

**Resource Management Act 1991**

**Application for Resource Consent No 210149 to the Kāpiti Coast District Council  
by Kāpiti Coast District Council**

**Notice of Decision by Independent Hearings Panel  
15 December 2022**

**Summary of Decision**

That the application for resource consent is granted, subject to conditions.

<b>Application reference</b>	210149
<b>Applicant</b>	Kāpiti Coast District Council
<b>Site address</b>	Maclean Park, Marine Parade, Paraparaumu
<b>Legal description</b>	Part Section 2 SO Plan 322370 in Record of Title 239464 (Recreation reserve under New Zealand Gazette 2005 p2837, vested in Kāpiti Coast District Council), and Legal Road (Marine Parade)
<b>Proposal</b>	Te Uruhi to Kāpiti Island Gateway Project: land use consent to construct and operate new buildings and associated car parking. The activities within the building are primarily to facilitate visitors to Kāpiti Island, with some retail use sought. Earthworks are required to facilitate structures.
<b>District plan zoning</b>	Natural Open Space, General Residential
<b>Activity status</b>	Non-Complying activity
<b>Notification</b>	Limited Notified to: <ul style="list-style-type: none"> <li>• 3, 5, 55, 56, 57 and 58 Marine Parade, Paraparaumu</li> <li>• 1, 2, 4 and 6 Manly Street, Paraparaumu</li> <li>• 2 and 3 Golf Road, Paraparaumu</li> <li>• 386 and 388 Kāpiti Road, Paraparaumu.</li> </ul>
<b>Submissions</b>	6 submissions received in opposition 1 submission opposed in part/neutral in part
<b>Date of hearing</b>	3-4 October 2022 Hearing closed following receipt of additional information and submissions in reply on 28 November 2022
<b>Hearing panel</b>	Mary O'Callahan (chair) Jade Wikaira Linda Kerkmeester
<b>Appearances</b>	<u>Applicant:</u> David Randal & Esther Bennett – legal counsel Alison Law – project manager John Barrett– Te Ātiawa Naomi Solomon – Ngāti Toa Rangatira Mark Ward – economics and tourism Megan Taylor – transport and traffic Rebecca Cray – landscape, visual and natural character Emma McLean – planning  <u>Submitters:</u> Gary Ashton Leeana Burgess Fred Davey Murray Guy Michael Wilson Darren Hunter on behalf of Zena Knight  <u>Consent authority staff / consultant advisors:</u> Tom Anderson – planning Billy Rodenburg – traffic Julia Williams – landscape  Emma Bean – hearing administrator Alan Brunton - minutes

## **Introduction**

1. The hearing related to an application by Kāpiti Coast District Council (the Applicant) for a resource consent application to Kāpiti Coast District Council, in its capacity as the relevant the consent authority (the Consent Authority), to construct and operate Te Uruhi, a proposed Kāpiti Island ‘gateway’ facility at Macleans Park.
2. The application has followed a limited notified process, confirmed by Independent Commissioner David McMahon acting under delegated authority for the Consent Authority. The Consent Authority was obliged to hold a hearing pursuant to section 100 of the Resource Management Act 1991 (RMA) as submitters requested to be heard in respect of their submissions on the application.
3. We have been appointed by the Consent Authority under section 34A of the RMA to hear and determine the application and submissions received on it and make a decision in accordance with the tests set out in Section 104 of the RMA.
4. The hearing was held on 3-4 October 2022, and it was then adjourned, so that the applicant could respond to questions of the panel and provide their submissions in reply in writing. We subsequently closed the hearing on 28 November 2022, once we had received the further information, along with comments from other parties on this and the Applicant’s submissions in reply.

## **Procedural matters**

5. Before the substantive hearing commenced, we dealt with the following procedural matters:
  - A request for an adjournment by submitters Clare Holden and Michael Wilson. As set out in our Minute 1, we invited comment on the requested adjournment from parties. Following written comments provided, we confirmed in Minute 2 that there were no special circumstances present to justify an adjournment and confirmed that the hearing would proceed as scheduled.
  - In Minute 2 we set out a process for a second issue that came to our attention relating to non-service of the Consent Authority’s Section 42A (officer’s recommendation report) and Applicant’s expert evidence on submitter Zena Knight – our concern related particularly to any disadvantage that may have arisen had this submitter wished to call expert evidence.
  - Following Minute 2 and prior to the hearing, Ms Knight’s spokesperson Darren Hunter confirmed to the hearing administrator Emma Bean, they had no expert evidence.
  - At commencement of the hearing, we invited comment from parties, in particular Ms Knight, as to any concerns with the hearing proceeding. She confirmed she was happy for it to proceed. Accordingly, we confirmed that the hearing would proceed, as no party was unduly disadvantaged by the procedural error that had occurred on document service.

## **The proposal**

6. The proposal was for the Te Uruhi to Kāpiti Island Gateway Project incorporating a ‘Discovery Centre’ pod (retail, display and office/storage space) and a biosecurity pod to undertake biosecurity checks of visitors prior to sailing to the island. A land use

consent to construct and undertake the activities proposed for the new building was sought by the Applicant. The purpose of the project is to provide a physical access point from Paraparaumu beach to Kāpiti Island that will improve biosecurity and create a multi-purpose facility for the community.

7. In addition to the building, the proposal before us during the formal hearing of 3-4 October 2022 involved construction works to existing carparks as follows:
  - The existing carpark site which is the site for the Te Uruhi building will be reconfigured to accommodate reduced parking (18 of the 31 on-site spaces are removed) along with relocation of both the site accesses (allowing for four new on-road spaces arising from site access changes).
  - A new carpark, which would adjoin an existing carpark some 450m south of the Te Uruhi site to create an extended carpark area on Marine Parade (19 additional carpark), in the vicinity of Ocean Road (opposite no.'s 55-58 Marine Parade). It would be located a distance of 450m south of the proposed Te Uruhi building with consent required for earthworks to construct this carpark.<sup>1</sup>
  - A remarking of an existing carpark area on Marine Parade to the south of Ocean Road to accommodate additional car spaces.
8. The proposed activities within the Discovery Centre are primarily to facilitate visitors to Kāpiti Island, while also planned to be open to the general public.
9. The building is comprised of two separate pods connected by an overhead structure (roof) with a combined floor space of 215m<sup>2</sup> along with 324m<sup>2</sup> of decking. Pod A (112.5m<sup>2</sup>) contains interpretive display exhibition space (the Discovery Centre) with small office and retail space for tourist products and refreshments (counter food and beverages). Pod B (102m<sup>2</sup>) contains a display room, two biosecurity inspection rooms and toilets for boat passengers and staff with associated storage. The two pods are separated by a covered deck space linking to a new footbridge which crosses to the northern side of Tikotu Stream. This would provide access to the pick-up point for boat passengers to Kāpiti Island.
10. The finished floor level of the building is 3.4m above sea level which is above the 100-year flood level for the site. The building is designed to be relocatable.
11. We were advised that a resource consent for works within the stream corridor including a new bridge, retaining walls and rip rap was granted under separate consents by Greater Wellington Regional Council (GWRC) in December 2020. Some of this work has been completed.
12. The altered carpark associated with the building would include 13 carparks (two for disabled), 12 bicycle racks and a dedicated shuttle bus drop off/pick up park. A portion of Te Uruhi is located within the legal road where permission for an encroachment license will be sought by the Applicant in due course.
13. Artworks on the exterior of the building and around the site are proposed to recognise and reflect the relationship of mana whenua to the site:
  - A carved Waharoa on the structure, as an entrance.
  - A large Pouwhenua, approximately 6 metres in height, on the beach side of the building.
  - A smaller Pouwhenua to frame the western side of the carpark.
  - Display panels leading up a ramp from Marine Parade.

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<sup>1</sup> This aspect of the proposal was later withdrawn by the Applicant

14. In addition, signage on the eastern wall of Pod B will be painted with the words 'Te Uruhi' to be visible from the road frontage.
15. Earthworks are required to facilitate the building structures and carpark alterations at the Te Uruhi site. The new carpark was to require excavation of up to 1 metre into the leeward side of the sand dune on the foreshore. The reconfiguration of the southernmost carpark requires no earthworks.
16. Landscaping proposed around the building and adjacent carpark comprises of plant species endemic to the coastal-dune environment in locations as depicted in the landscape plans. The existing established pōhutukawa trees (10) are proposed to remain with two new trees proposed, one at the street frontage of the carpark and one to replace a tree that was removed near the bridge crossing on the south side of Tikotu Stream.

### **Existing environment**

17. The application site is located at the northern end of Maclean Park, a seaside park which is separated from the beach by the foredunes which run along its western side. These dunes have been modified by contouring of the back dunes to create flat areas for recreational use including a children's playground, a handball court, a shared cycleway and walkways.
18. The proposed building would be located at the northern end of the park where it would border the Tikotu Stream on its southern bank. The building footprint is within an area currently occupied by a carpark which provides access to the beach. The beach runs the length of Maclean Park and extends for several kilometres to the north and south beyond the park also. At the site of the proposed building, the foredunes are relatively flat providing easy access to the beach.
19. The broader park extends from opposite the intersection of Kāpiti Road and Marine Parade in the north, to the intersection of Ocean Road and Marine Parade in the south. The urban hub of Paraparaumu Beach is located east of Marine Parade along Maclean Street to the south of site for Te Uruhi. Also located opposite Maclean Park are residential dwellings. The underlying topography is flat with undulations as a result of sand dunes.
20. The western side of the site is bounded by the coastal marine area and intervening sand dunes. The back dunes of the park have been modified in several places along its length to recontour the site for the reserve and recreation activities.
21. Maclean Park contains a number of uses, including the Kāpiti Boating Club building, beach access and carpark in the north, recreational facilities (skate park, playground, BBQ area and public toilets, as well as the two separate car parking areas north and south of these facilities), and additional car parking areas, along with picnic tables, as the site extends south. An existing paved walkway extends along the length of the site. The site is bisected by Tikotu Stream, between the Kāpiti Boating Club and the carpark area north of the recreational facilities (the site for the proposed building).
22. The majority of the application site is zoned Natural Open Space. There is a legal road area in which structures are proposed too, which is partly zoned Natural Open Space and partly zoned General Residential.

23. In terms of applicable District Plan overlays, the entire site is within a Special Amenity Landscape (Southern Beaches) area and the mapped Coastal Environment. Parts of the site are subject to Stream Corridor and Ponding Flood Hazards, and the District Plan 1999 20m Building Line Restriction related to coastal hazard risk. On its western boundary, the site adjoins an Area of High Natural Character.

### **The planning framework**

24. We understand the proposal requires land use consent in relation to:
- The construction of building and deck structures, not meeting permitted activity standards
  - The proposed use of the building, in particular retail use
  - The proposed carving/artwork structures
  - Permitted traffic generation and site access width non-compliances
  - Carparks, including a new carpark opposite Ocean Road (but subsequently removed from the proposal) not meeting access width and landscaping standards
  - Earthworks not meeting permitted volume and change in height standards
  - Proposed lighting (less bright than permitted standard)
  - Signage on the building displaying the name “Te Uruhi”.
25. The planning evidence presented to us was that the land use consent application should be assessed as a ‘non-complying activity’ under the Kāpiti Coast District Plan (the District Plan).
26. As a non-complying activity, Section 104D of the RMA applies. This requires us to determine whether the proposal meets the requirements of the Section 104D ‘gateway’ test, which states that a resource consent may only be granted if either
- The adverse effect of the activity on the environment will be minor, or
  - The activity will not be contrary to the objectives and policies of the relevant plan.
27. If either of the ‘gateway’ limbs above is met, then the application may be considered under Section 104 of the RMA. This requires, subject to Part 2 of the Act, that regard be had for any actual and potential effects on the environment of allowing the activity, any measure for ensuring positive effects on the environment to offset or compensate for any adverse effects, and any relevant provisions of identified statutory planning documents. In this case, the relevant statutory documents having considered the planning evidence and through questions of the planning witnesses were:
- New Zealand Coastal Policy Statement (NZCPS)
  - National Policy Statement for Urban Development (NPSUD)
  - The Regional Policy Statement for the Wellington Region (RPS)
  - Change 1 to the RPS
  - Kāpiti Coast District Plan (District Plan)
  - Plan Changes to the District Plan
28. Section 104 also enables decision makers to consider ‘other matters’, where relevant to the application. Then, under Section 104B of the RMA, the application may be either granted or declined and if granted, conditions may be imposed in accordance with Section 108 of the RMA.

