

## APPLICATION FOR A PROJECT TO BE REFERRED TO AN EXPERT CONSENTING PANEL

### Part I: Applicant

#### Applicant details

Neil Construction Limited  
PO Box 8751  
Symonds Street  
Auckland 1150

Attention: Trevor Canty  
Senior Development Manager  
s 9(2)(a)  
s 9(2)(a)

#### Address for service

Campbell Brown Planning Limited  
PO Box 147001  
Ponsonby  
Auckland 1144

Attention: Philip Brown  
Director  
s 9(2)(a)  
s 9(2)(a)

### Part II: Project Location

#### Site Address/Location

- 69-71 Trig Road, 151 and 155-157 Brigham Creek Road, Whenuapai, Auckland



Figure 1: Aerial photo of site at 69-71 Trig Road, 151 and 155-157 Brigham Creek Road, Whenuapai, Auckland



Figure 2: Proposed scheme plan of subdivision

#### Legal Description:

The site is comprised of four separate titles, as follows:

Street Address	Legal Description	Area	Registered Owner
69 Trig Road, Whenuapai	Lot 3 DP 101583 and ½ share Lot 5 DP 101583 (NA55D/1228)	5.7170ha	Neil Construction Limited
71 Trig Road, Whenuapai	Lot 2 DP 101583 and Lot 2 DP 117365 and ½ share Lot 5 DP 101583 (NA66D/175)	6.9775ha	s 9(2)(a)
Access Lot	Lot 5 DP 101583	0.4485ha	½ shares for above owners of 69 and 71 Trig Road
151 Brigham Creek Road, Whenuapai	Lot 4 DP 101583 (NA55D/1229)	6.1270ha	Neil Construction Limited
155-157 Brigham Creek Road, Whenuapai	Lot 2 DP 334953 (Identifier 143112)	3.6224ha	Neil Construction Limited
<b>Total area</b>		<b>22.8924ha</b>	

Copies of the Records of Title are **attached**. There are several interests noted on the titles, although none of these are likely to impact on the applicant's ability to develop the land. One such interest relates to 155-157 Brigham Creek Road and is in favour of Spark New Zealand Trading Limited as the owner of the adjacent property at 153 Brigham Creek Road. NCL is currently seeking to have the interest removed from the title and has sought legal advice in relation to this matter (refer **attached** letter from Glaister Ennor). NCL's legal advice is that the covenant on the title is likely to be able to be removed.

#### Applicant's legal interest in site

- *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 applicant, Neil Construction Limited ('NCL'), proposes to develop the property for an industrial and residential subdivision. NCL either owns each title that makes up the land or has an unconditional agreement to purchase. NCL will bring its considerable development experience to the development 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. NCL's purchase of the land was properly authorised through the Overseas Investment Office.

## Part III: Project Details

### Project Name

Whenuapai Business Park

### Project Summary

- 2-3 lines

It is proposed to subdivide a 22.8924ha site to accommodate 21 industrial lots and two residential superlots and two smaller residential lots, together with public roads and pedestrian accessways to vest. A stream crossing would be constructed to accommodate the main public road, and riparian margins would be set aside and planted. One large industrial lot (Lot 20) is proposed to accommodate a substantial industrial building for a particular end user that requires a large and level site.

This proposal seeks consent for Lots 1-21 to be used for any permitted activities listed in the Auckland Unitary Plan ('AUP') Light Industry Zone Activity Table H17.4.1, and for any buildings to be constructed on the industrial lots that meet identified bulk and location standards of the Auckland Unitary Plan's Light Industry Zone. Consent is also sought for residential development on the residential superlots (Lots 200 and 300) and the two smaller residential lots (Lots 400 and 401) that meet identified bulk and location standards from the AUP's Single House Zone.

### 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.*
- *Where applicable, describe the staging of the project, including the nature and timing of the staging*

It is proposed to subdivide a 22.8924ha site to accommodate 21 industrial lots, two residential superlots and two smaller residential lots, together with public roads and pedestrian accessways to vest. A stream crossing would be constructed to accommodate the main public road, and riparian margins would be set aside and planted. One large industrial lot (Lot 20) is proposed to accommodate a substantial industrial building for a particular end user that requires a large level site.

This proposal seeks consent for Lots 1-21 to be used for any permitted activities listed in the AUP's Light Industry Zone Activity Table H17.4.1, and for any buildings to be constructed on the industrial lots that meet the following development standards of the AUP's Light Industry Zone:

- H17.6.1 – Building height
- H17.6.2 – Height in relation to boundary
- H17.6.3 – Maximum impervious area within riparian yard
- H17.6.4 – Yards



- H17.6.5 – Storage and screening

The proposal seeks consent for residential uses on superlots 200 and 300 and smaller residential lots 400 and 401 that are permitted activities in AUP Single House Zone Activity Table H5.4.1, and that meet the following development standards:

- H3.6.6 - Building height
- H3.6.7 - Height in relation to boundary
- H3.6.8 - Yards
- H3.6.9 - Maximum impervious area
- H3.6.10 - Building coverage
- H3.6.11 - Landscaped area
- H3.6.12 - Front, side and rear fences and walls

In addition, the applicant offers a condition of consent that would require acoustic treatment for any activities sensitive to aircraft noise that would be located wholly or partially within the 57dB L<sub>dn</sub> engine testing noise contour shown on Auckland Council's proposed Variation 1 Precinct Plan 3.

