BEFORE THE ENVIRONMENT COURT
I MUA I TE KOOTI TAIAO O AOTEAROA

Decision No. [2019] NZEnvC 131

IN THE MATTER	of the Resource Management Act 1991
AND	of a direct referral application under s 198B of the Act for a notice of requirement to alter designation 3800 'Care and Protection Residential Centre - Upper North' in the Auckland Unitary Plan (Operative in Part)
BETWEEN	MINISTER FOR CHILDREN (ENV-2019-AKL-000007) Applicant
AND	AUCKLAND COUNCIL Regulatory Authority

Court:	Environment Judge B P Dwyer Environment Commissioner D J Bunting Environment Commissioner A C E Leijnen Deputy Environment Commissioner G Paine
Hearing:	at Auckland on 20 -22 May 2019
Appearances:	D Allan and A Devine for the Applicant M Allan and M Jones for the Regulatory Authority D André for Submission No 43 parties, and for F Y Chin, J Chan, D Bell, Submitter 58, Submitter 59 L Li for herself Te Rata Hikairo for himself D Newman for himself A Dalton for herself Submitter 58 for herself P Rauwhero for herself
Date of Decision:	1 August 2019
Date of Issue:	1 August 2019

INTERIM DECISION OF THE ENVIRONMENT COURT

THE SEAL OF THE ENVIRONMENT COURT OF NEW ZEALAND

MINISTER FOR CHILDREN

A: Final decision deferred until receipt and consideration of updated SIA and SIMP. The updated SIA and the SIMP are to be lodged with the Court and circulated to all parties to these proceedings. The Council will be given 15 working days to file any comments from Mr Quigley in response. The Court will then issue further directions as to completion of the hearing as part of this process.

Background

Introduction

[1] On 22 February 2019 the Minister for Children lodged with the Auckland Council (the Council) a Notice of Requirement (NOR) for an alteration to *Designation 3800 Care and Protection Residential Centre-Upper North in the Auckland Unitary Plan - Operative in Part*. The NOR and designation relate to a property at 398 Weymouth Road, Weymouth in South Auckland (the Site).

[2] The nature of the public work proposed under the alteration was described in the following terms[1]:

> To alter the purpose of Designation No. 3800 to align with and fulfil the current and future obligations and duties of the Chief Executive of Oranga Tamariki-Ministry for Children by increasing the number of children/tamariki and young persons/rangatahi who may live at the Oranga Tamariki Residence at 398 Weymouth Road, Weymouth (Oranga Tamariki Residence), for care and protection, youth justice or certain adult jurisdiction or transitional purposes from 20 to 30.

Youth Justice and Care and Protection

[3] The Site currently operates as a Care and Protection Residence in terms of s 364 of the Oranga Tamariki Act 1989 providing services for 20 residents up to the age of 16 (inclusive). The NOR proposes an expansion of numbers beyond those authorised under Designation 3800 together with the addition of youth justice services to the current care and protection services.

[4] The distinction between youth justice services and care and protection services was described by counsel in the opening legal submission for the Minister[2]:

NOR AEE (Assessment of Environmental Effects) CB1 at page 003.
Minister Opening Legal Submission at [1.2].

> Youth justice services are for tamariki or rangatahi who are being dealt with through the youth justice system because they may have offended or are likely to offend, are certain young people or young adults being dealt with in the adult jurisdiction or they are transitioning out of youth justice.
>
> Care and protection services are for tamariki or rangatahi who are in the care of Oranga Tamariki because their well-being is at risk of harm now or in the future or they are transitioning out of care.

[5] Under the alteration the two functions are proposed to be kept separate, with youth justice being located within the more secure part of the Site.

[6] From 1 July 2019, when an amendment to the Oranga Tamariki Act came into force, the ages at which tamariki and rangatahi may be in the care or custody of Oranga Tamariki are[3]:

(a) For Care and Protection services: between 0 and 17 years, with the right to remain or return to living with a caregiver until the age of 21 (inclusive).
(b) For Youth Justice services: between the ages of 10 and 17 years, or older where the offence was committed before they turned 18 and:
    (i) They are awaiting determination of their offending; or
    (ii) The response of the Court has been to place them in the custody of Oranga Tamariki.
(c) ... (Youth Justice) may also be asked to care for a young person in the context of adult offending [including] vulnerable young people and young adults up to the age of 19 while they are on remand pending hearing or sentencing or following being sentenced to imprisonment in the adult jurisdiction.

[7] The alteration has been sought to allow the Minister, through Oranga Tamariki, to meet her legislative obligations resulting from the changes brought about by the amendment to the Oranga Tamariki Act. The increase in age from 16 to 17 of itself gives rise to a potential need to house more residents and additionally there is the proposal to expand the use of the Site to include youth justice services.

The Site

[8] The Site was first designated in 1967 and started life as a residence for wayward girls. Over the years it has operated as both a Care and Protection residence

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[3] Minister Opening Legal Submission at [2.2].

and a Youth Justice Residence. It is now named Whakatakapokai and provides for the placement of no more than 20 residents, up to but not including 17 year olds, for care and protection.

[9] There are 9 buildings and a swimming pool on the Site surrounded by grassed areas with an internal security fence and a wooden fence along the line of the boundary with neighbours. The buildings include a Wharenui, administration facility (both outside the secure area), classrooms, a gymnasium and residential accommodation blocks (inside the secure area). There are grass buffers of varying widths between these buildings and the boundary fences.

[10] At the time of establishment of an institutional facility the land owned by Oranga Tamariki extended over an area considerably larger than the approximately 4ha currently occupied by the Site. Much of the original land was sold some years ago for residential development and is now fully occupied by housing which includes a ribbon of about 40 homes abutting three of the four sides of the Site. The fourth side opens onto Weymouth Road.

The Proposed Use of the Site

[11] Out of the total 30 placements being sought under the alteration to the designation, no more than six at any one time would be for care and protection purposes accommodated in the Wharenui which is located outside of the secure residence. This is to include one secure room.

[12] The remainder of the 30 placements will be accommodated in the existing care and protection residence which is to be repurposed as a Youth Justice Residence for transitional, youth justice or adult jurisdiction placements.

[13] Initially this repurposed Youth Justice Residence will accommodate up to 20 placements with the altered designation as applied for allowing for this to grow to 24 (or up to 30 in the event that the care and protection hub is relocated). Any increase in the youth justice numbers would require the construction of additional buildings.

[14] Proposed Condition 6 of the altered designation would allow for the Wharenui to be repurposed as a Youth Justice Residence subject to the Minister engaging a suitably qualified security specialist to advise on the security measures required to accommodate this change of use with the proposed measures to be certified by the

Council.

[15] In addition to the new Youth Justice Residence and the Wharenui, the NOR would provide for children and young people who are not subject to an order requiring detention or care and custody to be placed for transitional purposes in an existing self-contained flat.[4] This flat is located outside of the secure perimeter. Although not stated, we presume that because of the low security nature of its intended purpose, the number to be accommodated in the flat does not form part of the overall 30 placements on the Site. Attached as Annexure 1 is a site plan sourced from Exhibit 1 described as the Delineated Activity and Building Setback Plan dated 18 May 2019 (Rev.1).

The NOR Process

[16] As noted above, the NOR was lodged with the Council by the Minister on 22 February 2019. This included a request by the Minister for the NOR to be subject of a decision of the Environment Court instead of a recommendation by the Council and a decision by the Minister. The reason given for this request for a direct referral was to avoid the time which would have been required for two hearings given that from 1 July 2019, Oranga Tamariki will be required to have enough beds to accommodate 17 year olds placed in its care or custody[5].

[17] The NOR was publicly notified on 1 March 2019 with a 29 March 2019 closing date for submissions.[6]

[18] The Council issued a single request for further information on 8 March 2019 and received a response on this from the Minister on 13 March 2019.

[19] The Council received 110 submissions, 107 in opposition and 3 in support. Several s 274 parties appeared at or were represented at the hearing.

[20] The Environment Court hearing was held in Auckland on 20 – 22 May 2019.

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4 AEE at [7.2.1] CB1 at page 0026.
5 CB11 at [15] page 138.
6 Council Opening Legal Submission at [2.4].

Legal Framework For Decision

[21] As the NOR was referred directly to the Environment Court, any decision has to be made under s 198E RMA instead of a recommendation being made to the Minister by the Council under s 171 and a decision by the Minister under s 172 RMA.

[22] Under s 198E(6) the Environment Court:

> (6) If considering a matter that is a notice of requirement for a designation or to alter a designation, the Court –
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> (a) must have regard to the matters set out in section 171(1) and comply with section 171(1A) as if it were a territorial authority; and
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> (b) may
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> (i) cancel the requirement; or
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> (ii) confirm the requirement; or
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> (iii) confirm the requirement, but modify it or impose conditions on it as the Court thinks fit; …

[23] It will be noted that in considering a notice of requirement under s 198E(6) the Court must have regard to the same considerations as does a territorial authority when making a recommendation under s 171 RMA which relevantly provides:

> **171 Recommendation by territorial authority**
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> …
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> (1) When considering a requirement and any submissions received, a territorial authority must, subject to Part 2, consider the effects on the environment of allowing the requirement, having particular regard to—
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> (a) any relevant provisions of—
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> (i) a national policy statement:
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> (ii) a New Zealand coastal policy statement:
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> (iii) a regional policy statement or proposed regional policy statement:
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> (iv) a plan or proposed plan; and
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> (b) whether adequate consideration has been given to alternative sites, routes, or methods of undertaking the work if—
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> (i) the requiring authority does not have an interest in the land sufficient for undertaking the work; or
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> (ii) it is likely that the work will have a significant adverse effect on the environment; and
>
> (c) whether the work and designation are reasonably necessary for achieving the objectives of the requiring authority for which the designation is sought; and
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> (d) any other matter the territorial authority considers reasonably necessary

in order to make a recommendation on the requirement.

(1B) The effects to be considered under subsection (1) may include any positive effects on the environment to offset or compensate for any adverse effects on the environment that will or may result from the activity enabled by the designation, as long as those effects result from measures proposed or agreed to by the requiring authority.

We will address a number of those matters in this interim decision.

Evidence considered and structure of this decision

[24] Expert evidence was provided on behalf of the Minister and the Council on social impact assessment, noise, traffic and transportation, and planning. In addition the Council provided expert evidence on security and safety.

[25] The Minister also provided evidence from the Deputy Chief Executive - Youth Justice Services (Mr A D Boreham), the General Manager - Youth Justice Residences (Mr B S Hannifin), the Project Manager - Residential Placements (Mr S A Taylor), the Manager - Community Residential Services (Mr C Ioane), the Project Manager for Raising the Age Policy Change (Ms T A Toetoe) and the Residence Manager - Korowai Manaaki[7] (Ms I S Nua).

[26] In addition to their submissions the s 274 parties in opposition to the proposal provided a brief of expert planning evidence and six briefs of non-expert evidence.

[27] We have structured the balance of this decision under the following headings:

- Security and safety;
- Social impact assessment (SIA) and social impact management plan (SIMP);
- Noise;
- Traffic, transport and parking;
- Resource Management Act instruments;
- Interim conclusions.

In our consideration of these matters we will identify and have regard to conditions relevant to each of those matters.

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[7] A nearby Youth Justice Facility.

[28] We will make a series of findings on the various matters identified above but we will not undertake a final consideration of the proposal in accordance with s 171 RMA. For reasons which will become apparent, this decision has issued as an interim decision. When the further process which we have directed in this interim decision has been undertaken, we will then complete our considerations pursuant to s 171. Those considerations will be driven by the findings which we have made on the identified matters and which we will have set out in some detail.

Security and safety

Background

[29] Expert evidence on security and safety related issues for a repurposed residence was provided by Mr C W Polaschek for the Council. Mr Polaschek is now an independent security consultant but was previously employed for 30 years in security and risk management roles with the Department of Corrections, Child Youth and Family and the Ministry of Social Development.

[30] Mr Polaschek was the author of the security and safety section of the Council's report under s 198D RMA. His was the only expert evidence on security and safety matters and was focussed on the Youth Justice Residence. It did not address any security or safety issues for the operation of the Wharenui or the flat, both of which are located outside the secure area of the proposed Youth Justice Residence. While there are various elements of risk associated with youth justice residences, Mr Polaschek said that for these proceedings the primary focus of his evidence was on the assessment of the risk of psychological and physical harm to people in the community if someone was to abscond from the facility.[8]

[31] Mr Polaschek provided the following summary of his analysis of the security and safety implications for a repurposed Youth Justice Residence.[9]

- Security would be centred around two key interdependent areas, static features such as the physical structures and layout of the facility and dynamic features which are the way in which the facility is staffed and operated;

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8 NOE at page 112.
9 EIC at section 7.

- Repurposing for a youth justice facility would change the nature of the existing risk with the most serious risk to the community being from absconders either as individuals or in groups;
- The likelihood of absconding would be high especially in the first year of operation;
- While the likelihood of an absconder causing harm to a member of the community was low, any increase in the number absconding would have a commensurate increase in the risk of there being harm;
- If there was harm to a member of the community, the impact was likely to be high.

[32] Mr Polaschek provided the following assessment of the risk profile for a repurposed residence based on the likelihood of an incident occurring and the potential impact of that incident:

Risk	Likelihood	Impact
Security features lowering tone of neighbourhood	low	low
Criminal activity in community by visitors to facility	low	low
Community members witnessing distressing events	low	low
Individual absconding	high	low
Mass absconding	medium	low
Visits by unauthorised persons	medium	low
Collective disturbance within site	high	low
Absconder entering local property	medium	medium
Absconder committing act of violence	low	high

Static Security

[33] Mr Polaschek raised a number of concerns about the static security measures proposed by the Minister for the repurposing. Many of his concerns had been addressed in the amended conditions attached to the opening legal submission of counsel for the Minister and again revisited in a final condition set which was provided to the Court in a joint memorandum from counsel for the Minister and the Council dated 31 May 2019 (the Joint Memorandum).

