr Ian Munro**, the applicant's other urban designer, was also lodged in relation to the urban design elements of the proposal. In the affidavit Mr Munro outlined his involvement in the project and that he had prepared the urban design

assessment (February 2021) for the original application. He considered that the key conclusions of that assessment continued to apply to the applicant's revised application which sought to bring the proposal closer to compliance with the zone standards.

56. In his opinion the proposal presented an appropriate response to the site's urban design opportunities and constraints. He considered the proposal included several positive and adverse urban design effects related to the general way in which the proposal related to its site and context characteristics. Adverse urban design effects had in his view been adequately avoided, remedied or mitigated through the design decisions that had been made to place and shape the buildings, and through the application of his recommended consent conditions.
57. We were advised Mr Munro was unable to appear at the hearing as he was out of the country. Therefore, we were unable to question Mr Munro on the material presented.

Submitters

Stephen Jardine (3 Thornhill Place)

58. Stephen Jardine lives at 3 Thornhill Place some 350m from the application site. He moved to the area in 1995, attracted by the open spaces, reserves, schools and neighbourhood feeling. He outlined his concerns about the traffic, parking and access associated with the proposed development. He outlined an earlier issue he had been involved with when St Andrew's Village proposed to open its gates onto Thornhill Place. He was also concerned about the impacts of traffic turning into Roberta Avenue from West Tamaki Road and advised there had been two collisions involving vehicles and a serious cyclist accident in the past couple of years.
59. He opposed the proposed building intensity of the development and felt his concerns about transport safety and the adequacy of the sightlines were borne out by the traffic evidence. He advised he had visited the 8 sites identified by Mr Langwell and found that, with the exception of Ventnor Road, each had clear sightlines and felt Mr Langwell was incorrect in stating that the vehicle crossing was located with suitable sightlines in both directions. As a consequence, he considered that trucks should not be allowed to reverse manoeuvre onto the site.
60. Lastly in his view there would be a need for broken yellow lines in Roberta Avenue outside the development. He disagreed with Mr Langwell that traffic would still be able to move through Roberta Avenue if parking was allowed on both sides of the street. To ensure the safety of traffic entering from and exiting to West Tamaki Drive he considered there needed to be a reduction in the proposed number of dwelling units on the site.

Kristin Edgeworth (83 Esperance Road)

61. Kristin Edgeworth opposed the development in its current form and was concerned about the impacts it would have on the surrounding environment. She felt the scale of the proposed development was out of keeping with the local environment. She said the Glendowie area is characterised by predominantly single-storied standalone

homes and while three dwellings are permitted as of right on each site, this proposal was outside the AUP constraints. Even with a 4-lot subdivision undertaken for the sites only 11-12 units could be built. She was also concerned about the ability of the local infrastructure (roads, water and drainage) to cope with the scale of the proposed development.

Lisa Davis-Miller (265 Riddell Road)

62. Lisa Davis-Miller lives in Riddell Road, a kilometre away from the proposed development site. She and her family had lived in Glendowie since 2012, having left Christchurch following the earthquakes, they had been attracted to the area by the access to parks, quiet streets, and access to the Tamaki River with the opportunity for sailing, kayaking and swimming.
63. Ms Davis-Miller outlined her concern about the proposed density of the development noting the developer was proposing 8.5 dwellings per site where the AUP(OP) only permitted 3 dwellings as of right. She noted that even under the Mixed Housing Urban zoning only 3 dwellings were permitted per site. She considered the proposed development was not in keeping with predominately suburban nature of Glendowie where existing homes are 1-2 storeys on large 800m² sites with gardens.
64. She felt the proposed density would have a detrimental impact on the neighbouring sites affecting their visual amenity, privacy and access to sunlight and daylight. In her opinion a mix of single level and two storey dwellings with a decent sized outdoor green space was more realistic in meeting the needs of the demographics being targeted by the architect (i.e. younger people and older people downsizing).
65. Ms Davis-Miller shared her concerns about the traffic and road safety issues arising from the development which provided only one parking space per unit, served by a single land entry/exit located close to the intersection of Roberta Avenue and West Tamaki Road. She also advised that Roberta Ave was a popular cycle and pedestrian route. She felt the increased traffic arising from the development and higher levels of on street parking would increase the risk of accidents. She was also concerned that the regular reverse manoeuvring onto the site by the rubbish truck in such close proximity to the intersection with West Tamaki Drive.
66. Ms Davis-Miller also highlighted some of her concerns with the expert evidence provided by the applicant. She considered Mr Chia's proposed design had failed to meet the brief to "retain a suburban built character", while Mr Evan in describing the proposal as "domestic" was attempting to downplay the fact that 3 storey buildings are not envisaged in Glendowie's Mixed Housing Suburban zone.
67. She concluded that the application should be declined. In her opinion the proposed development is significantly beyond anything envisaged by the Council for its Mixed Housing Suburban zone and not sympathetic to the suburban character of the existing built environment in the area. If it were approved in its current form, there would be negative impacts on the amenity of the neighbours and the Glendowie community who regularly traverse Roberta Avenue and West Tamaki.

Murray Spicer (31 Vanessa Crescent)

68. Murray Spicer, a retired engineer, has lived at 31 Vanessa Crescent since 1972. He endorsed the submissions of Mr Dunn and the evidence of Mr Brown. He opposed the development which he considered inappropriate in terms of the current zoning applied to the site. In his view developer-led terrace housing is not 'density done well' and far from the vision of a quality, compact city envisaged by the Auckland Unitary Plan. He considered developments of this nature should be located close to major transport hubs, pointing out that Roberta Avenue was some 2.6 km from the Glen Innes rail station and commercial area.
69. He also raised some more local concerns with the proposal, highlighting that Roberta Avenue was not wide enough to allow two lanes of parking and still enable two lanes of traffic to pass safely. In his view the access to the site was too close to West Tamaki Road to allow the rubbish truck to safely reverse manoeuvre onto the site. This arrangement needed to be reconsidered.

Ross McCarthy (55 Roberta Avenue)

70. Mr Ross McCarthy said he had been a resident of "Beverley Hills" for 40 years, living initially in Vanessa Crescent and for the last 30 years in Roberta Avenue. Like previous speakers, he was concerned that the proposed development was wholly out of character with the local environment. Having grown up in Glendowie, Mr McCarthy spoke of the historical development and character of the area. He advised that Glendowie was a desirable place for families to live with a lot of open spaces and good quality schools, although he noted the area was and had always been poorly served by public transport and that the infrastructure, particularly the sewer network, had not kept pace with development.
71. Mr McCarthy was concerned about the proposed intensity of the development and the impacts of increased on-street parking on the functioning of the local road network, including the safe movement of trucks, buses and cyclists. He was also concerned that increased on-street parking would lead to an increase in crime in the area.
72. He was also unconvinced about the housing shortage issue, although he did acknowledge there was a need for social housing. He didn't feel that increasing the intensity of housing was the solution and that there remained a need for a range of housing types including family housing with open space areas. He considered the recent Covid pandemic had demonstrated the impacts of high-density housing and the importance of open space areas.
73. Mr McCarthy advised he was not against change, but change needed to be sensible and that if consent was granted to the proposed development this would result in a change to the fabric of the neighbourhood away from it being a great place to raise a family. He was also concerned a favourable decision may set an "unhealthy precedent" not just for Glendowie but other suburbs. Glendowie had a distinct character that should be preserved. He considered the applicant was seeking a development more in keeping with the THAB rather than MHS rules to maximise financial gains. In his view, financial reward should not trump the social benefit for many.

Glen Group Incorporated

74. **Martin Williams**, counsel for Glen Group Incorporated, confirmed that the principal concern of the Society is the proposed building intensity and the associated infringements of rules set out to protect neighbourhood character and residential amenity. He also considered the application used the strategy of environmental creep and a debatable permitted baseline construct.
75. He considered there was a lack of background assessment of the existing environment in both Mr. Munro's affidavit and application's AEE and referred the Panel to Mr. Brown's affidavit and the evidence of residents to provide a description of the existing neighbourhood character and residential amenity. In reference to the *Wallace*¹¹ case, he considered the existing environment important for determining the building intensity effects of the proposal.
76. Mr. Williams shared that the Society were concerned about the scale, form and intensity of the proposed development and the significant effects it would have on neighbourhood character. They consider that the proposed landscape treatment and the limited space around the perimeter of the site was not representative of the vegetated setting of the existing neighbourhood. He stated there was also concern over a loss of on-street parking and the necessity for refuse trucks to reverse onto the site and the associated effects on pedestrians and cyclists at the Roberta Avenue intersection. He highlighted that the level of intensity proposed was close to half the current population of Roberta Avenue and therefore queried the effects and future planned character of the zone if every site was allowed this proposed level of intensification.
77. Mr. Williams considered that the assessment of building intensity effects was conducted within the immediate neighbourhood context rather than its impact on the planned character of the Mixed Housing Suburban zone and AUP direction. He noted the Society considered the proposed building intensity to be beyond the planned intensification of the zone and is representative of an urban rather than a suburban built character. He therefore considered the proposal not in keeping with the planned character or objectives of the Mixed Housing Suburban zone.
78. He also considered that the proposal undermined the strategic planning approach of the Unitary Plan and is not consistent with the relevant RPS provisions. He shared that the proposal is not within or adjacent to a major commercial centre where development of an urban scale can be expected. As such, it was not consistent with the hierarchical intensification strategy as set by the RPS and the AUP.
79. Mr Williams asked the Panel to consider the broader strategic significance of granting the consent alongside the effects of the proposed level of development at both the neighbourhood and zone scale. He proceeded to call a series of witnesses.