The lot sizes and proposed uses within the proposed subdivision are set out in the table below:

Lot Number	Area	Proposed Use
1	3,159m <sup>2</sup>	Industrial
2	2,989m <sup>2</sup>	Industrial
3	2,990m <sup>2</sup>	Industrial
4	2,990m <sup>2</sup>	Industrial
5	2,990m <sup>2</sup>	Industrial
6	2,990m <sup>2</sup>	Industrial
7	5,970m <sup>2</sup>	Industrial
8	4,888m <sup>2</sup>	Industrial
9	3,184m <sup>2</sup>	Industrial
10	2,800m <sup>2</sup>	Industrial
11	4,549m <sup>2</sup>	Industrial
12	5,023m <sup>2</sup>	Industrial
13	3,501m <sup>2</sup>	Industrial
14	3,501m <sup>2</sup>	Industrial
15	4,021m <sup>2</sup>	Industrial
16	3,409m <sup>2</sup>	Industrial
17	3,360m <sup>2</sup>	Industrial
18	10,208m <sup>2</sup>	Industrial
19	14,254m <sup>2</sup>	Industrial
20	73,933m <sup>2</sup>	Industrial
21	5,505m <sup>2</sup>	Industrial
200	13,758m <sup>2</sup>	Residential
300	14,604m <sup>2</sup>	Residential
400	1,187m <sup>2</sup>	Residential
401	1,102m <sup>2</sup>	Residential

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

The civil works associated with the project will be undertaken in a single stage. Bulk earthworks have been completed (or are close to completion) across most of the site as a result of earthworks consents obtained from the Council. The earthworks will need to be extended to allow for trimming of roads and building platforms, installation of retaining and the new bridge structure, and installation of public infrastructure. Civil construction will commence in late 2022 and be completed in 2023. Construction of buildings will commence in 2023 and it is expected that the development will be built out by 2026 (depending on demand from purchasers).

Reticulated services will be provided to each lot, including wastewater, stormwater, and potable water. A preliminary infrastructure assessment has confirmed that there is sufficient capacity in the existing piped network to accommodate wastewater flows from the site. Stormwater would be disposed of to the watercourses that exist on the site, following stormwater detention and quality treatment through stormwater devices including raingardens and proprietary filters. A discharge permit will be required for the disposal of stormwater into the stream network.

#### Consents/Approvals Required

- *Relevant local authority and type of consent Land-use consent (Water permit, Subdivision consent, Discharge permit, Coastal permit, Designation, Alteration to designation)*

The proposal requires the following types of resource consent:

- Land use consent
- Discharge permit
- Subdivision consent

The relevant local authority is Auckland Council.

#### Relevant zoning, overlays and other features

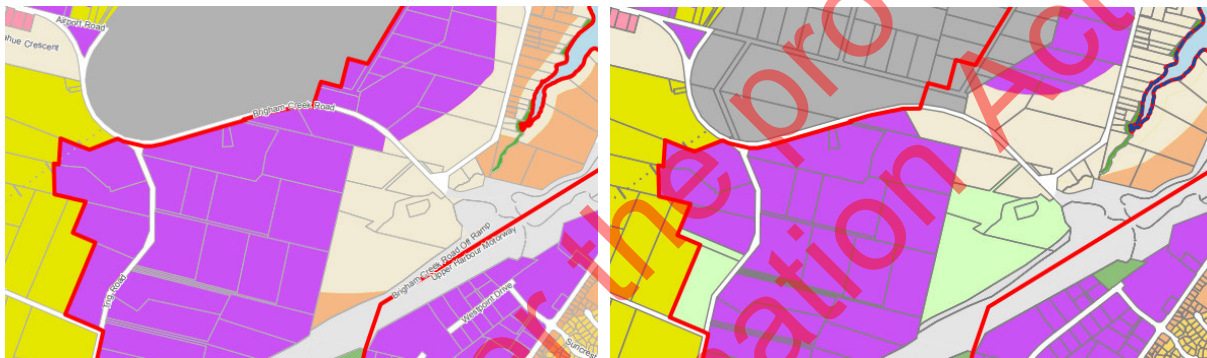
- *Please provide details of the zoning, overlays and other features identified in the relevant plan(s) that relate to the project location*

#### Auckland Unitary Plan, Operative in Part ('AUP')

- The land falls within the Future Urban Zone under the AUP;
- The land is subject to a High-Use Aquifer Management Areas Overlay - Kumeu Waitemata Aquifer;
- The land subject to an Aircraft Noise Overlay - Whenuapai Airbase - noise control area (55dBA);
- 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.

None of the controls, overlays, or the designation, would impose any significant constraint on the use of the land for the proposed purpose.

The land is also subject to proposed Plan Change 5 ('PC5'), which has been promulgated by Auckland Council to rezone the land primarily to Light Industry Zone. PC5 has been publicly notified and a hearing has commenced but been adjourned. PC5 does not have legal effect at the current time as decisions on submissions have yet to be made. Auckland Council intends to publicly notify a variation to PC5 (Variation 1) that would amend the proposed zoning on 155-157 Brigham Creek Road, amend the indicative roading shown on the land, and reducing the extent of the NZDF airbase engine testing noise contours that affect the land. At this stage, it is expected that Variation 1 would be notified before the end of 2021, with hearings for both PC5 and the variation to it anticipated around the middle of 2022. The relevant plans from PC5 and the proposed variation are below in **Figures 3-6**.



**Figure 3:** Part of zoning map from PC5 (left) and proposed amended map from Variation 1 (right)



**Figure 4:** Part of Precinct Plan 1 showing permanent streams in dark blue and intermittent streams in light blue from PC5 (left) and proposed amended map from Variation 1 (right). No change is proposed for the land



**Figure 5:** Part of Precinct Plan 2 showing location of indicative collector roads in purple and new intersections as a black dot from PC5 (left) and proposed amended map from Variation 1 (right)



**Figure 6:** Part of Precinct Plan 3 showing 57dB and 65dB engine testing noise contours from PC5 (left) and proposed amended map from Variation 1 (right)

It is considered that the project is consistent with PC5 and, more particularly, proposed Variation 1 to the plan change. Proposed Variation 1 represents Auckland Council's current position as to the appropriate nature and form of development that will occur with the PC5 area.

The proposed subdivision allocates land uses in accordance with the zone boundaries that are proposed in Variation 1, and adopts the Single House zone that is proposed for the residential part of the site (refer Figure 3).

