

Application for a project to be referred to an expert consenting panel

(Pursuant to Section 20 of the COVID-19 Recovery (Fast-track Consenting) Act 2020)

For office use only:

Project name: Tōtara Landing
Application number: PJ-0000832
Date received: 16/11/2022

This form must be used by applicants making a request to the responsible Minister(s) for a project to be referred to an expert consenting panel under the COVID-19 Recovery (Fast-track Consenting) Act 2020.

All legislative references relate to the COVID-19 Recovery (Fast-track Consenting) Act 2020 (the Act), unless stated otherwise.

The information requirements for making an application are described in Section 20(3) of the Act. Your application must be made in this approved form and contain all of the required information. If these requirements are not met, the Minister(s) may decline your application due to insufficient information.

Section 20(2)(b) of the Act specifies that the application needs only to provide a general level of detail, sufficient to inform the Minister's decision on the application, as opposed to the level of detail provided to an expert consenting panel deciding applications for resource consents or notices of requirement for designations.

We recommend you discuss your application and the information requirements with the Ministry for the Environment (the Ministry) before the request is lodged. Please contact the Ministry via email: fasttrackconsenting@mfe.govt.nz

The Ministry has also prepared [Fast-track guidance](#) to help applicants prepare applications for projects to be referred.

Part I: Applicant

Applicant details

Person or entity making the request: Neil Construction Limited

Contact person: Matt Ashworth

Job title: Development Manager

Phone: s 9(2)(a)

Email: s 9(2)(a)

Postal address:

Neil Construction Limited

PO Box 8751

New Market

Auckland 1149

Address for service (if different from above)

Organisation: Campbell Brown Planning Limited

Contact person: Philip Brown

Job title: Director

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Email address for service: s 9(2)(a)

Postal address:

Campbell Brown Planning Limited

PO Box 147001

Ponsonby

Auckland 1144

Part II: Project location

The application: does not relate to the coastal marine area

If the application relates to the coastal marine area wholly or in part, references to the Minister in this form should be read as the Minister for the Environment and Minister of Conservation.

Site address / location:

A cadastral map and/or aerial imagery to clearly show the project location will help.

101 and 105-107 Totara Road, and 9 McKean Road, Whenuapai, Auckland

Legal description(s):

A current copy of the relevant Record(s) of Title will help.

101 Totara Road, Whenuapai - Lot 1 DP 170291 (NA103D/590) - 5.0043ha - Gregory Allen Leighton as to a 1/2 share and Anne Lynette Leighton as to a 1/2 share

9 McKean Road, Whenuapai - Lot 3 DP 77541 (NA33D/951) - 5.0600ha - Grace Janette McKean as to a 3/4 share and Mervyn James McKean and Linda Sarah McKean as to a 1/4 share

105-107 Totara Road, Whenuapai - Lot 1 DP 52677, Lot 1 DP 72379 (NA28C/160) - 4.5384ha - Neil Construction Limited

Registered legal land owner(s):

See above

Detail the nature of the applicant's legal interest (if any) in the land on which the project will occur, including a statement of how that affects the applicant's ability to undertake the work that is required for the project:

The applicants, Neil Construction Limited ('NCL') and Maraetai Land Development Limited ('MLDL'), propose to develop the property for a residential subdivision. NCL and MLDL either own each title that makes up the land or have an unconditional agreement to purchase. NCL will bring its considerable development experience to the proposal as part of The Neil Group which, along with its associated entities, has been involved in land development in the Auckland region for over 60 years.

NCL has the financial capability and development expertise to deliver this project. Approval from the Overseas Investment Office ('OIO') was originally obtained for the site on conditions relating to the timing of development and gaining of subdivision consent approvals. However, due to Auckland Council not rezoning this part of Whenuapai as they had originally planned, NCL was unable to comply with the OIO conditions and withdrew from purchasing the land and instead, MLDL purchased the properties on an unconditional basis (with settlement yet to occur). An updated OIO assessment found that the northern most of the three properties are 'otherwise sensitive' under the OIO and it is likely that NCL will now be required to obtain OIO approval to take an interest in both properties as a result of a Joint Venture agreement with MLDL. An application to that effect is now being prepared for lodgement with the OIO.

The full details are provided in the **attached** letter.

Part III: Project details

Description

Project name: Tōtara Landing

Project summary:

Please provide a brief summary (no more than 2-3 lines) of the proposed project.

It is proposed to subdivide the 14.6027ha site to accommodate 244 residential lots together with Jointly Owned Access Lots ('JOAL'), public roads, pedestrian accessways and recreation, drainage, and esplanade reserves, neighbourhood park and enhanced wetland area to vest with Council. Of the proposed lots, 15 lots will undergo house design at the resource consent stage and the remaining 229 will be subdivided as vacant lots.

Project details:

Please provide details of the proposed project, its purpose, objectives and the activities it involves, noting that Section 20(2)(b) of the Act specifies that the application needs only to provide a general level of detail.

It is proposed to subdivide the 14.6027ha site to accommodate 244 residential lots (comprising 229 vacant lots and 15 medium density lots), along with JOAL's, public roads, pedestrian accessways, and recreation, drainage, and esplanade reserves to vest with Council. A neighbourhood park, public walkways within the esplanade reserve and a wetland area that will be enhanced are also proposed as part of the development.

