

**IN THE HIGH COURT OF NEW ZEALAND  
AUCKLAND REGISTRY**

**I TE KŌTI MATUA O AOTEAROA  
TĀMAKI MAKĀURAU ROHE**

**CIV-2019-404-2682**

**UNDER THE**                      Judicial Review Procedure Act 2016

**BETWEEN**                    **AVERIL ROSEMARY NORMAN and WARWICK  
BRUCE NORMAN**

**Applicants**

**AND**                              **TŪPUNA MAUNGA O TĀMAKI MAKĀURAU  
AUTHORITY**

**First Respondent**

**AND**                              **AUCKLAND COUNCIL**

**Second Respondent**

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**AFFIDAVIT OF BROOKE JAMES MACDONALD DALES ON  
BEHALF OF THE SECOND RESPONDENT**

**Filed 3 April 2020**

**Affirmed:** *27 May 20*                      **2020**

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I, **Brooke James Macdonald Dales**, Consultant Planner, of Auckland, solemnly and sincerely affirm:

### **QUALIFICATIONS AND EXPERIENCE**

1. I hold a Bachelor of Planning from the University of Auckland (1994).
2. I am a Director/Planning Consultant at DCS Limited (**DCS**), a private planning consultancy based in Auckland.
3. I have approximately twenty six years' experience in the planning profession in New Zealand, including ten years in local government and sixteen years in the private sector. I have lived and worked in Auckland throughout this time and have worked extensively with the Auckland Council. In recent years, I have specialised in project and development planning advice and assessment. Project areas I have been involved with include visitor accommodation, industrial development, hospitality, healthcare, open space and recreation, office, residential and mixed use developments. Typically, my work on behalf of Council involves work on more complex applications in recognition of my experience.
4. I am authorised by the Council to make this affidavit.
5. I have read the Code of Conduct for expert witnesses contained in Schedule 4 of the High Court Rules and to the extent that I am exercising my professional opinion, agree to comply with it.

### **PURPOSE AND SCOPE OF AFFIDAVIT**

6. The purpose of this affidavit is to describe my involvement in the processing of the resource consent application by the Tūpuna Maunga o Tāmaki Makaurau Authority (**Authority**) to undertake the necessary works to remove exotic vegetation and undertake restoration planting on Ōwairaka / Te Ahi-kā-a-Rakataura / Mt Albert (**Ōwairaka**) at 27 Summit Drive, Mt Albert, Auckland (**Application**). I also respond to matters raised in the first amended statement of claim and affidavits filed and served on behalf of the Applicants.

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7. The fourth ground of review in the first amended statement of claim concerns the Council's decisions to neither publicly or limited notify the Application under sections 95A – 95E of the Resource Management Act 1991 (**Notification Decision**). The Notification Decision is annexed to Mr Yates' affidavit at "AY2".
8. I was the planner that prepared the report recommending that the Application be granted without public or limited notification (**Notification and Substantive Report**). This report is attached to this affidavit as exhibit **BD-1**.
9. This affidavit addresses the following matters:
- (a) Processing of the Application;
  - (b) The Notification and Substantive Report;
  - (c) Responses to certain matters raised in the Applicants' affidavit evidence; and
  - (d) Conclusion.
10. I have knowledge of the matters in this affidavit from my role as the reporting planner on the Application. In preparing this affidavit I have reviewed the Council's Application file to confirm specific details. To the best of my ability I also provide my recollection of communications associated with the Application.
11. In preparing this affidavit I have also reviewed the first amended statement of claim and the following statements of evidence filed by the Applicants and the Authority in these proceedings:

Affidavit of Andrew Francis Barrell	6 December 2019
Affidavit of Sir Harold Marshall	6 December 2019
Affidavit of Averil Rosemary Norman	6 December 2019

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Affidavit of Anna Marie Radford	6 December 2019
Further affidavit of Andrew Francis Barrell	20 December 2019
Affidavit of Sally Barbara Peake	31 January 2020
Affidavit of John Robert Styles	31 January 2020
Affidavit of Antony Bernard Yates	30 January 2020
Affidavit of Richard John Mairs	31 January 2020
Affidavit of Bradley William Beach	31 January 2020
Affidavit of Brent Dale Druskovich	30 January 2020
Affidavit of Mary Rose Inomata	13 February 2020
Reply affidavit of Anna Marie Radford	13 February 2020
Reply affidavit of Averil Rosemary Norman	13 February 2020
Reply affidavit of Marie Elaine Tallon	13 February 2020
Reply affidavit of Francis Andrew Barrell	14 February 2020
Affidavit of Phillip Blakely	17 February 2020

## PROCESSING OF THE APPLICATION

### *Lodgement of the Application*

12. I was first approached by Council's resource consents project manager Fennel Mason on 20 April 2017 advising that the Authority had completed a form seeking pre-application advice regarding asset management and vegetation removal on the maunga administered by the Authority in the Auckland region. A meeting was held at Council between Mr Mason and myself with Antony Yates and Tania Richmond in their roles as planners for the Authority. A further meeting was held on 8 June 2017 to introduce two projects prior to formal pre-application discussions, one being for

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works within various maunga / parks around the region (such as asset renewal, upgrades of paths and maintenance), and the other being vegetation removal. It was advised that the first project was likely to be a blanket consent to cover all asset renewal works, and the second project likely to be in the form of individual applications for each maunga (estimated to be 12 applications). A further meeting was held on 1 August 2017 regarding the upgrades of paths and maintenance project, but did not address the proposed tree removal and replanting project. I am not aware that this blanket consent application for the asset renewal work was progressed any further and I have not had any further involvement.

13. The Authority then made a formal pre-application request specific to the Maungarei (Mt Wellington) vegetation removal and restoration project (PRR00020087) and a pre-application meeting was held at Council on 22 September 2017 where the further application details were supplied and feedback was provided by the Council team of specialists. The Authority subsequently reviewed this information and lodged the application on 6 November 2017 (LUC60311082). This application was the first application as part the wider plan for removals of exotic vegetation and undertaking restoration planting of the 14 Tūpuna Maunga. The resource consent was approved on a non-notified basis on 19 April 2018 by Duty Commissioner Cherie Lane.
14. As part of the processing of that application and determination, it was noted that Council's Arborist, Gavin Donaldson had reviewed the Authority's Arborist assessment (and the broader application material) and agreed with the conclusions of the Treescape assessment that the site specific tree removal methodologies proposed are acceptable. It was noted in the reporting that Mr Donaldson had expressed concerns with the broader merits of the proposal, particularly with respect to visual and heritage effects and their arboricultural merit. Importantly, while Mr Donaldson had concerns with the tree removals, he had confirmed that he was satisfied with the tree removal methodologies proposed. These tree removal methodologies informed each of the lodged Tūpuna Maunga applications. Furthermore, visual and heritage effects were addressed by the appropriate specialists in their assessments (i.e. the Authority's Landscape Architect and Heritage Specialist and reviewed by

Council's Landscape Architect and Heritage Specialist) as addressed in the Council section 42A report.

15. I first became involved with the specific Ōwairaka / Te Ahi-kā-a-Rakataura / Mt Albert (Ōwairaka) Application on 24 October 2018 when Council Premium Resource Consents Principal Project Lead Jonathan Begg emailed me seeking my engagement as the reporting planner and including a one drive link to the Application documentation. The Application was allocated to me due to my previous pre-application involvement with the wider revegetation and weed management programme for all 14 Tūpuna Maunga, the consented Maungarei (Mt Wellington) application LUC60311082 and the lodged Māngere Mountain LUC60326774 application.

16. In particular, the Application involved:

- (a) The removal (to stump) of 345 exotic trees from Ōwairaka as set out in the Assessment of Environmental Effects (AEE) over a period of 50 days (with helicopter work being anticipated to occur over 20 days) between February and June and not during the main bird breeding season of August-January;
- (b) Removing the trees in a way which:
  - (i) avoids ground disturbance to protect archaeology and the landform;
  - (ii) avoids damage to native tree species;
  - (iii) minimises ecological effects on flora and fauna values;
  - (iv) limits effects on sensitive noise receivers; and
  - (v) protects the public and workers whilst minimising disruption and closure of the maunga to the public;

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- (c) Once removed, processing those trees on site within the existing sports field areas and then removing them via Summit Drive;
- (d) A communication plan to inform the public of the works, and to reflect the need at times to restrict access to the maunga for health and safety reasons; and
- (e) Following the removal of the exotic trees, restoration planting of the maunga with indigenous species to establish a WF7 Puriri broad leaf forest type and low native mound plantings.

17. I commenced my initial review of the Application on 24 October 2018 and completed my full review on 7 November 2018. As is my usual practice in undertaking a preliminary desktop assessment of any application, I reviewed the Application documents, researched the site's consent history, researched the site's zoning, relevant provisions and status under the Auckland Unitary Plan (**AUP**), identified the relevant rules under which consent was required, viewed the site on the Council GIS and Geomaps and viewed the site and surrounds on Google Maps, utilising street-view prior to undertaking my full site visit and site assessment.

18. On 24 October 2018, utilising Council's standard process I sought the allocation of the Application to the following subject matter experts seeking their specialist advice (and was subsequently advised in email correspondence of the allocated specialist):

- (a) Ecologist – to biodiversity@aucklandcouncil.govt.nz for allocation – Application allocated to Sarah Budd
- (b) Landscape Architect – to urbandesign@aucklandcouncil.govt.nz for allocation - Application allocated to Peter Kensington
- (c) Heritage – to heritageconsents@aucklandcouncil.govt.nz for allocation - Application allocated to Joe Mills

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- (d) Acoustic Engineer – to Jared.Osman@aucklandcouncil.govt.nz  
for allocation - Application allocated to Peter Runcie

19. My review confirmed that the arboricultural methodology was consistent with the best practice arboricultural management that formed part of the approved consent for Maungarei (Mt Wellington), and therefore no specific further input was sought from a Council arborist.

*Site visit*

20. On 7 November 2018 I went on a site visit to Ōwairaka on my own. The purpose of this visit was to check the accuracy of the plans and information provided, to assess the site and surrounding environment, identify any specific site/surrounds features or characteristics which may not be immediately obvious from the plans accompanying the application and to assess various areas of work and the closest adjacent properties and assess the potential effects on persons and on the environment. I visited the site and surrounds (circumnavigating the maunga, which included assessing the viewpoints referenced in the Application Landscape and Visual Assessment prepared by Ms Peake), utilising a vehicle but also walking the maunga itself.

*Request for further information*

21. On 7 November 2018 I emailed a request for further information under section 92 of the RMA to the Authority's planner Antony Yates. The further information I requested essentially passed on (following my review) the requests of Council's Landscape Architect Peter Kensington. In summary, the requests were as follows:
- (a) Confirmation of tree locations – closer scaled drawings illustrating the location of trees proposed for removal and retention;
- (b) Clarification over black dot indicated within "Sport Field Mound" work area;

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- (c) Assessment of the AUP Volcanic Viewshafts (Schedule 9 and Appendix 20);
  - (d) Viewpoint location plan and annotated photographs to show the location and extent of the tree removal;
  - (e) Assessment of landscape and visual effects on the identified Outstanding Natural Feature (**ONF**), as classified in the AUP (Mt Albert (Ōwairaka) ID 108);
  - (f) Assessment of the potential landscape and visual effects of leaving the tree stumps in-situ.
22. There were no further information requests at this time from other Council specialists.
23. A meeting was held at the DCS offices on 16 November 2019 with myself, Peter Kensington and Antony Yates to work through the matters raised. Jodie Mitchell, the Authority's planner for the previously lodged application for Te Ara Pueru / Te Pane-O-Mataaho / Māngere tree works, also attended the meeting as similar matters were raised by Mr Kensington as part of the assessment of that application.
24. The meeting worked through each of the issues raised, clarified what information was already provided in the Application and confirmed what further information would be supplied post-meeting. Mr Yates emailed a summary of the agreed actions on 20 November 2018 and Mr Kensington and myself confirmed (following our review of this document) on 21 November 2018 that the document was an accurate reflection of our discussion. This document is attached to this affidavit as exhibit **BD-2**. These actions informed the Authority's section 92 response.
25. Mr Yates emailed me the Authority's section 92 response on 17 December 2018 and I email-forwarded this onto Mr Kensington.
26. On 7 January 2019 Council's Noise Specialist Peter Runcie emailed me seeking points of clarification on noise matters as part of the finalising his specialist assessment. As I was on leave at that time, I advised Mr

Runcie to email the Authority directly and cc me in. Mr Runcie did that on 8 January 2019 and received responses from Mr Yates on 9 January 2019 and Mr Styles (the Authority's Acoustic Engineer) on 18 January 2019. Mr Runcie was satisfied with this responses and completed his assessment memo and emailed it to me on 21 January 2019.

*Preparation of Notification and Substantive Report*

27. As a result of the responses to my requests for further information, I considered that I had sufficient information, having shared this information with the Council specialists and relying on their advice that they also were satisfied with the relevant responses relating to their specialist areas. The Council specialists were then managed as to the timing of the completion of their specialist assessments. I proceeded to prepare the front end of the Notification and Substantive Report whilst awaiting the specialist assessments.
28. In preparing the Notification and Substantive Report I used the relevant Council template which sets out an order as follows:
- (a) Application description
  - (b) The proposal, site and locality description
  - (c) RMA Reasons for the application
  - (d) RMA Activity Status of the application
  - (e) RMA Notification assessment and recommendation
  - (f) RMA Substantive consideration of the applications s104 (Part 2 and Other Matters)
  - (g) Substantive Conclusion
  - (h) Substantive Recommendation

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29. At the initial review of the Application stage and the request for further information stage of the Application processing, the reporting planner's role is to review all of the information in terms of effects, but also in terms of the relevant objectives, policies and assessment criteria set out in relevant statutory documents to ensure the application has addressed all relevant matters to enable a thorough and robust assessment of the application. This was undertaken and has been outlined earlier in this affidavit.
30. At the report preparation phase the reporting planner firstly focusses on the adverse effects of the proposal as directed by the RMA's notification provisions. Upon completing this assessment the reporting planner then makes a recommendation on whether an application should be publicly notified (sections 95A, 95C-95D). If the recommendation is not to publicly notify the application under section 95A, the reporting planner must then assess whether to limited notify the application (sections 95B, 95E-95G). This involves an assessment as to whether there are any adversely affected persons. If it is considered that there are not any adversely affected persons then, unless there are special circumstances that warrant limited notification of the application, a recommendation is made that limited notification is not required.
31. If this is the case, an overall recommendation can be made that the application can be processed non-notified.
32. Following this notification recommendation, the reporting moves onto the substantive consideration of the application pursuant to section 104 (Part 2 and Other Matters). Under section 104B the Council may grant or refuse consent for a discretionary or non-complying activity. If it grants the application, it may impose conditions under section 108 of the RMA.
33. At the conclusion of the substantive assessment, a substantive recommendation is made as to whether the actual and potential effects on the environment of allowing the activity are acceptable and whether the activity is consistent with the relevant statutory documents. A recommendation is then made as to whether the application should be granted or declined. Reasons are given and, if the recommendation is that consent be granted, conditions of consent are included to further

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avoid, remedy or mitigate adverse effects and to further ensure consistency with the relevant statutory documents. These conditions are often proposed in the application, further amended or added to by Council specialists in undertaking their assessments and hence are addressed in the various reports as particular matters are addressed.

34. As described above, the set of conditions are often formed as part of an iterative process through the initial review of the application, the section 92 process, the specialist assessment and reporting and the drafting of the Council Planners section 42A report. On completion of the draft Council Planners section 42A report and recommendation, it is standard Council practice to share a copy of the final suite of conditions with the applicant for comment. This assists in efforts to ensure the conditions are clear and understood as to their intent. At this point it is preferable that the full set of conditions are agreed, but if there is any disagreement these can be tabled for the consideration of the decision maker in making the determination.
35. This process was followed in this Application. I liaised with Mr Yates who, after liaising with the Authority team, agreed with the final set of proposed conditions in my final section 42A report. A copy of Mr Yates' email of 11 February 2019 confirming that the Authority agreed to the proposed conditions of consent is annexed and marked **BD-3**.
36. On 11 February 2019 I completed my report, recommending that the Application be granted without public or limited notification and provided the report to Council Principal Project Lead Premium Resource Consents Jonathan Begg. In accordance with standard Council practice, I also supplied the completed Council's Duty Commissioner Record Sheet and Duty Commissioner Decision Template (i.e. a draft notification and substantive decision), along with a one drive link to all the relevant Application material. A copy of this email correspondence is annexed and marked **BD-4**. No changes were requested by Mr Begg following a review of these documents.
37. On 15 February 2019 I received from Mr Begg a tracked changed version of the Council's Duty Commissioner Decision Template that Mr Kaye used as the base to draft his decision. This tracked changed document

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made changes to the draft decision reasons and conditions and also sought the reporting planner's comment on specific matters. A copy of document is annexed and marked **BD-5**. I reviewed these changes and discussed these matters with my DCS colleague Colin Hopkins asking him to respond as I was unavailable to do so at that time. Mr Hopkins made further tracked changes to the document and responding to the comments. Following my review and confirmation, Mr Hopkins emailed to Mr Begg on 18 February 2019 a further tracked changed version of the Duty Commissioner Decision Template, a copy of which is annexed and marked **BD-6**.

38. On 20 February 2019 Mr Kaye determined that the Application was not required to be notified on either a public or a limited basis. On the same date Mr Kaye also determined that the Application should be granted consent subject to the recommended conditions of consent (the **Substantive Decision**).

#### **NOTIFICATION RECOMMENDATION REPORT**

39. In this section I discuss the first section of my Notification and Substantive Report, which recommended that the Application proceed without public or limited notification (**Notification Report**).
40. I assessed the Application and drafted the Notification Report based on:
- (a) The materials and specialist advice provided at lodgement (including the AEE and supporting expert reports);
  - (b) Information and specialist advice provided subsequent to lodgement (the section 92 response and relevant specialist reports);
  - (c) Information from my review of the site's consent history, the site's zoning, relevant provisions and status under the AUP, the relevant rules under which consent was required, my review of the site on the Council GIS and Geomaps and my review of the site and surrounds on Google Maps, utilising street-view prior to undertaking my full site visit and site assessment.

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- (d) My observations and recollections from the site visit;
  - (e) Discussion with specialists in the processing of the Application up to the completion of their specialist reports;
  - (f) My experience as a resource consent planner; and
  - (g) My understanding of the RMA and the AUP, including the identification of the relevant matters for consideration in the AUP.
41. On page 3 of the Notification Report I listed the specialists who had been involved in assessing the Application. The involvement of these specialists was discussed in the sections above.
42. On page 4 of the Notification Report I described the proposal, site and locality description.
43. On page 5 of the Notification Report I listed the reasons resource consent was required for the proposal. On page 7 I noted that the resource consents required for the proposal overlapped and so were considered together as a discretionary activity overall. In looking at each of the reasons for consent I considered that each of the reasons was either related to and/or would have consequential or flow on effects on matters that would be considered as part of the assessment of the other reasons for consent even if they were considered separately, and hence I considered them all together. This approach is known as "bundling" and is common practice amongst resource management planners where multiple resource consents are required for a single proposal.

*Public notification assessment*

44. On page 7 of the Notification Report I began the assessment, required under sections 95A, 95C-95D, as to whether the Application should be publicly notified. First I addressed the steps listed in section 95A in the order in which they are set out in the RMA. I recorded for the purposes of Step 1 in section 95A that mandatory public notification was not

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required, and for the purposes of Step 2 that public notification was not precluded.

45. On page 7 of the Notification Report I began the assessment of adverse effects that I carried out as part of Step 3 in section 95A.
46. On page 8 I identified the land adjacent to the subject site. Pursuant to section 95D(a)(ii) the Council is to disregard any effects on those persons who own or occupy this adjacent land when considering whether an activity will have more than minor effects for the purposes of public notification. On page 8 I also noted that no written approvals have been provided with the application.
47. My assessment of adverse effects (starting on page 9 of the Notification Report) was structured under the following headings:
  - (a) Effects on Landscape Values and Visual Amenity
  - (b) Effects of Construction – Noise, and Public Access and Recreational Amenity
  - (c) Effects on Ecology
  - (d) Effects on Heritage
  - (e) Effects on Arboriculture
  - (f) Effects arising from Land Disturbance
  - (g) Effects on the Stability of the site
48. In these assessments I referred to the specialist advice from the Authority team and the Council team and concluded the assessment by confirming that, subject to the agreed proposed conditions of consent, that these adverse effects resulting from the proposal can be managed so that they are less than minor.

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49. Having reviewed the statements of evidence filed by the Applicants, I confirm that I stand by my assessments. Notwithstanding this, I refer to specific points raised in the following paragraphs.

*Arboricultural effects*

50. I refer to my assessment of effects on arboriculture on page 12 of the Notification Report where I state that an Arboricultural Assessment and Removal Methodology prepared by Treescape (Exhibit BB1 to Mr Beach's affidavit) has been provided with the Application, which outlines the tree removal methodologies proposed as part of the works. I also note that the works methodologies and conditions proposed by the Authority are consistent with those consented on Māngere Mountain and Maungarei (Mt Wellington) and confirmed as appropriate for works of this nature by the Council's Arboriculture specialist Mr Donaldson. I conclude this section as follows:

With this in mind and having reviewed the applicant's assessment, I am satisfied that the tree removal works can be undertaken in a manner that is consistent with best arboricultural management to ensure that any adverse arboriculture effects will be less than minor. Conditions of consent are also proposed relating to the oversight of the tree removal works in accordance with the Treescape methodologies.

51. This section of the Notification Report follows on from the work summarised in paragraph 14 above regarding the previous advice of Council Arboriculture specialist Mr Donaldson. The affidavits filed by Mr Barrell on behalf of the Applicants query the lack of involvement of a Council Arborist and suggest alternative removal options (ring-barking and monolithing) that should have been considered.
52. However, as I have explained above, the Council Arborist had previously confirmed that he was satisfied with the tree removal methodologies proposed by the Authority, as advised by the Authority's Arborist. For that reason I did not consider that I needed any specific further input from the Council's Arborist to make my assessment.
53. I confirm that I remain satisfied that the tree removal works proposed by the Authority can be undertaken in a manner that is consistent with best arboricultural management to ensure that any adverse arboriculture

effects will be less than minor. When considering “arboricultural effects” in the Notification Report I am referring to the effects of the tree removal work (as detailed by tree removal methodologies proposed by the Authority) as it relates to the management of the effects of the removal process on the native trees being retained. The “ecological effects” of the proposal (including the exotic tree removals) are considered elsewhere in the Notification Report under ‘Effects on Ecology’ referencing the specialist advice of the Authority’s Ecologist and the Council’s Ecologist (Ms Budd). The “visual effects” of the exotic tree removals are considered elsewhere in the Notification Report under ‘Effects on Landscape Values and Visual Amenity’ referencing the specialist advice of the Authority’s Landscape Architect and the Council’s Landscape Architect (Mr Kensington).

#### *Ecological effects*

54. Related to this are the ecological effects of the tree removal. A number of the affidavits filed on behalf of the Applicant raise issues regarding the ecological effects on the flora and fauna (including birds and lizards) of Ōwairaka, and the ecosystem as a whole.
55. However, I am satisfied that I had sufficient information before me to assess the ecological effects of the Application and conclude, as I did at page 11 of the Notification Report, that the adverse ecological effects resulting from the Application could be managed so that they are less than minor. In making my assessment I considered the following documents that were submitted by the Authority as part of the Application:
- (a) The AEE and Statutory Assessment prepared by Mr Yates (annexed to Mr Yates’ affidavit as “AY1”);
  - (b) The Assessment of Ecological Effects by Te Ngahere (annexed to Mr Mairs’ affidavit as “RM1”). In particular this assessment outlined the effects on vegetation and fauna<sup>1</sup> and included a

<sup>1</sup> Anna Mairs, Richard Mairs, Jessica Le Grice, Kevin Floyd “Ōwairaka / Te Ahi-kā-a-aRakataura Assessment of Ecological Effects” (2 October 2018) Te Ngahere at [3.3] (annexed to the affidavit of Richard John Mairs affirmed 31 January 2020 as “RM1”).

table summarising the ecological effects and proposed mitigation.<sup>2</sup>

- (c) The Replanting Plan 2018 (annexed to Mr Mairs' affidavit as "RM2") which details the restoration planting proposed as part of the Application.

56. I also relied on the review of the Ecological Assessment by the Council's specialist, Ms Sarah Budd (annexed to Mr Yates' affidavit as part of "AY8"). In particular, Ms Budd's review identified the primary adverse ecological effects as temporary loss of vegetation cover and habitat for indigenous fauna, disturbance and potential harm to indigenous lizards, and disturbance to indigenous birds. Ms Budd recommended preparation of a lizard management plan and consent conditions regarding the timing of works to minimise the effects on avifauna, both of which I referred to in my discussion of her report at page 11 of the Notification Report. Ms Budd concluded that:

Overall, I agree with the assertion that if the proposed mitigation actions (including revegetation of the former quarry area) are implemented, the removal of exotic trees will improve the ecological values of the site in the medium to long-term".<sup>3</sup>

57. On page 11 of the Notification Report I relied upon this statement when reaching a conclusion on the level of adverse ecological effects.
58. I note that Mr Barrell's further affidavit of 19 December 2019 raises concerns regarding the potential for the removal of exotic trees to affect native underplanting, and in particular the loss of the shading benefits exotic trees can provide to native trees. The Replanting Plan referred to above (annexed to Mr Mairs' affidavit as "RM2") had extensive notes on the species to be planted in identified locations including the preference for sun or shade, and dry or damp conditions, which demonstrated that considerations such as potential loss of shade provided by exotic trees being removed were considered by the Authority and specifically

2 Anna Mairs, Richard Mairs, Jessica Le Grice, Kevin Floyd "Ōwairaka / Te Ahi-kā-a-aRakataura Assessment of Ecological Effects" (2 October 2018) Te Ngāhere at [3.5], Table 4 (annexed to the affidavit of Richard John Mairs affirmed 31 January 2020 as "RM1").

3 Letter from Sarah Budd (Senior Ecologist, Wildlands Consultants Ltd) to Jonathan Begg (Principle Project Lead, Premium Resource Consents, Auckland Council) regarding Ecological effects of exotic tree removals on Ōwairaka (Mt Albert) (LUC60328646) (31 October 2018) (annexed to the affidavit of Antony Bernard Yates affirmed 30 January 2020 as a part of "AY8").

informed what vegetation to plant and where. Again, I consider that I had sufficient information to assess the ecological effects of the Application.

#### *Heritage effects*

59. In the Applicants' evidence concerns have been raised regarding the extent to which effects on heritage were taken into account. The heritage effects of the Application were addressed by the Authority's Consultant Archaeologist Mr Brett Druskovich and reviewed by Council's Historic Heritage Specialist Mr Joe Mills), as explained in the Notification Report. I relied on these assessments when making my recommendations.
60. Ōwairaka is scheduled as a Category A\* Historic Heritage Place (01576) in the AUP. As explained in the memorandum Mr Mills provided to me after completing his specialist review of the Application (annexed as part of "AY8" to Mr Yates' affidavit), Ōwairaka is one of the Auckland region's most significant historic heritage places with a rich history of pre-European Maori occupation resulting in highly-significant archaeological remains covering much of the Maunga.<sup>4</sup> Mr Druskovich and Mr Mills both assessed the extent to which the Application (and in particular the tree removal process) would have on the heritage values of the site. I took these specialist opinions into account and determined that I was satisfied that any adverse effects associated with the heritage values of the site can be managed so that they are less than minor.<sup>5</sup>
61. I note that a number of the affidavits filed by the Applicant have alleged that a number of the exotic trees to be removed had heritage value which was not considered by the Council<sup>6</sup>. However, none of the trees that are proposed to be removed were included in the AUP's schedule of notable trees, which is the usual way trees with heritage value would be recognised and protected. This was recorded in the AEE that formed part

4 Memo from Brooke Dales (Planning Consultant, DCS) to Joe Mills (Specialist Historic Heritage, Cultural Heritage Implementation Team) regarding Resource Consent Application LUC60328646: 27 Summit Drive, Mt Albert, Resource Consent Application for the removal of exotic trees and revegetation of native planting on Ōwairaka (4 December 2018) at [6.1] (annexed to the affidavit of Antony Bernard Yates affirmed 30 January 2020 as a part of "AY8").

5 Brooke Dales "Notification and substantive report for resource consent under the Resource Management Act 1991 (RMA) LUC60328646" (11 February 2019) Auckland Council at 12 (annexed to this affidavit as exhibit "BD-1").

6 The Olive Grove, the so-called "penny trees", the large *Macrocarpa* on the far side of the reserve, the cherry trees and the woodland grove referred to in the affidavits of Mary Rose Inomata sworn 13 February 2020 at [9], Averil Rosemary Norman sworn 6 December 2019 at [16]-[20] and Mary Elaine Tallon sworn 13 February 2020 at [5] and [10].

of the Application.<sup>7</sup> Furthermore, none of the trees are included in a description of the Extent of Place for the Scheduled Historic Heritage Place. There was nothing in the AUP to suggest that these trees had any heritage value.

62. In addition, I did not observe any signage, plaques or similar on the site when I undertook my site visit indicating when any particular trees or groups of trees on Ōwairaka were planted, who planted them, or the circumstances in which they were planted. I do not believe any such signage or other information is present on Ōwairaka.
63. While it is apparent after reviewing the Applicants' evidence that some individuals have a personal connection with particular groups of trees on Ōwairaka, planted at various times in the past and sometimes for commemorative reasons, to my knowledge none of this information is in the public domain. I remain satisfied that notwithstanding that the Application involves the removal of these and other exotic trees on Ōwairaka, the heritage effects of the Application will be less than minor.

*Landscape and visual effects*

64. I also have some comments in response to the affidavit filed by Mr Phillip Blakely on behalf of the Applicants in relation to the adequacy of the landscape and visual assessments that have been carried out:
- (a) Mr Blakely alleges that a detailed assessment of the amenity effects on users from within different areas of the reserve does not appear to have been made. However, the material included with the Application included the Landscape and Visual Assessment by Ms Sally Peake. Ms Peake's report identified and considered the effects on three viewing audiences – visitors, users of the open space network and residents/users of the surrounding street network<sup>8</sup>. This is referred to in my

<sup>7</sup> Affidavit of Antony Bernard Yates affirmed 20 January 2020, Exhibit AY1 at [6.1.2].

<sup>8</sup> Sally Peake "Landscape and Visual Assessment for Proposed Tree Removal Ōwairaka" (19 September 2018) Peake Design at 14-15 (annexed to the affidavit of Sally Barbara Peake sworn 31 January 2020 as exhibit "SP1").

Notification Report.<sup>9</sup> In my opinion the information provided by Ms Peake (and peer reviewed by the Council's specialist Mr Kensington) was sufficient and a more fine-grained assessment of effects within the reserve was not required;

- (b) Ms Peake's report explains that the removal of the exotic vegetation will reinstate the natural character of the volcanic feature and mountain<sup>10</sup>. Mr Blakely states that no consideration appears to have been given to whether the removal of all of the exotic trees was necessary to achieve this.<sup>11</sup> However, as I explain further below, I was not required to examine the necessity of removing the trees when making my notification assessment. The Authority, like any applicant, was required to make judgments as to what it would apply for – and in particular whether its application would be to remove all 345 exotic trees on Ōwairaka. My role, for the purposes of my notification recommendation, was to assess the adverse effects of the Application as lodged. In addition, in my opinion Mr Blakely's emphasis on negative effects of felling the trees overlooks and does not more broadly consider the overall ecological effects and heritage/archaeological effects of the proposal, which includes substantial native restoration replanting and the avoidance of adverse effects on the heritage/archaeological asset.
- (c) Mr Blakely also comments that positive effects in some areas of the reserve have been used in the assessment process to "offset" or balance in some way the negative effects in other areas of the reserve. <sup>12</sup> It is not clear whether Mr Blakely had access to my Notification Report or Mr Kensington's specialist review. I can clarify that no offsetting was referenced or considered in my Notification Report, and clarify further that positive effects are not able to be considered in the RMA

9 Brooke Dales "Notification and substantive report for resource consent under the Resource Management Act 1991 (RMA) LUC60328646" (11 February 2019) Auckland Council at 9 (annexed to this affidavit as exhibit "BD-1").

10 Sally Peake "Landscape and Visual Assessment for Proposed Tree Removal Ōwairaka" (19 September 2018) Peake Design at 15 (annexed to the affidavit of Sally Barbara Peake sworn 31 January 2020 as exhibit "SP1").