29. An ‘other relevant matter’ for our consideration of this resource consent application is the Maclean Park Reserve Management Plan 2017 (Reserve Management Plan).

### **The principal issues that were in contention**

30. The principal issues of contention were:
- Traffic generation and road safety
  - Car parking
  - Effects related to campervan parking
  - Landscape and visual effects
  - Lighting
  - Coastal hazard effects related to earthworks for carpark
  - Flood hazard risk in relation to proposed building
  - Lack of wider community support for project and adequacy of consultation with mana whenua

### **The case and evidence for the applicant**

#### **Legal opening – Esther Bennett**

31. The proposal was presented by counsel on behalf of the Applicant, David Randal and Esther Bennett, who outlined the background to the proposal, introducing the evidence to be presented by expert witnesses and outlining the legal matters to be considered. Ms Bennett raised the two issues of contention relating to funding and economic viability, stating that these were not relevant matters for this hearing.
32. Expert witnesses called by counsel for the Applicant included Alison Law, the project manager for Te Uruhi, John Barrett on behalf of Ātiawa ki Whakarongotai and Naomi Solomon on behalf of Ngāti Toa Rangatira. We then heard from Mark Ward, the Applicant’s Economic Development manager and Megan Taylor on transport and traffic effects. Rebecca Cray provided evidence on landscape, visual and natural character effects. Lastly, we heard from Emma McLean, the Applicant’s consultant planner on planning matters and proposed conditions.

#### **Project background - David Randal**

33. Following Ms Bennett’s opening statement, we heard from Mr Randal that the idea for the project has been in the pipeline for the last 30 years, with mana whenua relations being the backbone of the project. The name, Te Uruhi was the name of the Pā which was gifted by iwi for this project. This is significant as shows the long-standing collaboration between the Applicant, the Department of Conservation (DoC) and mana whenua, acknowledging the deep connections mana whenua have to the area where they currently have no obvious presence.
34. We heard that the purpose for the visitor centre is to highlight the rich history of the Kāpiti Coast and to protect the flora and fauna of Kāpiti Island with a purpose-built biosecurity facility for visitors at the point of departure to the island. Other diverse benefits include a focus for tourism, education and economic opportunities with Kāpiti Island seen as the ‘Jewel in the Crown’ and a drawcard for the wider district.

35. The legal matters outlined by Mr Randal were threefold. Firstly, some additional District Plan rule non-compliances related to:
  - Lighting – the District Plan permits lighting over 10Lux in public facilities such as carparks and pathways. Conditions are proposed to ensure any lighting associated with the project be dimmed or redirected to remain effective. It is these lower proposed light levels that trigger the need for a consent.
  - Signage – the proposed lettering on the front façade of the building (facing the street) triggers a consent as this small portion of the building extends into the legal road reserve, rather than Maclean Park where such signage is permitted.
36. The second legal matter raised by Mr Randal relates to the Reserves Act where any retail activity is legally restricted in the recreation reserve of Maclean Park. The proposal includes some small-scale retail activity associated with the recreational and tourism use of the reserve, in line with the requirements of the Reserves Act.
37. The third legal matter related to public notification. Mr Randal stated that some submitters suggested the proposal should have been publicly notified but he considered there was no credible evidence that any effects of the project as a whole were more than minor (the test for public notification).
38. Mr Randal covered the relevance of Part 2 provisions of the RMA, citing the RJ Davidson Family Trust case in that Part 2 prevails where there is any inconsistency between higher order policy documents and the District Plan. He stated that in this case this project gains support from these Part 2 provisions and is consistent with the District Plan.
39. Mr Randal concluded that the positive effects of the proposal outweighed any adverse effects and that while some individual effects, such as those experienced by Ms Knight who lived directly across from the proposal may be more than minor, the effects need to be assessed in a holistic manner taking into account the wider benefits of the proposal. He further stated that the planners on behalf of the Applicant and Consent Authority had caucused to provide a written statement on conditions which was later presented at the hearing.
40. Two questions were raised by Commissioners with regard to the new carpark and opening hours of the Te Uruhi complex. These sought a further cross section of the new carpark (no longer relevant once deleted from the application) and clarification of the opening hours for retail being 7am to 6pm. In response, Mr Randal confirmed these proposed times are correct for the retail component of the building.

#### **Project Overview - Alison Law**

41. Evidence was then presented by Ms Law. Ms Law has been project lead since July 2021 and has been involved in the project since 2016 when she led the Maclean Park Reserve Management Plan. She outlined some of the background to the project that led to the selection of the current site as being a suitable location for a ‘gateway’ centre and the diverse benefits of the project including alignment with strategic planning documents for the Kāpiti District.
42. Ms Law outlined that following the adoption of the Reserve Management Plan in 2017 she had numerous meetings with stakeholders on location options for the proposal.



This led to the commissioning of an updated feasibility study from Tourism Research Consultants (TRC) in 2019 to assess the viability and location for the project - recommending the south side of Tikotu Stream. This followed two previous studies by TRC in 1992 and 2013 which recommended the Kāpiti Boating Club and Paraparaumu Beach as suitable sites respectively. In 2020, the Applicant applied for support from the Provincial Growth Fund (PGF) for a building at the current site, which was successful when 50% of the estimated \$4.46m was granted under the MBIE COVID Response and Recovery Fund, rather than the PGF.

43. We heard further from Ms Law that the project has been a collaborative partnership with local iwi and DoC since its inception over 30 years ago. Ms Law sees these collaborative efforts in the resulting design as bringing many benefits to the Kāpiti Coast community including biosecurity, tourism and economic benefits as well as social, cultural and educational benefits with enhanced accessibility, connectivity and resilience (with regard to climate change, storm surge and sea level rise) with the building designed to be relocatable. This she sees as helping to achieve a “*vibrant and thriving Kāpiti*” as outlined in the KCDC Toitu Kāpiti “Our vision and direction” document and Long term plan 2021-2041 (LTP).
44. In Ms Law’s view, the public have had the opportunity to be involved in the design and consenting process through the Reserve Management Plan, the TRC feasibility study (2019) and other strategic planning documents.<sup>2</sup> Further to this, in March 2020 and May 2021 two Governance Boards were set up to facilitate the concept and design stages of the project. Group members included an independent Chair, representatives from Ātiawa and Ngāti Toa and DoC. Following the selection of Athfield Architects in 2020, an Advisory Group was set up which included representatives from various stakeholders including tour operators, local recreational clubs and business organisations<sup>3</sup>. Through this process we heard that in her view, there have been several opportunities for the public to be involved since the project's inception. Best endeavours have been made by the Applicant to address concerns raised by submitters and minimise potential effects on neighbouring properties to the extent possible in the site selection and design of the proposal as well as specific conditions as proposed.
45. Further clarification was sought by us regarding the consultation on the Reserve Management Plan. In response, Ms Law explained there was an Open Event at the Park with 1000 people attending. This helped understand how the park is used and this informed the design. Submissions were then sought on the development plan for the Park. A mail drop was made to residents, locals spoken to and affected parties. As a result, one submitter reached out and she met with them informally.

#### **Department of Conservation – Angus Hulme-Moir**

46. DoC provided written evidence in support of the application from Angus Hulme-Moir, Operations Manager for Kāpiti-Wellington. He was not able to present in person at the hearing but in his written evidence he outlined DoC’s involvement (since 2013) and their role in the governance group, including the initial design decisions and obtaining GWRC consents for the earlier Titoki Stream works. DoC supports the project for reasons that it will help protect the values of Kāpiti Island as a national treasure with

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<sup>2</sup> Paragraphs 85 –93, Evidence of Alison Law, Sept 2022

<sup>3</sup> paragraphs 82-84 Evidence of Alison Law, Sept 2022

biosecurity benefits and will improve the cultural and educational experience for visitors both on and off the island.

47. In his written evidence Mr Hulme-Moir outlined that there is currently one tour operator to the Island, operating under a DoC concession which limits visitor permits to 160 per day. Tours are not currently running at capacity, averaging 16,000 visitors per year, so there is scope for this to increase. The fit for purpose biosecurity facilities would enable processing of 160 visitors more efficiently and effectively than the current “less than ideal” situation in the carpark and Boat Club. He sees the significant benefit of the project being the improved biosecurity facilities and increased recognition of the relationship to, and visible presence of the three iwi partners as mana whenua in connection with the Kāpiti Island and the Project site.

#### **Ātiawa ki Whakarongotai – John Barrett**

48. We next heard from Mr Barrett on behalf of Ātiawa ki Whakarongotai. Mr Barrett spoke of his affiliation to all the iwi of this place, namely Te Ātiawa, Ngāti Toa and Ngāti Raukawa. He described his long-standing involvement in conservation and visitor activities to and on the island. He has been on the environmental advisory committee of the iwi and has been closely involved with the Applicant in developing the Project, having been involved in various capacities since 1991 when a proposal for a discovery centre was first put forward. He reiterated the strong support of the project by his iwi and the strong partnership that now exists between all three iwi and the Applicant. Mr Barrett spoke of the significance of this site for the project and the gifting of the name Te Uruhi in recognition of the specialness of this location, directly in front of the island that features prominently in the histories of all three iwi in a place to recount their stories.

#### **Te Rūnanga o Toa Rangatira –Naomi Solomon**

49. We heard from Ms Solomon on behalf of Ngāti Toa Rangatira. As Pou Matarau she sits in the Executive Lead team for the Rununga of Ngāti Toa and is the mandated iwi authority to give evidence on their behalf. She sat on both governance groups that were set up to oversee design and development of the project. Ms Solomon explained the significance of the project and Ngāti Toa’s support which they see as an opportunity to fulfil their connection to Kāpiti Island from the mainland while also maintaining their deep relationship with the former Pāsite of Te Uruhi in this specific location. They see this project as an opportunity to have a greater meaningful presence and a place to tell their stories in a place that is significant to them. They also support the biosecurity aspect of the project and proposed consent conditions to formalise the partnership relationship between mana whenua and the Applicant for this project.
50. In response to questioning by the panel, Ms Solomon was comfortable with where the project had landed through discussions and feedback provided through the governance group, including works in the Tikotu Stream and its potential for restoration. She expected that iwi would work alongside the Applicant, in collaborative partnership to facilitate their reconnection with the stream in terms of mahinga kai and kai awa values, concluding that the Te Uruhi project would help facilitate this. She was similarly comfortable with the landscape treatment including coastal planting from a cultural perspective and was neutral on the car parking issue.

### **Economics and Tourism – Mark Ward**

51. Mr Ward next presented evidence on the economic and tourism benefits and effects of the proposal, acting as Economic Development Manager since July 2021. Mr Ward highlighted the contemporary global trend towards high quality eco-cultural tourism. He sees Te Uruhi as providing such a tourism hub or centre for the Kāpiti District where currently none exists, hinging off Kāpiti Island visits as a “hero experience” comparable to the Tongariro Crossing. He compared the Kāpiti district with the Wairarapa in the Wellington region where the latter currently generates 50% more tourist dollars which he sees as currently lost to Kāpiti. The Economic Development Agency see Kāpiti Island as the focus for promotion of the district. Other benefits include employment opportunities both directly from the construction and operation of Te Uruhi as well as the wider employment generated from increased tourism in the wider district.
52. Questions from the panel focussed on understanding the basis of the stated economic benefits arising from the project, compared with the \$500M more tourism spend generated by the Wairarapa. Mr Ward’s response was that the latter had similar scenery, facilities but a better marketing approach was possible through promotion of distinct and identifiable destinations and events. Te Uruhi would help bridge the gap, hinging off Kāpiti Island and the wider tourism promotion that could be generated off that.