The proposal seeks consent for the 244 lots to be used for any permitted activities listed in the Auckland Unitary Plan ('AUP') Residential – Mixed Housing Urban Zone ('MHU') Activity Table H5.4.1 for any buildings to be constructed on the residential lots that meet the following bulk and location standards of the AUP's Mixed Housing Urban Zone:

H5.6.4 – Building height

H5.6.5 – Height in relation to boundary

H5.6.7 – Height in relation to boundary adjoining lower intensity zones

H5.6.8 – Yards

H5.6.9 – Maximum impervious areas

H5.6.10 – Building coverage

H5.6.11 – Landscaped area

H5.6.12 – Outlook space

H5.6.13 – Daylight

H5.6.14 – Outdoor living space

H5.6.15 – Front, side and rear fences and walls

The site is not located within the Airspace Restriction Designation 4310 or the Aircraft Noise Overlay that would require New Zealand Defence Force ('NZDF') approval under designation 4311 for any land use or subdivision. The engine testing noise modelling conducted in order to inform the now withdrawn Plan Change 5 showed that the substantial majority of the site is located within the 57db contour, and a small portion of the site may be within the 65db noise contour. Whilst these contours now have no legal effect, all new houses within the 57-65db area are likely to meet the acoustic standards with typical building construction and mechanical ventilation. The applicant proposes consent notices to ensure that appropriate acoustic insulation is incorporated within the design of dwellings and habitable living areas.

The proposed residential lot sizes will range from approximately 272m² to 554m², with the majority of the proposed lots being between 350m² to 400m². The proposed neighbourhood park/reserve will have a total area of 3,409m² and will be connected to the public walkways within the esplanade reserve.

A scheme plan of the proposed subdivision is **attached**.

The civil works associated with the project will be undertaken over two stages. Stage 1 and site wide earthworks are anticipated to commence in May 2024. Earthworks are anticipated to be required across the site to form the graded roading network, undertake allotment shaping and to manage stormwater and wastewater flows. A cut to fill earthworks balance of 60,000m³ is anticipated, with no fill material being imported or exported from the site. Civil construction will begin in January 2025, and it is expected that the development will be built out by 2026, with all titles issued by March 2027 (depending on demand from purchasers).

Reticulated services will be provided to each lot, including wastewater, stormwater, and potable water. The infrastructure report has outlined that sufficient capacity can be provided to accommodate the proposed development. The site when developed will have two stormwater catchments, which will discharge to separate locations (one via the existing stream to the Waitemata Harbour and the other directly to the Waitemata Harbour (Rarawaru Creek) and will have different stormwater volume retention and detention management requirements for each catchment. Stormwater management for both catchments will be undertaken to meet SMAF 1 requirements of the AUP and stormwater treatment is only required for Totara Road due to it being a high-use road. A discharge permit will be required for the disposal of stormwater into the stream network.

Auckland Council is currently undertaking Plan Change 78 ('PC78') to address the requirements of the National Policy Statement on Urban Development (NPS-UD). It is noted that this application is based on the operative MHU zone standards as PC78 is still traversing the plan change process and the requirements of PC78 will not apply at this time to the site as it falls within the Future Urban Zone ('FUZ').

The consent notice that is proposed to manage future development on the residential lots is considered an interim measure, and is proposed to apply only until such time as the FUZ land is rezoned to residential as forecast in the Auckland Council's Future Urban Land Supply Strategy and set out in the Whenuapai Structure Plan. As such, the consent notice is proposed to have a 'sunset clause', whereby compliance with the permitted activity and development standard requirements will fall away and no longer be applicable once a plan change to rezone the land (and any associated changes to the applicable zone standards) is made operative.

Where applicable, describe the staging of the project, including the nature and timing of the staging:
Refer above.

Consents / approvals required

Relevant local authorities: Auckland Council

Resource consent(s) / designation required:

Land-use consent, Subdivision consent, Discharge permit

Relevant zoning, overlays and other features:

Please provide details of the zoning, overlays and other features identified in the relevant plan(s) that relate to the project location.

| Legal description(s) | Relevant plan | Zone | Overlays | Other features |
|--|-----------------------|-------------------|---|---|
| Lot 1 DP 170291 (NA103D/590) Lot 3 DP 77541 (NA33D/951) Lot 1 DP 52677, Lot 1 DP 72379 (NA28C/160) | Auckland Unitary Plan | Future Urban Zone | The land is subject to the Natural Resources: High-Use Aquifer Management Areas Overlay – Kumeu Waitemata Aquifer A Macroinvertebrate Community Index – ‘Rural’ control applies to the land. | The land is subject to an Airspace Restriction Designation - ID 4311, ‘Defence purposes - protection of approach and departure paths (Whenuapai Air Base)’, in favour of the Minister of Defence. |

Rule(s) consent is required under and activity status:

Please provide details of all rules consent is required under. Please note that Section 18(3)(a) of the Act details that the project **must not include** an activity that is described as a prohibited activity in the Resource Management Act 1991, regulations made under that Act (including a national environmental standard), or a plan or proposed plan.

| Relevant plan / standard | Relevant rule / regulation | Reason for consent | Activity status | Location of proposed activity |
|---|---|--------------------|-----------------------|-------------------------------|
| H18.4.1(A2)(A28) H18.6.8 C1.9(2) H.18.6.2 H.18.6.3.1 E3 Lakes, rivers, streams and wetlands E8 Stormwater – Discharge and Diversion E9 Stormwater Quality - High contaminant generating car parks and high-use roads E11 Land Disturbance – Regional E12 Land Disturbance – District E15 Vegetation Management | Refer table in attached PDF of FTCA application | Refer table | Non-complying overall | Whenuapai |

| | | | | |
|--|--|--|--|--|
| E36 Natural Hazards and Flooding E39 Subdivision - Rural Resource Management (National Environmental Standards for Freshwater) Regulations 2020 ('NES-F') | | | | |
|--|--|--|--|--|

Resource consent applications already made, or notices of requirement already lodged, on the same or a similar project:

Please provide details of the applications and notices, and any decisions made on them. Schedule 6 clause 28(3) of the COVID-19 Recovery (Fast-track Consenting) Act 2020 details that a person who has lodged an application for a resource consent or a notice of requirement under the Resource Management Act 1991, in relation to a listed project or a referred project, must withdraw that application or notice of requirement before lodging a consent application or notice of requirement with an expert consenting panel under this Act for the same, or substantially the same, activity.