[34] Mr Polaschek had reviewed the efficacy of roller barrier devices provided for in proposed Conditions 14 (a) and (b) as an alternative to "anti-climb" extensions for

the tops of the security fences and the building roofs. He agreed that such devices would provide an acceptable level of security and would meet the community's desire to avoid visible prison-like fence and roof security features.[10]

[35] The extent of CCTV coverage of the site was originally at issue between Mr Polaschek and the Minister. Subsequently Mr Polaschek accepted the Minister's proposed re-wording of Condition 14(h) on CCTV coverage and its operation. This wording was the same as that proposed by the Council save for the Minister's deletion of the words "coverage of the entire perimeter of the site." (We note that this deletion was not disputed by the Council in the wording of the 31 May 2019 proposed final condition set).

[36] Mr Polaschek agreed that there would be no need for a sally port[11]. This was on the basis that all placement assessments would be undertaken offsite and that there would be fencing added to the compound to provide for entry and exits to/from the site through a separate secure area (into the rear of administration area next to the Kitchen Workshop, see Annexure 1). In addition, he noted that any movement of young people in and out of the facility would be subject to an individual risk management plan.[12]

[37] Mr Polaschek had expressed a concern about the proposed location of visitor areas with his preference being that, for security reasons, these areas should be located outside of the residential and security unit building. The Minister's reworded Condition 12 was designed to address Mr Polaschek's concern for separation between visitor areas and residential areas. While he agreed that this would assist, his preference was still to locate the visitor area in the administration block.[13] We note that Condition 12 which was finally agreed between the Minister and the Council, requires visiting areas to be separated by at least one secure door rather than located separately in the administration building and thereby adopts the Minister's preferred wording.

[38] In answer to a question from the Court about the security of having multiple points of entry to the residential centre, Mr Polaschek said that while measures

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10 Polaschek EIC at [9.3].
11 A secure controlled entryway to the facility.
12 NOE at page 128.
13 Polaschek EIC at [9.2(c)].

replicating those at Korowai Manaaki could be included, these would be inconsistent with the repurposed residence. He said that he was satisfied with the measures proposed as shown on Access Control Plan A[14] and that the interlocking doors, 24-hour monitored CCTV and radios would provide an appropriate level of security for the young people who would be housed at the facility.[15,16]

[39] Mr Polaschek also noted that his earlier concern about the use of a single key by staff had been addressed in the Minister's revised conditions as it was now proposed to provide interlocking doors for access to the exterior unsecured area. These doors would also have an override function which would allow for remote locking without the use of a secure key. The doors would also be controlled through a comprehensive CCTV system which was to be monitored on a 24-hour basis.

[40] While not a security expert, Mr Taylor provided helpful responses on a number of static security related questions posed by a submitter and neighbour, Ms L Li and members of the Court.

[41] Ms Li asked Mr Taylor whether the CCTV system would include cameras which would face into her property thereby compromising her privacy.[17] Mr Taylor responded that the CCTV system would need to be certified by the Council and also that the Community Liaison Committee (CLC)[18] would have the opportunity to request a review of the system after it had been installed if there were privacy concerns. The Court suggested to the parties that the conditions could include a provision for protecting neighbourhood privacy from CCTV surveillance. We note that this will be provided for in Condition 14(h) agreed by the Minister and the Council.

[42] Mr Taylor was asked by the Court whether increasing the numbers to be housed at the facility from the present 20 to 30 would increase the risk of inappropriate interaction with the residents of neighbouring properties. Mr Taylor agreed that this would be the case but pointed out that there was a 20-bed limit with the current residence accommodation and that the residence would need to be expanded to

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14 Exhibit 1 Restricted plan.

15 NOE at page 127.

16 NOE at page 130.

17 NOE at page 49.

18 A requirement of Regulation 34, Oranga Tamariki (Residential Care) Regulations 1996 (the Regulations).

accommodate more than 20.[19]

[43] Asked whether increasing the age of the young people in the facility would increase the risk, Mr Taylor declined to give an opinion as he said that it was outside of his area of expertise.[20]

Dynamic Security

[44] Mr Polaschek identified three key criteria for assessment of dynamic security measures, being:

- Where and how the proposed placements were to be assessed;
- How it was intended to operate the facility;
- How the facility would be operated in practice.

[45] Mr Polaschek said that in preparing his evidence he had undertaken a conservative approach because of a lack of information about where the Minister proposed to undertake placement assessments of those to be placed in the Youth Justice Facility and the scope of these assessments[21]. The Court held similar concerns as echoed in its questioning of a number of the Minister's witnesses on these issues during the course of the hearing.

[46] In his reply submission, counsel for the Minister advised that the Minister had responded to these concerns by formulating enhanced provisions in the conditions which were attached to the submission. In brief, these conditions require that all assessments are to be undertaken off-site at Korowai Manaaki and that for each potential placement in the residence, eligibility is to be assessed against defined criteria which included a number of "absolute" or "no go" bottom lines. We elaborate in more detail on these conditions later in this section of our decision.

[47] Mr Polaschek expressed concern as to how the operating model would work at the repurposed residence because the model appeared to him to be akin to that used at Korowai Manaaki whereas it was his understanding that the new facility would be operated somewhere between the Korowai Manaaki model and that used for community placements. He said by way of example, that if young people were to

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19 NOE at page 48.
20 NOE at page 48.
21 NOE at page 114.

spend time outside of the residence to attend school, it was unclear to him how this aspect of security would be managed even if they had a low risk of absconding.[22]

[48] Mr Polaschek's concerns were responded to at least in part in the detail of the proposed operating model included in Attachment 1 to the Minister's 31 May 2019 condition set. This notes that while the operating model will be very similar to that in Oranga Tamariki's other youth justice residences (with the same staff ratio, expectations and protocols), aspects of the model will be specifically tailored for the residence. For example, it is proposed to create a more normal environment with the centralised school, the pool and the setting in an established residential neighbourhood. There will also be programmes which are specific to the needs of the young people and which are not available at other residences.

[49] Mr Polaschek said that he supported the proposed conditions for the operation of the proposed CLC. These included provisions for community contribution to security arrangements including reviews of the Security Management Plan and the Emergency Management Plan pertaining to the facility (both required under the Regulations). Based on the equivalent plans which he had seen for the nearby Korowai Manaaki, he had a level of confidence that the plans to be developed would be appropriate for the residence.[23]

[50] Mr Polaschek also agreed that on being released from the facility, young people would for the most part be subject to some form of post custodial supervision including where they were to live. This was opposed to being released directly into the community from the residence.[24] Having said this, he cautioned that such supervision may not necessarily apply to those sentenced in the adult jurisdiction as their release would depend on their legal status with some making their own decisions about where to live.

[51] The Court asked Mr Polaschek to distinguish between young people placed in care and protection and those placed in youth justice. He responded that while some young people were admitted to care and protection residences because of behavioural issues, placements were primarily for their own care and protection. In contrast, young people were placed in youth justice because their behaviour had a

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22 NOE at page 132.
23 NOE at page 130.
24 Polaschek EIC at [8.21] - [8.23].

significant effect on others with criminal activity being one way that this was identified. This difference meant that there would a higher likelihood of escapes from youth justice facilities.[25]

[52] Despite these reservations, Mr Polaschek considered that it would be possible for the Minister to put in place an assessment process based on a set of criteria and management rules which ensured that only low risk young people would be placed at this Youth Justice Residence.[26] Furthermore, while the risks posed by the location of this residence in an intensive residential area could not be eliminated, in his opinion these risks could be adequately mitigated.[27]

[53] Overall, in response to security and safety concerns raised in many of the community submissions, Mr Polaschek's assessment was that compared with the status quo, the risk of there being a decrease in safety for the community was low[28].

Community concerns about security and safety

[54] Given the common theme in the community submissions about security and safety with the proposed shift to a Youth Justice Residence, the primary relief sought by most submitters was for the application to be declined. However if the Court was to confirm the NOR, conditions commonly sought by submitters included:

- For the exterior fence to the property to be replaced with a new close boarded acoustic fence together with at least 1.8m of tree landscaping along the fence line;
- For there to be no new buildings outside of the existing security fence and for the existing buffer areas to be maintained;
- For any new buildings to face away from neighbouring residences;
- For the number of young people to be accommodated on the site to be limited to the existing number of 20.

[55] We observe that apart from the requested condition limiting the number of young people to 20, the conditions requested appear to have an amenity focus as opposed to security and safety.

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25 NOE at page 136.
26 NOE at page 139.
27 NOE at page 140.
28 Polaschek EIC at [7.16].

The Wharenui

[56] As the hearing unfolded the Court developed a concern as to how the safety and security of the Wharenui was to be managed as an adjunct to the Youth Justice Residence.

[57] Mr Taylor told us that the proposed future use of the Wharenui was to provide accommodation for up to 6 tamariki or rangatahi at any one time for care and protection assessment purposes prior to them being placed in a community home or undertaking behaviour management.[29]

[58] Mr Hannifin advised that there would be a much lesser standard of security for the Wharenui as it was sited outside of the secure area for the Youth Justice Residence. He added that, until now, care and protection placements had been accommodated within the secure area.[30] He said that he was unsure about the level of security provided for in the current designation for care and protection.[31]

[59] The Court notes that in Designation 3800 the only reference to security is Condition 3 which reads[32]:

> A Security Management Plan for the Care and Protection Residential Centre-Upper North shall be formulated and implemented in consultation with relevant emergency services and the Community Liaison Committee.

[60] We note that the Designation 3802 for Korowai Manaaki contains a condition with similar wording.[33]

[61] The Court has not seen a copy of the current Security Management Plan for Whakatakapokai.

[62] Mr Ioane said that over the last year or so, the young people coming into Whakatakapokai had been a lot younger than the previous 14 - 16 year olds. They were now in the 10 - 12 year age group, some with high complexities including mental

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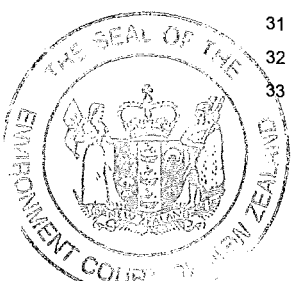
29 Taylor EIC at [9.5].
30 NOE at page 28.
31 NOE at page 29.
32 CB158.
33 CB159.



health, drug and alcohol or behavioural issues.[34] Notwithstanding those issues, he said that he considered the level of security proposed for the Wharenui was suitable for these young people.[35]

[63] Following the Court's request for more information about the proposed use of the Wharenui for care and protection purposes, in his reply submission counsel for the Minister advised that this would be for assessing young people coming into care and protection, a process which could take several days.

[64] Counsel went on to advise that the Chief Executive of Oranga Tamariki could not detain children placed in a residence when the placement was under the care and protection provisions of the Act.[36] Notwithstanding, the Chief Executive could place or return a child or young person in/to a residence and use reasonable force to do so in terms of s 104 of the Oranga Tamariki Act. This section of the Act sets out a detailed regime for children to be placed in the custody of the Chief Executive and detained in "secure care" within a residence[37] with the placement being under one of two circumstances[38]:

(i) If the placement is necessary to prevent the child or young person absconding and, even then, only if they have previously absconded from a residence or police custody, there is a real likelihood they will do so again, and their physical, emotional or mental wellbeing is likely to be harmed if they abscond.

(ii) If it is necessary to prevent them from behaving in a manner likely to cause physical harm to themselves or to any other person.

[65] We return later in this section of our decision to consider the potential social impact on the community from the risk of a young person absconding from the Wharenui.

Legal Submissions on Security and Safety

[66] In his opening legal submission counsel for the Minister drew attention to previous decisions of the Court where the validity of perceived and real risk as resource management concerns had been considered. He submitted as follows:

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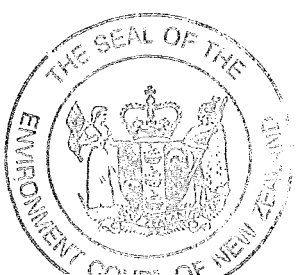
34 NOE at page 56.
35 NOE at page 57.
36 Minister Reply Legal Submissions at [2.10], [2.11].
37 Minister Reply Legal Submissions at [2.11].
38 Minister Reply Legal Submissions at [2.11].



- Fear can only be given weight if it is reasonably based on real risk;[39]
- The RMA is not a "no risk" statute;[40]
- An absence of risk can never be guaranteed because it is impossible to do so;[41]
- There is no place for the Court to be influenced by the mere perception of risk which is not shown to be well founded;[42]
- Discomfort on the part of some individuals to the mere presence alone of a particular facility does not amount to an adverse effect on amenity values;[43]
- Whether there is expert evidence or direct evidence of such fears, they can only be given weight if they are reasonably based on real risk[44] or where they are substantiated.[45]

[67] Counsel identified what he considered to be the appropriate test as to whether social impact effects from a repurposed residence were a valid resource management concern, quoting from a decision where the Court had been asked to assess a proposal to establish a periodic detention centre in Dunedin[46]:

> We accept that as a matter of law, the concerns expressed by the several members of the South Dunedin Business Association who gave evidence in this case, can be regarded as giving rise to adverse effects on the environment, if they are substantiated. Consequently, it is relevant to have regard to these concerns and the evidence about them.
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> The question remains however, whether this evidence establishes that there are likely to be such adverse effects on the environment.