11 Affidavit of Philip Blakely sworn 17 February 2020 at [25].

12 Affidavit of Philip Blakely sworn 17 February 2020 at [22].

notification assessment which is limited to adverse effects. Measures to mitigate adverse effects can be considered and are considered by resource management planners in assessing the scale and nature of adverse effects. Positive effects can be considered in the substantive assessment after, and separate to, the notification assessment.

- (d) In my Notification Report, any references to the replanting proposed by the Authority relate to the *mitigation* of adverse visual effects arising from the removal of trees, and the overall level of effects in light of the proposed mitigation. In my opinion Mr Blakely's focus on the effects of the tree removal downplays the mitigation actioned through the proposed replanting. The Application needed to be assessed as a whole and that is the approach I took in my Notification Report.

65. On page 12 of the Notification Report I concluded:

Overall, it is considered that the adverse effects on the environment of the proposed removal of exotic trees, and restoration planting of Ōwairaka can be effectively managed so that they are less than minor.

66. Whether an activity "will have or is likely to have adverse effects on the environment that are more than minor" is step 3 of the approach to public notification decisions required under section 95A of the RMA.

*Special circumstances warranting public notification*

67. I then turned at page 13 of the Notification Report to consider whether there were any special circumstances that warranted the Application being publicly notified under section 95A(9). This is step 4 of the approach to public notification decisions required under section 95A.

68. In this instance I turned my mind specifically to the existence of any special circumstances. I concluded that there is nothing exceptional or unusual about the Application, and that the proposal has nothing out of the ordinary run of things to suggest that public notification should occur as:

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- (a) The proposed tree removals and ancillary works (including management techniques), and the management of the open space zoned land is generally consistent with the direction of the AUP, as applied through the discretion of the relevant activities of the AUP, with the range of matters relevant to the development provided for in the AUP specifically as either restricted discretionary or discretionary activities; and
  - (b) My assessment had not identified any aspect of the receiving environment or any other factor that would give rise to special circumstances.
69. I considered that the application for the activity cannot be described as out of the ordinary and giving rise to special circumstances. Therefore in this instance I concluded there were no special circumstances warranting public notification.
70. On page 13 of the Notification Report I concluded that the Application should be processed without public notification. I listed the following reasons:
- (a) In the context of the landscape and visual values of Ōwairaka, any adverse landscape and visual effects of the proposal are considered to be short term in nature and effectively mitigated by the proposed restoration and replanting such that they can be considered to be less than minor;
  - (b) Any adverse ecological effects arising from the proposal can be appropriately managed as part of the works programme to ensure that any adverse effects are less than minor;
  - (c) Any adverse effects on public access and recreation will be short term in nature and can be considered to be less than minor;
  - (d) The proposed works have been designed to be sympathetic to the heritage values of Ōwairaka, and can be managed to ensure they are less than minor;

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- (e) The tree removals methodologies are considered consistent with best arboricultural practice, and any adverse effects are therefore considered to be less than minor;
- (f) Any effects associated with land disturbance and stability can be appropriately managed to ensure they are less than minor; and
- (g) There are no special circumstances.

*Limited notification assessment*

71. My assessment then turned to whether there were any affected persons that should be limited notified, following the steps set out in section 95B beginning at page 14 of the Notification Report. On page 14 I concluded for the purposes of Step 1 in section 95B that there were no groups or persons that needed to be notified, and for the purposes of Step 2 that limited notification was not precluded.
72. In summary, my assessment under Step 3 in section 95B was that there would be no adversely affected persons for the following reasons:
- (a) Adverse noise effects on people arising from the proposal are short term in nature and can be managed by the methodologies proposed in the Application and as further managed by conditions so that they are less than minor.
  - (b) Although public access to Ōwairaka will be temporarily disrupted, this disruption will be short term in nature, and necessary for health and safety reasons, and the Authority has proposed a communications plan to ensure that users of the reserve are aware of any restrictions. Overall, it is considered that any adverse effects on people accessing Ōwairaka will be less than minor;
  - (c) As outlined with respect to the tests of public notification, any landscape and visual effects of the tree removals experienced

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by people with an outlook to or using Ōwairaka are likely to be short term in nature and it is considered that these effects are mitigated by the proposed restoration planting, and in the context of the volcanic cone landform that will be exposed, any adverse effects are less than minor;

- (d) Given the scale and nature of the works, any construction traffic associated with the removal of the processed trees, and that associated with the necessary machinery, will be limited in volume, short term in nature, and occur only in the hours of work (7:30am-6pm Monday to Friday with no work on weekends or public holidays), and as such can be considered to be less than minor; and
- (e) The Authority has engaged with local Iwi groups and the general public as part of the consultation process for the Tūpuna Maunga Integrated Management Plan (IMP). Having reviewed the IMP, this document makes clear the expectations with respect to exotic vegetation and cultural significance of the restoration of the maunga, and the outcomes of this engagement have been incorporated in the Application.

73. In terms of Step 4 under section 95B, on page 16 I stated that I consider there are no special circumstances that warrant the application being limited notified to any persons because there is nothing exceptional or unusual about the application, and the proposal has nothing out of the ordinary run of things to suggest that notification to any other persons should occur.

#### **ADDITIONAL COMMENTS ON APPLICANTS' EVIDENCE**

74. The affidavits filed by Mr Barrell and Mr Blakely suggest that the Authority could have achieved its aspirations for Ōwairaka without removing the exotic trees that are the subject of the Application. However, as explained above, in my opinion the role of a consent authority, including the reporting planner, is to consider the proposal as a whole, and as lodged by an applicant. The reasons why the Authority wanted to remove all exotic trees were clear from the Application and that is the proposal

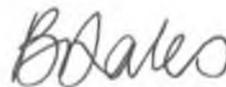
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(together with the replanting program set out in the Replanting Plan) that was before me to assess.

**CONCLUSION**

- 75. In summary, I have explained the extent of my involvement in the processing of the Application and the process that I undertook in recommending that the application may be processed without public or limited notification and subsequently granted consent, subject to conditions.
- 76. In my opinion, I have appropriately considered all relevant matters when processing the Application. In assessing the Application, I had adequate and reliable information to understand the nature and scope of the proposed development, to assess the magnitude of any adverse effects on the environment associated with the Application, and to identify the extent of effects it may have on people.
- 77. I continue to hold the opinion that the Application did not need to be notified.

**Signature of deponent:**



\_\_\_\_\_  
Brooke James Macdonald Dales

**Affirmed** at Auckland on 24 May 2020

Before me:



\_\_\_\_\_  
Signature

**Julian John Kennedy Spring**  
Solicitor  
Auckland



\_\_\_\_\_  
Name

A Solicitor of the High Court of New Zealand

# “BD-1”

## Notification and substantive report for resource consent under the Resource Management Act 1991(RMA)



Discretionary activity

### 1. Application description

**Application number:** LUC60328646

**Applicant's name:** Tūpuna Maunga o Tāmaki Makaurau Authority and Auckland Council

**Site address:** 27 Summit Drive, Mt Albert

**Legal description and Site Area:** SEC 1 SO 454869

**Operative plan:** Auckland Unitary Plan: Operative in Part

**Zoning:** Open Space – Conservation Zone  
Open Space – Sport and Active Recreation Zone

**Precinct** N/A

**Special features, overlays etc:** Natural Resources: Significant Ecological Areas Overlay - SEA\_T\_6016, Terrestrial

Natural Resources: Quality-Sensitive Aquifer Management Areas Overlay [rp] - Auckland Isthmus Volcanic

Natural Resources: Quality-Sensitive Aquifer Management Areas Overlay [rp] - Western Springs Volcanic Aquifer

Natural Heritage: Outstanding Natural Features Overlay [rcp/dp] - ID 108, Mt Albert (Owairaka)

Natural Heritage: Regionally Significant Volcanic Viewshafts And Height Sensitive Areas Overlay [rcp/dp] - Mount Albert, Height Sensitive Areas

Natural Heritage: Regionally Significant Volcanic Viewshafts And Height Sensitive Areas Overlay [rcp/dp] - A1, Mount Albert, Viewshafts

Natural Heritage: Regionally Significant Volcanic Viewshafts And Height Sensitive Areas Overlay [rcp/dp] - A10, Mount Albert, Viewshafts

Natural Heritage: Regionally Significant Volcanic Viewshafts And Height Sensitive Areas Overlay [rcp/dp] - A13, Mount Albert, Viewshafts

#### EXHIBIT NOTE

This is the annexure marked “BD-1” referred to within the affidavit of Brooke James Macdonald Dales affirmed at Auckland this 27 day of May 2020 before me:

Signature..... *Julian Kennedy Spring*

A Solicitor of the High Court of New Zealand

**Julian John Kennedy Spring**  
Solicitor  
Auckland



Figure 2: Zoning Plan (AUP:OP MAPS)



### Application documents (plans and reference documents)

The following information has been provided:

- Application Form, and Assessment of Effects on the Environment and Statutory Assessment prepared by Antony Yates of Antony Yates Planning Limited, titled "*Tūpuna Maunga Authority, Ōwairaka/ Te Ahi-kā-a-Rakataura / Mt Albert Vegetation restoration and exotic vegetation removal works*", dated October 2018 and the following appendices:

Appendix 1	Arboricultural Assessment and Removals Plan
Appendix 2	Archaeological Assessment
Appendix 3	Landscape and Visual Assessment
Appendix 4	Ecological Assessment and Remediation Planting Plan
Appendix 5	Acoustic Assessment
Appendix 6	Herpetology Assessment
Appendix 7	Communications Plan
Appendix 8	Relevant Statutory Provisions
Appendix 9	Development Control Checklist
Appendix 10	Mana Whenua Engagement
Appendix 11	Certificate of Title

The information has been reviewed and assessed by the following specialists:

- Peter Kensington – Landscape Architect, Consultant to the Design Review Unit
- Sarah Budd – Senior Ecologist, Consultant to, Environmental Services
- Joe Mills – Specialist Historic Heritage, Auckland Council

- Peter Runcie – Acoustics Specialist, SLR, Consultant to the Auckland Council; and

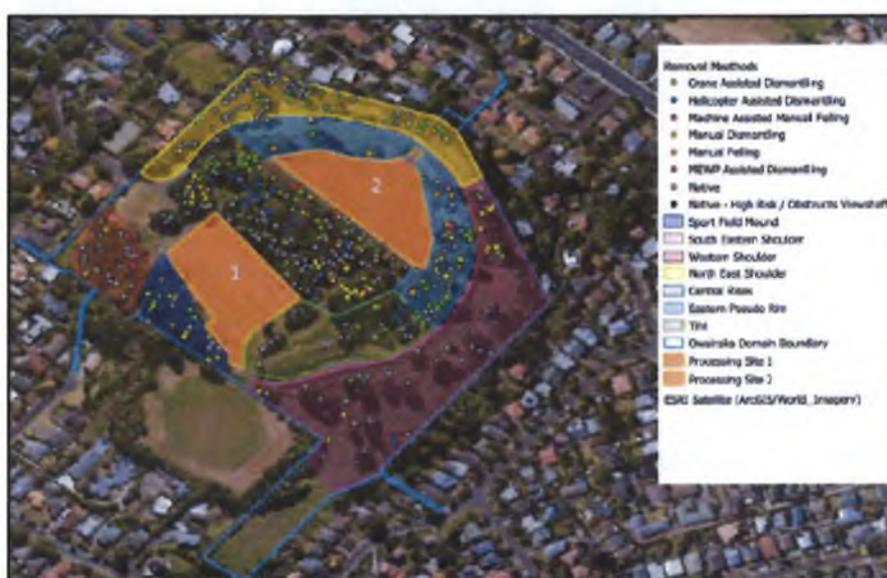
## 2. The proposal, site and locality description

### Proposal

The applicant, Tūpuna Maunga o Tāmaki Makaurau Authority seek consent to undertake the necessary works to remove exotic vegetation and undertake restoration planting on Ōwairaka / Te Ahi-kā-a-Rakataura / Mt Albert (Ōwairaka) at 27 Summit Drive, Mt Albert.

A description of the application is included in section 6 of the A.E.E. submitted with the application. In summary, the applicant proposes the following works:

- The removal (to stump) of 345 exotic trees from the Maunga as shown on the following Figure extracted from the A.E.E.



- The overarching principles guiding the methodology relate to:
  - avoiding ground disturbance to protect archaeology and the landform;
  - avoiding damage to native tree species;
  - minimising ecological effects on flora and fauna values;
  - limiting effects on sensitive noise receivers; and
  - protecting the public and workers whilst minimising disruption and closure of the Tūpuna Maunga to the public.
- Once trees are removed, they will be processed on site within the existing sports field areas and then removed by truck via Summit Drive;
- It is anticipated that the works will be completed within 50 days (of which the helicopter work will occur over 20 days);
- Works are proposed between February and June, and will not be undertaken during the main bird breeding season of August-January;
- A communication plan has been provided with the application to inform the public of the works, and to reflect the need at times to restrict access to Maunga for health and safety reasons; and

- Following the removal of the exotic trees, the applicant proposes to undertake restoration planting of the Maunga with indigenous species to establish a WF7 Puriri broadleaf forest type and low native mound plantings.

### Site and surrounding environment description

A description of the site, surrounding environment is provided in Section 5 of the submitted A.E.E. Having visited the site, I can confirm that this assessment is accurate.

### Background

A background to the proposal, outlining the significance of Auckland's Tūpuna Maunga (ancestral mountains), and the legislative process to return 14 Tūpuna Maunga to the 13 mana whenua iwi and hapu of Auckland and the creation of the Tūpuna Maunga o Tāmaki Makaurau Authority to govern and administer the Maunga is provided in section 3 of the submitted A.E.E. A history of Ōwairaka and the significance of the Maunga is provided in sections 4 and 5 of the submitted A.E.E.

## 3. Reasons for the application

### The relevant operative plan and proposed plan provisions

Council notified plan changes 14, 15, 16, and 17 on Thursday 29 November 2018. With respect to these plan changes and matters relevant to this application it is noted that:

- Plan Change 14: Improving consistency of provisions of Auckland-wide and Overlays.

There are no matters in this plan change that are relevant to this proposal, with the proposed changes to Chapter D17 Historic Heritage Overlay not impacting on the status of the activity (relating to permitted activities for buildings), or relating to trimming of trees (where removal only is proposed by this application), or seismic strengthening (unrelated to this proposal).

- Plan Change 15: Improving consistency of coastal provisions

There are no matters in this plan change that are relevant to this proposal.

- Plan Change 16: Improving consistency of provisions for Zones

There are no matters in this plan change that are relevant to this proposal, with the proposed changes to H7 Open space zones relating to jetties or boat ramps (unrelated to this proposal).

- Plan Change 17: Improving consistency of provisions for the GIS Viewer

There are no matters in this plan change that are relevant to this proposal.

As such, no specific consideration of these plan changes is necessary in this case.

Resource consents are needed for the following reasons:

## Land use consents (s9) – LUC60328646

### Ōwairaka

#### Auckland Council Unitary Plan (Operative in Part)

##### District land use

###### *Historic Heritage Overlay (Chapter D17)*

- Modifications to, or restoration of, buildings, structures, fabric or features of a scheduled historic heritage place, except where provided for as a permitted, controlled or restricted discretionary activity in another rule in this overlay requires consent as a **restricted discretionary activity** pursuant to D17.4.1 (A9).
- Conservation planting requires consent for a **discretionary activity** pursuant to D17.4.2 (A23).
- The removal of trees greater than 3m in height or greater than 300mm in girth requires consent for a **discretionary activity** pursuant to D17.4.2 (A26).

###### *Land Disturbance – District (Chapter E12)*

- The activity of replanting will involve approximately 525m<sup>2</sup> of ground disturbance. Consent for a **restricted discretionary activity** is required for earthworks not otherwise permitted between 500m<sup>2</sup> up to 1000m<sup>2</sup> in the Open Space – Conservation Zone pursuant to Rule E12.4.1 (A4);
- The activity of replanting will involve approximately 52m<sup>3</sup> of ground disturbance. Consent for a **restricted discretionary activity** is required for earthworks not otherwise permitted up to 250m<sup>3</sup> in the Open Space – Conservation Zone pursuant to Rule E12.4.1 (A7);
- The activity of replanting will involve 525m<sup>2</sup> of ground disturbance over the site. Consent for a **restricted discretionary activity** is required for earthworks in the Historic Heritage Overlay over an area of greater than 50m<sup>2</sup> pursuant to Rule E12.4.2 (A30);
- The activity of replanting will involve 52m<sup>3</sup> of ground disturbance over the site. Consent for a **restricted discretionary activity** is required for earthworks in the Historic Heritage Overlay of greater than 5m<sup>3</sup> up to 250m<sup>3</sup> in pursuant to Rule E12.4.2 (A32);
- The activity of replanting will involve 52m<sup>3</sup> of ground disturbance over the site. Consent for a **restricted discretionary activity** is required for earthworks within the V1 Outstanding Natural Feature Overlay of greater than 50m<sup>3</sup> pursuant to Rule E12.4.3 (A41);

###### *Vegetation Management and Biodiversity (Chapter E15)*

- Within an SEA-T, any vegetation removal not otherwise provided for requires consent as a **discretionary activity** pursuant to E15.4.1 (A43);

###### *Trees in Open Space Zones (Chapter E16)*

- The proposed tree works do not comply with Standards E16.6.1 and E16.6.2. Consent for **restricted discretionary activities** is required pursuant to E16.4.1 (A6) and (A8).
- The proposed tree removals include trees that are greater than 4 meters in height and 400mm girth. Consent for a **restricted discretionary activity** is required for these removals pursuant to Rule E16.4.1 (A10);

#### *Noise and Vibration (Chapter E25)*

- Construction noise levels exceeding the permitted standards of 75dB Leq (by a maximum of 7dB) are anticipated. Construction noise that exceeds the permitted activity standards in E25.6.27 requires consent as a **restricted discretionary activity** pursuant to E25.4.1 (A2);

#### **4. Status of the applications**

The resource consents required by the proposal overlap and are considered together as a **discretionary** activity status overall.

#### **Notification**

#### **5. Public notification assessment (sections 95A, 95C-95D)**

Section 95A specifies the steps the council is to follow to determine whether an application is to be publicly notified. These steps are addressed in the statutory order below.

##### **Step 1: mandatory public notification in certain circumstances**

No mandatory notification is required as:

- the applicant has not requested that the application is publicly notified (s95A(3)(a))
- there are no outstanding or refused requests for further information (s95C and s95A(3)(b)), and
- the application does not involve any exchange of recreation reserve land under s15AA of the Reserves Act 1977 (s95A(3)(c)).

##### **Step 2: if not required by step 1, public notification precluded in certain circumstances**

The application is not precluded from public notification as:

- the activities are not subject to a rule or national environmental standard (NES) which precludes public notification (s95A(5)(a)), and
- the application does not involve one or more of the following activities exclusively: a controlled activity; a restricted discretionary or discretionary activity for a residential activity (as defined in s95A of the RMA) or a subdivision; a boundary activity; or a prescribed activity (s95A(5)(b)).

##### **Step 3: if not precluded by step 2, public notification required in certain circumstances**

The application is not required to be publicly notified as the activities are not subject to any rule or a NES that requires public notification (s95A(8)(a)).

The following assessment addresses the adverse effects of the activity on the environment, as public notification is required if the activity will have or is likely to have adverse effects on the environment that are more than minor (s95A(8)(b)).

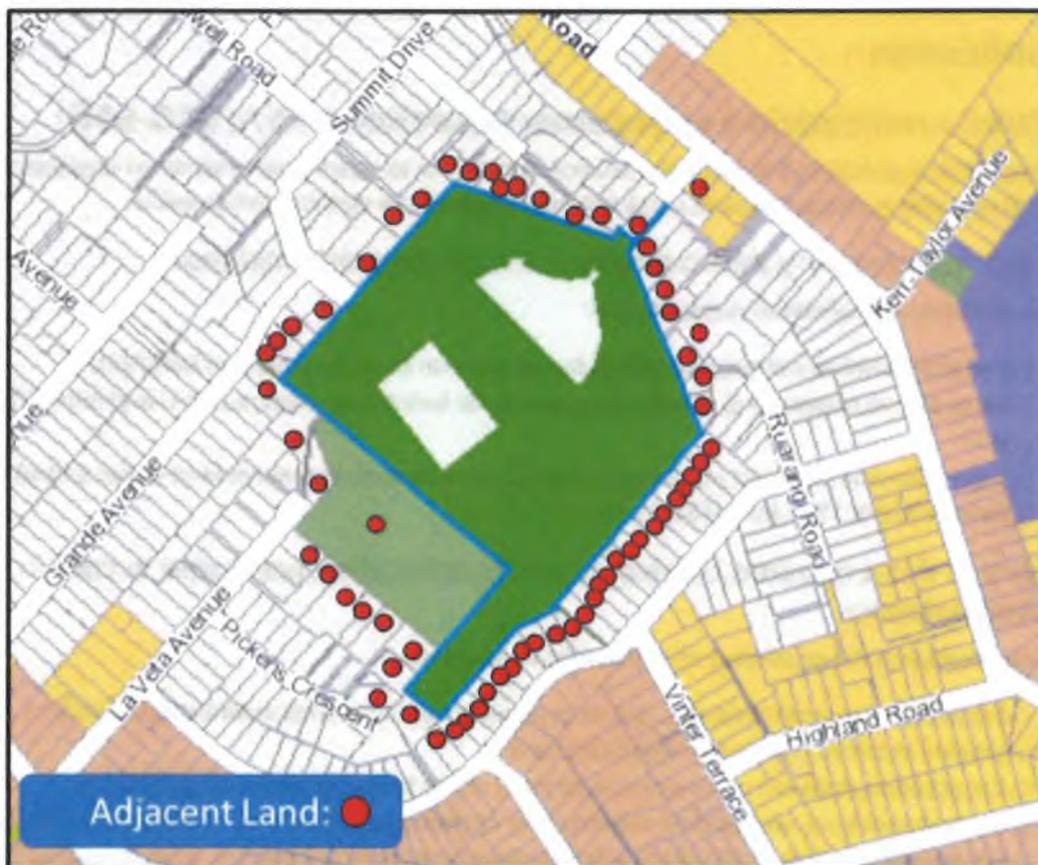
## Adverse effects assessment (sections 95A(8)(b) and 95D)

### Effects that must be disregarded

#### **Effects on persons who are owners and occupiers of the land in, on or over which the application relates, or of land adjacent to that land**

The council is to disregard any effects on persons who own or occupy any adjacent land. The land adjacent to the subject site is show in Figure 3 below.

**Figure 3: Adjacent Land**



#### **Any effect on a person who has given written approval to the application**

In this case, no written approvals have been provided.

### **Effects that may be disregarded**

#### **Permitted baseline**

The permitted baseline refers to permitted activities on the subject site. The applicant has provided an assessment of the permitted baseline in sections 9.1.6 of the submitted A.E.E, identifying that the permitted level of construction noise is a relevant consideration with respect to the noise effects of the proposal.

Having considered this assessment and the relevant matters in the AUP:OP, I consider that applying the permitted baseline is appropriate with respect to the levels of construction noise,

and as such this baseline is relevant to the consideration to the magnitude of effects in assessments below.

In addition, it is noted that the works are of a nature that no consents are required with respect to the Overlays relating to the regionally significant or locally significant viewshafts.

Given the nature of consents required with respect to vegetation removal and tree works, land disturbance and archaeology, all effects associated with these activities will require assessment below.

## **Assessment**

### **Receiving environment**

The receiving environment is made up of:

- the existing environment and associated effects from lawfully established activities;
- effects from any consents on the subject site (not impacted by proposal) that are likely to be implemented;
- the existing environment as modified by any resource consents granted and likely to be implemented; and
- the environment as likely to be modified by activities permitted in the plan.

This is the reasonably foreseeable environment within which the adverse effects of the proposal are considered.

In this case, there is no particular aspect of the receiving environment that I am aware of that is relevant to the assessment of the application.

### **Adverse effects**

#### *Effects on Landscape Values and Visual Amenity*

In support of the application, the applicant has engaged Ms Sally Peake to undertake a Landscape and Visual Assessment of the proposed tree removals (see Appendix 3 to the submitted A.E.E.).

In terms of landscape effects, Ms Peake considers that the tree removals and limited native restoration planting are consistent with the natural landscape of the Maunga, and concludes that the proposal will not result in any adverse landscape effects.

With respect to visual effects, Ms Peake identifies that there are three primary viewing audiences: visitors to Ōwairaka, users of the open space network; and residents and users of surrounding residential properties and streets. Ms Peake outlines that the magnitude of change resulting from the proposed works will vary considerably, with the primary visual impact being the loss of vegetation and the consequential exposure of the Maunga whilst re-planting takes hold. Given the relative short-term nature of this exposure and the mitigation of the restoration planting, which Ms Peake considers more reflective of the landscape qualities of the Maunga, she concludes that any adverse visual effects will be effectivity mitigated.

This assessment has been reviewed by Council's Consultant Landscape Architect Mr Peter Kensington. Mr Kensington has advised that he concurs with Ms Peake's identification of the landscape context of the site, and the framework of the assessment. With respect to

landscape effects Mr Kensington agrees with Ms Peake and does not identify any adverse effects, both with respect to the short term and in the long term. In terms of visual effects, having considered the application material and in particular the restoration planting, Mr Kensington has concluded that in his opinion the aims of the proposal will achieve a successful outcome and avoid, remedy and mitigate any adverse landscape and visual effects.

With the above considerations in mind, and notwithstanding that there is potential for the visual effects in particular to be viewed positively or negatively, I am satisfied that from a resource management perspective the proposed works will not result in any adverse landscape effects, and that any adverse visual effects of the removal of trees from the site will be effectively mitigated by the replanting on the Maunga, and that any adverse visual effects will be short term in nature and are less than minor.

#### *Effects of Construction – Noise, and Public Access and Recreational Amenity*

Primarily the effects on the environment with respect to construction relate to noise that will arise as a result of the various methods employed to remove the trees (and the duration of these works), and with respect to the impact that the works will have on Public Access and Recreation Amenity of the Maunga.

Given the nature of noise effects associated with construction, and based on the specialist Acoustic Assessment provided with the application (Appendix 1 to the submitted A.E.E) and the Council peer review (as discussed below) the reasonable extent of potential effects has been identified, and primarily relate to effects on people and properties in close proximity to the Maunga and site works areas. As such, effects associated with construction noise as they relate to the owners and occupiers of these properties is discussed below with respect to the tests of S95E.

With respect to public access and recreation amenity, the applicant has provided an assessment in section 9.1.34-9.1.35 of the submitted A.E.E. This assessment, concludes that although the proposed works will have limited public access during periods of the works due to health and safety reasons, that any effects will be short term in nature and can be considered to be less than minor. This assessment also outlines that a communications plan (of which a draft copy is attached as Appendix 7 to the submitted A.E.E.) will assist in ensuring that the general public are advised on any restrictions in advance.

I agree with this assessment, and I am satisfied that in the context of the existing environment, any adverse effects on public access and recreation can be considered to be short term in nature and less than minor.

#### *Effects on Ecology*

In support of the application, a detailed ecological assessment has been prepared by Ecological Restoration and Consultancy and is attached to the submitted A.E.E as Appendix 4.

This assessment of the proposal concludes that any adverse ecological effects arising from the removal of the exotic trees can be managed so that any adverse ecological effects are mitigated, and concludes that in combination with the restoration planting (establishing WF7 habitat) that the proposal will have ecological benefits to the Maunga.

This ecological assessment and the replanting plan has been peer reviewed by Council's Consultant Senior Ecologist, Sarah Budd of Wildlands. Having reviewed this information Ms Budd has concluded that:

- The ecological values and effects are well described by the application material, and that adequate and acceptable mitigation has generally been proposed;
- Effects on avifauna are appropriately addressed, and can be managed by standard conditions of consent (particularly around timing of works);
- An acoustic survey for bats has been completed, and there is a low risk of bats, and therefore no mitigation is required;
- The environment is considered high value for lizards, and subject to the incorporation of lizard survey to inform the lizard management plan, that any effects on lizards can be managed appropriately; and
- The replanting areas are appropriate for the purpose and objectives of the restoration plantings from an ecological perspective.

Overall, I am satisfied that this specialist assessment demonstrates that the proposal tree removals, management of operating zones, and removal methodologies are acceptable from an ecological perspective, and that the replanting (and methodology) will improve the ecological values of the site in the long-term.

As such, having taken this specialist advice into consideration, and subject to the conditions recommended by the applicant, and the conditions recommended by Ms Budd, I am satisfied that any adverse ecological effects resulting from the proposal can be managed so that they are less than minor.

#### *Effects on Heritage*

The applicant has provided an archaeological assessment of the site, prepared by Consultant Archaeologist Brett Druskovich, which outlines the archaeological record for the site and details the existence of archaeological features on the summit and slopes with respect to the occupation of the site as a pa (although much of this archaeological record has been destroyed), and the inclusion of the domain under the AUP:OP Historic Heritage Overlay. This assessment acknowledges the impact of the former quarry activities and establishment of playing fields and reservoirs on the site, and the consequential impacts these have had on the archaeological record and heritage features on these parts of the Maunga. This assessment concludes that the methodologies proposed are appropriate for the site to mitigate the potential for any adverse effects, and the recommendations in the report form part of the proposal (with respect to a finalised management plan and management of works).

This assessment has been peer reviewed by Council's Specialist Historic Heritage, Mr Joe Mills, who has confirmed that he largely concurs with the findings of the report and that the works methodology proposed is sympathetic to the historic heritage values of the Maunga and effectively mitigates the majority of potential effects. Mr Mills has advised however, that the nature of the works and the environment are such that accidental ground disturbance may impact on historic heritage features, but that adherence to best practice accidental discovery protocols and monitoring of works as proposed by the applicant is appropriate.

Having considered these assessments and the works methodologies, I am satisfied that any adverse effects associated with the heritage values of the site can be managed so that they are less than minor.

#### *Effects on Arboriculture*

As part of the proposed works an Arboricultural Assessment and Removal Methodology prepared by Treescape has been provided with the application (Appendix 5 to the submitted A.E.E.). This assessment outlines the tree removal methodologies proposed as part of the works.

I note that the works methodologies and conditions proposed by the applicant are consistent with those consented on Mangere Mountain and Maungarei and confirmed as appropriate for works of this nature by the Council Arboriculture specialist.

With this in mind and having reviewed the applicant's assessment, I am satisfied that the tree removal works can be undertaken in a manner that is consistent with best arboricultural management to ensure that any adverse arboriculture effects on will be less than minor. Conditions of consent are also proposed relating to the oversight of the tree removal works in accordance with the Treescape methodologies.

#### *Effects arising from Land Disturbance*

As outlined above, with respect to the tree removals the proposed works have been designed expressly to minimise the disturbance of the surface of the Maunga, with stumps retained and left to rot. For these reasons, the removal of the vegetation is not anticipated to have any adverse erosion and sediment effects with respect to land disturbance.

The application outlines that cumulatively the extensive replanting associated with the restoration of Maunga will result in land disturbance across an area of approximately 525m<sup>2</sup> and of a volume of approximately 52m<sup>3</sup>, however given the nature of the replanting (and that it will be undertaken in 5 stages), and as this will be essentially small holes for individual plants spaced across the replanting area, no specific erosion and sediment controls are required in this case. I agree with this assessment and considered that any adverse effects arising from the land disturbance are less than minor.

#### *Effects on the Stability of the site*

As noted above the applicant proposes site specific tree removal methodologies that provide for the stumps to be retained in situ, and then rot. The retention of the stumps, along with replanting is considered to be consistent with best practice to avoid any adverse stability effects following the removal of the trees.

On this basis, I am satisfied that any adverse effects arising from the tree removals on the stability of the Maunga can be managed to ensure they are less than minor.

#### **Adverse effects conclusion**

Overall, it is considered that the adverse effects on the environment of the proposed removal of exotic trees, and restoration planting of Ōwairaka can be effectively managed so that they are less than minor.

#### Step 4: public notification in special circumstances

If an application has not been publicly notified as a result of any of the previous steps, then the council is required to determine whether special circumstances exist that warrant it being publicly notified (s95A(9)).

Special circumstances are those that are:

- exceptional or unusual, but something less than extraordinary;
- outside of the common run of applications of this nature; or
- circumstances which makes notification desirable, notwithstanding the conclusion that the adverse effects will be no more than minor.

In this instance I have turned my mind specifically to the existence of any special circumstances and conclude that there is nothing exceptional or unusual about the application, and that the proposal has nothing out of the ordinary run of things to suggest that public notification should occur as:

- The proposed tree removals and ancillary works (including management techniques), and the management of the open space zoned land is generally consistent with the direction of the AUP:OP as applied through the discretion of the relevant activities of the AUP:OP, with the range of matters relevant to the development provided for in the plan specifically as either restricted discretionary or discretionary activities. Furthermore, the assessment above has not identified any aspect of the receiving environment or any other factor that would give rise to special circumstances. Therefore, I consider that making of an application for the activity cannot be described as out of the ordinary and giving rise to special circumstances.