There are no previous resource consent applications made for the development of this land.

Resource consent(s) / Designation required for the project by someone other than the applicant, including details on whether these have been obtained:

There are no resource consent applications, notices of requirement for designations, or other approvals required that would be obtained by persons other than the applicant.

Other legal authorisations (other than contractual) required to begin the project (eg, authorities under the Heritage New Zealand Pouhere Taonga Act 2014 or concessions under the Conservation Act 1987), including details on whether these have been obtained:

Asset owner approval will be required from Auckland Transport prior to undertaking road upgrading and works within the legal road reserve, including the upgrade and widening of Totara Road, proposed left-in only intersection at McKean/Totara Road and changes to the speed limits. These authorisations will be applied for prior to the construction works occurring on site.

The applicant is not aware of any other legal authorisations that are required to undertake the project.

Construction readiness

If the resource consent(s) are granted, and/or notice of requirement is confirmed, detail when you anticipate construction activities will begin, and be completed:

Please provide a high-level timeline outlining key milestones, e.g. detailed design, procurement, funding, site works commencement and completion.

The applicant has advised that the bulk earthworks will commence in May 2024. Earthworks will occur across the site to form the graded roading network, undertake allotment shaping and to manage stormwater and wastewater flows. The civil works will occur in two stages, with stage 1 beginning in January 2025 and stage 2 in January 2026. It is expected that stage 1 224C will be completed by May 2026 and stage 2 by March 2027.

Finance is in place for the entire project. It is noted that Neil Construction does not rely on bank funding to undertake or complete its projects. As a consequence, there is no prospect of the project not proceeding as a result of funding issues or requirements from third parties involved in financing.

Part IV: Consultation

Government ministries and departments

Detail all consultation undertaken with relevant government ministries and departments:

The applicant has initiated correspondence with the Ministry of Defence via email. The email included a letter outlining the proposed development and highlighting that it does not constrain the activities of the NZDF by including measures to protect its interests. The applicant has also shared that they are agreeable to the registration of no complaint covenants on the titles of all proposed residential lots in the development.

NZDF responded by stating that it believes residential development is incompatible with the levels of engine testing that will be occurring on the airbase.

The applicant has an on-going relationship with the NZDF and is committed to working together to ensure the appropriate measures are in place to protect the NZDF activities. Of particular note, the applicant is open to providing measures that address the following key aspects:

- Noise
- Lighting and Glare
- Bird Strike
- Structure and Obstacle Heights

From existing projects where the applicant is working with the NZDF, the applicant has been open and receptive to conditions that protect the NZDF activities from reverse sensitivity effects. Such conditions relate to lighting and glare, access, and bird strike.

Based on the Whenuapai Engine Testing report and additional memo provided by Marshall Day Acoustics (**attached**), the applicant believes any engine testing noise related effects can be effectively managed to retain a sufficient level of residential amenity and this is discussed in more depth in the effects section of this application.

It is considered that development of the land would not give rise to any matters of particular interest to any other government ministries or departments.

Local authorities

Detail all consultation undertaken with relevant local authorities:

The applicants' engineers have engaged with Watercare Services Limited (the CCO that manages wastewater and potable for Auckland Council). WSL was made aware of the development intentions for the site.

WSL shared that external watermain upgrades are needed to provide further capacity to the existing 315mm watermain along Totara Road and that these capacity works are needed for all future development in the Whenuapai area. The applicant agreed that if these works have not been undertaken by others at the time of development, they will fund and undertake these works to provide necessary capacity relief.

Consultation has taken place with Auckland Transport and 'Supporting Growth' to understand the wider transport planning context in Whenuapai, including upgrades to nearby intersections and improvements to public transport and connectivity to surrounding amenities.

No consultation has been undertaken with the Council, other than consultation with the Parks team to discuss provision of a wastewater line through the esplanade reserve to the south of the site (a response is yet to be received). With regard to development contributions or financial contributions for the funding of infrastructure within the Whenuapai area and wider catchments, NCL will pay all development contributions that are in place. It is also committed to installing, at its cost, the proposed upgrading and widening of Totara Road, and widening of McKean Road. These works go beyond what is required solely to serve the site, thereby ensuring that NCL is paying at least an equitable and fair contribution for infrastructure upgrading that is commensurate with the effects of the proposal.

Other persons/parties

Detail all other persons or parties you consider are likely to be affected by the project:

It is considered that there are no other persons or parties that would be significantly affected by the proposal.

Surrounding land to the south and west is similarly zoned but held in similar sized to smaller landholdings. Most of this land is privately owned and it is anticipated that in the future, would be expected to support some level of accelerated development.

It is understood that the land directly to the north of the site is proposed to be developed with a retirement village. Whilst this development has not commenced and is not anticipated to be completed until 2029, the applicant is prepared to work with the neighbouring developers and establish a working relationship to efficiently resolve any matters that may arise.