¹¹ Wallace v Auckland Council [2021] NZHC 3095

Kevin Thompson (4 Vista Crescent)

80. Kevin Thompson advised that he and his wife resided at 4 Vista Crescent and have lived in different properties on the street since 1995. He stated that they valued the area for its leafy appearance, feeling of spaciousness, large sections with single dwellings set back from the road and modern appearance which fits with the Tahuna Torea Reserve.
81. Mr Thompson accepted that there will be intensification of the neighbourhood. His primary concern was that the scale of intensity and infringements proposed is at odds with the intent of the Unitary Plan and is not consistent with the existing neighbourhood character. He felt that in comparison to neighbouring properties the development looks squashed in, is disproportionate in height and has very limited landscaping. He was also concerned with the increase in traffic and on-street parking and the associated effects on the Roberta Avenue intersection and cyclists. Mr Thompson also considered it disrespectful that iwi was not given the opportunity to provide input given the cultural significance of the area.
82. **Roger Dunn** and his wife reside at 57 Roberta Avenue. He shared that the desirable features of the suburb were its friendly residents, safety, landscaping, wildlife, access to services and open spaces, walkability and a high standard of development.
83. Mr Dunn considered the development 'inappropriate' in terms of intensity effects. He felt that the design and the removal of trees and landscaping from the site causes the proposal to be out of character with the suburban area. He had equally strong concerns relating to transport operations and safety. He felt that the access / egress design and trip generation from the proposal would impact on the surrounding traffic network in terms of increasing on-street parking and posing a risk to safety at the Roberta Avenue intersection. He also questioned the provision for no cycle storage, loading and the arrangement for collecting refuse which he considered dangerous given the requirement to reverse onto the site.
84. Mr Dunn also raised concern over the sewerage reticulation. Speaking from experience, Mr Dunn shared that tree roots on neighbouring properties periodically block the line and sewage overflows into his gully traps. He was concerned the development would exacerbate the problem and add to maintenance issues.
85. **Lauren Hawken** and her family reside at 15 Vista Crescent and chose to move to the suburb based on the standalone houses, open space for gardens and recreation, proximity to water and local amenities and safe and friendly nature.
86. Mrs Hawkins principal objection was that the development is inconsistent with the context of the existing neighbourhood and zoning. She accepted that housing intensity is required in the neighbourhood but felt the development is not consistent with the Mixed Housing Suburban zone. She felt that despite the reductions in height made to the proposal following application, the intensity of the units is an overdevelopment of the site and does not maintain residential amenity or suburban character.
87. She expressed concern over the generation of noise, lighting, dominance, privacy and traffic effects, alongside effects on infrastructure, access and pedestrian safety. She

was also concerned with the proposed maximum impervious area and lack of landscaping. She felt that the development is better suited to the Mixed Housing Urban or Terrace Housing and Apartment zones in terms of housing typology and proximity to public services. Overall, she considered it could be designed to be more in keeping with the suburban character with less adverse effects.

88. **Karen Sutton** and her family reside at 260 West Tamaki and own the property at 258 West Tamaki Road. She expressed that her family valued the area for its openness, houses setback from the road, greenery, wildlife, access to services and safety in terms of walking and cycling.
89. Ms Sutton believed that the proposed development goes against what her family and wider community value about the neighbourhood. She was concerned that the increased intensity would generate additional noise, parking and safety effects for pedestrians and other road users at the Roberta Avenue intersection. She was also concerned it would make exiting her driveway more difficult. Mrs Sutton was not in dispute that more housing is needed, however felt that the intensification proposed for the site was not in keeping with the character of the existing neighbourhood in terms of visual design and the loss of established trees. She felt there needs to be balance and diversity of housing as not everyone wants to live in highly populated areas.
90. **Anne McDermott** provided a statement of evidence on behalf of her family. She confirmed that her family purchased the property at 251 West Tamaki Road in 1989 and moved an existing villa onto the site where they have resided since. Ms Dermott values the community and family feel of the area citing it as a safe area for children near services, a reserve and a playground.
91. Ms Dermott's principal objections to the proposal related to landscaping and traffic effects. She was concerned about the removal of vegetation and mature trees from the site and the lack of space for front yard landscaping. She considered that as a result, the street frontage of the development would not be in keeping with the neighbourhood character and would not maintain or contribute to residential amenity.
92. In regard to traffic, Ms Dermott expressed concern that the provision of one carpark per unit would generate additional cars parking on West Tamaki Road. She noted that the road has already seen an increase in cars parking on the street which has caused visibility issues when exiting her driveway. She also questioned the safety of other road users and pedestrians from having a higher intensity development in close proximity to the busy Roberta Ave intersection.
93. **Joanne Hall** and her family have resided at 257 West Tamaki Road since 2018. She expressed that her family chose the quiet neighbourhood due to its proximity to water, services, open and green spaces, walkability and cycle friendly environment.
94. Ms Hall considered that the proposed development will affect the overall character and safety of the surrounding area. She considered the design of the proposal in combination with a lack of natural greenery to be out of character with the existing neighbourhood. In relation to traffic effects, she felt the intensive nature of the development will create extra hazards for cyclists, increase on-street parking and impede visibility for traffic turning out of Roberta Avenue.

95. Ms Hall also raised concern over potential effects on her property, citing that the height and setback of the proposed development will generate shading and privacy effects on her outdoor living area. She believed that the permitted level of three dwellings per site would be more in keeping with the character of the neighbourhood and would reduce effects on adjacent properties. She would be supportive of a development of five to six houses with appropriate living spaces and greenery that is in keeping with the existing character.
96. **Aimee Penman** and her family reside at 289 West Tamaki Road. She expressed that her family decided to purchase a home in Glendowie to enjoy the atmosphere it offers, citing the safe streets, outlook to the water and abundance of tree life.
97. Ms Penman was primarily concerned with the intensity of the development and associated effects from the loss of vegetation and increased levels of vehicles, people and noise. She expressed that the proposed development risks the family life, nature and relaxed character of the area. Speaking from experience, Ms Penman shared that a recently constructed higher density development on a neighbouring site had generated privacy, dominance and noise effects on their property. She was concerned that allowing for intense development to continue would affect the family atmosphere of the area.
98. **Evana Lithgow** and her family reside at 1 Vista Crescent, on the corner of Vista Crescent and Roberta Avenue. She stated her family chose to move to the area for the single house zoning and its proximity to green spaces and abundance of wildlife.
99. Ms Lithgow raised a number of concerns with the proposal. She expressed that in comparison to other density models, citing the Tamaki Regeneration project and Taniwha Street as examples, the development was cramming units onto the site with ineffective landscaping mitigation proposed. In regard to traffic effects, she was concerned for the safety of pedestrians with 17 cars utilising a single crossing and effects from overflow parking on the busy Roberta Avenue intersection.
100. Ms Lithgow was also concerned with the way the Unitary Plan was being used to seek consent. She believed that the plan did not intend for the level of density proposed in the area and found the unpredictable nature of the rules in relation to what could be built on neighbouring properties unsettling. She felt that the proposed model of housing relies on 'borrowing' outlook and amenity from neighbours and offers little back in the way of residential amenity.
101. **Mr Tetsuo Iso** who lives at 67 Roberta Avenue tabled a written statement. His statement recorded that he was attracted to the neighbourhood by the openness of the area defined by single-storey dwellings setback from the road with landscaped front gardens. He also enjoyed the walkability of the area being near the Tahuna Torea Reserve and water.
102. Mr Iso's principal concerns surrounded direct effects on their privacy and quality of living that would result from the increase of immediate neighbours from one to seven. He was concerned about the proposed retaining wall on his boundary regarding maintenance and noise, vibration and structural integrity effects from the earthworks. He also expressed concern over the proposed replacement of the boundary hedging

with a lower fence. He was concerned whether it would provide adequate protection from privacy and noise effects given their primary outdoor living area is also adjacent to this boundary. Mr Iso felt that the proposed privacy screenings on the upper-level windows would not prevent people from overlooking into their property.

103. Mr Iso also raised concerns surrounding the wider effects of the proposal. He felt that the infringement of the height standard impacts their property in terms of dominance effects and is not in keeping with the neighbourhood character. He also considered that the parking and access is insufficient and will result in on-street parking and will impact the safety of turning in and out of their driveway.
104. **Stephen Brown** an experienced landscape architect, who also holds a planning qualification, gave evidence on behalf of the Glen Group Incorporated. He provided a summary statement of evidence in addition to his pre-circulated evidence by way of affidavit on the previous identical application. He advised that despite the revised application, his opinions stated in the affidavit remained the same.
105. Mr Brown outlined the existing character of the area and the planned vision for the Mixed Housing Suburban zone. He believed the existing character of Roberta Avenue need not be maintained but should be adequately assessed when considering resource consent applications in regard to the planned future of the zone. Mr Brown was concerned that the proposal is not consistent with the existing or planned suburban built character of the area. He considered that proposal pushed the site beyond its building intensity limits and generated effects on neighbouring properties in the form of noise, lighting, dominance and effects on the wider neighbourhood in terms of visual amenity and character. Overall, he considered that the proposal is more akin to the intensity and character expected in the Terrace Housing and Apartment Building zone rather than the planned suburban character of the Mixed Housing Suburban zone.”¹²
106. In Mr. Brown’s assessment, the proposed 17-unit development is not consistent with the current neighbourhood character and residential amenity nor its “planned suburban built character”. He considered the proposed development would generate significant adverse effects that would arise directly from the proposed built intensity of development. That there was both an absence of fit into its surrounds and that its adverse effects were exacerbated by its noncompliance with the zone standards.
107. Mr. Williams clarified that Mr. Brown’s affidavit that was filed in the High Court was for the precise same development that is currently on the table. Both the original and the second application started out more intensive particularly with respect to height and were both modified to the current status and Mr. Brown’s evidence and affidavit both speak to exactly the same thing.
108. Mr. Williams concluded the presentation for the Glen Group by reminding the Panel that it should address both the matter of discretion and the assessment criteria and not rely solely on the latter. He directed the Panel back to paragraphs 167-180 of the Wallace decision in particular the last paragraph where the Court said that in assessing the proposal the Council must turn its mind to the to the effects of building intensity

¹² Summary Statement of Stephen K Brown, page4, paragraph 10

and not simply assess whether a proposed activity complies with the standards. He acknowledged that it was quite a complicated issue but in short both the criteria and the matters of discretion were before the Panel and the effects of intensity on neighbourhood character and residential amenity was a matter on which the Panel was required to exercise a discretion.