The proposed scheme plan includes identification of riparian yards for the full extent of permanent streams shown on Precinct Plan 1 (Figure 4) and the applicant confirms that these will be planted in accordance with PC5 standards. The proposed scheme plan of subdivision also adheres closely to the indicative road layout that is contained in Variation 1, and provides all of the connections shown on Precinct Plan 2 and the signalised intersection at Brigham Creek Road (refer Figure 5). The applicant offers a condition of consent that will require acoustic insulation for all dwellings within the Single House zone, in accordance with the engine testing noise contours illustrated on Precinct Plan 3 (refer Figure 6).

Rule(s) consent is required under and activity status

- Please provide details of all rules consent is required under (Relevant plan / standard, Relevant rule / regulation, Reason for consent, Activity status, Location of proposed activity)



The following table summarises the AUP rules and standards that consent is required under. It is possible that there may be other small infringements that arise as the project is refined through the process, although it is considered that the summary below captures all the significant consenting matters.

H18. Future Urban Zone		
Rule	Reason	Activity Status
H18.4.1	Activity Table	
(A2)	New buildings, building additions and accessory buildings. The same activity status and standards as applies to the land use activity that the new building, building addition or accessory building is designed to accommodate.	
(A28)	Dwellings that do not comply with Standard H18.6.8	<b>Non-complying Activity</b>
H18.6.8	Dwellings (1) <i>A proposed dwelling must not be located on a closed road or road severance allotment.</i> (2) <i>No more than one dwelling is permitted on any site.</i>	<b>Infringement</b>
C1.7(1)	Industrial use – any activity that is not specifically classed in the activity table is a discretionary activity	<b>Discretionary Activity</b>
C1.9(2)	Infringement to Standards	<b>Restricted Discretionary Activity</b>
H.18.6.2	Maximum Building Height Dwellings – 9m Maximum Building Height (other accessory buildings) – 15m	<b>Permitted</b>
H.18.6.3.1	Yards 10m Front Yard; 6m Side and Rear Yards for dwellings; 20m from the edge of permanent and intermittent streams.	<b>Permitted</b>

Overlay Rules		
Rule	Reason	Activity Status
D24 Aircraft Noise Overlay	D24.4.1 Activity Table  Development between the 55dB L <sub>dn</sub> and 65dB L <sub>dn</sub> noise boundaries	

Overlay Rules		
Rule	Reason	Activity Status
	(A1) New activities sensitive to aircraft noise.	<b>Restricted Discretionary Activity</b>

Auckland – wide Rules		
Rule	Reason	Activity Status
E8 Stormwater – Discharge and Diversion	<p>E8.4.1 Activity Table</p> <p>Diversion and discharge of stormwater runoff from impervious areas involving a stormwater network onto land or into water or to the coastal marine area pursuant to sections 14 and 15 of the Resource Management Act 1991</p> <p>(A11) Diversion and discharge of stormwater runoff from an existing or a new stormwater network.</p>	<b>Discretionary Activity</b>
E11 Land Disturbance – Regional	<p>E11.4.1 Activity Table (Future Urban Zone)</p> <p>(A5) Greater than 50,000m<sup>2</sup> where land has a slope less than 10 degrees outside the Sediment Control Protection Area.</p> <p>(A8) Greater than 2,500m<sup>2</sup> where the land has a slope equal to or greater than 10 degrees.</p> <p>(A9) Greater than 2,500m<sup>2</sup> within the Sediment Control Protection Area</p>	<p><b>Restricted Discretionary Activity</b></p> <p>Earthworks across the 22.8924ha site.</p>
E12 Land Disturbance – District	<p>E12.4.1 Activity Table (Future Urban Zone)</p> <p>(A6) Earthworks greater than 2,500m<sup>2</sup></p> <p>(A10) Earthworks greater than 2500m<sup>3</sup></p>	<p><b>Restricted Discretionary Activity</b></p> <p>Earthworks across the 22.8924ha site.</p>
E15 Vegetation Management	<p>E15.4.1 Auckland-wide vegetation and biodiversity management rules.</p> <p>(A19) Vegetation alteration or removal within 10m of urban streams.</p>	<p><b>Restricted Discretionary Activity</b></p> <p>Removal of weed species prior to replanting.</p>
E36 Natural Hazards and Flooding	<p>E36.4.1 Activity Table</p> <p>Activities in overland flow paths</p>	

Auckland – wide Rules		
Rule	Reason	Activity Status
	(A41) Diverting the entry or exit point, piping or reducing the capacity of any part of an overland flow path.	<b>Restricted Discretionary Activity</b>
	(A42) Any buildings or other structures, including retaining walls (but excluding permitted fences and walls) located within or over an overland flow path.	<b>Restricted Discretionary Activity</b>
E36 Natural Hazards and Flooding	E36.4.1 Activity Table  Activities in the 1 per cent annual exceedance probability (AEP) floodplain.  (A37) All other new structures and buildings (and external alterations to existing buildings) within the 1 per cent annual exceedance probability (AEP) floodplain	<b>Restricted Discretionary Activity</b>
E39. Subdivision - Rural	Activity Table E38.4.1 Subdivision for specified purposes  (A8) Subdivision of land within any of the following natural hazard areas: • 1 per cent annual exceedance probability floodplain	<b>Restricted Discretionary Activity</b>
	Table E39.4.3 Activity table - Subdivision in Future Urban Zone  (A28) Subdivision for open spaces, reserves or road realignment.  (A29) Any other subdivision not provided for in Table E39.4.1 or E39.4.3	<b>Discretionary Activity</b>  <b>Non-Complying Activity</b>

As a non-complying activity, consideration will need to be given to the gateway test contained in s104D RMA. In order for an application to pass the gateway test, a consent authority must be satisfied that the adverse effects of the activity on the environment will be minor or the activity will not be contrary to the objectives and policies of both a district plan and a proposed district plan (if both exist, as in this case, with the proposed district plan being PC5). Only one limb of the test needs to be met to provide jurisdiction to grant an application for a non-complying activity.

