TOLLEMACHE CONSULTANTS LTD.

To:	Simon Berry, Berry Simons
From:	Mark Tollemache and Adelle Henderson, Tollemache Consultants
Date:	23 February 2023
Site Address:	8 Stevenson Crescent, Albany
Subject:	**Residential and Mixed-Use Development and Subdivision**
	Planning review of applicable planning rules and prohibited activities; consideration of 104D gateway test provisions in relation to a referral application for a fast track by Mansion Rear Ltd.

1.0 INTRODUCTION:

1.1 Mansion Rear Ltd has applied to the Minister for the Environment for the resource consent application for a (predominantly residential) mixed use development (with associated subdivision, infrastructure and works) at 8 Stevenson Crescent, Albany to be assessed via the 'fast track' process under the COVID-19 Recovery (Fast-track Consenting) Act 2020 ("FTCA").

1.2 The purpose of this document is to provide a summary to:

- Address the applicable planning rules to the proposal (Section 2.0);
- Confirm that an application for development at 8 Stevenson Crescent, Albany ("the site") does not trigger any prohibited activities (Section 3.0),
- Confirm that the proposal is consistent with all relevant national policy statements (Section 4.0),
- Confirm that this proposal satisfies either of the gateway tests in section 104D of the Resource Management Act 1991 ("RMA") having regard to:
    - whether potential adverse effects are no more than minor (Section 6.0); and
    - assessment of consistency with the relevant objectives and policies of relevant planning instruments (Section 7.0).

1.3 This Appendix should be read alongside the documents filed in support of Mansion Rear Limited's application.

2.0 RESOURCE CONSENTS REQUIRED

2.1 The proposal incorporates land modification and construction works required to prepare the site for a residential and mixed-use development, with subsequent subdivision. At this planning stage, these works incorporate the following:

- Residential development to incorporate a total of 138 terrace and apartment units (112 and 26 respectively):
  - Terraces are to be three storey, 3-4-bedroom typologies ranging in GFA from 85-140m2. A minimum of five (5) typologies will be incorporated.
  - Apartments will be one or two-bedrooms units, located within three storey mixed use apartment buildings.
- Mixed Use development which will incorporate:
  - 550m2 GFA, located at the ground level of the apartment buildings, with frontage to Stevenson Crescent.
  - Individual tenancies and their respective floor plans are yet to be determined. Proposed uses are anticipated to be offices (i.e. work-from-home uses with residence in apartment units above), convenience outlet/dairy and café.
- Bulk earthworks including erosion and sediment control, and retaining to prepare the site for roads, lanes, infrastructure (including stormwater management) and building platforms. Groundwater diversion may be required if shallow groundwater is encountered behind the retaining structures.
- Establishment of one stream crossing, via culvert or bridge to establish vehicle and pedestrian access to the majority of the site.
- Retention and restoration of the existing stream and the wetland areas in the northern and north-western periphery of the site, through enhancement plantings, establishing buffers and maintaining hydrology of the wetlands to enhance their ecological function.
- Servicing by three waters infrastructure and an appropriate roading network. Upgrades to the network may be required, and these can be delivered as necessary by the proposal.
- Accommodating overland flow paths, locating development outside the floodplain, incorporating stormwater management and utilising freeboard and finished floor levels.
- Fee simple and unit title subdivision in accordance with the proposed land use and infrastructure development. A small number of rear lots may be required.
- Potential remediation of contaminated land.

2.2 The site is in the Future Urban Zone ("FUZ") in the Auckland Unitary Plan ("AUP"). The site is not subject to any designations, precincts or overlays. It is subject to the control: macroinvertebrate community index – native and rural.

2.3 The Auckland Council Geomaps indicates the presence of streams, overland flow paths, flood sensitive areas and floodplains as outlined by DHC Consulting (**Attachment 1**).

2.4 Based on our review of the proposal the activities are likely to trigger the need for resource consents comprise the following:

Relevant plan / standard	Relevant rule / regulation	Reason for consent	Activity status
National Environmental Standards			
Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011 ("NES-CS")	Regulation 10	Disturbance of contaminated soil which exceeds the applicable standards (listed in Regulation 7).	**Restricted Discretionary**
Resource Management (National Environmental Standard for Freshwater) Amendment Regulations 2022	Regulation 45C *Urban Development*	Vegetation clearance, earthworks or land disturbance within, or within 10m setback from a natural inland wetland. Earthworks or land disturbance within a 100m setback from a natural inland wetland. The taking, use, damming or diversion of water within, or within a 100m setback from a natural inland wetland. The discharge of water into water within, or within a 100m setback, from a natural inland wetland.	**Restricted Discretionary**
	Regulation 39 and 55	Wetland restoration activities (vegetation removal, earthworks/land disturbance, taking/use/damming/ diversion of water and discharge of water) not complying with permitted activity conditions in Regulation 38.	**Restricted Discretionary**
	Regulation 71	The placement and use of a culvert in, on, over or under the bed of a river, not complying with the permitted activity conditions in Regulation 70. *Note: If detailed design of the culverts cannot ensure compliance.*	**Discretionary**

Relevant plan / standard	Relevant rule / regulation	Reason for consent	Activity status
Auckland Unitary Plan			
Chapter E39 – Subdivision (Rural)	E39.4.1 (A8)	Subdivision of land within a natural hazard area (1% AEP)	**Restricted Discretionary**
	E39.4.1 (A9)	Subdivision not meeting the relevant standards	**Discretionary**
	E39.4.3 (A28)	Subdivision for open spaces, reserves or road alignment (*in Future Urban Zone*)	**Discretionary**
	E39.4.3(29)	Any other subdivision not provided for in Table E39.4.1 or E39.4.3 *Note: no stream is greater than 3m in width, therefore no esplanade reserve is required.*	**Non-Complying**
Chapter H18 – Future Urban Zone	H18.4.1(A28)	Dwellings that do not comply with Standard H18.6.8 *Note: H18.6.8 states there should be no more than one dwelling per site.*	**Non-Complying**
	H18.4.1(A34)	Home occupations that do not comply with Standard H18.6.9 *Note: Work-from-home type offices anticipated adjacent to Stevensons Crescent*	**Non-Complying**
	H18.4.1(A38)	Restaurants and cafes not otherwise provided for. *Note: If proposed adjacent to Stevensons Crescent.*	**Discretionary**
	H18.4.1(A2)	New buildings, building additions and accessory buildings.	**Discretionary / Non-Complying** *Same status and standards as applies to the land use activity the building is designed to accommodate*
	C1.7	Activities not provided for: "Mixed Use" Type Activities i.e.: - Retail; dairy; offices.	**Discretionary**