109. The Panel sought Mr. Williams guidance in determining the difference in nature between the Mixed Housing Suburban and the Mixed Housing Urban Zone when essentially there was little difference in the standards applying to the two zones except for height. He responded that difference could not be as simple as the zone height. And that while the trigger for requiring a consent in both zones is three dwellings, the zones have different starting points in terms of site sizes that are allowed, and they have very different objectives and policies and zone descriptions. The Mixed Housing Urban Zone outlines that over time the appearance will change and the Terrace Housing and Apartment Buildings zone outlines that over time there will be a high degree of change. The Plan provides for higher density in the Mixed Housing Urban Zone around town centres and the highest density in the THAB zone. By contrast, a planned suburban built character is provided for in the Mixed Housing Suburban. Mr. Williams said that there was a lot more to character than height – that development could not be considered suburban simply because it was two storeys and urban simply because its three storeys. That is why the AUP(OP) provides for applications to be considered as a restrictive discretionary activity and, as part of that restrictive discretion, the Panel have to look at effects on character and amenity. Mr. Williams' view was that better outcomes will arise by such applications being put through a consent process and considered against the range of matters and criteria. The tests are not limited to simply applying development standards.

For the Council

110. Following the submitter's presentation, the Council's officers were invited to comment on any matters raised by the applicant or the submitters and to indicate whether these had in any way changed their recommendations on the application. Commissioners also had questions and points of clarification for the Council experts arising from their specialist review reports.
111. **Mr Wright**, the Resource Consent Team Leader made some general comments. In relation to consideration of the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act and the requirement for the Council to include in the AUP(OP) Medium Density Residential Standards (MDRS), he advised that the Council's view was that the MDRS are irrelevant to the consideration the application as the Council had yet to notify its intensification planning instrument (IPI). He explained therefore the Council didn't consider it as a relevant s104(1)(c) matter.
112. In relation to Commissioner Lister's question on what could occur on the site "as of right" with reference to dwellings, boarding houses, visitor accommodation, and care centres, he confirmed that it was technically possible under the provisions of the AUP(OP) to have 3 dwellings, a boarding house, visitor accommodation and a care centre on the same site but that he and Ms Lam were unaware of any such "real world" situation where this had played out. Therefore, the Council Team had chosen not to adopt such a scenario in their assessment of what constitutes the permitted baseline.

From the Council's perspective the appropriate starting point for the assessment of the permitted baseline was 6 dwellings. He said Council had chosen to disregard the 4-lot subdivision because Council did not consider these were "sites" until the s224c certificate had been issued. Although he did admit the AUP(OP)'s definition of site was not ideal due to its reference to "a separate certificate of title could be issued without any further consent of the council".

113. **Ms Ogden Cork**, the Council's consultant Urban Designer at the hearing made a few observations on neighbourhood character. She reinforced that urban design assessment undertaken by herself and Ms Yue Yu were their own independent assessments and they had not relied on the work undertaken by the applicant's urban design specialists.
114. On the definition of neighbourhood and the expression neighbourhood character she did not take issue with descriptions provided by the submitters although she did note that West Tamaki Road had a mix of activity and form noting the shops and retirement village. In relation to neighbourhood character a key feature and key point of conflict is the sense of spaciousness due to the large sites with large front yards, with space for grass lawns and planting. That prior to the AUP(OP) the street had been in a special character zone. That said the site was now zoned Residential Mixed Housing Suburban and it was in this context that the application needs to be viewed. She also noted that the application site is located on the corner of West Tamaki Road and Roberta Avenue and therefore somewhat unique, particularly the transitions between West Tamaki Road and Roberta Avenue.
115. In considering the discussions around character and planned future character from an urban design perspective, she identified the critical differences were around how carparking was treated and the front yard area. That in recent years it had become common for terrace house developments in Auckland to have car parking provided in separate car parks rather than garaging or carparking adjacent to each unit. Perhaps in response to changes in the housing market and affordability. In her view the proximity of local amenities, made this a suitable area for residential intensification.
116. A point of difference between her urban design assessment and that of Mr Munro had been the size and the landscaping of the front yard spaces. In her view the handling of these spaces were critical, she acknowledged that the size of the front yards and the level changes posed some difficulties for the development. She was concerned that the proposal infringed the 3.0m front yard setback but acknowledged that the upcoming MDRS changes required by Central Government would reduce the front yard setback to 1.5m.
117. Ms Ogden-Cork outlined that, from her perspective, managing intensity of use came down to managing acoustics, privacy and rubbish collection. To a certain degree she was less concerned about the number of units because many of the effects, for example bulk and mass, would be the same regardless of whether one was considering two x two bedrooms units or a four bedroom house. The number of bedrooms alone does not determine occupancy.
118. The success of the development would in part be around the co-ordination of the maintenance activities for the development. She favoured the suggestion that the

resident's association should be responsible not only for maintaining the landscaping at the street frontage but also the overall site. She thought this should be required through the conditions of the consent along with clarification that the acoustic fencing should be required.

119. Commissioner Lister questioned Ms Ogden Cork on what she viewed as "suburban character". She responded that suburban character was quite variable and changed across different time periods. In her opinion suburban character was as much about lifestyle as it was about built form. In the New Zealand context, it seemed to be predominantly a standalone house with a double garage. But this was the suburban character of the past and not necessarily of the future and this was where we were seeing the tension between the existing character and the planned character. She noted that the AUP(OP) identifies the planned character as being predominately 1-2 storey development and that the principal difference between the Mixed Housing Suburban and Urban zones does come down to building coverage with a more generous allowance in the Urban zone. These standards had implications for the amount of landscaping that will be included in any development.
120. In assessing effects on neighbourhood character Ms Ogden Cork advised that she generally gave greater weighting to the zone provisions rather than the character of the particular neighbourhood. However, in this case we were dealing with a corner site and therefore the assessment may be different than if the development had been occurring mid-block.
121. It was somewhat unclear what weight Ms Ogden-Cork had given to the legislative changes in her assessment of the application. In her view a key defining factor of suburban versus urban, particularly in the New Zealand context, was the extent of landscaping from the front door to the street. In the more urban environments such as THAB zone with the 1.5m front yard setback these landscaping transitions weren't achieved.
122. **Mr. Bui**, the Council's traffic engineer responded to submitter's concerns on carparking, vehicle movements and the rubbish truck reverse manoeuvring onto the site. With respect to carparking he advised the development complied with the requirements of the AUP(OP). If there were issues with on street parking this was an Auckland Transport responsibility.
123. Mr Bui advised that Roberta Avenue was classed as a local road. That local roads had capacity to accommodate 5,000 vehicle movements per day (vmpd). He advised he had checked the Auckland Transport traffic counts which showed on the 31 May 2021 vehicle movements in Roberta Avenue varied between 2,500-3,100 vmpd. He was therefore confident that the local network would be able to accommodate the additional traffic movements arising from the development.
124. In relation to the refuse collection, he was satisfied that the rubbish truck would be able to safely reverse manoeuvre onto the site and he was satisfied that there was sufficient separation distance between the site access and the intersection with West Tamaki Road. Conditions were proposed to limit the number and timing of rubbish truck collections from the site to two per week outside commuter and school peak hours.

125. **Ms Lam**, the reporting planner advised that she had considered the additional areas of noncompliance identified by Mr Mattison and her position that the onsite amenity effects of the application are acceptable had not changed. In terms of neighbourhood character, she emphasised the point made in her s42A report that the existing character is not static, and that existing character is the starting point for the planned character. Based on the information provided her position remained unchanged.
126. Officers also clarified for the Panel that a third resource consent application had been lodged for the site. We were advised that this was largely identical to the current application with the applicant requesting the application be dealt with on a non notified basis.

Right of Reply

127. Mr Braggins gave an oral reply to the matters raised in the hearing which he followed up in writing. He commenced by posing a couple of rebuttal questions to Mr Evans.
128. In relation to the proposed landscaping in the front yard, facing West Tamaki Road, Mr Evans advised that he considered that there was a marked difference in the character between West Tamaki Road versus Roberta Avenue. In his view, West Tamaki Road is far more urban in character than the leafier type of suburban character of Roberta Avenue.
129. Secondly Mr Evan commented on the visual character of the proposed development and the suggestion made by Mr. Brown's evidence, that the proposed development could be mistaken for apartments. Mr Evans advised he disagreed with this view that the key difference related to access arrangements with the apartment building having a single shared access arrangement or deck access arrangement. Access arrangements were quite different in short-terraced housing developments where each unit has its own separate front door. He did not believe the current proposal could be confused with an apartment building.
130. Mr Braggins addressed the following matters.
- a. He rejected the suggestion that there was some kind of environmental creep occurring and that the applicant was layering consent applications to gain consent to a larger development than would otherwise be allowed. There is only one relevant existing consent on the site for a 4 lot vacant subdivision that is likely to be implemented. He considered that as the additional resource consent filed for the site has not yet received a decision on notification, it is not a relevant consideration for the current application.
 - b. He considered that the 4 lot subdivision can be implemented in advance of the development and as such forms part of the existing environment and should not be disregarded by the Panel. He acknowledged that it may be useful to have a condition that ensures development is carried out in an integrated manner but does not preclude the consent from being implemented.