Therefore in this instance I conclude there are no special circumstances.

#### Public notification conclusion

The applications should be processed without public notification for the following reasons:

- In the context of the landscape and visual values of the Maunga, any adverse landscape and visual effects of the proposal are considered to be short term in nature and effectively mitigated by the proposed restoration and replanting such that they can be considered to be less than minor;
- Any adverse ecological effects arising from the proposal can be appropriately managed as part of the works programme to ensure that any adverse effects are less than minor;
- Any adverse effects on public access and recreation will be short term in nature and can be considered to be less than minor;
- The proposed works have been designed to be sympathetic to the heritage values of the Maunga, and can be managed to ensure they are less than minor;
- The tree removals methodologies are considered consistent with best arboricultural practice, and any adverse effects are therefore considered to be less than minor;
- Any effects associated with land disturbance and stability can be appropriately managed to ensure they are less than minor; and
- There are no special circumstances.

## **6. Limited notification assessment (sections 95B, 95E-95G)**

If the application is not publicly notified under s95A, the council must follow the steps set out in s95B to determine whether to limited notify the application. These steps are addressed in the statutory order below.

### **Step 1: certain affected protected customary rights groups must be notified**

There are no protected customary rights groups or customary marine title groups affected by the proposed activity (s95B(2)).

In addition, the council must determine whether the proposed activity is on or adjacent to, or may affect, land that is subject of a statutory acknowledgement under schedule 11, and whether the person to whom the statutory acknowledgement is made is an affected person (s95B(3)). Within the Auckland region the following statutory acknowledgements are relevant:

- Te Uri o Hau Claims Settlement Act 2002
- Ngāti Manuhiri Claims Settlement Act 2012
- Ngāti Whātua Ōrākei Claims Settlement Act 2012
- Ngāti Whātua o Kaipara Claims Settlement Act 2013
- Te Kawerau ā Maki Claims Settlement Act 2015

In this instance, the proposal will not result in adversely affected persons in this regard.

### **Step 2: if not required by step 1, limited notification precluded in certain circumstances**

The application is not precluded from limited notification as:

- the application is not for one or more activities that are exclusively subject to a rule or NES which preclude limited notification (s95B(6)(a)), and
- the application is not exclusively for one or both of the following: a controlled activity, other than a subdivision, that requires consent under a district plan; or a prescribed activity (s95B(6)(b)).

### **Step 3: if not precluded by step 2, certain other affected persons must be notified**

As this application is not for a boundary activity or a prescribed activity, there are no affected persons related to those types of activities (s95B(7)).

The following assessment addresses whether there are any affected persons that the application is required to be limited notified to (s95B(8)).

In determining whether a person is an affected person:

- a person is affected if the activity's adverse effects on that person are minor or more than minor (but not less than minor)
- adverse effects permitted by a rule in a plan or NES (the permitted baseline) may be disregarded, and
- the adverse effects on those persons who have provided their written approval must be disregarded.

## Adversely affected persons assessment (sections 95B(8) and 95E)

No persons are considered to be adversely affected by the activities because:

- Noise effects arising from the proposal arise primarily through the use of the helicopter to remove the trees from the Maunga, the use of chainsaws and from processing on the trees. The applicant has engaged Styles Group to model the potential noise effects of the proposed works (see Appendix 1 to the submitted A.E.E. and expanded on within the further information responses). This assessment outlines that with the exception of the helicopter, noise levels generated by all activities will comply with the permitted levels of the AUP:OP. With respect to the noise generated by the helicopter, and noting that alternatives are not practicable to undertake the works, Styles Group predict that the helicopter will infringe the permitted noise levels by 7dB (although consent is sought for an infringement up to 10dB) at the closest residential receivers, and consider that any effects will be “noticeable” but will be limited to 10-12 days across the duration of the project.

To manage the effects arising from the helicopter it is proposed to limit the hours of the helicopter to between 9am and 5pm Monday to Friday, and to limit the consecutive days that the helicopter will be used to no more than three consecutive days per week (in the event that works take longer than the three days the work is required). In addition, given the proximity of the dwellings at 27-37 Mount Royal Avenue (odd numbers only) to the removal of tree 649, it is recommended that the helicopter works associated with the removal of that tree, only occur when those properties are unoccupied (i.e. when they are at work/school), or following agreement with the owner/occupier as part of the communications around the works (see Communication Plan attached as Appendix 7 to the submitted A.E.E). On this basis, the applicant concludes that any adverse effects on people, and in particular residents within a close proximity of the Maunga will be less than minor.

The acoustic assessments provided with the application have been peer reviewed on behalf of Council by Consultant Acoustics Specialist, Mr Peter Runcie. Mr Runcie has advised that the approach and limits identified by Styles Group are appropriate, and generally in accordance with the guidance of NZS6803:1999 Acoustics – Construction. Mr Runcie also confirms that in his experience that the noise model prepared by Styles Groups is reasonable, and that it is appropriate to mitigate these effects through limiting the hours and duration of the Helicopter use, and through advising properties in the vicinity of the works prior to the works commencing. Mr Runcie has also advised that the difference between the modelled 7dB infringement, and the 10dB max sought as part of the consent are likely to be imperceptible to the nearby receivers.

Conditions relating to the use of the helicopter and noise levels have been proposed by the applicant, and Mr Runcie’s review recommends their inclusion. I am satisfied therefore satisfied that the conditions recommended by the applicant can be effectively implemented and monitored by the council.

With the above considerations in mind, I am satisfied that adverse noise effects on people arising from the proposal are short term in nature and can be managed so that they are less than minor.

- Although public access to the Maunga will be temporarily disrupted, this disruption will be short term in nature, and necessary for health and safety reasons, and the applicant has proposed a communications plan to ensure that users of the reserve are aware of any restrictions. Overall, it is considered that any adverse effects on people accessing the Maunga will be less than minor;
- As outlined with respect to the tests of public notification, any landscape and visual effects of the tree removals experienced by people with an outlook to or using the Maunga are likely to be short term in nature and it is considered that these effects are mitigated by the proposed restoration planting, and in the context of the volcanic cone landform that will be exposed, any adverse effects are less than minor;
- Given the scale and nature of the works, any construction traffic associated with the removal of the processed trees, and that associated with the necessary machinery, will be limited in volume, short term in nature, and occur only in the hours of work (7:30am-6pm Monday to Friday with no work on weekends or public holidays), and as such can be considered to be less than minor; and
- The applicant has engaged with local Iwi groups and the general public as part of the consultation process for the Tūpuna Maunga Integrated Management Plan (IMP). Having reviewed the IMP, this document makes clear the expectations with respect to exotic vegetation and cultural significance of the restoration of the Maunga, and the outcomes of this engagement have been incorporated in the application.

#### Step 4: further notification in special circumstances

In addition to the findings of the previous steps, the council is also required to determine whether special circumstances exist in relation to the application that warrant it being notified to any other persons not already determined as eligible for limited notification.

Special circumstances are those that are:

- exceptional or unusual, but something less than extraordinary;
- outside of the common run of applications of this nature; or
- circumstances which make limited notification to any other person desirable, notwithstanding the conclusion that no other person has been considered eligible.

In this instance I have turned my mind specifically to the existence of any special circumstances and conclude that there is nothing exceptional or unusual about the application, and that the proposal has nothing out of the ordinary run of things to suggest that public notification should occur as:

- The proposed tree removals and ancillary works (including management techniques), and the management of the open space zoned land is generally consistent with the direction of the AUP:OP as applied through the discretion of the relevant activities of the AUP:OP, with the range of matters relevant to the development provided for in the plan specifically as either restricted discretionary or discretionary activities. Furthermore, the assessment above has not identified any aspect of the receiving environment or any other factor that would give rise to special circumstances. Therefore, I consider that making of an application for the activity cannot be described as out of the ordinary and giving rise to special circumstances.

## Limited notification conclusion

Having undertaken the s95B limited notification tests, the following conclusions are reached:

- Under step 1, limited notification is not mandatory.
- Under step 2, there is no rule or NES that specifically precludes limited notification of the activities, and the application is for an activity other than those specified in s95B(6)(b).
- Under step 3, limited notification is not required as it is considered that the activity will not result in any adversely affected persons.
- Under step 4, there are no special circumstances that warrant the application being limited notified to any persons.

It is therefore recommended that this application be processed without limited notification.

## 7. Notification recommendation

### Non-notification

For the above reasons, under section 95A these applications may be processed without public notification or.

In addition under section 95B limited notification is not required.

Accordingly I recommend that these applications are processed non-notified.



11 February 2019

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**Brooke Dales**

**Date**

**Consultant Planner DCS**

**For Resource Consents**

### Approved for release

Notification recommendation reviewed and released for consideration by duty commissioner.



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**Jonathan Begg**

12/02/2018

**Principal Project Lead**

**Resource Consents**

## Consideration of the applications

### 8. Statutory considerations

Under s104B the council may grant or refuse consent for a discretionary or non-complying activity. If it grants the application, it may impose conditions under s108 of the RMA.

The council must have regard to Part 2 of the RMA ("Purposes and Principles" – ss5 to 8), ss104, 104B, and 108, of the RMA. The weighing up under s104 is subject to Part 2.

### 9. Actual and potential effects on the environment

Section 104(1)(a) of the RMA requires the council to have regard to any actual and potential effects on the environment of allowing the activity. This includes both the positive and the adverse effects.

#### Positive effects

The applicant has provided an assessment of positive effects of the proposal in sections 10.1.7-10.1.10 of the submitted A.E.E. This assessment outlines that the proposal will have positive effects in terms of:

- Implementing the Tūpuna Maunga Integrated Management Plan will contribute to the cultural restoration and healing of the Tūpuna Maunga;
- Enhancing the landscape values of the Maunga, and enhance appreciation of the landscape features providing a better understanding of the archaeology and cultural values attached to the Maunga; and
- Have positive biodiversity effects through the restoration of indigenous vegetation, and management of weed species.

I accept these as relevant positive effects of the proposal, and note that the expectations around positive effects with respect to the landscape and visual effects, as well as ecological effects is reflected in the peer reviews undertaken by the relevant Council specialists.

In addition, I consider that the proposal has positive cultural effects with respect to the mandate that has been placed on the Tūpuna Maunga o Tāmaki Makaurau Authority as part of their governance role of the Maunga.

#### Adverse effects

In considering the adverse effects, the council:

- may disregard those effects where the plan permits an activity with that effect; and
- must disregard those effects on a person who has provided written approval.

The assessment and conclusion of the "permitted baseline" for the s95A adverse effects assessment are considered applicable to s104(2), and so are not repeated here.

The assessment of adverse effects done for notification identified and evaluated adverse effects only, and the conclusions of these assessments are adopted for the purposes of s104(1)(a).

## Summary

### Actual and potential effects

It is considered that the adverse effects of the proposal are acceptable in the context of the subject site and surrounding environment, the receiving environment, and that the proposed removal of exotic trees from the Maunga will have positive effects on the landscape and visual qualities of the Maunga and in terms of the cultural and spiritual values of the Maunga in delivering on the mandate bestowed on the Tūpuna Maunga o Tāmaki Makaurau Authority as part of their role governing taonga tuku such as Ōwairaka.

Overall, the actual and potential effects of the proposal are considered to be acceptable from a resource management perspective.

## 10. Relevant statutory instruments

### National Environmental Standard – s104(1)(b)(i)

There are no National Environmental Standards relevant to this proposal.

### National Policy Statement – s104(1)(b)(iii)

There are no National Policy Statements relevant to this proposal.

### New Zealand Coastal Policy Statement (NZCPS) – s104(1)(b)(iv)

The purpose of the NZCPS is to state policies in order to achieve the purpose of the RMA in relation to the coastal environment of New Zealand.

A consideration of the NZCPS is provided in section 10.1.28 of the A.E.E for the resource consents. This assessment notes that as the Maunga is in the visual catchment of the coast, the NZCPS is relevant.

The agent concludes that due to the careful design of the proposed works, and in particular the management of visual and landscape effects, and the mitigation provided by the restoration planting, that the proposal will not impact on the coastal environment.

I accept this assessment and note that the agent's conclusions are supported by the relevant Council specialists that have assessed the proposal and the conclusions reached with respect my assessments above.

As such, having considered these assessments along with the NZCPS, I am satisfied that the proposal is consistent with the anticipated outcomes of the NZCPS.

### Chapter B of the Auckland Unitary Plan (Operative in Part) – s104(1)(b)(v)

Chapter B of the AUP:OP sets out the strategic RMA framework for the identified issues of significance, and resultant priorities and outcomes sought. These align with the direction contained in the Auckland Plan. Of particular relevance in this case are sections:

- B4 Natural Heritage;
- B5 Built Heritage and Character;
- B6 Mana Whenua; and
- B7 Natural Resources.

With respect to the above matters, and having considered the submitted A.E.E and specialist assessments the following comments are made:

- The proposal delivers on the protection of outstanding natural features, and provides for the ancestral relationship of Mana Whenua with the Maunga through facilitating its restoration and active management;
- The proposal and site works have been designed to be sympathetic to the historic heritage values of the Maunga and effectively mitigates the majority of potential effects on heritage values of the Maunga;
- The relationship of Mana Whenua is reflected through the implementation of the governance role of the applicant as mandated by the Treaty Settlement negotiations.
- Ecological values on the Maunga are protected during the site works, and enhance through the restoration replanting.

Overall, I am satisfied that the proposals are consistent with the strategic direction of the Regional Policy Statement.

#### Plan or Proposed Plan – section 104(1)(b)(vi)

#### Auckland Unitary Plan (Operative in Part)

The agent has provided an assessment in sections 10.1.14 – 10.1.25 of the submitted A.E.E against the relevant objectives, policies and related assessment criteria of the AUP: OP. With these assessments in mind (and relying on the assessments above) I make the following comments:

- The restoration works are considered to be consistent with the direction of the plan with respect to the Outstanding Natural Feature Overlay, and in particular making provision for ancestral relationship between Mana Whenua and the natural features of the outstanding natural landscape of Māngere Mountain to be recognised;
- The proposal is consistent with the outcome proposed by the plan for Treaty Settlement Land;
- The proposal is of a nature that does not conflict with the Volcanic View shafts and Height Sensitive Areas Overlays, and enhances the values that these overlays seek to protect;
- The proposed works have been specifically designed to minimise effects on the historic heritage values of the Maunga, and through exposing the Maunga may enhance the understanding and appreciation of the archaeological and cultural values associated with the Maunga. The proposal is considered to be consistent with the relevant provisions of the plan with respect to Historic Heritage;
- The proposal has been designed to minimise land disturbance during the removal phase, and whilst the replanting will mitigate ecological effects on the Maunga it will cumulatively result in land disturbance across a wider area of the Maunga. Notwithstanding this, the nature of this work is such that no site specific erosion and

sediment management is required, and the proposal can be considered consistent with the direction of the plan with respect to land disturbance;

- Vegetation removal of the exotic trees is considered acceptable in this case, and can be managed so that any adverse effects are acceptable from a resource management perspective. Restoration planting associated with the proposal is considered to result in positive long-term effects through the enhancement of ecological values of the site. For these reasons, the proposal is consistent with the direction of the plan with respect to Vegetation Management and Biodiversity;
- With respect to the management of trees in open space zones, notwithstanding the removal of approximately 345 specimens and the short term effects associated with these removals, the proposal (including restoration planting) is considered to be consistent with the direction of the plan to contribute to and manage the cultural, amenity, landscape and ecological values of trees and their contribution to the open space; and
- In regards to the relevant matters of the plan for Open Space and Open Space – Conservation Zones, the proposal is considered to be consistent with the direction to enhance and protect the natural, ecological, landscape, Mana Whenua, and historic heritage values of Ōwairaka.

## **11. Any other matter – section 104(1)(c)**

### **Nga Mana Whenua o Tamaki Makaurau Collective Redress Act 2014**

As outlined in the background to the proposal in section 3 of the submitted A.E.E., the applicant's governance mandate of Māngere Mountain comes from the Nga Mana Whenua o Tamaki Makaurau Collective Redress Act 2014 (Collective Redress Act), which created the Tūpuna Maunga o Tāmaki Makaurau Authority, and led to the development of the Tūpuna Maunga Integrated Management Plan. Following the public consultation of that plan, this proposal reflects its implementation, and is considered to be consistent with the direction of the Collective Redress Act.

### **Reserves Act 1977**

The applicant has outlined that section 53(1) (d) of the Reserves Act 1977 is relevant with respect to the closing of a reserve to the public. In this case, as the proposal will not result in the reserve being closed for greater than 40 days in a year, the proposal is considered to be consistent with the direction of the Reserves Act.

## **12. Other relevant RMA sections**

### **Conditions of resource consents – s108**

The following groups of conditions are recommended (and proposed by the applicant) to be included on the consent to ensure that the works approved as part of the consent are appropriately managed. The conditions have been grouped into the following broad topics:

- General Conditions;
- Pre-commencement conditions (including finalised management plans and pre-start meeting(s));

- Development in Progress Conditions (including implementation of management plans, hours, helicopter use restrictions, ecology conditions, tree removal methodology and historic heritage conditions); and
- Post Completion Conditions (including historic heritage and planting requirements)

### Monitoring

This consent will need to be monitored in accordance with the conditions specified in this report and the requirements contained in the AUP OP. It is considered appropriate that condition be included on the consent to ensure a suitable deposit is provided to allow the monitoring of the consent. Given the scale of the proposal, it is recommended that a deposit of \$1500 be required.

## 13. Part 2 (Purpose and Principles)

Section 5 sets out the purpose of the RMA, and requires a broad judgement as to whether a proposal would promote the sustainable management of natural and physical resources. This exercise of this judgement is informed by the principles in sections 6 to 8, and considered in light of the particular circumstances of each application.

A consideration of Part 2 is outlined in sections 10.1.32-10.1.39 of the submitted A.E.E, where it is outlined that the proposal is consistent with the sustainable management purpose of Part 2. In particular, this assessment outlines that the proposal enables continued public enjoyment and appreciation of the heritage, natural, and Maori values of the Maunga, enhances the visibility of the natural and heritage features, and enables the relationship of Maori, through the Tūpuna Maunga o Tāmaki Makaurau Authority to enable their relationship with their land and taonga.

Having considered this assessment, I agree with the agent's conclusion that the proposal meets the intent of Part 2. In particular it is noted:

- In terms of section 5, I am satisfied that the application is generally consistent with the relevant planning documents, and that the proposal will not have significant adverse effects. With respect to the purpose of the RMA, I consider that through the restoration of the Maunga will enable the social, economic, and cultural wellbeing of people and communities, whilst appropriately managing adverse effects on the sensitive site and surrounding environment. With these factors in mind, and in making a broad judgement (relying on the assessments and conclusions above), I am satisfied that the proposal is consistent with the purpose of the RMA;
- That the matters of national importance outlined in section 6 of the RMA as they relate to this application have been identified and appropriately taken into consideration. Of particular note is the design of the works to protect the Maunga (being an outstanding natural feature), protect historic heritage, and provide for the relationship of Maori with their ancestral lands and taonga;
- That the other matters outlined in section 7 of the RMA have been given particular regard. Of particular note, and as outlined in the assessments above, amenity values will be maintained, and the proposal is considered to be consistent with an efficient use and development of the site, whilst no ecosystems will be significantly adversely affected by the proposed tree removals. Furthermore, the proposal reflects the role

lwi through the applicant as kaitiakitanga and their stewardship of this iconic feature of the natural and cultural landscape; and

- The proposal is considered to be consistent with Treaty principles under section 8 and reflects the implementation of the governance role of the applicant as mandated by the Treaty Settlement negotiations.

## 14. Conclusion

Having considered the proposal against the relevant matters in the AUP:OP, the proposed tree removals and replanting has been demonstrated to be consistent with the direction of the Plan. The proposal is considered to have positive effects on the landscape, visual, ecological, and cultural values of the site, whilst the actual and potential adverse effects can be managed to ensure that they are acceptable from a resource management perspective.

The proposal is also considered to be consistent with the intent of Part 2 and is an efficient use of the land and natural resources.

Overall, the proposed tree removals and restoration planting is considered to be acceptable in the context of the site and the surrounding environment, and I am satisfied that subject to conditions of consent this proposal can be supported from a resource management perspective.

## 15. Recommendation

Under sections 104, 104B, and 108 of the RMA, I recommend that this non-notified discretionary activity application is granted, subject to the following conditions.

The reasons for this decision are detailed in the attached draft decision and recommended conditions.

**This report and recommendation prepared by:**

**Name:** Brooke Dales  
**Title:** Consultant Planner, DCS  
For Resource Consents

**Signed:** 

**Date:** 11 February 2019

**Approved for release**

Recommendation reviewed and released for consideration by duty commissioner.

**Name:** Jonathan Begg

**Title:** Principal Project Lead, Resource Consents

**Signed:**

A handwritten signature in blue ink, appearing to read 'Jon Begg', is written over a horizontal line.

**Date:** 12.02.2019

## Recommendation on application for resource consent under the Resource Management Act 1991



Discretionary activity

<b>Application number:</b>	LUC60328646
<b>Applicant's name:</b>	Tūpuna Maunga o Tāmaki Makaurau Authority and Auckland Council
<b>Site address:</b>	27 Summit Drive, Mt Albert
<b>Legal description and Site Area:</b>	SEC 1 SO 454869
<b>Operative plan:</b>	Auckland Unitary Plan: Operative in Part
<b>Zoning:</b>	Open Space – Conservation Zone Open Space – Sport and Active Recreation Zone
<b>Precinct</b>	N/A
<b>Special features, overlays etc:</b>	Natural Resources: Significant Ecological Areas Overlay - SEA_T_6016, Terrestrial Natural Resources: Quality-Sensitive Aquifer Management Areas Overlay [rp] - Auckland Isthmus Volcanic Natural Resources: Quality-Sensitive Aquifer Management Areas Overlay [rp] - Western Springs Volcanic Aquifer Natural Heritage: Outstanding Natural Features Overlay [rcp/dp] - ID 108, Mt Albert (Owairaka) Natural Heritage: Regionally Significant Volcanic Viewshafts And Height Sensitive Areas Overlay [rcp/dp] - Mount Albert, Height Sensitive Areas Natural Heritage: Regionally Significant Volcanic Viewshafts And Height Sensitive Areas Overlay [rcp/dp] - A1, Mount Albert, Viewshafts Natural Heritage: Regionally Significant Volcanic Viewshafts And Height Sensitive Areas Overlay [rcp/dp] - A10, Mount Albert, Viewshafts Natural Heritage: Regionally Significant Volcanic Viewshafts And Height Sensitive Areas Overlay [rcp/dp] - A13, Mount Albert, Viewshafts Natural Heritage: Regionally Significant Volcanic Viewshafts And Height Sensitive Areas Overlay [rcp/dp] - A2, Mount Albert, Viewshafts

Natural Heritage: Regionally Significant Volcanic Viewshafts And Height Sensitive Areas Overlay [rcp/dp] - A3, Mount Albert, Viewshafts

Natural Heritage: Regionally Significant Volcanic Viewshafts And Height Sensitive Areas Overlay [rcp/dp] - A7, Mount Albert, Viewshafts

Natural Heritage: Regionally Significant Volcanic Viewshafts And Height Sensitive Areas Overlay [rcp/dp] - A8, Mount Albert, Viewshafts

Natural Heritage: Regionally Significant Volcanic Viewshafts And Height Sensitive Areas Overlay [rcp/dp] - A9, Mount Albert, Viewshafts

Historic Heritage and Special Character: Historic Heritage Overlay Extent of Place [rcp/dp] - 1576, Mount Albert/Owairakai R11\_20 Volcanic cone pa site including terrace/s, ditch/s, pit/s and midden

#### **Designations**

Notice of Requirements, NoR 7: Proposed Northern Runway, Airspace Restriction Designations, notified 15/02/2018

#### **Proposal**

To remove exotic vegetation and undertake restoration planting on Ōwairaka / Te Ahi-kā-a-Rakataura / Mt Albert (Ōwairaka) at 27 Summit Drive, Mt Albert.

#### **The resource consents are:**

Land use consents (s9) – LUC60328646

Ōwairaka

Auckland Council Unitary Plan (Operative in Part)

#### **District land use**

*Historic Heritage Overlay (Chapter D17)*

- Modifications to, or restoration of, buildings, structures, fabric or features of a scheduled historic heritage place, except where provided for as a permitted, controlled or restricted discretionary activity in another rule in this overlay requires consent as a **restricted discretionary activity** pursuant to D17.4.1 (A9).
- Conservation planting requires consent for a **discretionary activity** pursuant to D17.4.2 (A23).
- The removal of trees greater than 3m in height or greater than 300mm in girth requires consent for a **discretionary activity** pursuant to D17.4.2 (A26).

#### *Land Disturbance – District (Chapter E12)*

- The activity of replanting will involve approximately 525m<sup>2</sup> of ground disturbance. Consent for a **restricted discretionary activity** is required for earthworks not otherwise permitted between 500m<sup>2</sup> up to 1000m<sup>2</sup> in the Open Space – Conservation Zone pursuant to Rule E12.4.1 (A4);
- The activity of replanting will involve approximately 52m<sup>3</sup> of ground disturbance. Consent for a **restricted discretionary activity** is required for earthworks not otherwise permitted up to 250m<sup>3</sup> in the Open Space – Conservation Zone pursuant to Rule E12.4.1 (A7);
- The activity of replanting will involve 525m<sup>2</sup> of ground disturbance over the site. Consent for a **restricted discretionary activity** is required for earthworks in the Historic Heritage Overlay over an area of greater than 50m<sup>2</sup> pursuant to Rule E12.4.2 (A30);
- The activity of replanting will involve 52m<sup>3</sup> of ground disturbance over the site. Consent for a **restricted discretionary activity** is required for earthworks in the Historic Heritage Overlay of greater than 5m<sup>3</sup> up to 250m<sup>3</sup> in pursuant to Rule E12.4.2 (A32);
- The activity of replanting will involve 52m<sup>3</sup> of ground disturbance over the site. Consent for a **restricted discretionary activity** is required for earthworks within the V1 Outstanding Natural Feature Overlay of greater than 50m<sup>3</sup> pursuant to Rule E12.4.3 (A41);

#### *Vegetation Management and Biodiversity (Chapter E15)*

- Within an SEA-T, any vegetation removal not otherwise provided for requires consent as a **discretionary activity** pursuant to E15.4.1 (A43);

#### *Trees in Open Space Zones (Chapter E16)*

- The proposed tree works do not comply with Standards E16.6.1 and E16.6.2. Consent for **restricted discretionary activities** is required pursuant to E16.4.1 (A6) and (A8).
- The proposed tree removals include trees that are greater than 4 meters in height and 400mm girth. Consent for a **restricted discretionary activity** is required for these removals pursuant to Rule E16.4.1 (A10);

#### *Noise and Vibration (Chapter E25)*

- Construction noise levels exceeding the permitted standards of 75dB Leq (by a maximum of 7dB) are anticipated. Construction noise that exceeds the permitted activity standards in E25.6.27 requires consent as a **restricted discretionary activity** pursuant to E25.4.1 (A2);

### Decision

I have read the application, supporting documents, and the report and recommendations on the application. I am satisfied that I have sufficient information to consider the matters required by the Resource Management Act 1991 (RMA) and make a decision under delegated authority on the application.

Acting under delegated authority, under sections 104, 104B, and 108 the application is **GRANTED**.

## 1. Reasons

The reasons for this decision are:

- In accordance with an assessment under s104(1)(a) of the RMA the actual and potential effects from the proposal will be acceptable as:
  - In the context of the landscape and visual values of the Maunga, any landscape and visual effects of the proposal are considered to be acceptable, with adverse effects being short term in nature, in keeping with the natural landscape, and mitigated by the proposed restoration replanting to ensure that they are less than minor;
  - Ecological effects arising from the proposal can be appropriately managed as part of the works programme to ensure that any adverse effects are less than minor;
  - Any adverse effects on public access and recreation will be short term in nature and can be considered to be less than minor;
  - The proposed works have been designed to be sympathetic to the heritage values of the Maunga, and can be managed to ensure that any adverse effects are less than minor;
  - The tree removals methodologies are considered consistent with best arboricultural practice, and any adverse effects are therefore considered to be less than minor;
  - Any effects associated with land disturbance and stability can be appropriately managed to ensure they are less than minor;
  - Construction effects, and in particular noise arising from the helicopter can be managed effectively through conditions of consent so that any adverse effects are less than minor; and
  - The proposed removal of exotic trees from the Maunga will have positive effects including the landscape and visual qualities of the Maunga, and in terms of the cultural and spiritual values of the Maunga in delivering on the mandate bestowed on the Tūpuna Maunga o Tāmaki Makaurau Authority as part of their role governing taonga tuku, such as Ōwairaka. In addition, replanting will have a positive ecological effects on the Maunga.

Overall, and having considered the adverse effects in combination with the positive effects of the proposal, the proposed tree removals and restoration planting are considered to be generally positive and are acceptable from a resource management perspective.

- In accordance with an assessment under s104(1)(b) of the RMA the proposal is considered to provide for an acceptable outcome under the relevant statutory documents as:
  - The proposal is considered to be consistent with the anticipated outcomes of the New Zealand Coastal Policy Statement. In particular due to the careful design of the proposed, works, and mitigation provided by the restoration planting the proposal will not impact on the coastal environment;

- In terms of the relevant sections of the Auckland Unitary Plan (Operative Part), the proposal is considered to be consistent with the outcomes anticipated by the Outstanding Natural Features, and Heritage Overlays. In particular, the application manages the restoration of the sensitive environment whilst ensuring that any adverse effects on the receiving environment of the Maunga and surrounding residential and business environments are minimised through ensuring that the works are designed and managed to mitigate adverse effects on heritage, ecological, and landscape and visual values. It is considered that the proposed works can be managed to ensure that effects on the sensitive environment of the Maunga and surrounding environment are minimised, whilst public access and recreational use of the reserve can be managed appropriately
- The proposal is consistent with Part 2 of the Resource Management Act 1991. In particular it is considered that the restoration of the Maunga will enable the social, economic, and cultural wellbeing of people and communities, whilst appropriately managing adverse effects on the sensitive site and surrounding environment, whilst adverse effects of the proposal are not considered to have an unreasonable impact on the sensitive receiving environment. The proposed restoration works also reflect the role of mana whenua through the applicant as kaitiakitanga and their stewardship of this iconic feature of the natural and cultural landscape, as well as being consistent with the principals of the Treaty of Waitangi. Overall, the application is considered to have a positive effect on the amenity and landscape values of the site and surrounding environment.

Overall, the proposal is considered to be consistent with the relevant matters for consideration under the NZCPS and the Auckland Unitary Plan (OP). Any actual or potential adverse effects are assessed to be able to be managed such that they are considered acceptable in the context of the sensitive site and surrounding receiving environment. Furthermore, the application is considered to meet the relevant tests of the RMA, and can be considered to notable positive effects in terms of the restoration of the Maunga. For these reasons, the proposal is considered to be acceptable from a resource management perspective.

## 2. Conditions

Under section 108 of the RMA, these consents are subject to the following conditions:

### General Conditions

1. The removal of exotic vegetation and restoration planting activities shall be carried out in accordance with the plans and all information submitted with the application, detailed below, and all referenced by the Council as consent number LUC60328646:
  - a. Application Form, and Assessment of Effects on the Environment and Statutory Assessment prepared by Antony Yates of Antony Yates Planning Limited, titled "*Tūpuna Maunga Authority, Ōwairaka/ Te Ahi-kā-a-Rakataura / Mt Albert Vegetation restoration and exotic vegetation removal works*", dated October 2018 and the following appendices:
 

Appendix 1	Arboricultural Assessment and Removals Plan
Appendix 2	Archaeological Assessment
Appendix 3	Landscape and Visual Assessment

Appendix 4	Ecological Assessment and Remediation Planting Plan
Appendix 5	Acoustic Assessment
Appendix 6	Herpetology Assessment
Appendix 7	Communications Plan
Appendix 8	Relevant Statutory Provisions
Appendix 9	Development Control Checklist
Appendix 10	Mana Whenua Engagement
Appendix 11	Certificate of Title

2. Under section 125 of the RMA, this consent lapses five years after the date it is granted unless:
  - a. The consent is given effect to; or
  - b. The Council extends the period after which the consent lapses.
3. The consent holder shall pay the Council an initial consent compliance monitoring charge of \$1,500.00 (inclusive of GST), plus any further monitoring charge or charges to recover the actual and reasonable costs that have been incurred to ensure compliance with the conditions attached to this consent.