It is considered that the effects of the proposal are no more than minor, for the reasons set out in the assessment of effects that accompanies this request for referral. The land has been identified for urban development and the nature of development proposed will not create any significant adverse effects. The development, being industrial premises and housing, is of a nature found throughout urban areas without any obvious adverse effects.

It is also considered that the proposal is entirely consistent with the objectives and policies of PC5, as it seeks to enable urban development that aligns with that sought through the proposed plan change. The position is less clear with regard to the operative district plan. While the AUP identifies the land as Future Urban zone and the proposal seeks to give effect to urban development, the objectives of the Future Urban zone state (among other things) that future urban development is not compromised by premature subdivision, use or development and urbanisation on sites zoned Future Urban Zone is avoided until the sites have been rezoned for urban purposes. It is considered that the proposal will not compromise future development because it is consistent with what is intended for the land (as set out in PC5). However, the proposal does not avoid urbanisation until rezoning has occurred.

For the purposes of s104D, it is not necessary to resolve the question as to whether the proposal is contrary to the objectives and policies of the operative district plan. Only one of the two limbs of s104D must be passed for an application to be eligible to be considered on its merits in accordance with the matters set out in s104. In this instance it is considered that the effects of the proposal on the environment are clearly no more than minor, therefore jurisdiction to grant consent is established.

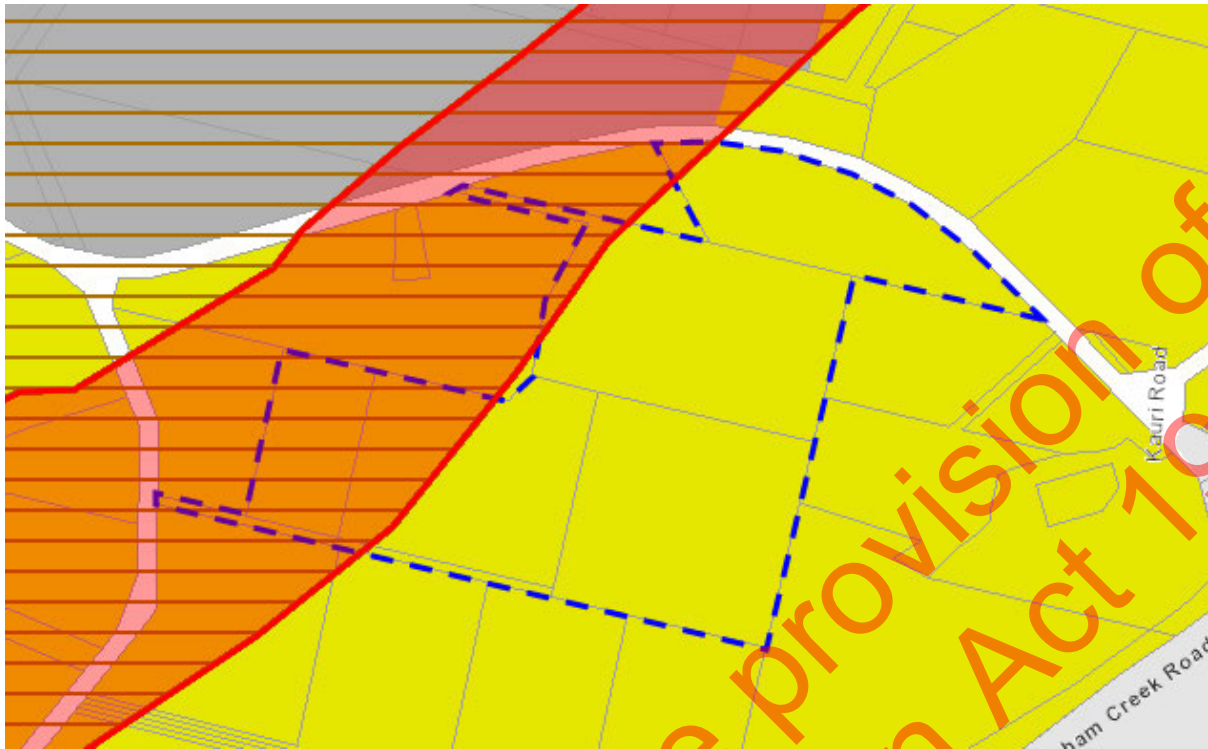
A number of the overlays, controls and designations under the AUP impose no significant constraints, as discussed below.

No water take is proposed from the Kumeu Waitemata Aquifer, that is managed through the High-Use Aquifer Management Areas Overlay.

The western flank of the land is subject to an Aircraft Noise Overlay - Whenuapai Airbase - noise control area (55dBA), as illustrated in **Figure 7**. The Overlay requires resource consent for activities sensitive to aircraft noise. The nature of the proposal is such that the Overlay will only be relevant to residential activities, and will impose no constraints on industrial activities on Lots 1-21.

Furthermore, only a small northwest corner of 155-157 Brigham Creek Road will be subject to the Overlay and acoustic insulation is proposed to apply to any activities sensitive to noise across the land as a whole.





**Figure 7:** Aircraft Noise Overlay shown (red) shown relative to site boundaries

It is considered that consent is required under the Resource Management (National Environmental Standards for Freshwater) Regulations 2020 ('NES-F'), as works would be required within specified distances of a natural wetland on the site. The wetland exists under the road bridge proposed in 155-157 Brigham Creek Road. While the wetland is to remain unaltered and intact, consent is required for the following reason:

Reference	Requirement	Reason	Activity Status
Clause 45	Vegetation removal, earthworks or land disturbance within 10m of a natural wetland for the purpose of constructing specified infrastructure	Weed removal and earthworks would be required outside the wetland but within 10m of it, for the purpose of constructing the proposed bridge and new road (which is classified as 'specified infrastructure')	Discretionary

It is noted that the discharge of water within, or within a 100m setback from, a natural wetland for the purpose of maintaining or operating specified infrastructure is a permitted activity under Clause 46.