- c. He considered that whilst the permitted baseline is a relevant consideration, the development is not reliant on it as the key experts are in support of the application without the baseline.
- d. He considered that between the zone statement, witnesses and Mr Evan's and Mr Brown's evidence, there is sufficient information to determine the existing neighbourhood character. He considered that based on the evidence of Mr Evans, it can be concluded that West Tamaki Road and Roberta Avenue have a different character and the assessment should therefore reflect that.
- e. He shared that a number of changes to the conditions have been proposed to address matters arising from the hearing such as improved landscaping.

Principal issues in contention

131. After analysis of the application and evidence (including proposed mitigation measures), undertaking both a pre and post hearing site visit, reviewing the Council planning officer's recommendation report, reviewing the submission and concluding the hearing process, the proposed activity raises a number of issues for consideration. The principal issues in contention are the:

- Status of Consents
- Permitted Baseline.
- Effects on Neighbourhood Character
- Building Intensity and Amenity
- Front Yards and Landscaping
- Traffic, parking and access
- Infrastructure and Servicing
- Resource Management (Enabling Housing Supply and Other Matters) Amendment Act

Main findings on the principal issues in contention

Introduction

132. We agree with the description of the site and surrounding area provided in the Assessment of Environmental Effects. The site is located on the corner of West Tamaki Road and Roberta Avenue, Glendowie. The site comprises 69 and 71 Roberta Avenue and has a total site area of 1913m². The existing titles are subject to a building line restriction; however, we were advised that Auckland Transport have agreed to the cancellation of these restrictions, and the applicant had disregarded these restrictions for the purpose of this application.

133. The proposed residential development seeks consent to construct 17 new dwellings in the form of terrace housing units with a mixture of two and three storeys along with the demolition of the existing buildings, the clearance of existing vegetation within the site, earthworks and retaining walls, the construction of access, parking and drainage infrastructure, and landscape treatment. The proposal also involves the creation of 17 freehold residential lots around the dwellings, and a jointly-owned access lot (JOAL) for the shared driveway.
134. Under the provisions of the AUP (OP), the site is zoned Mixed Housing Suburban. This zone is the most widespread residential zone covering many established suburbs and some greenfield areas. Much of the existing development in the zone is characterised by one or two storey, mainly standalone buildings, set back from site boundaries with landscaped gardens. The zone enables intensification, while retaining a suburban built character.
135. The AUP(OP) anticipates that development within the zone will generally be two storey detached and attached housing in a variety of types and sizes to provide housing choice. Up to three dwellings are permitted as of right subject to compliance with the standards. This is to ensure a quality outcome for adjoining site and the neighbourhood, as well as residents within the development site. With the zone providing for applications for four or more dwellings as a restricted discretionary activity. The intended outcome being to:
- achieve the planned urban built character of the zone,
 - achieve attractive and safe streets and public open spaces,
 - manage the effects of development on adjoining neighbouring sites, including visual amenity, privacy and access to daylight and sunlight; and
 - achieve high quality on-site living environments.

Status of Consents

136. While the status of the consent applications was not a principal issue in contention, we consider it important that we clarify the Panel's position on whether the land use and subdivision consents should be bundled and considered together or considered sequentially. The approach to bundling consents determines the activity status of the applications and the relevant statutory considerations.
137. Ms Lam in the Council's s42A report¹³, advised that the effects of the two resource consent types do not overlap. That while the land use activity can be given effect to without a subsequent subdivision, the proposed subdivision around the approved development cannot be undertaken without the land use component of the application being granted and given effect. The applicant agreed with Ms Lam's assessment that bundling the land and subdivision consents would be unnecessary and contrary to the applicable case law guidance.
138. We agree with these assessments and find that the two resource consent applications should be considered sequentially and not bundled. With the proposed land use consents required to construct 17 new dwellings classed as a restricted discretionary

¹³ Council Agenda, page 22, paragraph 11.

activity and the subdivision application to subdivide around the approved development classed as a discretionary activity.

Permitted Baseline

139. The permitted baseline is a comparison between the effects of what is proposed and the effects of what is permitted on the site under the AUP(OP). The permitted baseline may be taken into account and the Council has the discretion to disregard these effects where an activity is non fanciful.
140. The applicant proposed two permitted baseline options; a 4-lot and a 2-lot permitted baseline. The applicant noted there were a number of permitted activities within the Mixed Housing Suburban zone including up to three dwellings per site (6 dwellings in total for the two lots), a boarding house for up to 10 people per site (20 people in total) and visitor accommodation for up to 10 people per site (20 people in total), where compliance with all development standards is achieved.
141. The applicant believed the Council had erred in proceeding on the basis of the permitted baseline being three dwelling on each of the two lots. Rather the applicant also maintained that the permitted baseline involved the 4 vacant lot subdivision with 3 dwellings on each (12 dwellings in total). Mr Mattison outlined that even ignoring the 4 vacant lot subdivision, high numbers of people are permitted on the site with only 2 lots, by his estimate a total of 64 people.
142. Ms Lam the Council's planner disagreed with the applicant's permitted baseline assessment. She concluded that either 6 dwellings or 2 boarding houses or 2 visitor accommodation buildings could be established as of right that complied with relevant standards. This allows for a degree of change both in built form and occupancy (between 20-30 persons) to occur but in her assessment it fell far short of what was proposed to be of any relevance in terms of discounting or disregarding effects. In relation to the creation of the 4 vacant lots and the establishment of 12 dwellings, Ms Lam did not consider this an appropriate benchmark upon which to assess effects. Her concerns included that, while the subdivision had been granted consent, the s224c certificate had not been obtained and the respective lot boundaries and proposed dwellings were not a 'natural fit' and effectively the proposed development superseded the subdivision consent.
143. Mr Williams for the Glen Group went further suggesting that the applicant was seeking "to justify the very significant departure which the development represented in intensity terms, on a permitted baseline construct that was "debateable (even fanciful) rather than "real world"¹⁴
144. For the sake of clarity, we have considered the various permitted baselines that have been proposed by the applicant. We are not convinced that the baseline proposed based on multiple uses (i.e. dwellings and boarding houses and visitor accommodation) is not fanciful. We have also not seen the need to rely on the permitted baseline from the recent 4 lot subdivision. There are in our view significant

¹⁴ Legal submissions for the Glen Group Incorporated, page1, paragraph 7.

differences between the proposal and a development that complies with the development standards of the various permitted baselines to make such a comparison less than useful.

Effects on the neighbourhood character

145. The Mixed Housing Suburban zone description outlines that the resource consent requirements enable the design and layout of the development to be assessed; recognising that the need to achieve a quality design is increasingly important as the scale of development increases.
146. The relevant matters to which Council has restricted its discretion when assessing a restricted discretionary activity resource consent application for four or more dwellings per site are set out in Clause H4.8.1.(2). These include:
- (a) the effects on the neighbourhood character, residential amenity, safety and the surrounding residential area from all of the following:*
- (i) building intensity, scale, location, form and appearance;*
 - (ii) traffic; and*
 - (iii) location and design of parking and access.*
147. With Clause H4.8.2 (2) setting out the assessment criteria the Council will consider when assessing a restricted discretionary activity resource consent application for four or more dwellings per site to the extent these are relevant to the proposal. These are:
- (b) The extent to which the development contributes to a variety of housing types in the zone and is in keeping with the neighbourhood's planned suburban build (sic) character of predominantly two storey buildings (attached or detached) by limiting the height, bulk and form of the development and managing the design and appearance as well as providing sufficient setbacks and landscaped areas.*
148. Our analysis of this topic is relatively detailed because it is relevant to our overall decision, and there was contention on the interpretation of the provisions, the identification of the relevant neighbourhood, and the weight due to existing neighbourhood character compared to future environment.

What is the neighbourhood?

149. Witnesses in their statements or response to questions from the Panel variously identified the relevant neighbourhood as follows:
- a. Most of the submitters, in response to questions, defined the neighbourhood as Roberta Avenue, Vanessa Drive, Vista Place, and with West Tamaki Road as the southern boundary. Submitters are concentrated in this area as illustrated by the map on page 331 of the s42A report.
 - b. Mr Brown defined the neighbourhood in similar terms. He also noted that the section of West Tamaki Road west of the site, including Sacred Heart College

and Saint Andrews Retirement Village, was relevant to the character of West Tamaki Road and site context.

- c. Mr Munro considered different methods for defining a neighbourhood and settled on an 800m radius around the site.
 - d. Ms Yu did not identify the neighbourhood and her assessment tended to focus on the site's immediate surroundings.
 - e. Ms Ogden-Cork, in response to questions from the Panel, acknowledged a difference between what she referred to as the 'urban design' approach of Mr Munro and how the neighbourhood was experienced by those who lived in it.
150. We accept the evidence of the submitters and Mr Brown which was consistent with our site visit observations. West Tamaki Road follows a ridge which is the boundary, not only between neighbourhoods, but also between the suburbs of Glendowie and Glen Innes. The relevant neighbourhood in this case, which we refer to as the "Roberta Avenue neighbourhood", is on the north side of the ridge. The relevant context includes West Tamaki Road in the vicinity of the site. The south-facing slopes below the opposite side of West Tamaki Road are a different neighbourhood and not relevant to our considerations.
151. While an 800m radius is a measure of a walking catchment, it does not address the range of specific attributes that help to identify neighbourhoods such as topography, street pattern, and differences in character. The site is not the centre of a neighbourhood: it is at the edge of the Roberta Avenue neighbourhood and at one of the main entrances to that neighbourhood.

What is the neighbourhood character?

152. There was a marked difference between those who emphasised a generic future environment as defined by the zone development standards, and those who emphasised a specific character informed by the neighbourhood's existing characteristics and qualities. We consider both are important for reasons discussed further below.