**Advice note:**

*The initial monitoring charge is to cover the cost of inspecting the site, carrying out tests, reviewing conditions, updating files, etc., all being work to ensure compliance with the resource consent. In order to recover actual and reasonable costs, inspections, in excess of those covered by the base fee paid, shall be charged at the relevant hourly rate applicable at the time. The consent holder will be advised of the further monitoring charge or charges as they fall due. Such further charges are to be paid within one month of the date of invoice. Only after all conditions of the resource consent have been met, will Council issue a letter confirming compliance on request of the consent holder.*

**Pre-commencement Conditions**

**Pre-Construction Meeting with Compliance and Monitoring Staff**

4. Prior to the commencement of **each stage** of the tree removals, the consent holder shall hold a pre-construction meeting that
  - a. is located on the subject site,
  - b. is scheduled not less than 5 days before the anticipated commencement of tree removals,
  - c. includes Senior Compliance Advisor (Central) and relevant other specialists (eg Ecologist/ Archaeologist) at the Council's discretion
  - d. includes the Project Manager and supervising Archaeologist
  - e. includes representation from the contractors who will undertake the works.

The following information shall be made available at the pre-construction meeting:

- a. Timeframes for key stages of the works authorised under this consent
- b. Finalised Communications Plan, including: Details regarding implementation of Communications Plan (e.g. Sign locations, copies of letters to residents)

- c. Finalised Restoration Plan
- d. Finalised Construction Management Plan
- e. Finalised Tree Protection Methodologies;
- f. Finalised Lizard Management Plan (and surveys)
- g. Details of briefing for contractors, including: heritage protocols, location of processing sites, and ecological protocols

**Advice Note:**

*To arrange the pre-construction meeting please contact the Council's Monitoring Team Leader Central on 373 6292 or email [monitoring@aucklandcouncil.govt.nz](mailto:monitoring@aucklandcouncil.govt.nz).*

*It is noted that these documents may be updated as required for subsequent stages.*

**Finalised Management Plans to be provided**

5. A minimum of 5 working days prior to the commencement of construction activity and the vegetation removal approved by this resource consent, the consent holder shall submit to the Council (Monitoring Team Leader Central) for approval in writing, final versions of the following management plans:
  - a. Finalised Communications Plan;
  - b. Restoration Plan (Planting Plan);
  - c. Lizard Survey Results and Finalised Lizard Management Plan;
  - d. Predator Management Plan (Lizards);
  - e. Works Management Plan, including:
    - Health and Safety Plan;
    - Confirmation from an acoustic specialist that the consented construction noise limits will be met; and
    - Traffic Management Plan; and
    - Incorporation of ecological protection measures;

**Development in Progress Conditions**

**Implementation of Management Plans**

6. No construction activity or vegetation removal approved by this resource consent shall commence until written confirmation is provided by the council that **all** of the submitted final management plans are acceptable and that all measures identified in these plans, as needing to be put in place prior to commencement of works, have been undertaken.
7. The consent holder shall ensure that all the actions within the Communications Plan approved as part of the conditions of this consent are undertaken as proposed and submit a written record to the Council (Monitoring Team Leader Central) confirming compliance within 5 days of each stage of work identified within the construction management and restoration plans having commenced. The consent holder shall undertake any additional communications as required by the council following their review of the submitted record(s).
8. The consent holder shall ensure that all the actions within the restoration plan approved under the conditions of this consent are undertaken as proposed and submit a written record to the

Council (Monitoring Team Leader Central) confirming compliance within 15 days of the completion of each stage of work identified within the restoration plan, on an ongoing basis.

### **Works Hours**

9. Tree works (including removals, trimming, and processing) shall only be undertaken between the hours of 7:30 am and 6:00 pm, Monday to Friday. No works shall occur on any weekend or public holiday.

### **Use of Helicopters**

10. The use of helicopters for works purposes is only permitted between the hours of 9am to 5pm from Monday to Friday.
11. The noise from the use of helicopters shall comply with a noise limit of 85dB  $L_{Aeq}$  when measured 1m from the façade of any occupied building in accordance with NZS6803:1999 Acoustics – Construction Noise.
12. The owners and occupants of all neighbouring buildings within a minimum of 200m of the extent of helicopter use within site shall be advised of the works in writing at least ten (10) days prior to the commencement of works on site. The written advice shall set out a brief overview of the construction works its expected duration, the mitigation measures to be implemented, availability of monitoring where concerns about noise are raised, the working hours, and a contact phone number for any concerns regarding noise.
13. Where the use of helicopters is required for a period of more than 3 days in any work area which would result in noise levels exceeding 75dB  $L_{Aeq}$  at any receiver, the use of helicopters shall be limited to 3 consecutive days per week, and may only be continued on the same 3 consecutive days in the subsequent weeks until the work in that area is complete.
14. The use of a helicopter for the removal of tree 649 (eucalyptus in the south-eastern part of the site) may only be undertaken when the properties at 25 to 37 (odd numbers) Mount Royal Avenue are unoccupied, or by agreement with the occupiers of these properties.

### **Ecology**

15. All vegetation shall be removed outside of bird breeding season (bird breeding season is September to January inclusive). If vegetation clearance is undertaken within the bird breeding season, woody vegetation must be confirmed clear of nesting native birds by a suitably qualified ecologist. This should ensure no nesting birds, eggs, or chicks are harmed.
16. A survey to confirm the presence of native lizards, particularly rare 'At Risk' species of skinks, shall be carried out by a suitably qualified and experienced herpetologist. The lizard survey must:
  - a. Target potential lizard habitat identified during the herpetological assessment, including the quarry and rock bomb areas in the craters;
  - b. Be carried out at a time of year and during weather conditions that will maximise the chance of locating native lizards, including rare and 'At Risk' species potentially present at the site;
  - c. Utilise no-dig, non-pitfall methodologies suitable for deployment in high value archaeological areas with public access; and

- d. Be conducted after the implementation of specific targeted predator control in any areas of high value skink habitat to be surveyed.
17. A finalised Adaptive Lizard Management Plan for the site shall be prepared by a suitably qualified herpetologist after surveys have been conducted on site and provided to Auckland Council for approval prior to vegetation clearance commencing. This shall include, but not be limited to, the following:
- Tree felling and associated works methodologies and restrictions based on the Ecogecko Herpetology report and best practice scouting and rescue conditions;
- a. Project ecologist and permit details;
  - b. Specific targeted predator control in any areas of high value skink habitat;
  - c. Habitat enhancement including any specific weed management in identified high value skink habitat areas; and
  - d. Survey outcomes and management methods.
18. The finalised planting plan shall be prepared by a suitably qualified ecologist and provided to Auckland Council for approval within two months of completion of the lizard survey, for all restoration areas within the site. The final planting plan shall include, but not be limited to, the following:
- a. Final locations of planting following the completion of the lizard survey;
  - b. Plant species, spacing, planting zones (if required), plant numbers and specification on plant size as described in this assessment report;
  - c. Inclusion of threatened species;
  - d. Planting methodology, including any staging;
  - e. Plant maintenance and weed management until canopy closure (minimum of five years); and
  - f. Monitoring and reporting.
19. A predator management plan targeting potential habitat of native lizard and bird species shall be provided to and approved by Auckland Council. The predator management plan shall incorporate pest animal control work already being undertaken on the site.

#### **Ecology – Myrtle Rust**

20. Prior to any Myrtaceae species being delivered to the site, a signed Myrtle Rust Nursery Management Declaration that certifies that the plant producer has implemented the New Zealand Plant Producers Incorporated Myrtle Rust Nursery Management Protocol must be obtained by the consent holder and provided to the Council (Monitoring Team Leader Central).

#### **Advice Note**

*The New Zealand Plant Producers Incorporated has developed a framework of supply chain biosecurity protocols that will satisfy the above condition. A copy of the Myrtle Rust Nursery Management Declaration and the New Zealand Plant Producers Incorporated Myrtle Rust*

*Nursery Management Protocol can be found at the website (<http://nzppi.co.nz/>). The website explains that a declaration signed by the plant provider will be proof that any Myrtaceae species have been grown and treated according to best practice protocols to reduce the spread of Myrtle rust.*

#### **Historic Heritage**

21. For the WF7 planting, only species that are defined as suitable for planting on archaeological sites, as per the Department of Conservation (Jones 2007) publication or any updated list that is subsequently released by the Department of Conservation, shall be planted within 5m of archaeological features or unmodified parts of the mountain.
22. The project archaeologist shall be on site for the set out of the WF7 plantings to define the limits of the adjacent archaeological evidence to facilitate condition 21 above. The consent holder shall advise the council (at least 2 days in advance) of this work occurring.
23. Should ground disturbance on the site result in the identification of any previously unknown archaeological site, the land disturbance – Regional Accidental Discovery (ADP) rule [E12.6.1] set out in the Auckland Unitary Plan Operative in part (November 2016) shall be applied.

#### **Advice Note**

*Noting that the Tūpuna Maunga Authority are contacted as part of the ADP and that the responsibility of informing mana whenua as outlined in the protocol, rests with the Tūpuna Maunga Authority.*

24. In the event that any unrecorded historic heritage sites are exposed as a result of consented work on the site, then these sites shall be recorded by the consent holder for inclusion within the Auckland Council Cultural Heritage Inventory. The consent holders project historic heritage expert shall prepare documentation suitable for inclusion in the Cultural Heritage Inventory and forward the information to the Council (Monitoring Team Leader Central) (who will consult with the Manager: Heritage Unit, [heritageconsents@aucklandcouncil.govt.nz](mailto:heritageconsents@aucklandcouncil.govt.nz)) within one calendar month of the completion of work on the site.

#### **Tree removal methodology**

25. All tree felling works and use of non-tarsealed access tracks or routes across the Reserve should only occur when the earth is dry to reduce the risk of pugging of the ground surface from repeated vehicle movements over soft ground.
26. All tree removal shall be undertaken in accordance with the Finalised Tree Protection Methodologies as outlined and approved in the final Environmental Management Plan.

### **Conservation Planting works**

27. All planting shall be undertaken in accordance with the approved Restoration Plan and in particular:
  - a. That the archaeologist marks out on the ground the area boundaries that the mound plantings are to be confined to prior to any mound plantings occurring.
  - b. The archaeologist marks out on the ground the area boundaries that the WF7 plantings are to be confined to prior to any WF7 plantings occurring.

### **Post Development Conditions**

#### **Historic Heritage**

28. Within one calendar month of the completion of work on the site the consent holder's supervising archaeologist shall prepare documentation suitable for inclusion in the Cultural Heritage Inventory and forward the information to the Council (Monitoring Team Leader Central) (who will consult with the Manager: Heritage Unit, heritageconsents@aucklandcouncil.govt.nz).
29. In the event that any unrecorded historic heritage sites are exposed as a result of consented work on the site, then these sites shall be recorded by the consent holder for inclusion within the Auckland Council Cultural Heritage Inventory. The consent holders project historic heritage expert shall prepare documentation suitable for inclusion in the Cultural Heritage Inventory and forward the information to the Team Leader (for the Manager: Heritage Unit, heritageconsents@aucklandcouncil.govt.nz) within one calendar month of the completion of work on the site.

#### **Maintenance of Restoration Planting**

30. Once the final implementation stage of work is completed, the consent holder shall maintain the site as per the requirements of the approved Restoration plan to the satisfaction of Council, including the removal of any weed species.

### **3. Advice notes**

1. *For the purpose of compliance with the conditions of consent, "the council" refers to the council's monitoring inspector unless otherwise specified. Please contact the Team Leader Compliance Monitoring (Central) on 09 3010101 or [monitoring@aucklandcouncil.govt.nz](mailto:monitoring@aucklandcouncil.govt.nz) to identify your allocated officer.*
2. *For more information on the resource consent process with Auckland Council see the council's website [www.aucklandcouncil.govt.nz](http://www.aucklandcouncil.govt.nz). General information on resource consents, including making an application to vary or cancel consent conditions can be found on the Ministry for the Environment's website: [www.mfe.govt.nz](http://www.mfe.govt.nz).*
3. *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.*
4. *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 at Work Act 2015), 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.

5. The Heritage New Zealand Pouhere Taonga Act 2014 (hereafter referred to as the Act) provides for the identification, protection, preservation and conservation of the historic and cultural heritage of New Zealand. All archaeological sites are protected by the provisions of the Act (section 42). It is unlawful to modify, damage or destroy an archaeological site without prior authority from Heritage New Zealand Pouhere Taonga. An Authority is required whether or not the land on which an archaeological site may be present is designated, a resource or building consent has been granted, or the activity is permitted under the Auckland Unitary Plan Operative in part (November 2016).

According to the Act (section 6) archaeological site means, subject to section 42(3) –

- a) any place in New Zealand, including any building or structure (or part of a building or structure), that –
  - i. was associated with human activity that occurred before 1900 or is the site of the wreck of any vessel where the wreck occurred before 1900; and
  - ii. provides or may provide, through investigation by archaeological methods, evidence relating to the history of New Zealand; and
- b) includes a site for which a declaration is made under section 43(1)

It is the responsibility of the consent holder to consult with Heritage New Zealand Pouhere Taonga about the requirements of the Act and to obtain the necessary Authorities under the Act should these become necessary, as a result of any activity associated with the consented proposals.

For information please contact the Heritage New Zealand Pouhere Taonga Regional Archaeologist – 09 307 9923 or 307 9924 / [archaeologistMN@historic.org.nz](mailto:archaeologistMN@historic.org.nz).

Māori artefacts such as carvings, stone adzes, and greenstone objects are considered to be tāonga (treasures). These are taonga tūturu within the meaning of the Protected Objects Act 1975 (hereafter referred to as the Act).

According to the Act (section 2) taonga tūturu means an object that –

- a) relates to Māori culture, history, or society; and
- b) was, or appears to have been –
  - i. manufactured or modified in New Zealand by Māori; or
  - ii. brought into New Zealand by Māori; or
  - iii. used by Māori; and
- c) is more than 50 years old

The Act is administered by the Ministry of Culture and Heritage. Tāonga may be discovered in isolated contexts, but are generally found within archaeological sites. The provisions of the Heritage New Zealand Pouhere Taonga Act 2014 in relation to the modification of an archaeological site should to be considered by the consent holder if tāonga are found within an archaeological site, as defined by the Heritage New Zealand Pouhere Taonga Act 2014.

It is the responsibility of the consent holder to notify either the chief executive of the Ministry

*of Culture and Heritage or the nearest public museum (for Auckland this is the Auckland War Memorial Museum), which shall notify the chief executive, of the finding of the taonga tūturu, within 28 days of finding the taonga tūturu; alternatively provided that in the case of any taonga tūturu found during the course of any archaeological investigation authorised by Heritage New Zealand Pouhere Taonga under section 48 of the Heritage New Zealand Pouhere Taonga Act 2014, the notification shall be made within 28 days of the completion of the field work undertaken in connection with the investigation.*

*Under section 11 of the Act, newly found taonga tūturu are in the first instance Crown owned until a determination on ownership is made by the Māori Land Court.*

*For information please contact the Ministry of Culture and Heritage – 04 499 4229 / [protected-objects@mch.govt.nz](mailto:protected-objects@mch.govt.nz).*

**"BD-2"**

**Brooke Dales**

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**From:** Brooke Dales  
**Sent:** 21 November, 2018 4:48 PM  
**To:** peter@kplc.co.nz; Antony Yates  
**Subject:** RE: Summary of Friday's meeting in relation to LVA Owairaka queries

Hi Antony,

Peter and I confirm that this is an accurate reflection of our discussion.

Cheers, Brooke

Brooke Dales, Director/Planning Consultant (BPlan)



a Unit 67 Victoria Park Market, 210-218 Victoria Street West, CBD  
p PO Box 91247, Victoria Street West, Auckland 1142  
m +64 27 432 4283 t +64 9 631 0400  
e [brooke@dcs.gen.nz](mailto:brooke@dcs.gen.nz) w [www.dcs.gen.nz](http://www.dcs.gen.nz)

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**From:** peter@kplc.co.nz [mailto:peter@kplc.co.nz]  
**Sent:** Tuesday, 20 November 2018 4:44 PM  
**To:** Brooke Dales <[brooke@dcs.gen.nz](mailto:brooke@dcs.gen.nz)>  
**Subject:** RE: Summary of Friday's meeting in relation to LVA Owairaka queries

Hi Brooke

This looks to be an accurate reflection of our discussion from my perspective.

Let me know if you have a differing opinion.

Thanks, Peter

**From:** Antony Yates <[antony@aypl.co.nz](mailto:antony@aypl.co.nz)>  
**Sent:** Tuesday, 20 November 2018 3:59 PM  
**To:** Brooke Dales <[brooke@dcs.gen.nz](mailto:brooke@dcs.gen.nz)>  
**Cc:** [peter@kplc.co.nz](mailto:peter@kplc.co.nz); Jodie Mitchell <[jodie@richmondplanning.co.nz](mailto:jodie@richmondplanning.co.nz)>; Anna McElrea <[Anna.McElrea@aucklandcouncil.govt.nz](mailto:Anna.McElrea@aucklandcouncil.govt.nz)>  
**Subject:** Summary of Friday's meeting in relation to LVA Owairaka queries

Hi Brooke

Please see my summary of our meeting as it relates to Peter's LVA queries for Owairaka. Can you please have a quick look at my notes and confirm if this matches your understanding?

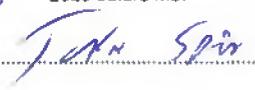
Kind regards

Antony

ANTONY YATES PLANNING LIMITED

**EXHIBIT NOTE**

This is the annexure marked "BD-2" referred to within the affidavit of Brooke James Macdonald Dales affirmed at Auckland this 27 day of Nov 2020 before me:

Signature..... 

A Solicitor of the High Court of New Zealand

Julian John Kennedy Spring  
Solicitor  
Auckland

Mobile: 021 574 036

Tel: (09) 372 4036

Email: [antony@aypl.co.nz](mailto:antony@aypl.co.nz)

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## **Section 92 queries – Owairaka – Post Meetings**

### **1. Confirmation of tree locations – closer scaled drawings illustrating the location of trees proposed for removal and retention**

The Treescape document within the application Assessment of Environmental Effects (Appendix 5) includes a comprehensive Itemised Tree Inventory (Appendix C) with GPS latitude/longitude references for each of the trees that are proposed for both removal and retention. The Treescape document also includes a drawing (Figure 3) which illustrates the location of these trees within specified "work areas". I do not see a clear correlation between the inventory and the drawing, with not all of the 345 trees proposed for removal<sup>1</sup> (plus existing trees on site for retention) shown on the drawing.

In order to assist with a complete understanding of the location of each of the 345 trees that are proposed to be removed and to avoid any confusion (should resource consent be granted) at compliance monitoring time, I request that the applicant provide drawings (at a suitable scale) which clearly indicate the specific location of the trees that are to be removed, within the context of those trees that are to be retained. I suggest that this could logically be illustrated for each of the work areas at a minimum scale of say 1:500 or 1:750 if these extents fit comfortably on an A3-sized page.

- 1) Antony Yates to respond indicating that Figure 3 is a summary only and the schedules need to be relied on for an accurate description and locations.

### **2. Clarification over black dot indicated within "Sport Field Mound" work area**

The Treescape drawing (Figure 3) indicates, with a black dot, a "Native – High Risk / Obstructs Viewshaft" annotation. From my site visit, I take this to be a mature pohutukawa. I request that the applicant confirm whether or not this tree is proposed for removal or retention. If it is to be retained, I also request clarification as to why the application drawing has been annotated, which implies possible future removal.

No native trees are to be removed – its identification was an incorrect assumption on behalf of the Treescape in relation to unsafe natives.

### **3. AUP(OP) Volcanic Viewshafts (Schedule 9 and Appendix 20)**

As the application material acknowledges, eight statutory Volcanic Viewshafts are shown on the AUP(OP) planning maps and listed in Schedule 9 in relation to Ōwairaka. Appendix 20 of the AUP(OP) then provides the detail around the attributes which contribute to each view's importance. I request that the applicant review these provisions and provide an assessment as to the proposal's consistency (or otherwise) with the attributes that have been recorded in the AUP(OP) in relation to the relevant statutory Volcanic Viewshafts.

Antony to review viewshafts / address – in line with previous conclusions submitted at the section 92 stage by Rebecca Skidmore. May need a supporting comment from Sally P.

### **4. Viewpoint location plan and annotated photographs**

The application 'Landscape and Visual Assessment' document by Peake Design (Appendix 3) helpfully includes photographs from six representative public viewpoints

(Figures 5-10). To help better understand the potential landscape and visual effects of the proposal however, I request that the applicant provide:

- i. a viewpoint location plan; and
- ii. presentation of the photos at a larger size and with the photos annotated to show the location and extent of the tree removal.

In addition, it may be helpful (but not essential) for the applicant to provide similar information in relation to the AUP(OP) Volcanic Viewshaft photographs (i.e. a viewpoint location plan and annotated images to illustrate the extent of the proposal).

Sally to update assessment providing viewpoints from Mt Eden (north), Mt Roskill (south) and Big King (East). Sally to provide representative change.

#### **5. Assessment of landscape and visual effects on the ONF**

As the application notes, the site is classified as an Outstanding Natural Feature (ONF) under the AUP(OP) – ONF 108. While the application 'Landscape and Visual Assessment' document discusses the proposal in relation to the AUP(OP) objectives and policies relevant to ONFs, there is no assessment of landscape and visual effects which specifically examines this potential effect. I request that the applicant provide further information which assesses the proposal's landscape and visual effects on the identified ONF, including in relation to any specific AUP(OP) attributes, values or criteria that may be identified.

Sally / Antony to provide

#### **6 Stump removal**

As I understand it, the proposal will leave 345 tree stumps on site, rather than undertake any stump grinding which may have adverse archaeological effects. I question whether this decision will result in any adverse landscape and visual effects, particularly in some areas of the site where large numbers of trees are to be removed.

Antony to address.

#### **Final Comments**

In addition, I would be interested in understanding how the applicant proposes to manage these tree stumps to avoid the trees 're-sprouting' from the stump and potentially jeopardising the proposal's long-term aims. I therefore request that the applicant respond to these concerns and provide further information that assesses the potential landscape and visual effects of leaving the tree stumps in-situ.

Antony to address / confirm with Treescape

The key difference between this application and the aforementioned resource consent and application, is that this application at Ōwairaka impacts a relatively extensive quantity of mature trees and the magnitude of visual change that will occur to this landscape will be significant.

This change will be experienced by a vast majority of people, including those living in properties immediate adjoining the maunga, those that recreate on the maunga and those that view the maunga from both close and more distant viewpoints. In that regard, from what I can ascertain through my early review, I am not entirely in

agreement with the applicant's landscape architect that the adverse landscape and visual effects will be minor.

Updated LVA assessment and visuals will address.

I would also like to better understand how the public open space amenity areas will be impacted by the tree removal and whether any specific replacement specimen tree planting, other than that proposed as restoration planting in the application (which, as I understand it, is only proposed within a limited area around the localised landform basin which defines the 'archery field'), is required – for example, to provide shade and amenity for visitors to the maunga.

Antony to address

Finally, I note that there are other exotic trees which exist on land which is adjacent to but may be outside of that which is administered by the Tūpuna Maunga Authority – in particular on the property at 27 La Veta Avenue (which is zoned Open Space – Informal Recreation). These trees are notably visible elements in views towards the maunga and they contribute similarly to the landscape as those trees, which are proposed to be removed as part of this application. Has the applicant considered including these additional trees within the application if possible?

Antony to address

## “BD-3”

### Brooke Dales

---

**From:** Antony Yates <antony@aypl.co.nz>  
**Sent:** Monday, 11 February 2019 10:40 AM  
**To:** Brooke Dales  
**Subject:** FW: Mt Albert - conditions for comment - Applicant endorsement

Hi Brooke

The applicant has confirmed that they endorse the Owairaka /Mt Albert conditions of consent.

Kind regards

Antony

**ANTONY YATES PLANNING LIMITED**

Mobile: 021 574 036

Tel: (09) 372 4036

Email: [antony@aypl.co.nz](mailto:antony@aypl.co.nz)

#### EXHIBIT NOTE

This is the annexure marked "BD-3" referred to within the affidavit of Brooke James Macdonald Dales affirmed at Auckland this 27 day of Feb 2020 before me:

Signature 

A Solicitor of the High Court of New Zealand

**Julian John Kennedy Spring  
Solicitor  
Auckland**

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**From:** Anna McElrea <[Anna.McElrea@aucklandcouncil.govt.nz](mailto:Anna.McElrea@aucklandcouncil.govt.nz)>  
**Date:** Monday, 11 February 2019 at 10:30 AM  
**To:** Antony Yates <[antony@aypl.co.nz](mailto:antony@aypl.co.nz)>, Nicholas Turoa <[nicholas.turoa@aucklandcouncil.govt.nz](mailto:nicholas.turoa@aucklandcouncil.govt.nz)>  
**Subject:** RE: Mt Albert - conditions for comment

Morena Antony  
Yes – we are happy for these to be accepted.

Thanks,  
Anna



Anna McElrea  
Kaihautū Hōtaka  
Programme Advisor  
[anna.mcelrea@aucklandcouncil.govt.nz](mailto:anna.mcelrea@aucklandcouncil.govt.nz) | 021 726 617  
[www.maunga.nz](http://www.maunga.nz)

(Please note: I work Mondays, Tuesdays and Thursdays)

**From:** Antony Yates <[antony@aypl.co.nz](mailto:antony@aypl.co.nz)>  
**Sent:** Friday, 8 February 2019 11:42 AM  
**To:** Anna McElrea <[Anna.McElrea@aucklandcouncil.govt.nz](mailto:Anna.McElrea@aucklandcouncil.govt.nz)>; Nicholas Turoa <[nicholas.turoa@aucklandcouncil.govt.nz](mailto:nicholas.turoa@aucklandcouncil.govt.nz)>  
**Subject:** Re: Mt Albert - conditions for comment

Hi Anna and Nick

I have reviewed these conditions and they seem pretty standard to me and emulate the what we have suggested.

Can I accept these on behalf of the Applicant?

Kind regards

Antony

**ANTONY YATES PLANNING LIMITED**

Mobile: 021 574 036

Tel: (09) 372 4036

Email: [antony@aypl.co.nz](mailto:antony@aypl.co.nz)

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**From:** Anna McElrea <[Anna.McElrea@aucklandcouncil.govt.nz](mailto:Anna.McElrea@aucklandcouncil.govt.nz)>  
**Date:** Monday, 4 February 2019 at 2:39 PM  
**To:** Antony Yates <[antony@aypl.co.nz](mailto:antony@aypl.co.nz)>, Nicholas Turoa <[nicholas.turoa@aucklandcouncil.govt.nz](mailto:nicholas.turoa@aucklandcouncil.govt.nz)>  
**Subject:** RE: Mt Albert - conditions for comment

Thanks Antony. Looks good. We'll review it and let you know any amendments in the next day or 2.



Anna McElrea  
Kaihautū Hōtaka  
Programme Advisor  
[anna.mcelrea@aucklandcouncil.govt.nz](mailto:anna.mcelrea@aucklandcouncil.govt.nz) | 021 726 617  
[www.maunga.nz](http://www.maunga.nz)

(Please note: I work Mondays, Tuesdays and Thursdays)

**From:** Antony Yates <[antony@aypl.co.nz](mailto:antony@aypl.co.nz)>  
**Sent:** Monday, 4 February 2019 2:08 PM

**To:** Anna McElrea <[Anna.McElrea@aucklandcouncil.govt.nz](mailto:Anna.McElrea@aucklandcouncil.govt.nz)>; Nicholas Turoa <[nicholas.turoa@aucklandcouncil.govt.nz](mailto:nicholas.turoa@aucklandcouncil.govt.nz)>  
**Subject:** FW: Mt Albert - conditions for comment

Hi Anna and Nick

Please have a read through these and let me know any concerns?

I'll have a read through tonight.

Kind regards

Antony

**ANTONY YATES PLANNING LIMITED**

Mobile: 021 574 036

Tel: (09) 372 4036

Email: [antony@aypl.co.nz](mailto:antony@aypl.co.nz)

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**From:** Brooke Dales <[brooke@dcs.gen.nz](mailto:brooke@dcs.gen.nz)>  
**Date:** Monday, 4 February 2019 at 1:18 PM  
**To:** Antony Yates <[antony@aypl.co.nz](mailto:antony@aypl.co.nz)>  
**Subject:** RE: Mt Albert

Conditions for your comment.

Brooke Dales, Director/Planning Consultant (BPlan)



a Unit 67 Victoria Park Market, 210-218 Victoria Street West, CBD  
p PO Box 91247, Victoria Street West, Auckland 1142  
m +6427 432 4283 t +64 9 631 0400  
e [brooke@dcs.gen.nz](mailto:brooke@dcs.gen.nz) w [www.dcs.gen.nz](http://www.dcs.gen.nz)

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**From:** Antony Yates [<mailto:antony@aypl.co.nz>]  
**Sent:** Thursday, 31 January 2019 12:08 PM  
**To:** Brooke Dales <[brooke@dcs.gen.nz](mailto:brooke@dcs.gen.nz)>  
**Subject:** Re: Mt Albert

ThanksBrooke

Great timing as I was just on the phone to the client.

Kind regards

Antony

**ANTONY YATES PLANNING LIMITED**

Mobile: 021 574 036

Tel: (09) 372 4036

Email: [antony@aypl.co.nz](mailto:antony@aypl.co.nz)

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**From:** Brooke Dales <[brooke@dcs.gen.nz](mailto:brooke@dcs.gen.nz)>  
**Date:** Thursday, 31 January 2019 at 11:54 AM  
**To:** Antony Yates <[antony@aypl.co.nz](mailto:antony@aypl.co.nz)>  
**Subject:** Mt Albert

Hi Antony,

Bit of a delay as Peter Kensington has not completed his report yet, I thought he had. I followed him up and he will complete this week. Will try and get conditions to you late Friday, but more likely Monday.

Cheers, Brooke

Brooke Dales, Director/Planning Consultant (BPlan)



a Unit 67 Victoria Park Market, 210-218 Victoria Street West, CBD  
p PO Box 91247, Victoria Street West, Auckland 1142  
m +6427 432 4283 t +64 9 631 0400  
e [brooke@dcs.gen.nz](mailto:brooke@dcs.gen.nz) w [www.dcs.gen.nz](http://www.dcs.gen.nz)

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**“BD-4”**

Chris Ryan

---

Subject: / Mt Albert (Ōwairaka) Exotic Tree Removals

From: Brooke Dales  
Sent: 11 February, 2019 3:07 PM  
To: Jonathan Begg <[jonathan.begg@aucklandcouncil.govt.nz](mailto:jonathan.begg@aucklandcouncil.govt.nz)>  
Subject: / Mt Albert (Ōwairaka) Exotic Tree Removals

Hi Jono,

The following one drive link provides the application material, the s42A report (and attached) , DC forms and the Council reviews for your review and passing onto the IPC.

[https://1drv.ms/f/s!At22asBOa4W\\_hRoBeqYNrsjw3LIH](https://1drv.ms/f/s!At22asBOa4W_hRoBeqYNrsjw3LIH)

Cheers, Brooke

Brooke Dales , Director/Planning Consultant (BPlan)



a Unit 67 Victoria Park Market, 210-218 Victoria Street West, CBD  
p PO Box 91247, Victoria Street West, Auckland 1142  
m +64 27 432 4283 t +64 9 631 0400  
e [brooke@dcs.gen.nz](mailto:brooke@dcs.gen.nz) w [www.dcs.gen.nz](http://www.dcs.gen.nz)

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**EXHIBIT NOTE**

This is the annexure marked “BD-4” referred to within the affidavit of Brooke James Macdonald Dales affirmed at Auckland this *11* day of *Feb* 2020 before me:

Signature: *JJK SAKA*

A Solicitor of the High Court of New Zealand

**Julian John Kennedy Sparrow**  
Solicitor  
Auckland

# Duty Commissioner record sheet



**Resolutions team to complete**

Duty Commissioner: \_\_\_\_\_ Date sent to commissioner: \_\_\_\_\_

**Reporting planner to complete**

Application no.: LUC60328646

Applicant: Tūpuna Maunga o Tāmaki Makaurau Authority and Auckland Council

Site address: 27 Summit Drive, Mt Albert

Proposal: To remove exotic vegetation and undertake restoration planting on Ōwairaka / Te Ahi-kā-a-Rakataura / Mt Albert (Ōwairaka) at 27 Summit Drive, Mt Albert.