[68] Counsel for the Minister highlighted the evidence that in its 52 years of operation no-one who had absconded from Whakatakapokai had committed any crime or caused damage while absconding,[47] that most young people who abscond leave the immediate area quickly and that Mr Polaschek had assessed that while all risks could not be eliminated, there was a low risk of decreased safety for the

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39 *Shirley Primary School v Telecom Mobile Communications Ltd* [1999] NZRMA 66 (EnvC).
40 *Shirley Primary School v Telecom Mobile Communications Ltd* [1999] NZRMA 66 (EnvC).
41 *Shirley Primary School v Telecom Mobile Communications Ltd* [1999] NZRMA 66 (EnvC).
42 *Contact Energy Limited v Waikato Regional Council* (2000) 6 ELRNZ 1 (EnvC).
43 *Living in Hope Inc v Tasman District Council* [2011] NZEnvC 157.
44 *Shirley Primary School v Telecom Mobile Communications Ltd* [1999] NZRMA 66 (EnvC).
45 *Department of Corrections v Dunedin City Council* Decision No. C 131/97.
46 *Department of Corrections v Dunedin City Council* Decision No. C 131/97.
47 Minister Opening Legal Submission at [7.21].

community from a repurposed facility.

[69] In opening, counsel for the Council drew the Court's attention to s 3(f) RMA which identifies as an effect "any potential effect of low probability which has a high potential impact". Counsel noted that Mr Polaschek considered that there would be a high risk of absconding from the site and that although there would be a low probability of offending by absconders in the immediate surrounds there was potential for serious impacts. Counsel noted that this assessment influenced Council's planner, Mr B K Mosley's view about the necessity for Condition 3 which is to exclude certain categories of young person from being placed in the facility.[48]

[70] Although Mr André is not a lawyer he presented a legal submission on behalf of himself and the other submitters whom he represented. The submission covered a range of issues where Mr André sought to rely on previous findings of the Court to support his position. Addressing the issues of security and safety, he said that under the status quo there was no risk to the community from the placement of youth justice offenders at Whakatakapokai because this category of young person was not currently accommodated there. However, he contended that the level of risk if the designation was granted would be at a level which could not be avoided, remedied or mitigated. He asked whether this would be acceptable.[49]

Security and Safety Related Conditions

[71] Conditions 1, 2A, and 3 proposed by the Minister are directly related to security and safety. Our evaluation is based on the condition set attached to the Joint Memorandum.

[72] The placement limit under the existing care and protection designation is 20 care and protection residents. If repurposed as sought, the existing buildings will have a capacity for up to 20 youth justice placements plus 6 care and protection placements in the reconfigured Wharenui as well as persons accommodated in the transitional flat. We were told that this will provide for a total of 30 placements on the Site. The Minister's proposed Condition 1 (agreed to by the Council) would permit up to 30 placements on the Site at any one time. While proposed designation conditions provide for new buildings to be constructed on the site, additional placements above

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48 Council Opening Legal Submission at [4.4].

49 André Legal Submission at [36]-[38].

the 30 currently proposed would require further amendment to the designation.

[73] Conditions 2A, 2B and 3 apply specifically to the Youth Justice Residence. There are no conditions for the use of the Wharenui for care and protection purposes.

[74] Mr Ioane told us that the Wharenui could on occasions be used to accommodate young people with high complexities including mental health, drug and alcohol or behavioural issues. Mr Hannifin added that the Wharenui would have a much lesser standard of security as it was sited outside of the secure area for the Youth Justice Residence.

[75] In light of that evidence we conclude that there must be a risk of a young person, which could include someone with the "high complexities" described by Mr Ioane, absconding from the Wharenui.

[76] Notwithstanding the Minister's proposed off-site screening for selecting lower risk placements in the Youth Justice Residence, we conclude that there must also be an increased risk of absconding compared with the care and protection status quo, even with the increased security measures proposed. That is consistent with Mr Polaschek's conclusion that the change in purpose would change the nature of the existing risk. We also conclude that the absconding risk would increase further if the number of placements was to increase from the current 20 to 30. There is a real and obvious risk of an absconder entering the residential properties which surround the facility on three sides and although the likelihood of an act of violence occurring during such event is low the adverse impact of such an occurrence is potentially high.[50]

[77] This is a proposed Youth Justice Residence which is closely surrounded by a large number of residential neighbours. We were told that there is no other such facility situated in this close residential situation in New Zealand, so there is no comparative information available as to actual interactions between the residents of such a facility and close neighbours. The current care and protection facility forms part of the existing environment in this neighbourhood and predates the adjoining residential development. The evidence we heard established that absconding has been a feature of the facility (albeit substantially reduced over recent years) so that there is an existing risk of interaction between absconders and residents. We do not

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50 C.f paras [31] and [32] (above).

consider that any deemed acceptance of that present risk by neighbours means that they should be expected to accept any decrease in their level of safety. We note Mr Polaschek's view that the risk of any decrease in safety is low but again that risk has to be considered in light of the potentially high adverse effects attaching to any safety failure.

[78] It is apparent that the static and dynamic security measures as proposed will establish a higher level of security for the Youth Justice Residence than presently exists for the care and protection facility. There is accordingly some degree of risk reduction regarding those matters but that has to be balanced against the additional risk due to an increase in numbers and changed risk profile of residents now proposed, together with the fact that notwithstanding the enhanced level of security, a high likelihood of absconding remains.

[79] We conclude that the increase in numbers and change in risk profile of the residents does give rise to an increased risk to residential neighbours over and above the existing situation although we cannot define the extent of that increase with any mathematical precision. Notwithstanding the lack of precision in that regard, we find that the combination of:

- Close proximity of residential neighbours;
- The number of neighbours;
- The high degree of likelihood of absconding, notwithstanding the increased security measures;
- The potentially high adverse effect of interaction between neighbours and absconders (even accepting that the probability of such effect is low);

requires that all reasonable steps are taken to reduce the risk factor to the greatest degree possible if the repurposing is to be allowed to proceed. We consider that the factor of increased numbers may be addressed by limiting the total number of residents on the Site to 20 (as at present) and our remaining comments should be considered on the basis that a condition to that effect should be imposed if the NOR is confirmed. We further consider that the matter of risk profile may be addressed by the comprehensive screening process to determine suitability of placement of residents at the facility now proposed by the Minister[51], subject to some debate as to

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51 Joint Memorandum set of conditions.

detail from the Council.

[80] In the Joint Memorandum at paragraph 8, counsel for the Council comments on the Minister's proposed five female placements who may fall within the exclusion provisions in Condition 3 of the condition set. The Council acknowledged the evidence from Mr Boreham that offending by young females is less serious than by young males. Even so, the Council has been left with some doubts about the robustness of this evidence and leaves it for the Court to decide on these female placements.

[81] In his rebuttal evidence Mr Boreham noted that "the relative rate of custodial detention for young females is similar to that of young males, notwithstanding that the level of seriousness of offending is lower"[52]. He quoted from a December 2018 report prepared by the Oranga Tamariki Evidence Centre titled "Young People Remanded Into Youth Justice Residences-What Are The Driving Factors?" which stated that:

> The increase in seriousness by young females remained considerably lower than that by young males, however the use of detention in custody for females during the period was close to that for males. This suggests that the rate of custodial detention for young females is potentially higher when compared to the level of seriousness of offending by young males.[53]

[82] In the absence of evidence to the contrary, the Court accepts the Minister's proposal for up to five female placements at the Youth Justice Residence (within a total of 20 placements) as exceptions to Condition 3.

[83] The Court has noted that there is an inconsistency between the wording in the Assessment Framework under Condition 2A and the Minister's Condition 3(a) for the five female placements in that the Assessment Framework as currently worded does not address these female placements. The wording of Condition 2A and the Assessment Framework need to be reviewed and amended to suit.

[84] In the Minister's and Council's versions of Condition 3, both agree that there is to be no placement of any young person in the Youth Justice Residence who has been charged or detained with respect to a sexual crime.

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52 Boreham Rebuttal at [10.4 (a)].
53 CB 266 at page 25.

[85] The Council wording of Condition 3 then goes on to exclude the placement of any young person being detained in the Youth Justice Residence on any order or sentence for any violent offence, with the exception of a violent offence carrying a term of imprisonment not exceeding one year. The Minister's wording excludes placements of those remanded, detained or charged under nominated provisions of the Criminal Procedure Act 2011 and the Corrections Act 2004. In the Joint Memorandum, the Minister points out that Condition 3 needs to be read in conjunction with Condition 2A, with this latter condition excluding placements of those young people assessed to have a higher risk profile irrespective of the offence type.

[86] Condition 2A provides for an Assessment Framework identifying four criteria each with a defined absolute under which those being assessed would be excluded from being placed at the facility (the Assessment Framework). These criteria and their related absolutes are:

> **1. Propensity for Aggressive Behaviour**
>
> ***Understanding the agreed Summary of Facts for the offence the child or young person has been charged with:***
>
> ...
>
> With the absolute for exclusion being:
>
> *ABSOLUTE: Identification of such factors means they will not be placed at the Youth Justice Residence at 398 Weymouth Road;*
>
> **2. Risk of Absconding**
>
> ***Previous behaviour while having been in Oranga Tamariki residences (if first admission, then behaviour must be proven)***
>
> ...
>
> With the absolute for exclusion being:
>
> *ABSOLUTE: If there is such a history, they will not be placed in the Youth Justice Residence at 398 Weymouth Road.*
>
> **3. Attitude to treatment**
>
> ***Engagement in care plan***
>
> ...
>
> With the absolute for exclusion being:
>
> *ABSOLUTE: A child or young person who is not prepared to consent to treatment or is not ready for treatment will not be placed in the Youth Justice Residence at 398*

Weymouth Road.

4. Peer Associations

Dynamic with existing peer group at the Youth Justice Residence

...

... (too young, too old, no gender match). ...

With the absolute for exclusion being

ABSOLUTE: Any history of sustained conflict with peers (obtained via interview or file review) or inappropriate associations that have not been mitigated will exclude admission to the Youth Justice Residence at 398 Weymouth Road.

[87] We accept the Minister's wording for Condition 3 with the proviso that the Minister amends the wording in the Assessment Criteria to account for the placement of the five females as proposed.

[88] In doing so, we note that the Joint Memorandum recorded that the wording of Condition 2 had been agreed to by the Minister and the Council.

[89] As a final comment, the numbering of Conditions 2A (and 2B) and 3 should be reversed as the Assessment Framework would logically follow decisions made on the exclusions provided for in Condition 3.

Evaluation and Findings on Security and Safety

[90] In light of the various matters discussed above, we have identified the following security and safety related issues for our evaluation and findings.

- Issue 1: In the context of the overall safety and security of the Site, has the Minister provided the Court with sufficient evidence for it to be satisfied about the adequacy of the safety and security measures for the Wharenui to be used for the proposed care and protection assessments?
- Issue 2: Is the risk of a safety related incident affecting a member of the community from someone absconding from a youth justice facility (and the Wharenui) located at 398 Weymouth Road <u>real</u> or <u>perceived</u>?
- Issue 3: If there is a <u>real</u> risk of a safety related incident occurring, will the package of static and dynamic security measures proposed in the Minister's Conditions for the Youth Justice Residence - including our amended wording for some of these Conditions - provide an appropriate

level of risk mitigation for this residence to be located at the Site?

[91] We evaluate each of these issues in turn.

Issue 1: In the context of the overall safety and security of the Site, has the Minister provided the Court with sufficient evidence for it to be satisfied about the adequacy of the safety and security measures for the Wharenui to be used for the proposed care and protection assessments?

[92] To recap (underlining for emphasis):

- Under the existing care and protection use of the site, young people are housed in buildings within a secure perimeter which comprises a mix of fencing, buildings and walls;
- The Wharenui is outside this secure area;
- Under the repurposing proposal, the existing secure area would be upgraded to accommodate a Youth Justice Residence and the Wharenui (outside of the secure area) will be reconfigured to provide six beds for care and protection assessment purposes;
- The Oranga Tamariki Act sets out a detailed regime for children to be placed in the custody of the CE and detained in "secure care" within a residence with the placement being under one of two circumstances:
  - to prevent the young person from absconding where their physical, emotional or mental wellbeing is likely to be harmed if they abscond, or
  - if it is necessary to prevent them from behaving in a manner likely to cause physical harm to themselves or someone else.
- Mr Ioane's evidence was that there were occasions when the Wharenui could be used for the placement of young people with high complexities including mental health, drug and alcohol or behavioural issues;
- Mr Hannifin's evidence was that the Wharenui will have a much lesser standard of security than the Youth Justice Residence;
- The Court did not receive any evidence about the risk of someone absconding from the Wharenui and, if this was to occur, the potential implications of this for members of the community.

[93] We consider that there is a significant gap in the evidence from the Minister about the security of the Wharenui for its intended use. Accordingly we are not

satisfied that the Wharenui should be used for care and protection assessments.

Issue 2: Is the risk of a safety related incident affecting a member of the community from someone absconding from a Youth Justice Residence (and/or the Wharenui) located at 398 Weymouth Road real or perceived?

[94] There is no disagreement among the parties that the risk of someone absconding from the Youth Justice Residence is real. There is a real risk for a member of the community to be involved in an incident arising from interaction with an absconder. Pursuant to s 3 RMA this risk would be classified as "a potential effect of low probability which has a high potential impact".

Issue 3: If there is a real risk of a safety related incident occurring, will the package of static and dynamic security measures proposed in the Minister's Conditions for the Youth Justice Residence - including our amended wording for some of these Conditions - provide an appropriate level of risk mitigation for this residence to be located at the Site?

