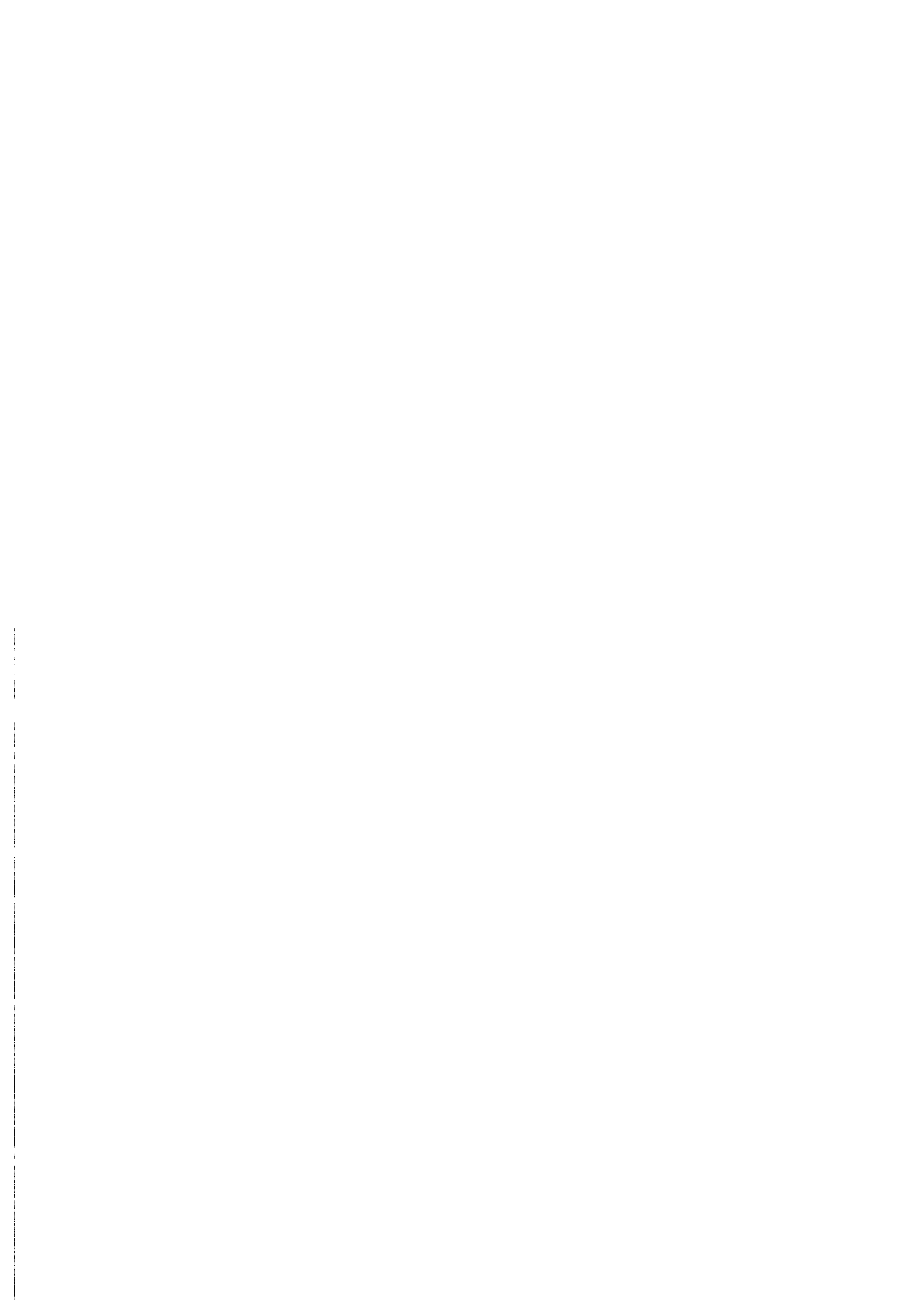


7.0 BACKGROUND

- 7.1 In 2009 Redwood Group obtained planning consent under the Mixed Use zone for an intensive residential development at 228-236 Orakei Road (the southern portion of Orakei Bay).
- 7.2 The then Auckland City Council had concerns about the lost opportunity at Orakei Bay for a transit oriented development.
- 7.3 Discussions by the Council were entered with the predecessor to OPT/OBVL over the opportunity for an integrated masterplan and comprehensive development of Orakei Bay. This involved land purchase, land exchange, building over the rail line, and a comprehensive masterplan and District Plan zone package. General agreement was reached between Redwood and the Council.
- 7.4 There were two fundamental workstreams. One was land assembly. The second was the District Plan provisions.
- 7.5 OPT effectively purchased the Kings Plant Barn site and entered into perpetual lease arrangements over the Ngati Whatua land. It also entered negotiations to purchase the air rights above the rail line and the Council 'park and ride'.
- 7.6 In January 2010, the Auckland City Council notified PC260. This was for a particular form of masterplan development at Orakei Bay. In essence the plan change enabled 84,000m² of development. This comprised approximately 700 apartments and up to 10,000m² of retail and 10,000m² of office.
- 7.7 A special Mixed Use zone was brought down with particular provisions tailored to Orakei Bay.
- 7.8 PC260 was essentially approved by the Council subject to modifications.
- 7.9 The Council decision recognised that the masterplan relied on purchase of the air space above the rail corridor and that this air right had not been secured. Consequently, the plan change put in place a mechanism where, if the land could not be secured within 60 days of the plan becoming operative, the provisions of PC260 would fall away and the zoning would revert to the underlying Mixed Use zone.
- 7.10 PC260 was appealed to the Environment Court.
- 7.11 In the Environment Court proceedings PC260 was confirmed in a modified form including a reconfiguration of the masterplan.
- 7.12 PC260 relied on purchase of the air space rights above the rail line.