Relevant plan / standard	Relevant rule / regulation	Reason for consent	Activity status
	C.1.9	Development standard infringements: - H18.6.2 Maximum Building Height; - H18.6.3 Yards; - H18.6.8 Dwellings; - 18.6.9 Home Occupations.	**Restricted Discretionary**
Chapter E3 Lakes, rivers, streams and wetlands	E3.4.1 (A1)	Any activities in, on, under or over the bed of lakes, rivers, streams and wetlands not otherwise provided for.	**Discretionary**
	E3.4.1 (A3)	Conservation planting not complying with the standards.	**Restricted Discretionary**
	E3.4.1 (A19)	Diversion of a river or stream to a new course and associated disturbance and sediment discharge, outside of overlays.	**Discretionary**
	E3.4.1 (A25)	Partial demolition or removal of structures lawfully existing on or before 30 September 2013. *Note: This is the existing culvert through the stream.*	**Restricted Discretionary**
	E3.4.1 (A28)	Structures associated with the enhancement and restoration of lakes, rivers, streams or wetlands not otherwise provided for.	**Restricted Discretionary**
	E3.4.1 (A33)	Culverts more than 30m in length, outside of overlays.	**Discretionary**
Chapter E7 Taking using, damming and diversions of water	E7.4.1 (A13)	Diverting surface water not otherwise listed or meeting the standards.	**Discretionary**
	E7.4.1 (A26)	Taking and use of ground water not otherwise listed or meeting the standards.	**Discretionary**
	E7.4.1 (A28)	Diversion of ground water not otherwise listed or meeting the standards.	**Restricted Discretionary**
Chapter E8 - Stormwater – Discharge and Diversion	E9.4.1(A11)	Diversion and discharge of stormwater runoff from a new stormwater networks.	**Discretionary**
Chapter E9 - Stormwater Quality	E9.4.1(A8)	Development of a new, or redevelopment of an existing high contaminant generating car park that does not comply with the relevant permitted or controlled activity standards.	**Restricted Discretionary**

Relevant plan / standard	Relevant rule / regulation	Reason for consent	Activity status
Chapter E11 – Land Disturbance Regional	E11.4.1 (A4)	Earthworks greater than 10,000 and up to 50,000m2 where land has a slope less than 10 degrees, outside the Sediment Control Protection Area.	**Controlled**
	E11.4.1 (A8)	Greater than 2,500m2 where the land has a slope equal to or greater than 10 degrees.	**Restricted Discretionary**
	E11.4.1 (A9)	Earthworks greater than 2,500m2 within the Sediment Control Protection Area.	**Restricted Discretionary**
	C1.9	Non-compliance with general standards listed in E11.6.2.	**Restricted Discretionary**
Chapter E12 – Land Disturbance District	E12.4.1 (A6)&(A10)	Earthworks greater than 2,500m2 and 2,500m3 in the Future Urban Zone.	**Restricted Discretionary**
	C1.9	Non-compliance with general standards listed in E12.6.2.	**Restricted Discretionary**
Chapter E15 Vegetation Management	E15.4.1 (A16)	Vegetation removal within 20m of a rural stream.	**Restricted Discretionary**
	E15.4.1 (A18)	Vegetation removal within 20m of a natural wetland.	**Restricted Discretionary**
Chapter E23 Signs	E23.4.2(A53)	Comprehensive development signage *Note: For mixed use activities adjacent to Stevenson Crescent.*	**Restricted Discretionary**
Chapter E25 Noise and Vibration	E25.4.1(A2)	Construction works that do not comply with the permitted standards for noise and/or vibration.	**Restricted Discretionary**
Chapter E26 Infrastructure	E26.2.3(A55)	Stormwater detention/retention ponds/wetlands.	**Controlled**
Chapter E27 Transport	E27.4.1(A2)	Parking and access which is an accessory activity but does not comply with the standards.	**Restricted Discretionary**
	E27.4.1(A3)	Any activity or subdivision which exceeds the relevant trip generation standards.	**Restricted Discretionary**
	E27.4.1(A5)&(A6)	Construction, use and establishment of new activity where the vehicle crossing access restriction applies.	**Restricted Discretionary**

Relevant plan / standard	Relevant rule / regulation	Reason for consent	Activity status
Chapter E30 – Contaminated Land	E30.4.1 (A6)	Discharges of contaminants into air, or into water, or onto or into land not meeting permitted activity Standard E30.6.1.1; E30.6.1.2; E30.6.1.3; E30.6.1.4; or E30.6.1.5.	**Controlled**
	E30.4.1 (A7)	Discharge of contaminants not meeting the controlled activity standards.	**Discretionary**
Chapter E36 – Natural Hazards	E36.4.1 (A25)	Surface parking areas and above ground parking areas in the 1 per cent annual exceedance probability (AEP) floodplain, that do not comply with Standard E36.6.1.7.	**Controlled**
	E36.4.1 (A33)	Construction of other land drainage works, stormwater management devices or flood mitigation works in the 1 per cent annual exceedance probability (AEP) floodplain.	**Restricted Discretionary**
	E36.4.1 (A38)	New buildings to accommodate more vulnerable activities in the 1% AEP.	**Restricted Discretionary**
	E36.4.1 (A41)	Diverting the entry or exit point, piping or reducing the capacity of any part of an overland flow path.	**Restricted Discretionary**
	E36.4.1 (A42)	Any buildings or other structures, including retaining walls located within or over an overland flow path.	**Restricted Discretionary**
	E36.4.1(A56)	All other infrastructure not specifically listed, located in a hazard area.	**Restricted Discretionary**
Chapter E40 – Temporary Activities	E40.4.1(A24)	Specific temporary activities that are not provided as a permitted activity in rules (A12) to (A23). *Note: Applies if the construction period is to exceed 24 months.*	**Restricted Discretionary**

2.5 The Auckland Council notified Plan Change 78 ("PC78") under the Medium Density Residential Standards ("MDRS") introduced by the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021. The application site is not affected by PC78 as the FUZ is excluded from PC78.