**Auckland Council is referring the above application to the above Duty Commissioner to make the following determination/s and/or decision/s under delegated authority: (type X in relevant boxes)**

- |  |   |
|--|---|
| <input type="checkbox"/> Notification (s95A/95B)               | <input type="checkbox"/> Water permit (s104A-D)         |
| <input checked="" type="checkbox"/> Land use consent (s104A-D) | <input type="checkbox"/> Change/cancel condition (s127) |
| <input type="checkbox"/> Subdivision consent (s104A-D & 106)   | <input type="checkbox"/> Extension of time (s125)       |
| <input type="checkbox"/> Discharge permit (s104A-F & 107)      | <input type="checkbox"/> Outline plan of work (s176A)   |
| <input type="checkbox"/> Coastal permit (s104A-D & 107)        | <input type="checkbox"/> Other (specify): _____         |

**This application is being sent to a duty commissioner for the following reason(s): (type X in relevant boxes)**

**Contentious / significant/ complex**

- Non-complying activity
- Density infringement
- Infringement of development standards
- Heritage (built or natural)
- Scale
- Neighbour / third party involvement
- Other (specify) \_\_\_\_\_

**Natural justice / conflict of interest**

- Council as the applicant
- CCO as the applicant
- Council / CCO as landowner / neighbour / affected party
- Applicant's request
- Previously notified DC app / Hearing not required
- Staff conflicts / team leader disagreement
- Other (specify) Maunga Authority/Council Involvement

Working days: uncertain

Does the GIS aerial photo reflect the current state of the site? Yes, generally reflective of the area of works

Reporting officer: Brooke Dales Phone no.: 027 432 4283

Project Manager: Jonathan Begg Phone no. 021 539 365

**Duty Commissioner to complete:**

Comments (if any): \_\_\_\_\_

**Decision: (type X in relevant boxes)**

- As per recommendations
- As per recommendations with alterations
- Against notification recommendation
- Substantive decision referred to hearing

**Time record:**

- Reading documents \_\_\_\_\_ min
- Site visit (yes / no) \_\_\_\_\_ min
- Mileage \_\_\_\_\_ km
- Decision \_\_\_\_\_ min

**TOTAL TIME** \_\_\_\_\_ hr \_\_\_\_\_ min

I am not aware of any actual, potential or perceived interests of relevance to my responsibilities as decision maker.

Duty Commissioner: Name

Signed: \_\_\_\_\_ Date: \_\_\_\_\_

## Decision on notification of an application for resource consent under the Resource Management Act 1991



### Discretionary activity

<b>Application number:</b>	LUC60328646
<b>Applicant's name:</b>	Tūpuna Maunga o Tāmaki Makaurau Authority and Auckland Council
<b>Site address:</b>	27 Summit Drive, Mt Albert
<b>Legal description and Site Area:</b>	SEC 1 SO 454869
<b>Operative plan:</b>	Auckland Unitary Plan: Operative in Part
<b>Zoning:</b>	Open Space – Conservation Zone Open Space – Sport and Active Recreation Zone
<b>Precinct</b>	N/A
<b>Special features, overlays etc:</b>	<p>Natural Resources: Significant Ecological Areas Overlay - SEA_T_6016, Terrestrial</p> <p>Natural Resources: Quality-Sensitive Aquifer Management Areas Overlay [rp] - Auckland Isthmus Volcanic</p> <p>Natural Resources: Quality-Sensitive Aquifer Management Areas Overlay [rp] - Western Springs Volcanic Aquifer</p> <p>Natural Heritage: Outstanding Natural Features Overlay [rcp/dp] - ID 108, Mt Albert (Owairaka)</p> <p>Natural Heritage: Regionally Significant Volcanic Viewshafts And Height Sensitive Areas Overlay [rcp/dp] - Mount Albert, Height Sensitive Areas</p> <p>Natural Heritage: Regionally Significant Volcanic Viewshafts And Height Sensitive Areas Overlay [rcp/dp] - A1, Mount Albert, Viewshafts</p> <p>Natural Heritage: Regionally Significant Volcanic Viewshafts And Height Sensitive Areas Overlay [rcp/dp] - A10, Mount Albert, Viewshafts</p> <p>Natural Heritage: Regionally Significant Volcanic Viewshafts And Height Sensitive Areas Overlay [rcp/dp] - A13, Mount Albert, Viewshafts</p> <p>Natural Heritage: Regionally Significant Volcanic Viewshafts And Height Sensitive Areas Overlay [rcp/dp] - A2, Mount Albert, Viewshafts</p> <p>Natural Heritage: Regionally Significant Volcanic Viewshafts And Height Sensitive Areas Overlay [rcp/dp] - A3, Mount Albert, Viewshafts</p>

Natural Heritage: Regionally Significant Volcanic Viewshafts And Height Sensitive Areas Overlay [rcp/dp] - A7, Mount Albert, Viewshafts

Natural Heritage: Regionally Significant Volcanic Viewshafts And Height Sensitive Areas Overlay [rcp/dp] - A8, Mount Albert, Viewshafts

Natural Heritage: Regionally Significant Volcanic Viewshafts And Height Sensitive Areas Overlay [rcp/dp] - A9, Mount Albert, Viewshafts

Historic Heritage and Special Character: Historic Heritage Overlay Extent of Place [rcp/dp] - 1576, Mount Albert/Owairakai R11\_20 Volcanic cone pa site including terrace/s, ditch/s, pit/s and midden

## Designations

Notice of Requirements, NoR 7: Proposed Northern Runway, Airspace Restriction Designations, notified 15/02/2018

## Proposal

To remove exotic vegetation and undertake restoration planting on Ōwairaka / Te Ahi-kā-a-Rakataura / Mt Albert (Ōwairaka) at 27 Summit Drive, Mt Albert.

## The resource consents are:

Land use consents (s9) – LUC60328646

## Ōwairaka

Auckland Council Unitary Plan (Operative in Part)

### District land use

#### *Historic Heritage Overlay (Chapter D17)*

- Modifications to, or restoration of, buildings, structures, fabric or features of a scheduled historic heritage place, except where provided for as a permitted, controlled or restricted discretionary activity in another rule in this overlay requires consent as a **restricted discretionary activity** pursuant to D17.4.1 (A9).
- Conservation planting requires consent for a **discretionary activity** pursuant to D17.4.2 (A23).
- The removal of trees greater than 3m in height or greater than 300mm in girth requires consent for a **discretionary activity** pursuant to D17.4.2 (A26).

#### *Land Disturbance – District (Chapter E12)*

- The activity of replanting will involve approximately 525m<sup>2</sup> of ground disturbance. Consent for a **restricted discretionary activity** is required for earthworks not otherwise permitted between 500m<sup>2</sup> up to 1000m<sup>2</sup> in the Open Space – Conservation Zone pursuant to Rule E12.4.1 (A4);
- The activity of replanting will involve approximately 52m<sup>3</sup> of ground disturbance. Consent for a **restricted discretionary activity** is required for earthworks not otherwise permitted up to 250m<sup>3</sup> in the Open Space – Conservation Zone pursuant to Rule E12.4.1 (A7);

- The activity of replanting will involve 525m<sup>2</sup> of ground disturbance over the site. Consent for a **restricted discretionary activity** is required for earthworks in the Historic Heritage Overlay over an area of greater than 50m<sup>2</sup> pursuant to Rule E12.4.2 (A30);
- The activity of replanting will involve 52m<sup>3</sup> of ground disturbance over the site. Consent for a **restricted discretionary activity** is required for earthworks in the Historic Heritage Overlay of greater than 5m<sup>3</sup> up to 250m<sup>3</sup> in pursuant to Rule E12.4.2 (A32);
- The activity of replanting will involve 52m<sup>3</sup> of ground disturbance over the site. Consent for a **restricted discretionary activity** is required for earthworks within the V1 Outstanding Natural Feature Overlay of greater than 50m<sup>3</sup> pursuant to Rule E12.4.3 (A41);

*Vegetation Management and Biodiversity (Chapter E15)*

- Within an SEA-T, any vegetation removal not otherwise provided for requires consent as a **discretionary activity** pursuant to E15.4.1 (A43);

*Trees in Open Space Zones (Chapter E16)*

- The proposed tree works do not comply with Standards E16.6.1 and E16.6.2. Consent for **restricted discretionary activities** is required pursuant to E16.4.1 (A6) and (A8).
- The proposed tree removals include trees that are greater than 4 meters in height and 400mm girth. Consent for a **restricted discretionary activity** is required for these removals pursuant to Rule E16.4.1 (A10);

*Noise and Vibration (Chapter E25)*

- Construction noise levels exceeding the permitted standards of 75dB Leq (by a maximum of 7dB) are anticipated. Construction noise that exceeds the permitted activity standards in E25.6.27 requires consent as a **restricted discretionary activity** pursuant to E25.4.1 (A2);

## Decision

I have read the application, supporting documents, and the report and recommendations on the application for resource consent. I am satisfied that I have sufficient information to consider the matters required by the Resource Management Act 1991 (RMA) and make a decision under delegated authority on notification.

### Public notification

Under section 95A of the RMA this application shall proceed without public notification because:

1. Under step 1, public notification is not mandatory as:
  - a. the applicant has not requested it
  - b. there are no outstanding or refused requests for further information, and
  - c. the application does not involve any exchange of recreation reserve land under s15AA of the Reserves Act 1977.
2. Under step 2, public notification is not precluded as:
  - a. there is no rule or NES that specifically precludes public notification of the activities, and

- b. the application is for an activity other than those specified in s95A(5)(b).
3. Under step 3, public notification is not required as:
  - a. the application is for an activity that is not subject to a rule that specifically requires it, and
  - b. the activity will have or is likely to have adverse effects on the environment that are no more than minor because:
    - In the context of the landscape and visual values of the Maunga, any adverse landscape and visual effects of the proposal are considered to be short term in nature and effectively mitigated by the proposed restoration and replanting such that they can be considered to be less than minor;
    - Any adverse ecological effects arising from the proposal can be appropriately managed as part of the works programme to ensure that any adverse effects are less than minor;
    - Any adverse effects on public access and recreation will be short term in nature and can be considered to be less than minor;
    - The proposed works have been designed to be sympathetic to the heritage values of the Maunga, and can be managed to ensure they are less than minor;
    - The tree removals methodologies are considered consistent with best arboricultural practice, and any adverse effects are therefore considered to be less than minor;
    - Any effects associated with land disturbance and stability can be appropriately managed to ensure they are less than minor.
4. Under step 4, there are no special circumstances that warrant the application being publicly notified because there is nothing exceptional or unusual about the application, and the proposal has nothing out of the ordinary run of things to suggest that public notification should occur.

#### Limited notification

Under section 95B of the RMA this application shall proceed without limited notification because:

1. Under step 1, limited notification is not mandatory as:
  - a. there are no protected customary rights groups or customary marine title groups affected by this proposal, and
  - b. no persons to whom a statutory acknowledgement is made is adversely affected by this proposal.
2. Under step 2, limited notification is not precluded as:
  - a. there is no rule or NES that specifically precludes limited notification of the activities, and
  - b. the application is for an activity other than those specified in s95B(6)(b).
3. Under step 3, limited notification is not required as:
  - a. this application is not for a boundary activity or prescribed activity, and

b. there are no adversely affected persons because:

- Noise effects arising from the proposal arise primarily through the use of the helicopter to remove the trees from the Maunga, the use of chainsaws and from processing on the trees. The applicant has engaged Styles Group to model the potential noise effects of the proposed works (see Appendix 1 to the submitted A.E.E. and expanded on within the further information responses). This assessment outlines that with the exception of the helicopter, noise levels generated by all activities will comply with the permitted levels of the AUP:OP. With respect to the noise generated by the helicopter, and noting that alternatives are not practicable to undertake the works, Styles Group predict that the helicopter will infringe the permitted noise levels by 7dB (although consent is sought for an infringement up to 10dB) at the closest residential receivers, and consider that any effects will be “noticeable” but will be limited to 10-12 days across the duration of the project.

To manage the effects arising from the helicopter it is proposed to limit the hours of the helicopter to between 9am and 5pm Monday to Friday, and to limit the consecutive days that the helicopter will be used to no more than three consecutive days per week (in the event that works take longer than the three days the work is required). In addition, given the proximity of the dwellings at 27-37 Mount Royal Avenue (odd numbers only) to the removal of tree 649, it is recommended that the helicopter works associated with the removal of that tree, only occur when those properties are unoccupied (i.e. when they are at work/school), or following agreement with the owner/occupier as part of the communications around the works (see Communication Plan attached as Appendix 7 to the submitted A.E.E). On this basis, the applicant concludes that any adverse effects on people, and in particular residents within a close proximity of the Maunga will be less than minor.

The acoustic assessments provided with the application have been peer reviewed on behalf of Council by Consultant Acoustics Specialist, Mr Peter Runcie. Mr Runcie has advised that the approach and limits identified by Styles Group are appropriate, and generally in accordance with the guidance of NZS6803:1999 Acoustics – Construction. Mr Runcie also confirms that in his experience that the noise model prepared by Styles Groups is reasonable, and that it is appropriate to mitigate these effects through limiting the hours and duration of the Helicopter use, and through advising properties in the vicinity of the works prior to the works commencing. Mr Runcie has also advised that the difference between the modelled 7dB infringement, and the 10dB max sought as part of the consent are likely to be imperceptible to the nearby receivers.

Conditions relating to the use of the helicopter and noise levels have been proposed by the applicant, and Mr Runcie’s review recommends their inclusion. I am satisfied therefore satisfied that the conditions recommended by the applicant can be effectively implemented and monitored by the council.

With the above considerations in mind, I am satisfied that adverse noise effects on people arising from the proposal are short term in nature and can be managed so that they are less than minor.

- Although public access to the Maunga will be temporarily disrupted, this disruption will be short term in nature, and necessary for health and safety reasons, and the applicant has proposed a communications plan to ensure that users of the reserve are aware of any restrictions. Overall, it is considered that any adverse effects on people accessing the Maunga will be less than minor;
  - As outlined with respect to the tests of public notification, any landscape and visual effects of the tree removals experienced by people with an outlook to or using the Maunga are likely to be short term in nature and it is considered that these effects are mitigated by the proposed restoration planting, and in the context of the volcanic cone landform that will be exposed, any adverse effects are less than minor;
  - Given the scale and nature of the works, any construction traffic associated with the removal of the processed trees, and that associated with the necessary machinery, will be limited in volume, short term in nature, and occur only in the hours of work (7:30am-6pm Monday to Friday with no work on weekends or public holidays), and as such can be considered to be less than minor; and
  - The applicant has engaged with local Iwi groups and the general public as part of the consultation process for the Tūpuna Maunga Integrated Management Plan (IMP). Having reviewed the IMP, this document makes clear the expectations with respect to exotic vegetation and cultural significance of the restoration of the Maunga, and the outcomes of this engagement have been incorporated in the application.
4. Under step 4, there are no special circumstances that warrant the application being limited notified to any persons because there is nothing exceptional or unusual about the application, and the proposal has nothing out of the ordinary run of things to suggest that notification to any other persons should occur.

Accordingly, this application shall proceed on a **NON-NOTIFIED** basis.

Signature here

**Name**

**Duty Commissioner**

Date here

# Decision on an application for resource consent under the Resource Management Act 1991



Discretionary activity

<b>Application number:</b>	LUC60328646
<b>Applicant's name:</b>	Tūpuna Maunga o Tāmaki Makaurau Authority and Auckland Council
<b>Site address:</b>	27 Summit Drive, Mt Albert
<b>Legal description and Site Area:</b>	SEC 1 SO 454869
<b>Operative plan:</b>	Auckland Unitary Plan: Operative in Part
<b>Zoning:</b>	Open Space – Conservation Zone Open Space – Sport and Active Recreation Zone
<b>Precinct</b>	N/A
<b>Special features, overlays etc:</b>	Natural Resources: Significant Ecological Areas Overlay - SEA_T_6016, Terrestrial  Natural Resources: Quality-Sensitive Aquifer Management Areas Overlay [rp] - Auckland Isthmus Volcanic  Natural Resources: Quality-Sensitive Aquifer Management Areas Overlay [rp] - Western Springs Volcanic Aquifer  Natural Heritage: Outstanding Natural Features Overlay [rcp/dp] - ID 108, Mt Albert (Owairaka)  Natural Heritage: Regionally Significant Volcanic Viewshafts And Height Sensitive Areas Overlay [rcp/dp] - Mount Albert, Height Sensitive Areas  Natural Heritage: Regionally Significant Volcanic Viewshafts And Height Sensitive Areas Overlay [rcp/dp] - A1, Mount Albert, Viewshafts  Natural Heritage: Regionally Significant Volcanic Viewshafts And Height Sensitive Areas Overlay [rcp/dp] - A10, Mount Albert, Viewshafts  Natural Heritage: Regionally Significant Volcanic Viewshafts And Height Sensitive Areas Overlay [rcp/dp] - A13, Mount Albert, Viewshafts  Natural Heritage: Regionally Significant Volcanic Viewshafts And Height Sensitive Areas Overlay [rcp/dp] - A2, Mount Albert, Viewshafts  Natural Heritage: Regionally Significant Volcanic Viewshafts And Height Sensitive Areas Overlay [rcp/dp] - A3, Mount Albert, Viewshafts

Natural Heritage: Regionally Significant Volcanic Viewshafts And Height Sensitive Areas Overlay [rcp/dp] - A7, Mount Albert, Viewshafts

Natural Heritage: Regionally Significant Volcanic Viewshafts And Height Sensitive Areas Overlay [rcp/dp] - A8, Mount Albert, Viewshafts

Natural Heritage: Regionally Significant Volcanic Viewshafts And Height Sensitive Areas Overlay [rcp/dp] - A9, Mount Albert, Viewshafts

Historic Heritage and Special Character: Historic Heritage Overlay Extent of Place [rcp/dp] - 1576, Mount Albert/Owairakai R11\_20 Volcanic cone pa site including terrace/s, ditch/s, pit/s and midden

## Designations

Notice of Requirements, NoR 7: Proposed Northern Runway, Airspace Restriction Designations, notified 15/02/2018

## Proposal

To remove exotic vegetation and undertake restoration planting on Ōwairaka / Te Ahi-kā-a-Rakataura / Mt Albert (Ōwairaka) at 27 Summit Drive, Mt Albert.

## The resource consents are:

Land use consents (s9) – LUC60328646

Ōwairaka

Auckland Council Unitary Plan (Operative in Part)

### District land use

#### *Historic Heritage Overlay (Chapter D17)*

- Modifications to, or restoration of, buildings, structures, fabric or features of a scheduled historic heritage place, except where provided for as a permitted, controlled or restricted discretionary activity in another rule in this overlay requires consent as a **restricted discretionary activity** pursuant to D17.4.1 (A9).
- Conservation planting requires consent for a **discretionary activity** pursuant to D17.4.2 (A23).
- The removal of trees greater than 3m in height or greater than 300mm in girth requires consent for a **discretionary activity** pursuant to D17.4.2 (A26).

#### *Land Disturbance – District (Chapter E12)*

- The activity of replanting will involve approximately 525m<sup>2</sup> of ground disturbance. Consent for a **restricted discretionary activity** is required for earthworks not otherwise permitted between 500m<sup>2</sup> up to 1000m<sup>2</sup> in the Open Space – Conservation Zone pursuant to Rule E12.4.1 (A4);
- The activity of replanting will involve approximately 52m<sup>3</sup> of ground disturbance. Consent for a **restricted discretionary activity** is required for earthworks not otherwise permitted up to 250m<sup>3</sup> in the Open Space – Conservation Zone pursuant to Rule E12.4.1 (A7);
- The activity of replanting will involve 525m<sup>2</sup> of ground disturbance over the site. Consent for a **restricted discretionary activity** is required for earthworks in the Historic Heritage Overlay over an area of greater than 50m<sup>2</sup> pursuant to Rule E12.4.2 (A30);
- The activity of replanting will involve 52m<sup>3</sup> of ground disturbance over the site. Consent for a **restricted discretionary activity** is required for earthworks in the Historic Heritage Overlay of greater than 5m<sup>3</sup> up to 250m<sup>3</sup> in pursuant to Rule E12.4.2 (A32);
- The activity of replanting will involve 52m<sup>3</sup> of ground disturbance over the site. Consent for a **restricted discretionary activity** is required for earthworks within the V1 Outstanding Natural Feature Overlay of greater than 50m<sup>3</sup> pursuant to Rule E12.4.3 (A41);

#### *Vegetation Management and Biodiversity (Chapter E15)*

- Within an SEA-T, any vegetation removal not otherwise provided for requires consent as a **discretionary activity** pursuant to E15.4.1 (A43);

#### *Trees in Open Space Zones (Chapter E16)*

- The proposed tree works do not comply with Standards E16.6.1 and E16.6.2. Consent for **restricted discretionary activities** is required pursuant to E16.4.1 (A6) and (A8).
- The proposed tree removals include trees that are greater than 4 meters in height and 400mm girth. Consent for a **restricted discretionary activity** is required for these removals pursuant to Rule E16.4.1 (A10);

#### *Noise and Vibration (Chapter E25)*

- Construction noise levels exceeding the permitted standards of 75dB Leq (by a maximum of 7dB) are anticipated. Construction noise that exceeds the permitted activity standards in E25.6.27 requires consent as a **restricted discretionary activity** pursuant to E25.4.1 (A2);

## Decision

I have read the application, supporting documents, and the report and recommendations on the application for resource consent(s). I am satisfied that I have sufficient information to consider the matters required by the Resource Management Act 1991 (RMA) and make a decision under delegated authority on the application.

Acting under delegated authority, under sections 104, 104B, and Part 2 of the RMA, the application is **GRANTED**.

## Reasons

The reasons for this decision are:

- In accordance with an assessment under s104(1)(a) of the RMA the actual and potential effects from the proposal will be acceptable as:
  - In the context of the landscape and visual values of the Maunga, any landscape and visual effects of the proposal are considered to be acceptable, with adverse effects being short term in nature, in keeping with the natural landscape, and mitigated by the proposed restoration replanting to ensure that they are less than minor;
  - Ecological effects arising from the proposal can be appropriately managed as part of the works programme to ensure that any adverse effects are less than minor;
  - Any adverse effects on public access and recreation will be short term in nature and can be considered to be less than minor;
  - The proposed works have been designed to be sympathetic to the heritage values of the Maunga, and can be managed to ensure that any adverse effects are less than minor;
  - The tree removals methodologies are considered consistent with best arboricultural practice, and any adverse effects are therefore considered to be less than minor;
  - Any effects associated with land disturbance and stability can be appropriately managed to ensure they are less than minor;
  - Construction effects, and in particular noise arising from the helicopter can be managed effectively through conditions of consent so that any adverse effects are less than minor; and
  - The proposed removal of exotic trees from the Maunga will have positive effects including the landscape and visual qualities of the Maunga, and in terms of the cultural and spiritual values of the Maunga in delivering on the mandate bestowed on the Tūpuna Maunga o Tāmaki Makaurau Authority as part of their role governing taonga tuku, such as Ōwairaka. In addition, replanting will have a positive ecological effects on the Maunga.

Overall, and having considered the adverse effects in combination with the positive effects of the proposal, the proposed tree removals and restoration planting are considered to be generally positive and are acceptable from a resource management perspective.

- In accordance with an assessment under s104(1)(b) of the RMA the proposal is considered to provide for an acceptable outcome under the relevant statutory documents as:
  - The proposal is considered to be consistent with the anticipated outcomes of the New Zealand Coastal Policy Statement. In particular due to the careful design of the proposed, works, and mitigation provided by the restoration planting the proposal will not impact on the coastal environment;

- In terms of the relevant sections of the Auckland Unitary Plan (Operative Part), the proposal is considered to be consistent with the outcomes anticipated by the Outstanding Natural Features, and Heritage Overlays. In particular, the application manages the restoration of the sensitive environment whilst ensuring that any adverse effects on the receiving environment of the Maunga and surrounding residential and business environments are minimised through ensuring that the works are designed and managed to mitigate adverse effects on heritage, ecological, and landscape and visual values. It is considered that the proposed works can be managed to ensure that effects on the sensitive environment of the Maunga and surrounding environment are minimised, whilst public access and recreational use of the reserve can be managed appropriately
- The proposal is consistent with Part 2 of the Resource Management Act 1991. In particular it is considered that the restoration of the Maunga will enable the social, economic, and cultural wellbeing of people and communities, whilst appropriately managing adverse effects on the sensitive site and surrounding environment, whilst adverse effects of the proposal are not considered to have an unreasonable impact on the sensitive receiving environment. The proposed restoration works also reflect the role of mana whenua through the applicant as kaitiakitanga and their stewardship of this iconic feature of the natural and cultural landscape, as well as being consistent with the principals of the Treaty of Waitangi. Overall, the application is considered to have a positive effect on the amenity and landscape values of the site and surrounding environment.

Overall, the proposal is considered to be consistent with the relevant matters for consideration under the NZCPS and the Auckland Unitary Plan (OP). Any actual or potential adverse effects are assessed to be able to be managed such that they are considered acceptable in the context of the sensitive site and surrounding receiving environment. Furthermore, the application is considered to meet the relevant tests of the RMA, and can be considered to notable positive effects in terms of the restoration of the Maunga. For these reasons, the proposal is considered to be acceptable from a resource management perspective.

## Conditions

Under section 108 of the RMA, these consents are subject to the following conditions:

### General Conditions

1. The removal of exotic vegetation and restoration planting activities shall be carried out in accordance with the plans and all information submitted with the application, detailed below, and all referenced by the Council as consent number LUC60328646:
  - a. Application Form, and Assessment of Effects on the Environment and Statutory Assessment prepared by Antony Yates of Antony Yates Planning Limited, titled "*Tūpuna Maunga Authority, Ōwairaka/ Te Ahi-kā-a-Rakataura / Mt Albert Vegetation restoration and exotic vegetation removal works*", dated October 2018 and the following appendices:
 

Appendix 1	Arboricultural Assessment and Removals Plan
Appendix 2	Archaeological Assessment
Appendix 3	Landscape and Visual Assessment

Appendix 4	Ecological Assessment and Remediation Planting Plan
Appendix 5	Acoustic Assessment
Appendix 6	Herpetology Assessment
Appendix 7	Communications Plan
Appendix 8	Relevant Statutory Provisions
Appendix 9	Development Control Checklist
Appendix 10	Mana Whenua Engagement
Appendix 11	Certificate of Title

2. Under section 125 of the RMA, this consent lapses five years after the date it is granted unless:
  - a. The consent is given effect to; or
  - b. The Council extends the period after which the consent lapses.
3. The consent holder shall pay the Council an initial consent compliance monitoring charge of \$1,500.00 (inclusive of GST), plus any further monitoring charge or charges to recover the actual and reasonable costs that have been incurred to ensure compliance with the conditions attached to this consent.

**Advice note:**

*The initial monitoring charge is to cover the cost of inspecting the site, carrying out tests, reviewing conditions, updating files, etc., all being work to ensure compliance with the resource consent. In order to recover actual and reasonable costs, inspections, in excess of those covered by the base fee paid, shall be charged at the relevant hourly rate applicable at the time. The consent holder will be advised of the further monitoring charge or charges as they fall due. Such further charges are to be paid within one month of the date of invoice. Only after all conditions of the resource consent have been met, will Council issue a letter confirming compliance on request of the consent holder.*

## **Pre-commencement Conditions**

### **Pre-Construction Meeting with Compliance and Monitoring Staff**

4. Prior to the commencement of **each stage** of the tree removals, the consent holder shall hold a pre-construction meeting that
  - a. is located on the subject site,
  - b. is scheduled not less than 5 days before the anticipated commencement of tree removals,
  - c. includes Senior Compliance Advisor (Central) and relevant other specialists (eg Ecologist/ Archaeologist) at the Council's discretion
  - d. includes the Project Manager and supervising Archaeologist
  - e. includes representation from the contractors who will undertake the works.

The following information shall be made available at the pre-construction meeting:

- a. Timeframes for key stages of the works authorised under this consent
- b. Finalised Communications Plan, including: Details regarding implementation of Communications Plan (e.g. Sign locations, copies of letters to residents)

- c. Finalised Restoration Plan
- d. Finalised Construction Management Plan
- e. Finalised Tree Protection Methodologies;
- f. Finalised Lizard Management Plan (and surveys)
- g. Details of briefing for contractors, including: heritage protocols, location of processing sites, and ecological protocols

**Advice Note:**

*To arrange the pre-construction meeting please contact the Council's Monitoring Team Leader Central on 373 6292 or email [monitoring@aucklandcouncil.govt.nz](mailto:monitoring@aucklandcouncil.govt.nz).*

*It is noted that these documents may be updated as required for subsequent stages.*

**Finalised Management Plans to be provided**

- 5. A minimum of 5 working days prior to the commencement of construction activity and the vegetation removal approved by this resource consent, the consent holder shall submit to the Council (Monitoring Team Leader Central) for approval in writing, final versions of the following management plans:
  - a. Finalised Communications Plan;
  - b. Restoration Plan (Planting Plan);
  - c. Lizard Survey Results and Finalised Lizard Management Plan;
  - d. Predator Management Plan (Lizards);
  - e. Works Management Plan, including:
    - Health and Safety Plan;
    - Confirmation from an acoustic specialist that the consented construction noise limits will be met; and
    - Traffic Management Plan; and
    - Incorporation of ecological protection measures;

**Development in Progress Conditions**

**Implementation of Management Plans**

- 6. No construction activity or vegetation removal approved by this resource consent shall commence until written confirmation is provided by the council that **all** of the submitted final management plans are acceptable and that **all** measures identified in these plans, as needing to be put in place prior to commencement of works, have been undertaken.
- 7. The consent holder shall ensure that all the actions within the Communications Plan approved as part of the conditions of this consent are undertaken as proposed and submit a written record to the Council (Monitoring Team Leader Central) confirming compliance within 5 days of each stage of work identified within the construction management and restoration plans having commenced. The consent holder shall undertake any additional communications as required by the council following their review of the submitted record(s).
- 8. The consent holder shall ensure that **all** the actions within the restoration plan approved under the conditions of this consent are undertaken as proposed and submit a written record to the

Council (Monitoring Team Leader Central) confirming compliance within 15 days of the completion of each stage of work identified within the restoration plan, on an ongoing basis.

### **Works Hours**

9. Tree works (including removals, trimming, and processing) shall only be undertaken between the hours of 7:30 am and 6:00 pm, Monday to Friday. No works shall occur on any weekend or public holiday.

### **Use of Helicopters**

10. The use of helicopters for works purposes is only permitted between the hours of 9am to 5pm from Monday to Friday.
11. The noise from the use of helicopters shall comply with a noise limit of 85dB  $L_{Aeq}$  when measured 1m from the façade of any occupied building in accordance with NZS6803:1999 Acoustics – Construction Noise.
12. The owners and occupants of all neighbouring buildings within a minimum of 200m of the extent of helicopter use within site shall be advised of the works in writing at least ten (10) days prior to the commencement of works on site. The written advice shall set out a brief overview of the construction works its expected duration, the mitigation measures to be implemented, availability of monitoring where concerns about noise are raised, the working hours, and a contact phone number for any concerns regarding noise.
13. Where the use of helicopters is required for a period of more than 3 days in any work area which would result in noise levels exceeding 75dB  $L_{Aeq}$  at any receiver, the use of helicopters shall be limited to 3 consecutive days per week, and may only be continued on the same 3 consecutive days in the subsequent weeks until the work in that area is complete.
14. The use of a helicopter for the removal of tree 649 (eucalyptus in the south-eastern part of the site) may only be undertaken when the properties at 25 to 37 (odd numbers) Mount Royal Avenue are unoccupied, or by agreement with the occupiers of these properties.

### **Ecology**

15. All vegetation shall be removed outside of bird breeding season (bird breeding season is September to January inclusive). If vegetation clearance is undertaken within the bird breeding season, woody vegetation must be confirmed clear of nesting native birds by a suitably qualified ecologist. This should ensure no nesting birds, eggs, or chicks are harmed.
16. A survey to confirm the presence of native lizards, particularly rare 'At Risk' species of skinks, shall be carried out by a suitably qualified and experienced herpetologist. The lizard survey must:
  - a. Target potential lizard habitat identified during the herpetological assessment, including the quarry and rock bomb areas in the craters;
  - b. Be carried out at a time of year and during weather conditions that will maximise the chance of locating native lizards, including rare and 'At Risk' species potentially present at the site;
  - c. Utilise no-dig, non-pitfall methodologies suitable for deployment in high value archaeological areas with public access; and

- d. Be conducted after the implementation of specific targeted predator control in any areas of high value skink habitat to be surveyed.
17. A finalised Adaptive Lizard Management Plan for the site shall be prepared by a suitably qualified herpetologist after surveys have been conducted on site and provided to Auckland Council for approval prior to vegetation clearance commencing. This shall include, but not be limited to, the following:
- Tree felling and associated works methodologies and restrictions based on the Ecogecko Herpetology report and best practice scouting and rescue conditions;
- a. Project ecologist and permit details;
  - b. Specific targeted predator control in any areas of high value skink habitat;
  - c. Habitat enhancement including any specific weed management in identified high value skink habitat areas; and
  - d. Survey outcomes and management methods.
18. The finalised planting plan shall be prepared by a suitably qualified ecologist and provided to Auckland Council for approval within two months of completion of the lizard survey, for all restoration areas within the site. The final planting plan shall include, but not be limited to, the following:
- a. Final locations of planting following the completion of the lizard survey;
  - b. Plant species, spacing, planting zones (if required), plant numbers and specification on plant size as described in this assessment report;
  - c. Inclusion of threatened species;
  - d. Planting methodology, including any staging;
  - e. Plant maintenance and weed management until canopy closure (minimum of five years); and
  - f. Monitoring and reporting.
19. A predator management plan targeting potential habitat of native lizard and bird species shall be provided to and approved by Auckland Council. The predator management plan shall incorporate pest animal control work already being undertaken on the site.