The Ministry for the Environment has recently released some further guidance to assist in interpretation related to the protection of wetlands under the NES-F. This guidance has been reviewed and does not alter the regulatory approach in relation to the existing natural wetlands on the site.

Consent will be required as a controlled activity under Regulation 9 of the Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011 ('NES-SC') due to soil disturbance. Consent is not required under the rules and standards of AUP Chapter E30.

The entire site and the surrounding Whenuapai area sit beneath the Airspace Restriction Designation - protection of approach and departure paths (Whenuapai Air Base). However, the designation does not impose any restrictions on uses of land as none of the proposed uses will be of a height that impacts on the airbase approach and departure paths.

#### Previous resource consent or notice of requirement applications

- *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*

The bulk earthworks component of this project has been, or is in the process of being, consented by Auckland Council.

Auckland Council has granted resource consent LUC60350837, which provides for bulk earthworks over 69 Trig Road, 151 Brigham Creek Road, and 155-157 Brigham Creek Road. Those earthworks are currently being undertaken on the land.

An application has also been made for bulk earthworks on 71 Trig Road, as this property was acquired later than the other sites. That application is currently processing and consent is expected in the near future. The Auckland Council reference number is LUC60376543.

#### Consents / designations by other parties

- *Resource consent(s) / Designation required for the projects 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

- *Provide details of other legal authorisations (other than contractual) required to begin the project (e.g. 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 undertake road upgrading works within the legal road reserve, including formation of the new intersection on Brigham Creek Road. 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

- *Please provide a high-level timeline outlining key milestones, e.g., detailed design, procurement, funding, site works commencement and completion. If the resource consents(s) are granted, and/or notice of requirement is confirmed, detail when you anticipate construction activities will begin, and be completed.*

The applicant anticipates that the remaining bulk earthworks will commence in late 2021 under Auckland Council consents. The civil works associated with the project will be undertaken in a single stage, and will include additional earthworks to allow for trimming of roads and building platforms, installation of retaining and the new bridge structure, and installation of public infrastructure. Civil construction will commence in late 2022 and be completed in 2023. Construction of buildings will commence in 2023 and it is expected that the development will be built out by 2026 (depending on demand from purchasers).

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 not held discussions with staff from any government ministries or departments at this stage. It is considered that development of the land would not give rise to any matters of particular interest to government ministries or departments.

##### Local authorities

- *Detail all consultation undertaken with relevant local authorities*

The applicant has engaged with Watercare Services Limited (the CCO that manages wastewater and potable water for Auckland Council). WSL was advised of the development intentions for the site.

WSL did not raise any concerns with servicing the land for wastewater disposal and water supply, or identify any capacity issues. WSL provided advice as to the most appropriate means of connecting the land to services.

The applicant has maintained contact with the Council's Plans and Places team to stay up to date with progress relating to PC5 and Variation 1. NCL is a submitter to PC5, generally in support, so has been actively involved in the hearings and other aspects of the plan change process.

Consultation has taken place with Auckland Council, Auckland Transport and Supporting Growth Alliance to understand the Bringham Creek Road upgrading and intersection design requirements, together with other transportation requirements such as cycling and connectivity to surrounding amenities.

No additional consultation has been undertaken with the Council. 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 signalised intersection on Bringham Creek Road and any associated road upgrading. Those works go well 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. NCL would be prepared to discuss an infrastructure funding agreement with Auckland Council.

#### 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 generally to the south and west is similarly zoned but held in smaller landholdings. Most of this land is owned by prospective developers and land bankers, who are likely to have similar development aspirations to the applicant and would be expected to support accelerated development.

It is understood that a large parcel of land immediately adjacent and to the east of the site has been acquired by the Council for a recreation reserve. There is nothing inherent in the applicant's development proposal that would impact adversely on the development of that land for park and open space purposes.

Land to the north of the site, on the opposite side of Bringham Creek Road, is either owned by NCL or forms part of the NZDF airbase. 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.

#### Part V: Iwi authorities and Treaty settlements

##### Iwi authorities

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

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. Of these groups, only Te



Kawerau ā Maki has indicated an interest in what is proposed. Te Kawerau ā Maki has prepared a Cultural Impact Assessment ('CIA').

The CIA concludes that, while the proposal will result in adverse cultural effects, these are considered to be within acceptable limits provided the recommended cultural mitigation and offsets are properly implemented and monitored over time. The applicant is committed to working collaboratively with Te Kawerau ā Maki throughout the development phases of the project to consider how that mitigation can be effectively implemented. NCL is also prepared to work with any Mana Whenua groups that express an interest in the project.

#### Treaty settlement entities

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

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*

There are no Treaty Settlement Statutory Acknowledgment areas identified over this site or immediately surrounding land (refer map in **Figure 8** below). A Statutory Acknowledgement area for a number of iwi groups is in place over the upper Waitemata Harbour that surrounds Whenuapai, but does not directly apply to the land.