### **Transport and Traffic – Megan Taylor**

53. Megan Taylor next presented evidence on transport and traffic effects of the proposal. She referred to the Transport Impact Assessment which was prepared by colleagues under her supervision and review. She explained the key findings of the assessment were that the project itself does not materially worsen safe and efficient use of the road network. The assessment was based on intersection modelling, parking survey data, site observations and historic aerial imagery. She considered the retained carpark spaces in Maclean Park (at the Te Uruhi site) and additional spaces at the new and reconfigured southern carparks would result in a like-for-like replacement of carparks within a 500m radius of the proposal.
54. Ms Taylor explained the parking demand was assessed by comparing parking demand in mid-summer with mid-winter conditions through a combination of site observation and aerial spot survey. This enabled conclusions to be drawn around base levels when boat tours were operating (including use of aerial imagery from March 2018 when there was an event at the park) and winter. On average there were around 47 more parks occupied in summer (when boats were likely operating) versus other times. Of 290 spaces available, 200 were used in peak summer months leaving 90 available which showed that there was sufficient supply in the network to cope with the peak demand. While there could be some additional parking demand from users of Te Uruhi, the assessment concluded that there was sufficient parking capacity to cope with this additional demand.
55. In response to questions from the panel around parking requirements under current planning policy, Ms Taylor noted the District Plan previously had a parking requirement for a building of this size of 4 carparks. However, under NPSUD, the carparking requirement has been removed, irrespective of activity or zone. The District Plan does still have a policy requirement for new subdivision and development to provide for safe vehicular and pedestrian access in appropriate vehicle parking areas.

So while specific parking is not required, 'appropriate' parking areas should still be provided so the transport network is safe for everyone to use.

56. When asked why the proposal provides new parking spaces based on an old District Plan parking ratio, Ms Taylor responded that the parking requirements of the proposed activity are hard to determine as there is some 'cross usage' of people visiting for various activities so it's hard to know (without further survey) what use or activity is generating the parking demand. So, as a baseline the old District Plan requirement was used where the retail activity for this building is assessed as generating 4 parks (not including the boat tour operation).
57. There was some further questioning of whether, on that basis, the new carparks at the south end were considered necessary. In response, Ms Taylor said the traffic assessment was not done on the basis of whether additional parking was required, although she was involved in its design which complies with the relevant District Plan space requirements. She would need to check whether 400mm overhang would extend into the garden (hence requiring low planting). This was later confirmed by Mr Rodenberg - the Consent Authority's traffic reviewer - as 600mm being the usual standard. Ms Taylor was in agreement with a recommendation from Mr Rodenberg that the last space (18) in the southern carpark would need to be widened on the plans as recommended in the traffic review.
58. Lastly there were some questions about the baseline assumptions with regard to car use and whether a Travel Plan would be useful in this instance to encourage other modes of transport (cycling, public transport). Surveys of boat tour visitors indicated 86% had arrived by car, averaging 2-3 persons per vehicle. Ms Taylor responded that a Travel Plan usually relates to a workplace where there are regular users of a facility. In response to a follow up question about how the design provides for different modes of transport, it was confirmed that space for cycle parks had been provided in the design and are shown on the plan.

#### **Landscape, Visual and Natural Character – Rebecca Cray**

59. Ms Cray provided evidence at the hearing on landscape, visual and natural character effects. The key points we took from her evidence related to effects on the natural character of the coastal environment where the dunes and foreshore are identified as an area of High Natural Character (Area 4a overlay in the District Plan). Ms Cray noted that the new carpark at the southern end did not encroach into this area and was outside the "no-build" line for the dune area. She pointed out that the earthworks required for the new carpark would be under 1m high (the permitted standard) and that the crest of the dune would remain intact. Offset mitigation planting with locally indigenous species was proposed on the dunes between the carparks and to the south to mitigate some loss of natural character arising from the new carpark. Overall, the new carpark was assessed as having low-moderate adverse effects for the residents directly opposite the carpark at 55, 56 and 58 Marine Parade. Note that this new carpark has since been omitted from the proposal.
60. Overall Ms Cray considered the degree of visual effect on residents of localised private residences of the Te Uruhi building to be minor or less than minor for properties on Manly Street, Kāpiti Road and Golf Road. For the two properties at 3 and 5 Marine Parade the effects were considered more than minor due to their location directly

opposite the site. This was considered greater for the single storey residence at #5 where effects were considered Moderate-High – this was changed from Moderate-Low in line with reviewer comments as views to Kāpiti Island would be blocked to a large degree by the proposed building.

61. Questions were asked by the panel on the following issues:

Earthworks – Ms Cray confirmed the earthworks for the new carpark would remain within the 1m height restriction (as indicated by the red dashed line on cross sections) with earthworks not extending up to the crest of the dune.

Southern-most carpark – the reconfigured carpark will not have wheel-stops to prevent 300-600mm vehicle overhang into plant bed. Ms Cray understood that wheel stops would require further cutting into the dune on the coastal side if there was no overhang allowance.

Trees at Te Uruhi site – clarification as to which trees will remain and which are proposed. Location and species to be shown on plan - currently not stated. Confirmation was sought as to the size of the tree pit shown on the plans for the proposed new pōhutukawa at the road entrance. Final design to allow for root growth to support a tree of the size shown in the simulation – i.e., of a similar height and canopy to match existing trees.

Visual simulation (Viewpoint 9) - height of proposed pōhutukawa at construction vs. that shown in the viewpoint. Ms Cray expected that the tree as shown would take 3-8 years to grow to the size shown after construction. The accuracy of the simulation was queried, as the people appeared small in scale compared to trees and vehicles.

#### **Planning and Conditions –Emma McLean**

62. Lastly, we heard from Ms McLean, on planning matters and proposed conditions. Ms McLean has been involved with the project since March 2020 and prepared the application for resource consent and accompanying AEE, lodged in July 2021. She covered issues raised in submissions as follows:

Flooding – the proposal will not exacerbate existing flooding risk as earthworks are for cut only. The building will be raised above existing ground and is designed to be relocatable if required in future.

Natural character and visual– there will be some change in views and amenity effects for some residents. Natural character effects will be predominantly in relation to carpark earthworks.

Overall, these effects are considered no more than minor when balanced across the whole of the project.

63. Ms McLean stated that the project is in alignment with the District Plan for this area with regard to objectives and policies, and meets both 104D gateway tests with respect to non-complying activities.

64. Questions were focussed on the following matters:

Proposed new carpark – with respect to coastal hazards, the proposed carpark does not affect the crest of the dune. The area has already been modified and is almost flat with any earthworks remaining under 1m depth.

Te Uruhi carpark requirements – The minimum parking required is for 4 carparks. Though this is no longer required because of the NPSUD, it is still needed to assess the effects of not having them. Bike racks are shown on the plan L1.00 by Wraight/Athfield.

Lizard Management Plan – the Ecological Effects assessment identified that if any were found the proposal would need a management plan. The stream effects on habitat values were covered by the consent granted by GWRC. The ecological effects of the new carpark area were not assessed. Questions relating to the practicality of any management plan after works had commenced led to a suggested change to this condition for a pre-construction survey for both areas.

Te Uruhi Activity threshold – The District Plan limit for temporary events in any zone is set at 3 days over 12 months with operating hours of 7am to 10pm. This is over and above the boat tour operation but any event in future may need a separate Reserve Management Plan approval).

Lighting – an explanation was sought as to why there were 3 conditions relating to lighting (7, 25 and 260). Ms McLean considered they were all necessary as they related to different aspects of standards.

Tree Protection – Te Uruhi – we sought clarification on the key on Landscape Plan L1.100 as to which existing trees are to remain and for it to show the location and species of proposed new trees. We sought that cross reference be made on the plan or conditions to the recommended conditions from the arborist relating to protection from construction effects.

### **The case and evidence for the submitters**

65. Seven submitter groups presented to us at the hearing. The common themes and most significant issues arising from submitters related to car parking including campervan enforcement, traffic generation, landscape and visual effects, coastal hazards and flood hazard risk.
66. Firstly, we heard from Gary Ashton of 1 Manly Street, Paraparaumu Beach. Mr Ashton has a corner property and was concerned about the use of the carpark directly adjacent and on the southern boundary of his property. He was concerned that the use of the carpark on the unformed legal road could affect their future development plans. It was confirmed that there are no plans in this proposal to make any changes to Manly Street.
67. Leeana Burgess of 57/58 Marine Parade Paraparaumu Beach presented next. Mr and Mrs Burgess have objected to the application, the limited notification process and the consultant's findings that the effects are minor. Mrs Burgess raised a number of concerns in relation to the application. She raised concerns about landscape character effects and the consultant's determination that effects generated by Te Uruhi would be minor. She noted the Landscape and Visual Assessment identified the moderate visual impacts of the southern carpark and she did not consider the effects had been fully assessed because a lighting plan was not provided with the assessment. She expressed the need to undertake a lighting assessment before resource consent was considered in

order to understand the lighting impacts at night on their home. She noted the application included low level flax planting which may screen vehicle bumpers but would not adequately reduce visual impacts of the proposed southern carpark.

68. Mrs Burgess raised points about the proposed new carpark and noted this was a desired option but not specifically required by planning law. She was concerned about the monitoring and parking surveys taken to understand supply and demand for car parking. Related concerns included the monitoring of campervans in the existing carpark. She recalled her experiences in calling council parking officers to report that there were often 3 (and at times up to 6) parked campervans overnight where the limit was for 2 campervans over a 24-hour period. She expressed concerns that more campervans would park overnight in the proposed expanded carpark.
69. Mr Bruce Barnett of 3 Marine Parade Paraparaumu Beach provided a written submission but did not appear to present evidence at the hearing. Mr Barnett has lived at 3 Marine Parade since 2018 and has opposed the application for reasons relating to development of the coastal environment, failure to protect the natural character of the coastal environment, failure to maintain and enhance amenity values and on the assessment of objectives and policies in relevant plans.
70. Mr Fred Davey appeared via Zoom. He resides at 3 Golf Road, Paraparaumu Beach and stated that he is a retired marine geophysicist. He has been concerned by the behaviour of council over the years. He feels that the information he receives from council is incorrect and that council use the consultants they want to generate the response they need. He states that his input into the Gateway project has not been acknowledged and the consultation process has been too limited.
71. Mr Davey is concerned that his view will be impacted in that Pōhutukawa will be severely trimmed or removed and the Phoenix Palms that feature in his view will also be removed. He is certain that the size of the building will be similar to that of the boat club - much larger than the pictures produced by the applicant. He also noted that the Applicant did not have a photo montage of the view of Maclean Park from the north, looking south and felt that this view in particular would be impacted.
72. Mr Davey expressed concern regarding parking and transport, in particular, the increase in numbers that will affect parking and traffic movement. He is concerned that there is no accurate base line traffic data and no plans for additional carparks at the north end which will leave people parking irresponsibly. Mr Davey felt that this will increase the risk of traffic incidents in the area.
73. Murray Guy, of 56 Marine Parade, Paraparaumu Beach was the next submitter to speak. He is a retired RMA hearing commissioner and is generally in favour of a Gateway project but considers the application to be flawed in many areas and should be declined. He feels that there are many aspects of this proposal that are non-complying and many adverse effects that are more than minor. He also disagrees with the decision to limit notification given that the project has generated so much public interest.
74. Mr Guy disagrees with locating the main building in a ponding zone and questions the differing opinions on the requirements for increased car parking. He is concerned that there are no dimensions on the carpark plans. He also spoke to the differing zones and statutory requirements of these zones in which the new carpark is proposed to be built. He feels that the cut into the dunes for this carpark will exceed 1 metre, (photos provided) and wants the dunes which are the stop bank that protects his property to be preserved.

