

## **RESOURCE CONSENTS HEARINGS PANEL**

**MINUTES:** of a meeting of the Resource Consents Hearings Panel which commenced at 9.00 a.m. in the Council Chamber, Centreway Road, Orewa on Friday, 25 January 2008.

**PRESENT:**

Chair	Alan Watson
Crs	Ross Craig
	Michael Goudie

**IN ATTENDANCE:**

Reporting Planner	Paul Jones
Team Leader	Ian Dobson
Development Engineer	Cameron Ure
Water Services Engineer	Peter Kovacevich (in intermittent attendance)
Policy Planner	Jason Evans (in intermittent attendance)
Committee Adviser	Raewyn Morrison

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### **264/01/08 APOLOGIES AND ANNOUNCEMENTS**

**AGENDA ITEM NO. 1**

Apologies:

Sandra and Ronald Cooper sent their apologies as they were unable to attend the hearing.

Announcements:

There were no announcements.

### **265/01/08 REQUESTS FOR CONSIDERATION OF URGENT ITEMS**

**AGENDA ITEM NO. 2**

There were no requests for the consideration of urgent items.

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**266/01/08 RESOURCE CONSENT APPLICATION UNDER SECTION 88 OF THE RESOURCE MANAGEMENT ACT 1991****AN APPLICATION FOR CONSENT TO CARRY OUT A COMPREHENSIVE REDEVELOPMENT OF THE SITE FOR TWENTY SIX RESIDENTIAL UNITS AND CARETAKER'S UNIT, EARTHWORKS AND RETAINING WALLS ON THE SITE, AND A SUBDIVISION TO CREATE TWENTY SIX INDIVIDUAL UNIT TITLES, ACCESSORY UNITS AND COMMON AREAS**

Address: 379-383 Hibiscus Coast Highway, Orewa

**APPLICANTS: OREWA BEACHFRONT APARTMENTS LIMITED**

**FILE REF** RMA 53189  
**WARD** Hibiscus Coast  
**AGENDA ITEM NO.** 3

9.00 a.m. The applicant, Mr Ian Inglis (Director, Orewa Beachfront Apartments), Mr Malcolm Maclean (Counsel), Mr John Bolam (Project Co-ordinator), Mr Noel Lane (Architect), Mr John van der Leden (presenter of the K2Vi computer model), Mr Daryl Hughes (Traffic Consultant), Mr Adam Akehurst (Geotechnical Engineer), Mr Duncan Elliott (Civil Engineer), and Ms Lisa Capes (Planner), present.

Submitters: Mr Daniel Emery (Hibiscus Palms Motel Ltd), Mr Ken Canton on behalf of Mr John Brown, and Ms Hueline Massey on behalf of The Tree Council, present.

Observers: Mr Robert Walker (Council Planner), Ms Karen Glennister, Mr Brendan Coghlan, Ms Lynette Thomas and Ms Cath Matthews, Cr Zane Taylor and Cr John Kirikiri; all in intermittent attendance.

9.03 a.m. The Chairperson opened the hearing and outlined the meeting procedure.

A revised schedule of financial contributions was tabled.

Mr Maclean introduced proceedings for the applicant. Mr Maclean distributed and read written submissions. The following was noted:

Mr Maclean described the proposal as a comprehensive, innovative and high quality residential apartment complex on a unique site. He submitted that the proposal readily achieved the purpose of the RMA being *"to promote the sustainable management of natural and physical resources."* He said that the potential adverse effects were minimal and any such effects would effectively be avoided and mitigated by the proposed conditions of consent. The proposal represented a high quality and environmentally sympathetic approach to the large and unique site on the Orewa beachfront on which there was currently an unsustainable commercial accommodation activity (being the existing 26 unit motel operation) which had reached (or gone beyond) the end of its economic life.

Mr Maclean said that his legal submissions in opening were brief because the Council planning report had addressed the matters relevant to the proposal under the RMA and he did not need to duplicate them. Mr Maclean confirmed that the applicant accepted the amended financial contributions.

Mr Ian Inglis of Orewa Beachfront Apartments Ltd distributed and read written evidence. The following was noted:

Mr Inglis said that the Golden Sands Motel had occupied the site for over 30 years and it was now tired and beyond renovation or repair and would close at the end of summer. Mr Inglis said that in his capacity as Managing Director and as a shareholder of Harbourcity Developments Ltd, the previous owner of the property, he had been associated with the property since 2001. Harbourcity Developments had been granted two resource consents for the property – one for a 45 room hotel

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with associated restaurants and conference facilities, and one for a 10 lot residential subdivision. Both of the consents were still current, and both applications were non-complying.

Mr Inglis said that Orewa Beachfront Apartments Ltd had not rushed into developing the site and had studied the previous consent conditions and the submissions put forward on those two occasions before embarking on design work for the proposal. He believed that managing a site of such quality and characteristics brought with it a responsibility to develop to the highest standards of design and construction. There was no other site on the beach of this size in private ownership that was bounded on 3 sides by road and reserve, and afforded multi-ownership opportunities. The unique site demanded not just an ordinary development, but something iconic. The proposed building was over the height allowance as set down in the District Plan, but it was the same height as the boutique hotel that had already been granted consent. The proposal also complied with the height to boundary controls including the southern boundary, where there were immediate residential neighbours. The vision was to create and build a residential apartment complex of twenty six apartments, a manager's residence, underground parking for 70 cars, a swimming pool, and BBQ areas all in a landscaped setting adjoining the Kinloch Reserve and Orewa Beach.

Mr Inglis said that the design of the building was sympathetic to the environment. The structure would be principally concrete, providing for maximum durability and at the same time providing a large thermal mass to help with energy conservation. The form and quality of the proposal evoked a sense of resort and provided an effortless connectivity to the beach and swimming pool areas. The apartments themselves were generous in size, with good stud heights and outdoor patios for BBQs. The height was critical to the design in that it enabled all apartments to have similar views and allowed for larger owner/occupier intended residences, as opposed to smaller investor orientated apartments with lower levels of amenity and outlook. Mr Inglis did not envisage investors being attracted to the development. The entire proposal had been designed as one visually cohesive precinct. Effects had been addressed through the design of the building itself, and shared the development controls granted under previous consents. Mr Inglis said that concerns expressed by local people were carefully taken into account, including the adjoining neighbours to the south with whom he had had cordial discussion.

In response to questions from the Panel, Mr Inglis said that:

- He had taken into account the early submissions for the hotel complex from people on the southern boundary who were concerned about privacy and stormwater. The issue of privacy had been solved through the appeal court.
- There was no problem with privacy with the current design.
- The design had evolved since the early drawings.

Mr Noel Lane distributed architectural drawings and written evidence. Mr Lane also referred to the K2Vi computer modelled presentation. The following was noted:

Mr Lane said that the architecture proposed traversed the site from the south-eastern corner adjacent to Orewa Beach towards the Hibiscus Coast Highway and the north-west. The stratification of the site was reminiscent of the adjacent clay cliffs that contained/enclosed the beach ends. The planning layout ensured each apartment had natural light and outlook from all points of the compass. The building bulk was thus fractionated and contoured reducing its presence and scale within the local city-scape. Local landscaping would further screen and domesticate the mass. People on the beach would be aware only of the building bulk of the apartments to the south-east.

With regard to the visual presentation by K2Vi (Key to Virtual Insight), Mr Lane said that all heights were accurate with regard to the level, scale and location. The roof had been "pulled back" and flat roofs gave a sculpted form which made sure the roof and skyscape had an interesting aspect. The building was not a monotonous slab sculpture. Mr Lane was of the opinion that the plant species used for landscaping should be more pure and that more native plants should be used such as kowhai, puriri, native grasses and ferns. There would be a variation in the texture of landscaping planting across the site. Mr Lane said that possibly wild iris and Norfolk Island Hibiscus might be included in the landscaping.

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In response to questions, Mr Lane said that:

- The planting was a concept at this stage, he had no idea what species would be available when the scheme was implemented. The intention was to plant multi generational species of varying heights.
- There was a commitment to plant trees, and the architectural intention was that the trees would be at 4m and 6m. There were issues surrounding cost and survival if bigger trees were used.

Mr Inglis said that the proposed landscape condition allowed for a landscaping plan to be presented at a later date. He acknowledged that landscaping was an integral part of the proposal but it had not been finalised yet. The model was an illustration of the intention – there would be a variety of sizes but the actual species and exact location had yet to be determined.

Mr Lane said that there would be science put into the planting of the planter boxes which took into account tree survival.