[95] Mr Polaschek had a number of concerns about the adequacy of static security measures proposed to be installed at the Youth Justice Residence at the time he produced his initial evidence, but by the end of the hearing these concerns had been responded to by the Minister in the final condition set proposed.

[96] We have indicated that the following amendments should be made to the dynamic security measures proposed by the Minister in the 31 May 2019 condition set:

- Irrespective of the mix, the combined number of care and protection and/or youth justice placements on the Site should be limited to 20;
- Within that limit, up to five female placements may be accommodated at the Youth Justice Residence as exceptions to Condition 3;
- The wording of the Minister's proposed Conditions 2A, 2B and 3 are agreed on the proviso that the Minister amends the wording of the conditions to account for the intended placement of up five female residents.

[97] We find that subject to inclusion of the Court's amendments to the safety and security related conditions in the 31 May 2019 condition set, the level of risk mitigation should be appropriate for the proposed Youth Justice Residence to be located at the

Site.

[98] The same finding does not apply to the Wharenui because the evidence we have seen is deficient in terms of the security and safety of the Wharenui.

Social Impact Assessment (SIA) and Social Impact Management Plan (SIMP)

The Evidence

[99] A considerable portion of the debate before us revolved around the social impacts which might be generated by approval of the NOR, namely the effects which repurposing the facility might have on the wellbeing of the Weymouth community.

[100] The issue of social impacts arises directly pursuant to s 5 RMA (Purpose) which seeks "to enable people and communities to provide for their social, economic and cultural wellbeing and for their health and safety," while addressing the matters set out in s 5(2)(a) – (c). We have dealt with aspects of safety matters in the preceding section of this decision, but we acknowledge that those matters and peoples' perceptions of and concerns as to those matters spill over into the social, economic and cultural aspects which we now discuss as well.

[101] Expert evidence on the social impacts of the proposal was provided by Ms A J Linzey for the Minister and Mr R J Quigley for the Council. Ms Linzey was the co-author of the SIA identifying and analysing the potential social consequences of allowing the proposal. She also prepared a brief of evidence and rebuttal evidence for this hearing. Mr Quigley prepared the Social Impact section of the Council's s 198D report and a brief of evidence for the hearing.

[102] Following preparation of Ms Linzey's brief of evidence, the two experts conferred and prepared a joint witness statement dated 30 April 2019 (JWS). The four expert witnesses on planning (Mr E D Wren, Mr Mosley, Ms J A Bell and Mr N J Pollard) also attended this conference. Mr Quigley's brief of evidence was dated 8 May 2019 and Ms Linzey's rebuttal evidence 13 May 2019. As is evident from the largely agreed provisions and wording in the 31 May 2019 condition set, this sequence of evidence preparation dates meant that many of the original differences of opinion between the two experts were resolved through the exchanges of evidence, the hearing process and after the hearing through the final condition set.

[103] Notwithstanding, there remained aspects of a number of the SIA related conditions in the final condition set where the Minister and Council had not been able to reach agreement as discussed later in this section of our decision.

SIA Framework

[104] Ms Linzey and Mr Quigley agreed that the framework and the list of topics adopted in the SIA were appropriate.

Community Consultation

[105] Ms Linzey acknowledged that best practice in preparing an SIA was to include consultation, community engagement or other forms of survey and input from potentially affected community groups. These inputs were key for capturing potential social impacts and for identifying measures to avoid remedy or mitigate those impacts on the community. She agreed that more substantive community engagement prior to the Minister's lodgement of the NOR would have meant greater certainty in the SIA by providing:[54]

- An enhanced understanding in the community of the potential impacts potentially leading to reduced concerns about wellbeing, fears and sense of place;
- A better understanding of community perceptions and values leading to the development of more targeted management measures for addressing the identified impacts, as opposed to having to wait for the SIMP to develop these measures;
- For the conditions to be based on a full and complete SIA as opposed to having to rely on the proposed SIA update.

[106] Ms Linzey did not dispute contentions from Mr Quigley, Mr André and a number of submitters that in preparing the SIA there had been inadequate consultation with the community. She noted that this limitation had been acknowledged in the SIA[55] but went on to say that there had been an expectation of further community input on social impact issues through the notification, submission and hearing process. In addition, there had been information available from the historical uses of the site, Korowai Manaaki and the Wiri prison proposal. She said

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54 Linzey Rebuttal at [4.7].
55 Linzey Rebuttal at [4.1] - [4.3].

that the SIA had been prepared on a "precautionary basis" with the Youth Justice Residence being evaluated as a new development as opposed to a change of use from care and protection.

[107] Ms Linzey had also reviewed a range of social impact information which had been generated since the SIA was prepared. This information came from combination of an open day, a number of meetings involving the CLC, mana whenua representatives and Louisa Wall (MP), a mediation and neighbour and community submissions on the NOR.

[108] When asked about this process, Ms Linzey said that she had not attended the open day and that she had not included any detail on the outcomes from that day in her evidence. Also, while she had reviewed the minutes and record of the CLC and stakeholder meetings, details of these had not been included in her evidence.[56]

[109] In answer to a question from counsel, Ms Linzey acknowledged that in preparing the SIA there had been no consultation with organisations such as social agencies, community groups, mental health service providers, child care centres or primary and secondary schools operating in the community and that there had been no surveys nor focus group meetings.[57] She said that while it would have been preferable to have carried out these sorts of engagement at the outset, it was important to realise that an SIA and related SIMP seeking to address the social impacts of the proposal on an ongoing basis could be developed through a process which had been provided for in the conditions.[58]

[110] Ms Linzey said that she stood by the statement in her rebuttal evidence that the additional information she had seen since preparing the SIA supported her preliminary assessment of social impacts and that there was a low likelihood of any significant impacts not having been identified.[59,60] Even so, if there had been more time, she said that she would have preferred for the SIMP to have been prepared as part of the development of the proposal rather than leaving it to be developed as part of conditions attaching to the NOR as the Minister proposes.[61] We consider that the

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56 NOE at pages 79, 80.
57 NOE at pages 81, 82.
58 NOE at page 84.
59 NOE at page 80.
60 Linzey Rebuttal at [4.8] – [4.9].
61 NOE at page 89.

suggestion that it is preferable for the SIMP to have been prepared in advance rather than after confirmation of the NOR considerably understates matters.

[111] Mr Quigley was critical that the SIA had been prepared on the basis of a desk top assessment without any direct community engagement. He was asked about the proposed condition[62] for an updated SIA to be prepared two years after the designation had been confirmed. He said that as the purpose of an SIA was to project forward the potential social impacts for a project before it had commenced, this would be unusual.

[112] Instead, Mr Quigley said that having identified what the potential impacts might be in the SIA, an SIMP would be developed to manage these impacts. This SIMP would provide for monitoring of the potential impacts as soon as possible after commencement to establish a baseline. This would be followed by monitoring at an agreed date (for this proposal after one year) to evaluate the effectiveness of the social impact mitigation management measures over this period against the baseline. The results from this monitoring would then be used to update the SIMP with the same process being repeated at the next monitoring date.

[113] Mr Quigley said that the monitoring might identify that some of the potential impacts identified in the SIA were in fact non-issues and these could be excluded from future monitoring. On the other hand, if new impacts were identified, these could be added to the SIMP and monitored at the next monitoring date.[63]

[114] This approach was consistent with the suggestion put forward by the Court that standard planning practice would be to identify potential effects, decide how they might be mitigated, monitor the effectiveness of the mitigation and if necessary modify the mitigation to suit.[64]

Population Categorisation

[115] There were differences of opinion between Ms Linzey and Mr Quigley about the categorisation in the SIA of the population affected by the proposed repurposing

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62 Condition 28 as worded at that time.
63 NOE at page 143-145.
64 NOE at page 162.

being either too large[65] or too small.[66] These differences were highlighted in the JWS with the two experts agreeing on the geographical areas for "immediate neighbours" and "wider community" but disagreeing whether the three combined census area units adopted in the SIA (a population of around 14,000 people) constituted a local neighbourhood. While acknowledging that census unit areas were often arbitrary, Mr Quigley considered that the three units as combined did not present a helpful distinction of the local neighbourhood with the combination being too large. Conversely Ms Linzey said that these census unit areas were not arbitrary but rather units of populations with the demographic characteristics of the population within each area. While there was the potential to remove one of the three census units, Ms Linzey did not consider that this would change the mitigation measures which she had identified[67].

[116] Further, while it was best to define communities by geography, there could be communities within a community which may be more vulnerable to social consequences than its surrounding community. Ms Linzey said that, as for the census areas, she was comfortable that different population categorisations from those adopted in the SIA would not result in any material differences to the social impacts identified nor to the mitigation measures proposed.[68]

Wiri Comparators

[117] While acknowledging that there were some useful references and comparators in the SIA for the Wiri Prison, given the large differences in scale and purpose between the repurposed residence and Wiri, Ms Linzey considered that reliance on these comparators was limited.[69] Having said this, she did agree that of the five main categories of social impact identified for the Wiri Prison, with the exception of cultural impact, the other four (lifestyle, community, amenity/quality and health) largely correlated with those considered in her SIA report.[70] She commented that her review of the available monitoring reports for Wiri (2012-2015) had shown that typical community concerns identified in the SIA for Wiri did not materialise following the establishment of the prison.[71]

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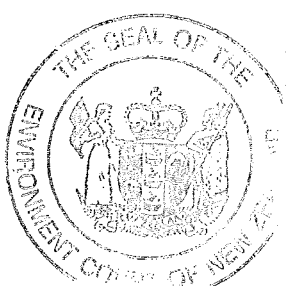
65 The Council.
66 Mr Newman a submitter (and an Auckland Councillor).
67 Linzey Rebuttal at [7.6].
68 Linzey Rebuttal at [7.7].
69 Linzey Rebuttal at [8.3].
70 Linzey Rebuttal at [8.5].
71 Linzey Rebuttal at [8.11].



Potential Impacts on Community Values

[118] Ms Linzey agreed that without mitigation, the repurposing would result in a number of potentially high and moderate adverse social impacts for neighbours and the wider community, these impacts being on[72]:

- Health and wellbeing, particularly in respect of fears and concerns of people's safety and security;
- Quality of life - the potential to change the way people in the community live their lives;
- People's sense of place - the value that people put in their community and the sense of pride or identity they have with that community.

[119] Having reviewed the submissions filed in this case, Mr Quigley noted that many in the community were concerned that the proposal would adversely impact on their values. He said that there was little information about what these values were apart from one submitter identifying the value of creating a place or community which was safe and flourishing for families.[73] What he was looking for in the SIA was a wider understanding of what community values were and how the proposal might impact on these values. For example, he said that there was a lack of information on the potential effects of the proposal on the values such as sense of place, way of life, community aspirations and health and wellbeing. Accordingly he could not identify what measures might be required to mitigate potential effects.

[120] Ms Linzey responded that she was unclear as to what Mr Quigley had in mind about way of life beyond commenting that she had focussed her consideration on visual and privacy effects. She said that elements of way of life she had considered included the way people may use their homes and outdoor living areas, the way they travel through the local neighbourhood and related activities of their daily lives. The potential for adverse impacts related primarily to the potential for physical changes on the site with her focus having been on potential changes to the physical security measures for the repurposed residence. She considered this approach to be consistent with the elements described in Mr Quigley's evidence and those identified in community submissions except for property values which she said she had

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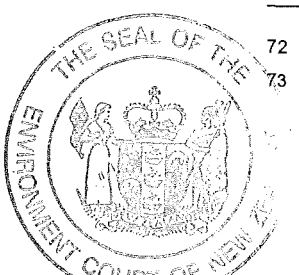
72 Linzey EIC at [5.3].
73 NOE at page 149.



addressed under sense of place.[74]

[121] Ms Linzey identified potential impacts on sense of place as "impacts on people's sense of place, being the value people put in their community and their sense of pride and identity". She said that this was consistent with the broad definition in the International Association for Impact Assessment: Social Impact Assessment Guidelines.[75] She noted that Mr Quigley considered that sense of place was difficult to quantify and difficult to mitigate and that he considered that the potential effects on this characteristic had not been explored in adequate depth.[76]

[122] In Ms Linzey's view, physical characteristics were the key features that determined people's relationship to place and the value they put on that place. She said that she had identified a number of measures mitigating the potential impact of physical changes on the Site including landscaping and road frontage appearance, naming of the residence and visual amenity considerations for security measures, all of which had been captured in the conditions.[77]

[123] Mr Quigley responded that he was satisfied that such measures would mitigate adverse amenity impacts such as visual effects[78].

[124] Ms Linzey identified a second characteristic of sense of place which was more difficult to quantify, describing the elements of this as relating to the sense of identity, empowerment and perception that people have about their communities and the value or sense of value that contributes to their sense of place. She said that these elements of sense of place differ for individuals depending on their particular life experiences. Elements which contribute collectively to a sense of place included cohesion and collective values in a community.

[125] Ms Linzey considered that disenfranchisement can detrimentally impact on a person's sense of place particularly if imposed from outside of the community. She said that she had identified this characteristic of the proposal as a potential social impact and that mitigation of the impact relied on conditions which require Oranga Tamariki to communicate, engage and respond to its neighbours and the wider

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74 Linzey Rebuttal at [10.4].
75 Linzey Rebuttal at [10.6].
76 Linzey Rebuttal at [10.5].
77 Linzey Rebuttal at [10.7].
78 NOE at page 148.

community.[79] While acknowledging that such conditions would not alter the current feelings of the community, she considered that they would nevertheless give members of the community the opportunity to voice their opinions and concerns on design and operational matters which may impact on them.