Existing character

153. We observed on our site visits that the Roberta Avenue neighbourhood has a distinct and relatively uniform character. The history of the neighbourhood provided by submitters (notably Mr McCarthy) helped to explain the character. The land had been the Kerridge family estate and was subdivided by Sir Robert Kerridge in the 1950s. The development was named 'Beverly Hills' and was apparently modelled on aspects of Californian urban design admired by Sir Robert. Mr McCarthy pointed out the American influences in the architectural style of several houses. Submitters generally described the character of the neighbourhood with reference such characteristics as stand-alone family homes, spaciousness, the extent of greenery, the consequent birdlife, and a sense of community and belonging to a distinct neighbourhood.

154. Mr Brown provided expert assessment of the existing neighbourhood character in his affidavit. He characterised the buildings as 1960s-80s houses, mostly single-storey, with integrated garaging, intermixed with a few traditional single-storey 'sausage flats, and some more modern residences. He said the houses are on large lots typically between 750m² to nearly 1200m² in size, set back from the boundaries, with mature and well-developed gardens that link up with the coastal bush to the east. He described the gardens as 'structured and formalised' by fencing, walls, lawns, hedging, trees and underplanting to frame 'outdoor rooms' and create privacy. He described the curving street alignments as distinct from that of the straighter West Tamaki Road which follows the ridge. He noted the St Andrew's Retirement Village, the Japanese Consul's House, and the School of Philosophy (all of which are on larger sites) as the only significant deviations from the pattern.
155. Mr Brown described the 'main road corridor' of West Tamaki Road to the west of the site as having a more mixed character including institutions (Sacred Heart College, St Andrews Retirement Village), and a group of shops at the intersection with Taniwha Road. It also appears that redevelopment with medium density housing is occurring on some recently cleared properties on the south side of West Tamaki Road. Mr Brown said St Andrews is not part of the Roberta Avenue neighbourhood, but that it contributes to the character of West Tamaki Road west of the site. He described St Andrews as "tucked away" and that its "visual profile" from West Tamaki Road was of mainly one storey buildings in vegetated grounds.
156. We were pointed to Mr Munro's earlier report and section 3.2 of the AEE with respect to the applicant's evidence on the neighbourhood character.
- a. Mr Munro's initial report focuses on the site, its immediate neighbours, and the nature of the streets themselves fronting the site. It provides the following description of the neighbourhood:
- "The Site forms part of a well-established neighbourhood featuring many larger-family homes and well-established vegetation. Many tall trees are evident and in many cases evidence of early settlement exists in the form of pre-world war 2 era volcanic rock walls and villas / bungalows. Under the AUP: OP, the Mixed Housing Suburban zone enables considerable change in built form character by way of predominantly 2-storey tall densification."*¹⁵
- b. Section 3.2 of the AEE followed a similar approach, describing the streets fronting the site, the presence of St Andrews Retirement Village and Sacred Heart College, and the following general description of the neighbourhood: *"the surrounding environment has been developed in (a) manner that is reflective of the suburban built character of the 1960s – 1970s, which mainly contains single-level weatherboard dwellings with large backyards. However, many of the sites*

¹⁵ Ian Munro, Urban Design Assessment 69-71 Roberta Avenue, Glendowie
Page 8, paragraph m.

have been now (sic) contain large new houses reflecting the high value character of the area.”¹⁶

Future character

157. While the submitters and Mr Brown described the existing neighbourhood character in some detail, they also acknowledged future character.
- a. Almost all submitters acknowledged that the area had changed to date and would continue to change. Most considered six dwellings on the site would enable both intensification and a design that could be more in keeping with the neighbourhood character. Ms Hawken considered the same outcome might be achieved with eleven or twelve dwellings. She pointed (as did other submitters) to what she considered is a form of intensification with a more suburban character in the Tamaki regeneration area. She described such intensification as “standalone housing [is] intermixed with attached houses in twos and threes, sites have a parking space, and these are separated by green space and low fencing. The heights of the developments are predominantly two-storied.”¹⁷
 - b. Mr Brown said that the future environment is a necessary component of assessing effects on the neighbourhood character, but that neither the future or existing environments could be evaluated in isolation. He interpreted the matter of discretion as “the extent to which the proposal would fit into the existing environment as it moved forward”. He considered it was not a “tick-box exercise” against zone standards but a matter to be “carefully considered and managed”.
158. By comparison, the experts for the applicant and the Council appeared to place most weight on the future environment defined by the Mixed Housing Suburban zone development standards as the basis against which to assess effects on the neighbourhood character.
- a. In his initial report, Mr Munro addressed effects on character by reference to achieving the planned suburban built character of predominantly two storey buildings defined by the Mixed Housing Suburban zone development standards rather than to specific neighbourhood character. In his subsequent affidavit, he says the proposal will be more intensive and denser than any development along Roberta Avenue and will be “locally prominent and atypical or unusual”. But he considers it will be compatible when compared against the permitted future environment of three dwellings per site and provisions that seek intensification. He also considers it will be compatible in the context of the St Andrews Retirement Village and his view that there is “no unifying neighbourhood style”.

¹⁶ Resource Consent Application and Assessment of Environmental Effects 69 & 71 Roberta Avenue Glendowie

¹⁷ Lauren Hawken, Statement of Evidence, page12, paragraph 47.

- b. Mr Evans' deferred to Mr Munro's assessment of effects on the neighbourhood character and he adopted Mr Munro's affidavit for the hearing. Mr Evan's likewise concluded that: *"the scale, location and form of the [proposed] buildings noticeably differs from some of the surrounding residential development, but not to the extent that there is significant effect on neighbourhood character, particularly where future changes to the surrounding residential lots occur."*¹⁸
- c. Mr Mattison likewise focussed on a future environment defined by the zone standards. He compared the proposal against an environment of three dwellings per site and building envelopes established by the Mixed Housing Suburban zone standards. He started from a permitted baseline for the site of twelve (or "conservatively" six) dwellings in a terrace house typology. In response to questions, he offered that there was a "clash of provisions" between considering effects on the neighbourhood character and what the Mixed Housing Suburban zone provisions permit. He suggested that even the term "suburban" might be problematic as a description of what the zone provisions permit.
- d. Ms Yu, in her urban design review for the reporting planner, also considered the proposal acceptable because the area will change, terrace housing typologies are acceptable in the Mixed Housing Suburban zone, and the area is expected to fall under the medium density residential standards in the future (looking ahead to future plan changes).
- e. Ms Lam relied on Ms Yu with respect to effects on the neighbourhood character. Ms Lam concluded that the proposal would present *"significant change to the existing neighbourhood character."* She considered that character is not static, pointing to the three dwellings permitted per site. She went on to say that the proposal is:

*"an appropriate response given both its site and context to the extent that the development contributes to a variety of housing types in the zone that is generally in keeping with the neighbourhoods planned suburban character of predominantly two storey buildings (attached and detached) through the height, bulk and form of the development. This however is at that the upper spectrum of what is expected in terms of planned character of the Mixed Housing Suburban Zone."*¹⁹

Discussion

- 159. We consider the following points are relevant to resolving the different approaches taken to neighbourhood character and the matter of discretion.

¹⁸ Jason Evans Statement of Evidence, page 18, paragraph 12.5.

¹⁹ Council Agenda, page 51.

- a. We should read the matter of discretion H4.8.1.(2) and criterion H4.8.2.(2) together and as a whole: the latter is a guide to evaluating the former.
- b. Character is an overall expression of collective characteristics, including quantitative and qualitative characteristics. It requires an evaluative approach.
- c. Consideration of effects on the neighbourhood character under H4.8.1.(2) and H4.8.2.(2) relates to specific neighbourhood character – more than simply the zone’s development standards. That specificity requires us to consider the existing and specific character as well as the future character, the one necessarily informing the other.
- d. We interpret the phrase “the neighbourhood’s planned suburban built character...” in that context. We consider it means more than “predominantly two storey buildings (attached or detached)”. Rather, the criterion read as a whole and in conjunction with the matter of discretion, requires us to evaluate whether the proposal will contribute to a suburban built character that accommodates intensification while responding to the specific (and intensifying) neighbourhood character. It requires us, for instance, to consider, amongst other things, design and appearance. When the matter of discretion and the criterion are considered together in that way, there is no “clash of provisions”.
- e. We consider we should take a ‘real world’ approach to the future environment. The zone provisions permit up to three dwellings per site, but it is likely redevelopment would occur over time and that not every site would be redeveloped to the maximum permitted. At the same time, three dwellings per site is not an indication of appropriate density, but the threshold above which to consider whether the proposal is (amongst other things) in keeping with the neighbourhood character. We consider that is the point of the matter of discretion. The requirement for such resource consent is to “enable the design and layout of the development to be assessed; recognising that the need to achieve a quality design is increasingly important as the scale of development increases.”