Mr Dobson noted that the proposed conditions did not include a landscape condition and as this might have been an oversight it was his recommendation that such a condition be incorporated.

With regard to a question about the development controls Mr Lane said that there was a complicated relationship between this building and the District Plan. He had used as a basis the height in the consent which was still alive for the hotel development and the site coverage. His brief was to reduce the impact and get a more formed building mass that was sympathetic with the environment.

Mr Emery, a submitter in opposition to the proposal gave verbal evidence on behalf of Hibiscus Palms Motel Ltd. Mr Emery needed to leave the hearing early and he spoke with the applicant's agreement before the applicant had finished presenting their case. The following was noted:

Mr Emery was concerned that the 4<sup>th</sup> floor of the proposed building would impact on the motel's morning sun, especially in the winter. He was also concerned with the possibility of afternoon glare, the loss of privacy, and the numerous non complying aspects of the application. He requested that there be a safeguard in the body corporate rules which prohibited the manager to operate as a letting or rental agent for short term rental of the apartments. He also wanted the body corporate rules to incorporate that there be no signage whatsoever allowed anywhere on, or near the development site promoting letting of apartment units. He noted the applicant's intention that the units were intended for owner occupiers but he asked that any rental be for a period of no less than 6 months. Besides the height of the building, Mr Emery did not object to the development.

10.10 a.m. Mr Emery retired from the meeting.

10.10 a.m. – 10.30 a.m. Morning tea adjournment.

Mr van der Leden distributed and read written evidence to accompany his K2Vi visual presentation. K2Vi was a software tool which was a form of Computer Landscape Modelling (CLM) and was the latest technique in a continuum of technological development. Hard copies of the shadow diagrams were also circulated.

Mr van der Leden said that his brief was to produce a 3 dimensional model of the proposed new apartment building. He was also instructed to prepare models of the earlier resource consents granted for the site. The model was to be used to accurately portray the dimensions of the development in its setting from a number of viewpoints. The model was also used to produce a series of shadow diagrams showing the shading produced by the development at various dates and times during the year. It was important to point out that because of technological, cost and time constraints, the model did not attempt to show every last object on the landscape, nor every detail on every object. Rather the model showed the bulk and location of the modelled structures with as much detail as thought required for dimensionally accurate representation of the proposed model in its immediate existing surroundings. Mr van der Leden described the methodology he had used and explained the presentation of the model.

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Mr Inglis provided a descriptive commentary whilst Mr van der Leden was the driver of the software. Mr Inglis said that the present facility consisted of 26 rooms, mostly single level. There was only one access to the site. The present facility had occurred haphazardly over the last 30 years and the facility would close at the end of summer. Currently it was being used as housing for tunnel workers working on the ALPURT B2 motorway. Mr Inglis discussed the previous consents and pointed out that the 10 lot proposal had been successful in getting ARC consent to raise the height of the land. With regard to the consent for the boutique hotel, Mr Inglis said that 45 rooms was not enough to make the proposal economical and that 100-150 rooms were necessary for big chain operators to get involved. The applicant was sympathetic to the feelings of the community and he didn't believe there should be multi-storey buildings on the beachfront, but he didn't think 3-4 storey could be considered as multi-storey. He believed the current proposal was the best use for the land as it was a residential proposal in a residential zone. The hotel consent was commercial and he considered it could have been quite difficult to enforce the rules and regulations.

Included in Mr van der Leden's evidence were shadow diagrams which exhibited that there was very little shading difference from the proposed development and the 'as of right' 10 lot model. Mr Lane said that in autumn there would be some impact of shading on the Hibiscus Palms Motel; many designs had been considered and the intention of the design was to mitigate effects. For the neighbours to the south the most critical time with regard to shading was during mid winter.

Mr Daryl Hughes of Traffic Design Group, distributed and read written evidence. The following was noted.

Mr Hughes discussed the traffic generation, the parking and loading, and construction and traffic effects. With regard to the submission from Transit, Traffic Design Group had consulted with Council and Transit New Zealand on the transportation effects of the proposal. Transit had submitted a letter requesting the requirement that a Construction Traffic Management Plan (CTMP) be specified in the consent conditions. Mr Hughes confirmed that the applicant agreed with that requirement and supported the applicable consent conditions. Mr Hughes said that he had reviewed the proposed conditions and confirmed they were all acceptable from a traffic perspective. The detailed design of the access would conform to the dimensions specified, as well as all relevant design documents.

Mr Hughes said there were no other traffic planning matters related to the development that were likely to generate any adverse off-site traffic effects. Indeed, when compared to the traffic generation and the effect of the existing use of the site (and also currently consented activities) the proposal represented a net improvement to the function of the road network. In conclusion, it was Mr Hughes opinion that there were no traffic planning reasons to preclude acceptance of the residential apartment development as proposed.

In response to questions from the Panel, Mr Hughes said that his company quite often worked hand in hand with the Council and Transit during the course of construction. The CTMP was a live document, and if for instance a neighbour was unhappy, the document could be referred and amended subject to approval and adapted to conditions as development progressed. The document was held on site with a copy also held by the Council.

Mr Adam Akehurst, Geotechnical Consulting Engineer, distributed and read written evidence. The following was noted:

Mr Akehurst referred to and formally presented in evidence the previous report issued by his office titled Preliminary Investigation Report on Orewa Beachfront Apartments at 379-383 Hibiscus Coast Highway, Orewa dated 25 September 2007, referenced GEOTOREW 10913, which confirmed the geotechnical aspects of the proposed development.

Mr Akehurst said that he had read the Rodney District Council's engineering report and agreed with it. He also confirmed that further detailed geotechnical investigation would be undertaken as part of the building consent process, in accordance with the geotechnical report conclusion.

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Mr Duncan Elliott, Civil and Structural Engineer distributed and read written evidence. The following was noted:

Mr Elliott referred to and formally presented in evidence the Hutchinson Consultants' engineering report on the proposal dated 1 October 2007. The engineering report addressed the site investigation and engineering recommendations for the proposal. Mr Elliott confirmed that he had read the Council engineering report and agreed with the proposed engineering conditions of consent. He also said that he had held discussions with Gregor McLean of the Auckland Regional Council. The ARC had not objection to the proposal, recognising that any necessary consents from the ARC must be applied for and complied with.

Mr Elliott said that there had discussion with the writer of the Tonkin and Taylor Inundation Report, Richard Reinen-Hamill, and he had indicated that the development would be able to fully comply with the report findings. The applicant was in agreement with the Council that as a condition of consent there be a requirement to obtain the necessary expert opinion and Mr Reinen-Hamill would be able to provide that report in due course.

Mr Maclean said that this issue had arisen quite late in the piece. They had been assured there would be no difficulty in producing the report. From a legal position the applicant would accept this as a condition.

Mr Kovacevich said that the RL requirement was 4.5 adjoining reserves with open frontage to the sea; it was a matter of how a building could be protected from short circuiting with the effects of coastal erosion. It would be a matter of determining how the application was best protected under those conditions.

Mr Bolam said that when the coastal inundation report was prepared he had proceeded to build several houses with levels of RL3.8. Mr Reinen-Hamill had indicated that he was confident he could solve the problem and he was taking into consideration wave run up and some form of wall on the boundary. The floor level would be a building consent issue, but the applicant accepted that this be reflected in a condition of Resource Consent and he was confident the requirement could be achieved and satisfied as part of building consent stage. He noted that with the consent for the 7 units, the 3 sections in the front would have been subject to consent in the future.

Mr Dobson said that a consequence of complying with the RL levels could push the height of the building upwards. He suggested that perhaps the condition could impose a height restriction (as applied for in the application) in which case the floor level and the height limit would marry up.

11.55 a.m. Mr van den Leden and Mr Akehurst retired from the meeting.

11.55 a.m. – 1.00 p.m. Luncheon adjournment.

Ms Lisa Capes, Environmental Planning Consultant, distributed and read written evidence.

Ms Capes evidence summarised the assessment of effects under the headings potential visual effects, shading and dominance effects, potential natural hazard effects, traffic, noise and potential benefits of the proposal. She also covered the District Planning Objectives and Policies. Attached to her evidence was a detailed statutory and District Plan assessment. Amongst the points summarised in regard to the assessment, Ms Capes said that the careful design of the building and the residential nature of the proposal made minimal any potential effect on the residential amenity values associated with the area as it currently existed. She stated that the yard intrusions were unlikely to have a noticeable effect beyond the site and were not considered consequential to the assessment. There was no intrusion proposed into the height to boundary plane that helped to define the District Plan building envelope for the development. She also considered that there was a less than minor adverse effect on the coastal environment as a result of the proposed activity due to the fact that the main building was set back from the esplanade reserve and behind an existing fore-dune. The building was designed to be responsive to its immediate environment.