NZDF is generally concerned with managing reverse sensitivity effects associated with the use of land around the airbase, and these effects are primarily managed through requirements for acoustic insulation of residential buildings within the airbase runway approach path and within the engine noise testing contours. The proposal offers conditions to acoustically insulate all buildings to be used for activities sensitive to aircraft noise.

Detail all consultation undertaken with the above persons or parties:

Refer above.

Part V: Iwi authorities and Treaty settlements

For help with identifying relevant iwi authorities, you may wish to refer to [Te Kāhui Māngai – Directory of Iwi and Māori Organisations](#).

Iwi authorities and Treaty settlement entities

Detail all consultation undertaken with Iwi authorities whose area of interest includes the area in which the project will occur:

| Iwi authority | Consultation undertaken |
|---------------|---|
| | The applicant has commenced engagement with all Mana Whenua groups that hold an interest in the area in which the site is located, via an email invitation to engage. Multiple contact attempts have been made but no response has been received at the time of this application. On-going attempts to make contact will continue to be undertaken. |

Detail all consultation undertaken with Treaty settlement entities whose area of interest includes the area in which the project will occur:

| Treaty settlement entity | Consultation undertaken |
|--|-------------------------|
| The applicant is not aware of any Treaty settlement entities with an interest in the area in which the project will occur. | |

Treaty settlements

Treaty settlements that apply to the geographical location of the project, and a summary of the relevant principles and provisions in those settlements, including any statutory acknowledgement areas:

Section 18(3)(b) of the Act details that the project **must not include** an activity that will occur on land returned under a Treaty settlement where that activity has not been agreed to in writing by the relevant land owner.

The western border of the site is located within the Treaty Settlement Statutory Acknowledgement Area ('SAA') for Ngāi Tai ki Tāmaki and the Te Kawerau ā Maki SAA borders the site (refer to the below figure).

Part VI: Marine and Coastal Area (Takutai Moana) Act 2011

Customary marine title areas

Customary marine title areas under the Marine and Coastal Area (Takutai Moana) Act 2011 that apply to the location of the project:

Section 18(3)(c) of the Act details that the project **must not include** an activity that will occur in a customary marine title area where that activity has not been agreed to in writing by the holder of the relevant customary marine title order.

The proposed activity will not occur in a customary marine title area.

Protected customary rights areas

Protected customary rights areas under the Marine and Coastal Area (Takutai Moana) Act 2011 that apply to the location of the project:

Section 18(3)(d) of the Act details that the project **must not include** an activity that will occur in a protected customary rights area and have a more than minor adverse effect on the exercise of the protected customary right, where that activity has not been agreed to in writing by the holder of the relevant protected customary rights recognition order.

The proposed activity will not occur in a protected customary rights area.

Part VII: Adverse effects

Description of the anticipated and known adverse effects of the project on the environment, including greenhouse gas emissions:

In considering whether a project will help to achieve the purpose of the Act, the Minister may have regard to, under Section 19(e) of the Act, whether there is potential for the project to have significant adverse environmental effects. Please provide details on both the nature and scale of the anticipated and known adverse effects, noting that Section 20(2)(b) of the Act specifies that the application need only provide a general level of detail.

The scale and nature of the proposal means that it has the potential to give rise to some adverse environmental effects. The assessment below considers the extent of the range of potential adverse effects, together with the methods that are proposed to avoid, remedy, or mitigate any such effects. Overall, it is concluded that the proposed development will not give rise to any significant adverse effects subject to appropriate mitigation and imposition of conditions of consent.

Stream ecology

The applicant has engaged Bioresearchers Limited to conduct an ecological assessment of the site to determine the status of the watercourses within the land as either permanent, intermittent, or ephemeral, and to identify if any natural wetlands are present. The outcomes of the site survey and ecology assessment are provided as part of this application, and the features identified are shown in **Figure 5** below. The AUP provides a level of protection for all permanent and intermittent streams, and for wetlands. In this instance, that protection will mostly extend to the watercourses and wetlands identified in Figure 5. The applicant has designed the site layout to accommodate all wetlands and to minimise significant disturbance as much as practically possible. A modified permanent stream, that has been artificially deepened, was present upstream of the eastern wetland and several artificial farm drainage channels were also identified. A review of the historical aerial photographs found no presence of natural streams in the location of the current drainage channels. Reclamation of a portion of the modified natural stream on the site will need to occur owing to the main access to the proposal not being able to be moved further south due to road safety concerns and resulting in an unsafe intersection. Works for the construction of the stormwater discharge points will also most likely occur within proximity of the coastal wetland. Consent will therefore be required under the NES-F for

construction of specified infrastructure and reclamation of the stream. Other physical works within 10m of the wetland have otherwise been avoided. Mitigation will be provided via extensive wetland planting and the proposed coastal esplanade reserve. The provided ecological assessment also concluded that stream reclamation for a functional need, being the construction of a safe intersection, can be appropriately mitigated and offset under the NPS-FM and the RMA. Stormwater generated by the Totara Road upgrade will be appropriately treated to maintain the quality of the stream. No other stormwater treatment is required due to the residential nature of the proposal. The proposed stormwater treatment, in combination with enhancement planting will ensure that the ecological values of the streams and wetlands are not diminished but are likely enhanced. In addition, further wetland protection is achieved by ensuring pre and post development stormwater base flows are similar.