- 7.13 A review of the project by Auckland Transport and KiwiRail identified that they did not want to see development above the rail line due to the ongoing maintenance cost. This had a material effect on the masterplan. Orakei Point would now need to be developed in a comprehensive manner, but with a degree of independent development both south and north of the rail line with suitable connections to give public access to the trains.
- 7.14 Consequently, the opportunity for OPT/OBVL to deliver the integrated masterplan across both the north and south of Orakei Bay was lost.
- 7.15 Notwithstanding these land purchase issues, the Council and OPT/OBVL fully agree the importance and benefits of TOD development at Orakei.
- 7.16 For this reason the Proposed Unitary Plan deleted the requirement for OBVL to achieve ownership of the Council land and air rights above the rail corridor as a prerequisite to comprehensive development of Orakei Point.
- 7.17 The requirement for comprehensive planning remained, and the reference masterplan embodied within PC260 was still rolled over because of timing associated with the Unitary Plan.
- 7.18 The Independent Hearings Panel on the Unitary Plan acknowledged that the masterplan for Orakei Bay embodied within the Unitary Plan was no longer relevant because of the inability to secure air rights and build above the rail line. However, because of the timing of the Unitary Plan, the Panel recommended that the Council essentially rollover the existing PC260 provisions.
- 7.19 The Council have provided some flexibility in the provisions for dealing with consents that meet the objectives and policies of the Precinct, but were developed to a different masterplan. This application follows that approach.
- 7.20 This application is advanced on the basis that building over the rail line will not happen and essentially the Council will develop its land to the north of the rail line, and OPT/OBVL will develop the land it manages south of the rail line.
- 7.21 The masterplan referred to in section 8 below is advanced on the basis of the southern portion of the Orakei Bay only, but done in a way consistent with and recognising the likely form of development that the Council will masterplan in the future for its land north of the rail line.
- 7.22 Consequently, this application is a restricted discretionary activity because it varies from some elements of the masterplan. However issues of contamination make thre consent a discretionary activity.

- 7.23 Through the Unitary Plan hearing process, there was a recognition by all parties that the opportunity for OPT/OBVL to purchase the air rights above the rail corridor has gone. Consequently, in some form, there needs to be a different masterplan for Orakei Bay. The key debate is to ensure that any new masterplan achieves the fundamental principles of the Orakei Point Precinct.
- 7.24 Notwithstanding that OBVL has indicated it cannot deliver the specifics of the masterplan because of the decisions of KiwiRail, Auckland Transport and Auckland Council that they do not want substantial buildings over the rail line; nevertheless should the Council/KiwiRail/Auckland Transport change its mind in the future, and decide they want to reinstate and develop the public good aspects of the masterplan, particularly the station plaza over the rail line, then nothing in this application compromises that proposal. This is particularly addressed in paragraphs 13.9-13.14 of this application.



Masterplan

- 13.9 The second issue is the masterplan and whether this development in some way compromises either the existing or future masterplan.
- 13.10 The key element of the existing masterplan affecting the subject site is the open space along the coastal edge. This application protects and provides for that open space. In terms of open space considerations, it is consistent with the existing masterplan.
- 13.11 OBVL has made it clear that because KiwiRail, Auckland Transport and Auckland Council no longer support the principle of major buildings over the rail corridor for ongoing operation, maintenance, CPTED, and safety reasons; OBVL is no longer able to deliver the masterplan shown within the Precinct Plan. Consequently OBVL has put forward a proposed masterplan for its land south of the rail corridor which, in the opinion of the consultant team forming part of this application, meets the principles of the objectives and policies of the zone and deliver a high quality TOD and planning outcomes for Orakei Point.
- 13.12 However, it is accepted that Auckland Council in association with Auckland Transport and KiwiRail could actually deliver the key elements of the existing masterplan should they wish to do so. The key public good elements are:
- The open space network around the peninsula. This application delivers that portion of the open space network shown on the 236 Orakei Road site.
 - The plaza above the rail station giving access to the station. This land is accessed from KiwiRail land and Auckland Council land. The plaza itself straddles KiwiRail land and Auckland Council land. The subject site does not connect to or impact the station plaza other than the entranceway. OBVL has made it clear in this application that it will cooperate with any future proposal by the Council to create a plaza above the station. It will reconfigure the accessway as part of any broader approach from the Council that still gives access to the OBVL land.
 - The waterfront plaza north of the rail land. This is on Auckland Council owned land.
 - The road widening along Orakei Road. This application does not affect that road widening because, apart from the entranceway, does not front Orakei Road. OBVL has set aside land in terms of its management of the property at 228 Orakei Road to facilitate this road widening in the future.