[126] Ms Linzey accepted that fears for personal safety and security could impact on people's wellbeing. In this context, she said that she had relied primarily on the evidence of Mr Polaschek and the commitments which had been made by the Minister to address safety and security concerns.[80]

[127] Ms Linzey acknowledged the importance of ongoing engagement with neighbours and the community. She said that the framing of measures provided for in the conditions including the development of an SIMP would allow for flexibility in the development and refinement of works to avoid, remedy and mitigate the potential impacts identified. The operation of the CLC would also provide for an adaptive management response for any emerging social impacts.[81]

[128] In answer to a question from the Court about potential perceptions and fears in the community which might lead to actual behavioural changes or a stress or wellbeing change, Ms Linzey said that the best response to this was through communication, engagement and information sharing with the community. She agreed that information on the selection processes for those to be placed at the residence should be provided to the community through the CLC[82].

Cumulative Impacts

[129] A number of submitters raised concerns that the SIA had not addressed the potential cumulative effects from the siting of four justice facilities in the community. Ms Linzey did not agree that cumulative impacts had not been considered. She contended in her evidence that three potential elements of cumulative impact had been identified, these being the addition of the residence to the three other existing facilities in the wider community, the historic use of the site and the potential for increased criminal activity in the area.[83]

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79 Linzey Rebuttal at [10.10].
80 Linzey Rebuttal at [10.15].
81 Linzey Rebuttal at [4.11].
82 NOE at page 103.
83 Linzey EIC at [12.1].

[130] For the first of these, Ms Linzey said that the social impact monitoring for the two existing correctional facilities had concluded that, because of their isolation from residential areas, there was no issue in terms of sense of place for these residences. When combined with the low level of community concern shown in the recent designation changes at Korowai Manaaki, Ms Linzey concluded that there was little potential for the repurposed residence to have a cumulative impact on sense of place.[84]

[131] While agreeing that the change of the use of the site for youth justice purposes would result in a cumulative impact through increased fears and perceptions for residents, Ms Linzey considered that these would be mitigated through the measures provided for in the conditions particularly those involving community engagement and liaison.[85]

[132] For the third potential element of cumulative impact, Ms Linzey said that in the SIA and her evidence, she had concluded that there was no correlation between correctional facilities/residences and increased criminal activity in the area.[86] However she did acknowledge the community's feeling of being over-burdened with the number of these facilities in their area.[87]

Positive Social Impacts

[133] In response to a concern raised by the Council that the SIA had not identified any positive social impacts, Ms Linzey said that the repurposed residence was intended to provide positive social outcomes in response to community demands for justice, crime reduction and the rehabilitation and care of young people who offend. However, she said that these outcomes were driven by separate policy and statute directives as opposed to being matters for management under the RMA.[88]

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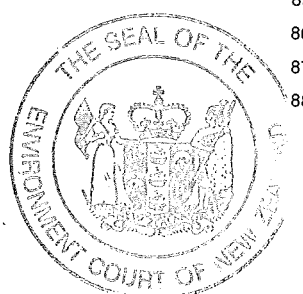
84 Linzey EIC at [12.2].
85 Linzey EIC at [12.3].
86 Linzey EIC at [12.4].
87 Linzey Rebuttal at [9.3].
88 Linzey Rebuttal at [6.5], [6.6].



Completing an appropriate SIA and SIMP

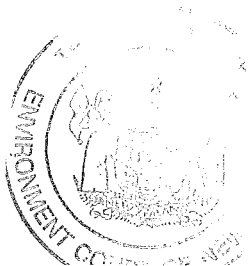
[134] It was common ground between the Minister and the Council at the conclusion of the hearing that the SIA which had supported the NOR should be updated. It seems to us that this position is an implicit acknowledgement as to the inadequacy of the SIA which was completed. Proposed conditions 28A – 28F as finally advanced addressed the basis on which the updating of the SIA would be undertaken, its timing, the criteria and factors which would be applied in undertaking the update and subsequent matters relating to preparation of an appropriate SIMP, ongoing monitoring and the like. Later in this decision we comment on the issues in dispute between the parties in that regard to give some guidance as to how these issues ought be addressed in due course, without diminishing our concern as to the inadequacy of the SIA itself.

[135] This brings us to a fundamental consideration as to whether it is appropriate for the Court to approve the NOR now on the basis that an updated SIA (and SIMP) will be prepared in accordance with Condition 28A which provides for the updated SIA to be prepared following confirmation of the NOR by the Court.

[136] That issue needs to be looked at in context. From the time of our first pre-reading of the evidence in these proceedings, it became apparent to all members of the Court that the primary matter at issue in this case was the social impacts (including but not limited to potential safety and security impacts) of the proposal on the neighbouring community. There are a number of physical effects with which we will deal but these are readily dealt with by way of mitigation. The significant and determinative issue in these proceedings is how allowing the repurposing to proceed will impact on the social wellbeing of the Weymouth community.

[137] Notwithstanding the importance of the social impact issue and for the reasons explained by Ms Linzey, the SIA addressing these matters was undertaken on a desktop basis with no significant community input. The Court is being asked to confirm the NOR on the basis that a condition of consent will require the updating of the SIA as per Condition 28A once consent is actually granted and then an SIMP would be prepared to deal with any issues which might unexpectedly emerge.

[138] Ms Linzey's evidence was that she stood by her preliminary assessment that there was a low likelihood of any significant impacts not already having been identified. She may prove to be correct. However, she also acknowledged that if there had been more time, she would have preferred the SIMP (and therefore the SIA) to



have been prepared as part of the proposal rather than leaving it to conditions.

[139] Mr Quigley's evidence was that a wider understanding was required of what community values were, how the proposal might impact on these values and that based on the information he had seen, he was unable to identify the measures which might be required to mitigate potential effects.

[140] Even if we were to accept Ms Linzey's assessment of there being a low likelihood of significant unidentified social effects, we consider that any risk in that regard should not be borne by the Weymouth community. The situation where the Court is being asked to grant approval to the NOR when the most significant aspect of the effects of the proposal, namely its social impacts, has been subject to a time limited desk top appraisal through the SIA process, is unsatisfactory to say the least.[89] It requires us to adopt the assumption that any adverse effects which might warrant the decline of approval have been identified in the SIA undertaken to date and that any other effects not yet considered by Ms Linzey can be adequately avoided, remedied or mitigated by the imposition of conditions (presumably by some condition review process) or through the SIMP. We consider that proceeding on that basis would be an abdication of our function as a responsible consenting authority.

[141] Amongst the considerations to which the Court is required to have regard under s 171(1) RMA in determining whether to approve the NOR, is the effects on the environment of allowing the NOR. Further, if it is likely that the work will have a significant adverse effect on the environment, we are obliged to have particular regard to whether or not adequate consideration has been given to alternatives[90] before making a determination. That in itself is an issue in this case where we have been given no evidence on alternatives on the basis of the contention that there will be no significant adverse effects or alternatively it is open to the Court to approve the NOR having regard to Part 2 considerations even if there has been no appraisal of alternatives.

[142] Until such time as an SIA undertaken in accordance with best practice has been completed, the Court cannot be confident that all potentially adverse social effects of the proposal have been identified and their significance adequately

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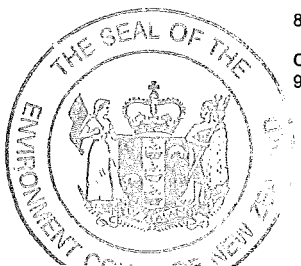
89 We mean no disrespect to Ms Linzey in that observation. She did the best appraisal that she could do in the time available to her.

90 Section 171(1)(b).



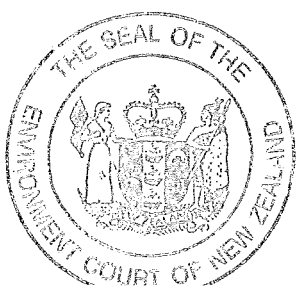
assessed. We do not consider that it is appropriate to approve the NOR on the basis of an assumption that all of the determinative effects have been identified and that any lesser effects can be identified through a post consent process and subsequently addressed through the SIMP.

[143] The Court is unwilling to make a final determination on the NOR until such time as an appropriate SIA has been completed together with an SIMP addressing the findings of the SIA. The reasons for this are set out in the preceding paragraphs but, in summary, are:

- The way in which any further mitigation measures would be incorporated in conditions and complied with if the NOR had already been confirmed is not spelled out;
- We do not consider that the SIA presented in support of the NOR adequately assesses the social impacts of the proposal;
- Ms Linzey's acknowledgement that she would have preferred the SIMP (and therefore the SIA) to have been prepared as part of the proposal rather than leaving it to conditions;
- Mr Quigley's evidence that a wider understanding was required of what the community values were and how the proposal might impact on these values;
- Our lack of confidence that all of the adverse social effects of the proposal have been identified and their significance adequately assessed. There is potential for further adverse effects to be identified which are not capable of being avoided, remedied or mitigated.

[144] The update of the SIA should be based on the findings reached by the Court so far which include:

- The combined number of care and protection and youth justice placements on the Site (including the Wharenui) being limited to 20;
- That with the security measures and limitation of numbers proposed, the level of risk mitigation is likely to be appropriate for the proposed Youth Justice Residence;
- The deficiency of evidence in terms of the security and safety of the Wharenui means that we are unlikely to grant approval to that aspect of the proposal.



[145] The updated SIA and the SIMP are to be lodged with the Court and circulated to all parties to these proceedings. The Council will be given 15 working days to file any comments from Mr Quigley in response. Again those comments are to be circulated to all s 274 parties. It may be appropriate for there to be an expert witness conference between Mr Quigley and Ms Linzey prior to filing of Mr Quigley's comments to resolve any outstanding matters between them. The Court would seek to expedite such a conference and would then issue further directions as to completion of the hearing as part of this process.

[146] Condition 28A as currently drafted allows four months for the preparation of the proposed retrospective SIA (with further time required to complete an SIMP). We impose no specific deadline for lodgement of the updated SIA which we require. However, we direct that if the updated SIA has not been completed by 29 November 2019, counsel for the Minister is to file a memorandum advising the Court as to progress and identifying a likely completion date together with a likely completion date for the SIMP.

[147] We acknowledge the delay which this process introduces into final consideration of the NOR. We are conscious of the obligation which the Minister has to meet the requirements of the Act and the pressure which will be brought about by the increase in age. However, for the reasons we have endeavoured to articulate we are not prepared to make a final determination of the NOR until we have sufficient information in terms of an SIA and SIMP to enable us to properly undertake our statutory function.

[148] We note that in the meantime under the existing designation, Oranga Tamariki may continue to use the Site for care and protection purposes.

Social impact conditions

[149] The wording and content of the social impact conditions evolved considerably following the exchange of evidence, during the hearing and then after the hearing. That is reflected in the final condition set submitted with the Joint Memorandum. While they reached agreement on the substantive wording of all of the conditions, the Minister and the Council were unable to agree on the detail of some of the wording. For the most part we have found that generally the areas of disagreement have little impact on the substantive outcome which the conditions are seeking to achieve.

[150] The social impact conditions which we have identified are 2A, 2B, 3, 5-9, 9A, 28A-28G. Where we have not made a comment on a particular condition or part of a condition, this is because we support the proposed wording. Where appropriate, our findings on the disputed wording of Conditions 28A-28G are to be taken into account in the updating of the SIA and the preparation of the SIMP.

Conditions 2A, 2B and 3

[151] We have addressed these conditions in the safety and security section of this decision concluding that when considered together and incorporating the Court's amendments, and subject to the updated SIA, these will likely provide a level of risk mitigation appropriate for the operation of a Youth Justice Residence at the Site.

[152] We note again that the same finding does not apply to the Wharenui because the evidence we have seen is deficient in terms of the security and safety of the Wharenui.

Conditions 5-8

[153] Conditions 5-8 have been agreed by the Minister and the Council and have not been disputed by any of the submitters.

Condition 9

[154] The wording of Conditions 9(a)-(c) have been agreed by the Minister and the Council and have not been disputed by any of the submitters.

[155] The wording of Condition 9(d) was not agreed between the Minister and the Council. Mr André advised that he supported the Council's wording.

[156] The disagreement relates to the sum of the Minister's financial contribution for the engagement of a social impact expert to advise the CLC on the development/monitoring/updating of the SIMP. The Minister's condition limits this sum to a maximum payment of $20,000 plus GST for the development of the SIMP whereas the Council wording is for a maximum sum of $20,000 plus GST per annum for the development of the SIMP and an annual sum of the same amount for the period while the SIMP processes (including annual monitoring/reporting and SIMP updates)

are continuing.[91]

[157] The basis for the Council seeking the same sum of $20,000 plus GST for the annual monitoring/reporting and SIMP updates phase as for the initial development of the SIMP was not explained. It seems to us that the required level of the CLC inputs for annual monitoring/reporting and SIMP updates would be considerably less than that required for the initial development phase but nothing in the evidence we heard enables us to fix the annual amount with any degree of accuracy or on any principled basis.

[158] We confirm the $20,000 plus GST sum for the development phase but leave the sum for annual monitoring/reporting and SIMP updates to be fixed as part of our final decision (should we ultimately determine to confirm the NOR). We suggest that this is an appropriate matter for further discussions between the Minister and the Council.

Condition 28A

[159] As already discussed, the timing of the updating of the SIA as currently provided for in Condition 28A is unacceptable to the Court as it provides for the updated SIA to be prepared following the confirmation of the NOR by the Court.

Condition 28A(b)

[160] The Minister and the Council have agreed most of the wording for this condition which relates to the consideration of the actual and potential effects of the operation of the residence. The wording of the final sentence of the condition was not agreed.