75. Mr Guy spoke to how his view will be impacted by the new carpark that is proposed to be built opposite his house at 56 Marine Parade. He also queried whether it would be more appropriate to increase the capacity of the existing carpark further south, rather than extending the one that will lead to impacts on his view.
76. Clare Holden and Michael Wilson of 55 Marine Parade spoke next. Mr Wilson stated that he had no problem with iwi wanting to tell their story but felt the cost for this to ratepayers, was too high. He also stated that in doing so, it is taking up valuable coastal reserve. Mr Wilson went on to say that he didn't think that the Applicant's experts were able to sufficiently answer the commissioners' questions.
77. Mr Wilson stated that the Applicant needed to do more consultation with the public and that the application should have been more widely notified. He felt that the details around what is needed regarding managing traffic increases and car parking were not clear. He stated that the photo montages are not to scale and overall feels that this proposal is degrading to the public space.
78. Ms Holden showed a picture of the view from her house and stated that her view of the water will be obstructed by the proposed carpark.
79. Zena Knight who lives at 5 Marine Parade, Paraparaumu Beach was represented by Darren Hunter. She has lived at this location for 45 years and her house is directly across from the proposed building. One of the main issues Mr Hunter referred to on behalf of Ms Knight was he does not see the project and its building as being sustainable or providing sustainable management, as per the purpose of the RMA. He disagrees with locating the main building in a ponding zone, especially as it will likely need to be moved sometime in the future. He also commented that there had not been discussion of storm surge and specifically the risk of debris build up in the stream. Also, that Ms Knight had observed more frequent ponding on the road outside her property since the stream upgrade works had been completed.
80. Mr Hunter questions the cost of the building and its purpose. He feels there has been a lack of clarity regarding this. There has been mention of a retail outlet, a café, a meeting place. However, nothing has been clearly stated. The hours of operation will directly impact Ms Knight.
81. Mr Hunter expressed concerns with the consultation process including that the application should have been publicly notified. He feels that the proposal does not have buy in from the community and that although iwi support the proposal, the hau kainga (local people) of Kāpiti Island have not been consulted.
82. Mr Hunter stated that due to a poorly executed parking survey, it is not clear how much the parking will increase. This leaves car parking inadequately planned for and with parks being removed from the northern carpark, he is concerned about where people will actually park. This is exacerbated by the fact that campervans are in general, increasing in size.
83. On behalf of Ms Knight, Mr Hunter raised points specifically around the lighting of the building, not only the building itself but also lighting from advertising and lighting to highlight carving and pou. Currently Ms Knight enjoys an outlook onto a dark natural environment, and this will change dramatically and with great impact on her. It was noted there has been mention of a lighting plan being formalised in discussion with Ms Knight but Mr Hunter questions how much weight her opinion will have.



84. Mr Hunter also raised the point that the building exceeds the allowed site coverage of 2%. He questions the need for the proposed height of the building and states that it may block her sun. He confirmed that Ms Knight feels there should have been some sunlight studies conducted as part of the consent process.

### **The evidence from the Consent Authority officers**

85. The pre-circulated planner's report prepared by Mr Anderson recommended that the application be approved. In addressing the panel at the hearing, Mr Anderson outlined that he had adopted the advice of the Council specialist advisors in reaching his recommendation however after hearing from submitters and experts he provided an update to some of the conditions for consent.
86. In his comments at the hearing, Mr Anderson discussed changes to conditions set out in the 'Joint Statement of Planning Experts on Conditions' in response to comments and issues raised through the hearing. The first suggested change was to condition 4 regarding retail activity to be a wider condition to address all activities to occur at the site. The suggested rewording included hours of operation, biosecurity activities, cultural activities, display space and retail activity.
87. In relation to the 'prior to commencement of work' requirements at condition 11, Mr Anderson made a recommendation that an arborist be included under suitably qualified persons for the protection of trees shown in Landscape Plan 1.03.
88. In relation to condition 12, Mr Anderson was of the view that this condition is sufficient to manage construction traffic and therefore a condition specifically for construction traffic management was not required.
89. The panel asked Mr Anderson about conditions 25 and 26 in relation to the lighting plan. Mr Anderson responded that the lighting issue is complicated as there is a need to provide lighting for walking, cycling and pedestrians bright enough to provide a safe environment whilst keeping levels as low as possible to minimise offsite amenity effects.
90. We asked Mr Anderson about the Section 104D gateway test. He advised that in his view, in respect of 'limb 1', the effects of the project were in his view acceptable, but that in one instance they were more than minor, related to visual effects at Ms Knight's property. In respect of 'limb 2', his view was the project passed through the gateway as it is not contrary to, the objectives and policies in the District Plan.
91. Mr Anderson noted that the requirement for a Lizard Management Plan as a condition has been raised. However, it had been suggested that a Lizard Survey be undertaken before any construction commences and if any lizards are discovered, then a process can be formed for a Lizard Management Plan. He confirmed to us that this condition will be redrafted.
92. Mr Rodenburg presented on the KCDC Freedom Camping policy 2012. Clause 6.1.1 provides that freedom camping is not permitted in any public place, except in council approved parking spaces. There was concern by submitters about the enforcement of this policy. Mr Randal stated that the council has bylaw-making power in the freedom camping space. He agreed that there is currently uncertainty regarding enforcement.
93. We asked about carpark dimensions and the overhang space in relation to planting along the road edge. Mr Rodenburg stated that the dimensions in the current District Plan wouldn't allow for the use of wheel stops without widening the carpark. The

current dimensions are compliant based on allowing cars to use the full space up to the kerb. We asked about the carpark overhang in relation to planting to which he advised it was 600mm. We had a concern that it would not leave a lot of room for planting. Ms Williams advised the area between Marine Parade and the carpark was a water collection/riparian garden with potential for stormwater filtration and low grasses were the only things likely to be planted there. Ms Williams went on to state that the kerb/planting area was very narrow, so much so that people could step right over it or through it. We asked if the plans and cross section could be provided to indicate the raingarden, if this was the intent. This would include kerb type (with gaps) and garden level (if lowered) with appropriate planting for stormwater filtration, allowing for some vehicle overhang and visual separation from the road

94. We asked Mr Rodenburg about his statement that the estimates on parking occupancy in the area were extensive. He stood by this. Mr Rodenburg stated that the numbers that have been accommodated for in this proposal and, within the context of the NPSUD, go above and beyond that required. We asked whether the proposed new carpark numbers were necessary to mitigate effects in line with the planning framework, and he said they were not. We asked him if there was a loss of parking in the area, would he change his recommendation? He said he would not.
95. We asked Mr Rodenburg about the requirement for a road safety audit when the roads were not being changed. He stated that the audit is a Waka Kotahi requirement that looks at the safety of road users and pedestrians travelling around the site. It also looks at the general layout of the carpark. Mr Anderson confirmed that this is provided for under condition 9 - the Engineering Design Plan. In this case approval will need to be sought from the Roads and Access team.

### **Hearing adjournment**

96. At the conclusion of the second day of the hearing, we adjourned the hearing to provide an opportunity for the Applicant to respond to some questions we had relating to:
  - Tree retention at the Te Uruhi site
  - The method used for preparation of the photomontages that had been supplied
  - Further drawings, landscape details and a coastal hazard risk evaluation of proposed sand dune excavation for the new carpark
  - Landscape details for the southern-most carpark reconfiguration
97. The information sought and the timetable for provision of information and responses, which allowed for submitters and the Consent Authority to comment on the new information were documented in Minute 4.

### **Proposal amendment – removal of new carpark**

98. Following the hearing, the panel received a Memorandum of Counsel on behalf of the Applicant on 20 October 2022. This was in response to Minute 4, issued on 5 October 2022 which listed additional information sought arising from issues raised at the hearing, largely arising from the new carpark.
99. The memorandum advised that the new carpark had now been removed from the proposal, specifically to address concerns raised by submitters about this carpark that had emerged as a key focus by submitters at the hearing. The Applicant noted that this change was within the scope of the proposal (i.e. less proposed works) and with its removal it negated the need to provide further information on this matter.

100. The memorandum also provided the additional detail relating to the other matters requested in Minute 4 and set out a suggested process for a possible shortening of the timetable, given that one of the main points of contention raised by the submitters had now been removed from the proposal.
101. In response to the suggested timetable change, the panel declined an amendment to the date by which submitters could respond to the material contained in the Applicant's memorandum, given that arrangements may have been made based on the earlier dates (refer Minute 5).

### **Further information received in response to panel's questions**

102. The further information included further detail in response to the trees to be retained and a detailed method used in preparing the photomontages. This information appropriately responded to some initial uncertainty the panel had on which trees in the vicinity of the Te Uruhi site were to be retained and confirmed the appropriateness of the photomontages as an illustrative tool in respect of the expected view of the proposal from the nominated viewpoints.
103. In relation to the planting in the separation strip between the reconfigured (southern) carpark and Marine Parade, the concern to be addressed related to the effectiveness of the rain garden planting, to act as a physical barrier, taking into account vehicle overhang and acting as a deterrent by pedestrians taking a shortcut across the strip.
104. The new plan shows planting in an 800mm wide strip, level with the carpark with low growing species to allow for overhang from parked cars. The panel has felt there was a residual concern that the narrow width of the bed and the low planting might not discourage pedestrians from taking shortcuts across the bed to Marine Parade, plus it offered limited visual screening.

### **Submitter and Consent Authority officer responses to Applicants further information**

105. Comment was received from the following submitters on the Applicant's further information, including the amendment to remove the new carpark:
  - Zena Knight
  - Clare Holden and Michael Wilson
  - Bruce Barnett
  - Fred Davey (2 documents)
  - Murray Guy
106. There was support expressed in Mr Guy's feedback on the proposal amendment, where he congratulated the Applicant on taking cognisance of the submitters concerns and acting on these.
107. Mr Guy's response was referred to by some other submitters and supported, however his response and others identified consequential concerns related to change to the application. This was that the additional carparks, specifically those provided by the new carpark area that was removed by the Applicant from the consent application, were necessary to address adverse carpark effects. This included comments on the reduction at the Te Uruhi location arising from the project, as well as concern about the adequacy of carparks to serve the existing activity of visitors to Kāpiti Island (i.e. that which occurs without the proposed Te Uruhi facilities that has generated a resource consent requirement).

108. Comments highlighted that the Reserve Management Plan identifies there are insufficient parking areas to cope with demand for parking at the reserve, so removing car parking and not mitigating this would be contrary to the Reserve Management Plan.
109. Concern was also expressed that the Applicant hadn't ruled out car parking at this location in the future. We note that this is not a matter the panel can address, as our remit is limited to the resource consent application before us, which now does not include a new carpark in the area opposite no.'s 55-58 Marine Parade.
110. Further comments were made by submitters on the accuracy of the photomontages at this stage also.
111. The panel also received advice from Mr Anderson on behalf of the Consent Authority in relation to the proposal amendment and further information supplied.
112. In relation to tree retention at the proposed Te Uruhi site, Mr Anderson is satisfied that the plan included at Appendix 1 of the Applicant's memorandum clearly details which of the existing trees in the proposed Te Uruhi Building area are to be retained. He is also comfortable with the Applicant's suggested approach that the methodology for tree protection be a condition of consent.
113. In relation to Te Uruhi photomontages, Mr Anderson commented on discussions with Ms Williams that the photomontage methodology was prepared in accordance with the NZILA best practice guidance.
114. In relation to the new carpark, Mr Anderson outlined that the Applicant's memorandum removes the new carpark from the proposal. From planning, transport engineering and landscape and visual perspectives, there are no issues with regard to traffic effects arising from the removal of the new carpark from the proposal.
115. Mr Anderson concluded after reviewing the information received, and consulting with Ms Williams (Landscape) and Mr Rodenburg (Traffic) that his recommendation remains unchanged in that the resource consent should be granted for the proposal.