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In response to questions from the Panel Ms Capes highlighted various points in the attachment to her evidence. She referred to A1.19 which looked at the density which was in line with what the planning instruments were trying to achieve. A1.26 dealt with the height. Point A1.20 dealt with the bulk and location controls. She pointed out that Variation 101 brought in a 10m setback and that the proposal had a couple of small intrusions which she considered to be very minor. It was her opinion that the proposal met the intention of the controls with regard to issues of dominance on the beachfront environment, and the bulk as perceived from the beachfront. Ms Capes referred to an amendment to A1.24 and also referred the Panel to the floor plans presented at the hearing.

Ms Capes said that there was a package of controls which protected privacy, shading etc. In terms of privacy one of the main issues was the orientation of units (looking west and east); the living environment on the decks had significant views and did not rely on existing neighbours' amenity. The internal amenity had been addressed carefully with the internal structures which didn't rely on or overlook each other. The reserve's open space assisted with proposal. There had been concerns about the southern boundary and the development had been pulled back as far as possible to preserve residential amenity. Ms Capes believed that the thrust of the setback controls had been met. There was no intrusion into the shoreline yard; the esplanade reserve taking up the majority of the shoreline yard. Whilst the site coverage in the Operative District Plan was 40%, the coverage in the Proposed District Plan was 35%.

Mr Canton representing Mr John Brown, (owner of the property to the south) distributed and read written evidence. The following was noted.

Mr Canton said that his client had purchased his residence last year with the clear understanding that the surrounding land was restricted to 3 storey development to a maximum height of 9m. Mr Canton said he accepted that Variation 101 might lift the total building height to 11.5m above RL3.8, however he believed that the occupied space (i.e. excluding the roof) was still to be limited to 9m. He said that the Council's planner had excluded the additional 1.5m of roof structure, bringing the height to 14.4m. Mr Canton considered that the podium level (which was constructed contiguously with the above ground structure) should be included in the coverage calculation – which he estimated to be 72%. He believed that the podium structure had the potential for substantial effects on the neighbouring sites both during the construction phase from dewatering and related subsidence, as well as permanently from the diversion of groundwater and reduction in permeable surface. Mr Canton believed that there were encroachments to the standard daylight requirement and he considered that the 4<sup>th</sup> storey would have a substantial effect on his client's property. He noted that there was an RL of 3.3 on his client's site and he considered the shading impacts in the visual presentation to be about 800mm out.

Mr Canton also noted that Variation 101 seemed to indicate a need to provide multiple buildings rather than big buildings. He believed the intention was to try to maintain low level typical Orewa development and he thought that the Variation was trying to prevent the type of development proposed. He wondered whether the shading diagram had taken in the slope of the ground. He believed the 4<sup>th</sup> storey would have an effect other than at the equinox, for instance when the sun angled lower over various seasons there would be a bigger effect, especially on the neighbouring 1<sup>st</sup> floor level.

2.00 p.m. Mr Canton retired from the meeting.

Ms Massey presented verbal evidence on behalf of The Tree Council. Ms Massey read out her original submission. The following was noted:

Ms Massey said that The Tree Council's main concern was with the lack of substantial planting on the site. In March 2004 The Tree Council made a submission to an earlier Resource Consent application for the same site. Their objection at that time was the removal from the site of 12 mature Pohutukawa. Ms Massey outlined The Tree Council's concerns with regard to the current application, these concerns included:

- The full basement, with storage facilities for the occupants and space for 70 vehicles to park was an extra 16 car spaces than required by the District Plan. This meant the basement area extended to almost the full site.

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- The applicant said there was no room for the planting of trees that would grow to maturity and therefore constitute some compensation for the loss of the original 12 mature Pohutukawa. Above ground plantings would always have root restrictions due to the size of the planter boxes, and in the context of the environment of this site were unlikely to be trivial mitigation for adverse effects of development.

Ms Massey said that she was disappointed there was no comprehensive landscape plan included and that The Tree Council's main concerns remained the same. Ms Massey said that she would want planting that within 5 years would register against a 4 storey building, with the planting being given sufficient space to achieve long term growth (e.g. 30 years). She also had concern about the success of long term planting in planter boxes. One of the key characteristics of Variation 101 was "*significant area of open space and presence of trees.*" Ms Massey agreed the proposal was a high quality development but her concern remained with the landscaping. She wanted to be assured a percentage was adhered to with regard to the area of hard paving (i.e. Policy 8.8.7.2.6 says "...no more than 50% of gross site area surfaced in non permeable materials"). Ms Massey said that it appeared that the set back of 10m was intruded on by several of the units. The Tree Council was also interested in how the developer would handle the difference in the floor level of unit G1 which was at RL3.8 and the sand dunes east and north which were at RL4.2m according to the plan. Ms Massey said that the basement to beach access ramp also intruded into this set back area, which was another concern of The Tree Council. It was The Tree Council's opinion that there should be NO intrusion of building structures or outdoor living space into the designated 10 metre set back space. Ms Massey said that if this policy was not rigidly adhered to precedence would be created for future developments within the Orewa Beachfront Residential Zone. She noted that the set back area was ideal space for in-ground planting. The amount of the building which would be seen from the neighbouring reserve was quite critical because of the lack of planting.

Ms Massey said that she appreciated the offer of Mr Bolam and Mr Lane to keep The Tree Council informed on the Landscape Plan development. In conclusion, Ms Massey requested that sufficient space for successful long term in-ground planting should be available. The Tree Council requested greater evidence of that provision in a Landscape Plan as a condition of Resource Consent approval.

In response to questions from the Panel, Ms Massey said that:

- It was not so much the number of trees as the positioning of trees.
- Trees provided amenity, for instance when looking down on herbage and cover within the site, and from views from the roadside.
- She was yet to be convinced there was room for the trees by the roadside as indicated on the model.
- A large development of this nature needed in-ground planting for softening effects, not planter boxes.
- The Tree Council's role was to preserve the amenity base cities have within the region.

2.15 a.m. Ms Massey retired from meeting.

Mr Paul Jones addressed his report. The following was noted:

Mr Jones corrected an error in his report and confirmed that the applicant was for 26 units and with the manager's unit, a total of 27 units. Mr Jones said that he had a couple of concerns and requested that a surveyor's certificate be provided prior to commencement. The other matter was that unit G1 had an RL of 3.8 and the dune area was 4.5 – it appeared the ranchslider of that unit would be opening on to the sand dune. Mr Jones confirmed the site coverage was 40% and he apologised for omitting the landscape condition. He recommended the addition of an appropriate landscape condition so what had been discussed was carried out on the site.

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Mr Jason Evans, Council's Policy Planner addressed the Panel. Mr Evans outlined the reasoning behind Variation 101. The following was noted:

Mr Evans said that Variation 101 focused on the intensification of Orewa within regional planning policies for Auckland. He said that the Orewa East Structure Plan had been adopted late last year. Mr Evans explained that the site sat within the new zoning proposed in Variation 101 of Beachfront Residential Zone. The intention of the creation of this zoning was that it allowed some of the most desirable land in Orewa the additional opportunity for intensity of use, but also to ensure there was no additional burden on the land. Present rules allowed 1 unit per 600m<sup>2</sup>. Variation 101 introduced up to 3 units per 600m<sup>2</sup> but retained all of the rules with regard to the Medium Intensity Zone. In effect it restricted the footprint but allowed for a greater number of dwellings resulting in an intensification of smaller sites. Mr Evans said that this did not discount integrated residential development, for example Comprehensive Development Proposals. There was a minimum floor area requirement of 120m<sup>2</sup>; the chief concern being that the Council did not want to see the creation of small apartments, rather it wanted genuine usable family sized apartments. Mr Evans said that the proposal was consistent with the intention of Variation 101 with regard to intensification of the site. He said that he had worked with Mr Lane in a couple of areas with regard to height of the buildings: the result being that overall the height was handled very well especially in relation to the site size as it was quite a large site. The area where the proposed development didn't comply wasn't necessarily a bad thing.

Mr Cameron Ure, Council's Development Engineer said that consent from the ARC would be necessary for the treatment of stormwater and that this should be put in as an advice note.

2.27 p.m. – 2.47 p.m. Afternoon tea adjournment.

Mr Dobson suggested that the further requirements for information could be received as written material.

Mr Maclean presented the right of reply: The following was noted:

Mr Maclean said that the issue of coverage had been clarified and that the comments from Mr Evans had been helpful with regard to putting Variation 101 into context.