### **Ecology – Myrtle Rust**

20. Prior to any Myrtaceae species being delivered to the site, a signed Myrtle Rust Nursery Management Declaration that certifies that the plant producer has implemented the New Zealand Plant Producers Incorporated Myrtle Rust Nursery Management Protocol must be obtained by the consent holder and provided to the Council (Monitoring Team Leader Central).

### **Advice Note**

*The New Zealand Plant Producers Incorporated has developed a framework of supply chain biosecurity protocols that will satisfy the above condition. A copy of the Myrtle Rust Nursery Management Declaration and the New Zealand Plant Producers Incorporated Myrtle Rust*

*Nursery Management Protocol can be found at the website (<http://nzppi.co.nz/>). The website explains that a declaration signed by the plant provider will be proof that any Myrtaceae species have been grown and treated according to best practice protocols to reduce the spread of Myrtle rust.*

### **Historic Heritage**

21. For the WF7 planting, only species that are defined as suitable for planting on archaeological sites, as per the Department of Conservation (Jones 2007) publication or any updated list that is subsequently released by the Department of Conservation, shall be planted within 5m of archaeological features or unmodified parts of the mountain.
22. The project archaeologist shall be on site for the set out of the WF7 plantings to define the limits of the adjacent archaeological evidence to facilitate condition 21 above. The consent holder shall advise the council (at least 2 days in advance) of this work occurring.
23. Should ground disturbance on the site result in the identification of any previously unknown archaeological site, the land disturbance – Regional Accidental Discovery (ADP) rule [E12.6.1] set out in the Auckland Unitary Plan Operative in part (November 2016) shall be applied.

### **Advice Note**

*Noting that the Tūpuna Maunga Authority are contacted as part of the ADP and that the responsibility of informing mana whenua as outlined in the protocol, rests with the Tūpuna Maunga Authority.*

24. In the event that any unrecorded historic heritage sites are exposed as a result of consented work on the site, then these sites shall be recorded by the consent holder for inclusion within the Auckland Council Cultural Heritage Inventory. The consent holders project historic heritage expert shall prepare documentation suitable for inclusion in the Cultural Heritage Inventory and forward the information to the Council (Monitoring Team Leader Central) (who will consult with the Manager: Heritage Unit, [heritageconsents@aucklandcouncil.govt.nz](mailto:heritageconsents@aucklandcouncil.govt.nz)) within one calendar month of the completion of work on the site.

### **Tree removal methodology**

25. All tree felling works and use of non-tarsealed access tracks or routes across the Reserve should only occur when the earth is dry to reduce the risk of pugging of the ground surface from repeated vehicle movements over soft ground.
26. All tree removal shall be undertaken in accordance with the Finalised Tree Protection Methodologies as outlined and approved in the final Environmental Management Plan.

### **Conservation Planting works**

27. All planting shall be undertaken in accordance with the approved Restoration Plan and in particular:
  - a. That the archaeologist marks out on the ground the area boundaries that the mound plantings are to be confined to prior to any mound plantings occurring.
  - b. The archaeologist marks out on the ground the area boundaries that the WF7 plantings are to be confined to prior to any WF7 plantings occurring.

## Post Development Conditions

### Historic Heritage

28. Within one calendar month of the completion of work on the site the consent holder's supervising archaeologist shall prepare documentation suitable for inclusion in the Cultural Heritage Inventory and forward the information to the Council (Monitoring Team Leader Central) (who will consult with the Manager: Heritage Unit, [heritageconsents@aucklandcouncil.govt.nz](mailto:heritageconsents@aucklandcouncil.govt.nz)).
29. In the event that any unrecorded historic heritage sites are exposed as a result of consented work on the site, then these sites shall be recorded by the consent holder for inclusion within the Auckland Council Cultural Heritage Inventory. The consent holders project historic heritage expert shall prepare documentation suitable for inclusion in the Cultural Heritage Inventory and forward the information to the Team Leader (for the Manager: Heritage Unit, [heritageconsents@aucklandcouncil.govt.nz](mailto:heritageconsents@aucklandcouncil.govt.nz)) within one calendar month of the completion of work on the site.

### Maintenance of Restoration Planting

30. Once the final implementation stage of work is completed, the consent holder shall maintain the site as per the requirements of the approved Restoration plan to the satisfaction of Council, including the removal of any weed species.

## Advice notes

1. *For the purpose of compliance with the conditions of consent, "the council" refers to the council's monitoring inspector unless otherwise specified. Please contact the Team Leader Compliance Monitoring (Central) on 09 3010101 or [monitoring@aucklandcouncil.govt.nz](mailto:monitoring@aucklandcouncil.govt.nz) to identify your allocated officer.*
2. *For more information on the resource consent process with Auckland Council see the council's website [www.aucklandcouncil.govt.nz](http://www.aucklandcouncil.govt.nz). General information on resource consents, including making an application to vary or cancel consent conditions can be found on the Ministry for the Environment's website: [www.mfe.govt.nz](http://www.mfe.govt.nz).*
3. *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.*
4. *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 at Work Act 2015), 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.*
5. *The Heritage New Zealand Pouhere Taonga Act 2014 (hereafter referred to as the Act) provides for the identification, protection, preservation and conservation of the historic and cultural heritage of New Zealand. All archaeological sites are protected by the provisions of the Act (section 42). It is unlawful to modify, damage or destroy an archaeological site without prior authority from Heritage New Zealand Pouhere Taonga. An Authority is required whether*

or not the land on which an archaeological site may be present is designated, a resource or building consent has been granted, or the activity is permitted under the Auckland Unitary Plan Operative in part (November 2016).

According to the Act (section 6) archaeological site means, subject to section 42(3) –

any place in New Zealand, including any building or structure (or part of a building or structure), that –

was associated with human activity that occurred before 1900 or is the site of the wreck of any vessel where the wreck occurred before 1900; and

ii. provides or may provide, through investigation by archaeological methods, evidence relating to the history of New Zealand; and

includes a site for which a declaration is made under section 43(1)

It is the responsibility of the consent holder to consult with Heritage New Zealand Pouhere Taonga about the requirements of the Act and to obtain the necessary Authorities under the Act should these become necessary, as a result of any activity associated with the consented proposals.

For information please contact the Heritage New Zealand Pouhere Taonga Regional Archaeologist – 09 307 9923 or 307 9924 / [archaeologistMN@historic.org.nz](mailto:archaeologistMN@historic.org.nz).

Māori artefacts such as carvings, stone adzes, and greenstone objects are considered to be tāonga (treasures). These are taonga tūturu within the meaning of the Protected Objects Act 1975 (hereafter referred to as the Act).

According to the Act (section 2) taonga tūturu means an object that –

a) relates to Māori culture, history, or society; and

b) was, or appears to have been –

manufactured or modified in New Zealand by Māori; or

ii. brought into New Zealand by Māori; or

iii. used by Māori; and

c) is more than 50 years old

The Act is administered by the Ministry of Culture and Heritage. Tāonga may be discovered in isolated contexts, but are generally found within archaeological sites. The provisions of the Heritage New Zealand Pouhere Taonga Act 2014 in relation to the modification of an archaeological site should to be considered by the consent holder if tāonga are found within an archaeological site, as defined by the Heritage New Zealand Pouhere Taonga Act 2014.

It is the responsibility of the consent holder to notify either the chief executive of the Ministry of Culture and Heritage or the nearest public museum (for Auckland this is the Auckland War Memorial Museum), which shall notify the chief executive, of the finding of the taonga tūturu, within 28 days of finding the taonga tūturu; alternatively provided that in the case of any taonga tūturu found during the course of any archaeological investigation authorised by Heritage New Zealand Pouhere Taonga under section 48 of the Heritage New Zealand Pouhere Taonga Act 2014, the notification shall be made within 28 days of the completion of the field work undertaken in connection with the investigation.

Under section 11 of the Act, newly found taonga tūturu are in the first instance Crown owned until a determination on ownership is made by the Māori Land Court.

*For information please contact the Ministry of Culture and Heritage – 04 499 4229 / [protected-objects@mch.govt.nz](mailto:protected-objects@mch.govt.nz).*

Signature here

**Name**

**Duty Commissioner**

Date here

# “BD-5”

RLAA17 DC decision v1.1

Decision on notification of an application for resource consent under the Resource Management Act 1991



## Discretionary activity

Application number : LUC60328646

Applicant's name: Tūpuna Maunga o Tāmaki Makaurau Authority and Auckland Council

Site address: 27 Summit Drive, Mt Albert

Legal description and Site Area: SEC 1 SO 454869

Operative plan: Auckland Unitary Plan: Operative in Part

Zoning: Open Space – Conservation Zone  
Open Space – Sport and Active Recreation Zone

Precinct N/A

Special features, overlays etc:

- Natural Resources: Significant Ecological Areas Overlay - SEA\_T\_6016, Terrestrial
- Natural Resources: Quality-Sensitive Aquifer Management Areas Overlay [rp] - Auckland Isthmus Volcanic
- Natural Resources: Quality-Sensitive Aquifer Management Areas Overlay [rp] - Western Springs Volcanic Aquifer
- Natural Heritage: Outstanding Natural Features Overlay [rcp/dp] - ID 108, Mt Albert (Owairaka)
- Natural Heritage: Regionally Significant Volcanic Viewshafts And Height Sensitive Areas Overlay [rcp/dp] - Mount Albert, Height Sensitive Areas
- Natural Heritage: Regionally Significant Volcanic Viewshafts And Height Sensitive Areas Overlay [rcp/dp] - A1, Mount Albert, Viewshafts
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- Natural Heritage: Regionally Significant Volcanic Viewshafts And Height Sensitive Areas Overlay [rcp/dp] - A3, Mount Albert, Viewshafts

## EXHIBIT NOTE

This is the annexure marked "BD-5" referred to within the affidavit of Brooke James Macdonald Dales affirmed at Auckland this 07 day of Nov 2020 before me:

Signature.....

A Solicitor of the High Court of New Zealand

**Julian John Kennedy Spring**  
Solicitor  
Auckland

Natural Heritage: Regionally Significant Volcanic Viewshafts And Height Sensitive Areas Overlay [rcp/dp] - A7, Mount Albert, Viewshafts

Natural Heritage: Regionally Significant Volcanic Viewshafts And Height Sensitive Areas Overlay [rcp/dp] - A8, Mount Albert, Viewshafts

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Historic Heritage and Special Character: Historic Heritage Overlay Extent of Place [rcp/dp] - 1576, Mount Albert/Owairakai R11\_20 Volcanic cone pa site including terrace/s, ditch/s, pit/s and midden

#### Designations

Notice of Requirements, NoR 7: Proposed Northern Runway, Airspace Restriction Designations, notified 15/02/2018

#### Proposal

To remove exotic vegetation and undertake restoration planting on Ōwairaka / Te Ahi-kā-a-Rakataura / Mt Albert (Ōwairaka) at 27 Summit Drive, Mt Albert.

#### The resource consents are:

Land use consents (s9) – LUC60328646

#### Ōwairaka

#### Auckland Council Unitary Plan (Operative in Part)

##### District land use

###### *Historic Heritage Overlay (Chapter D17)*

- Modifications to, or restoration of, buildings, structures, fabric or features of a scheduled historic heritage place, except where provided for as a permitted, controlled or restricted discretionary activity in another rule in this overlay requires consent as a **restricted discretionary activity** pursuant to D17.4.1 (A9).
- Conservation planting requires consent for a **discretionary activity** pursuant to D17.4.2 (A23).
- The removal of trees greater than 3m in height or greater than 300mm in girth requires consent for a **discretionary activity** pursuant to D17.4.2 (A25).

###### *Land Disturbance – District (Chapter E12)*

- The activity of replanting will involve approximately 525m<sup>2</sup> of ground disturbance. Consent for a **restricted discretionary activity** is required for earthworks not otherwise permitted between 500m<sup>2</sup> up to 1000m<sup>2</sup> in the Open Space – Conservation Zone pursuant to Rule E12.4.1 (A4);
- The activity of replanting will involve approximately 52m<sup>3</sup> of ground disturbance. Consent for a **restricted discretionary activity** is required for earthworks not otherwise permitted up to 250m<sup>3</sup> in the Open Space – Conservation Zone pursuant to Rule E12.4.1 (A7);

- The activity of replanting will involve 525m<sup>3</sup> of ground disturbance over the site. Consent for a **restricted discretionary activity** is required for earthworks in the Historic Heritage Overlay over an area of greater than 50m<sup>2</sup> pursuant to Rule E12.4.2 (A30);
- The activity of replanting will involve 52m<sup>3</sup> of ground disturbance over the site. Consent for a **restricted discretionary activity** is required for earthworks in the Historic Heritage Overlay of greater than 5m<sup>2</sup> up to 250m<sup>3</sup> in pursuant to Rule E12.4.2 (A32);
- The activity of replanting will involve 52m<sup>3</sup> of ground disturbance over the site. Consent for a **restricted discretionary activity** is required for earthworks within the V1 Outstanding Natural Feature Overlay of greater than 50m<sup>3</sup> pursuant to Rule E12.4.3 (A41);

*Vegetation Management and Biodiversity (Chapter E15)*

- Within an SEA-T, any vegetation removal not otherwise provided for requires consent as a **discretionary activity** pursuant to E15.4.1 (A43);

*Trees in Open Space Zones (Chapter E16)*

- The proposed tree works do not comply with Standards E16.6.1 and E16.6.2. Consent for **restricted discretionary activities** is required pursuant to E16.4.1 (A6) and (A8).
- The proposed tree removals include trees that are greater than 4 meters in height and 400mm girth. Consent for a **restricted discretionary activity** is required for these removals pursuant to Rule E16.4.1 (A10);

*Noise and Vibration (Chapter E25)*

- Construction noise levels exceeding the permitted standards of 75dB Leq (by a maximum of 7dB) are anticipated. Construction noise that exceeds the permitted activity standards in E25.6.27 requires consent as a **restricted discretionary activity** pursuant to E25.4.1 (A2);

## Decision

I have read the application, supporting documents, and the report and recommendations on the application for resource consent. I am satisfied that I have sufficient information to consider the matters required by the Resource Management Act 1991 (RMA) and make a decision under delegated authority on notification.

### Public notification

Under section 95A of the RMA this application shall proceed without public notification because:

1. Under step 1, public notification is not mandatory as:
  - a. the applicant has not requested it
  - b. there are no outstanding or refused requests for further information, and
  - c. the application does not involve any exchange of recreation reserve land under s15AA of the Reserves Act 1977.
2. Under step 2, public notification is not precluded as:
  - a. there is no rule or NES that specifically precludes public notification of the activities, and

- b. the application is for an activity other than those specified in s95A(5)(b).
3. Under step 3, public notification is not required as:
- a. the application is for an activity that is not subject to a rule that specifically requires it, and
  - b. the activity will have or is likely to have adverse effects on the environment that are no more than minor because:
    - In the context of the landscape and visual values of the Maunga, any adverse landscape and visual effects of the proposal are considered to be short term in nature and effectively mitigated by the proposed restoration and replanting such that they can be considered to be less than minor;
    - Any adverse ecological effects arising from the proposal can be appropriately managed as part of the works programme to ensure that any adverse effects are less than minor;
    - Any adverse effects on public access and recreation will be short term in nature and can be considered to be less than minor;
    - The proposed works have been designed to be sympathetic to the heritage values of the Maunga, and can be managed to ensure they are less than minor;
    - The tree removals methodologies are considered consistent with best arboricultural practice, and any adverse effects are therefore considered to be less than minor;
    - Any effects associated with land disturbance and stability can be appropriately managed to ensure they are less than minor.
4. Under step 4, there are no special circumstances that warrant the application being publicly notified because there is nothing exceptional or unusual about the application, and the proposal has nothing out of the ordinary run of things to suggest that public notification should occur. [The proposal reflects the directions and purposes set out in the approved Integrated Management Plan \(IMP\) administered by the Tūpuna Maunga o Tāmaki Makaurau Authority.](#)

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#### Limited notification

Under section 95B of the RMA this application shall proceed without limited notification because:

1. Under step 1, limited notification is not mandatory as:
  - a. there are no protected customary rights groups or customary marine title groups affected by this proposal, and
  - b. no persons to whom a statutory acknowledgement is made is adversely affected by this proposal.
2. Under step 2, limited notification is not precluded as:
  - a. there is no rule or NES that specifically precludes limited notification of the activities, and
  - b. the application is for an activity other than those specified in s95B(6)(b).
3. Under step 3, limited notification is not required as:

- a. this application is not for a boundary activity or prescribed activity, and
- b. there are no adversely affected persons because:
  - Noise effects arising from the proposal arise primarily through the use of the helicopter to remove the trees from the Maunga, the use of chainsaws and from processing of<sup>n</sup> the trees. The applicant ~~has~~-engaged Styles Group to model the potential noise effects of the proposed works (see Appendix 1 to the submitted A.E.E ~~which~~ ~~and~~ ~~is~~ expanded on within the further information responses). The~~ir~~ assessment outlines that with the exception of the helicopter, noise levels generated by all activities will comply with the permitted levels of the AUP:OP. With respect to the noise generated by the helicopter, and noting that alternatives are not practicable to undertake the works, Styles Group predict that the helicopter will infringe the permitted noise levels by 7dB (although consent is sought for an infringement up to 10dB) at the closest residential receivers, and consider that any effects will be "noticeable" but will be limited to 10-12 days across the duration of the project.

To manage the effects arising from the helicopter it is proposed to limit the hours of ~~use of~~ the helicopter to between 9am and 5pm Monday to Friday, and to limit the consecutive days that the helicopter will be used to no more than three consecutive days per week (in the event that works take longer than the three days ~~that~~ ~~the~~ ~~helicopter~~ work is required). In addition, given the proximity of the dwellings at 27-37 Mount Royal Avenue (odd numbers only) to the removal of tree 649, it is recommended that the helicopter works associated with the removal of that ~~particular~~ tree, only occur when those properties are unoccupied (i.e. when they are at work/school ~~or otherwise away~~), or following agreement with the owner/occupier as part of the communications ~~around~~ ~~about~~ the works (see ~~the~~ Communication Plan attached as Appendix 7 to the submitted A.E.E). On this basis, the applicant concludes that any adverse effects on people, and in particular residents within ~~a~~ close proximity of the Maunga will be less than minor.

The acoustic assessments provided with the application have been peer reviewed on behalf of Council by Consultant Acoustics Specialist, Mr Peter Runcie. Mr Runcie has advised that the approach and limits identified by Styles Group are appropriate, and generally in accordance with the guidance of NZS6803:1999 Acoustics – Construction. Mr Runcie also confirms that in his experience that the noise model prepared by Styles Groups is reasonable, and that it is appropriate to mitigate these effects through limiting the hours and duration of the Helicopter use, and through advising properties in the vicinity of the works prior to the works commencing. Mr Runcie has also advised that the difference between the modelled 7dB infringement, and the 10dB max sought as part of the consent are likely to be imperceptible to the nearby receivers.

Conditions relating to the use of the helicopter and noise levels have been proposed by the applicant, and Mr Runcie's review recommends their inclusion. I am satisfied therefore ~~satisfied~~ that the conditions recommended by the applicant can be effectively implemented and monitored by the council ~~and will ensure that noise levels are properly managed~~.

~~With Following from the above considerations in mind,~~ I am satisfied that adverse noise effects on people arising from the proposal ~~are will be~~ short term in nature and can be managed so that ~~they any effects~~ are less than minor.

- Although public access to the Maunga will be temporarily disrupted, this disruption will be short term in nature, and ~~is necessary~~ for health and safety reasons. ~~Also,~~ and the applicant has proposed a communications plan to ensure that users of the reserve are aware of any access restrictions. Overall, it is considered that any adverse effects on people accessing the Maunga will be less than minor;
  - ~~As outlined with respect to the tests of public notification,~~ Following from the expert assessments including the Council's peer review, it can be concluded that any landscape and visual effects of the tree removals experienced by people with an outlook to, or using the Maunga, are likely to be short term in nature or limited effect and it is considered that these such effects are adequately mitigated by the proposed restoration planting, and in the positive effects arising in relation to the context of the volcanic cone landform that will be exposed (and noting the project implements part of the approved Integrated Management Plan (IMP) required under Section 58 of the Redress Act) that will be exposed, any adverse effects ~~are will be~~ less than minor;
  - Given the scale and nature of the works, any construction traffic associated with the removal of the processed trees, and that associated with the necessary machinery, will be limited in volume, short term in nature, and occur only in the hours of work (7:30am-6pm Monday to Friday with no work on weekends or public holidays), and as such can be considered to be less than minor; and
  - The applicant has engaged with local iwi groups and the general public as part of the consultation process for the Tūpuna Maunga Integrated Management Plan (IMP). Having reviewed the IMP, this document makes clear ~~the~~ expectations with respect to exotic vegetation and cultural significance of the restoration of the Maunga, and the outcomes of the applicant's is engagement have been incorporated in the application detail.
4. Under step 4, there are no special circumstances that warrant the application being limited notified to any persons because there is nothing exceptional or unusual about the application, and the proposal has nothing out of the ordinary run of things to suggest that notification to any other persons should occur. The proposal reflects the directions and purposes set out in the approved Integrated Management Plan (IMP) administered by the Tūpuna Maunga o Tāmaki Makaurau Authority.

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Accordingly, this application shall proceed on a **NON-NOTIFIED** basis.



Name Barry Kaye

Duty Commissioner

Date ~~here~~ 13 February 2019

Decision on an application for resource consent under the Resource Management Act 1991



Discretionary activity

**Application number:** LUC60328646

**Applicant's name:** Tūpuna Maunga o Tāmaki Makaurau Authority and Auckland Council

**Site address:** 27 Summit Drive, Mt Albert

**Legal description and Site Area:** SEC 1 SO 454869

**Operative plan:** Auckland Unitary Plan: Operative in Part

**Zoning:** Open Space – Conservation Zone  
Open Space – Sport and Active Recreation Zone

**Precinct:** N/A

**Special features, overlays etc:** Natural Resources: Significant Ecological Areas Overlay - SEA\_T\_6016, Terrestrial  
Natural Resources: Quality-Sensitive Aquifer Management Areas Overlay [rp] - Auckland Isthmus Volcanic  
Natural Resources: Quality-Sensitive Aquifer Management Areas Overlay [rp] - Western Springs Volcanic Aquifer  
Natural Heritage: Outstanding Natural Features Overlay [rcp/dp] - ID 108, Mt Albert (Owairaka)  
Natural Heritage: Regionally Significant Volcanic Viewshafts And Height Sensitive Areas Overlay [rcp/dp] - Mount Albert, Height Sensitive Areas  
Natural Heritage: Regionally Significant Volcanic Viewshafts And Height Sensitive Areas Overlay [rcp/dp] - A1, Mount Albert, Viewshafts  
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Historic Heritage and Special Character: Historic Heritage Overlay Extent of Place [rcp/dp] - 1576, Mount Albert/Owairakai R11\_20 Volcanic cone pa site including terrace/s, ditch/s, pit/s and midden

#### Designations

Notice of Requirements, NoR 7: Proposed Northern Runway, Airspace Restriction Designations, notified 15/02/2018

#### Proposal

To remove exotic vegetation and undertake restoration planting on Ōwairaka / Te Ahi-kā-a-Rakataura / Mt Albert (Ōwairaka) at 27 Summit Drive, Mt Albert.

#### The resource consents are:

Land use consents (s9) – LUC60328646

Ōwairaka

Auckland Council Unitary Plan (Operative in Part)

#### District land use

*Historic Heritage Overlay (Chapter D17)*

- Modifications to, or restoration of, buildings, structures, fabric or features of a scheduled historic heritage place, except where provided for as a permitted, controlled or restricted discretionary activity in another rule in this overlay requires consent as a **restricted discretionary activity** pursuant to D17.4.1 (A9).
- Conservation planting requires consent for a **discretionary activity** pursuant to D17.4.2 (A23).
- The removal of trees greater than 3m in height or greater than 300mm in girth requires consent for a **discretionary activity** pursuant to D17.4.2 (A26).

*Land Disturbance – District (Chapter E12)*

- The activity of replanting will involve approximately 525m<sup>2</sup> of ground disturbance. Consent for a **restricted discretionary activity** is required for earthworks not otherwise permitted between 500m<sup>2</sup> up to 1000m<sup>2</sup> in the Open Space – Conservation Zone pursuant to Rule E12.4.1 (A4);
- The activity of replanting will involve approximately 52m<sup>3</sup> of ground disturbance. Consent for a **restricted discretionary activity** is required for earthworks not otherwise permitted up to 250m<sup>3</sup> in the Open Space – Conservation Zone pursuant to Rule E12.4.1 (A7);
- The activity of replanting will involve 525m<sup>2</sup> of ground disturbance over the site. Consent for a **restricted discretionary activity** is required for earthworks in the Historic Heritage Overlay over an area of greater than 50m<sup>2</sup> pursuant to Rule E12.4.2 (A30);
- The activity of replanting will involve 52m<sup>3</sup> of ground disturbance over the site. Consent for a **restricted discretionary activity** is required for earthworks in the Historic Heritage Overlay of greater than 5m<sup>3</sup> up to 250m<sup>3</sup> in pursuant to Rule E12.4.2 (A32);
- The activity of replanting will involve 52m<sup>3</sup> of ground disturbance over the site. Consent for a **restricted discretionary activity** is required for earthworks within the V1 Outstanding Natural Feature Overlay of greater than 50m<sup>3</sup> pursuant to Rule E12.4.3 (A41);

*Vegetation Management and Biodiversity (Chapter E15)*

- Within an SEA-T, any vegetation removal not otherwise provided for requires consent as a **discretionary activity** pursuant to E15.4.1 (A43);

*Trees in Open Space Zones (Chapter E16)*

- The proposed tree works do not comply with Standards E16.6.1 and E16.6.2. Consent for **restricted discretionary activities** is required pursuant to E16.4.1 (A6) and (A8).
- The proposed tree removals include trees that are greater than 4 meters in height and 400mm girth. Consent for a **restricted discretionary activity** is required for these removals pursuant to Rule E16.4.1 (A10);

*Noise and Vibration (Chapter E25)*

- Construction noise levels exceeding the permitted standards of 75dB Leq (by a maximum of 7dB) are anticipated. Construction noise that exceeds the permitted activity standards in E25.6.27 requires consent as a **restricted discretionary activity** pursuant to E25.4.1 (A2);

## Decision

I have read the application, supporting documents, and the report and recommendations on the application for resource consent(s). I am satisfied that I have sufficient information to consider the matters required by the Resource Management Act 1991 (RMA) and make a decision under delegated authority on the application.

Acting under delegated authority, under sections 104, 104B, and Part 2 of the RMA, the application is **GRANTED**.

## Reasons

The reasons for this decision are:

- In accordance with an assessment under s104(1)(a) of the RMA the actual and potential effects from the proposal will be acceptable as:
  - In the context of the landscape and visual values of the Maunga, any landscape and visual effects of the proposal are considered to be acceptable, with adverse effects being short term in nature, in keeping with the natural [landform and landscape](#), and mitigated by the proposed restoration replanting to ensure that ~~they~~[any adverse effects](#) are less than minor;
  - Ecological effects arising from the proposal can be appropriately managed as part of the works programme to ensure that any adverse effects are less than minor;
  - Any adverse effects on public access and recreation will be short term in nature and ~~can be considered to will~~ be less than minor;
  - The proposed works have been designed to be sympathetic to the heritage values of the Maunga, and can be managed to ensure that any adverse effects are less than minor;
  - The tree removals methodologies are ~~considered~~ consistent with best arboricultural practice, and any adverse effects ~~are therefore considered to will~~ be less than minor;
  - Any [adverse](#) effects associated with land disturbance and stability can be appropriately managed to ensure they are less than minor;
  - Construction effects, and in particular noise [effects](#) arising from the helicopter [use](#) can be managed effectively through conditions of consent [limiting hours of operation and by limiting consecutive day activity](#) so that any adverse effects are less than minor; and
  - The proposed removal of exotic trees from the Maunga will have positive effects including [those related to](#) the landscape and visual qualities of the Maunga, and in terms of the cultural and spiritual values of the Maunga in delivering on the mandate bestowed on the Tūpuna Maunga o Tāmaki Makaurau Authority as part of their role governing taonga tuku, such as Ōwairaka. In addition, [proposed](#) replanting will have a positive ecological effects on the Maunga.

Overall, and having considered the adverse effects in combination with the positive effects of the proposal, the proposed tree removals and restoration planting are considered to be generally positive and are acceptable from a resource management perspective.

- In accordance with an assessment under s104(1)(b) of the RMA the proposal is considered to provide for an acceptable outcome ~~under~~[in respect of](#) the relevant statutory documents as:
  - ~~The proposal is considered to be consistent with the anticipated outcomes of the New Zealand Coastal Policy Statement. In particular due to the careful design~~

~~of the proposed works and mitigation provided by the restoration planting the proposal will not impact on the coastal environment.~~

- o In terms of the relevant sections of the Auckland Unitary Plan (Operative Part), the proposal is considered to be consistent with the outcomes anticipated by the Outstanding Natural Features, and Heritage Overlays. In particular, the application manages the restoration of ~~the a~~ sensitive environment whilst ensuring that any adverse effects on the receiving environment of the Maunga and surrounding residential and business environments are minimised through ensuring that the works are designed and managed to mitigate adverse effects on heritage, ecological, recreational and landscape and visual values. It is considered that the proposed works can be managed to ensure that effects on the sensitive environment of the Maunga and surrounding environment are minimised, whilst public access and recreational use of the reserve can be managed appropriately to avoid risk to people.
- The proposal is consistent with Part 2 of the Resource Management Act 1991. In particular it is considered that the restoration of the Maunga will enable the social, economic, and cultural wellbeing of people and communities, whilst appropriately managing adverse effects on the sensitive site and surrounding environment, whilst adverse effects of the proposal are not considered to have an unreasonable impact on the sensitive receiving environment. The proposed restoration works also reflect the role of mana whenua through the applicant as kaitiakitanga and their stewardship of this iconic feature of the natural and cultural landscape, as well as being consistent with the principals of the Treaty of Waitangi. Overall, the application is considered to have a positive effect on the amenity and landscape values of the site and surrounding environment.

Overall, the proposal is considered to be consistent with the relevant matters for consideration under the NZCPS and the Auckland Unitary Plan (OP). Any actual or potential adverse effects are ~~assessed to be able to be managed~~ such that they are considered acceptable in the context of the sensitive site and surrounding receiving environment. Furthermore, the application is considered to meet the relevant tests of the RMA, and can be considered to have notable positive effects in terms of the restoration of the Maunga which is anticipated under the Integrated Management Plan (IMP). For these reasons, the proposal is considered to be acceptable from a resource management perspective and consent.

## Conditions

Under section 108 of the RMA, these consents are subject to the following conditions:

### General Conditions

1. The removal of exotic vegetation and restoration planting activities shall be carried out in accordance with the plans and all information submitted with the application, detailed below, and all referenced by the Council as consent number LUC60328646:
  - a. Application Form, and Assessment of Effects on the Environment and Statutory Assessment prepared by Antony Yates of Antony Yates Planning Limited, titled "Tūpuna Maunga Authority, Ōwairaka / Te Ahi-kā-a-Rakataura / Mt Albert

Commented [bk1]: not sure why NZCPS is considered relevant apart from seeing the site from the water but at a great distance???

Commented [bk2]: I would have thought the standard statement that as the AUPOP is recent that Part 2 doesn't need consideration but even if it did then the following applies etc??