[161] The Minister's version of this sentence is:

> The social effects assessed shall include effects relating to health and wellbeing, sense of place and way of life.

[162] The Council's version includes additional wording as follows:

> The social effects assessed shall include effects relating to health and wellbeing, sense of place and community aspirations, fear, quality/way of life, and any effects

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91 Joint memorandum at page 7.

associated with release of those placed at the residence for youth justice reasons.

Court's Finding On wording of Condition 28A(b)

[163] Ms Linzey and Mr Quigley both identified the potential adverse social effects arising from the proposal under three categories, way of life, health and wellbeing and sense of place with Mr Quigley adding a fourth, community aspirations. The Court's finding supports the submission of the Minister[92] that fear and the effects from those released into the community are already incorporated within these named categories and do not need to be restated. However, we agree with the Council that community aspirations should be included in the condition which should read:

> The social effects assessed shall include effects relating to health and wellbeing, sense of place, community aspirations and way of life.

Condition 28A(c)

[164] The Minister's version of this condition is:

> Include appropriate data collection and survey of communities and stakeholders.

[165] The Council's version of this condition is:

> Include appropriate data collection and engagement with communities and stakeholders.

Court's Finding on Wording of Condition 28A(c)

[166] Based on Ms Linzey's advice that "engagement" has a particular meaning which involves a greater commitment than a simple survey, counsel for the Minister argued against including this term in the condition. Conversely, based on Mr Quigley's concern about the lack of community engagement and with the four months proposed for updating the SIA, counsel for the Council pointed out that there would be ample opportunity for engagement.

[167] The Court agrees, and finds that the appropriate wording is:

> Include appropriate data collection, survey and engagement with communities and stakeholders.

[92] Joint memorandum of counsel dated 31 May 2019 at page 8.

Condition 28A(e)

[168] The Minister's version of this condition is:

> Determine any social effects that will require management, and monitor to assess the effectiveness of the management proposed;

[169] The Council's version of this condition is:

> Determine any social effects that will require management, and monitoring;

Court's Finding on Wording of Condition 28A(e)

[170] Condition 28C(c) requires that the framework for monitoring is to be addressed in the SIMP. We determine that Condition 28A(e) should provide:

> Determine any social effects that will require management, and monitor in accordance with the monitoring framework addressed under condition 28C (c)

SIMP Annual Monitoring Reports

Condition 28D

[171] The Minister's version of this condition is:

> The requiring authority shall engage a SIA specialist to prepare an annual report on monitoring requirements outlined in the SIMP. The annual monitoring report shall include a summary of any matters raised with the CLC and any response/feedback on those matters from the CLC and its members.

[172] The Council's version of this condition is:

> The requiring authority shall engage a SIA specialist to prepare an annual monitoring report on the identification, monitoring, evaluation and management of the social effects outlined in the SIMP. The annual monitoring report shall include a summary of any matters raised with the CLC and any response/feedback on those matters from the CLC and its members.

Court's Finding on Wording of Condition 28D

[173] As we have noted, under Condition 28C(c), the framework for monitoring is to be addressed in the SIMP. The Court does not see the need to include the underlined words in the Council's version and we find that the Minister's wording of Condition 28D should prevail.

Condition 28E

[174] The Minister's version of this condition is:

> The annual monitoring report shall be lodged with the Council within one month of the first and second anniversary of certification of the initial SIMP, save that in the event that monitoring identifies adverse social effects requiring development of further management/mitigation, the obligation in condition 28D shall continue until the identified adverse social effects have been appropriately managed/mitigated.

[175] The Council's version of this condition is:

> The annual monitoring report shall be lodged with the Council within one month of the first and second anniversary of certification of the initial SIMP, save that in the event that monitoring identifies new or continuing adverse social effects requiring development of further management/mitigation, the obligation in condition 28D shall continue until the identified adverse social effects have been appropriately managed/mitigated.

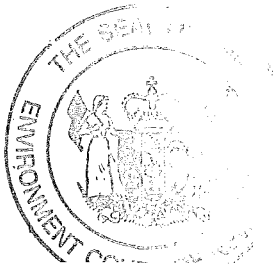
Court's Finding on Wording of Condition 28E

[176] The difference in the wording between the two versions is that the Council's version includes the words "new or continuing" before "adverse social effects" whereas the Minister's version does not. In our view, quite correctly, Mr Quigley said that if the monitoring showed that potential impacts identified in the SIA were non-issues, these could be excluded from future monitoring. On the other hand, if new impacts were identified, these could be added to the SIMP and monitored at the next monitoring date. This is consistent with the Council's wording of this condition which the Court finds should prevail.

Noise

Background

[177] Expert evidence on the noise effects from the repurposed residence was provided by Mr R L Hegley for the Minister and Mr J R Styles for the Council. Mr Hegley had prepared the noise assessment report in the Minister's application for the NOR and Mr Styles the noise section of the Council's s 198D report.



[178] The two experts also conferenced and prepared a JWS which recorded that there were no outstanding areas of disagreement between them.

The Evidence and Agreements Reached

[179] Mr Hegley advised that the residential zone noise limits in the Unitary Plan were slightly more stringent than those provided for under the current designation. His prediction was that the noise levels from young people engaged in activities both indoors and outside at the repurposed residence would be little different from the status quo and would comply with the Plan limits.[93]

[180] In his s 198D report, Mr Styles recorded his general agreement to the noise limits proposed by Mr Hegley. However, he made the point that Mr Hegley's NOR report had not taken account of the noise which would be generated by staff or visitors talking or calling out to each other in or near the southern car park area as they arrived and left the Site.[94] He said that this noise had been identified by submitters as a major issue, with one submitter adding that the use of the gate was also a concern. [95]

[181] Mr Hegley responded to this by undertaking measurements of the noise levels of vehicles arriving at and leaving the Site. From these measurements he determined that the number of individual vehicle movements that could occur in the car parks and accessways between the main buildings and the southern boundary before the night time noise limit was exceeded would be ten in any 15-minute period.

Conditions

[182] In their JWS, the experts recorded their agreement to all of the proposed conditions for managing noise from the site including the night-time carpark noise. These are reflected in Conditions 18-20 and 41 in the 31 May 2019 conditions set as follows:

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93 Hegley EIC at [10.1]
94 Styles EIC at [7.4]
95 CB139, Appendix A

Condition 18

[183] The experts agreed that the noise limits set out in condition 18:

- Will result in noise levels that are no greater than are reasonable in terms of s 16 of the Resource Management Act;
- Are consistent with noise limits that are normally applied to activities in a residential zone;
- Will be 2-3dB more restrictive than those applying under the current designation conditions with this difference being barely noticeable (if at all) to the neighbours as would the increase in noise effects arising from the proposal to increase the number and age of the young persons on site.

[184] The consequences of limiting the number of placements on the site to 20 instead of 30 are discussed below.

Condition 19

[185] Condition 19 requires the Minister to prepare a noise management plan with procedures for minimising any noise between 10pm and 7am which might be audible beyond the site boundaries and for making staff aware of the need to take all practicable steps to minimise noise particularly during shift changes at night.

[186] The condition also requires that if there are any noise complaints, these must be received, logged, actioned and responded to.

Condition 41

[187] Condition 41 requires the Minister to prepare a parking management plan for managing the use of parking and manoeuvring areas located immediately adjacent to the residential boundary during the hours of 10pm and 7am to minimise noise and amenity effects on neighbours. This is to include a system for limiting individual traffic movements to no more than 10-vehicles per 15- minute period during this same period, the limit identified by Mr Hegley for ensuring that the night-time noise limit would not be exceeded.

[188] The noise experts note from the evidence of the traffic experts that this movement limit would be achievable,[96] as discussed in the traffic and transport section of this decision.

Finding on Noise

[189] We accept the agreements reached between the two noise experts, Mr Hegley and Mr Styles and our finding is that, provided there is compliance with conditions 18-20 and 41, the repurposing of the facility from care and protection to a Youth Justice Residence will not give rise to unreasonable noise effects.

[190] We note that this finding is based on the noise assessments made by the experts for 30 placements on the Site. We assume that our finding that placements should be limited to a maximum of 20 might result in a small reduction in the predicted traffic related noise levels as there may be fewer traffic movements into and out of the Site, so the experts' assessment represents a worst case scenario. We do not consider that any changes to the agreed conditions are warranted by this assumption.

Traffic, Transport and Parking

Background

[191] Expert evidence on the traffic, transport and parking effects from the repurposed residence was provided by Ms S L McCarthy for the Minister and Mr T P Church for the Council. Ms McCarthy was a co-author of the transportation assessment report in the Minister's application for the NOR while Mr Church prepared the traffic and transport section for the Council's s 198D report.

[192] Ms McCarthy said that her assessment of the potential traffic generated from the proposed change indicated that low numbers of additional trips would be generated and that this additional traffic would have no noticeable effect on the safety and efficiency of the site access and the surrounding road network.

[193] When assessing concerns from submitters and the Manurewa Local Board about the effects of additional traffic and parking overspill, Ms McCarthy said traffic

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96 JWS at [2.1.10].

effects could be expected to be negligible and that parking provisions would be addressed by an appropriate condition.[97]

[194] Mr Church agreed that any adverse transport effects from the proposal could be appropriately mitigated and managed through conditions.

[195] Ms McCarthy and Mr Church participated in expert witness conferencing on traffic, transport and parking related matters and produced a JWS dated 16 April 2019. They recorded in the JWS that there were no areas of disagreement between them.

[196] We summarise the key points of agreement between two experts as follows:

- Traffic generated by the facility will be spread across the commuter peak period, with the increase in trips occurring in the opposite direction to existing peak tidal flows associated with residential development about Weymouth;
- During business hours, staff will typically enter the site travelling westbound on Weymouth Road during the morning peak period and exit the site travelling eastbound on Weymouth Road during the evening peak period. These tidal peaks for the site are opposite to the residential peaks and existing congestion experienced on Weymouth Road;
- Floor staff, being shift workers, have shift change times that generally sit outside the commuter peak hours;
- The additional traffic generated by a repurposed residence will not have a noticeable impact on the operation of Weymouth Road during the commuter peak periods (a concern raised by the Manurewa Local Board and submitters);
- The configuration of the existing vehicle access will be safe for two-way vehicle flow and cyclists;
- A pedestrian connection between the public footpath on Weymouth Road and the main entrance to the building would provide better provide access for people who walk or use public transport to travel to/from the facility. This has been provided for in condition 37;
- Parking demand on-site associated with external facilitators, medical staff, escort staff shared with Korowai Manaaki, shift workers and visitors will vary across the day;

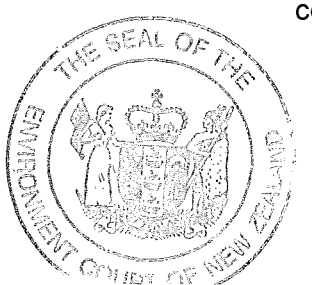
97 McCarthy EIC at [15.4].

- Car parking on the Site based on a rate of 0.8 car parking spaces per staff member at any one time and one car parking space per visitor/whānau room will provide sufficient on-site parking (a concern of the Manurewa Local Board). The experts' agreed levels of parking have been provided for in condition 38;
- Condition 39 responds to Ms McCarthy's request for two visitor cycle parking spaces to be provided within the publicly accessible area of the Site;
- Also, as recommended by Ms McCarthy and agreed by Mr Church, this same condition requires secure staff cycle parking to be provided at a rate of one cycle space per 15 staff members expected on-site at any one time;
- Condition 40 requiring the preparation of a Travel Management Plan is supported by both experts;
- Condition 41 responds to the finding of the noise experts to limit traffic movements to a maximum of 10 vehicle movements every 15 minutes between the hours of 10pm and 7am on any day with the two experts agreeing that this could be feasibly achieved;
- Based on the current parking layout on-site and considering the parking demands of staff working between the hours of 10pm and 7am, the experts agree that the proposed Parking Management Plan will achieve the requirements set by this condition.

Finding on Traffic, Transport and Parking

[197] The findings of the two traffic experts were not contested and nor were their recommendations as to conditions which have all been included in the NOR condition set.

[198] We note that the traffic experts' assessments were based on an increase in the number of young people to be accommodated on the Site from 20 to 30 with associated increased staffing levels. Again, we assume that our finding that the number of placements on the Site should be limited to 20 instead of 30 will result in a small reduction in the traffic and transport effects so the experts' assessment represents a worst case scenario. We do not consider any changes to the agreed conditions are warranted because of this assumption.



Resource Management Act Instruments

The Designation

Existing Designation

[199] There is a relatively long history to the designation of this site which we attempt to summarise in the following table. (Information from the evidence of Ms Bell the Planning witness for the Minister[98] and Mr Taylor - Project Management, Minister for Children)[99]:

date	event	purpose
1962	Crown acquisition of land	
1962 – 1970s	Further land around site acquired	
1965	Cabinet approval establishment of girls training centre	
1967	First Designation	Weymouth Training Centre
1973 (20 October)	Commencement of operation of Weymouth Girls School Approx. 19ha of land held	Included: staff of 33 Staff housing 3 separate 20 bed hostels Secure wing Classrooms Technical block Admin, sickbay, service and meal preparation, storage and gymnasium
1974	Change to designation	Building of the General Government (Girls Training Centre)
1979 -1980	Additions to secure block, education buildings (social studies block and chapel)	
1985	Additional unit added Renamed: Weymouth Residential Centre.	
1985-1986	12 bed hostel added. Designed to cater for up to 12 boys aged between 10 -13 years	Change to designation to allow facility to be used for boys
1992	NOR lodged with Manukau City Council	Boys and young men and girls and young women for youth justice (including adult jurisdiction) and

[98] Bell EIC Page 11 [7.8 – 7.12].