Effects on the neighbourhood character

160. There did not appear to be any dispute that the proposal is not in keeping with the existing neighbourhood character, especially with respect to the Roberta Avenue neighbourhood. As noted above, for example, the applicant’s experts described the proposal as “atypical”, “unusual” and “noticeably different”. The contention is whether it is in keeping with the neighbourhood’s planned suburban character which, as discussed above, requires us to consider both the existing specific character and the planned future environment.
161. On the one hand, we consider the following characteristics contribute to the extent to which the proposal it is in keeping with the neighbourhood character:

- a. While the site is in a prominent location at the entrance to the Roberta Avenue neighbourhood, it is also at the edge of the neighbourhood.
 - b. The more urban of the development's frontages (with respect to block length, proximity to the street, and limited landscaping) is to West Tamaki Road which has more mixed character and somewhat more urban qualities. By comparison, the frontage to Roberta Avenue is broken into the short block of three terrace houses (Block B), and the ends of the two longer blocks (Blocks A and C). While the ends of row of terrace houses is not the same as a house oriented to the street, the end units do have doors and windows facing the street.
 - c. The modulation of the roofline helps express the individual terraces and mitigate the length of the blocks.
 - d. The brick and vertical cedar weatherboards claddings are not out of place in the neighbourhood.
 - e. The trimmed hedging to be maintained on the Roberta Avenue frontage echoes an aspect of the neighbourhood – trimmed vegetation as part of well-maintained gardens.
162. On the other hand, we consider the following characteristics detract from the extent to which the proposal is in keeping with the neighbourhood character:
- a. The 17 dwellings proposed (or 8.5 dwellings per original site) is a greater intensity than the future environment that might be anticipated if every site in the neighbourhood were to be redeveloped with 3 dwellings. It would have moderately greater intensity (approximately 40%) than the alternative baseline of 12 dwellings that would be enabled by the subdivision of the two existing sites into 4 sites, especially as the four sites are smaller than sites typical of the neighbourhood. We consider Ms Lam's opinion that the proposal is "*at the upper spectrum of what is expected in terms of planned character of the Mixed Housing Suburban Zone*" needs to be placed in the context of this specific neighbourhood which is characterised by larger lots and by a more spacious and green character compared to some other parts of the Mixed Housing Suburban zone.
 - b. While both attached and detached houses are anticipated in the Mixed Housing Suburban zone, terrace houses are not a characteristic of the Roberta Avenue neighbourhood's existing character. In that context, the 17 terrace houses in a single development – and their configuration into rows of 6 and 7 units – is uncharacteristic of the neighbourhood. We accept the submitters' position that the proposed terrace houses have a less suburban character than other examples of terrace houses such as those in the Tamaki Regeneration area that we were pointed to.

- c. The shallow front yards (which in some cases infringe the minimum yard standards for the Mixed Housing Suburban zone) are noticeably different to the neighbourhood's generous characteristic setbacks. The excavation of the development so that the front yards sit below the street is also uncharacteristic of the Roberta Avenue neighbourhood and will reduce the effectiveness of landscaping in greening the appearance of the development. Likewise, the pattern of front yard landscaping – typified by a high proportion of paving with limited planting around the edges – would be different from the generous landscaping characteristic of the neighbourhood.
- d. The shared central car park is less characteristic of suburban character than individual car parks or garages attached to houses. While the car park has an internal location at the rear of the site, its extent and configuration constrain other aspects of the development.

Findings

163. Having considered the matters above, we consider the proposal will not be in keeping with the neighbourhood character. It will have adverse effects on the Roberta Avenue neighbourhood having regard to the proposal's prominent location at the entrance to that neighbourhood. We consider this matter of discretion to be finely balanced. There are some mitigating factors listed above, but on balance we consider they do not overcome the adverse effects. We do not consider it is a matter of intensity alone. A proposal with a similar intensity but a different design and appearance may have been more compatible with the neighbourhood's character. Likewise, our finding on neighbourhood character does not relate to the infringement of any one of the individual development standards. Rather, we consider the collective expression of the development's intensity, design and appearance would be at odds with the specific neighbourhood's existing and planned suburban character.
164. We therefore find that the proposal will have adverse effects on the neighbourhood character and does not satisfy the matter of discretion H4.8.1.(2) or the assessment criterion H4.8.2.(2).

Building intensity and Amenity

165. This section addresses the effects of building intensity and infringements of zone standards on residential amenity. In addition to the matters of discretion under H4.8.1(2)(a) (and the related assessment criteria) discussed above in the section on neighbourhood character, other relevant matters for discretion for four or more dwellings on a site are listed under H4.8.1(2)(b);

(b)all of the following standards:

- (i) Standard H4.6.8 Maximum impervious areas;*
- (ii) Standard H4.6.9 Building coverage;*
- (iii) Standard H4.6.10 Landscaped area;*
- (iv) Standard H4.6.11 Outlook space;*
- (v) Standard H4.6.12 Daylight;*

- (vi) Standard H4.6.13 Outdoor living space;
- (vii) Standard H4.6.14 Front, side and rear fences and walls; and
- (viii) Standard H4.6.15 Minimum dwelling size.

166. The relevant assessment criteria are set out in H4.8.2(2) below;

(a) the extent to which or whether the development achieves the purpose outlined in the following standards or what alternatives are provided that result in the same or a better outcome:

- (i) Standard H4.6.8 Maximum impervious areas;*
- (ii) Standard H4.6.9 Building coverage;*
- (iii) Standard H4.6.10 Landscaped area;*
- (iv) Standard H4.6.11 Outlook space;*
- (v) Standard H4.6.12 Daylight;*
- (vi) Standard H4.6.13 Outdoor living space;*
- (vii) Standard H4.6.14 Front, side and rear fences and walls; and*
- (viii) Standard H4.6.15 Minimum dwelling size*

167. The effects of the intensity of buildings relates to the overall form of the proposal and the effects of the number of dwellings on the site and their subsequent use.

168. Mr Evans addresses the effects of the building intensity and the overall form of the proposal in the sections of his evidence which assesses the various performance standards. Mr Evans addresses the effects of infringements of the height, height in relation to boundary, front yards, outlook space, outdoor living space and fencing standards. In respect of each of these Mr Evans concludes that the infringements are appropriate.

169. Mr Mattison in his evidence also addresses these matters and comes to similar conclusions. Mr Mattison also discusses the intensity of use in terms of the number of people that will live on the site and relies on a permitted baseline assessment based on a 4-lot subdivision of the site, that we were told now has a s223 certificate issued. He concludes that:

In each case, the number of units and outdoor living spaces adjacent to the surrounding properties is substantially the same as what is proposed. Thus the general effects of people living (music playing, people talking, barbeque and cooking smells), cars parking and, entering and leaving the site, etc., are no greater than what is permitted by the plan.²⁰

170. The evidence also considered that a permitted baseline existed around three dwellings on a site together with a small boarding house and visitor accommodation enterprise of less than 10 people. We were not given any examples of such combinations of activities occurring.

²⁰ EIC N Mattison para 11.23

171. As discussed above, the Council Planner Ms Lam did not support the permitted baseline proposed by the applicant. However, Ms Lam did consider the advice of the Council Urban Design specialist Ms Yu. Ms Yu notes that:

“With regard to the building intensity and the intensity of use by the number of people anticipated on site, I’ve turned my thought to a cumulative and overall assessment of urban design merit in light of the above analysis. In my opinion, the fact that most of the proposed units sits below the level of the neighbouring properties and street level, in conjunction with proposed fencing, retaining, landscape and building treatment, effects from activities of the number of anticipated residents in regard to privacy, noise and visual dominance effect are mostly likely to be contained within the site. Similarly, whilst the arrangement of parking, pedestrian movement and rubbish storage is less than ideal, potential adverse effects will most likely be retained within the site. I have also noted that a reasonable level of design consideration has been presented to achieve quality of public interface, as discussed under the section of Public Interface and Streetscape”.²¹

172. Mr Brown in his affidavit considered that the application and the Council’s reports did not address the matter of intensity of buildings sufficiently. Mr Brown considered that the proposed development pattern of buildings around the perimeter of the site has been forced by the number of units proposed. He further considered that the number of occupants will generate “more vehicle usage, pedestrian movements, overlooking of neighbouring properties and general activity than a solitary person, couple or nuclear family on the same property”.

Findings

173. We consider that the intensity of dwellings proposed, in conjunction with infringements of some of the zone standards, will result in unacceptable effects. This is finely balanced in our view and is a result of the specific proposal put before us. In coming to this conclusion, we have carefully examined the architect’s plan and the proposed landscape plans to fully understand how the proposal will work.
174. We find that the relationships between the assessment of some of the non-core standards and the eventual layout of the site have not been fully considered and will on balance result in unacceptable levels of amenity mostly on site, but also off site. This is directly related to the intensity of buildings proposed. For example, some outlook spaces which are shown as being reasonable or complying on the plans, are generally not achievable in practice (e.g., dwellings C2-C6 will have a 1.5m fence at about 4m depth restricting outlook while the outlook from dwelling D1 will be prevented by a 1.8m high fence on the new site boundary). The sinking of the development below road level also interrupts outlook from some dwellings. These do not in our view achieve the second purpose of the outlook standard (“In combination with the daylight standard, manage visual dominance effects within a site by ensuring that habitable rooms have an outlook and sense of space”) and will result in poorer outcomes than a proposal that meets the standard.

²¹ S42A Report p40

175. Standard H4.6.10. Landscaped area requires that “*the minimum landscaped area must be at least 40% of the net site area*” and that “*at least 50% of the area of the front yard must comprise landscaped area.*” The purpose of the standard is:

- “*to provide for quality living environments consistent with the planned suburban built character of buildings within a generally spacious setting*” and
- “*to maintain the landscaped character of the streetscape within the zone.*”

176. Landscape area is defined in the AUP as “*...any part of [the] site not less than 5m² in area which is grassed and planed in trees, shrubs, or ground cover plants*”. The landscaped area may include ‘hard’ elements listed in the definition including open jointed paving, terraces or uncovered timber decks, non-permeable paths not exceeding 1.5m in width, and permeable artificial lawn that meets certain conditions.

177. The internal landscaping comprises the following:

- a. The outdoor living spaces typically comprise paved patios, with planting against the fences and/or retaining walls at the end of the outdoor living spaces.
- b. Planting and hedging is proposed along both sides of the path to units in Block A.
- c. Small to medium sized trees will soften the boundary with the St Andrews Retirement Village.
- d. There will be planting at the western end of the central carpark along the boundary with St Andrews Retirement Village. Other opportunities for planting around the car park are limited. Different concrete finishes will be used to distinguish different parts of the car park and add to its amenity values. Nevertheless, the car park will be defined by fencing (including that of the refuse compound) and the building facades of Blocks B and D.