Traffic/transport

The applicant has engaged Abley to undertake a preliminary transport assessment of the potential transportation implications of the proposed development. The assessment included consideration of traffic generation on to the wider network, future transport infrastructure projects, connection to public transport, cycling and pedestrian amenities. A copy of the Abley report is **attached**. The Abley report identifies that the new accesses proposed off Totara Road will connect well with the existing road network and the left-in only entry into the McKean/Totara Road intersection will improve the level of road safety for the area. It also notes that the development will be well served by public transport and cycling connections under the infrastructure proposed by Supporting Growth and Waka Kotahi, as well as the potential for new bus stops and pedestrian crossings to be considered in the future for the proposal. The report also notes that the internal roads have been designed with low speed in mind, with a speed limit of 30km/h being proposed to further improve the safety of the site. Overall, the Abley report found that the proposed development is well-positioned from a transport perspective and is not considered to give rise to any adverse transport effects.

Site Layout and Urban design

Whilst it is noted that the land is currently rural in nature, the site is identified within the Future Urban Zone, so is anticipated to undergo urban development to that or similar to that of which is proposed. The proposal is considered to be generally in keeping with what is proposed under the Auckland Council approved structure plan for Whenuapai and will achieve what is envisaged for the area. The resulting site layout and development pattern integrates a number of desirable urban design outcomes, including:

A coastal edge and wetland area that aid in creating a sense of place and belonging; a centralised spine road that connects to the coast and proposed neighbourhood park to provide easy access; a grid street network that provides an east/west orientation for the majority of the proposed lots and a legible street layout; enhancement planting along the coastal area and wetland; provision of pedestrian and cycling facilities; introduction of a left-in only entry at the McKean/ Totara Road intersection to improve the safety of the proposed development and surrounding area and avoidance of private vehicle access from Totara Road below the spine road. For the above reasons, the proposal is considered to have no adverse effects in terms of site layout and urban design.

Stormwater disposal

It is proposed that the development of the site will retain the existing two stormwater catchments and their associated discharge points. Due to having two stormwater catchments, different stormwater volume retention and detention management requirements are needed that will meet the Stormwater Management Area – Flow 1 requirements of the AUP. Stormwater discharging from the site will flow north via the existing stream to the Waitemata Harbour or directly west to the Waitemata Harbour (Rarawaru Creek). The existing stormwater catchment sizes are proposed to be modified to ensure pre and post development stormwater base flows are similar and for additional protection of the wetland. In addition to the stormwater catchments, a new public 10yr AEP piped primary stormwater network is proposed to service all new allotments, existing and new roads. The proposed road layout and earthworks will allow for the containment and conveyance of the existing overland flows, flood prone and floodplain areas across the site. Due to being residential in nature, the only area requiring stormwater treatment is the Totara Road upgrade and this will be provided for as part of the proposed development. In summary, the proposed stormwater strategy will meet the required water quality treatment standards and detention requirements for SMAF 1 under the AUP. Measures have been taken to enhance and maintain the wetlands on the site, whilst also minimising disturbance of the streams on the site. These works will further contribute to the long-term water quality of the streams and their associated habitat. As a result of these steps taken, the site can be sufficiently serviced, and the downstream catchments will have no appreciable adverse effects on the water quality of the streams.

Earthworks

Earthworks will be required across the site to form the graded roading network, undertake allotment shaping and to manage stormwater and wastewater flows. The site will retain a generally grading topography from the south to the north and west. A cut to fill earthworks balance of 60,000m³ is anticipated, with no fill material being imported or exported from the site. No earthworks are proposed within 10m of the natural wetlands on the site, other than what may be required for the construction of the previously outlined specified infrastructure, and the proposed earthworks have been designed and/or mitigated to ensure there is no partial drainage of any natural wetland or any loss of ecological value. The proposed earthworks are considered to be appropriate and consistent with the scale of the proposed development and subdivision. All earthwork methodologies and procedures will also be conducted in accordance with Auckland Council's Erosion and Sediment Control Guidelines (GD05). The proposed earthworks will enable the development of the site, as anticipated by the site's Future Urban zoning under the AUP. The proposed earthworks have been designed to not drastically change the topography of the site and will enable more effective management of the existing overland flow paths, flood prone and floodplain areas. Overall, any long-term adverse effects of the proposed earthworks on the landscape character and form of the site would not be significant.

Infrastructure servicing

The proposed residential subdivision will provide all the required infrastructure to service the development, including roading, water supply, wastewater and stormwater, and other utility services. An infrastructure report is provided in support of this application and is **attached**. The proposed roads have been designed to seamlessly connect with the existing road network and provides a legible layout. The new public internal roads will be 16m to 18m wide and will have a design speed limit of 30km/h. It is also proposed to upgrade and rebuild the existing Totara and McKean Roads where adjacent to the site in accordance with Auckland Transport Standards. McKean Road would be upgraded to have two traffic lanes, kerbs and pedestrian footpath, and Totara Road would be upgraded to two traffic lanes, a central flush median, kerbs, cycleway, and pedestrian footpaths along the frontage of the site. It is also anticipated that additional bus stops will be added as part of the upgrades. The proposed stormwater network has been designed to manage discharge flows from the site in accordance with SMAF 1 requirements. In light of this, any effects on the downstream network are considered to be minimal. The proposal will be sufficiently serviced for wastewater via a public gravity network to the proposed Whenuapai Green Pumping Station and the new public reticulated wastewater network will be designed to Watercare Standards and vested in Council. Watermains will be extended to service the site for potable water and if any capacity works are still required at the time of development, it will be undertaken by the applicant. The site can be serviced for power and telecommunications utilities.