3.0 PROHIBITED ACTIVITIES

Auckland Unitary Plan (AUP)

3.1 We have reviewed the AUP with respect to prohibited activities that are or may be applicable to the site, zoning and proposed works and can confirm:

- There are no prohibited activities listed in rural subdivision provisions as applicable to a site zoned FUZ (Chapter E39).
- Under the FUZ provisions only *Mustelid Farming* is listed as a prohibited activity (Chapter H18). The proposal will not include this activity.
- Under the *Lakes, Rivers, Streams and Wetlands* provisions the following are listed as prohibited activities, outside of overlays (Chapter E3):
    - The planting of aquatic invasive plants;
    - Depositing litter, refuse, waste and/or contaminated material;

3.2 The proposal will not include any of the above activities.

3.3 There are no prohibited activities listed in:

- The remaining relevant *Natural Resource* chapters, including: *Taking, using, damming and diversion of water and drilling* (Chapter E7), *Stormwater – Discharge and diversion* (Chapter E8), *Stormwater Quality* (Chapter E9); *Land modification works not within an overlay* (Chapters E11 & E12), and *Vegetation management* (Chapters E15).
- The relevant *Built Environment* chapters, as applying to the Future Urban zone, including: *Signs* (Chapter E23), and *Nosie and Vibration* (Chapter E25).
- The relevant *Infrastructure* chapters, including: *Infrastructure works not in an overlay* (Chapter E26), and *Transport* (Chapter E27).
- The relevant *Environmental Risk* chapters, including *Contaminated Land* (Chapter E30) and *Natural Hazards* (Chapter 36).
- The relevant *Temporary Activities* chapter (Chapter E40).

National Environmental Standards for Freshwater (NES-F)

3.4 The NES-F Regulation 45C applies to all *Urban Development* activities and therefore, applies to the proposal (being a proposal for urban development and infrastructure). This regulation outlines that all works within proximity to natural inland wetlands require consent as a restricted discretionary activity. No works are prohibited under is regulation.

3.5 The ecological reporting undertaken for the site has identified a wetland within the site and works are proposed in proximity to this feature. As such, the above activity status list includes consents under the NES-F for works in proximity to a wetland (e.g., earthworks, and stormwater diversion etc.); however, none of these activities are classified as prohibited activities.

3.6 In respect to the discretions contained in Regulation 45C(11), this proposal for urban development:

(a) Results in district benefits in respect to the provisions of housing and opportunities for affordable housing.

(b) Would provide a structure plan to support the medium-term development of this area of FUZ.

(c) The wetlands would be restored from their current grazed condition, which RMA Ecology Ltd identify as resulting in low ecological values. This restoration would employ the effects hierarchy to ensure that the hydrology of the wetlands are maintained, and that they are enhanced with plantings and a buffer to restore their ecological function.

(d) The site has been identified by Auckland Council through the FUZ as being appropriate for urban development. The retention and enhancement of the streams and wetlands is an important element and feature of the concept design, and while there may be short term effects of low significance in terms of construction activity in proximity to these, their enhancement results in an overlay net gain in biodiversity values.

4.0 RELEVANT NATIONAL POLICY STATEMENTS

National Policy Statement for Urban Development 2020

4.1 It is considered that the proposal will establish / contribute to a well-functioning urban environment, consistent with Policy 1 of the National Policy Statement for Urban Development 2020 ("NPS-UD")on the basis that:

(a) It includes a variety of housing types that are capable of providing a range of price points to the market. The proposal is in an area which has little available development capacity as greenfield development opportunities have been exhausted.

(b) The site is well located in close proximity to Albany Village and the Albany Metropolitan Centre, both of which provide retail, services, employment, entertainment, and education and recreation facilities. This proximity makes it ideal to support multi-modal transport options including walking, cycling and e-scooters to reduce reliance on motor vehicles (and therefore supporting reductions in emissions). These centres are also well served by public transport.

(c) As outlined by DHC civil engineers, the development can be designed, to address current and potential future effects of climate change through accommodating overland flow paths, locating development outside the floodplain, incorporating stormwater management, utilising freeboard and finished floor levels.

(d) The site can be serviced by three water infrastructure and an appropriate roading network. Upgrades to the network may be required, and these can be delivered as necessary by the proposal.

National Policy Statement for Freshwater Management 2020

4.2 As outlined above for the NES-F, the proposal is considered to be consistent with the National Policy Statement for Freshwater Management ("NPS-FM") because it retains and enhances the streams and wetlands within the site, utilising buffer and riparian planting.

5.0 SECTION 104D – NON-COMPLYING ACTIVITY GATEWAY TESTS

5.1 As outlined in the Application for Referral, the development is likely to trigger the need for a non-complying resource consent. On that basis, a review of the section 104D gateway tests has been undertaken. Section 104 states:

> *"Despite any decision made for the purpose of section 95A(2)(a) in relation to adverse effects, a consent authority may grant a resource consent for a non-complying activity only if it is satisfied that either—*
>
> *(a) the adverse effects of the activity on the environment (other than any effect to which section 104(3)(a)(ii)applies) will be minor; or*
>
> *(b) the application is for an activity that will not be contrary to the objectives and policies of—*
>
> *(i) the relevant plan, if there is a plan but no proposed plan in respect of the activity; or*
>
> *(ii) the relevant proposed plan, if there is a proposed plan but no relevant plan in respect of the activity; or*
>
> *(iii) both the relevant plan and the relevant proposed plan, if there is both a plan and a proposed plan in respect of the activity."*

6.0 GATEWAY #1: POTENTIAL ADVERSE EFFECTS NO MORE THAN MINOR

6.1 The potential adverse effects of the proposal are those typically associated with a medium to high density development and have been identified by reference to the suite of technical reports provided with the referral application. The reports address (at a high level), the following potential effects:

- Effects associated with construction and preparation of land for subdivision and residential and mixed use, namely:
  - effects from earthworks, in particular erosion and sediment control, and land stability;
  - general effects of construction activities;
  - effects if the site or part of site is contaminated;
  - effects on surrounding freshwater bodies;
  - effects on terrestrial ecology; and

- effects on built and cultural heritage.