178. Much of the area shown as being landscaped on the application plans will in fact be paved and some dwellings (such as dwellings C2 – C6) will have little soft/ natural landscape space. While we appreciate that the AUP(OP) allows for landscaped areas to include paving or decking, we consider that this proposal effectively goes beyond that, particularly in the post subdivision situation.

179. Taken together, we consider the layout will not provide adequate levels of outlook and privacy commensurate with the zone and will cumulatively result in a lack of soft landscaping and an over provision of hard surfaces. This is reinforced by the large at grade car-parking area which is also a consequence of the building design and intensity of dwellings. We find that the level of residential amenity for many of the dwellings is reduced by the infringements of “non-core” zone standards and is not “the same or better” as signalled in the assessment criteria. We consider this is a result of the number of dwellings proposed and their arrangement on the site. While a similar building bulk could likely be achieved under a permitted scenario, it is the number of

dwelling provided within those buildings that has largely led to various infringements of the non-core standards and the associated reduction in amenity noted above. We agree with the thrust of the evidence of Mr Brown in this respect.

180. Likewise, we consider that while the seven dwellings closely facing the side boundary with 67 Roberta Avenue almost comply with the outlook standards, the combination of number of units, proximity, orientation to the boundary, and use of outdoor areas by seven households will have adverse effects on the residential amenity of the adjoining property.

Effects of infringement of Front Yards Standards

181. Standard H.4.6.1.(1) requires that Activities and buildings listed in Table H4.4.1 Activity table must comply with the listed Standards. In the case of four or more dwellings per site the listed standards are H4.6.4 Building height; H4.6.5 Height in relation to boundary; H4.6.6 Alternative height in relation to boundary; H4.6.7 Yards.

182. Clause H4.8.1. (4) sets out the matters of discretion for developments that do not comply with the standards as follows:

- (a) any policy which is relevant to the standard;*
- (b) the purpose of the standard;*
- (c) the effects of the infringement of the standard;*
- (d) the effects on the suburban built character of the zone;*
- (e) the effects on the amenity of neighbouring sites;*
- (f) the effects of any special or unusual characteristic of the site which is relevant to the standard;*
- (g) the characteristics of the development;*
- (h) any other matters specifically listed for the standard; and*
- (i) where more than one standard will be infringed, the effects of all infringements. and criteria at H4.8.2.(2).*

183. The relevant criteria for yards are listed at H4.8.2 (8) and refer to policies H4.3(2) and (4). Pertinent matters in the policies include achieving the planned suburban character, managing the design and appearance of multiple-unit residential development, requiring sufficient setbacks and optimising front yard landscaping and providing for passive surveillance.

The proposal's front yards and landscaping

184. The Roberta Avenue front yards vary in depth because of the curve of Roberta Avenue and the configuration of the three blocks facing the street:
- a. The front yard opposite the end of Block A (Unit A7) varies between approximately 2.3m and 4.3m in depth, and will be approximately 0.5m – 1.3m below street level.

- b. The front yards for Block B (Units B1-B3) vary in depth between approximately 2.7m deep and more than 4.5m deep. The yards will be approximately 1.3m – 1.6m below street level.
 - c. The yard opposite the end of Block C on the Roberta Avenue frontage (Unit C1) is typically 3m deep but narrows to 1.7m deep at the curve of the intersection and widens again to 3m on the West Tamaki Road frontage. The yard will be approximately 0.5m – 1m below street level.
 - d. With the exception of Unit C1 discussed above, the front yards for Block C (Units C2-C6) are approximately 2.3m deep²² and approximately 1m – 1.5m below street level.
185. The front yard landscaping on the Roberta Avenue frontage comprises a mixture of paving, paved steps, ground covers, and trees. The trees in the Roberta Avenue front yards comprise three ribbonwood (*Plagianthus regius*), two hybrid pōhutukawa/rātā ('*Metrosideros Mistral*'), two ake ake (*Olearia traversii*), and eight lancewoods (*Pseudopanax ferox*). The front fence and retaining wall is to be set back 400mm from the boundary to accommodate a *Corokia* hedge on the street frontage. The front yards comprise the outdoor living areas for Units B1-3 and these comprise paved patio and steps from the street, and planting adjacent to the base of the retaining wall. The yards in front of Units A7 and C1 are effectively side gardens to those units and include groundcover planting with stepping-stone paths, and taller planting to the retaining walls.
186. The front yard landscaping on the West Tamaki Road frontage includes steps and paving from the footpath to the front doors, and planters with ground covers and trees. The trees in the West Tamaki Road front yards comprise two '*Metrosideros Mistral*' (one each end of the block) and five ribbonwoods.
187. Mr Going explained that the tree species were selected to suit the space constraints, to limit shading of outdoor living areas, and to be compatible with existing species in the area. Most planting comprises indigenous species, but it includes magnolia and feijoa trees along the boundary with St Andrews Retirement Village – such a mix being characteristic of the neighbourhood.
188. Ms Yu raised concerns about some landscaping details:
- a. Ms Yu considered the proposed lancewoods would not soften the development because of their slow growth (she said they would only reach 2m after 5 years) and because their juvenile form which persists for some years does not have the ability to soften building mass and contribute to street amenity. Mr Going considered lancewood suitable but provided a revised landscape plan with the applicant's right of reply in which the lancewoods on the West Tamaki Road frontage are to be replaced with five ribbonwoods as described above.

²² The roofline and party walls are depicted as approximately 2m from the boundary.

- b. Ms Yu also considered the 400mm width of the planters insufficient to support the Corokia hedging. Mr Going considered 400mm would be sufficient given the hedge was to be kept trimmed to approximately 1.2m high.
 - c. Ms Yu raised concerns about the lack of greenery on the West Tamaki Road frontage and recommended that climbing plants be used to green the fence on that frontage. Mr Going provided a revised landscape plan depicting raised planters and star jasmine climber over the fences.
189. Mr Evans considered the proposal would contribute to streetscape through doors and windows facing the street, appropriately designed fences that are not over height, high quality landscaping, pedestrian access from the street, and the avoidance of garages facing the street.
190. Submitters considered the landscaping would not be in keeping with the neighbourhood and would be inadequate to soften the development. Ms McDermott, for example, said there was limited space for landscaping and that she considered that *“the look of this development on the street frontage is not in keeping with the neighbourhood character and landscaped sections of the area...”*.²³ Ms Hawken considered the landscaping would have little softening effect on the built development, would not recreate the “leafy suburb” feel of the neighbourhood or respond to streetscape.
191. Mr Brown considered that there would be a predominance of building and paving, which he described as “resulting in ‘gardens’ and outdoor living spaces that are very limited.”

Findings

192. The effect of the front yard infringements, excavation of front yards below the street level, positioning of planting against the retaining walls, proportion of front yards in hard surfacing, and the need to use smaller trees because of space and sunlight constraints, will collectively limit the contribution that the landscaping is able to make to the suburban built character. In this regard we consider the proposal will not be consistent with the “planned suburban built character of buildings within a generally spacious setting” and will not sufficiently maintain the landscaped character of the streetscape. Those effects will be more pronounced on West Tamaki Road than Roberta Avenue notwithstanding the revisions made to the landscape plan. The same factors will reduce the amenity for south-facing rooms onto West Tamaki Drive and limit the privacy and amenity of the outdoor living areas for future residents of units facing Roberta Avenue.
193. We therefore find that the yard infringements will have adverse effects that are not adequately mitigated by the proposed landscaping. These factors also contribute to adverse effects on the neighbourhood character as discussed above.

²³ Anne McDermott, Statement of Evidence, page2, paragraph 11

Traffic, location and design of parking and access

194. Submitters expressed their significant level of concern about the potential traffic effects arising from the proposal. These concerns included impact the additional traffic generated by the proposed development would have on the safe functioning of the local roading network, the lack of onsite parking, the likely increase in the level on street parking, the lack of onsite manoeuvring for trucks visiting the site and the vehicular access being too close to the intersection with West Tamaki Road.
195. There was agreement between the two traffic experts being Mr Langwell for the applicant and Mr Bui for the Council that the proposed development complied with the transport standards of the AUP(OP) with the exception of the vehicle crossing access and the need for the trucks to reverse manoeuvre onto the site.
196. Mr Langwell provided his assessment of these infringements against the AUP(OP) matters of discretion and assessment criteria and advised the vehicle and pedestrian access to the site was designed to a suitable standard and the proposal would not have an adverse effect on the surrounding road network and the safety of pedestrians and vehicles using the site. Mr Bui had peer reviewed this work and agreed with the assessment provided, although he had recommended some additional restrictions to limit the waste collection from the site to twice a week and imposed time restrictions on the collection to avoid potential conflicts between vehicles, pedestrians and cyclists.

Findings

197. While we acknowledge Mr Dunn is a qualified transport engineer and appreciated his local insights into these issues, we note that his involvement in this hearing is as a submitter not as an independent transport expert. In considering the potential and actual traffic effects arising from this proposal, we have been guided by the evidence of the independent experts.
198. Therefore, we find that subject to the imposition of the recommended conditions of consent the design of the vehicle and pedestrian access to the site is such that the proposal will not have an adverse effect on the surrounding road network, or to the safety of pedestrians and vehicles using the site. The potential traffic generated by the proposal to and from the site can be accommodated within the site and on the adjacent road network without compromising its function, capacity, or safety.

Infrastructure and Servicing

199. A number of submitters were concerned about the ability of the existing infrastructure particularly the stormwater and wastewater networks. They spoke of flooding which had occurred in Roberta Avenue and feared that more intensive development in the area would only increase the pressure on the network.
200. The application included an Infrastructure Report and supporting documentation that addressed the infrastructure associated with the proposed development including earthworks, erosion and sediment controls, stormwater and wastewater servicing and water supply. The report and associated drawings have been peer reviewed by the Council's Consultant Development Engineer, Sosene Meredith, who "raised no

differences or concerns from the applicant's assessments and concurs with the assessment and conclusion provided"²⁴. subject to adherence to consent conditions.