**Figure 8:** Treaty Settlement Statutory Acknowledgement Areas (Source: Auckland Council GIS)

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

#### Customary marine title areas

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

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

#### Protected customary rights areas

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

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

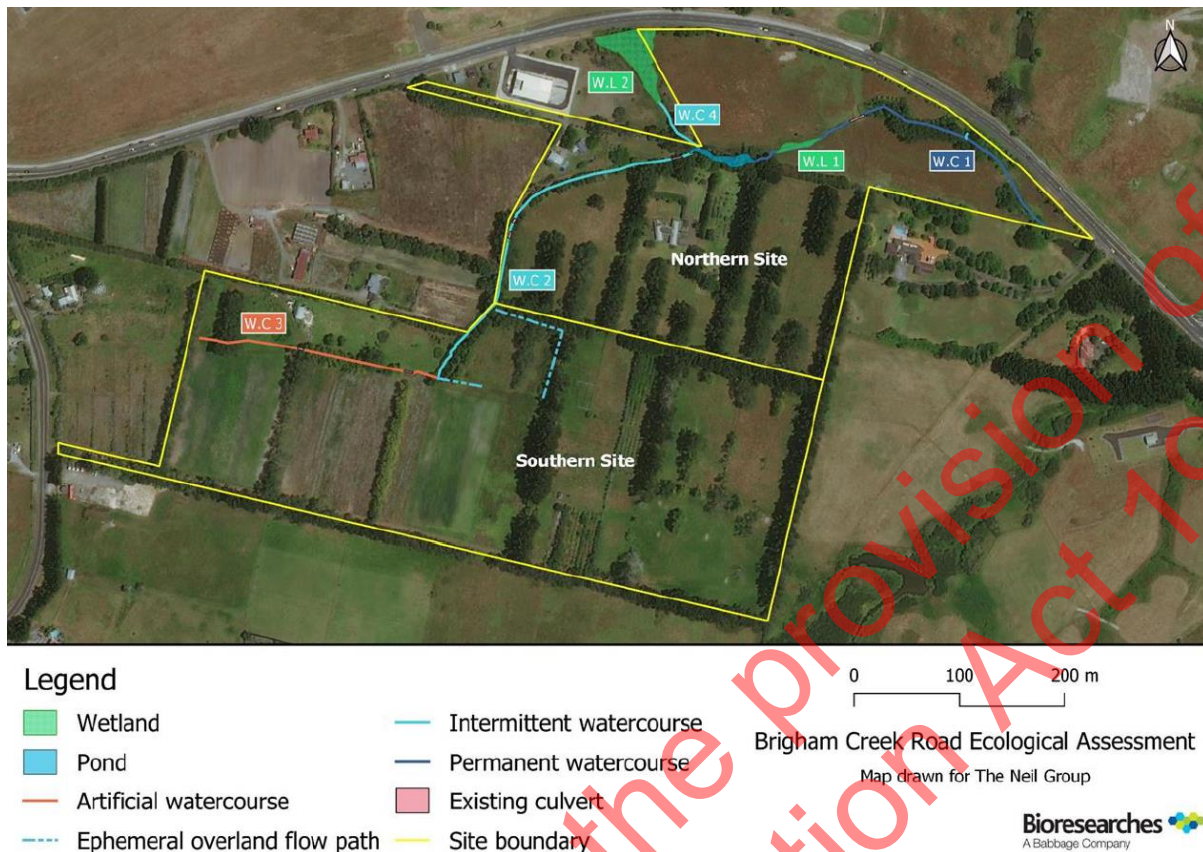
#### Part VII: Adverse effects

*In considering whether a project will help to achieve the purpose of the Act, the Minister may have regard to, under Section 19E 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. Description of the anticipated and known adverse effects of the project on the environment, including greenhouse gas emissions*

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 Bioresearches Limited to undertake a stream classification survey of the site, to determine the status of watercourses within the land as either permanent, intermittent, or ephemeral, and to identify if any natural wetlands are present. The results of the classification survey and a preliminary ecological report are **attached**, and the streams/wetlands are depicted in **Figure 9** below.



**Figure 9: Stream classification survey**

The AUP provides a level of protection for all permanent and intermittent streams, and for wetlands. In this instance, that protection will extend to the watercourses identified as WC1, WC2 and wetlands identified as WL1 and WL2 in Figure 9. The applicant has designed the layout of the site to accommodate all lengths of stream and wetland features without significant disturbance, other than enhancement through weed removal, enhancement planting, and a road culvert or bridge across WC1/WL1. The AUP provides for a culvert in a watercourse as a permitted activity, subject to meeting specified standards. Each of the streams and wetlands will be contained within areas of protected riparian margin or road reserve, and will not be subject to reclamation or earthworks. Consent is required under the NES-F for works within 10m of the wetland that exists in the vicinity of the proposed road bridge/culvert. However, no physical works will take place in the wetland as the design provides for all support structures to sit outside of the extent of the wetland.

Stormwater that will be diverted to the streams on the site will be treated within rain gardens or other treatment facilities to be located within the road reserves. The stormwater quality treatment that is proposed, together with enhancement planting in the riparian margins, will ensure that the ecological values of the streams and wetlands are not diminished and are likely enhanced.

#### Traffic/transport

The applicant has engaged Team to undertake an integrated transport assessment of the potential transportation implications of the proposed development. The assessment includes consideration of roading network, traffic generation, parking and pedestrian/cyclist amenity. A copy of the Team report is **attached**.

The proposal seeks to integrate with the surrounding future neighbourhood, with one road connection providing access to and from Brigham Creek Road, and four additional road connections providing future access to adjoining future urban land. These road connections are consistent with the indicative roading network identified in PC5/Variation 1. Pedestrian and cycling connections are also proposed to Trig Road and to the future reserve land immediately to the east. The Team report notes that bus services operate on Brigham Creek Road, within walking distance of the site. That bus route links with other public transport services at the Hobsonville Ferry Terminal and Westgate.

The Team report identifies the significant intersection proposed for the Brigham Creek Road frontage and provides a design for that work that will accommodate future traffic volumes at an acceptable level of service and safety. It also notes that internal roads have been designed to recognised industrial standards and can accommodate the intended level and type of industrial traffic including pedestrians and cyclists.

Overall, the Team report concludes that the proposed subdivision is acceptable from a traffic engineering perspective and aligns with the intended outcomes of PC5/Variation 1. The proposal will not give rise to any adverse transportation effects.

### **Site Layout and Urban design**

While the land is currently rural in character, it is identified within the Future Urban Zone so is planned for urban development of the nature that is proposed. PC5 follows an extensive structure planning process that has evaluated the most appropriate urban outcomes for the Whenuapai area. There is no significant debate about the future of Whenuapai, but rather the issue is simply about timing as PC5 has been delayed. The proposed land use, layout and form of the development is entirely consistent with Variation 1 to PC5.