Mr Maclean said that with Mr Emery's concerns in regard to the impact of the proposed building on amenity effects, privacy and morning sun on the Hibiscus Palms Motel, the K2Vi modelling had shown conclusively that the present proposal had less potential impact than would the consented 7 unit, 10 block subdivision if it was implemented. Mr Maclean believed that Mr Emery's concerns had been addressed in relation to shading, however the issue of letting the units out was not an RMA matter.

Mr Maclean said that Mr Canton referred to significant dimensional non-compliances, but that non-compliances couldn't be equated with effect; it was a separate issue with regard to what the potential effects were. Mr Canton estimated coverage of 72% when in fact it was 36%. Such things as the podium structure, dewatering, subsidence etc were dealt with by detailed engineering reports which had been reviewed by Council officers. Mr Maclean said that the K2Vi model showed that there would be no shading impact on the upper level of Mr Brown's property.

With regard to comments by The Tree Council Mr Maclean said that no tree removal was proposed or requested in this consent. He believed it was incorrect to say there was no room for mature or long lasting trees. With regard to planting in planter boxes he said there was the ability to successfully grow vegetation of a healthy and substantial size. There would be specimen trees plus other landscaping and the applicant would accept a condition to have a detailed landscape plan although there was actually no District Plan rule requiring landscaping. Referring to Ms Massey's comments about the RL of 3.8 and the dune in front of unit G1, Mr Maclean said that there was an existing building there already; the dune would be contoured and taken up to height of RL 4.5 and there would be enhancement of the fore-dune area. Mr Maclean reiterated that the applicant would agree to a consent condition requiring detailed a landscape plan which would include plant location, sizes, and species etc.

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Mr Maclean said that Mr Evan's comments with regard to the intention of Variation 101 confirmed and reflected the positive assessment in the planning report. All the units achieved the minimum size of 120m<sup>2</sup> with the exception of the manager's unit which was more an office than a residential unit. Mr Maclean believed that with the positive planning assessment and the merits of the project, the proposal could be granted consent subject to the conditions put forward and amended, including the recalculated financial contributions which the applicant agreed with.

In response to a question from the Panel with regard to the encroachment into the 10m yard, Mr Maclean said that from an architectural design point of view it was no big deal to move Unit G1 back.

Ms Capes said that the encroachment had only minor effects and that sometimes incremental changes could detract from the amenity rather than protect the amenity.

Mr Lane said the small infringement could be addressed; the issue was 'what were the effects', and one needed to look at the contour of the land and the higher mound at the front (the sand dune).

The Chairperson thanked those in attendance and adjourned the hearing at 3.15 p.m. The further information requested with regard to the report on RL levels was to be forward to the Committee Adviser and once circulated there would be the opportunity for written responses to be received within 5 working days.

The Chairperson closed the meeting at 8.50 a.m. on Friday, 22 February following receipt of the information requested and the conclusion of deliberations.

The Panel resolved that:

**Craig/Goudie**

### **THE DECISION**

**That, pursuant to Sections 104, 104B and 104D of the Resource Management Act 1991, the notified application for resource consent by Orewa Beachfront Apartments Limited to an application for consent to carry out a comprehensive redevelopment of the site for twenty six residential units and a caretakers unit, earthworks and retaining walls on the site, and a subdivision to create twenty six individual unit titles, accessory units and common areas at 379 – 383 Hibiscus Coast Highway, Orewa, legally described as Lots 71 to 73 DP 12795 and Lots 25 to 27 DP 12795, be granted consent for the following reasons and subject to the conditions below.**

### **REASONS FOR THE DECISION:**

**Pursuant to Section 113 of the Resource Management Act 1991, the reasons for this decision are as follows:**

- (a) The Hearings Panel has given careful consideration to all the information put before it in relation to the application. It is apparent that the proposed multi-unit residential development will have effects on the surrounding natural and physical environment, in particular, in terms of visual, character and streetscape effects. The actual and potential scale, character and intensity of these identified effects will be mitigated by the design, layout and finish of the proposed structure to the extent that the activity will have less than minor adverse effects in these respects. The visual qualities and values of the neighbourhood will be retained, while the transitional nature of its character and streetscape will continue to evolve in the manner generally envisaged by the District Plan (in particular by Variation 101 to the District Plan).**

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- (b) The proposal is not contrary to the relevant objectives and policies for the Medium Intensity Zone contained in the operative Plan Change 26 and the Proposed District Plan. In particular, the scale, form, location, and intensity of the proposal are considered to be compatible with the existing and foreseeable future qualities and characteristics of the surrounding locality. The scale, character, and intensity of the effects generated by the development will lie within the levels identified as being acceptable and applicable to the zone.
- (c) The proposed activity is in general accordance with the Proposed Orewa Beachfront Residential Zone, introduced by Variation 101 to the Proposed District Plan, which seeks to recognise and reconcile the desire for more people to live close to the beach without adversely affecting the overall environmental quality and character. The Variation to the District Plan seeks to achieve this by allowing for more intensive use of some of the most desirable land in Orewa without compromising its essential built/landscape character by requiring development to reflect the current medium intensity bulk and location requirements. Although the structure exceeds several of the rules, it is in general accordance with the spirit and intent of these provisions.
- (d) The matter of possible coastal inundation of the site has been expressly addressed in specialist information provided by the applicant. The related advice included has been included in the conditions of consent to the application.
- (e) The design and layout of the residential complex on the generally flat site, the site's size, provision of communal facilities and locational factors (in particular the adjacent beach and reserve) will combine to provide the residents with a level of amenity that exceeds those generally provided by a residential development within the medium intensity zoning.
- (f) The building's design, finish and layout together with the immediate area's topographical features and pattern of development will ensure that the complex and the intensity of development, in terms of occupation, will have less than minor effects on the amenity values of land beyond the site boundary, including but not limited to; reduction in privacy, overshadowing, overlooking, obstruction of views, visual impact, noise and traffic impacts, effects on heritage values and effects on the coherence and cohesion of the neighbourhood community.
- (g) The existing public infrastructure has the capacity to accommodate any extra demand placed on the networks without the need for any additional upgrading.
- (h) The application for consent is for a non-complying activity that satisfies the associated requirements of section 104D of the Act as the adverse effects of the activity are less than minor and the application is considered to not be contrary to the objectives and policies of the District Plan.
- (i) The site, its planning history with two earlier unimplemented resource consents, and current use distinguishes the property from other residential sites in the District to the extent that approval to the application will not cause the general public to question the Council's consistent administration of the District Plan and subsequently the integrity of the District Plan will not be affected.
- (j) The District Plan notes that unit title subdivision, where the residential development has been granted consent, is appropriate, and is provided for by the District Plan.
- (k) The proposal is considered to be consistent with the sustainable management purpose and principles of Part 2 of the Resource Management Act, particularly section 7, as the design, finish and layout of the development together with the immediate area's physical features, will ensure that the neighbourhood's character, streetscape, and visual values and qualities will be maintained and enhanced through the erection and occupation of the complex. Any adverse effects can be satisfactorily avoided or mitigated. In these respects too, the proposal is consistent with the provisions of the Hauraki Gulf Marine Park Act 2000.

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**THE RELEVANT STATUTORY PROVISIONS THAT WERE CONSIDERED:  
(Section 113(1) (AA))**

Overall this application was considered to be a **non-complying** activity and was considered in terms of sections 104, 104B, 104D and Part 2 of the Act.

**OTHER RELEVANT PROVISIONS THAT WERE CONSIDERED:  
(Section 113(1) (ab))**

The provisions of the following documents were considered by the Hearings Panel in reaching this decision:

**Auckland Regional Policy Statement**

Chapter 2, Regional Overview and Strategic Direction

**Proposed Regional Policy Statement**

Proposed Plan Change 6

**Operative District Plan as Amended by Plan Change Number 26, Residential Provisions**

Objectives, policies and rules as they relate to the proposal in the Medium Intensity Residential Activity area

**Proposed District Plan 2000**

Objectives, policies and rules as they relate to the proposal in the Residential Medium Intensity zone

**Proposed Variation 58**

Objectives, policies and rules as they relate to the proposal for integrated residential development

**Proposed Variation 101, Orewa East**

Objectives, policies and rules as they relate to the proposal for integrated residential development.

**Other Legislation**

Hauraki Gulf Marine Park Act 2000

**PREAMBLE****Background**

The 26 unit motel currently operating on the site enjoys existing use rights. There are two unimplemented land use resource consents for the redevelopment of the site. The first of the consents provides for the erection and operation of a hotel/convention centre and associated amenity buildings and car parking on the property. The second consent provides for a 10 lot residential subdivision, with the erection of seven residential units on seven of the created lots. In addition to these Rodney District Council consents, there is an ARC Sediment Control Consent which provides for the importation of fill sufficient to bring the site's ground level up to RL 3.5m.