Geotechnical/stability

The applicant has had preliminary geotechnical investigations completed for the land, undertaken by GMW Geosciences (**attached**). The investigation covered all of the land and site investigations included drilling boreholes to confirm soil strength and composition, and to determine groundwater depths. On the basis of the investigation, it was found that the geotechnical nature of the site is generally suitable for future residential subdivision. No indication of significant or extensive deposits of soft or sensitive soils that could be expected to significantly impact on earthworks, civil works or future building development were discovered as part of the investigation. The stability analysis of the site did find that the coastal bank has stability factors of safety less than what is required by Auckland Council for residential subdivisions and a 10m development setback is recommended. The proposed 20m esplanade reserve ensures development is avoided in this area. Groundwater was encountered at a 1m depth but typically, groundwater across the site was at depths greater than 2m. As a result of the boreholes completed, the majority of the site was found suitable for standard earthwork operations and practices.

Soil contamination

Site investigations were undertaken by Geosciences Limited to ascertain whether there is, or is likely to be, any contaminated soil on the site. The site investigation is **attached** and includes a review of historical aerial photographs, soil sampling and laboratory analysis. The provided Due Diligence Investigation for potential contamination of the site concluded that whilst additional detailed investigation will likely be required to satisfy the NES-SC, particularly in relation to the potential sources of contamination identified, it is generally considered that areas of surface soil investigated within the report do not show any significant defined impacts from current or historic horticultural land use, and with the exception of sample 4 (where a concentration of arsenic in excess of the expected background concentrations for non-volcanic soils of the Auckland Region was found), are generally consistent with the MfE definition of clean fill. Based on this, further investigations will be conducted but the investigation found that the

areas of soils investigation generally do not show any significant defined impacts from current or historic horticultural land use.

Construction noise and nuisance

There will inevitably be some aspects of the construction process that create a level of disturbance for residents living on properties around the site. These effects may include construction noise, dust, heavy vehicle traffic and contractors' parking. The locations most likely to be impacted are the four adjacent dwellings situated on the immediately adjacent properties (refer to **Figure 6** below). These issues are typically addressed through management plans and practices, and by adhering to best practice standards. In respect of noise, all activities will be required to comply with the relevant AUP noise provisions and the New Zealand Standard for construction noise. Noise associated with the development works will also be temporary in nature. Conditions of any future consent will effectively manage noise and dust nuisance to reasonable levels. Individual building projects on the proposed lots would also need to comply with construction noise standards. The future development of the site may also require that a construction traffic management plan be provided. A management plan of this nature would outline measures to be followed to manage access and queuing of heavy vehicles and associated traffic, such as deliveries, to minimise the impact of construction traffic. The opportunity to impose conditions that require adherence to regulatory standards and/or management plans will ensure that any construction-related effects of the project can be appropriately mitigated.

Archaeological

The applicant has engaged Clough and Associates Limited to undertake an archaeological assessment of the site. A copy of the report is **attached**. The report concluded that the proposed development would have no known effects on archaeological values, due to no archaeological sites being identified within the site area. The assessment does note that there is some potential for unidentified subsurface remains to be exposed during development, however, due to previous impacts of land clearance, gum digging and farming, anything uncovered during development are unlikely to be extensive. However, the report recommends that an authority be applied for under the Heritage New Zealand Pouhere Taonga Act 2014 to avoid delays if archaeological remains are discovered during the site works, or works will be required to cease under the accidental discovery protocol of the AUP. Therefore, it is considered that the proposed development will have no adverse effects on archaeological values or remains considering the above recommendations.

Noise

Acoustic monitoring and assessment have been conducted by Marshall Day Acoustics for the site. The summary report for the Whenuapai Engine Testing Noise Monitoring and an acoustic memo for the proposal are **attached**. The Whenuapai Engine Testing monitoring report summarised the findings over a 10-month period (February to December 2020) and was conducted to establish the actual noise levels from aircraft engine testing activities at the airbase for two sites, site 1 being 68 Totara Road. Whilst 68 Totara Road is not the development site, it is located across the road from the development site and is closer to the NZDF base. Therefore, it is considered to reflect noise levels that are representative of the development site. The data obtained for this report is considered to represent the most extensive monitoring results of engine testing noise for the Whenuapai Airbase and provides a true record of actual noise emissions, testing times and durations over a ten-month period. In regard to the application site, the following key findings were found as a result of the 10-month testing period:

169 days with engine testing (53%)

149 days with no engine testing (47%)

78% of Saturdays with no engine testing

74% of Sundays with no engine testing

Engine testing noise was generally found to be highly variable over the site. In addition, where the 7-day average noise level from engine testing is high, this tends to be controlled by a single busy day of engine testing. To summarise, the report found that engine testing noise for 92% of the monitoring time period for the site were under 55dB and that the 7-day Ldn did not exceed 65dB and was below 60dB for 91% of weeks. The report also recognises that there are many periods of respite, particularly during weekends and public holidays, from the engine testing noise which is beneficial for residential amenity. The night-time and indoor noise effects can be mitigated by acoustically insulated buildings and provisions of ventilation and cooling/heating to retain a sufficient level of comfort for residents. The report concludes that whilst it is acknowledged that the site will be exposed to high noise-levels from engine testing from time to time, overall, the noise exposure levels are generally suitable for residential activity. Therefore, it is

considered that any adverse effects from engine testing noise levels can be sufficiently mitigated and managed to ensure a sufficient level of residential amenity is retained for the proposed development. Furthermore, the additional memo prepared by Marshall Day Acoustics (**attached**) found that based off the engine testing contours provided for Plan Change 5 (now withdrawn), that all-new dwellings within the 57-65dB area are likely to meet the acoustic standards with typical building construction and mechanical ventilation. This is considered to be in keeping with the findings of the monitoring report and further shows that any adverse noise effects can be appropriately managed to retain a sufficient level of residential amenity. It is considered that the opportunity to implement consent conditions, in combination with the above findings, will ensure that any adverse noise effects can be effectively managed and mitigated to retain a sufficient level of residential amenity for the site.