- Sleeved apartments along the waterfront edge. This application retains this waterfront sleeving thus ensuring the two levels of parking within the building are not visible from the water or residential land across Hobson Bay.
- Creating a connection from Orakei Road to the station through the 228 property. OBVL has committed as part of this development to make this pedestrian and cycling connection available to the Council by way of easements and formed paths when (if) the Council connects the boardwalk across to the existing boardwalk connecting Shore Road to Orakei Road. The original masterplan showed a D road in this location. This was to bring buses into the plaza above the train station. Auckland Transport has currently indicated they do not want buses in this location. Nevertheless, in the future should the Council change its mind, there is nothing in this proposal that prevents or negates that access. Most of the D road alignment is on land owned by Auckland Council. The other portion is on 228 Orakei Road. There is no change to the topography of this land, ownership or development as part of this application. Should the Council reverse its decision in the future and decide it does want to implement the D road then it has every opportunity to do so.

13.13 Diagram 17 shows the approximate location of the existing application superimposed on the existing masterplan. That masterplan always envisaged sleeved apartments along this coast with the open space in front of the apartments. The same relative level is achieved, i.e. accessways in the masterplan saw the connection to the open space level at about RL 3 or 4. The plaza in the existing masterplan in the Precinct provisions has substantial basement parking but this was further back from the coast so as to prevent carpark and inactive edges along this south-western coastline.

Diagram 17: Peninsula building relative to the precinct masterplan



13.14 While OBVL cannot deliver this masterplan and OBVL understands Auckland Council does not wish to deliver the masterplan, nevertheless at some stage in the future when the formal masterplan approach for Orakei Point is determined, whether or not the one suggested by OBVL is favoured or the existing masterplan is confirmed; this peninsula building is essentially consistent with both scenarios. It will enable quality development as the first part of forming the Orakei TOD. The critical difference with this application is that the open space zoned land along the foreshore, which is a key consideration of the existing masterplan, is provided in full.

Rail

13.15 The third consideration is the impact on the rail network. The analysis set out in this report emphasises the significant benefit to the rail network by further reinforcing the TOD at Orakei. However, there are other considerations that need to be managed. The critical one is issues of reverse sensitivity relating to noise and vibration. As set out in the effects analysis, significant work has gone into this aspect of the development to ensure that it fully complies with the noise and vibration controls within the precinct. These noise and vibration controls are the most severe applying throughout Auckland and, as we understand it, nationally. Reverse sensitivity is fully addressed.

- 13.16 The issue is then the setback from the rail line and in particular the electric lines associated with the electric suburban trains. The legal requirement of the regulations is a 2m setback from electrified lines of the KV rating of the Auckland suburban network. KiwiRail's preference is for a 5m setback.
- 13.17 The development is 5m from the main power supply and 2.1m at its closest point from the earth wire. The regulations require the earth wire to be treated as live.
- 13.18 Unlike the primary power supply which must sit above the track itself, the earth wire is capable of being relocated or insulated. In a number of locations in tight sensitive areas, the earth wire is run from centrally located poles. In this case KiwiRail has elected to place the poles on the site boundary. Furthermore the earth wire can be insulated in critical areas without impacting its functionality.
- 13.19 A number of minor design improvements have been made to the building to address issues raised by KiwiRail in consultation. This has included fixed glazing on the relevant part of the closest apartment and particular treatment of the balustrade to prevent material falling off it or people sitting on the balustrade. While legal requirements are being met and practical issues addressed, KiwiRail's retained preference is to achieve the 5m setback.
- 13.20 KiwiRail advanced a proposal for a 5m setback along the rail corridor to the Independent Hearing Commissioners as part of the Proposed Auckland Unitary Plan. Those Commissioners recommended against the 5m setback and instead felt that in these zones, legal compliance with the regulations was sufficient. The Council adopted the Independent Hearings Panel recommendations and thus there is no additional 5m setback. This development complies with the Unitary Plan rules and national regulations associated with setbacks from electrified rail lines. It would be unreasonable to notify or limited notify this application on the basis that an operator aspires to standards higher than the AUP requirements and normal standards; particularly when that debate has just been through a legal process and the AUP standards set. This development complies with those standards.

Diagram 10 – Masterplan