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## The Site

The site is occupied by the Golden Sands Motel, a complex of 26 motel units and associated facilities established on the property over thirty years ago. The site has an area of 5,766m<sup>2</sup> and, like the majority of sites along this strip, is generally flat with a small incline to the foredune abutting the beach. The site is bounded to the north by Kinloch Reserve, owned by Rodney District Council, by two privately owned residential sites to the south and by State Highway 1 (Hibiscus Coast Highway) to the west. The eastern boundary abuts the esplanade reserve and Orewa Beach.

Development that has occurred on the neighbouring residential properties includes motels, residential apartment complexes, single small and large dwellings, separate and attached dwellings, commercial development (small retail and offices). The neighbourhood is experiencing a transition as the traditional small seaside baches and early motel developments are progressively replaced with large residential and visitor accommodation developments.

## The Proposal

The proposal is to carry out comprehensive redevelopment of the property involving the erection of 26 residential apartments of varying sizes within a four storey building, a single storey manager's unit located on the site's road frontage (southern corner) and an additional single storey building (containing two of the units) on the northern boundary. The total number of residential units, including the manager's residence, will be 27.

The four storey residential apartment block will have a height of 12.9m in height (plus sky light projections to a peak of 1.5m in places above the roof level). The site is to be excavated and a basement area built to occupy the majority of the site. The basement will provide parking for 70 vehicles, a gym and storage rooms for the apartments. The present access to the site will be changed to allow for access to the underground car park and separate access to a ground level service and loading space at the southern end of the site. The underground car park is to feature pedestrian access at the beach end of the site in order for beach accessories to be readily stored and accessed.

Approximately 11,000m<sup>3</sup> of earthworks will be required to provide for specific designed foundations and the underground car park for the development. It is proposed that the majority of excavated material (sand based soils in the main) be removed from the site. The site is proposed to be raised approximately 700-800mm in places and this will involve some retaining at front and side boundaries.

## RESOURCE CONSENTS

Resource consent is required for the following reason(s):

### Operative Plan as amended by Plan Change 26

#### *Land Use*

Under Rule 3.6.1 Building siting and design:

- The maximum permitted height is 9 metres, the building has an overall height of 12.9m. this matter requires consideration as a non-complying activity.
- The maximum permitted site coverage is 30%. The basement structure will occupy the entire site and the ground floor footprint will occupy 36% of the site. This matter requires consideration as a discretionary activity.

Under Rule 3.6.2 Private Open Space each unit requires useable private open space to be a minimum of 80m<sup>2</sup> in area for each household unit on a site. No unit meets this requirement and this matter requires consideration as a discretionary activity.

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Under the Conservation of Landscape rule, the maximum permitted volume of earthworks is 200 m<sup>3</sup>. The earthworks proposed of some 11,000m<sup>3</sup> requires consideration as a discretionary activity.

#### *Subdivision*

Under Rule 3.4 the proposed unit title subdivision requires consent as a controlled activity.

### **Proposed District Plan 2000**

#### *Land use*

Under Activity Table 8.9.2, integrated residential development at a standard of not less than 450m<sup>2</sup> site area per household unit on sites meeting the standards in Rule 8.9.3.1 (a front or corner site with an area of not less than 2,000m<sup>2</sup>; or a rear site with a net site area of not less than 2,500m<sup>2</sup> with a frontage of not less than 6 metres), and (b) where the development complies with Development Controls in Rule 8.10.1 to 8.10.5 is a restricted discretionary activity.

As the proposed development has a density of 214m<sup>2</sup> per unit, the activity is not provided for under Rule 8.9.2 and is to therefore be assessed as a non-complying activity.

As above, the activity does not comply with the maximum height control requiring non-complying activity consideration.

The activity does not comply with the private open control requiring restricted discretionary activity consideration.

Under Rule 8.10.6.3. Household units shall be located no closer than 6 metres to another household unit on the same site. This is not met because of the apartment nature (common walls) of the proposal and requires consideration as a non-complying activity.

Under 18.9.2 6 earthworks greater than a total volume of 5m<sup>3</sup> but less than or equal to 200m<sup>3</sup> (excavation plus deposition) or greater than an area of 25m<sup>2</sup> but less than or equal to 750m<sup>2</sup> are a permitted activity. The proposed site works exceeds these amounts requiring discretionary activity consideration.

Under 18.10.3 earthworks shall not involve excavation or filling that intercepts a line drawn at 1 vertical to 2 horizontal from the ground level at a site boundary. This is not met and requires restricted discretionary activity consideration.

#### *Subdivision*

Under Rule 8.15.4 unit title subdivisions are a restricted discretionary activity.

### **Proposed Variation 58**

The Variation provides for integrated residential development at a standard of not less than 450m<sup>2</sup> site area per household unit on sites meeting the standards in Rule 8.9.3.1, and (b) where the development complies with Development Controls in Rule 8.10.1 to 8.10.5 and 8.10.7. As noted above, the application does not comply with the maximum density ratio and therefore must be considered as a non-complying activity.

### **Proposed Variation 101, Orewa East**

This Variation provides for integrated residential development (a) at a standard of not less than 600m<sup>2</sup> site area per building on sites meeting the standards in Rule 8.9.3.2, and (b) at a standard of not less than 120m<sup>2</sup> net useable floor space per household unit on sites meeting the standards in Rule 8.9.3.2; and (c) where the development complies with Development Controls in Rule 8.10.1 to 8.10.6.

The proposed development does not meet the required floor area per unit (caretakers) and infringes several of the development controls. Therefore it must be considered as a non-complying activity under this Variation.

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The Variation also introduced a 10m beach boundary yard setback into which the proposal encroaches with part of the single storey Unit G1 and with part of a wall for Unit GA and the part of the terraces for Units 1A, 2A and 3A. That requires consideration as a restricted discretionary activity.

### **Overall Status**

The application requires consideration as a non-complying activity.

### **Notification**

The application was fully notified on 6 November 2007. Fifteen submissions were received. Eleven submissions opposed the application, two partly opposed, and two supported the activity.

### **THE PRINCIPAL ISSUES THAT WERE IN CONTENTION: (Section 113(1) (ac))**

The principal issues that were in contention were:

- (a) Whether one or other, or both of, the section 104D tests of the Act can be met in relation to the adverse effects of the activity on the environment being minor and the application being for an activity that will not be contrary to the objectives and policies of the relevant district planning documents.
- (b) Whether the effects of the proposal on the environment, and particularly on the immediate neighbouring properties, were acceptable.
- (c) Whether the proposal would adversely affect the existing character or amenity of the area.
- (d) Whether conditions could be applied to the activity that would serve to satisfactorily avoid and/or mitigate adverse effects to a level that those effects were no more than minor.
- (e) How the adverse effects of the activity could be considered in the context of two earlier resource consents that remain valid, for development of the site.
- (f) Whether the proposal is in accordance with the relevant provisions of the district planning documents.
- (g) Whether the proposal is consistent with the sustainable management purpose of the Act and its principles as included at Part 2 of the Act.

### **SUMMARY OF EVIDENCE HEARD: (Section 113(1) (ad))**

#### **Applicant**

Mr Malcolm Maclean, Legal Counsel, introduced the application describing it as a comprehensive, innovative and high-quality residential apartment complex on a unique site and one for which consent should be granted for the reasons set out in the Council's planning report upon the application. He provided additional reasons why consent should be granted, those reasons particularly addressing the statutory considerations involved in the assessment of it pointing out too that the applicant accepts the recommended conditions upon a grant of consent with an amended financial contribution schedule that he presented.

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Mr Ian Inglis, presented a written statement as a director and shareholder of the applicant company. He described the need for the site to be redeveloped, based partly on the dated nature of the existing buildings upon it, and the opportunity to redevelop it to the highest standards of design and construction. He described the existing two resource consents relating to the property and the unique nature of the site given its size and it being bounded on three sides by road and reserve areas. Mr. Inglis outlined the formulation of the proposal and the details of it as it relates to the existing resource consents for building development upon the site and the neighbourhood. He concluded it is an exciting proposal for the redevelopment of the site and for Orewa.

Mr Noel Lane, architect, provided a written statement describing the proposal that he had been responsible for designing before proceeding to describe the proposal in more detail by way of plans and photographs. The Hearings Panel records that it found Mr Lane's presentation particularly helpful in understanding the details of the proposal and the manner in which he had approached the design of it.