Effects on Māori cultural values

As noted earlier, the applicant has engaged with Mana Whenua. No response has yet been received but the applicant will continue with on-going engagement and work collaboratively to ensure any adverse Māori cultural effects arising from the proposed development are appropriately mitigated.

Part VIII: National policy statements and national environmental standards

General assessment of the project in relation to any relevant national policy statement (including the New Zealand Coastal Policy Statement) and national environmental standard:

National Policy Statement for Freshwater Management 2020 (NPS-FM) and Resource Management (National Environmental Standards for Freshwater) Regulations 2020 (NES-F)

The Bioresarches stream classification survey identified the presence of two natural wetlands (as defined in the RMA and NPS-FM) on the site. One located along the site's coastline (western boundary) and the other towards the north-eastern area of the site.

The proposed development has been designed to minimise the impact on to the identified wetlands and streams on the site as much as practically possible. This approach is consistent with the 'effects management hierarchy' from the NPS-FM, which is copied below:

in relation to natural inland wetlands and rivers, means an approach to managing the adverse effects of an activity on the extent or values of a wetland or river (including cumulative effects and loss of potential value) that requires that:

- (a) adverse effects are avoided where practicable; and*
- (b) where adverse effects cannot be avoided, they are minimised where practicable; and*
- € where adverse effects cannot be minimised, they are remedied where practicable; and*
- (d) where more than minor residual adverse effects cannot be avoided, minimised, or remedied, aquatic offsetting is provided where possible; and*
- an€(e) if aquatic offsetting of more than minor residual adverse effects is not possible, aquatic compensation is provided; and*
- (f) if aquatic compensation is not appropriate, the activity itself is avoided*

In regard to this application, any adverse effects arising from the reclamation of a portion of the stream and construction of specified infrastructure within proximity to the wetlands have been shown to be sufficiently mitigated through the extensive planting proposed, creation of an esplanade reserve and stormwater flows being managed to be consistent with that of pre-development flows to minimise the impact on the wetlands. All other works have been avoided within 10m of the wetlands. The reclamation of the stream is also for a functional need, being the creation of a safe road intersection, and can be appropriately mitigated and offset under the NPS-FM and the RMA to further minimise adverse ecological effects.

It is therefore considered that the proposed development is consistent with the policy direction of the NPS-FM.

National Policy Statement on Urban Development 2020 (NPSUD)

The recently released NPSUD applies to planning decisions by any local authority that affect an urban environment. The NPSUD represents a significant change to national planning policy and affects all district plans for growth areas and all decisions made by planning authorities in those areas. Section 75(3)(a) of the RMA states that district plans must give effect to a national policy statement, and s104(1)(b)(iii) states that a consent authority must have regard to any relevant provisions of a national policy statement when considering an application for resource consent.

Objective 2 of NPSUD seeks that planning decisions improve housing affordability by supporting competitive land and development markets. Objective 6 seeks that planning decisions on urban development are (amongst other things) responsive, particularly in relation to proposals that would supply significant development capacity.

Policy 6 seeks that decision makers should have particular regard to any relevant contribution that will be made to meeting the requirements of the NPSUD to provide or realise development capacity. That policy also makes it clear that significant changes to planned urban built form are likely to arise in order to give effect to the NPSUD and that such changes may detract from amenity values but are not of themselves an adverse effect.

Although the applicant's development proposal is worthy of consent on its merits under the existing AUP policy framework and is consistent with the Auckland Council's overall intentions for the land under the FULSS and Whenuapai Structure Plan, it is nonetheless clear that the NPSUD requires a 'step change' in planning for urban areas that are experiencing rapid growth. The Auckland region is experiencing significant pressure in terms of addressing housing demand. The proposal will make a valuable contribution to the provision of more housing in this respect.

These outcomes are consistent with the NPSUD and can occur without giving rise to any appreciable adverse effects, particularly as they are aligned with the Council's development intentions for the Whenuapai area.

Part IX: Purpose of the Act

Your application must be supported by an explanation how the project will help achieve the purpose of the Act, that is to "urgently promote employment to support New Zealand's recovery from the economic and social impacts of COVID-19 and to support the certainty of ongoing investment across New Zealand, while continuing to promote the sustainable management of natural and physical resources".

In considering whether the project will help to achieve the purpose of the Act, the Minister may have regard to the specific matters referred to below, and any other matter that the Minister considers relevant.

Project's economic benefits and costs for people or industries affected by COVID-19:

It is considered that the project will give effect to the purpose of the COVID-19 Recovery (Fast-track Consenting) Act 2020 and provide significant public benefits in respect of employment, economic development, and provision of business land and housing. The economic effects and benefits of the proposal are set out in the **attached** documents provided by the applicant.

The economic assessment report identifies that the project will deliver a total of 1961 FTE jobs over the proposed development period.

The civil contract work and infrastructure provision will be undertaken by specialist contractors for earthworks, civil engineering, and landscaping together with those parties providing specialist services to the subdivision including communications and power supply.

The site is within close proximity to the proposed Whenuapai Green (Covid-19 Recovery (Fast-track Consenting) Referred Projects Order 2020 (Schedule 53)) development and will utilise infrastructure services proposed under this development. This is considered to be an efficient use of already planned infrastructure and will provide sufficient servicing for the proposed development, whilst minimising additional works that may otherwise have been required. It is also considered that the proposed development contributes to a well-functioning urban environment, as it provides additional housing in an area of significant projected population growth. The provision of housing will provide for people's economic and social benefits, with the proposed esplanade reserve and extensive planting providing for environmental benefits.