- Effects associated with subdivision and use of land for both residential and mixed use purposes at a density of approximately 140 lots/units and 550m2 of commercial GFA, namely:

  - Landscape and visual amenity effects;

  - Urban design effects;

  - Stormwater effects which includes effects of developing land subject to a flood plain, and stream/OLFP;

  - Effects on water infrastructure and utilities;

  - Economic effects; and

  - Traffic and transportation effects.

6.2 The applicant has commissioned a comprehensive suite of preliminary technical assessments of the potential effects of the proposal as follows:

- Civil Engineering: DHC Consulting (**Attachment 1**).

- Geotechnical Investigation Report: Subsurface Consultants Limited (**Attachment 2**).

- Preliminary Concept Design Plans: OZAC Architects Limited with initial Urban Design commentary from Ian Munro (**Attachment 3**). Concept Design Plans include:

  - Concept plan with indication of landscaped areas and site amenities.

  - Typology plan.

  - Unit typology plans.

  - Reference elevations for terrace typologies.

  - Reference images / perspectives.

  - Site circulation analysis (vehicular/pedestrian/cycling).

  - Simplified compliance tables / yield breakdown.

- Ecological Assessment: RMA Ecology (**Attachment 4**).

- Traffic Impact Assessment: TEAM Traffic (**Attachment 5**).

- Economic Assessment: Insight Economics (**Attachment 6**).

6.3 As noted under *Part V - Consultation* in the online portal, eight iwi groups have been identified as having an interest in the site, although some of their "areas of

interest" do not specifically encompass the address of the development. This aside, a letter has been sent to all respective groups and the applicant is awaiting their response.

6.4 If cultural impact assessments are required, these will be prepared. It is contemplated that those assessments, alongside direct engagement, will inform detailed construction management and project design.

6.5 It is anticipated that the following reports would be necessary with any resource consent application:

- Preliminary or detailed site investigation in relation to potential site contamination, as indicated.
- Stormwater Management Plan.
- Structure Plan and full urban design assessment.
- Ecology Report and Wetland Restoration Plan.
- Integrated Transportation Assessment.
- Erosion and Sediment Control Plan.
- Infrastructure Report, including Engineering and Scheme Plans.
- Landscape and Visual Effects Assessment.

Effects Assessment

Earthworks

6.6 All earthworks will be designed and supervised in accordance with the applicable New Zealand standards and a construction management plan (as a condition of consent) which will set out the schedule of works and the programme for excavation, management of fill, and the programme for construction of any retaining walls used for stability purposes.

Erosion and Sediment Control

6.7 Refer to supporting memorandum from DHC Consulting in **Attachment 1**.

6.8 Erosion and sediment control measures will be implemented in accordance with best practice to manage effects from site-wide earthworks. This will include preparing an Erosion and Sediment Control Plan which will, as a minimum, include measures to address matters such as:

- The nature and extent of earthworks and land modification.
- The specific control measures to be used at different parts of the site to ensure the control used is the best practicable option given the nature and scale of the activity and specific area.

- Any periods during which earthworks cannot be undertaken because of, for example, known heavy rainfall.

6.9 Per previous developments by the applicant, it is proposed that a suite of earthworks-related conditions would be imposed, with the manner in which these requirements to be included in an Erosion and Sediment Control Plan. Such measures will include:

- Avoiding as far as practicable the deposition of slurry, clay, earth, mud, dirt, or other debris on roads or footpaths.
- Installation of site erosion and sediment control measures before earthworks commence.
- A programme for regular inspection and maintenance of erosion and sediment control measures.
- Preparation of a Chemical Treatment Management Plan for any sediment retention ponds or decanting bunds.
- Specific requirements applying to each particular erosion and sediment control method to ensure they met best practice and are fit for purpose in terms of the specifics of the site.
- Progressive stabilisation of the site.

6.10 This approach will be designed to ensure that any potential adverse effects are temporary and not significant, including on surrounding freshwater bodies.

6.11 This approach will ensure that earthworks are undertaken in a way that avoids, remedies, or mitigates effects on the environment, and minimises sediment generation, and that earthworks will be designed and undertaken recognising the specific nature, constrains and opportunities of the site (per E11.3(5) AUP).

6.12 Any adverse effects from erosion or sediment that are more than minor are not anticipated.

Land Stability

6.13 Refer to supporting memorandum from Subsurface Consultants Limited in **Attachment 2**.

6.14 The above preliminary assessment by Subsurface Consultants Limited confirms that any geotechnical issues can be addressed by conventional civil engineering means to ensure that stable lots/building platforms and roads can be achieved. Subsurface Consultants Limited has confirmed that the site is fit for the intended development from a stability perspective, at the density proposed by the project (**Attachment 2)** concluding that "*there are no geotechnical impediments to the development of the site than cannot be addressed via conventional and well-proven civil engineering methodologies*".

6.15 Earthworks are therefore able to be, and will be, designed and undertaken in a manner that ensures stability and safety of the surrounding land during construction

and so that resultant lots and roads are safe and functional. All cuts and fill will be retained by retaining walls unless reviewed and approved by a geotechnical engineer.

6.16 The proposed subdivision is also laid out in a way that is safe from a stability perspective. This, paired with use of a suite of best practice stability methods, means the project will not increase hazard risk in the area and that the buildings to be provided by the project will be safe.

6.17 In summary, any adverse effects associated with land stability that are more than minor are not anticipated.

Construction Effects

6.18 Potential adverse construction effects are those associated with any development of this nature, being predominantly: dust, noise, and traffic.

6.19 Each of these potential adverse effects will be managed to ensure compliance with any relevant AUP or New Zealand standards and will be controlled through a construction management plan. The construction management plan will include specific provisions to address potential adverse effects associated with dust, noise, and traffic. Management methods in those plans will include a suite of best practice measures such as:

- Dust: dampening of exposed soil; staging of earthworks to minimise extent of exposed soil; cessation of earthworks in overly dry or windy conditions; covering of any trucks leaving the site with dry material.