The resultant site layout and development pattern incorporates a number of desirable urban design outcomes, including:

- A connected movement network with no cul-de-sac use (once surrounding land is also developed), and a legible street layout;
- Retention and enhancement of natural site features, with particular reference to the stream system that traverses the land and the two areas of natural wetland;
- Planted riparian margins along stream features;
- Provision of pedestrian and cycling access to future areas of public open space (to the east of the land);
- A mix of industrial lot sizes, including a large level site intended for a specific industrial land use;
- Provision of an appropriate buffer between industrial and residential land uses through the stream corridor and associated riparian margins; and
- Establishment of a new signalised intersection on Brigham Creek Road that contributes to necessary upgrading of key transport infrastructure within the surrounding area.

For these reasons, the proposal is considered to have no adverse effects in terms of site layout and urban design.



## **Stormwater disposal**

It is proposed to treat and attenuate stormwater runoff on the site so that the flow of stormwater runoff post-development will achieve AUP Stormwater Management Area Flow 1 requirements. Stormwater discharging from the site will follow the existing watercourses that flow toward the north, ultimately reaching the Upper Waitemata Harbour.

Stormwater treatment and flow attenuation will occur primarily through raingardens to be located within the road reserves. Stormfilters will be utilised for the major road intersection on Brigham Creek Road due to constraints on the space that is available. The raingardens will provide water quality treatment as well as detention and attenuation of stormwater runoff, with treatment only provided by the stormfilters.

Overall, the proposed stormwater proposals will meet the required water quality treatment standards of Auckland Council's GD01 technical document and detention requirements for SMAF 1 under the AUP. All of the existing permanent or intermittent streams and the wetlands will be retained within the site. The riparian areas will also be replanted. These works will further contribute to the long-term water quality of the streams and their riparian habitat. As a result, the post-development stormwater flows from the site to the downstream catchment will have no appreciable adverse effects on the water quality of the streams and the physical integrity of the stream beds and riparian margins will be maintained and enhanced.

## **Earthworks**

The bulk earthworks required to facilitate the development will occur across the entire development site in order to create the building platforms, roads, and provide for the installation of infrastructure. The majority of the bulk earthworks across the site have been, or will be, consented by Auckland Council. Some further earthworks are required to trim roads and provide for pipes and services to be installed.

The site will be progressively covered and grassed upon completion of bulk earthworks, thereby minimising the potential for sediment loss from the site into the stormwater network including the open streams.

The proposed earthworks will be appropriate and consistent with the scale of the proposed development and subdivision. With appropriate site management and monitoring, the proposed earthworks will be undertaken in a way that ensures that any potential adverse effects from the physical earthworks will be less than minor.

The proposed earthworks will enable the urban development of the site, as anticipated by the AUP Future Urban zoning. The proposed earthworks will not significantly change the topography of the site, given that it has a gentle contour with a gradient of around 1 in 25 over its length from south to north. Overall, any long-term adverse effects of the proposed earthworks on the landscape character of the site would not be significant.

## Infrastructure servicing

The proposed residential subdivision will provide all the required infrastructure to serve the development, including roading, water supply, wastewater and stormwater, and other private utility services. An infrastructure report addressing these matters is **attached**.

The proposed roads have been designed to connect seamlessly with the existing and proposed surrounding road network, in a manner that is consistent with the indicative road network illustrated in PC5/Variation 1. Road cross-sections can accommodate a suitable carriageway, footpaths, berms, parking, raingardens, and space for street trees.

The proposed stormwater network will be designed to manage discharge flow from the site in a way that achieves SMAF1 requirements. As a consequence, any effects on the downstream network would be minimal.

The subdivision will connect to the existing public wastewater reticulation network which has been assessed to have sufficient capacity to accommodate the proposed additional demand. Some extension of the public network will be required, with such work being funded and undertaken by the applicant.

WSL has confirmed that connections are available to the public water supply reticulation system, and that it has sufficient capacity to serve development on the site.

Power and telecommunication services exist around the site and are available for use.

## Geotechnical/stability

The applicant has had geotechnical investigations completed for the land, by CMW Geosciences (**attached**). The investigations relate to all of the land, although the more recently acquired site at 71 Trig Road has been assessed only at a pre-purchase due diligence level. That site however has very similar characteristics to the balance of the land. Site investigations included drilling boreholes to confirm soil strength and composition, and to ascertain groundwater depths.

The investigation has concluded that existing and proposed slope stability across the site demonstrates factors of safety above minimum Auckland Council requirements. Liquefaction is not considered to be a factor for the soil types encountered on the land. The geotechnical investigation notes that the land is generally suitable for a future subdivision and development as anticipated under the proposal. Geosciences note that the soil conditions will not provide for significant soakage from raingardens, but acknowledge that these features will still provide for some detention and stormwater quality outcomes.

On the basis of the geotechnical investigation, there are not expected to be any stability issues or related matters that might curtail or impede development of the land as proposed.

## 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 reports address the land in two parcels, being 71 Trig Road and the balance of the land. The distinction arises simply because 71 Trig Road was acquired at a later date than the rest of the land. Soil contamination investigations include a Preliminary Site Inspection (PSI), a Detailed Site Inspection (DSI) and a Site Management Plan (SMP).

Copies of the various reports are **attached**. Investigations included a review of historical aerial photographs and the property records for the site, together with soil sampling and laboratory analysis. The reporting has been undertaken to meet the requirements of the NES-SC and Chapter E30 of the AUP.

Information obtained indicated that the land has generally been used for grazing and pastoral farming, although part of the land has been subject to past use for horticultural activities. Horticulture is included in the Ministry for the Environment's Hazardous Activities and Industries List due to the bulk storage and use of persistent pesticides. The other possible sources of contamination that were identified relate to asbestos containing materials in the remaining buildings, the potential for use of lead-based paints, unverified fill material, and abandoned septic tanks and associated effluent disposal fields.