Although vehicle movements associated with the project will generate greenhouse gas emissions, these would arise wherever residential land uses were to occur. However, the proposed location of the site is such that greenhouse gas emissions are likely to be less than would arise in most alternative locations due to the close proximity to public transport and local amenities.

Significantly, the project would progress considerably faster by using the processes provided by the Act than would otherwise be the case. The timeframe would also be more certain. The processes enabled by the COVID-19 Recovery (Fast-track Consenting) Act 2020 would facilitate works for proposal commencing on the site in early/mid-2024 and provides greater certainty around the timing. A detailed summary of time saved is also **attached**.

Project's effects on the social and cultural wellbeing of current and future generations:

See above.

Whether the project would be likely to progress faster by using the processes provided by the Act than would otherwise be the case:

See above.

Whether the project may result in a 'public benefit':

Examples of a public benefit as included in Section 19(d) of the Act are included below as prompts only.

Employment/job creation:

See above.

Housing supply:

See above.

Contributing to well-functioning urban environments:

See above.

Providing infrastructure to improve economic, employment, and environmental outcomes, and increase productivity:

See above.

Improving environmental outcomes for coastal or freshwater quality, air quality, or indigenous biodiversity:

See above.

Minimising waste:

See above.

Contributing to New Zealand's efforts to mitigate climate change and transition more quickly to a low-emissions economy (in terms of reducing New Zealand's net emissions of greenhouse gases):

See above.

Promoting the protection of historic heritage:

See above.

Strengthening environmental, economic, and social resilience, in terms of managing the risks from natural hazards and the effects of climate change:

See above.

Other public benefit:

See above.

Whether there is potential for the project to have significant adverse environmental effects:

There is no potential for the project to have significant adverse environmental effects.

Part X: Climate change and natural hazards

Description of whether and how the project would be affected by climate change and natural hazards:

Climate change does not raise any particular concerns or threats to the project or the site, beyond those that apply to all land. The site is subject to some natural hazards, in the form of overland flow paths and a few areas of the land that fall within the 1% AEP flood plain. These natural hazards are generally to be contained within areas set aside as riparian margins, esplanade reserve or future roads. Where that is not the case, the hazards can be appropriately managed by engineering solutions such as ground recontouring and drainage works.

Part XI: Track record

A summary of all compliance and/or enforcement actions taken against the applicant by a local authority under the Resource Management Act 1991, and the outcome of those actions:

| Local authority | Compliance/Enforcement Action and Outcome |
|------------------|--|
| Auckland Council | The Neil Group and its associated entities have been involved in land development in the Auckland region for over 60 years. In the last five years, Neil Group has had only one compliance or enforcement action initiated against it by a local authority under the Resource Management Act 1991. This involved an abatement notice. The minor issue, which related to problems with the installation of erosion and sediment controls, was immediately dealt with to the satisfaction of Auckland council. |

Part XII: Declaration

I acknowledge that a summary of this application will be made publicly available on the Ministry for the Environment website and that the full application will be released if requested.

By typing your name in the field below you are electronically signing this application form and certifying the information given in this application is true and correct.

Philip Brown

16/11/2022

Signature of person or entity making the request

Date

Important notes:

- Please note that this application form, including your name and contact details and all supporting documents, submitted to the Minister for the Environment and/or Minister of Conservation and the Ministry for the Environment, will be publicly released. Please clearly highlight any content on this application form and in supporting documents that is commercially or otherwise sensitive in nature, and to which you specifically object to the release.
- Please ensure all sections, where relevant, of the application form are completed as failure to provide the required details may result in your application being declined.
- Further information may be requested at any time before a decision is made on the application.
- Please note that if the Minister for the Environment and/or Minister of Conservation accepts your application for referral to an expert consenting panel, you will then need to lodge a consent application and/or notice of requirement for a designation (or to alter a designation) in the approved form with

the Environmental Protection Authority. The application will need to contain the information set out in Schedule 6, clauses 9-13 of the Act.

- Information presented to the Minister for the Environment and/or Minister of Conservation and shared with other Ministers, local authorities and the Environmental Protection Authority under the Act (including officials at government departments and agencies) is subject to disclosure under the Official Information Act 1982 (OIA) or the Local Government Official Information and Meetings Act 1987 (LGOIMA). Certain information may be withheld in accordance with the grounds for withholding information under the OIA and LGOIMA although the grounds for withholding must always be balanced against considerations of public interest that may justify release. Although the Ministry for the Environment does not give any guarantees as to whether information can be withheld under the OIA, it may be helpful to discuss OIA issues with the Ministry for the Environment in advance if information provided with an application is commercially sensitive or release would, for instance, disclose a trade secret or other confidential information. Further information on the OIA and LGOIMA is available at www.ombudsman.parliament.nz.

Checklist

Where relevant to your application, please provide a copy of the following information.

| | |
|-----|--|
| Yes | Correspondence from the registered legal land owner(s) |
| Yes | Correspondence from persons or parties you consider are likely to be affected by the project |
| No | Written agreement from the relevant landowner where the project includes an activity that will occur on land returned under a Treaty settlement. |
| No | Written agreement from the holder of the relevant customary marine title order where the project includes an activity that will occur in a customary marine title area. |
| No | Written agreement from the holder of the relevant protected customary marine rights recognition order where the project includes an activity that will occur in a protected customary rights area. |