1. Any consideration of an application under s104(1) of the RMA is subject to Part 2. The Court of Appeal in *R v Davidson Family Trust v Marlborough District Council* [2018] NZCA 316 has held that, in considering a resource consent application, the statutory language in section 104 plainly contemplates direct consideration of Part 2 matters. However, the Court considered that where a plan has been competently prepared under the RMA, it may be that in many cases there will be no need for the Council to refer to Part 2. Though if there is doubt that a plan has been "competently prepared" under the RMA, then it will be appropriate and necessary to have regard to Part 2. That is the implication of the words "subject to Part 2" in s104(1) of the RMA.

In the context of this discretionary activity application, where the objectives and policies capture all relevant planning considerations and provide a clear framework for assessing all relevant potential effects, there is no need to go beyond the relevant provisions of the operative planning documents (AUPOP) and look to Part 2 in making this decision.

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Vegetation restoration and exotic vegetation removal works", dated October 2018 and the following appendices:

Appendix 1	Arboricultural Assessment and Removals Plan
Appendix 2	Archaeological Assessment
Appendix 3	Landscape and Visual Assessment
Appendix 4	Ecological Assessment and Remediation Planting Plan
Appendix 5	Acoustic Assessment
Appendix 6	Herpetology Assessment
Appendix 7	Communications Plan
Appendix 8	Relevant Statutory Provisions
Appendix 9	Development Control Checklist
Appendix 10	Mana Whenua Engagement
Appendix 11	Certificate of Title

[I note Peter Kensington's comment below at his para 10- how is this specifically achieved in Conditions as reference to Appendix 1 alone doesn't do that And how does that relate to the Finalised Restoration Plan in Condition 4](#)

of trees to be removed and trees to be retained. I note however, as we agreed with the applicant's representative, should resource consent be granted, the schedule of trees within the Treescape document (Appendix 5 of the AEE), should be the definitive reference document to confirm the specific tree locations.

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2. Under section 125 of the RMA, this consent lapses five years after the date it is granted unless:
  - a. The consent is given effect to; or
  - b. The Council extends the period after which the consent lapses.
3. The consent holder shall pay the Council an initial consent compliance monitoring charge of \$1,500.00 (inclusive of GST), plus any further monitoring charge or charges to recover the actual and reasonable costs that have been incurred to ensure compliance with the conditions attached to this consent.

**Advice note:**

*The initial monitoring charge is to cover the cost of inspecting the site, carrying out tests, reviewing conditions, updating files, etc., all being work to ensure compliance with the resource consent. In order to recover actual and reasonable costs, inspections, in excess of those covered by the base fee paid, shall be charged at the relevant hourly rate applicable at the time. The consent holder will be advised of the further monitoring charge or charges as they fall due. Such further charges are to be paid within one month of the date of invoice. Only after all conditions of the resource consent have been met, will Council issue a letter confirming compliance on request of the consent holder.*

## Pre-commencement Conditions

### Pre-Construction Meeting with Compliance and Monitoring Staff

4. Prior to the commencement of **each stage** of the tree removals, the consent holder shall hold a pre-construction meeting that
- is located on the subject site,
  - is scheduled not less than 5 days before the anticipated commencement of tree removals,
  - includes Senior Compliance Advisor (Central) and relevant other specialists (eg Ecologist/ Archaeologist) at the Council's discretion
  - includes the Project Manager and supervising Archaeologist
  - includes representation from the contractors who will undertake the works.

The following information shall be made available at the pre-construction meeting:

- Timeframes for key stages of the works authorised under this consent
- Finalised Communications Plan, including: Details regarding implementation of Communications Plan (e.g. Sign locations, copies of letters to residents)
- Finalised Restoration Plan ([Planting Plan](#))
- Finalised Construction Management Plan
- Finalised Tree Protection Methodologies;
- Finalised Lizard Management Plan (and surveys)
- Details of briefing for contractors, including: heritage protocols, location of processing sites, and ecological protocols

#### Advice Note:

To arrange the pre-construction meeting please contact the Council's Monitoring Team Leader Central on 373 6292 or email [monitoring@aucklandcouncil.govt.nz](mailto:monitoring@aucklandcouncil.govt.nz).

It is noted that these documents may be updated as required for subsequent stages.

### Finalised Management Plans to be provided

5. A minimum of 5 working days prior to the commencement of construction activity and the vegetation removal approved by this resource consent, the consent holder shall submit to the Council (Monitoring Team Leader Central) for [approval-certification](#) in writing, final versions of the following management plans:
- Finalised Communications Plan;
  - Restoration Plan ([Planting Plan](#));
  - Lizard Survey Results and Finalised Lizard Management Plan;
  - Predator Management Plan (Lizards);
  - Works Management Plan, including:
    - Health and Safety Plan;
    - Confirmation from an acoustic specialist that the consented construction noise limits will be met; and

**Commented [bk4]:** this should also address reinstatement of playing fields

**Commented [bk5]:** this is not a management plan per se so should be in a separate condition??

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**Commented [bk6]:** how can this happen when no works have commenced (and no noise measurements undertaken) and also doesnt account for helicopters not complying

- Traffic Management Plan; and
- Incorporation of ecological protection measures;

## Development in Progress Conditions

### Implementation of Management Plans

- No construction activity or vegetation removal approved by this resource consent shall commence until written confirmation is provided by the council that all of the submitted final management plans are acceptable and that all measures identified in these plans, as needing to be put in place prior to commencement of works, have been undertaken.
- The consent holder shall ensure that all the actions within the Communications Plan approved as part of the conditions of this consent are undertaken as proposed and submit a written record to the Council (Monitoring Team Leader Central) confirming compliance within 5 days of each stage of work identified within the construction management and restoration plans having commenced. The consent holder shall undertake any additional communications as required by the council following their review of the submitted record(s).
- The consent holder shall ensure that all the actions within the restoration plan approved under the conditions of this consent are undertaken as proposed and submit a written record to the Council (Monitoring Team Leader Central) confirming compliance within 15 days of the completion of each stage of work identified within the restoration plan, on an ongoing basis.

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### Works Hours

- Tree works (including removals, trimming, and processing) shall only be undertaken between the hours of 7:30 am and 6:00 pm, Monday to Friday. No works shall occur on any weekend or public holiday.

### Use of Helicopters

- The use of helicopters for works purposes is only permitted between the hours of 9am to 5pm from Monday to Friday.
- The noise from the use of helicopters shall comply with a noise limit of 85dB L<sub>Aeq</sub> when measured 1m from the façade of any occupied building in accordance with NZS6803:1999 Acoustics – Construction Noise.
- The owners and occupants of all neighbouring buildings within a minimum of 200m of the extent of helicopter use within site shall be advised of the works in writing at least ten (10) days prior to the commencement of works on site. The written advice shall set out a brief overview of the construction works its expected duration, the mitigation measures to be implemented, availability of monitoring where concerns about noise are raised, the working hours, and a contact phone number for any concerns regarding noise.
- Where the use of helicopters is required for a period of more than 3 days in any work area which would result in noise levels exceeding 75dB L<sub>Aeq</sub> at any receiver, the use of helicopters shall be limited to 3 consecutive days per week, and may only be continued on the same 3 consecutive days in the subsequent weeks until the work in that area is complete.

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- The use of a helicopter for the removal of tree 649 (eucalyptus in the south-eastern part of the site) may only be undertaken when the properties at 25 to 37 (odd numbers) Mount Royal Avenue are unoccupied, or by agreement with the occupiers of these properties.

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## Ecology

15. All vegetation shall be removed outside of bird breeding season (bird breeding season is September to January inclusive). If vegetation clearance is undertaken within the bird breeding season, woody vegetation must be confirmed clear of nesting native birds by a suitably qualified ecologist. This should ensure no nesting birds, eggs, or chicks are harmed.
16. A survey to confirm the presence of native lizards, particularly rare 'At Risk' species of skinks, shall be carried out by a suitably qualified and experienced herpetologist. The lizard survey must:
- Target potential lizard habitat identified during the herpetological assessment, including the quarry and rock bomb areas in the craters;
  - Be carried out at a time of year and during weather conditions that will maximise the chance of locating native lizards, including rare and 'At Risk' species potentially present at the site;
  - Utilise no-dig, non-pitfall methodologies suitable for deployment in high value archaeological areas with public access; and
  - Be conducted after the implementation of specific targeted predator control in any areas of high value skink habitat to be surveyed.
17. A finalised Adaptive Lizard Management Plan for the site shall be prepared by a suitably qualified herpetologist after surveys have been conducted on site and provided to [the Council \(Monitoring Team Leader Central\)](#) for certification ~~Auckland Council for approval~~ prior to vegetation clearance commencing. This shall include, but not be limited to, the following:
- Tree felling and associated works methodologies and restrictions based on the Ecogecko Herpetology report and best practice scouting and rescue conditions:
- Project ecologist and permit details;
  - Specific targeted predator control in any areas of high value skink habitat;
  - Habitat enhancement including any specific weed management in identified high value skink habitat areas; and
  - Survey outcomes and management methods.
18. The finalised [Restoration Plan \(planting plan\)](#) shall be prepared by a suitably qualified [and experienced](#) ecologist and provided [to Auckland Council for approval](#) within two months of completion of the lizard survey, for all restoration areas within [the site](#). The final planting plan shall include, but not be limited to, the following:
- Final locations of planting following the completion of the lizard survey;
  - Plant species, spacing, planting zones (if required), plant numbers and specification on plant size as described in this assessment report;
  - Inclusion of threatened species;
  - Planting methodology, including any staging;

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- e. Plant maintenance and weed management until canopy closure (minimum of five years); and
  - f. Monitoring and reporting.
19. A predator management plan targeting potential habitat of native lizard and bird species shall be provided to and approved by Auckland Council. The predator management plan shall incorporate pest animal control work already being undertaken on the site.

#### **Ecology – Myrtle Rust**

- ~~20.~~ 20. Prior to any Myrtaceae species being delivered to the site, a signed Myrtle Rust Nursery Management Declaration that certifies that the plant producer has implemented the New Zealand Plant Producers Incorporated Myrtle Rust Nursery Management Protocol must be obtained by the consent holder and provided to the [Council \(Monitoring Team Leader Central\) for certification](#). ~~Council (Monitoring Team Leader Central)~~.

~~20.~~

#### **21. Advice Note**

*The New Zealand Plant Producers Incorporated has developed a framework of supply chain biosecurity protocols that will satisfy the above condition. A copy of the Myrtle Rust Nursery Management Declaration and the New Zealand Plant Producers Incorporated Myrtle Rust Nursery Management Protocol can be found at the website (<http://nzppi.co.nz/>). The website explains that a declaration signed by the plant provider will be proof that any Myrtaceae species have been grown and treated according to best practice protocols to reduce the spread of Myrtle rust.*

#### **Historic Heritage**

22. For the WF7 planting, only species that are defined as suitable for planting on archaeological sites, as per the Department of Conservation (Jones 2007) publication or any updated list that is subsequently released by the Department of Conservation, shall be planted within 5m of archaeological features or unmodified parts of the mountain.
23. The project archaeologist shall be on site for the set out of the WF7 plantings to define the limits of the adjacent archaeological evidence to facilitate condition 21 above. The consent holder shall advise the council (at least 2 days in advance) of this work occurring.
24. Should ground disturbance on the site result in the identification of any previously unknown archaeological site, the land disturbance – Regional Accidental Discovery (ADP) rule [E12.6.1] set out in the Auckland Unitary Plan Operative in part (November 2016) shall be applied.

#### **Advice Note**

*Noting that the Tūpuna Maunga Authority are contacted as part of the ADP and that the responsibility of informing mana whenua as outlined in the protocol, rests with the Tūpuna Maunga Authority.*

25. In the event that any unrecorded historic heritage sites are exposed as a result of consented work on the site, then these sites shall be recorded by the consent holder for inclusion within the Auckland Council Cultural Heritage Inventory. The consent holders project historic

heritage expert shall prepare documentation suitable for inclusion in the Cultural Heritage Inventory and forward the information to the Council (Monitoring Team Leader Central) (who will consult with the Manager: Heritage Unit, heritageconsents@aucklandcouncil.govt.nz) within one calendar month of the completion of work on the site.

#### **Tree removal methodology**

26. All tree felling works and use of non-tarsealed access tracks or routes across the Reserve should only occur when the earth is dry to reduce the risk of pugging of the ground surface from repeated vehicle movements over soft ground.
27. All tree removal shall be undertaken in accordance with the Finalised Tree Protection Methodologies as outlined and approved in the final Environmental Management Plan.

#### **Conservation Planting works**

28. All planting shall be undertaken in accordance with the approved Restoration Plan and in particular:
  - a. That the archaeologist marks out on the ground the area boundaries that the mound plantings are to be confined to prior to any mound plantings occurring.
  - b. The archaeologist marks out on the ground the area boundaries that the WF7 plantings are to be confined to prior to any WF7 plantings occurring.

### **Post Development Conditions**

#### **Historic Heritage**

29. Within one calendar month of the completion of work on the site the consent holder's supervising archaeologist shall prepare documentation suitable for inclusion in the Cultural Heritage Inventory and forward the information to the Council (Monitoring Team Leader Central) (who will consult with the Manager: Heritage Unit, heritageconsents@aucklandcouncil.govt.nz).
30. In the event that any unrecorded historic heritage sites are exposed as a result of consented work on the site, then these sites shall be recorded by the consent holder for inclusion within the Auckland Council Cultural Heritage Inventory. The consent holders project historic heritage expert shall prepare documentation suitable for inclusion in the Cultural Heritage Inventory and forward the information to the Team Leader (for the Manager: Heritage Unit, heritageconsents@aucklandcouncil.govt.nz) within one calendar month of the completion of work on the site.

#### **Maintenance of Restoration Planting**

31. Once the final implementation stage of work is completed, the consent holder shall maintain in perpetuity the site as per the requirements of the plantings carried out in accordance with the approved Restoration plan to the satisfaction of Council, including the removal of any weed species.

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### **Advice notes**

1. *For the purpose of compliance with the conditions of consent, "the council" refers to the council's monitoring inspector unless otherwise specified. Please contact the Team Leader*

Compliance Monitoring (Central) on 09 3010101 or [monitoring@aucklandcouncil.govt.nz](mailto:monitoring@aucklandcouncil.govt.nz) to identify your allocated officer.

2. For more information on the resource consent process with Auckland Council see the council's website [www.aucklandcouncil.govt.nz](http://www.aucklandcouncil.govt.nz). General information on resource consents, including making an application to vary or cancel consent conditions can be found on the Ministry for the Environment's website: [www.mfe.govt.nz](http://www.mfe.govt.nz).
3. 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.
4. 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 at Work Act 2015), 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.
5. The Heritage New Zealand Pouhere Taonga Act 2014 (hereafter referred to as the Act) provides for the identification, protection, preservation and conservation of the historic and cultural heritage of New Zealand. All archaeological sites are protected by the provisions of the Act (section 42). It is unlawful to modify, damage or destroy an archaeological site without prior authority from Heritage New Zealand Pouhere Taonga. An Authority is required whether or not the land on which an archaeological site may be present is designated, a resource or building consent has been granted, or the activity is permitted under the Auckland Unitary Plan Operative in part (November 2016).

According to the Act (section 6) archaeological site means, subject to section 42(3) –

any place in New Zealand, including any building or structure (or part of a building or structure), that –

was associated with human activity that occurred before 1900 or is the site of the wreck of any vessel where the wreck occurred before 1900; and

ii. provides or may provide, through investigation by archaeological methods, evidence relating to the history of New Zealand; and

includes a site for which a declaration is made under section 43(1)

It is the responsibility of the consent holder to consult with Heritage New Zealand Pouhere Taonga about the requirements of the Act and to obtain the necessary Authorities under the Act should these become necessary, as a result of any activity associated with the consented proposals.

For information please contact the Heritage New Zealand Pouhere Taonga Regional Archaeologist – 09 307 9923 or 307 9924 / [archaeologistMN@historic.org.nz](mailto:archaeologistMN@historic.org.nz).

Māori artefacts such as carvings, stone adzes, and greenstone objects are considered to be tāonga (treasures). These are tāonga tūturu within the meaning of the Protected Objects Act 1975 (hereafter referred to as the Act).

According to the Act (section 2) tāonga tūturu means an object that –

a) relates to Māori culture, history, or society; and

- b) was, or appears to have been –
- manufactured or modified in New Zealand by Māori; or*
  - ii. brought into New Zealand by Māori; or*
  - iii. used by Māori; and*
- c) *is more than 50 years old*

*The Act is administered by the Ministry of Culture and Heritage. Tāonga may be discovered in isolated contexts, but are generally found within archaeological sites. The provisions of the Heritage New Zealand Pouhere Taonga Act 2014 in relation to the modification of an archaeological site should be considered by the consent holder if tāonga are found within an archaeological site, as defined by the Heritage New Zealand Pouhere Taonga Act 2014.*

*It is the responsibility of the consent holder to notify either the chief executive of the Ministry of Culture and Heritage or the nearest public museum (for Auckland this is the Auckland War Memorial Museum), which shall notify the chief executive, of the finding of the taonga tūturu, within 28 days of finding the taonga tūturu; alternatively provided that in the case of any taonga tūturu found during the course of any archaeological investigation authorised by Heritage New Zealand Pouhere Taonga under section 48 of the Heritage New Zealand Pouhere Taonga Act 2014, the notification shall be made within 28 days of the completion of the field work undertaken in connection with the investigation.*

*Under section 11 of the Act, newly found taonga tūturu are in the first instance Crown owned until a determination on ownership is made by the Māori Land Court.*

*For information please contact the Ministry of Culture and Heritage – 04 499 4229 / [protected-objects@mch.govt.nz](mailto:protected-objects@mch.govt.nz).*

Signature here

Name [Barry Kaye](#)

Duty Commissioner

Date here [13 February 2019](#)

# “BD-6”

R:\AA17 DC decision v1.1

Decision on notification of an application for resource consent under the Resource Management Act 1991



## Discretionary activity

Application number : LUC60328646

Applicant's name: Tūpuna Maunga o Tāmaki Makaurau Authority and Auckland Council

Site address: 27 Summit Drive, Mt Albert

Legal description and Site Area: SEC 1 SO 454869

Operative plan: Auckland Unitary Plan: Operative in Part

Zoning: Open Space – Conservation Zone  
Open Space – Sport and Active Recreation Zone

Precinct: N/A

Special features, overlays etc: Natural Resources: Significant Ecological Areas Overlay - SEA\_T\_6016, Terrestrial

Natural Resources: Quality-Sensitive Aquifer Management Areas Overlay [rp] - Auckland Isthmus Volcanic

Natural Resources: Quality-Sensitive Aquifer Management Areas Overlay [rp] - Western Springs Volcanic Aquifer

Natural Heritage: Outstanding Natural Features Overlay [rcp/dp] - ID 108, Mt Albert (Owairaka)

Natural Heritage: Regionally Significant Volcanic Viewshafts And Height Sensitive Areas Overlay [rcp/dp] - Mount Albert, Height Sensitive Areas

Natural Heritage: Regionally Significant Volcanic Viewshafts And Height Sensitive Areas Overlay [rcp/dp] - A1, Mount Albert, Viewshafts

Natural Heritage: Regionally Significant Volcanic Viewshafts And Height Sensitive Areas Overlay [rcp/dp] - A10, Mount Albert, Viewshafts

Natural Heritage: Regionally Significant Volcanic Viewshafts And Height Sensitive Areas Overlay [rcp/dp] - A13, Mount Albert, Viewshafts

Natural Heritage: Regionally Significant Volcanic Viewshafts And Height Sensitive Areas Overlay [rcp/dp] - A2, Mount Albert, Viewshafts

Natural Heritage: Regionally Significant Volcanic Viewshafts And Height Sensitive Areas Overlay [rcp/dp] - A3, Mount Albert, Viewshafts

## EXHIBIT NOTE

This is the annexure marked "BD-6" referred to within the affidavit of Brooke James Macdonald Dales affirmed at Auckland this 27 day of May 2020 before me:

Signature..... *Julian John Kennedy Spring* .....

A Solicitor of the High Court of New Zealand

**Julian John Kennedy Spring**  
Solicitor  
Auckland

**Julian John Kennedy Spring**  
Solicitor  
Auckland

Natural Heritage: Regionally Significant Volcanic Viewshafts And Height Sensitive Areas Overlay [rcp/dp] - A7, Mount Albert, Viewshafts

Natural Heritage: Regionally Significant Volcanic Viewshafts And Height Sensitive Areas Overlay [rcp/dp] - A8, Mount Albert, Viewshafts

Natural Heritage: Regionally Significant Volcanic Viewshafts And Height Sensitive Areas Overlay [rcp/dp] - A9, Mount Albert, Viewshafts

Historic Heritage and Special Character: Historic Heritage Overlay Extent of Place [rcp/dp] - 1576, Mount Albert/Owairaka R11\_20 Volcanic cone pa site including terrace/s, ditch/s, pit/s and midden

#### Designations

Notice of Requirements, NoR 7: Proposed Northern Runway, Airspace Restriction Designations, notified 15/02/2018

#### Proposal

To remove exotic vegetation and undertake restoration planting on Ōwairaka / Te Ahi-kā-a-Rakataura / Mt Albert (Ōwairaka) at 27 Summit Drive, Mt Albert.

#### The resource consents are:

Land use consents (s9) – LUC60328646

#### Ōwairaka

##### Auckland Council Unitary Plan (Operative in Part)

##### District land use

###### *Historic Heritage Overlay (Chapter D17)*

- Modifications to, or restoration of, buildings, structures, fabric or features of a scheduled historic heritage place, except where provided for as a permitted, controlled or restricted discretionary activity in another rule in this overlay requires consent as a **restricted discretionary activity** pursuant to D17.4.1 (A9).
- Conservation planting requires consent for a **discretionary activity** pursuant to D17.4.2 (A23).
- The removal of trees greater than 3m in height or greater than 300mm in girth requires consent for a **discretionary activity** pursuant to D17.4.2 (A26).

###### *Land Disturbance – District (Chapter E12)*

- The activity of replanting will involve approximately 525m<sup>2</sup> of ground disturbance. Consent for a **restricted discretionary activity** is required for earthworks not otherwise permitted between 500m<sup>2</sup> up to 1000m<sup>2</sup> in the Open Space – Conservation Zone pursuant to Rule E12.4.1 (A4);
- The activity of replanting will involve approximately 52m<sup>3</sup> of ground disturbance. Consent for a **restricted discretionary activity** is required for earthworks not otherwise permitted up to 250m<sup>3</sup> in the Open Space – Conservation Zone pursuant to Rule E12.4.1 (A7);

- The activity of replanting will involve 525m<sup>2</sup> of ground disturbance over the site. Consent for a **restricted discretionary activity** is required for earthworks in the Historic Heritage Overlay over an area of greater than 50m<sup>2</sup> pursuant to Rule E12.4.2 (A30);
- The activity of replanting will involve 52m<sup>3</sup> of ground disturbance over the site. Consent for a **restricted discretionary activity** is required for earthworks in the Historic Heritage Overlay of greater than 5m<sup>3</sup> up to 250m<sup>3</sup> in pursuant to Rule E12.4.2 (A32);
- The activity of replanting will involve 52m<sup>3</sup> of ground disturbance over the site. Consent for a **restricted discretionary activity** is required for earthworks within the V1 Outstanding Natural Feature Overlay of greater than 50m<sup>3</sup> pursuant to Rule E12.4.3 (A41);

*Vegetation Management and Biodiversity (Chapter E15)*

- Within an SEA-T, any vegetation removal not otherwise provided for requires consent as a **discretionary activity** pursuant to E15.4.1 (A43);

*Trees in Open Space Zones (Chapter E16)*

- The proposed tree works do not comply with Standards E16.6.1 and E16.6.2. Consent for **restricted discretionary activities** is required pursuant to E16.4.1 (A6) and (A8).
- The proposed tree removals include trees that are greater than 4 meters in height and 400mm girth. Consent for a **restricted discretionary activity** is required for these removals pursuant to Rule E16.4.1 (A10);

*Noise and Vibration (Chapter E25)*

- Construction noise levels exceeding the permitted standards of 75dB Leq (by a maximum of 7dB) are anticipated. Construction noise that exceeds the permitted activity standards in E25.6.27 requires consent as a **restricted discretionary activity** pursuant to E25.4.1 (A2);

## Decision.

I have read the application, supporting documents, and the report and recommendations on the application for resource consent. I am satisfied that I have sufficient information to consider the matters required by the Resource Management Act 1991 (RMA) and make a decision under delegated authority on notification.

### Public notification

Under section 95A of the RMA this application shall proceed without public notification because:

1. Under step 1, public notification is not mandatory as:
  - a. the applicant has not requested it
  - b. there are no outstanding or refused requests for further information, and
  - c. the application does not involve any exchange of recreation reserve land under s15AA of the Reserves Act 1977.
2. Under step 2, public notification is not precluded as:
  - a. there is no rule or NES that specifically precludes public notification of the activities, and

- b. the application is for an activity other than those specified in s95A(5)(b).
3. Under step 3, public notification is not required as:
- a. the application is for an activity that is not subject to a rule that specifically requires it, and
- b. the activity will have or is likely to have adverse effects on the environment that are no more than minor because:
- In the context of the landscape and visual values of the Maunga, any adverse landscape and visual effects of the proposal are considered to be short term in nature and effectively mitigated by the proposed restoration and replanting such that they can be considered to be less than minor;
  - Any adverse ecological effects arising from the proposal can be appropriately managed as part of the works programme to ensure that any adverse effects are less than minor;
  - Any adverse effects on public access and recreation will be short term in nature and can be considered to be less than minor;
  - The proposed works have been designed to be sympathetic to the heritage values of the Maunga, and can be managed to ensure they are less than minor;
  - The tree removals methodologies are considered consistent with best arboricultural practice, and any adverse effects are therefore considered to be less than minor;
  - Any effects associated with land disturbance and stability can be appropriately managed to ensure they are less than minor.
4. Under step 4, there are no special circumstances that warrant the application being publicly notified because there is nothing exceptional or unusual about the application, and the proposal has nothing out of the ordinary run of things to suggest that public notification should occur. [The proposal reflects the directions and purposes set out in the approved Integrated Management Plan \(IMP\) administered by the Tūpuna Maunga o Tāmaki Makaurau Authority.](#)

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#### Limited notification

Under section 95B of the RMA this application shall proceed without limited notification because:

1. Under step 1, limited notification is not mandatory as:
- a. there are no protected customary rights groups or customary marine title groups affected by this proposal, and
- b. no persons to whom a statutory acknowledgement is made is adversely affected by this proposal.
2. Under step 2, limited notification is not precluded as:
- a. there is no rule or NES that specifically precludes limited notification of the activities, and
- b. the application is for an activity other than those specified in s95B(6)(b).
3. Under step 3, limited notification is not required as:

- a. this application is not for a boundary activity or prescribed activity, and
- b. there are no adversely affected persons because:

- Noise effects arising from the proposal arise primarily through the use of the helicopter to remove the trees from the Maunga, the use of chainsaws and from processing of the trees. The applicant ~~has~~ engaged Styles Group to model the potential noise effects of the proposed works (see Appendix 1 to the submitted A.E.E. ~~which~~ ~~and~~ ~~is~~ expanded on within the further information responses). ~~Their~~ assessment outlines that with the exception of the helicopter, noise levels generated by all activities will comply with the permitted levels of the AUP:OP. With respect to the noise generated by the helicopter, and noting that alternatives are not practicable to undertake the works, Styles Group predict that the helicopter will infringe the permitted noise levels by 7dB (although consent is sought for an infringement up to 10dB) at the closest residential receivers, and consider that any effects will be "noticeable" but will be limited to 10-12 days across the duration of the project.

To manage the effects arising from the helicopter it is proposed to limit the hours of ~~use of~~ the helicopter to between 9am and 5pm Monday to Friday, and to limit the consecutive days that the helicopter will be used to no more than three consecutive days per week (in the event that works take longer than the three days ~~that~~ ~~the~~ ~~helicopter~~ work is required). In addition, given the proximity of the dwellings at 27-37 Mount Royal Avenue (odd numbers only) to the removal of tree 649, it is recommended that the helicopter works associated with the removal of that ~~particular~~ tree, only occur when those properties are unoccupied (i.e. when they are at work/school ~~or otherwise away~~), or following agreement with the owner/occupier as part of the communications ~~around~~ ~~about~~ the works (see ~~the~~ Communication Plan attached as Appendix 7 to the submitted A.E.E). On this basis, the applicant concludes that any adverse effects on people, and in particular residents within a close proximity of the Maunga will be less than minor.

The acoustic assessments provided with the application have been peer reviewed on behalf of Council by Consultant Acoustics Specialist, Mr Peter Runcie. Mr Runcie has advised that the approach and limits identified by Styles Group are appropriate, and generally in accordance with the guidance of NZS6803:1999 Acoustics – Construction. Mr Runcie also confirms that in his experience that the noise model prepared by Styles Groups is reasonable, and that it is appropriate to mitigate these effects through limiting the hours and duration of the Helicopter use, and through advising properties in the vicinity of the works prior to the works commencing. Mr Runcie has also advised that the difference between the modelled 7dB infringement, and the 10dB max sought as part of the consent are likely to be imperceptible to the nearby receivers.

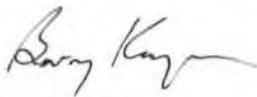
Conditions relating to the use of the helicopter and noise levels have been proposed by the applicant, and Mr Runcie's review recommends their inclusion. I am satisfied therefore ~~satisfied~~ that the conditions recommended by the applicant can be effectively implemented and monitored by the council ~~and will ensure that noise levels are properly managed~~.

~~With Following from the above considerations in mind, I am satisfied that adverse noise effects on people arising from the proposal are will be short term in nature and can be managed so that they any effects are less than minor.~~

- Although public access to the Maunga will be temporarily disrupted, this disruption will be short term in nature, and is necessary for health and safety reasons. Also, ~~and~~ the applicant has proposed a communications plan to ensure that users of the reserve are aware of any access restrictions. Overall, it is considered that any adverse effects on people accessing the Maunga will be less than minor;
  - ~~As outlined with respect to the tests of public notification. Following from the expert assessments including the Council's peer review, it can be concluded that any landscape and visual effects of the tree removals experienced by people with an outlook to, or using the Maunga, are likely to be short term in nature or limited effect and it is considered that these such effects are adequately mitigated by the proposed restoration planting, and in the positive effects arising in relation to the context of the volcanic cone landform that will be exposed (and noting the project implements part of the approved Integrated Management Plan (IMP) required under Section 58 of the Redress Act) that will be exposed,~~ any adverse effects are will be less than minor;
  - Given the scale and nature of the works, any construction traffic associated with the removal of the processed trees, and that associated with the necessary machinery, will be limited in volume, short term in nature, and occur only in the hours of work (7:30am-6pm Monday to Friday with no work on weekends or public holidays), and as such can be considered to be less than minor; and
  - The applicant has engaged with local Iwi groups and the general public as part of the consultation process for the Tūpuna Maunga Integrated Management Plan (IMP). Having reviewed the IMP, this document makes clear ~~the~~ expectations with respect to exotic vegetation and cultural significance of the restoration of the Maunga, and the outcomes of the applicant's is engagement have been incorporated in the application detail.
4. Under step 4, there are no special circumstances that warrant the application being limited notified to any persons because there is nothing exceptional or unusual about the application, and the proposal has nothing out of the ordinary run of things to suggest that notification to any other persons should occur. The proposal reflects the directions and purposes set out in the approved Integrated Management Plan (IMP) administered by the Tūpuna Maunga o Tāmaki Makaurau Authority.

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Accordingly, this application shall proceed on a **NON-NOTIFIED** basis.