[99] Taylor EIC Page 8 [Section 6].

		care and protection
1993	Settlement of appeals and confirmation of amended Designation	Social Welfare Purposes: residence for the care and control (including detention) of children and young persons. (included conditions)
1995	Modified Designation requested for inclusion in notified Proposed Manukau District Plan. Resulted in submission. Council recommended condition to remove justice component from site by August 2001	
1996-	Council recommendation rejected by Minister. Appeal lodged by Manukau City. Government Residential Services Strategy announced to separate youth justice facilities from care and protection service.	
2002	Appeal settled on basis of government residential services strategy which would remove youth justice component (Consent Order) and the new designation of Korowai Manaaki for youth justice purposes	
30 June 2003		Youth justice facilities ceased on the site
2003	New Designation sought Existing residential block and secure care unit demolished and replaced. New accommodation unit constructed, and other buildings refurbished. Reduced scale of facility to: • 3.9649ha site • Number and scale of buildings reduced (approx. 24 buildings removed, admin and school building reduced by 30-40%) • Number of children reduced from max of 60 to 20 (including 5 secure beds not for permanent placement)	Care and Protection purposes (including secure care)
2006	Whakatakapokai Care and Protection residence opened	

2013 -	Designation rolled over into the Proposed Auckland Unitary Plan under name of then responsible Minister for Social Development. Now listed in the operative in part AUP under the Minister for Children.	Current designation (Note: Court's viewing of this notified document held on Auckland Council webpage, indicates it included 3 attached plans addressing the landscape concept for the site. These attachments are not in the operative plan version.)

[200] The current designation in the Auckland Unitary Plan (Chapter K, Minister for Children, reference 3800) is set out below.

3800 Care and Protection Residential Centre

Designation Number	3800
Requiring Authority	Minister for Children
Location	398 Weymouth Road, Section 2 SO362124
Rollover Designation	Yes
Legacy Reference	Designation 283, Auckland Council District Plan (Manukau Section) 2002
Lapse Date	Given effect to (i.e. no lapse date)

Purpose

Care and Protection Residential Centre — Upper North , being a residence in terms of section 364 of the Children, Young Persons, and Their Families Act 1989 for:

(a) The placement of up to 20 children and young persons for the purpose of providing care (including secure care), protection, control and treatment; and

(b) Ancillary educational, recreational, rehabilitative, administrative, visitor accommodation and cultural facilities; and

(c) Activities consistent with and ancillary to the establishment, operation and maintenance of the Care and Protection Residential Centre — Upper North, including buildings, fixed plant and service infrastructure, fencing, landscaping, earthworks, outdoor recreation areas, access and car parking.

Conditions

1. That the Care and Protection Residential Centre - Upper North shall provide residential care for up to 20 children and young persons at any one time.

2. A Community Liaison Committee shall be established to assist in the promotion of a positive relationship between the Care and Protection Residential Centre - Upper North and the local community. The Community Liaison Committee shall be kept informed of current and proposed programmes at the Care and Protection Residential Centre - Upper North and include two representatives of the local community.

3. A Security Management Plan for the Care and Protection Residential Centre - Upper North shall be formulated and implemented in consultation with relevant emergency services and the Community Liaison Committee.

4. Activities (other than construction) on the site shall be so conducted as to ensure that noise from the site shall not exceed the following noise limits at any point within the boundary of any neighbouring residential site:

Monday to Sunday (inclusive)	
7am to 10pm	L10 55 dBA
10pm to 7am	L10 45 dBA
10pm to 7am	Lmax 75 dBA

Noise (other than construction noise) shall be measured and assessed in accordance with the requirements of the New Zealand Standard NZS6801:2008 "Acoustic Measurement of Environmental Sound".

5. The site shall be landscaped generally in accordance with the landscape concept plan prepared by Opus International Consultants marked ACC116.00 (September 2002) contained within Appendix B of the Notice of Requirement. All planting associated with this landscape concept shall be maintained regularly and kept in a tidy condition.

6. The lighting on site shall be sufficient for operational and security purposes and shall be designed to prevent the intrusion of direct light into neighbouring properties.

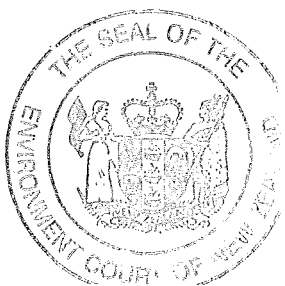
Attachments

No attachments

[201] The proposed NOR alters the operative designation as follows:

> **The nature of the proposed public work is:**
> To alter the purpose of Designation No. 3800 to align with and fulfil the current and future obligations and duties of the Chief Executive of Oranga Tamariki-Ministry for Children by increasing the number of children/tamariki and young persons/rangatahi who may live at the Oranga Tamariki Residence at 398 Weymouth Road, Weymouth, (Oranga Tamariki Residence), for care and protection, youth justice or certain adult jurisdiction or transitional purposes from 20 to 30.

[202] This is supported by the conditions we have discussed in the decision which will form part of the designation and guide development and activities which rely on it. The underlying zoning (Residential - Mixed Housing Suburban Zone) remains unchanged. The shift from care and protection (albeit with the potential for some element of this to remain) to Youth Justice and the consequential requirements for modification of the facility and the operation and changed character we have addressed earlier. These effects need to be understood in the context of the planning instruments recognising that a facility is in existence on the site which is provided for by designation.



The relevant instruments

National:

[203] It was generally agreed that at the national level, the Court is required to have particular regard to the National Policy Statement on Urban Development Capacity 2016 (NPSUDC) when considering the NOR. The preamble to the NPSUDC indicates that the policy:

> .....provides direction to decision-makers under the Resource Management Act 1991 (RMA) on planning for urban environments. It recognises the national significance of well-functioning urban environments, with particular focus on ensuring that local authorities, through their planning, both:
>
> • enable urban environments to grow and change in response to the changing needs of the communities, and future generations; and
>
> • provide enough space for their populations to happily live and work. This can be both through allowing development to go "up" by intensifying existing urban areas, and "out" by releasing land in greenfield areas.
>
> This national policy statement covers development capacity for both housing and business, to recognise that mobility and connectivity between both are important to achieving well-functioning urban environments. Planning should promote accessibility and connectivity between housing and businesses. It is up to local authorities to make decisions about what sort of urban form to pursue.

[204] The NPSUDC directs local authorities to ensure development capacity is provided for in plans and that this is supported by infrastructure. It is focused on housing and business capacity. We were told this direction is reflected in the Auckland Unitary Plan (AUP).

[205] Decisions are to be taken in a way that reflects the purpose of the RMA and include for an urban environment, capacity for expected growth. We heard from witnesses that South Auckland is a growth area. The following policy directive (being more relevant to these proceedings), applies:

> PA3: When making planning decisions that affect the way and the rate at which development capacity is provided, decision-makers shall provide for the social, economic, cultural and environmental wellbeing of people and communities and future generations, whilst having particular regard to:
>
> .....
>
> b) Promoting the efficient use of urban land and development infrastructure and

other infrastructure;

.....

[206] The term "other infrastructure" is defined in the NPSUDC, as including social infrastructure such as schools and healthcare. Ms Bell and Mr Mosley (Planning Witness for the Auckland Council) confirmed that the proposed Youth Justice residence fits the description of "other infrastructure". Mr Wren (Planning Witness for s 274 parties), did not address this point. His focus was on the residential capacity/housing policy directions found in the NPSUDC. It appears to us that neither focus trumps the other because infrastructure is a necessary part of the objective set out above.

[207] Ultimately, we were told, this policy is integral to the AUP and that Plan should be the focus of our attention.

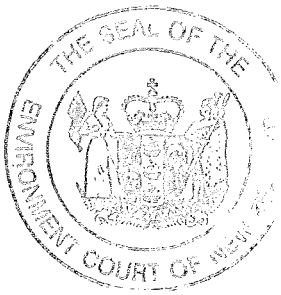
Auckland Unitary Plan

[208] The purpose of the AUP is described as:

> The statutory purposes of the Auckland Unitary Plan (the Plan) are:
> (1) for the part which is the regional policy statement: to achieve the purpose of the Resource Management Act 1991 by providing an overview of the resource management issues of the region and policies and methods to achieve integrated management of the natural and physical resources of the whole region;
> (2) for the parts which are the regional coastal plan: to assist the Council, in conjunction with the Minister of Conservation, to achieve the purpose of the Resource Management Act 1991 in relation to the coastal marine area of the region; and
> (3) for the parts which are the regional plan and the district plan: to assist the Council to carry out any of its functions as a regional council and as a territorial authority in order to achieve the purpose of the Resource Management Act 1991.

[209] The planning witnesses agreed that we should focus on various parts of the Regional Policy Statement (RPS) and the provisions of the District Plan component of the AUP. However, their opinions diverged as to the emphasis to be placed on four key themes in the objectives and policies. We summarise these themes as:

- The objectives and policies in the RPS relating to the efficiency of use of the land particularly for urban growth and the potential this site offers towards achieving in particular, objectives and policies under B2.2, B2.3,



B2.4 and B2.8.

- Mr Wren focused on the opportunity for provision of housing which is encouraged by these objectives and policies, Ms Bell and the evidence of the Minister (and Mr Mosley for the Council), also addressed the need for social infrastructure of the kind being proposed.
- The potential for adverse environmental effects related to health and safety of the community.
- Potential social effects concerning the local Weymouth community and wider south Auckland community.
- Residential amenity as expected by the underlying AUP Mixed Housing Suburban Zone.

[210] Other objectives and policies considered relevant related to matters pertaining to the Treaty of Waitangi and Mana Whenua values, as well as specific environmental elements concerning lighting, transport and noise. There was a large measure of agreement between the planners in relation to these latter matters. We do not consider these matters determinative, so will concentrate on the principal issues we have outlined above.

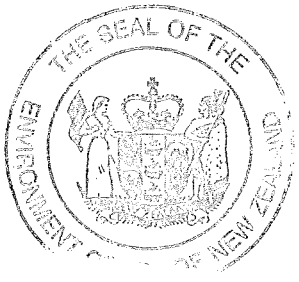
[211] A number of relevant definitions inform our understanding of the Plan. They are:

> **Community correction facility**:
> Buildings and land used for administrative and non-custodial services. Services may include probation, rehabilitation and reintegration services, assessments, reporting, workshops and programmes, and offices may be used for the administration of and a meeting point for community work groups.
> **Community facilities**
> Facilities for the well-being of the community, generally on a not for profit basis.
> Includes:
> .....
> • community correction facilities; and
> • justice facilities
> .....
>
> **Justice facilities**
> Facility used for judicial, court, or tribunal purposes, and/or activities including collection of fines and reparation, administration and support, together with custodial services as part of the operation of New Zealand's justice system.

[212] In addition, the term "social facilities" is found in the RPS provisions at Chapter B2 – "Urban Growth and form", B2.1 – "Issues" which addresses the needs of a growing population including demand for housing, employment, business, infrastructure, social facilities and services. The specific objectives and policies pertaining to social facilities are found at B2.8. While the planners in their JWS identified the relevant RPS objectives and policies, they placed no weighting on them.

[213] We set out the particularly relevant objectives and policies of the RPS below:

> **B2.8.1. Objectives**
>
> (1) Social facilities that **meet the needs of people and communities, including enabling them to provide for their social**, economic and cultural well-being **and their health and safety**.
>
> (2) Social facilities located where they are **accessible** by an appropriate range of transport modes.
>
> (3) **Reverse sensitivity effects** between social facilities and neighbouring land uses are **avoided, remedied or mitigated**.
>
> **B2.8.2. Policies**
>
> (1) Enable social facilities that are accessible to people of all ages and abilities to establish in appropriate locations as follows:
>
> (a) small-scale social facilities are located within or close to their local communities;
>
> **(b) medium-scale social facilities are located with easy access to city, metropolitan and town centres and on corridors**;
>
> (c) large-scale social facilities are located where the transport network (including public transport and walking and cycling routes) has sufficient existing or proposed capacity.
>
> (2) **Enable the provision of social facilities to meet the diverse demographic and cultural needs of people and communities**.
>
> (3) **Enable intensive use and development of existing and new social facility sites**.
>
> .....
>
> (5) **Enable the efficient and flexible use of social facilities by** providing on the same site for:
>
> (a) activities accessory to the primary function of the site; and
>
> (b) in appropriate locations, co-location of complementary residential and commercial activities.
>
> (6) Manage the transport effects of high trip-generating social facilities in an integrated manner
>
> (Emphasis added)



[214] The explanation and principal reasons for adoption of the RPS objectives and policies follows at B2.9. This highlights that the overall scheme of these provisions is to address resource management issues arising from urban growth with the objective of a quality compact form, promoting proximity of residential intensification close to business centres, transport nodes and corridors, and making efficient use of infrastructure. The explanation includes the following reference to social facilities:

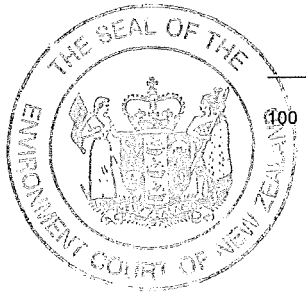
> **With growth, new open spaces and social facilities will be required** and the existing open space and **social facilities will need to be expanded and upgraded to meet the needs of new residents and the increased level of use**.
>
> **Social facilities include public and private facilities which provide for services such as** education, health**, justice, corrections**, community and cultural facilities. They also contribute to the economy of Auckland and New Zealand in a variety of ways, both supporting other activities and by contributing to a high-value knowledge economy. This is particularly important for a growing city, as increasing numbers of people rely on these facilities to meet their needs and provide for their social, economic and cultural wellbeing.
>
> (Emphasis added)

[215] Thus there is a connection between growth, housing intensification and location and the provision of social facilities such as that described in the NOR. One comes with the other with the caveat of needing to address the environmental effects so that the needs of the people and communities are met.