- Noise: operating hours aligning with the typical workday; no operation Sundays or public holidays; vehicle checking process to ensure there are no lost chains etc.; noise measurement; condition providing for complaints register and response and reporting procedure.

- Traffic: retaining machinery on site for the duration it is required; minimise excess fill; maximum number of truck movements per day.

6.20 With such measures in place, potential adverse effects as a result of construction activities that are more than minor are not anticipated.

Contaminated Land

6.21 The project does not involve any activity or industry described in the Hazardous Activities and Industries List ("HAIL").

6.22 To date, no information has been identified suggesting that an activity or industry described in the HAIL has previously been undertaken on the site (the site has only been used for grazing since at least the 1940s), making it a "piece of land" for the purposes of the NES-CS and a contaminated site.

6.23 However, a detailed site investigation ("DSI") has not been undertaken, and because it cannot be conclusively said a HAIL activity was never undertaken on the site (given these include activities such as waste disposal which did historically happen on some rural land), the applicant has adopted a cautious approach and

has, out of an abundance of caution, applied for consent under the NES-CS (and AUP) in its list of relevant rules in *Part III-Project Details* in the online portal, and in the table above.

6.24 Should an area of land within the site be found to be contaminated, it will be investigated, analysed and remediated to the extent that it can be demonstrated that the level of residual contamination is not likely to pose a significant adverse effect on human health or the environment.

6.25 In that regard, it is proposed that the consents will incorporate the following suite of conditions (which are in keeping with those included on previous consents granted to the applicant):

- Provision of a site management and remedial action plan.
- Engagement of a suitably qualified and experienced contamination land specialist to monitor any soil disturbance activities.
- All earthworks will be undertaken with the approved Plans referred to above.
- Use of erosion and sediment controls in accordance with the proposed Erosion and Sediment Control Plan.
- Any fill to be utilised within the site will have appropriate contaminant levels.
- Dust will be suitably managed.
- Stockpiles will not generate dust nuisance and will have appropriate erosion and sediment controls in place.
- All silt/sediment captured by control devise will be retained or disposed of at an appropriate facility.
- Works will cease and Council will be notified in the event of an incidental contamination discovery.
- Excavated material that Is not reused onsite will be disposed of at an appropriate facility. It will not be disposed of as clean fill unless tested and determined to be this.
- A site validation report will be prepared.

6.26 This approach should ensure that any adverse effects are minimised, temporary, and no more than minor, including on surrounding freshwater bodies. It will also ensure that the proposed remediation of any contaminated soils is undertaken in a way that avoids, remedies, or mitigates potential adverse effects on the environment.

6.27 It is therefore not anticipated that these activities will have more than minor adverse effects associated with contaminated soil.

Freshwater Bodies

6.28 Refer to supporting memorandum from RMA Ecology in **Attachment 4** for a more detailed assessment.

6.29 The site is subject to an intermittent stream (tributary to Lucas Creek) within its southern area. It drains from several small catchments alongside the eastern part of the Dairy Flat Highway, as well as uphill slopes. This stream has had many years of bed and bank damage caused by stock access, although the margins are less damaged now that stock have been removed. There is little vegetation present along its margins. Part of the stream has been channelised to run alongside the driveway, where the stream then enters a culvert and crosses Stevensons Crescent, eventually discharging to the upper reaches of Lucas Creek.

6.30 The RMA Ecology report indicates that it is very likely that the stream dries up completely during normal summer conditions. They also note it is unlikely to support native fish at any time during the year, however, there may be fish habitat upstream of the site and thus, this stream may serve as a connection for fish passage to areas up-catchment of the site.

6.31 Another intermittent stream exists within 10 Stevensons Crescent which immediately adjoins the north-western boundary. No part of this stream is within the site; however, as a 10 m margin to the stream is proposed, part of that margin lies within the site.

6.32 Several natural inland wetlands exist on the site. All are located in the north-eastern portion of the site. The wetlands are grazed as part of the pasture on the site. Native plants are absent. The wetlands are sustained by both seepage points and overland flows (predominantly).

6.33 All wetland areas are highly degraded with pugging from stock, grazing from stock, excessive sediment deposition from surrounding grazed slopes, and absence of native plants. The small size of the wetlands and their closely grazed nature means that they are unlikely to provide core, key or important habitat for native wildlife.

6.34 While RMA Ecology note that the values of these wetland areas are extremely low, each still qualifies as a natural inland wetland in accordance with the definition in the NPS-FM.

6.35 The applicant has proposed measures as part of the proposal for enhancing and protecting the riparian margin of the watercourse within its boundaries, the true right riparian margin to the watercourse outside of its boundary, and its wetlands. It is noted that:

- 5m offsets are proposed for all earthworks and development to the wetland.
- 10m offsets are proposed to the stream (except for the road crossing).

6.36 The proposal would include the substantive enhancement of the streams and wetland through riparian and buffer planting, along with restoration of the wetland (given that it currently comprises substantially exotic grass species).

6.37 A road culvert is proposed across the stream which will be designed to comply with the NES-F standards for fish passage.

6.38 Stormwater catchments, with discharges entering the wetland area, are expected to remain mostly unchanged, anticipating a less than minor effect on the hydrology of these features. The supporting memorandum from DHC Consulting in **Attachment 1** identifies how the hydrology of the wetlands can be maintained and enhanced through locating the stormwater management devices and overland flow paths so that the wetland is not water shorted.

6.39 In terms of potential sediment from earthworks and stormwater, these will be controlled through best practice sediment control methods.

6.40 As a result of the above, no adverse effects on freshwater ecology that will be more than minor are anticipated.

Terrestrial Ecology

6.41 Refer to supporting memorandum from RMA Ecology in **Attachment 2**.

6.42 The landcover on the site comprises predominately exotic pasture with pockets of exotic weed species. The site is not subject to any native trees, shrubs or other indigenous vegetation. It represents poor quality habitat for lizard, with no habitat present for bats.