Mr John van der Leden, presented details of the proposal and neighbourhood using his three-dimensional spatial modelling software called K2Vi (key to virtual insight) that provided a three-dimensional pictorial presentation. This complemented the evidence of Mr Lane. From the visual analysis Mr van der Leden was able to pictorially present a series of shadow diagrams both representing the impacts of the proposal and the impacts of the earlier developments approved for the site by way of the earlier resource consents.

Mr Daryl Hughes, traffic and transportation engineer, presented written evidence addressing key findings in relation to traffic generation, parking and loading and construction traffic effects. He saw the proposal as having no practical impact on existing traffic flows on the Hibiscus Coast Highway, it producing very similar movements to the currently consented proposals for the site. The proposal exceeded the district plan requirement for car parking and the loading requirement was also met. Construction traffic effects could be managed by a Construction Traffic Management Plan to be prepared and approved by Transit NZ and the Council prior to construction commencing. Mr Hughes concluded that there were no traffic planning reasons to preclude acceptance of the proposal.

Mr Adam Akehurst, consultant geotechnical engineer, presented a written statement confirming details of the previous report issued by his company. Further detailed geotechnical investigation would be undertaken as part of the building consent process in a manner which would satisfactorily address geotechnical aspects of the development.

Mr Duncan Elliott, civil and structural consulting engineer, presented a written statement addressing the earlier report with the application by his company, that report having addressed the site investigation and engineering recommendations for the proposal. There were no matters from a civil engineering point of view that presented any difficulties that could not be readily overcome as part of the proposed development.

Ms Lisa Capes, environmental planning consultant, presented a written statement in which she addressed relevant planning considerations to be taken into account in assessing the application. She referred to her planning report with the application and to an attachment to her evidence in which she set out a detailed statutory and district plan assessment of the proposal.

Ms Capes summarised her earlier report describing details of the proposal and the matters requiring specific consideration. She then summarised the effects of the proposal in terms of both potential adverse effects and the positive benefits. In relation to effects she saw the proposal as being for an activity whereby the adverse effects are essentially able to be internalised to the site or otherwise appropriately mitigated and that although there will be a perceptible change from the existing land use on the site, the proposal will create an appropriate form and example of high quality apartment living. Ms Capes saw any adverse environmental effects of the proposal as being no more than minor and the positive benefits as being substantial. She found the application to be for an activity that was not contrary to the District Plan objectives and policies, reaching the same conclusion as the Council's planner in this respect.

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**SUBMITTERS**

Mr Daniel Emery, from Hibiscus Palms Motel Limited, situated opposite the application site, spoke to his earlier submission. He was opposed to the fourth (top) floor of the proposal due to the potential adverse effects of it upon sunlight and privacy and the non-complying aspects of the development proposal. He sought that the Body Corporate for the proposal provide that there be no short-term rental of apartments, rental being on the basis of no less than 6-month terms, and that there be no signage on or near the site allowing short term letting of its units.

Mr Ken Canton, presented a written statement on behalf of Mr John Brown who opposed the application in its entirety. He expressed concerns for the height of the building being beyond that otherwise permitted by the District Plan and its potential impacts upon Mr Brown's property on the southern side of the application site. Mr Canton described other concerns relating to the podium level of the structure needing, in his opinion, to be included in the building coverage calculation for the site and leading to a resulting reduction in the ability to landscape the site and an increase in run-off, these being effects that were more than minor. He considered there was a building in relation to height encroachment in relation to the common boundary of the application site with his client's site. He disagreed with the assessment by the Council's planner and believed there were numerous conflicts by the application in relation to the relevant district planning objectives and policies. He sought consent be declined to the application.

Ms Hueline Massey, from The Tree Council spoke to its earlier submission expressing concern that there was no comprehensive landscape planting plan with the application and particular concern for the earlier removal of coastal pohutukawa trees from the site leaving but one coastal tree in the southeast corner of the site beside the beach reserve zone. Ms Massey considered that the nature of the proposed development limited the opportunities for on-site planting to the extent that there was a reliance on the adjacent reserves and sought greater tree planting as a condition of resource consent.

**COUNCIL OFFICERS**

Mr Paul Jones, planning consultant, spoke to his report confirming his view remained that consent should be granted to the application subject to conditions. In respect to the height in relation to boundary control he pointed out that the ground levels between the application site and the neighbouring site were such that compliance was achieved but indicated a surveyor's certificate confirming compliance with this development control could be imposed as a condition upon consent. In similar fashion a landscape condition could be imposed to specifically address concerns of some submitters that there was insufficient planting proposed.

Mr Jason Evans, strategic planner, addressed details of Variation 101, pointing out it had been adopted by the Council on 29 November 2007. He saw a greater intensity of use and development in the beach front area as being desirable subject to there being no additional burden on infrastructure services. The density controls in the Variation in this respect were directed towards the intensification of smaller sites but did not exclude larger sites and he saw the proposal as being consistent with the provisions of Variation 101. Mr Evans stated that the additional height beyond that otherwise permitted was acceptable in relation to the size of the application site.

**THE HEARING**

Some concerns were raised during the course of the hearing in relation to the potential for coastal erosion and inundation of the site as a consequence of rising sea levels and related processes. Mr Maclean advised that this was a matter that had been considered by the applicant and its coastal engineer, Mr Richard Reinen-Hamill, had advised the development proposal was acceptable in these terms. Mr Reinen-Hamill was unfortunately unable to attend the hearing. Mr Maclean however advised that this was a matter that had been considered and found to be acceptable and could be handled by way of a condition of consent. The Hearings Panel received some advice from Council's officers in attendance at the hearing, those officers being Mr Cameron Ure, Council Development Engineer, and Mr Peter Kovacevich, Water Services Engineer. The Panel then advised it believed additional information should be provided to them addressing this matter with the opportunity for that information to be circulated to the parties at the hearing and that the hearing would be adjourned for that purpose. Mr Maclean agreed that he would in the meantime provide the applicant's right of reply.

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**RIGHT OF REPLY**

Mr Maclean, provided a right of reply on behalf of the applicant in which he responded to the concerns that had been expressed by submitters at the hearing. He stated the effects from the proposed development had been demonstrated as being acceptable, highlighting the permitted baseline approach in the consideration of these effects in the context of the developments already approved for the site. He also indicated the support to the proposed development by the Council's planning officers, both regulatory and strategic, as being in line with the future that was seen for this beach front locality.

**THE ADDITIONAL INFORMATION**

Information was subsequently received by the Hearings Panel on 22 February 2008 by way of a report dated 15 February 2008 by Mr Reinen-Hamill, which addressed the findings of site specific inundation assessment for the proposed development and the potential options to manage coastal inundation. That report includes specific recommendations relating to the proposal on this site. Upon receipt of that information on 22 February 2008 the Panel resolved to close the hearing and prepare its decision on the application. The details of this information relate principally to how the site is developed at its beach front end and are not of great consequence to parties other than the applicant and the Council. The Panel has incorporated the recommendations contained in the additional information into the conditions of the consent granted to the application.

**THE MAIN FINDINGS OF FACT:  
(Section 113(1) (ae))**

The main findings determined by the Hearings Panel, that are in addition to points already made above in the "Reasons for the Decision", and that have led to the above decision are as follows. They, along with the Reasons, have been reached after considering the application, the submissions, the evidence and submissions at the hearing, the report prepared by the reporting planner, all the relevant statutory and planning provisions, the principal issues that were in contention and from a site visit. The Panel finds the following:

- (a) The proposal is for a building development of a high quality design and appearance.
- (b) The proposal would not adversely affect the amenity values of the neighbouring sites or the neighbourhood because the site is of sufficient size to accommodate the proposed development without any associated adverse effects.
- (c) The two earlier unimplemented resource consents that provide for development of the site are relevant and provide part of the baseline against which the current application has been assessed by the Panel. This is particularly relevant in considering the height of the proposal which is the same as that for the hotel/convention centre that has earlier been granted consent for the site.
- (d) The concern by a neighbouring submitter that the height in relation to boundary control of the District Plan was not met was not substantiated by the reporting planner who pointed out the different ground levels between the respective sites that resulted in compliance being achieved. This also appeared to be the case when the Panel visited the sites. However to be sure that compliance is achieved a condition of consent requires a Surveyor's certificate be produced to the Council demonstrating compliance.
- (e) The concerns raised regarding potential coastal inundation have been covered by an additional report received by the Panel with the recommendations in that report included as conditions on a grant of consent to the application. Irrespective of the recommendations including a 9 metre set back of habitable structures from the coastal boundary of the site the Panel remained of the view, expressed at the hearing, that the Unit G1 be set back the full 10 metres required by the District Plan for reasons relating to maintaining the amenity of the existing coastal reserve strip alongside the site.