201. Dr Blackbourn, in his evidence, advised that in his opinion there was adequate capacity in the network to service the proposed development's requirements for water supply, firefighting, wastewater and other servicing requirements provided through new connections and network extensions within the site. That while there is no existing public stormwater infrastructure available within the site and the network proposed is undersized for the catchment it serves. He considered the impacts of the development could be appropriately and adequately mitigated through the use of stormwater detention tanks. He confirmed that the proposal was feasible, from an engineering perspective, and provision had been made to fully service the site in terms of three waters and earthworks required.

Finding

202. We received no specialist advice to the contrary and therefore find that subject to the imposition of the recommended conditions of consent that adequate capacity is available to accommodate infrastructure and servicing effects of the proposal.

Resource Management (Enabling Housing Supply and Other Matters) Amendment Act

203. Throughout the hearing, reference was made to the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act which passed into law on 20 December 2021. This Act amends the Resource Management Act 1991 (RMA) by bringing forward and strengthening the National Policy Statement on Urban Development (NPS-UD). It aims to assist in increasing housing supply in urban areas.
204. The Amendment Act requires tier 1 councils, which includes Auckland Council, to change their planning rules so most of their residential areas are zoned for medium density housing. The Council is required to adopt the Medium Density Residential Standards (MDRS) for such areas. The standards will enable landowners to build up to three houses of up to three storeys as of right on most sites. The Council must notify changes to the AUP(OP) by 20 August 2022.
205. Mr Mattison took the opportunity to highlight that the proposed development could meet the government's new MDRS with the exception of the front yard requirement. In doing so he did, however, acknowledge that the Panel were unlikely to place much weight on the MDRS until the required plan change was notified.
206. Mr Wright drew the Panel's attention to the directive nature of the new s77M of the RMA. He advised that this had informed the Council's view that the MDRS was irrelevant to consideration of the application as the Council had yet to notify its intensification planning instrument (IPI). Therefore, the Council didn't consider it as a relevant s104(1)(c) matter.

²⁴ Council Agenda, page 50.

207. While Mr Williams advised that the Amendment Act was a relevant matter to consider in terms of s104(1)(c) of the RMA, he said the question was the degree of weighting it should be given.

Finding

208. As the new IPI (and therefore the application of the MDRS) is yet to be notified, we can only speculate what will apply to these sites and surrounding area. We therefore agreed with the advice provided by the Council officers that the new MDRS is irrelevant to the consideration of this application.

Statutory Assessment

Land use consent

Section 104 and 104C considerations

209. Turning to the matters set out in Section 104 of the RMA, the land use application is for restricted discretionary activity resource consent, as such under s104C only those matters over which the Council has reserved its control or restricted its discretion have been considered. A summary of our findings is included below in the reasons for our decision.

Overall Conclusions

210. Having considered the specialist reports and evidence of the applicant, the evidence of the submitters and the specialist peer reviews undertaken on behalf of the Council we have concluded that consent to the application should be refused. Overall, we consider the proposal will not be in keeping with the neighbourhood character. It will have adverse effects on the Roberta Avenue neighbourhood having regard to the proposal's prominent location at the entrance to that neighbourhood. A proposal with a similar intensity but a different design and appearance may have been more compatible with the neighbourhood's character. We consider the collective expression of the development's intensity, design and appearance will be at odds with the specific neighbourhood's existing and planned suburban character and does not satisfy the matter of discretion H4.8.1.(2) or the assessment criterion H4.8.2.(2).
211. The cumulative effect of the front yard infringements, excavation of front yards below the street level, proportion of front yards in hard surfacing, and the need to use smaller trees to reduce effects on outdoor living areas will collectively limit the contribution that the landscaping is able to make to the suburban built character. Therefore, we consider the proposal is not consistent with "the planned suburban built character of buildings within a generally spacious setting" and that it will not sufficiently "maintain the landscaped character of the streetscape". Those effects will be more pronounced on West Tamaki Road than Roberta Avenue notwithstanding the revisions made to the landscape plan. The same factors will limit the privacy and amenity of the outdoor living areas for future residents of units facing Roberta Avenue.
212. We acknowledge the applicant's experts have demonstrated that many of the other adverse effects arising from the development proposal such as traffic, the location and

design of parking and access and the infrastructure and servicing constraints can be appropriately managed and/or mitigated.

213. In our view, the proposal was not without merit, as we can see the positive benefits that residential intensification would offer to this part of the city, increasing the housing supply and the variety of housing types. As set out in our preceding discussion, it was the intensity of the proposed development within this part of the Residential Mixed Housing zone that we find is not in keeping with the planning outcomes identified in the AUP(OP).
214. With regard to the effects of the proposal and the relevant statutory documents, we consider the proposed development to be contrary to certain key objectives and policies of the Residential Mixed Housing suburban zone. We consider that the applicant's experts may have placed too high a reliance on the upcoming changes to the AUP(OP) required in response to the Resource Management (Enabling Housing Supply and other matters) Amendment Act. As these are yet to be notified, we have placed limited weight on them in our consideration of this application.
215. We have therefore concluded that the proposed development goes beyond the planned intensification of the zone and is representative of an urban rather than a suburban built character. We find that the proposal when assessed against the matters of discretion and the assessment criteria is not in keeping with the planned character or objectives of the Mixed Housing Suburban zone.

Decisions

Land Use application

216. In exercising our delegation under sections 34 and 34A of the RMA and having regard to the foregoing matters, sections 104 and 104C and Part 2 of the RMA, we determine that resource consent to construct 17 new dwellings in the form of terraced housing units with a mixture of two and three storeys, along with associated works include the demolition of the existing buildings and clearance of vegetation within the site, earthworks and retaining walls, the construction of access, parking and drainage infrastructure, and landscape treatment at 69 and 71 Roberta Avenue, Glendowie is **REFUSED** for the reasons set out below.

Subdivision application

217. As consent has been refused to the land use activity, we are not required to determine the subdivision consent, as there is no approved development that would enable the creation of the 17 freehold residential lots around the dwellings an, a jointly owned access lot (JOAL) for the shared driveway.

Reasons for the decision

218. In terms of section 104(1)(a) and (ab) of the RMA and having regard to any actual and potential effects on the environment of allowing the activity it has been determined that overall, the adverse effects of the proposal to construct 17 new

dwellings in the form of terraced housing units with a mixture of two and three storeys at 69 and 71 Roberta Avenue, Glendowie are unacceptable. While the proposed development will provide positive benefits including additional housing opportunities in the Glendowie area, the form and intensity of the proposed development does not accord with the planned suburban built character anticipated in the zone being more urban than suburban in character.

219. In terms of section 104(1)(b) of the RMA, the National Policy Statement: Urban Development (NPS:UD) and the AUP(OP) Chapter B Regional Policy statement (RPS) and Chapter H4 Residential – Mixed Housing Suburban zone are considered as the relevant statutory documents.
220. While the AUP (OP) was prepared before the NPS UD was issued, we consider the AUP (OP) addresses the matters covered in the NPS UD and we acknowledge that the proposed development will add to Auckland's housing supply. Therefore the proposal is considered to be generally consistent with NPS:UD,
221. The AUP(OP) Chapter B contains the RPS. The most relevant sections in dealing with this application are B2.2 Urban growth and form, B2.3 A quality built environment and B2.4 Residential growth. The RPS supports the development of a quality compact urban form, a quality-built environment and the promotion of residential growth. The relevant objectives and policies, however, seek a balance between creating a quality built environment and residential intensification. We consider the proposed development is inconsistent with strategic direction of many of the objectives and policies of the RPS including:

B2.3.1. Objectives

(1) *A quality built environment where subdivision, use and development respond do all of the following:*

(a) *Respond to the intrinsic qualities and physical characteristics of the site and area, including its setting.*

B.2.3.2. Policies

(1) *Manage the form and design of subdivision, use and development so that it does all of the following:*

(a) *supports the planned future environment, including its shape, landform, outlook, location and relationship to its surroundings, including landscape and heritage.*

(b) *contributes to the safety of the site, street and neighbourhood*

B2.4.1. Objectives

(2) *Residential areas are attractive, healthy and safe with quality development that is in keeping with the planned built character of the area.*

(3) *Land within and adjacent to centres and corridors or in close proximity to public transport and social facilities (including open space) or employment opportunities is the primary focus for residential intensification.*

B2.4.2. Policies

Residential intensification

(1) Provide a range of residential zones that enable different housing types and intensity that are appropriate to the residential character of the area.

222. As outline in the body of this decision we find that the proposed development is inconsistent with some of the key Residential Mixed Housing Suburban zone objectives and policies of the AUP (OP). The development is not in keeping with the neighbourhood's planned suburban built character of predominantly two storey buildings, in a variety of forms (attached and detached) and there are elements of the proposal that fail to provide quality on-site residential amenity for the residents and adjoining sites and the street. The development provides insufficient setbacks and landscaped areas and fails to optimise the front yard landscaping. (Objective H4.2(2) and (3) and policies H4.3(2) and H4.3(3)).
223. In terms of section 104(1)(c) of the RMA, while we gave consideration to Resource Management (Enabling Housing Supply and other matters) Amendment Act we agreed with the advice from Council officers that the new Medium Density Residential Standards (MDRS) is irrelevant to the consideration of this application as these has yet to be notified as part of the Council's intensification planning instrument.

		
Janine A. Bell (Chair) Independent Hearing Commissioner	David Wren Independent Hearing Commissioner	Gavin Lister Independent Hearing Commissioner

Date: 26 July 2022