6.43 The above aside, upon recommendation from RMA Ecology, conditions of consent are proposed to mitigate potential adverse terrestrial effects, in the form of the salvage of native lizards prior to any vegetation clearance and their relocation into nearby secure habitat.

6.44 Further, clearance of shrubs and trees (including exotic species) should occur outside of the breeding season for native perching birds, or a requirement set that a survey is undertaken by a qualified ecologist to ensure that no active nests of native birds will be impacted. Where native bird nests are detected, clearance works around the nest will be delayed until nestlings have fledged or until the nest has failed.

6.45 As a result of the above, no adverse effects on terrestrial ecology that will be more than minor are anticipated.

Cultural Heritage

6.46 The project will not result in the loss of any identified historic or cultural heritage sites, although the applicant intends to consult with respective iwi groups and encourage the preparation of Cultural Impact Assessments.

6.47 The existing dwelling within the site is circa 1910 and is not scheduled or otherwise identified as a built heritage item. No known archaeological sites are present.

6.48 There is therefore not anticipated to be any adverse effect on heritage or culture that is more than minor.

Urban Design

6.49 See **Attachment 3** for the concept drawings, structure plan, and urban design commentary.

Structure Plan

6.50 As outlined in Annexure 1 to this memorandum, the applicant intends that a structure plan be prepared in accordance with Appendix 1 of the AUP. Mr Munro (who advised in this manner at the time the site was originally zoned FUZ) has prepared a preliminary structure plan, as contained in **Attachment 3**, to guide this more detailed concept planning process.

6.51 Mr Munro indicates that it, is his opinion, most of the work that would be required for a structure plan has already been completed, noting how small the FUZ zone area is in this location (as part of the above FUZ zoning). Mr Munro has updated this original plan to account for additional information now available relating to the gradient and developability of the site, and wetlands and streams around the site generally.

6.52 While having undertaken no additional "re-analysis" of his earlier work, Mr Munro has provided this design concept as evidence that the technical work and thinking has been properly undertaken.

6.53 Mr Munro supports the proposal noting that this detailed structure planning process is a key part of this development. Being familiar with the site's spatial planning and context, and requirements of a structure plan, he considers the site to form part of a logical "Stage 1" area.

Subdivision and development layout – Concept Plan

6.54 The proposed layout generally reflects industry best practice, keeping in mind the topography and sites features, and also how it integrates with what is proposed as part of the wider structure plan.

6.55 A 16m-wide spine road (largely clear of vehicle crossings) and with narrower east-west stub-roads are proposed. These widths are able to accommodate footpaths, and berms with space for street trees / landscaping for visual amenity purposes.

6.56 The layout provides, to the greatest degree practicable given the topography of the site, a regular block structure with lots arranged on a 'back-to-back' pattern. The layout and roading network pattern will enable views along the streets and, in many instances, onto the to-be-restored wetland and stream.

6.57 The design and layout of the site and subdivision will result in very well-overlooked and safe streets.

Dwellings

6.58 The next level of design detail (i.e., individual house design) will be able to consider individual building design and boundary treatments, and in doing so consideration will need to be given to balancing the privacy of gardens with promoting passive surveillance opportunities to the public realm. Initial renders of house design are

provided in **Attachment 3,** and are indicative. That aside, Mr Munro is sufficiently familiar with developments of a comparable scale and complexity and concludes with high confidence that any potential urban design effects of concern could be designed-out in the process of finalising such designs. This would include the appearance and variation of building forms (terraced houses) proposed, and the design and landscaping of the streets and wetland / stream areas.

6.59 The dwellings will each be designed to comply with the equivalent amenity standards of the Mixed Housing Urban zone (which Mr Munro considers to be a compatible fit with the site's characteristics, being so close to the Albany Village and Albany Metropolitan Centre).

Mixed Use Frontage

6.60 Approximately 550m2 GFA of retail and commercial floor space is proposed at the frontage of the site with Stevenson Crescent. This space is sized to be capable of providing for daily-need convenience services in a logical location.

6.61 While this is not of itself common within a 'standard' Mixed Housing Urban zoned development, it is, in this instance, something considered compatible with the existing context and likely to have overall positive effects for locals. Mr Munro also supports the establishment of this aspect of the proposal.

6.62 Specific activities are yet to be determined however they are expected to be of a complementary nature, assisting to serve the residential activity in the area. On this basis the proposed retail component is highly unlikely to be a destination that people drive to; rather it is anticipated that it will serve the proposed and existing residential catchment in the immediate vicinity of the subject site.

Conclusion

6.63 Overall, it is considered the proposed roading and pedestrian movement pattern will enable a connected and hierarchical development structure and that the layout represents a considered approach to design and is consistent with good practice urban design principles.

6.64 Having considered the proposal, Mr Munro considers that it will achieve an urban character, that will be predominantly 3-storeys in height, and will be able to accommodate appropriate setbacks, landscaped areas, and design quality.

6.65 No adverse effects greater than minor are anticipated as a consequence of design and layout as proposed.

<u>Landscape</u>

6.66 The proposed change of land use of the site from rural uses to urban residential will ultimately result in a change to the visual character of the landscape (visually a change from open grassed paddocks to urban roads and residential lots, which will have new dwellings constructed on them). However, such a change in a landscape does not, in itself, constitute an adverse landscape or visual effect in the context of this local area or the underlying FUZ.

6.67 The proposed urbanisation of the area will change the current rural landscape character, development in this location is consistent with the urban expansion envisaged by the Future Urban zoning of the site, which indicates the space is envisaged for urban use (at some point in the future).

6.68 Such development is also consistent with development that is currently being undertaken within the surrounding area (namely at Perekia Street, Agnew Place and 300 and 329 Dairy Flat Highway). To the immediate east of the site there are three and four storey terraces houses and apartments, indicating that a relatively high density edge to Albany Village exists and is anticipated.

6.69 Given its urban context, the design approach has been to develop the site in accordance with accepted urban design principles, whereby a comprehensive structure plan can be prepared to ensure that a high quality and "well functioning urban environment' (as defined in the National Policy Statement on Urban Development 2020) development with a high level of amenity, that retains key characteristics of the existing landform, is created. In that regard:

- There is already a wide diversity in housing types, sizes and densities associated with the recent development in the local and wider area (for example on Perekia Street and at 11 The Avenue). Consequently, there is no housing type or specific density of development that exemplifies the 'local character', with a variety of townhouses, duplexes, terraces and apartments in the immediate area.