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- (f) Landscape planting about the site is important as a component of mitigating the effects of the building and this was a matter that had not received as much attention from the applicant as may have been expected before the hearing. A relevant condition is included that acknowledges the advice from the applicant at the hearing that this can be satisfactorily arranged and which seeks such planting include some specimen-type trees that "break" the form of the building on the site and are appropriate to the coastal environment.
- (g) The updated financial contributions, as presented at the hearing by the applicant, are acceptable, having been agreed to by the Council's officers handling these matters.

**LAPSING OF CONSENT:**

Pursuant to Section 125 of the Resource Management Act 1991, this resource consent will expire 5 years after the date of commencement of consent unless, before the consent lapses;

- (a) the consent is given effect to; or
- (b) an application is made to the Council to extend the period of consent, and the Council decides to grant an extension after taking into account the statutory considerations, set out in section 125(1)(b) of the Resource Management Act 1991.

**CONDITIONS OF CONSENT:**

Pursuant to Section 108 of the Resource Management Act 1991, this consent is subject to the following conditions:

**LAND USE****General**

- a) **(general)**
- The proposed activity (development) shall be carried out in accordance with the information submitted with the application and associated plans, except where otherwise required to be different as a result of the second part of this condition and other conditions on the consent below (refer for example to condition hh).
  - In particular Unit G1 shall be located a minimum of 10 metres from the coastal boundary in order to comply with the coastal yard control of the district plan in that respect although the wall for the terrace on Unit GA and the terrace areas for Units 1A and 2A and the planter box for Unit 3B may intrude into this yard to achieve a yard setback of 8 metres from the coastal boundary, in accordance with the application plans.
- b) **(resource consent monitoring charges)** the resource consent holder shall pay to the Council within one month of the issue of this consent or prior to the activity commencing (whichever is earlier) the cost, including specialist services, staff time and administration for the processing of this application together with the initial charges for the following inspections:

Environmental protection x 2 (\$150 x 2)

Engineering x 2 (\$150 x 2)

Monitoring deposits will be invoiced by the Council together with the consent processing charges.

Should further monitoring be required to ensure compliance, the Council will recover the actual and reasonable costs that are incurred from this monitoring as set out in the Council's Schedule of Fees and Charges.

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- c) **(notification of Commencement)** At least 7 days prior to the work commencing, the resource consent holder shall notify the Council's RMA Compliance Administrator by telephone (0800 426 5169) the expected date of work commencing.

#### Engineering

- d) **(developer's representative)** Prior to the commencement of engineering design, the Consent Holder shall nominate, in writing, its Developer's Representative in terms of Council's "Standards for Engineering Design and Construction" to be the first point of contact for all engineering matters. Any subsequent change to the nominated Developer's Representative shall be immediately notified in writing to the Council's Consents Engineer.
- e) **(insurance and warranties for engineering works)** Prior to the commencement of engineering design for the works required by these conditions, the Consent Holder and the Developer's Representative shall provide to the Council proof of Professional Indemnity Insurance and Warranties in full satisfaction of section 102 of the "Standards for Engineering Design and Construction".
- f) **(engineering plans)** The engineering works required by this consent shall comply with the Council's "Standards for Engineering Design and Construction" as may be amended from time to time. Engineering Plans, as specified in the "Standards", shall be submitted to the Council's Consents Engineer, and approval thereto received in writing, prior to the commencement of any works on the site.

Any variation or changes to the approved engineering plans shall be submitted for approval as an Amendment and approval received thereto prior to construction of the varied works.

The term 'engineering works' includes, but is not limited to:

#### Earthworks;

The formation of roads, the laying of pipes and other ancillary equipment to be vested in the Council for water supply, drainage or sewage disposal;

Street lights, landscaping or structures on land vested, or to be vested, in the Council;

The installation of gas, electrical or telecommunication reticulation including ancillary equipment;

Any other works required by conditions of this consent.

**Note:** Structures such as retaining walls, in-ground walls and bridges will require a separate Building Consent.

**Note:** The plans required under this condition are separate to, and do not form part of, any Building Consent that may be required on the subject site.

- g) **(pre-construction meeting)** The Developer's Representative shall give the Council's Consents Field Supervisor named in the engineering plan approval at least 5 working days notice of the on-site pre-construction site meeting (refer section 103.15 of the Council's "Standards for Engineering Design and Construction"). Construction work shall not commence on the site until such meeting has been held and all necessary documentation presented.

**Note:** Attention is drawn to the requirements of section 103.15.3 "Standards for Engineering Design and Construction" for the following documentation to be presented at the preconstruction meeting:

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Approved engineering plans and copy of approval letter;  
Health and Safety Plan;  
The Signed Road Opening Notice;  
The written approval of Transit New Zealand;  
The relevant Resource or Subdivision Consent (and all conditions attached thereto);  
Copies of any Auckland Regional Council Consents necessary for the works; and  
Signed copies of all Consents to Enter for Construction for works on land (including Council land) not owned by the consent holder.

- h) (as built record plans) As Built Record Plans to the requirements of s.103.20 of the Council's "Standards" shall be submitted together with the relevant completed As Built Plans shall be a prerequisite of s.224(c) RMA or Consent-Works Completion Certificate as appropriate.
- i) (inspection and testing) All engineering works required by this consent shall be subject to inspection and testing pursuant to s.103.19 of the "Standards for Engineering Design and Construction". The Developer's Representative shall make applications for the inspection and testing in writing in the form of Appendix "E" of the "Standards".
- j) (road opening notice) The Consent Holder or his Contractor shall obtain a Road Opening Notice from the relevant Network Service Provider prior to the commencement of any works within the legal road.
- k) (earthworks design) All earthworks shall be specifically designed to the "Standards for Engineering Design and Construction" and NZS 4431 by a Chartered Professional Engineer experienced in soil mechanics. The work shall be designed and executed in compliance with the recommendations contained in the Geotechnical Report, prepared by Coffey Geotechnics (NZ) Limited, reference 10913, dated 28 Sept 2007.
- l) (earthworks certification) On completion of earthworks, an Earthworks Completion Report and a Certificate in the form of Appendix J of the Council's "Standards for Engineering Design and Construction" signed by the Chartered Professional Engineer who designed and supervised the works, shall be provided to the Council's Consents Engineer.
- m) (silt retention) Before commencement of any works, adequate silt retention structures as detailed in the Auckland Regional Council Technical Publication No. 90 "Erosion and Sediment Control Guidelines for Land Disturbing Activities in the Auckland Region" shall be installed. These structures shall be maintained and cleaned out as necessary until such time as complete grass cover, or other non-erodible surfacing, has been re-established over the site.

The location and detail of the sediment control shall be included in the Engineering Plans for approval prior to commencement of construction.

- n) (dust control) All necessary actions shall be taken to prevent a dust nuisance to neighbouring properties and public roads; including but not limited to:

The staging of areas of the works;  
The retention of any existing shelter belts & vegetation;  
The installation & maintenance of wind fences and vegetation strips;  
Watering of all haul roads and manoeuvring areas during dry periods;  
Spraying of load dumping operations; and  
Suspension of all operations if necessitated by the prevailing conditions.

The site, or parts thereof as appropriate, shall be regrassed or otherwise protected from wind & water erosion immediately upon completion of bulk earthworks whether or not other works are completed.

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- o) **(finished floor levels)** Finished floor levels, for all habitable areas, shall be above the inundation levels set by the report "Assessment of Potential Sea Levels Due to Storms and Climate Change Along Rodney's East Coast" (Appendix 2 Table 1) unless written expert opinion is presented offering an acceptable protection to lesser finished floor levels.
  - p) **(construction of crossing)** The vehicle crossings to the boundary of the site shall be constructed to the residential standards of the Council's "Standards for Engineering Design and Construction".
  - q) **(water supply connections)** Connections to the existing public water supply system which lies within or is contiguous to the land in the Scheme Plan shall be provided to serve the development, to the Council's "Standards for Engineering Design and Construction".
  - r) **(wastewater connections)** Connections to the existing public wastewater system which lies within or is contiguous to the land in the Scheme Plan shall be provided to serve the development, to the Council's "Standards for Engineering Design and Construction".
  - s) **(stormwater connections)** Connections to the existing public stormwater system which lies within or is contiguous to the land in the Scheme Plan shall be provided to serve the development, to the Council's "Standards for Engineering Design and Construction".
  - t) **(building restrictions)** Any buildings erected on the identified site shall be subject to the requirements of the report prepared by Coffey Geotechnics (NZ) Limited, reference 10913, dated 28 Sept 2007, and any subsequent reports. Copies of the said plan & report(s) will be held at the offices of the Council, Centreway Road, Orewa.