Name Barry Kaye

Duty Commissioner

Date here 13 February 2019

Decision on an application for resource consent under the Resource Management Act 1991



Discretionary activity

<b>Application number:</b>	LUC60328646
<b>Applicant's name:</b>	Tūpuna Maunga o Tamaki Makaurau Authority and Auckland Council
<b>Site address:</b>	27 Summit Drive, Mt Albert
<b>Legal description and Site Area:</b>	SEC 1 SO 454869
<b>Operative plan:</b>	Auckland Unitary Plan: Operative in Part
<b>Zoning:</b>	Open Space – Conservation Zone Open Space – Sport and Active Recreation Zone
<b>Precinct</b>	N/A
<b>Special features, overlays etc:</b>	Natural Resources: Significant Ecological Areas Overlay - SEA_T_6016, Terrestrial Natural Resources: Quality-Sensitive Aquifer Management Areas Overlay [rp] - Auckland Isthmus Volcanic Natural Resources: Quality-Sensitive Aquifer Management Areas Overlay [rp] - Western Springs Volcanic Aquifer Natural Heritage: Outstanding Natural Features Overlay [rcp/dp] - ID 108, Mt Albert (Owairaka) Natural Heritage: Regionally Significant Volcanic Viewshafts And Height Sensitive Areas Overlay [rcp/dp] - Mount Albert, Height Sensitive Areas Natural Heritage: Regionally Significant Volcanic Viewshafts And Height Sensitive Areas Overlay [rcp/dp] - A1, Mount Albert, Viewshafts Natural Heritage: Regionally Significant Volcanic Viewshafts And Height Sensitive Areas Overlay [rcp/dp] - A10, Mount Albert, Viewshafts Natural Heritage: Regionally Significant Volcanic Viewshafts And Height Sensitive Areas Overlay [rcp/dp] - A13, Mount Albert, Viewshafts Natural Heritage: Regionally Significant Volcanic Viewshafts And Height Sensitive Areas Overlay [rcp/dp] - A2, Mount Albert, Viewshafts Natural Heritage: Regionally Significant Volcanic Viewshafts And Height Sensitive Areas Overlay [rcp/dp] - A3, Mount Albert, Viewshafts

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Natural Heritage: Regionally Significant Volcanic Viewshafts And Height Sensitive Areas Overlay [rcp/dp] - A8, Mount Albert, Viewshafts

Natural Heritage: Regionally Significant Volcanic Viewshafts And Height Sensitive Areas Overlay [rcp/dp] - A9, Mount Albert, Viewshafts

Historic Heritage and Special Character: Historic Heritage Overlay Extent of Place [rcp/dp] - 1576, Mount Albert/Owairakai R11\_20 Volcanic cone pa site including terrace/s, ditch/s, pit/s and midden

#### Designations

Notice of Requirements, NoR 7: Proposed Northern Runway, Airspace Restriction Designations, notified 15/02/2018

#### Proposal

To remove exotic vegetation and undertake restoration planting on Ōwairaka / Te Ahi-kā-a-Rakataura / Mt Albert (Ōwairaka) at 27 Summit Drive, Mt Albert.

#### The resource consents are:

Land use consents (s9) – LUC60328646

Ōwairaka

Auckland Council Unitary Plan (Operative in Part)

#### District land use

*Historic Heritage Overlay (Chapter D17)*

- Modifications to, or restoration of, buildings, structures, fabric or features of a scheduled historic heritage place, except where provided for as a permitted, controlled or restricted discretionary activity in another rule in this overlay requires consent as a **restricted discretionary activity** pursuant to D17.4.1 (A9).
- Conservation planting requires consent for a **discretionary activity** pursuant to D17.4.2 (A23).
- The removal of trees greater than 3m in height or greater than 300mm in girth requires consent for a **discretionary activity** pursuant to D17.4.2 (A26).

*Land Disturbance – District (Chapter E12)*

- The activity of replanting will involve approximately 525m<sup>2</sup> of ground disturbance. Consent for a **restricted discretionary activity** is required for earthworks not otherwise permitted between 500m<sup>2</sup> up to 1000m<sup>2</sup> in the Open Space – Conservation Zone pursuant to Rule E12.4.1 (A4);
- The activity of replanting will involve approximately 52m<sup>3</sup> of ground disturbance. Consent for a **restricted discretionary activity** is required for earthworks not otherwise permitted up to 250m<sup>3</sup> in the Open Space – Conservation Zone pursuant to Rule E12.4.1 (A7);
- The activity of replanting will involve 525m<sup>2</sup> of ground disturbance over the site. Consent for a **restricted discretionary activity** is required for earthworks in the Historic Heritage Overlay over an area of greater than 50m<sup>2</sup> pursuant to Rule E12.4.2 (A30);
- The activity of replanting will involve 52m<sup>3</sup> of ground disturbance over the site. Consent for a **restricted discretionary activity** is required for earthworks in the Historic Heritage Overlay of greater than 5m<sup>3</sup> up to 250m<sup>3</sup> in pursuant to Rule E12.4.2 (A32);
- The activity of replanting will involve 52m<sup>3</sup> of ground disturbance over the site. Consent for a **restricted discretionary activity** is required for earthworks within the V1 Outstanding Natural Feature Overlay of greater than 50m<sup>3</sup> pursuant to Rule E12.4.3 (A41);

*Vegetation Management and Biodiversity (Chapter E15)*

- Within an SEA-T, any vegetation removal not otherwise provided for requires consent as a **discretionary activity** pursuant to E15.4.1 (A43);

*Trees in Open Space Zones (Chapter E16)*

- The proposed tree works do not comply with Standards E16.6.1 and E16.6.2. Consent for **restricted discretionary activities** is required pursuant to E16.4.1 (A6) and (A8).
- The proposed tree removals include trees that are greater than 4 meters in height and 400mm girth. Consent for a **restricted discretionary activity** is required for these removals pursuant to Rule E16.4.1 (A10);

*Noise and Vibration (Chapter E25)*

- Construction noise levels exceeding the permitted standards of 75dB Leq (by a maximum of 7dB) are anticipated. Construction noise that exceeds the permitted activity standards in E25.6.27 requires consent as a **restricted discretionary activity** pursuant to E25.4.1 (A2);

## Decision

I have read the application, supporting documents, and the report and recommendations on the application for resource consent(s). I am satisfied that I have sufficient information to consider the matters required by the Resource Management Act 1991 (RMA) and make a decision under delegated authority on the application.

Acting under delegated authority, under sections 104, 104B, and Part 2 of the RMA, the application is **GRANTED**.

## Reasons

The reasons for this decision are:

- In accordance with an assessment under s104(1)(a) of the RMA the actual and potential effects from the proposal will be acceptable as:
  - In the context of the landscape and visual values of the Maunga, any landscape and visual effects of the proposal are considered to be acceptable, with adverse effects being short term in nature, in keeping with the natural [landform and landscape](#), and mitigated by the proposed restoration replanting to ensure that ~~they any adverse effects~~ are less than minor;
  - Ecological effects arising from the proposal can be appropriately managed as part of the works programme to ensure that any adverse effects are less than minor;
  - Any adverse effects on public access and recreation will be short term in nature and ~~can be considered to will~~ be less than minor;
  - The proposed works have been designed to be sympathetic to the heritage values of the Maunga, and can be managed to ensure that any adverse effects are less than minor;
  - The tree removals methodologies are ~~considered~~—consistent with best arboricultural practice, and any adverse effects ~~are therefore considered to will~~ be less than minor;
  - Any ~~adverse~~ effects associated with land disturbance and stability can be appropriately managed to ensure they are less than minor;
  - Construction effects, and in particular noise ~~effects~~ arising from the helicopter ~~use~~ can be managed effectively through conditions of consent [limiting hours of operation and by limiting consecutive day activity](#) so that any adverse effects are less than minor; and
  - The proposed removal of exotic trees from the Maunga will have positive effects including [those related to](#) the landscape and visual qualities of the Maunga, and in terms of the cultural and spiritual values of the Maunga in delivering on the mandate bestowed on the Tūpuna Maunga o Tāmaki Makaurau Authority as part of their role governing taonga tuku, such as Ōwairaka. In addition, [proposed](#) replanting will have a positive ecological effects on the Maunga.

Overall, and having considered the adverse effects in combination with the positive effects of the proposal, the proposed tree removals and restoration planting are considered to be generally positive and are acceptable from a resource management perspective.

- In accordance with an assessment under s104(1)(b) of the RMA the proposal is considered to provide for an acceptable outcome ~~under in respect of~~ the relevant statutory documents as:
  - ~~The proposal is considered to be consistent with the anticipated outcomes of the New Zealand Coastal Policy Statement. In particular due to the careful design~~

~~of the proposed works, and mitigation provided by the restoration planting the proposal will not impact on the coastal environment;~~

- o In terms of the relevant sections of the Auckland Unitary Plan (Operative Part), the proposal is considered to be consistent with the outcomes anticipated by the Outstanding Natural Features, and Heritage Overlays. In particular, the application manages the restoration of ~~the~~ a sensitive environment whilst ensuring that any adverse effects on the receiving environment of the Maunga and surrounding residential and business environments are minimised through ensuring that the works are designed and managed to mitigate adverse effects on heritage, ecological, recreational and landscape and visual values. It is considered that the proposed works can be managed to ensure that effects on the sensitive environment of the Maunga and surrounding environment are minimised, whilst public access and recreational use of the reserve can be managed appropriately to avoid risk to people.
- In the context of this discretionary activity application, the objectives and policies capture all relevant planning considerations and provide a clear framework for assessing all relevant potential effects. As such, there is no need to go beyond the relevant provisions of the operative planning documents (AUP, OP) and look to Part 2 in making this decision. Notwithstanding the above, for completeness it is noted that the proposal is consistent with Part 2 of the Resource Management Act 1991. In particular it is considered that the restoration of the Maunga will enable the social, economic, and cultural wellbeing of people and communities, whilst appropriately managing adverse effects on the sensitive site and surrounding environment, whilst adverse effects of the proposal are not considered to have an unreasonable impact on the sensitive receiving environment. The proposed restoration works also reflect the role of mana whenua through the applicant as kaitiakitanga and their stewardship of this iconic feature of the natural and cultural landscape, as well as being consistent with the principals of the Treaty of Waitangi. Overall, the application is considered to have a positive effect on the amenity and landscape values of the site and surrounding environment.

Overall, the proposal is considered to be consistent with the relevant matters for consideration under the NZCPS and the Auckland Unitary Plan (OP). Any actual or potential adverse effects are ~~assessed to be~~ able to be managed such that they are considered acceptable in the context of the sensitive site and surrounding receiving environment. Furthermore, the application is considered to meet the relevant tests provisions of the RMA, and can be considered to have notable positive effects in terms of the restoration of the Maunga which is anticipated under the Integrated Management Plan (IMP). For these reasons, the proposal is considered to be acceptable from a resource management perspective and consent.

## Conditions

Under section 108 of the RMA, these consents are subject to the following conditions:

**Commented [bk1]:** not sure why NZCPS is considered relevant apart from seeing the site from the water but at a great distance???

**Commented [C2R1]:** Only included for completeness as visible from the coast.

**Commented [bk3]:** I would have thought the standrd statement that as the AUPOP is recent that Part 2 doesnt need consideration but even if it did then the following applies etc??

1. Any consideration of an application under s104(1) of the RMA is subject to Part 2. The Court of Appeal in *R J Davidson Family Trust v Marlborough District Council* [2018] NZCA 316 has held that, in considering a resource consent application, the statutory language in section 104 plainly contemplates direct consideration of Part 2 matters. However, the Court considered that where a plan has been competently prepared under the RMA, it may be that in many cases there will be no need for the Council to refer to Part 2. Though if there is doubt that a plan has been "competently prepared" under the RMA, then it will be appropriate and necessary to have regard to Part 2. That is the implication of the words "subject to Part 2" in s104(1) of the RMA.

In the context of this discretionary activity application, where the objectives and policies capture all relevant planning considerations and provide a clear framework for assessing all relevant potential effects, there is no need to go beyond the relevant provisions of the operative planning documents (AUPOP) and look to Part 2 in making this decision.

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## General Conditions

1. The removal of exotic vegetation and restoration planting activities shall be carried out in accordance with the plans and all information submitted with the application, detailed below, and all referenced by the Council as consent number LUC60328646:

a. Application Form, and Assessment of Effects on the Environment and Statutory Assessment prepared by Antony Yates of Antony Yates Planning Limited, titled "Tūpuna Maunga Authority, Ōwairaka/ Te Ahi-kā-a-Rakataura / Mt Albert Vegetation restoration and exotic vegetation removal works", dated October 2018 and the following appendices:

Appendix 1	Acoustic Assessment
Appendix 2	Archaeological Assessment
Appendix 3	Landscape and Visual Assessment
Appendix 4	Ecological Assessment and Remediation Planting Plan
Appendix 5	Tree removal methodology and Removals Plan
Appendix 6	Herpetology Assessment
Appendix 7	Communications Plan
Appendix 8	Relevant Statutory Provisions
Appendix 9	Development Control Checklist
Appendix 10	Mana Whenua Engagement
Appendix 11	Certificate of Title

[I note Peter Kensington's comment below at his para 10- how is this specifically achieved in Conditions as reference to Appendix 1 alone doesn't do that And how does that relate to the Finalised Restoration Plan in Condition 4](#)

of trees to be removed and trees to be retained. I note however, as we agreed with the applicant's representative, should resource consent be granted, the schedule of trees within the Treescape document (Appendix 5 of the AEE), should be the definitive reference document to confirm the specific tree locations.

**Commented (C5):** See additional specific conditions added.

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2. Under section 125 of the RMA, this consent lapses five years after the date it is granted unless:

a. The consent is given effect to; or

b. The Council extends the period after which the consent lapses.

3. The consent holder shall pay the Council an initial consent compliance monitoring charge of \$1,500.00 (inclusive of GST), plus any further monitoring charge or charges to recover the actual and reasonable costs that have been incurred to ensure compliance with the conditions attached to this consent.

**Advice note:**

*The initial monitoring charge is to cover the cost of inspecting the site, carrying out tests, reviewing conditions, updating files, etc., all being work to ensure compliance with the resource consent. In order to recover actual and reasonable costs, inspections, in excess of those covered by the base fee paid, shall be charged at the relevant hourly rate applicable at the time. The consent holder will be advised of the further monitoring charge or charges as they fall due. Such further charges are to be paid within one month of the date of invoice. Only after all conditions of the resource consent have been met, will Council issue a letter confirming compliance on request of the consent holder.*

**Pre-commencement Conditions**

**Pre-Construction Meeting with Compliance and Monitoring Staff**

4. Prior to the commencement of **each stage** of the tree removals, the consent holder shall hold a pre-construction meeting that
- a. is located on the subject site,
  - b. is scheduled not less than 5 days before the anticipated commencement of tree removals,
  - c. includes Senior Compliance Advisor (Central) and relevant other specialists (eg Ecologist/ Archaeologist) at the Council's discretion
  - d. includes the Project Manager and supervising Archaeologist
  - e. includes representation from the contractors who will undertake the works.

The following information shall be made available at the pre-construction meeting:

- a. Timeframes for key stages of the works authorised under this consent
- b. Finalised Communications Plan, including: Details regarding implementation of Communications Plan (e.g. Sign locations, copies of letters to residents)
- c. Finalised Restoration Plan ([Planting Plan](#))
- d. Finalised Construction Management Plan
- e. Finalised Tree Protection Methodologies;
- f. Finalised Lizard Management Plan (and surveys)
- g. Details of briefing for contractors, including: heritage protocols, location of processing sites, and ecological protocols

**Advice Note:**

*To arrange the pre-construction meeting please contact the Council's Monitoring Team Leader Central on 373 6292 or email [monitoring@aucklandcouncil.govt.nz](mailto:monitoring@aucklandcouncil.govt.nz).*

*It is noted that these documents may be updated as required for subsequent stages.*

**Finalised Management Plans [and documents](#) to be provided**

5. A minimum of 5 working days prior to the commencement of construction activity and the vegetation removal approved by this resource consent, the consent holder shall submit to the

Council (Monitoring Team Leader Central) for approval certification in writing, final versions of the following management plans:

- a. Finalised Communications Plan;
- b. Restoration Plan (Planting Plan);
- c. Lizard Survey Results and Finalised Lizard Management Plan;
- d. Tree protection methodologies;
- d.e. Predator Management Plan (Lizards);
- e.f. Works Management Plan, including:
  - Health and Safety Plan;
  - ~~Continuation from an acoustic specialist that the consented construction noise limits will be met; and~~
  - Traffic Management Plan; and
  - Incorporation of ecological protection measures;

Lizard Survey to be undertaken

- 6. A survey to confirm the presence of native lizards, particularly rare 'At Risk' species of skinks, shall be carried out by a suitably qualified and experienced herpetologist. The lizard survey must:
  - a. Target potential lizard habitat identified during the herpetological assessment, including the quarry and rock bomb areas in the craters;
  - b. Be carried out at a time of year and during weather conditions that will maximise the chance of locating native lizards, including rare and 'At Risk' species potentially present at the site;
  - c. Utilise no-dig, non-pitfall methodologies suitable for deployment in high value archaeological areas with public access; and
  - d. Be conducted after the implementation of specific targeted predator control in any areas of high value skink habitat to be surveyed;
- 7. A finalised Adaptive Lizard Management Plan for the site shall be prepared by a suitably qualified herpetologist after surveys have been conducted on site and provided to the Council (Monitoring Team Leader Central) for certification prior to vegetation clearance commencing. This shall include, but not be limited to, the following:
  - Tree felling and associated works methodologies and restrictions based on the Eco Gecko Herpetology report and best practice scouting and rescue conditions;
    - a. Project ecologist and permit details;
    - b. Specific targeted predator control in any areas of high value skink habitat;
    - c. Habitat enhancement including any specific weed management in identified high value skink habitat areas; and
    - d. Survey outcomes and management methods.
- 8. The finalised Restoration Plan (planting plan) shall be prepared by a suitably qualified and experienced ecologist and informed by the lizard survey (required by the conditions of this

**Commented [bk6]:** this should also address reinstatement of playing fields

**Commented [bk7]:** this is not a management plan per se so should be in a separate condition??

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**Commented [bk8]:** how can this happen when no works have commenced (and no noise measurements undertaken) and also doesnt account for helicopters not complying

**Commented [C9]:** Deleted and reliance placed on acoustic conditions (which are based on modelling results) and compliance with standard

**Commented [C10]:** Relocated conditions – pre commencement requirement

consent), and provided to Auckland Council for approval. The final planting plan shall include, but not be limited to, the following:

- a. Final locations of planting following the completion of the lizard survey;
- b. Plant species, spacing, planting zones (if required), plant numbers and specification on plant size as described in this assessment report;
- c. Inclusion of threatened species;
- d. Planting methodology, including any staging;
- e. Plant maintenance and weed management until canopy closure (minimum of five years); and
- f. Monitoring and reporting.

[The restoration plan shall also include a methodology and procedures for the reinstatement of the playing fields where they are used for the processing of trees removed as part of this consent.]

9. A predator management plan targeting potential habitat of native lizard and bird species shall be provided to and approved by Auckland Council. The predator management plan shall incorporate pest animal control work already being undertaken on the site.

## **Development in Progress Conditions**

### **Implementation of Management Plans**

- 6-10. No construction activity or vegetation removal approved by this resource consent shall commence until written confirmation is provided by the council that all of the submitted final management plans are acceptable and that all measures identified in these plans, as needing to be put in place prior to commencement of works, have been undertaken.

### **Communications Plan**

- 7-11. The consent holder shall ensure that all the actions within the Communications Plan approved as part of the conditions of this consent are undertaken as proposed and submit a written record to the Council (Monitoring Team Leader Central) confirming compliance within 5 days of each stage of work identified within the construction management and restoration plans having commenced. The consent holder shall undertake any additional communications as required by the council following their review of the submitted record(s).

### **Tree Removal Methodology**

12. All tree removals shall be carried out in accordance with the Tree Removal Methodology and Removals Plan prepared by Treescape (Appendix 5 to the submitted A.E.E.)
13. All tree felling works and use of non-tarsealed access tracks or routes across the Reserve should only occur when the earth is dry to reduce the risk of pugging of the ground surface from repeated vehicle movements over soft ground.
8. ~~The consent holder shall ensure that all the actions within the restoration plan approved under the conditions of this consent are undertaken as proposed and submit a written record to the Council (Monitoring Team Leader Central) confirming compliance within 15 days of the completion of each stage of work identified within the restoration plan, on an ongoing basis.~~

**Commented [C11]:** Updated wording

**Commented [C12]:** Clause added re restoration of the playing fields.

**Commented [C13]:** New headings added below along with separate specific conditions requiring work to be carried out in accordance with approved plans etc.

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**Commented [C14]:** Relocated condition to fit with other similar condition

**Commented [C15]:** Condition relocated below with other restoration plan condition

## Works Hours

9-14. Tree works (including removals, trimming, and processing) shall only be undertaken between the hours of 7:30 am and 6:00 pm, Monday to Friday. No works shall occur on any weekend or public holiday.

## Use of Helicopters

10-15. The use of helicopters for works purposes is only permitted between the hours of 9am to 5pm from Monday to Friday.

11-16. The noise from the use of helicopters shall comply with a noise limit of 85dB LAeq when measured 1m from the façade of any occupied building in accordance with NZS6803:1999 Acoustics – Construction Noise.

12-17. The owners and occupants of all neighbouring buildings within a minimum of 200m of the extent of helicopter use within site shall be advised of the works in writing at least ten (10) days prior to the commencement of works on site. The written advice shall set out a brief overview of the construction works its expected duration, the mitigation measures to be implemented, availability of monitoring where concerns about noise are raised, the working hours, and a contact phone number for any concerns regarding noise.

13-18. Where the use of helicopters is required for a period of more than 3 days in any work area which would result in noise levels exceeding 75dB LAeq at any receiver, the use of helicopters shall be limited to 3 consecutive days per week, and may only be continued on the same 3 consecutive days in the subsequent weeks until the work in that area is complete.

14-19. The use of a helicopter for the removal of tree 649 (eucalyptus in the south-eastern part of the site) may only be undertaken when the properties at 25 to 37 (odd numbers) Mount Royal Avenue are unoccupied, or by where the consent holder has provided evidence of an agreement with the occupiers of these properties to the Council prior to undertaking the works.

## Ecology

15-20. All vegetation shall be removed outside of bird breeding season (bird breeding season is September to January inclusive). If vegetation clearance is undertaken within the bird breeding season, woody vegetation must be confirmed clear of nesting native birds by a suitably qualified ecologist, and confirmation provided to the Council prior to undertaking any works. This should ensure no nesting birds, eggs, or chicks are harmed.

16. A survey to confirm the presence of native lizards, particularly rare 'At-Risk' species of skinks, shall be carried out by a suitably qualified and experienced herpetologist. The lizard survey must:

- a. Target potential lizard habitat identified during the herpetological assessment, including the quarry and rock bomb areas in the craters;
- b. Be carried out at a time of year and during weather conditions that will maximise the chance of locating native lizards, including rare and 'At Risk' species potentially present at the site;
- c. Utilise no dig, non-pitfall methodologies suitable for deployment in high value archaeological areas with public access; and

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Commented [bk16]: how does noise monitoring work to know that

Commented [C17]: Noise monitoring methods form part of standard.

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Commented [bk18]: there needs to be a process to confirm that on the record-someone could go shopping and be home an hour later-how is this guaranteed as to being 'unoccupied'?

Commented [C19R18]: see additions.

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~~d. Be conducted after the implementation of specific targeted predator control in any areas of high value skink habitat to be surveyed.~~

~~17. A finalised Adaptive Lizard Management Plan for the site shall be prepared by a suitably qualified herpetologist after surveys have been conducted on site and provided to the Council (Monitoring Team Leader Central) for certification Auckland Council for approval prior to vegetation clearance commencing. This shall include, but not be limited to, the following:~~

~~Tree felling and associated works methodologies and restrictions based on the Eco Gecko Herpetology report and best practice scouting and rescue conditions;~~

~~a. Project ecologist and permit details;~~

~~b. Specific targeted predator control in any areas of high value skink habitat;~~

~~c. Habitat enhancement including any specific weed management in identified high value skink habitat areas; and~~

~~d. Survey outcomes and management methods.~~

~~18. The finalised Restoration Plan (planting plan) shall be prepared by a suitably qualified and experienced ecologist and provided to Auckland Council for approval within two months of completion of the lizard survey, for all restoration areas within the site. The final planting plan shall include, but not be limited to, the following:~~

~~a. Final locations of planting following the completion of the lizard survey;~~

~~b. Plant species, spacing, planting zones (if required), plant numbers and specification on plant size as described in this assessment report;~~

~~c. Inclusion of threatened species;~~

~~d. Planting methodology, including any staging;~~

~~e. Plant maintenance and weed management until canopy closure (minimum of five years); and~~

~~f. Monitoring and reporting.~~

~~19. A predator management plan targeting potential habitat of native lizard and bird species shall be provided to and approved by Auckland Council. The predator management plan shall incorporate pest animal control work already being undertaken on the site.~~

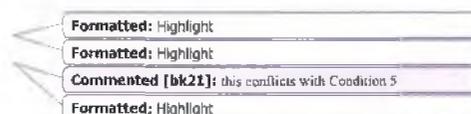
#### **Ecology – Myrtle Rust**

~~20. Prior to any Myrtaceae species being delivered to the site, a signed Myrtle Rust Nursery Management Declaration that certifies that the plant producer has implemented the New Zealand Plant Producers Incorporated Myrtle Rust Nursery Management Protocol must be obtained by the consent holder and provided to the Council (Monitoring Team Leader Central) for certification. Council (Monitoring Team Leader Central).~~

~~21.~~

#### **21-22. Advice Note**

*The New Zealand Plant Producers Incorporated has developed a framework of supply chain biosecurity protocols that will satisfy the above condition. A copy of the Myrtle Rust Nursery*



*Management Declaration and the New Zealand Plant Producers Incorporated Myrtle Rust Nursery Management Protocol can be found at the website (<http://nzppi.co.nz/>). The website explains that a declaration signed by the plant provider will be proof that any Myrtaceae species have been grown and treated according to best practice protocols to reduce the spread of Myrtle rust.*

#### **Historic Heritage**

- ~~22-23~~ For the WF7 planting, only species that are defined as suitable for planting on archaeological sites, as per the Department of Conservation (Jones 2007) publication or any updated list that is subsequently released by the Department of Conservation, shall be planted within 5m of archaeological features or unmodified parts of the mountain.
- ~~23-24~~ The project archaeologist shall be on site for the set out of the WF7 plantings to define the limits of the adjacent archaeological evidence to facilitate condition 21 above. The consent holder shall advise the council (at least 2 days in advance) of this work occurring.
- ~~24-25~~ Should ground disturbance on the site result in the identification of any previously unknown archaeological site, the land disturbance – Regional Accidental Discovery (ADP) rule [E12.6.1] set out in the Auckland Unitary Plan Operative in part (November 2016) shall be applied.

#### **Advice Note**

*Noting that the Tūpuna Maunga Authority are contacted as part of the ADP and that the responsibility of informing mana whenua as outlined in the protocol, rests with the Tūpuna Maunga Authority.*

- ~~25-26~~ In the event that any unrecorded historic heritage sites are exposed as a result of consented work on the site, then these sites shall be recorded by the consent holder for inclusion within the Auckland Council Cultural Heritage Inventory. The consent holders project historic heritage expert shall prepare documentation suitable for inclusion in the Cultural Heritage Inventory and forward the information to the Council (Monitoring Team Leader Central) (who will consult with the Manager: Heritage Unit, [heritageconsents@aucklandcouncil.govt.nz](mailto:heritageconsents@aucklandcouncil.govt.nz)) within one calendar month of the completion of work on the site.

#### **Tree removal methodology**

- ~~26.1~~ All tree felling works and use of non-tarsealed access tracks or routes across the Reserve should only occur when the earth is dry to reduce the risk of pugging of the ground surface from repeated vehicle movements over soft ground.
- ~~27.~~ All tree removal shall be undertaken in accordance with the Finalised Tree Protection Methodologies as outlined and approved in the final Environmental Management Plan.

#### **Conservation Planting works**

##### Implementation of Restoration Planting Plan

- ~~28.~~ The consent holder shall ensure that all the actions within the restoration plan approved under the conditions of this consent are undertaken as proposed and submit a written record to the Council (Monitoring Team Leader Central) confirming compliance within 15 days of the completion of each stage of work identified within the restoration plan, on an ongoing basis.

~~28-29.~~ All planting shall be undertaken in accordance with the approved Restoration Plan shall be subject to and in particular:

- a. ~~That~~ the archaeologist markings out on the ground the area boundaries that the mound plantings are to be confined to prior to any mound plantings occurring.
- b. The archaeologist markings out on the ground the area boundaries that the WF7 plantings are to be confined to prior to any WF7 plantings occurring.

## Post Development Conditions

### Historic Heritage

~~29-30.~~ Within one calendar month of the completion of work on the site the consent holder's supervising archaeologist shall prepare documentation suitable for inclusion in the Cultural Heritage Inventory and forward the information to the Council (Monitoring Team Leader Central) (who will consult with the Manager: Heritage Unit, [heritageconsents@aucklandcouncil.govt.nz](mailto:heritageconsents@aucklandcouncil.govt.nz)).

~~30-31.~~ In the event that any unrecorded historic heritage sites are exposed as a result of consented work on the site, then these sites shall be recorded by the consent holder for inclusion within the Auckland Council Cultural Heritage Inventory. The consent holders project historic heritage expert shall prepare documentation suitable for inclusion in the Cultural Heritage Inventory and forward the information to the Team Leader (for the Manager: Heritage Unit, [heritageconsents@aucklandcouncil.govt.nz](mailto:heritageconsents@aucklandcouncil.govt.nz)) within one calendar month of the completion of work on the site.

### Maintenance of Restoration Planting

~~31-32.~~ Once the final implementation stage of work is completed, the consent holder shall maintain in perpetuity the site as per the requirements of the plantings carried out in accordance with the approved Restoration plan to the satisfaction of Council, including the removal of any weed species.

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## Advice notes

1. For the purpose of compliance with the conditions of consent, "the council" refers to the council's monitoring inspector unless otherwise specified. Please contact the Team Leader Compliance Monitoring (Central) on 09 3010101 or [monitoring@aucklandcouncil.govt.nz](mailto:monitoring@aucklandcouncil.govt.nz) to identify your allocated officer.
2. For more information on the resource consent process with Auckland Council see the council's website [www.aucklandcouncil.govt.nz](http://www.aucklandcouncil.govt.nz). General information on resource consents, including making an application to vary or cancel consent conditions can be found on the Ministry for the Environment's website: [www.mfe.govt.nz](http://www.mfe.govt.nz).
3. 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.
4. 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 at Work Act 2015), 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.

5. The Heritage New Zealand Pouhere Taonga Act 2014 (hereafter referred to as the Act) provides for the identification, protection, preservation and conservation of the historic and cultural heritage of New Zealand. All archaeological sites are protected by the provisions of the Act (section 42). It is unlawful to modify, damage or destroy an archaeological site without prior authority from Heritage New Zealand Pouhere Taonga. An Authority is required whether or not the land on which an archaeological site may be present is designated, a resource or building consent has been granted, or the activity is permitted under the Auckland Unitary Plan Operative in part (November 2016).

According to the Act (section 6) archaeological site means, subject to section 42(3) –

any place in New Zealand, including any building or structure (or part of a building or structure), that –

was associated with human activity that occurred before 1900 or is the site of the wreck of any vessel where the wreck occurred before 1900; and

- ii. provides or may provide, through investigation by archaeological methods, evidence relating to the history of New Zealand; and

includes a site for which a declaration is made under section 43(1)

It is the responsibility of the consent holder to consult with Heritage New Zealand Pouhere Taonga about the requirements of the Act and to obtain the necessary Authorities under the Act should these become necessary, as a result of any activity associated with the consented proposals.

For information please contact the Heritage New Zealand Pouhere Taonga Regional Archaeologist – 09 307 9923 or 307 9924 / [archaeologistMN@historic.org.nz](mailto:archaeologistMN@historic.org.nz).

Māori artefacts such as carvings, stone adzes, and greenstone objects are considered to be tāonga (treasures). These are tāonga tūturu within the meaning of the Protected Objects Act 1975 (hereafter referred to as the Act).

According to the Act (section 2) tāonga tūturu means an object that –

- a) relates to Māori culture, history, or society; and

- b) was, or appears to have been –

manufactured or modified in New Zealand by Māori; or

- ii. brought into New Zealand by Māori; or

iii. used by Māori; and

- c) is more than 50 years old

The Act is administered by the Ministry of Culture and Heritage. Tāonga may be discovered in isolated contexts, but are generally found within archaeological sites. The provisions of the Heritage New Zealand Pouhere Taonga Act 2014 in relation to the modification of an archaeological site should be considered by the consent holder if tāonga are found within an archaeological site, as defined by the Heritage New Zealand Pouhere Taonga Act 2014.

It is the responsibility of the consent holder to notify either the chief executive of the Ministry

*of Culture and Heritage or the nearest public museum (for Auckland this is the Auckland War Memorial Museum), which shall notify the chief executive, of the finding of the taonga tūturu, within 28 days of finding the taonga tūturu; alternatively provided that in the case of any taonga tūturu found during the course of any archaeological investigation authorised by Heritage New Zealand Pouhere Taonga under section 48 of the Heritage New Zealand Pouhere Taonga Act 2014, the notification shall be made within 28 days of the completion of the field work undertaken in connection with the investigation.*

*Under section 11 of the Act, newly found taonga tūturu are in the first instance Crown owned until a determination on ownership is made by the Māori Land Court.*

*For information please contact the Ministry of Culture and Heritage – 04 499 4229 / [protected-objects@mch.govt.nz](mailto:protected-objects@mch.govt.nz).*

Signature here

**Name** [Barry Kaye](#)

**Duty Commissioner**

**Date here** [13 February 2019](#)