- The project will ensure that, in the long term, the change from the existing character of the site (paddock) to one dominated by the built form of a residential area will introduce a range of positive effects (benefits), including:

    - Enhancement of the streams and wetlands. The freshwater greenway through the site would also provide suitable visual mitigation by providing some visual relief to the continuity of housing with the nearby areas and providing a sense of scale and establishment;

    - Planting in street, and landscaping on the future lots, which will improve the character and amenity, and break up the contiguous urban expanse increasingly with time and contribute to the wider surrounding area.

6.70 The proposal therefore implements a somewhat anticipated change to the landscape and visual character of the area. As such, it is considered to be entirely appropriate in terms of the landscape and visual effects that it will generate.

6.71 There is therefore not anticipated to be any adverse effect on the landscape that are more than minor.

<u>Three Waters and water quality</u>

6.72 The project can be adequately serviced for three waters via proposed extensions to the existing network. Some upgrades may be required, which will be determined and provided as part of the resource consent. This will ensure there are no

cumulative effects that would adversely affecting the efficient use and development of infrastructure in the surrounding area.

6.73 The site falls outside of the area covered by the region-wide Network Discharge Consent ("NDC") held by the Healthy Waters Department of Auckland Council; thus a new discharge consent therefore required, and will be applied for. The application will incorporate a Stormwater Management Plan ("SMP") and will set out the requirements for stormwater quality and quantity to be achieved on the site.

6.74 The proposed public stormwater network is to allow for upstream catchment areas of the FUZ and future development and connection from these areas. Capacity assessments for the existing and proposed stormwater network are to consider the stormwater runoff from the upstream catchment areas being developed.

6.75 The approach to stormwater management will ensure that all lots are free from flood hazards and provide stormwater conveyance via an appropriate network, including the use of low impact design. Downstream effects will be suitably mitigated due to the onsite detention that will be proposed.

6.76 Overall, it is considered that any water quantity and quality effects as a result of the project can be appropriately managed and that no adverse effects greater than minor are anticipated.

Utilities

6.77 As outlined in **Attachment 1** the existing power and telecommunications infrastructure will require minor upgrades in order to service the development. These upgrades can be confirmed as part of the engineering plan approval works.

Economic Effects

6.78 A detailed analysis of economics effects and alignment of the project with economics-related components of sections 4 and 19 of the FTCA, has also been prepared by Insight Economics Ltd (**Attachment 6**). These matters are addressed in detail in *Part IX - Purpose of the Act* in the online portal. In summary, Insight indicate that the development will:

- Create a significant uplift in jobs and incomes for the local workforce, particularly during construction;
- Generate a range of wider economic benefits, including:
  - a direct boost in housing supply;
  - the provision of a range of homes to meet differing needs;
  - enabling the highest and best use of the land; and
  - sending a strong signal of investment confidence for the city.

6.79 In addition, once operational, the commercial activities enabled onsite will provide ongoing employment for future staff. The provision of local convenience retail (e.g.,

dairy, café) and small-scale employment opportunities (e.g., work from home, small offices) supports the day-today needs of the future residents of this site and the local community (centred around the lower The Avenue area). This is considered to result in positive effects and will not undermine the neighbourhood centre further up the slope on The Avenue or Albany Village.

6.80 Adverse economic-related effects that are more than minor are therefore not anticipated.

Traffic

6.81 See **Attachment 5** from Team Traffic for a detailed analysis.

Internal road network

6.82 The project's roading comprises a three-tiered network, incorporating a primary road, and several secondary roads. Rear private access lanes are also utilised to ensure that the majority of proposed dwellings are opening up onto a street frontage on one side. Primary and secondary roads are to be vested with the Council. Access lanes will be jointly owned by their respective users. Preliminary roading profile details are provided in **Attachment 5**, thought their final configuration will be designed through consultation with Auckland Transport as part of the consent process.

6.83 The draft road layout is considered appropriate as it efficiently and safely links the proposed lots firstly to the local road network, and then to the wider arterial network.

Impact of Residential/Mixed Use development on existing road network

6.84 Only the one primary road will connect to Stevenson Crescent with traffic then joining the arterial network of Dairy Flat Highway at the Stevenson Crescent / Dairy Flat Highway intersection, providing a direct link to Albany Village. This intersection is a "stop" controlled intersection, in an existing 50km/h speed zone. The Traffic Assessment prepared by Team Traffic indicates that the traffic and movement distribution to be generated by the proposal can easily be accommodated by the existing intersection configuration and within the wider Dairy Flat Highway.

6.85 It is noted that Auckland Transport have plans to upgrade a section of Dairy Flat Highway near to the site, which is expected to include improvements for cyclists and pedestrians. Upgrades to the network to accommodate the proposal include working with Auckland Transport to provide pedestrian connectivity from the site to Albany and upgrade existing pathway facilities to address existing physical constraints (reduced width pinch points).

6.86 This will support opportunities for walking and cycling to the bus stop and Albany Village. Albany Village includes a primary school and Massey University, along with a range of retail, services and employment.

6.87 Future proofing relevant to the structure plan is the provision of connections from this site to the adjoining FUZ land to the east (as outlined by Mr Munro in **Attachment 3**).

6.88 Adverse traffic-related effects that are more than minor are therefore not anticipated.

Summary

6.89 Having considered the above, it is surmised that the proposal adopts the most practicable options to avoid and/or mitigate any actual and/or potential effects on the receiving environment resulting from the proposed earthworks, subdivision and integrated land use component for the residential and mixed-use development. Thus, the potential adverse effects generated will not be more than minor.

6.90 Thus, it is considered that the proposal would meet the gateway test under section 104D(1)(a).

7.0 GATEWAY #2 – THE PROPOSAL IS NOT CONTRARY TO THE OBJECTIVES AND POLICIES OF THE AUP AND OTHER RELEVANT PLANS

7.1 We have reviewed the relevant objectives and policies of the AUP in respect of determining that an application for the development would be able (and complete) to meet the gateway test in relation to objectives and policies.