### **Applicant's reply**

116. The Applicant's submissions in reply were provided to us in writing on 18 November 2022, accompanied by a full set of drawings reflecting the amendments made during the hearing process, including the removal of the new carpark.
117. The Applicant's reply considered the comments provided by submitters on the amendment to the proposal and provided further commentary on car parking, firstly confirming the proposal (as amended) will give rise to a net loss of eight carparks in the area. Further, that the District Plan does not have minimum carpark requirements for new development, aside from accessible spaces which are met by the project. The reply also confirmed that there are approximately 290 unrestricted parks in the vicinity of Te Uruhi and referenced relevant expert traffic evidence that concluded the existing spaces were more than sufficient to accommodate visitors to Kāpiti Island<sup>4</sup> and that the original resource consent scope went 'above and beyond'<sup>5</sup> in respect to car parking.
118. It was noted in the Applicant's final response that the Photomontage #9 viewpoint was used to show Ms Knight in earlier discussions, of the potential effect on her view (with tree size shown at time of planting). An update to the earlier photomontage was

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<sup>4</sup> Ms Taylor's evidence

<sup>5</sup> Mr Rodenburg in response to questions

included in the final drawing set with the Applicant's closing submissions to illustrate this view with the proposed tree shown at a scale equivalent to the time of planting

119. The reply responded to submitter comments concerning the Applicant's consultation with adjacent residents. Also, in respect of mana whenua engagement, the reply referenced the evidence presented by Ms Solomon and Mr Barrett confirming their role as representatives of Ngāti Toa and Ātiawa, the mandated authorities representing their respective iwi.
120. A number of amendments to proposed conditions were also offered, including to clarify the intended uses for the building through introducing a limit on the area available for food and beverage retail and a condition specifying the hours of operation.
121. In response to submitter comments on hazard risk, the Applicant's reply reiterated the relocatable nature of the proposed building and that the floor level would be above the 1% AEP flood event level for the site.
122. Comments to clarify the background to District Plan change PC1L concerning the rezoning of the subject site from Natural Open Space to Open Space Zone (Recreation Precinct), along with recommending that limited weight be afforded to this plan change in our decision as it is still progressing through the plan change process. An evaluation of Proposed Change 1 to the RPS was also provided, which was in response to a request that we made for this, during the hearing.
123. In relation to the Section 104D gateway test, the Applicant noted the differing evidence presented by the two planning witnesses who appeared at the hearing, with Ms McLean determining either limb was satisfied, while Mr Anderson, in response to questions of the panel, considered the visual effects, in particular on Ms Knight at her property at 5 Marine Parade, were more than minor. Notwithstanding this, both planners agreed the proposal, overall, satisfied the necessary gateway test through the objectives and policies limb thereby meeting Section 104D.

### **The findings on the principal issues**

124. The matters of contention through the submissions and hearing were summarised above in paragraph 30.
125. Looking firstly at traffic generation and road safety. The relevant material before us included the expert traffic evidence presented by the Applicant's traffic witness Ms Taylor and the Consent Authority's traffic advisor Mr Rodenburg. Both supported the project in respect of traffic congestion and safety effects.
126. In addition, submissions from Mr Davey expressed concern on traffic generation and road safety. He noted that additional traffic movements are expected to arise as a result of Te Uruhi as it is intended to attract more people. This in turn generates more traffic movements, and in his experience, there is often no space for cars to park at this end of the reserve. A lack of parking leads to a risk of illegal parking and traffic safety issues arising from reduced sightlines. He was dubious about the crash and traffic volume data relied on in the Applicant's traffic assessment. Traffic generation was also raised in the submissions of Mr Barrett and Ms Knight, albeit their focus was mainly on parking, which we address separately below.
127. In addition to responding to all the submitter concerns related to traffic and parking in her evidence, traffic generation was specifically addressed in Ms Taylor's evidence. She confirmed that existing and expected future traffic movements had been tested (i.e.

modelled) at the nearby roundabout intersection of Marine Parade, Manly Street and Kāpiti Road and was found to operate without delays, except during major temporary events being held at Maclean Park, which are not a consequence of the Te Uruhi project. She did not have any safety concerns.

128. Mr Rodenburg’s statement similarly concludes any increased traffic movements should not result in a noticeable increase in congestion or unreasonable delays, and that traffic levels are within the thresholds for the nearby roads. In terms of safety, Mr Rodenburg recommends conditions to review the detailed design of the changes (site access, a proposed pedestrian refuge island, etc) when this is available and to carry out road safety audits. On this basis he supports the proposal from a traffic and safety perspective.
129. Relying on the consistent findings across the expert evaluations in preference to the fairly general comments made by submitters on traffic generation and safety, we are satisfied that the Te Uruhi project will not exacerbate traffic congestion or generate adverse safety effects within the adjacent road network.
130. Turning to car parking, which was a focus of considerable discussion through the hearing. It was specifically addressed through the subsequent proposal amendment made by the Applicant which then attracted a range of comments through the opportunity we provided to submitters to comment on the further information provided, and inevitably, the proposal change which accompanied it.
131. The removal of the carpark from the proposal seemed to achieve at least one of the key outcomes that submitters were seeking. In doing so, we considered that the Applicant listened to concerns about the new carpark which led to it being removed from the proposal. When provided the opportunity to comment, the feedback from submitters seemed surprisingly negative towards what appeared to be a ‘win’ for those submitters concerned about the new carpark and the associated effects that they felt it would have generated (natural character loss, visual effects, coastal hazard risk, etc).
132. We support the Applicant in their decision to withdraw the new carpark from their proposal and agree it is within the scope of the consents sought to make this change, noting it does not generate any new non-compliance with rules or standards in the District Plan.
133. The proposal before us results in a net loss of eight carparks across the wider Maclean Park site that we are considering. The Te Uruhi building will remove 18 of the 31 carparks in the northern part of the park. Thirteen carparks will be reinstated to provide parking in this location and will accommodate the accessible space requirements of the District Plan.
134. The Applicant’s submissions in reply refer to paragraph 16 of Ms Taylor’s evidence and claim that her evidence “*was that the existing spaces are more than sufficient to accommodate visitors to Kāpiti Island*”<sup>6</sup>. This doesn’t appear to be a correct paragraph reference. Notwithstanding this, any statement in Ms Taylor’s evidence related to the effects of the proposal prior to the removal of the new carpark – albeit the net difference is minimal between the proposal addressed in her evidence (net gain of 2 spaces across Maclean Park with the project in place<sup>7</sup>) and that before us now with the removal of the ‘new carpark’ we are now have a net loss of 8 spaces across the park. This is because the new carpark required the removal of a reasonable amount of on-street parking to

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<sup>6</sup> Paragraph 15, Applicant’s submissions in reply

<sup>7</sup> Paragraph 25, Ms Taylors evidence

construct it in a manner which met the sightline recommendations of the traffic engineers.

135. Mr Rodenburg has had the opportunity to comment on the amendment to remove the new carpark through the advice he provided to the reporting officer Mr Anderson. In Mr Anderson's memorandum dated 11 November 2022, Mr Anderson notes: *"Mr Rodenburg did not specifically comment on whether or not the loss of parking would have adverse effects. Rather, his comments both when advising me on the s42A Report and at the hearing were that the Planning Framework does not set any minimum car parking rate requirements, meaning that car parking provision (quantum) did not need to be assessed, and this is unchanged whether or not the new car park was provided. This is the reason why Mr Rodenburg considered that the (net) 10 spaces previously provided by the new car park were not required. Mr Rodenburg did not provide an opinion that the existing spaces were more than sufficient to accommodate customers of Kāpiti Island Tours."*
136. In our view, the carpark matter is very simple. The District Plan, in line with Clause 3.38 of the NPSUD does not and cannot require a minimum number of carparks to be provided for a particular development, land use, or activity, other than for accessible spaces. This is a national directive throughout New Zealand applicable to all district plans intended to make sure that land use planning decisions support more sustainable modes of transport and travel, particularly within urban areas which is the setting for the current proposal.
137. Mr Rodenburg appears to have a clear understanding of the approach to parking required of traffic engineers now in the light of the NPSUD directive. In our view, there is arguably no requirement to assess parking demand or adequacy at all, for a proposal of this nature. If the District Plan doesn't require carparking be provided, it would be a perverse outcome for a resource consent decision to oblige parking. There is essentially a permitted baseline for Te Uruhi and the entire park to have no parking at all under the RMA. Accordingly, assessing demand and making any conclusions as to whether spaces allowed for by the proponent of an activity is sufficient, is not a role for RMA decision makers as any effects can and should be disregarded in the interest of aligning consent decisions with the NPSUD and District Plan direction.
138. Accordingly, we conclude there are no adverse effects associated with parking or the planned removal of carparks to accommodate the proposed building. Any extra parking demand that may be generated above those associated with the Te Uruhi facilities attracting more people to the location, and that arising from the entire Kāpiti Island tours activity, is not in our view an adverse effect, when considering the permitted baseline.
139. In terms of anti-social behaviour and amenity impacts arising from campervan parking, which was a concern for some submitters, we note that with the removal of the 'new carpark', the risk of amenity effects arising from overnight parking occurring directly because of the works proposed as part of the project opposite 55-58 Marine Parade has been removed.
140. Turning to landscape and visual effects. Expert evidence on landscape and visual effects was provided by Ms Cray, summarising her landscape and visual assessment report that was included in the AEE. Her assessment was reviewed by Ms Williams, and they were agreed on the scale of effects arising by the time of the hearing, with Ms Cray adjusting her initial rating for visual effects on Ms Knight at 5 Marine Parade to moderate-high, in line with Ms Williams' findings.

141. While Mr Hunter, on behalf of Ms Knight, commented on lighting and the scale of the building, he did not dispute the level of effect stated by the experts. We carried out a site visit and viewed the site for the proposed new building from the footpath in front of Ms Knights property, and as a result we agree with the expert evaluation as to the scale of impact on her. The proposed building is likely to remove most of the view of the island from her property, so in this regard, this is a moderate-high impact. Due to intervening vegetation and dune topography, we understand from the evidence that a sea view from Ms Knights property is not readily available and as such, the impact we understand relates to the loss of visual connection to Kāpiti Island.
142. We concur also with the expert's assessment of natural character and landscape effects at the subject site being low for the Te Uruhi building, given it is to be sited on an existing paved area.
143. The landscape, natural character and visual amenity impacts are relatively confined and generally minor, where the higher level of effect relates to just one property, with moderate / low-moderate effects for other properties that have a view out towards the application site (3 Marine Parade, plus Manly Street, Kāpiti Road and Golf Road residences).
144. The moderate-high effect<sup>8</sup> on Ms Knight at 5 Marine Parade is therefore a key impact arising from this proposal, and the most substantial effect that we need to weigh up in our overall evaluation of the proposal. We factor this into our overall evaluation with reference to the objectives and policies of the planning documents below.
145. Lighting is related to visual and landscape effects and has been factored into the expert's ratings as to the effects on the surrounding environment. Accordingly, we have not separately considered lighting effects from a visual amenity perspective. In terms of the public safety effects arising from lower lighting levels than that prescribed by the District Plan, we note there is a requirement to light public areas to assist with crime prevention. This needs to be balanced with the adverse visual and glare effects that can impact on residential amenity. In this case, the Applicant's approach appears to strike a suitable balance between these competing issues.
146. Flood and coastal hazards were raised by submitters as a reason that the proposal was inappropriate. Concern related to the earthworks required to form the new carpark which was subsequently withdrawn. The remaining issue of contention relates to the hazard risk present at the Te Uruhi site itself, which, being located adjacent to the coast and a stream, is subject to both flood hazard and coastal hazard notations in the District Plan. The applicant also considered liquefaction risk in their AEE.
147. The planning evidence presented by Ms McLean for the Applicant summarises the hazard considerations well<sup>9</sup>, and refers to technical advice from both the Applicant's advisors and the Consent Authority's development engineer who Mr Anderson consulted with in undertaking his evaluation. Both planners are satisfied that the development is a suitable activity in this identified hazard risk location. Reference is made to both the necessity of siting at least the biosecurity aspect of the proposal close to the boat launching area, as well as the mitigation offered by the proposed floor level and relocatable nature of the proposed building.
148. Mr Hunter appeared to be describing effects related to the recently completed stream works when he talked to us about storm surge effects from the stream, which are

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<sup>8</sup> On a scale that includes ratings of very low, low, low-moderate, moderate, moderate-high, high, and very high

<sup>9</sup> Paragraphs 73-90 of Ms McLean's evidence



outside our jurisdiction. There was no evidence before us that established any linkage or risk of flood exacerbation from the building proposal on Ms Knights property or elsewhere. Any potential flooding risk is limited to the proposed building, which we consider is reasonably necessary to position in this location, plus the design has mitigated the risk of future hazard effects to the extent practicable.