#### Plans

- u) **(health & safety plan)** A detailed Health & Safety plan to the requirements of the Health & Safety in Employment Act 1992, specifically addressing control of the works on and adjacent to public land, and the protection of the public, shall be submitted to the Council's Consents Engineer prior to the commencement of any works on the site (refer s.103.11 of the "Standards for Engineering Design and Construction"). A copy of the Health & Safety Plan shall be kept on the site at all times. All measures for the protection of the public and other personnel set out in the Plan shall be maintained and complied with until such times as the works are completed.
- v) **(construction management plan)** the consent holder shall prepare a Construction Management Plan in consultation with Transit New Zealand, in accordance with the Code of Practice for Temporary Traffic Management specifically addressing control of construction access to the site and traffic control adjacent to the site, and the protection of the public. The Plan shall be submitted to the Council's Consents Engineer. Verification that it meets the Council's requirements shall have been received in writing, at least 10 working days prior to the commencement of work on the site (refer s103.12 of the "Standard for Engineering Design & Construction".) A copy of the Plan, together with the verification letter shall be kept on the site at all times. All measures for the protection of the public and other personnel set out in the verified Plan shall be maintained and complied with at all times until such time as the works are completed. A copy of the plans certified must be provided to Transit New Zealand.
- w) **(wheel wash facilities)** Wheel wash facilities are to be provided on site to minimise the migration of loose stones and site matter onto the State Highway during construction.

#### Financial Considerations

- x) **(financial contributions)** Pursuant to Operative Plan Change 62 (Chapter 22), the financial contributions as set out in the "Schedule of Financial Contributions", RMA SUB-53189, Sequence 002, attached to this consent shall be paid to the Council in full

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mitigation of the offsite effects of the activity in respect of infrastructure and community facilities.

**Note:** Pursuant to Minute Number 182 / 02 / 05, these financial contributions have been assessed in accordance with the initially calculated Schedule referred to in Clause 6.6 of Appendix 22B of Plan Change 62.

- i. Where a financial contribution paid under this consent exceeds that payable under the final Household Unit Contributions Schedule, the excess contribution amount will be refunded to the consent holder.
  - ii. Where a financial contribution paid under this consent is less than that payable under the final Household Unit Contributions Schedule, no further contribution will be required to be paid by the consent holder.
- y) **(reassessment of contributions)** Any portion of the contributions remaining unpaid on the anniversary of the date of granting the consent, shall be adjusted by applying any change in the Producer Price Index – Construction between the date of consent and the most recent anniversary of the date of consent prior to the payment of the contribution.

Any portion of the contributions remaining unpaid five years after the date of granting of the consent, shall be fully reassessed in accordance with Operative Plan Change 62 immediately before the time of payment.

For the purposes of this condition, “immediately prior to payment” shall mean “within two calendar-months of the date of payment”

- z) **(timing of payment)** Pursuant to Rule 22.8.3.2, all contributions shall be paid in full prior to the issue of the s.224(c) RM Act certificate, unless other arrangements satisfactory to the Council have been made pursuant to Rule 22.8.5. In the case of staged developments, the contribution payable on each stage shall be reassessed on the number of units created in each stage and shall be payable before the issue of the Section 5(1)g certificate for that stage.

#### Design Details

- aa) **(interfloor height)** The interfloor height in the basement should be at least 2.5m where manoeuvring and access is required to the disabled parking spaces.
- bb) **(main access)** The proposed main vehicle access is noted as being 5.6m wide in Section 7.1 and 5.8m wide in Section 6.2 of the traffic report with the application. The access width shall be 5.8m.
- cc) **(main access)** The main vehicle access is to remain at a width of 5.8m within, and to, the site boundary from which point the access width can be widened to 10m at the State Highway 1 connection.
- dd) **(main access)** It is acceptable to have ‘splays’ at the site boundary to provide for pedestrian visibility that will widen the vehicle access close to the boundary but the width of the access shall otherwise be generally in accordance with the above condition.
- ee) **(loading bay)** The location and form of the loading bay is acceptable, but it should be noted that an existing street lighting column is located some 8.6m from the southern boundary. Any changes to road lighting and access will need to be confirmed with Transit NZ, with evidence presented to Council to show Transit’s approval.
- ff) **(driveways)** A minimum of 3m should be maintained between the two driveways.
- gg) **(design details)** The final design of the building shall be approved by the Council’s Team Leader Consents prior to the issuing of a building consent for any stage of the development.

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**Coastal Considerations**

- hh) (**habitable structure**) All habitable structures shall be constructed a minimum of 9 metres from the site's coastal boundary, unless required to be otherwise by condition a) above.
  - ii) (**inundation wall**) An inundation wall, with the top of the wall set at RL 4.6m, shall be constructed 3m inside the seaward property boundary along the length of that boundary and returned 6m along the northern and eastern boundary. A northern & southern inundation wall shall continue from the end of the returns, for the full length of these boundaries, with the top of the wall set above RL 3.9m and continued at this level to close the site along the western boundary.
  - jj) (**planting programme**) The developer will submit a protective planting programme to RDC for the dune area seaward of the development, and upon acceptance by the Council's Team Leader - Resource Consents, carry out such planting at the developer's cost.
  - kk) (**excavated material**) Any suitable material excavated from the development which could be used to enhance the protection offered by the dunes shall be deposited on the dunes and dressed to suit the existing situation directly in front of the development as agreed with the Council's Manager of Parks & Reserves.
- Note: any material deposited within the Coastal Management Area may require consent from the Auckland Regional Council.
- ll) (**entrance to underground car park**) The entrance to the underground car park shall rise from the road to form a vertical curve with RL 3.9m, before sloping down into the car park.
  - mm) (**stormwater system**) The stormwater system shall be proofed against inundation effects and the methods used to provide this proof shall be located wholly within the development site.

**Height to Boundary**

- nn) (**registered surveyor's certificate**) That prior to building progressing beyond floor level the consent holder shall engage a registered surveyor to certify to Council in writing that based on the as built floor level and the building being completed in accordance with the approved plans it will comply with the height in relation to boundary control of the Proposed District Plan (Nov 2000) or the height in relation boundary authorised in the resource consent.

**Landscape Plan**

- oo) (**landscape plan**) A detailed landscape plan, including an implementation and maintenance programme shall be submitted to and approved by the Council's Team Leader – Resource Consents prior to any works commencing on the site:
  - (i) The plan shall include details of the plant sizes at the time of planting and intended species. Such a plan shall include appropriate measures, including specimen trees, to provide amenity to the residents of the complex and to “break” or soften the building from the adjacent public vantage points. Trees should be selected that are appropriate for the coastal location of the site.
  - (ii) The landscape planting shall be implemented and maintained in accordance with the approved landscaping plan within the first planting season (May to October) following the completion of the works on the site. The landscaping shall be maintained thereafter.

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**Advice Note**

The Council is presently considering a comprehensive erosion management approach to the Orewa beach front and the developer should ensure any proposed works undertaken adjacent to the esplanade reserve will align with this.

**SUBDIVISION**

1. **(conditions to be shown on survey title plan)** Before the Council will approve the survey plan pursuant to s.223 of the RM Act, the owner shall:
  - a. **(construction work)** All construction work necessary to enable all units, accessory units and common areas to be accurately defined on the survey plan shall have been completed. This will include the marking of the car parks.
2. **(conditions to be carried out by consent holder)** Before the Council will issue a Certificate pursuant to s.224(c) of the RM Act, the Consent Holder shall satisfy the following conditions at their full cost:
  - a. **(unit construction)** All Land Use conditions shall have been complied with to the extent that the units have been constructed to a habitable state. This includes the provision of all essential services.
  - b. **(financial contributions)** Condition z above shall have been complied with.
  - c. **(balance of fees)** Pay any outstanding balance due to the Council for the application processing.

**Advice Note**

Reports and limitations on the land regarding any features or characteristics of the land or works on the land, whether the subject of specific encumbrances on the land or not shall be discoverable as part of the Council's records.

**Carried**

The meeting closed at Friday, 22 February 2008 at 8.50 a.m.

**CONFIRMED AS A TRUE AND CORRECT RECORD THIS 24TH DAY OF APRIL 2008**

**MAYOR**

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