7.2 The assessment found that the proposal, considered overall, is consistent with the relevant objectives and policies as (generally grouped in themes below):

- There would be provision of adequate infrastructure to service development (including transport infrastructure).
- Land modification works would be undertaken in accordance with best practices for sediment control, and (including where in proximity to streams and wetlands) ensuring that discharges during works were kept to best practice to avoid adverse effects on freshwater qualities.
- Specific stability measures can be employed (e.g., retaining walls) to ensure the stability of sites and to enable the development and its infrastructure.
- Where works are proposed for infrastructure in a hazard zone, the capacity of the OLFPs can be appropriately addressed through engineering techniques as part of the detailed design.
- Adequate provision for undergrounding utilities and provision of utilities to service development.
- Stormwater water quality treatment and quantity controls for conveyance, treatment and to mitigate climate change and flood hazards.
- Where vegetation removal in proximity to the stream network and wetland is required, the works will be directly mitigated though the provision of riparian and buffer planting. This includes the restoration of the wetland.

- Cultural values being taken into account and enabled and provided for through initial and ongoing consultation with the relevant Mana Whenua groups.

- Adequate provision for parking and access can be made for each allotment and residential dwelling without affecting the safety of road users, including cyclist and pedestrians.

7.3 With specific regard to the FUZ objectives and policies and zone description (in Chapter H18), it is clear that the FUZ is land that has been identified as suitable for urbanisation. The FUZ is a transitional zone which applies before the land is rezoned for urban purposes; and urbanization of FUZ land is to proceed in accordance with a structure plan prepared in accordance with the structure plan guidelines in Appendix 1 of the AUP.

7.4 The purpose of constraining urban activities in the FUZ is to ensure that future planned urbanisation is not undermined. It could therefore be considered that if a proposed urban activity does not undermine that purpose on the basis that it is consistent with a structure plan that would normally proceed a plan change, it follows that IT would not be contrary TO the intent of the FUZ objectives and policies; to the contrary, it would facilitate the ultimate outcome intended by the policy framework. A number of areas of FUZ zoned land have been granted resource consent (without the need for a plan change) on this basis. Examples include:

- BUN20441333 (RMA66077) for development located at Hall Farm, Orewa, granted 7 August 2017; and

- BUN60310287, for development located at McKinney Road, Warkworth, granted 24 February 2022.

7.5 The applicant has (via senior urban design expert, Ian Munro) developed a preliminary structure plan that meets the requirements Appendix 1 of the AUP. This structure plan demonstrates how the site fits within its context, specifically that:

- Integrated planning for the local area is feasible and would fit in the context of the adjacent FUZ sites, and

- The current proposal would future proof or not foreclose appropriate design and infrastructure options/opportunities.

7.6 The proposal relates to a smaller site in the context of greenfields land. In this context, it is noted that:

- The application site It has distinct edges and boundaries and can be serviced by relatively simple extensions to existing infrastructure that are of a scale typical of resource consent sized residential developments in the area.

- The proposal's infrastructure requirements (e.g., three waters, transportation) does not create an infrastructure burden on Council or any CCO, being of a scale that can be funded directly by the applicant.

7.7 Bearing the above discussion in mind, with respect to the specific objective and policies relevant to this proposal (contained in H18.2 and H18.3), the following comments are made:

- Objectives (1) and (2) and their supporting Policies (1) and (2) provide for specified land uses and seek to prevent urbanisation prior to rezoning. These objectives do not signal that urban uses of the land are inappropriate – to the contrary, the land has specifically been identified for urban purposes. Their focus is on the interim period prior to rezoning. Any proposal which departs from the specified activities in Objectives (1) and (2) will not give effect to those objectives, as is the case in this proposal.

- Objective (4) must be read alongside Objective (3) (and their supporting policies) which are targeted to the purpose of the zone i.e. to ensure that land uses do not compromise future urbanisation.

- The proposal is considered to be compatible with (and thus not contrary to) Objective (3) on the basis that the application is to be accompanied with a structure plan for the FUZ land as a whole which demonstrates that the site sits well within its context.

- The FUZ objectives are intended to ensure that urbanisation proceeds in a form that is consistent with a broader urban development strategy. The preparation of a structure plan enables this within the application site.

- As regards Policy H18.3(6)(a) to (g), the following comments are made:

  (a) The development proposed will deliver an urban form consistent with the outcomes envisioned for the site.

  (b) There would be provision of adequate transport infrastructure to service development, to ensure the efficient and effective operation of the transport network is not compromised (refer **Attachment 5**).

  (c) Upgrades/extensions as required to wastewater, water supply and stormwater networks will be delivered by the applicant and are expected in this location given the rural context.

  (d) The development will not compromise in any way the efficient provision of infrastructure.

  (e) The development will not give rise to reverse sensitivity effects when surrounding FUZ sites are subject to urban development.

  (f) There are no rural activities or infrastructure in the vicinity of the proposal that would give rise to reverse sensitivity effects.

  (g) The development will be of a form and nature which is anticipated in this location by the FUZ zoning and the preliminary structure plan.

7.8 When considering the intent of the relevant objectives and policies and FUZ description, and the preparation of a structure plan, it is considered that the proposal is consistent with the relevant objectives and policies of the FUZ and is consistent with other fast track applications (such as Hall Farm in Orewa) where resource consents have been issued for (larger scale) developments in the FUZ without the need for a plan change. Therefore, it is not without comparison.

7.9 The planning issue is ultimately whether a structure plan and resource consent process can deliver an integrated outcome. In this case because a structure plan can be prepared and a resource consent can provide all the necessary detail to implement that structure plan, along with delivering certainty of outcome, it is considered that this course of action, while uncommon, is not without merit.

7.10 In light of the above, it is considered that, overall, the proposal is not contrary to the objectives and policies of the AUP, the NPS-UD or any other policy statement or plan that may be considered relevant and therefore, would meet the gateway test under section 104D(1)(b) of the RMA.

Attachments:

Annexure 1: Tollemache Consultants - Structure Planning Strategy Memorandum