149. Accordingly, we are comfortable with the conclusions reached by the planners on natural hazards and conclude that such any effects relate to the Te Uruhi development itself, and the risk will be mitigated to the extent practicable.
150. A number of the submitters highlighted shortcomings with the Applicant's consultation process and a lack of wider community support for the project. It is apparent to us that had the Applicant taken more opportunities to talk with the neighbouring residents affected by the proposal, the hearing phase might have been simplified, e.g. perhaps the Applicant's decision taken during the hearing process that they didn't need the carpark might have come about earlier, but we acknowledge this hasn't necessarily narrowed the concerns of submitters. Notwithstanding this, the RMA doesn't mandate consultation, rather it is best practice. So, any shortcomings that people feel about the consultation process and the wider community sentiment on the project are not a reason for us to decline it as sought by submitters.
151. Notwithstanding our general comments on consultation above, consultation with mana whenua is particularly important under the RMA, in order to understand effects of a project on mana whenua values where these exist, along with specific matters which need to be addressed in Part 2 of the RMA (covered below). Mr Hunter alleged that not all relevant mana whenua representatives had been consulted about the project. We note this claim appeared to be irrelevant to effects of the proposal on Ms Knight who he represented and he was not claiming to be mana whenua himself, so this allegation was without basis. In this matter we have given no weight to Mr Hunter's claim and rely on the evidence of Mr Barrett and Ms Solomon in evaluating the cultural effects of the project on mana whenua and sites of significance.
152. We find that the proposal not only has the clear support of mana whenua; it also provides significant benefits to mana whenua, drawing on the evidence of Mr Barrett and Ms Solomon, including:
  - An opportunity for mana whenua to have a more visible presence and a place to tell their stories
  - It provides a facility to display information about the history of and significance of the location to mana whenua – for the benefit of both local Kāpiti communities and other visitors, and for people visiting the island
  - The proposal will mark a place of significance - Te Uruhi, a former Pāsite, with the name having been gifted to the project by mana whenua
  - It will strengthen the connection between Te Uruhi and Kāpiti Island
  - It supports the pest-free status of Kāpiti Island through purpose-built biosecurity and education facilities
  - Its has provided the opportunity to strengthen the partnership between the Applicant and mana whenua.
153. Accordingly, we conclude that the proposal has significant positive effects on mana whenua values.

## Statutory considerations

154. Relevant planning documents were identified in paragraphs 27-29 above.
155. We agree with the planning witnesses that the proposal is consistent with the NZCPS and note our key findings:
- The project gives effect to Objective 3 and Policy 2 as it is strongly reflective of Te Tiriti o Waitangi as it has been developed in consultation with and has the clear support of mana whenua.
  - We accept that this proposal is not located away from areas subject to coastal and flood hazard risk, however it is proposed in this location in order to support an existing activity (Kāpiti Island tours). The building elevation above flood levels, designed to allow for relocation, has allowed for managed retreat if required in the future. Furthermore, the facilities necessarily are required to be located within the coastal environment in order to fulfil its intended purpose, in particular the biosecurity screening function. On this basis, the proposal is not inconsistent with the outcomes sought by Objective 5 and Policy 25.
  - The site for Te Uruhi has been assessed as having low natural character and low natural landscape values. The effects of the proposed building on these natural values were also found by the relevant expert witnesses to be low, due to its siting on an existing paved carpark area which has already been modified. In our view, this means that the proposal achieves conformity with Objective 2 and policies 13 and 15.
156. Turning to the NPSUD. We conclude the key relevant direction provided to us by this policy statement is in respect of minimum carparking numbers not being a matter that local authority planning documents can direct outcomes for (Clause 3.38). In this regard, our finding that the reduction of car parking arising from this proposal is acceptable and therefore aligns with the outcomes envisaged by the NPSUD.
157. The relevant provisions of the RPS were not discussed fully or consistently by the planning witnesses during the hearing but we found some provisions identified in the AEE and some in the Section 42A report of relevance. Upon our review, we find that the key objectives and policies of the RPS relevant to our decision are:
- Objectives 3, 4 and 18, plus policies 35 and 36 concerning natural character within the coastal environment
  - Objective 19 and policy 51 concerning natural hazards
  - Objectives 24, 25 and 28 and policies 48-49, concerning the need to recognise and provide for the cultural relationship of Māori with their ancestral lands, water, sites, waihi tapu and other taonga; the principles of the Treaty of Waitangi; and kaitiakitanga
158. In our view, the project aligns with these provisions from the RPS, for similar reasons as described above in respect of the NZCPS.
159. PC1 to the RPS is also relevant to consider. The Applicant's submissions in reply included a planning analysis of changed and new provisions potentially relevant to the project, prepared by Ms McLean. We have reviewed this material and conclude that the RPS direction is not materially changed when considering those provisions identified by the planning witnesses in the context of this proposal. We therefore conclude that

the proposal remains aligned with the RPS as amended by PC1, albeit we note that limited weight can be afforded to this proposed change due to the early stage of its progress through the RMA policy statement change process.

160. Turning to the District Plan. Similar policy themes as contained within the NZCPS and RPS addressed above on natural character, natural hazards and mana whenua issues are identified by the planning witnesses as relevant in the District Plan<sup>10</sup>. Accordingly, we conclude as above, there is no inconsistency with provisions on these issues.
161. The District Plan provisions, and the assessment set out in Mr Anderson's report at section 7.4, have been reviewed to inform our consideration of the visual and wider amenity effects of the proposal on residential properties opposite the site, and in particular the effects on Ms Knight at 5 Marine Parade. The site for Te Uruhi is predominantly zoned Natural Open Space, with the north-eastern corner of the location for the proposed building zoned General Residential under the District Plan. We have been unable to identify any particularly useful direction in the extensive list of provisions analysed by Mr Anderson to guide consideration of the visual impacts on the small number of properties affected. The Natural Open Space policies and those related to the Special Amenity Landscape notation applying to Macleans Park, while referring to amenity, they are focused on the zone and special area itself, rather than offsite effects as is the case here. Policy NOSZ-P3 is somewhat relevant in that it refers generally to 'effects being remedied or mitigated' but it doesn't take the 'amenity effects' consideration further. Tree planting to soften and screen (in time) the building is the mitigation proposed here, so in that regard, the policy is met. In addition, the residential properties are well separated from the proposed development by Marine Parade.
162. We understand the District Plan does not seek to protect views, as a component of visual amenity. We conclude that the effects on Ms Knight will be a noticeable negative change for her enjoyment of the island view from her dwelling. The property will continue to have high amenity values based on its proximity to the park and beach, local shops as well as the separation offered by the large section on which it is sited. In our view, given the absence of policies protecting private visual amenity from activities on open space, we have concluded that the visual amenity effects on nearby residential properties is not contrary to objectives and policies in the District Plan so is not a reason to decline this proposal, recognising the wider positive effects it offers.
163. We concur with Mr Anderson<sup>11</sup> that consent conditions can appropriately mitigate the effects arising from people, the intensity of the use, the nature of the retail activity and the hours of operation arising from the proposed uses of Te Uruhi on nearby residential properties.
164. As covered in Mr Anderson's report, the District Plan also includes objectives and policies on access and transport, including DO-O14, TR-P2 and TR-P5. The project is well aligned with these provisions which focus on protecting key transport routes. In this case, traffic modelling as detailed by Ms Taylor has demonstrated capacity to accommodate the trip movements associated with the proposal. Policy TR-P2 articulates the desire for sustainable transport and mode choice. Nothing in these policies requires provision of carparks, so in this regard, the proposal is not contrary to the District Plan direction on transport. Noting also, that cycle parking is included in the proposal in line with Policy TR-PARK-P8A of Proposed Plan Change 1C.

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<sup>10</sup> DO-01, DO-04, DO-05, DO-09, CE-P3, NH-P3, NH-P4, NH-FLOOD-P11, NH-FLOOD-P12, NH-FLOOD-P13

<sup>11</sup> Paragraphs 120-121 of report

165. Overall, we consider the proposal is consistent with the objectives and policies of the District Plan.
166. A key matter of contention in terms of conformity with relevant planning documents noted by submitters was in relation to direction in the Reserve Management Plan. This was referenced particularly in relation to concern about parking loss when responses were provided on the Applicant's decision to remove the new carpark. We consider the Reserve Management Plan is a relevant 'other matter' under Section 104(1)(c) of the RMA.
167. Relying on the evidence of Ms Law, Ms McLean and Mr Anderson, the Te Uruhi proposal is clearly signalled in the Reserve Management Plan so is consistent with this plan. In the Reserve Management Plan, Te Uruhi is referred to as the 'Gateway' as it was known then. The Gateway is referenced in the same location as proposed in the resource consent application before us. This is shown in the general area around the south side of Tikotu Stream, in the location of the existing carpark. The development of a facility of the nature before us for resource consent is clearly consistent with the Reserve Management Plan, relying on Applicant and Consent Authority evidence before us.
168. We have reviewed the Reserve Management Plan in light of the submitter concerns about carpark removal being inconsistent with this plan. The Reserve Management Plan refers to parking insufficiency and manoeuvring difficulties for some carpark areas. It refers to a need for more detailed investigation which balances carpark capacity with landscape amenity and environmental enhancement in the recreationally focussed areas of the park but does not prescribe a solution. The Reserve Management Plan is by no means prescriptive that all carparks must remain, indeed the 'Gateway' is shown in the general area of the carpark as has been proposed in the resource consent application. Notwithstanding any direction gleaned by submitters from the Reserve Management Plan in respect of carpark provision, as a non-statutory document in respect of the RMA process, the key direction on carparks and there being no need to provide these or protect those existing, is gained from the statutory planning documents, in this case, the District Plan, which gives effect to the NPSUD. The statutory documents in our view should therefore prevail in the case of any alleged inconsistency.

### **Section 104D gateway test**

169. The Applicant's submissions in reply addressed comments by Mr Anderson on the Section 104D gateway test, where he concluded that the 'effects' gateway limb was not met because of the more than minor visual effects at Ms Knight's property. Mr Anderson considered the proposal passed the objectives and policies limb so his differing view to that of the Applicant's planner was not determinative for his recommendation that the application be approved.
170. Mr Randal and Ms Bennett went onto explain their understanding was essentially that Mr Anderson had focused on an individual effect in forming this view. We accept the advice of Mr Randal and Ms Bennett that based on caselaw<sup>12</sup> that an effects evaluation under Section 104D must be undertaken on a holistic basis looking over the entire application and the range of effects overall. Therefore, we adopt the evidence of Ms McLean in respect of Section 104D that both limbs are met.
171. Turning to Part 2 of the RMA, we agree with the Applicant's opening submissions that the relevant plan and policy statement provisions do not omit or fail to give effect to

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<sup>12</sup> *SKP Incorporated v Auckland Council* [2018] NZEnvC 81 at [49].

any aspects of Part 2. On this basis we rely on our conclusions in relation to those provisions. In any event, we also agree with the Part 2 assessment provided in Ms McLean's evidence at paragraphs 157-164.