[216] Objectives under sections B2.2, B2.3, B2.4 are not selective in promoting one land use over another but work together in pursuit of the overall strategy explained in B2.9. That is perhaps the reason that the planning experts did not rank them in their JWS.

[217] We see nothing inconsistent with these higher order directives in the NOR.

[218] When she was asked by the Court what the focus of attention should be relative to other objectives and policies of the AUP, Ms Bell referred us to the specific zone provisions contained in the District Plan[100] (Residential - Mixed Housing Suburban Zone). This seems to equate with Mr Wren's (and Mr Mosley's) approach. These are found in Chapter H4 of the AUP.



[100] NOE at page 109.

[219] Mr Wren considered that the first objective of the zone (set out under "H4.2 Objectives") would not be achieved by the NOR. His concern was that the changes would not promote the objective of increasing housing capacity, intensity and choice. Given the existence of the Residence on the site and thus the site not being devoted to housing as such, we see this objective as not as important compared to the others. We note that in the JWS, Mr Mosley considered it irrelevant for current purposes. For convenience we repeat those objectives that were agreed as relevant:

2) Development is in keeping with the neighbourhood's planned suburban built character of predominantly two storey buildings, in a variety of forms (attached and detached).
3) Development provides quality on-site residential amenity for residents and adjoining sites and the street.
4) Non-residential activities provide for the community's social, economic and cultural well-being, while being compatible with the scale and intensity of development anticipated by the zone so as to contribute to the amenity of the neighbourhood.

[220] The planning witnesses agreed that all the policies set out at H4.3 were relevant except Policy 7 and for the most part 8. Mr Wren considered Policy 8 is relevant. This Policy relates to the use of larger sites for integrated residential development. This is perhaps consistent with his view that the site is better utilised for housing in order to meet Objective 1 for the zone. However, the Court accepts the view that this objective is not determinative given the context of the existing designation as well as taking a balanced view of other objectives for the zone particularly Objective 4.

[221] The policies direct "a planned suburban built character of predominantly two storey buildings, in a variety of forms". This is to be achieved through design and bulk and location rules and requiring sufficient setbacks and landscaping. The policies encourage development to achieve safe streets (passive surveillance, landscaping). They require access to sunlight and privacy as well as seeking to minimise visual dominance effects on adjoining sites. Of importance in the Court's view, is Policy 9 which specifically addresses non-residential activities. Relevantly this policy seeks to:

(9) Provide for non-residential activities that:
  (a) support the social and economic well-being of the community;
  (b) are in keeping with the scale and intensity of development anticipated within the zone;
  (c) avoid, remedy or mitigate adverse effects on residential amenity; and

(d) ....

[222] The Court heard evidence of the importance of the facility to support the social wellbeing of the community but also evidence of the potential cumulative effects such a facility might place on an existing community already supporting a number of corrections facilities. We have addressed social effects in this decision and found that the information has not been provided to the extent that we can confirm that Policy 9 is achieved.

[223] We have given thought to the scale and character of activity anticipated in the zone and turned to the rules which give effect to the objectives and policies. We note that they include a broad spectrum of activities for example:

Up to 3 dwellings per site meeting the rules	Permitted activity
4 or more dwellings per site meeting height, height in relation to boundary, and yards	Restricted Discretionary activity
A range of care facilities, community facilities and the like accommodating greater than 10	Restricted Discretionary activity
Education including tertiary education facilities	Discretionary activities
There is provision for new buildings which don't meet the height controls to take advantage of an alternative height control	Restricted Discretionary activity

[224] We conclude that while the designation stands apart from the zone provisions, the proposal does not stand out as being different to the scale and many of the characteristics of activities otherwise anticipated in the zone. In that way it could be considered to not be out of place subject to consideration of environmental and social effects. It can be said then, that the NOR in many ways is consistent with the general scheme of the zone.

[225] We have undertaken a brief comparison between the NOR anticipated built outcome and that expected from a range of the zone development standards. This is set out in the table below:

Example of the zone standards		Designation conditions
Building Height	8m with some provision for roof pitch allowing a further 1m	8m
Height in relation to boundary	45-degree recession plane from a measurement of 2.5m above boundary level	Height limit and yard setbacks fulfil this rule and development would thus comply
Front yard	3m	20m
Side yard	1m	18m
Rear yard	1m	18m
Maximum impervious area	60%	Reliant on Outline Plan of Works
Building coverage	40%	Reliant on Outline Plan of Works and on yards and landscape plan - no coverage condition

Outline Plan

[226] Condition 26 implies future buildings will be subject to an Outline Plan (s 176A RMA). That condition appears to rely entirely on the terms of the relevant section of the Act as well as requiring a security report. The Act relevantly requires:

> **176A Outline plan**
>
> (1) Subject to subsection (2), an outline plan of the public work, project, or work to be constructed on designated land must be submitted by the requiring authority to the territorial authority to allow the territorial authority to request changes before construction is commenced.
>
> (2) An outline plan need not be submitted to the territorial authority if—
>
> (a) The proposed public work, project, or work has been otherwise approved under this Act; or
>
> (b) The details of the proposed public work, project, or work, as referred to in subsection (3), are incorporated into the designation; or
>
> (c) The territorial authority waives the requirement for an outline plan.
>
> (3) An outline plan must show—
>
> (a) The height, shape, and bulk of the public work, project, or work; and
>
> (b) The location on the site of the public work, project, or work; and
>
> (c) The likely finished contour of the site; and
>
> (d) The vehicular access, circulation, and the provision for parking; and
>
> (e) The landscaping proposed; and
>
> (f) Any other matters to avoid, remedy, or mitigate any adverse effects on the

environment.

(4) Within 20 working days after receiving the outline plan, the territorial authority may request the requiring authority to make changes to the outline plan.

(5) If the requiring authority decides not to make the changes requested under subsection (4), the territorial authority may, within 15 working days after being notified of the requiring authority's decision, appeal against the decision to the Environment Court.

(6) In determining any such appeal, the Environment Court **must consider whether the changes requested by the territorial authority will give effect to the purpose of this Act**.

(7).....

(Emphasis added)

[227] The Outline Plan process potentially supports the objectives and policies for the zone, but the condition could be clearer so as to provide clarification that this method will be the basis on which the Council will consider whether changes need to be made to it. The directive is implicit and in the Court's view it would be better to be explicit to provide clarity of support for the district plan zone objectives.

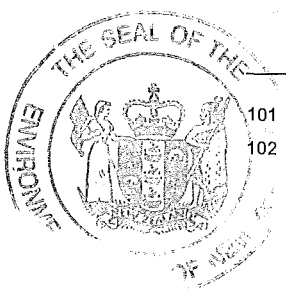
Conclusion on AUP

[228] Overall there is a large measure of consistency of this NOR with the AUP.

Interim Conclusions

[229] We have found that:

- Irrespective of the mix, the combined number of care and protection and/or youth justice placements on the Site should be limited to 20. Subject to inclusion of the Court's amendments to the safety and security conditions in any final condition set, with this number of placements, the level of risk mitigation should be appropriate for the proposed Youth Justice Residence, but this finding does not extend to proposed use of the Wharenui;[101]
- We are not presently satisfied that an adequate SIA has been undertaken and have identified a process to enable the SIA to be updated and an SIMP to be prepared;[102]



101 Para's [97] and [98] (above).
102 Para's [140] – [146] (above).

- Provided that there is compliance with the noise conditions in the 31 May 2019 condition set we have identified repurposing of the facility will not give rise to unreasonable noise effects;[103]
- There was no challenge to the evidence of the expert witnesses that any effects of the repurposing on traffic, transport and parking have been adequately mitigated and managed under the relevant conditions in the 31 May 2019 condition set;[104]
- Overall there is a large measure of consistency of the NOR with the AUP.[105]

[230] We will make our final determination as to the outcome of these proceedings in light of the above interim conclusions once we have considered the updated SIA and SIMP which are to be provided in accordance with the directions we have previously given in para [145].

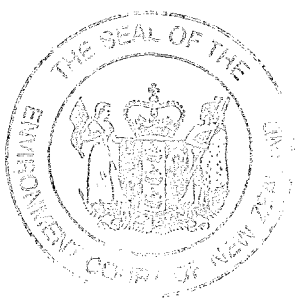
For the Court:

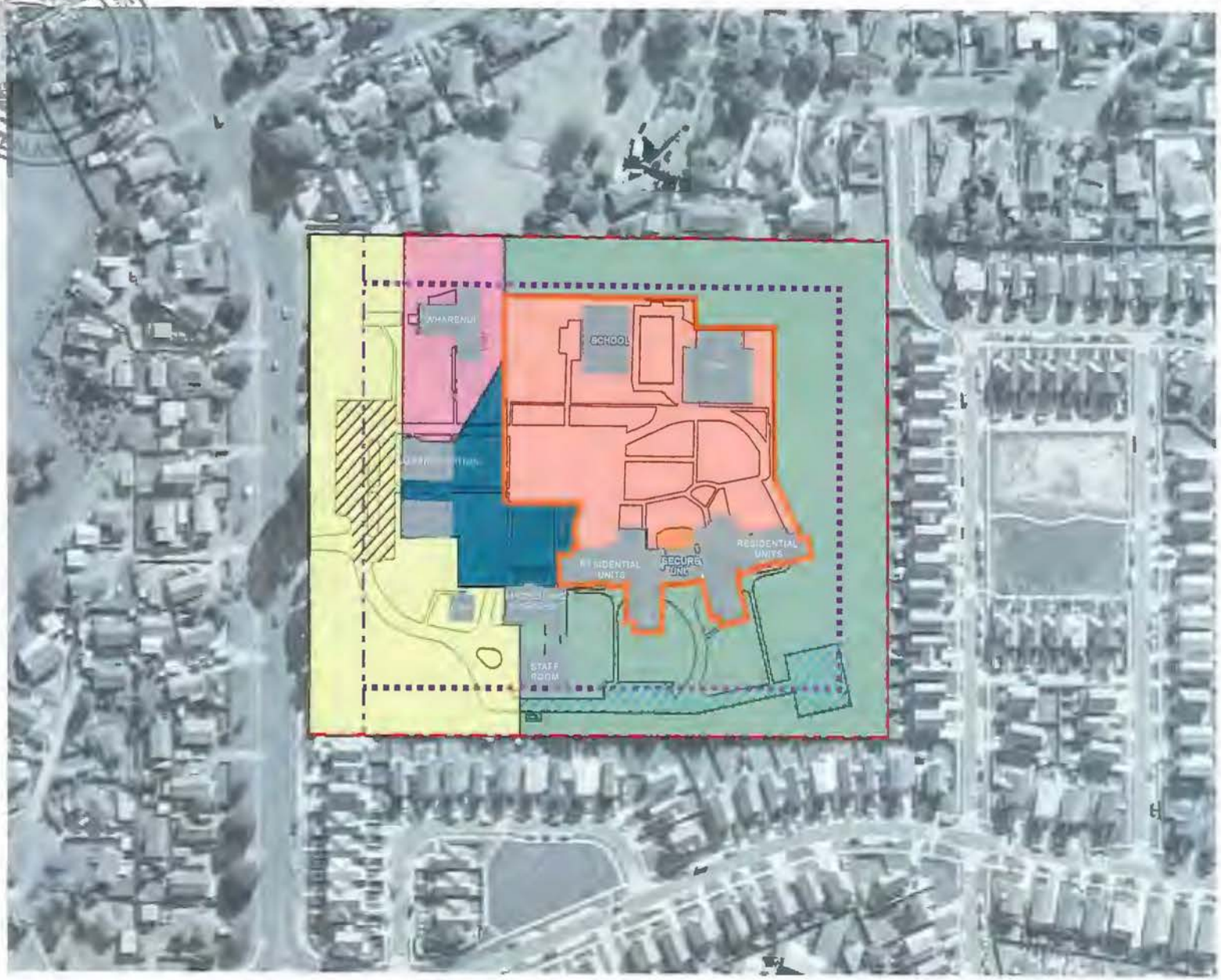
B P Dwyer
Environment Judge

103 Para [189] (above).
104 Para [197] (above)
105 Para [228] (above).

ANNEXURE 1

Delineated Activity and Building Setback Plan dated 18 May 2019 (Rev. 1)





- Publicly accessible
- Administration
- Youth Justice
- Youth Justice Secure Unit Outdoor Area.
- Area not publicly accessible
- Care and Protection
- Visitor Car Park
- Staff Car Park
- Boundary Fence
- Block Wall
- 20m Front yard Building Setback
- 18m Side and Rear Yard Building Setback

Boffa Miskell

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0 20 40 m

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Data Sources: LINZ (Cadastre, Aerials 2017), Auckland Council (Contours 2013, Impervious Surfaces), Boffa Miskell

Projection: NZGD 2000 New Zealand Transverse Mercator

A18294 RE-DESIGNATION OF ORANGA TAMARIKI RESIDENCES

Delineated Activity and Building Setback Plan

| Date: 18 May 2019 | Revision: 1 |

Plan prepared by Boffa Miskell Limited

Project Manager: Nick.Pollard@boffamiskell.co.nz | Drawn: RFr | Checked: NPo