### **Conditions**

172. We have reviewed the conditions provided with the Applicant's submissions in reply and are comfortable, given these have been developed with input from the reporting officer, that these are appropriate to manage and mitigate the effects of the project, with the following additions which we have included:

- Tidying up the drafting of condition 1 so it is clear.
- A reference to tree protection added to condition 13 relating to the construction management plan.
- Including an option to retain existing vegetation rather than re-establishment of the planter bed between the carpark and the road for the reconfigured southern carpark in condition 29.
- A requirement for a suitably sized tree planter bed for the proposed pōhutukawa in front of the Te Uruhi building in condition 29.

### **Conclusion**

173. We conclude that the application for a resource consent can be granted. The reasons for our conclusion are:

- The proposal provides significant positive effects on mana whenua values.
- Traffic generation effects are expected to be minor.
- The limited parking loss at Maclean Park required to accommodate the project is consistent with relevant planning provisions which do not prescribe minimum parking for land use activities.
- Effects on the natural character of the coastal environment and landscape character will be low, as the activity is proposed within an existing developed part of the coastal park.
- The effect on adjacent residential properties as related to visual amenity effects, are isolated, and are not so significant as to justify declining of this consent.
- The proposal provides an important biosecurity service which will assist with protecting significant biodiversity and cultural values present on Kāpiti Island and will support tourism activities.

174. The application for a land use consent for Te Uruhi is hereby approved, subject to conditions as set out in Appendix 1 to this decision.



**Mary O'Callahan**  
Independent Commissioner



**Jade Wikaira**  
Independent Commissioner



**Linda Kerkmeester**  
Independent Commissioner

15 December 2022

## APPENDIX 1: CONSENT CONDITIONS

### General

1. The proposed activity shall be undertaken in general accordance with the following plans, including proposed 'Te Uruhi' signage on the Te Uruhi building, as set illustrated on Te Uruhi/Kāpiti Gateway South Elevation, 20.11, Revision 05, dated 17 November 2021:
  - (a) Wraight – Associates Landscape Architects Plan, entitled *Te Uruhi Kāpiti Gateway Whakairo Elements: Landscape Site Plan L1.00*, dated 16 November 2022;
  - (b) Wraight – Associates Landscape Architects Plans, entitled *Kāpiti Gateway Resource Consent*, dated 16 November 2022, being:
    - Landscape Site Plan L1.00;
    - Landscape Finishes Plan L1.01;
    - Landscape Levels Plan L1.02;
    - Illustrative Landscape Sections L2.01;
    - Illustrative Landscape Sections L2.02;
    - Stream Sections L2.03;
    - Planting Selection L4.01;
    - Planting Selection L4.02; and
    - Planting Selection L4.03.
  - (c) Wraight – Associates Landscape Architects Plans, entitled *Maclean Park Marine Parade Car Park South of Ocean Road*, dated 16 November 2022, being:
    - Landscape Site Plan LM1.00
    - Planting Selection LM4.01

(d) Wraight – Associates Landscape Planting Plan L1.03, dated 16 November 2022;

(e) Athfield Architects Limited Plans entitled *Te Uruhi*, being:

- Site Plan – Proposed, AO.0.12-, dated 1/02/2022;
- Floor Plan – Discovery Centre A1.02-, dated 1/02/2022;
- Floor Plan – Biosecurity A1.03-, dated 1/02/2022;
- Te Uruhi/Kāpiti Gateway South Elevation, 20.11, Revision 05, dated 17 November 2021; (which includes specific reference to the Te Uruhi signage)
- Te Uruhi/Kāpiti Gateway North Elevation, 20.11, Revision 05, dated 17 November 2021;
- Te Uruhi/Kāpiti Gateway West Elevation, 20.11, Revision 05, dated 17 November 2021;
- Te Uruhi/Kāpiti Gateway East Elevation, 20.11, Revision 05, dated 17 November 2021;

And the information lodged with the application RM210149, and the further information request responses provided by Cuttriss Consultants Limited on 15 February 2022 and 13 April 2022 and held on file by Council.

2. The consent holder shall meet the requirements of the Kāpiti Coast District Council's Subdivision and Development Principles and Requirements 2012 (SDPR: 2012). Alternative acceptable solutions may be proposed: such must be to the satisfaction of the consent authority and accepted in writing before any works commence.
3. All buildings shall have a finished building floor level (as defined in the Operative District Plan 2021) of 3.4m above mean sea level Wellington Datum 1953.
4. The activities within the buildings authorised by this consent are limited to:
  - (a) retail activity not exceeding a gross floor area of 97m<sup>2</sup>, limited to the retail sale of tourism products;
  - (b) retail activity for kiosk food and beverages not exceeding a gross floor area of 15m<sup>2</sup>;



- (c) discovery centre for the purposes of providing information on and about Kāpiti Island and the Kāpiti Coast District;
  - (d) cultural expression by mana whenua;
  - (e) check-in and biosecurity facilities for visitors to Kāpiti Island (including storage of associated equipment); and
  - (f) ancillary office / administrative activities.
5. The hours during which the buildings are open to the public for the activities specified in condition 4 shall be limited to 7:00am to 8:30pm during daylight savings, and 7:00am to 6:30pm at all other times. However, the buildings may open to the public earlier if in conjunction with cultural services (such as dawn karakia on special occasions).
  6. Prior to the installation of any Whakairo (to be in general accordance with the approved Landscape Plans referenced in Condition 1), the consent holder must provide the consent authority a written statement from Ātiawa ki Whakarongotai Charitable Trust, Te Rūnanga o Toa Rangatira and Ngā Hapū o Ōtaki (on behalf of Ngāti Raukawa), that the artistic representations have been designed in conjunction with the appropriate mana whenua artists and experts.
  7. Signage approved under Condition 1 must not include any lightboxes, display any moving images, or any third-party advertising.

#### Prior to the Commencement of Works

8. Lighting plan - prior to building construction commencing on the site, the consent holder shall submit the external lighting plan to the General Manager Planning and Regulatory Services or delegate, Kāpiti Coast District Council, for certification that it achieves the requirements and purpose set out in condition 30. Evidence of consultation and agreement, or in the event that agreement is not reached a summary of areas of disagreement, to the lighting plan shall be provided to the Kāpiti Coast District Council at the time of submission.
9. Engineering plans for water supply, wastewater and stormwater disposal - before any works commence, detailed engineering plans to the satisfaction of the consent authority shall be submitted to, and approved by, the consent authority. The engineering plans must be in accordance with Paragraphs 1 to 5 of Schedule 1 contained in Part 4 of the Kāpiti Coast District Council's Subdivision and Development Principles and Requirements, 2012. For the avoidance of doubt, no works are authorised to commence until the plans are approved by the consent authority Development Engineer. These plans must include, at a minimum:
  - (a) a water supply with strainer meter and RPZ which complies with the requirements of OIML R49 (International Organization of Legal Metrology

R49:2006 Water Meters Intended for the Metering of Cold Potable Water and Hot Water - Parts 1 to 3).

- (b) wording to the effect that any unused existing water service and wastewater service connections being abandoned shall be capped at the main.

**Note:** The Consent Holder's attention is drawn to the 'Approved Water Supply Products & Materials List, WS-10: Water Meters' (<http://www.Kapiticoast.govt.nz/Planning/Resource-Consents/Standard-Drawing/WaterStandard-Drawings>). Installing an approved water meter is a means of compliance with this condition.

10. Car parking and traffic - before any works commence, a detailed traffic and car parking plan to the satisfaction of the consent authority shall be submitted to, and approved by, the consent authority. The plan shall be prepared by a suitably-qualified and experienced traffic engineer. This plan must include, at a minimum:
  - a. detailed design drawings of the site layout, in particular traffic and transport related details and landscape planting/maintenance for driveway access visibility;
  - b. car park designs in compliance with the District Plan standards, in particular the requirements of the AS/NZS2890.1 Parking Facilities standard, unless an alternative is agreed to by the consent authority;
  - c. servicing of the drainage and maintenance of car parking areas; and
  - d. the means by which the direction of traffic and pedestrian flows to and from car parking areas will be controlled both on- and off-site.
11. Representatives to be nominated - the consent holder shall provide the Council's Development Engineer with the names of the Developer's or Owner's Representative(s) appointed in terms of Clause B(ii) of Part 3 of the Kāpiti Coast District Council's Subdivision and Development Principles and Requirements, 2012.
12. Suitably qualified persons to be nominated - the consent holder shall advise the Council's Development Engineer the names and professional qualifications of any Suitably Qualified Persons required in terms of Clause B(iii) of Part 3 of the Kāpiti Coast District Council's Subdivision and Development Principles and Requirements 2012.

For this consent, Suitably Qualified Persons are required for, but not necessarily limited to, the following areas:

- Civil engineering

- Stormwater design and construction
- Water and wastewater design & construction
- Traffic and vehicular management
- Landscaping
- Tree / vegetation protection
- Lighting

**Note:** If the consent authority does not accept any of the nominated persons, then the consent holder shall nominate alternative persons, or the Council may require the consent holder to employ a specified Suitably Qualified Person or Persons at the consent holder's cost.

13. Construction management plan required - before any works commence, a construction management plan to the satisfaction of the consent authority shall be submitted to, and approved by, the consent authority. When approved this plan shall form part of this consent. The plan shall be provided to the consent authority at least twenty (20) working days prior to the intended day of commencement of works. The Construction Management Plan (CMP) shall include the following, at a minimum:
- a. Details of control of mud and detritus from the site onto the road – onsite wheel washing and offsite road sweeping.
  - b. Details of onsite turning for delivery vehicles.
  - c. Site compound location shown on a plan.
  - d. Identified areas for site offices and site operative parking.
  - e. Mitigation for the prevention of discharge of any material beyond the boundary of the subject site.
  - f. Noise controls and hours of construction.
  - g. Stormwater runoff.
  - h. Dust controls.
  - i. Protection of land in the adjacent Operative District Plan 2021 *Area of High Natural Character* from construction effects.

- j. Details for protection of existing trees and vegetation to comply with Condition 29

**Note:** For the avoidance of doubt, material includes but is not limited to silt, sediment, vegetation and aggregate.

14. All earthworks and site investigations and remediation shall be undertaken in accordance with the approved CMP.
15. No works shall commence until the CMP required under condition 13 has been approved in writing by Council's Development Engineer.
16. The consent holder shall comply with the requirements of the approved CMP. Any proposed amendments to the CMP shall be submitted to the Council's Development Engineer for consideration and approval. No work shall commence until amendments to the CMP have been approved by the Council's Development Engineer in writing.
17. The consent holder must provide the consent authority a written statement from Ātiawa ki Whakarongotai Charitable Trust and Te Rūnanga o Toa Rangatira, prior to the submission of the engineering plans, that the Ātiawa ki Whakarongotai Charitable Trust and Te Rūnanga o Toa Rangatira have been involved in the detailed design of the project.
18. The consent holder must include in their CMP, the following Accidental Discovery Protocol, for the accidental discovery of any evidence of archaeological sites. Evidence of archaeological sites may include kōiwi (human skeletal remains), taonga Māori (Māori artefacts), oven stones, charcoal, shell middens, ditches, banks, pits and old building foundations. If any archaeological site(s) are uncovered during physical works, Ātiawa ki Whakarongotai Charitable Trust and Te Rūnanga o Toa Rangatira, will require the contractor to adopt the following protocols:
  - a. Work shall cease immediately within 100 metres of the site of discovery.
  - b. The contractor and subcontractor(s) must shut down all machinery, isolate and secure the site, and advise the project manager.
  - c. No materials relating to the artefacts or site shall be removed.
  - d. The project manager shall promptly advise Ātiawa ki Whakarongotai Charitable Trust and Te Rūnanga o Toa Rangatira.
  - e. If skeletal remains are uncovered, the project manager will also advise New Zealand Police.

- f. An archaeologist approved by Ātiawa ki Whakarongotai Charitable Trust and Te Rūnanga ō Toa Rangatira shall be employed at the expense of the contractor to examine and record the site.
- g. Ātiawa ki Whakarongotai Charitable Trust and Te Rūnanga ō Toa Rangatira will at their discretion contact other iwi groups and organise a site inspection by appropriate tangata whenua advisors and the archaeologist.
- h. If as a result of the site inspection and investigation there is a need for an appropriate ceremony, Ātiawa ki Whakarongotai Charitable Trust and Te Rūnanga ō Toa Rangatira will arrange such at the contractor's expense.
- i. Materials discovered will be handled and removed by the Ātiawa ki Whakarongotai Charitable Trust and Te Rūnanga ō Toa Rangatira representatives responsible for the tikanga appropriate to their removal and preservation, or re-interment.
- j. Works affecting the archaeological site shall not resume until Ātiawa ki Whakarongotai Charitable Trust, Te Rūnanga ō Toa Rangatira, and the New Zealand Police in the case of skeletal remains, have given the appropriate consent, approval or authority for work to continue. The contractor and subcontractor(s) will allow representatives of Ātiawa ki Whakarongotai Charitable Trust, Te Rūnanga ō Toa Rangatira and the archaeologist all reasonable access to the site to carry out their respective responsibilities or activities under this protocol.

Contact details for iwi representatives are as follows:

Ātiawa ki Whakarongotai Charitable Trust, PO Box 509, Waikanae 5250

Te Rūnanga ō Toa Rangatira, 24 Ngāti Toa St, Takapuwahia, Porirua 5022

- 19. The CMP must include a section outlining how Ātiawa ki Whakarongotai Charitable Trust and Te Rūnanga ō Toa Rangatira will be involved in monitoring works from a mātauranga Māori perspective.

#### Lizard management

- 20. Prior to site works commencing, the consent holder shall engage a Department of Conservation (DOC) permitted herpetologist to undertake a pre-works survey of lizard populations across all habitat types proposed to be cleared or disturbed by site works within the site in order to assess potential displacement.
- 21. A copy of the pre-works survey results shall be submitted to the Kāpiti Coast District Council Compliance Monitoring within one month of the survey being completed.
- 22. In the event that lizards are identified as part of the pre-works survey:

- a. DOC will be notified and the consent holder will follow an appropriate mitigation process determined by the consent holder in consultation with DOC; and
- b. the consent holder shall submit a report to the Kāpiti Coast District Council Compliance Monitoring detailing any discussions with DOC with regards to any lizard mitigation requirements and/or a completed lizard mitigation completion report prior to works commencing, including to record any mitigation recommendations by DOC that have not been implemented by the consent holder (with reasons).

#### Mana Whenua / Governance Board

- 23. The consent holder shall invite the following parties to continue being represented on the Governance Board for the project:
  - a. Ātiawa ki Whakarongotai Charitable Trust on behalf of Te Āti Awa ki Whakarongotai; and
  - b. Te Rūnanga o Toa Rangatira Incorporated on behalf of Ngāti Toa Rangatira.
- 24. The purpose of the Governance Board is to:
  - a. facilitate ongoing engagement with mana whenua in respect of the activities authorised by this resource consent;
  - b. provide an opportunity for mana whenua to provide kaitiaki inputs into the project as set out in condition 22; and
  - c. ensure appropriate tikanga and kawa (customary practices and protocols) are being applied throughout the development and implementation of the project.
- 25. The Governance Board shall continue to be invited to hold regular meetings (six-weekly) throughout the construction works until at least the opening of the project (at which point the Governance Board will discuss how long the arrangement will continue in place).
- 26. Without limiting the matters that the Governance Board may wish to discuss, the consent holder shall invite the Governance Board to participate in the following:
  - a. Development of the project design to incorporate cultural values into its elements including (but not limited to) proposed Whakairo elements and signage.

- b. Development and implementation of agreed cultural protocols / tikanga appropriate to stages of the works or activities (for example: blessings, accidental discoveries, and vegetation clearance).
27. The consent holder shall seek the views of the Governance Board on appropriate ways for the consent holder to continue engaging more widely with mana whenua regarding the inclusion of cultural values and Whakairo elements in the project.

### Landscape Plan

28. At least twenty (20) working days prior to the commencement of works authorised by this consent, a landscape plan shall be submitted to the consent authority for approval.
29. The landscape plan shall be prepared by a suitably-qualified landscape professional, with advice from other experts, including a suitably-qualified arborist, and be implemented in the first planting season following completion of the building and civil works. The landscape plan shall be prepared in general accordance with the approved Landscape Plans referenced in Condition 1, with the exception that the vegetated strip between the road and southern most carpark - this may be either retained as is, or replaced in accordance with the approved Landscape Plan, and as a minimum contain the following:
  - Existing vegetation to be retained, including retention of all pōhutukawa trees shown on Landscape Planting Plan L1.03.
  - A methodology detailing how the existing vegetation that is to be retained will be protected during construction, to be developed with mana whenua. This must cover, at a minimum, details of:
    - pre-construction surveys and delineation of the areas to be cleared and vegetation to be retained;
    - mana whenua's involvement in the vegetation protection;
    - monitoring of the vegetation to be retained;
  - Any vegetation to be removed.
  - The extent of planting, paved (impermeable) surfaces and other landscaping elements including provision of a large planter bed for the proposed new pōhutukawa tree located to the immediate south of the building (i.e. a sufficient size to accommodate tree growth to similar size as those existing nearby.
  - Details of plant species that shall be native to the Ecological District.
  - Location and species to be planted.
  - Number of plants.

- Plant heights at maturity.
- An implementation plan describing the methods of soil preparation, details of drainage, fertilising, mulching, spraying, irrigation, staking tree pits, ongoing maintenance, replacing of dead/poorly performing plants and weed and pest management.
- Scheduling of work, including maintenance to ensure successful establishment.
- The location, height, and type of fencing.
- Details of the ihuwaka structure.
- Details of any public seating proposed.
- Detailing of car park surfacing, noting that car parking should be permeable, or a mixed surface combination.

### Lighting

30. The Lighting Plan prepared in accordance with condition 8 must:
- a. be prepared in in consultation with the owners and occupiers of 3 and 5 Marine Parade, Te Ātiawa ki Whakarongotai Charitable Trust and Te Rūnanga o Toa Rangatira;
  - b. show the number, location, mounting height, tilt angle and specification including light distribution of all external lights; and
  - c. meet the following requirements:
    - i. All outside lighting for the vertical planes of building and art sculptures to be installed on site shall comply with the section 3 of AS/NZS 4282:2019.
    - ii. Between the hours of operation as stated in condition 5, all outside lighting for pedestrian/cycleways and the carpark on site shall comply with Tables 3.4 (subcategory PP3), 3.6 (subcategory PP3) and 3.7 (subcategory PC3 and PCD) of AS/NZS 1158.3.1:2020, and not exceed an average of 3.5lux except for designated accessible carparks which shall not exceed an average of 17.5lux.
    - iii. Outside the hours of operation as stated in condition 5, all outside lighting for pedestrian/cycleways shall operate to the lower light output



of subcategory of AS/NZS 1158.3.1:2022 standard and meet Table 3.4 (subcategory PP5) and not exceed an average of 0.85lux.

**Note:** The purpose of the lighting plan is to demonstrate that the outside lighting for the building, art sculptures, pedestrian/cycleways, and the carpark on site will be designed:

- a. to minimise potential adverse effects on neighbouring dwellings existing at the time of this consent including:
    - i. light spill;
    - ii. direct glare from light sources; and
    - iii. secondary glare from vertical elements;
  - b. to achieve the requirements of conditions 28 and 29;
  - c. in accordance with Crime Prevention Through Environmental Design principles; and
  - d. so that, where practical, the external lights shall be screened from the direct line of site of neighbouring dwellings existing at the time of this consent.
31. Prior to commencement of use, a suitably qualified independent lighting design professional shall certify that the lighting has been installed in accordance with the lighting plan certified in accordance with conditions 8 and 30, and that it achieves the purpose of the lighting plan set out in condition 30.

**Note:** A suitably qualified professional is generally considered a registered practitioner that is a member of the Illuminating Engineering Society of Australia and New Zealand.

### Engineering

32. The consent holder shall notify Council's Development Engineer prior to commencement of the following stages of work, so that the Council's Development Engineer, or authorised representative, are present on site to inspect certain stages of the works. Notice must be provided, at a minimum, five (5) working days prior to each stage listed below. The stages are as follows:
- Commencement of works or recommencement after a substantial lapse;
  - Water reticulation connections and services prior to back fill;
  - Wastewater services and construction of new manholes prior to back fill;

- Completed earthworks and prepared subgrade (roading and footpaths, if any);
- Final inspection.

### Transport

33. Any required signage/road markings must be provided in accordance with TCD's, The Manual for Traffic Signs and Signals: 2010 and Traffic Control Devices Manual: 2008.

### **Advice Notes:**

- The consent holder shall advise the Council of the start and completion dates of the works in writing 48 hours before the works are carried out. The consent holder shall fill out and return (by email to the duty compliance officer at [compliance.dutyofficer@kاپiticoast.govt.nz](mailto:compliance.dutyofficer@kاپiticoast.govt.nz), or by post to Private Bag 60601, Paraparaumu) the form that is attached to the decision letter.
- The consent holder is required to pay to the Kāpiti Coast District Council the actual and reasonable costs associated with the monitoring of conditions (or review of consent conditions), or supervision of the resource consent as set in accordance with Section 36 of the Resource Management Act 1991. These costs\* may include site visits, correspondence and the actual costs of materials or services which may have to be obtained.

\*Please refer to Kāpiti Coast District Council's current schedule of Resource Management fees for guidance on the current hourly rate chargeable for Council's staff.

- Under Section 125 of the Resource Management Act 1991, this resource consent will lapse in five years, unless it is given effect to within that time.
- It is the consent holder's responsibility to comply with any conditions imposed on this resource consent prior to and during (as applicable) exercising this resource consent.
- Please note that a resource consent is not a consent to build. A building consent must be issued prior to any building work being undertaken.
- If you disagree with any of the above conditions or disagree with the additional charges relating to the processing of the application, you have a right of objection pursuant to sections 357A or 357B of the Resource Management Act 1991. Any objection must be made in writing to the council within 15 working days of notification of the decision.
- The consent holder is responsible for obtaining all other necessary consents, permits, and licences, including those under the Building Act 2004, and the Heritage New Zealand Pouhere Taonga Act 2014. This consent does not remove the need to comply with all other applicable Acts (including the Property Law Act 2007 and the Health and

Safety in Employment Act 1992), regulations, relevant Bylaws, and rules of law. This consent does not constitute building consent approval. Please check whether a building consent is required under the Building Act 2004.

- Development Contributions pursuant to Section 198 of the Local Government Act 2002 and the Council's Development Contributions Policy 2021 are not required for this proposal as per the policy Council owned developments are exempt from contributions...
- Works within the legal road will only be approved where they comply with Council procedures and processes which are set out below:

Before undertaking work in the legal road you must make a Corridor Access Request (CAR) and receive a Works Access Permit (WAP) from us. Some examples of activities requiring a permit are:

- trenching works;
  - footpaths and entranceways;
  - work within the berm or shoulder of the road; and
  - tree work scaffolding and crane work.
- Before any excavations are undertaken a "Before U Dig" inquiry is required to check for locations of any underground services. This is a web-based service that you or your contractor use to get plans and information emailed out to you. This also provides the mechanism for you to make a Corridor Access Request and provide us with a Traffic Management Plan to protect your site, contractors, and the public during operations. Corridor Access Requests require 5 working days' notice before work can commence and Traffic Management Plans for road closures and events must be received 42 working days in advance of the closure or event. Please note: The "Before U Dig" service has no information on council's buried water, wastewater or stormwater assets. Our mapping tools show the location of the buried council assets.
  - Work is required to be undertaken in accordance with Council's guides and standard drawings. Examples of forms, guides and standards drawings (engineering plans) are available for download or print from the Council website and examples include:
    - Vehicle Installation Information;
    - Vehicle Crossing Application Form;
    - Roading Standard Drawings; and
    - Vehicle Crossing Guidelines.