Analysis of soil sampling revealed that the proposed change of land use will be a permitted activity under the NES-SC, although some minor consenting (as a controlled activity) will be required under NES-SC Regulation 9 due to soil disturbance. Consent is not required under the rules and standards of AUP Chapter E30.

On the basis of the information provided by the site investigation, there are no widespread contaminated soils on the site that may create potential for adverse environmental effects when soil is disturbed by earthworks. Geosciences concludes that the proposed change in land use, subdivision, and development are highly unlikely to result in any risk to human health or the environment.

## Construction noise and nuisance

There will inevitably be some aspects of the construction process that create a level of nuisance for residents living on properties around the site. These effects might include construction noise, dust, heavy vehicle traffic, and contractors' parking. The locations most likely to be impacted are the nine dwellings situated on immediately adjacent properties (refer **Figure 10**).

These issues are typically addressed through management plans and practices, and by adherence to standards. In respect of noise, all activities will need to comply with the relevant AUP noise provisions and the New Zealand Standard for construction noise. Much of the potential noise would be generated through earthworks that are in the process of being undertaken and have been approved by the Council through a resource consent application. Conditions of consent are in place to manage noise and dust nuisance to reasonable levels. Individual building projects on each lot would also be required to comply with construction noise standards, and would be potentially of a

scale that required a construction noise and vibration management plan or other operational techniques that will mitigate nuisance and disturbance from construction.



*Figure 10: Dwellings in close proximity to the land (yellow circles)*

Depending on the nature of future development on the lots, there is also a possibility that a construction traffic management plan will be required, post-consent, for certification by the consent monitoring agency. A management plan of this nature would detail measures to be implemented to manage access and queueing of heavy vehicles and associated deliveries of building materials, together with the parking of contractors' vehicles.

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 a preliminary archaeological survey of the site. Copies of the reports are **attached**.

There are no recorded archaeological sites within or in close proximity to the site. The archaeological report confirms that there is a low potential for unidentified subsurface archaeological remains to be present on the site. In the unlikely event that archaeological artefacts are encountered during works, the accidental discovery protocols of the AUP would apply to ensure any adverse effects were mitigated.



For these reasons, it is considered that the proposed development will have no adverse effects on archaeological values or remains.

### Effects on Maori cultural values

As noted earlier, the applicant has engaged with Mana Whenua. Interest in the site and proposal was expressed by Te Kawerau ā Maki but not from any other Mana Whenua groups at this stage. Te Kawerau ā Maki has prepared a CIA, and the applicant intends to work collaboratively with Te Kawerau ā Maki to ensure that any adverse Maori cultural effects arising from the 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. Both are located within 155-157 Brigham Creek Road, which is the area of the land to be developed for residential purposes.

The proposed development has been designed to retain all of the existing natural permanent or intermittent streams on the site, and both natural wetlands. 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*
- (c) 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*
- (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 this instance, adverse effects on the natural stream system that flows across the site and on the two natural wetlands are avoided in accordance with (a) above, as the streams and wetlands are to remain in place and the streams will be enhanced with planting and weed removal. The road crossing of the wetland has been designed to avoid any direct disturbance to the wetland from earthworks, land disturbance or vegetation removal. Stormwater discharges to the stream are proposed but will be designed to manage potentially erosional flows and provide quality treatment.

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.

The objectives are given effect to by the more directive NPSUD policies. In particular, Policy 1 directs that planning decisions contribute to well-functioning urban environments that enable a variety of sites that are suitable for different business sectors in terms of location and site size, and enable a variety of homes. The proposal provides for a range of industrial sites, including larger sites that are in short supply and desirable in the market as a consequence. Additional residential land would also be provided, with the Single House zone catering for a component of the general population that is seeking larger sites with standalone houses.

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 entirely consistent with the Auckland Council's intentions for the land under PC5/Variation 1, 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 suitable business land provision and housing demand. The proposal will make a valuable contribution to the provision of desirable industrial sites (including a rare large level site required for a specific user) and assist with providing more housing.

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 of 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*
- Project's effects on the social and cultural wellbeing of current and future generations  
Whether the project would be likely to progress faster by using the processes provided by the Act than would otherwise be the case*

#### Public Benefit

- 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*
  - Housing supply*
  - Contributing to well-functioning urban environments*
  - Providing infrastructure to improve economic, employment, and environmental outcomes, and increase productivity*
  - Improving environmental outcomes for coastal or freshwater quality, air quality, or indigenous biodiversity*
  - Minimising waste*
  - Contributing to NZ's efforts to mitigate climate change and transition more quickly to a low emissions economy (in terms of reducing NZ's net emissions of greenhouse gases)*
  - Promoting the protection of historic heritage*
  - Strengthening environmental, economic, and social resilience, in terms of managing the risks from natural hazards and the effects of climate change*
  - Other public benefit*
  - Whether there is potential for the project to have significant adverse environmental effects*

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** report by Insight Economics.

The economic assessment report identifies that the project will deliver 14 direct and indirect FTE jobs during the planning, design and consenting phases of the development, projected to occur mainly in 2021 and 2022.

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. It is estimated that this phase of the development project will create 79 direct FTE jobs and 92 indirect FTE jobs.

The additional industrial land will address a strong and growing body of market evidence that conclusively reveals a distinct lack of available supply. That deficit in supply has caused industrial land prices in this part of Auckland to increase by 36% over the last 12 months.

The site is directly adjacent to the Whenuapai Cable Landing Station (located at 153 Brigham Creek Road), which is one of the key termination points for the Southern Cross internet cable. This proximity means that prospective future uses of the will experience ultra-low latency, which is critically important for businesses that rely on extremely fast and reliable internet access, such as data centres for example.

It is also considered that the proposed development contributes to a well-functioning urban environment, as it provides for additional employment uses in an area of significant projected population growth. The provision of jobs in close proximity to where people live will reduce the need for long distance commuting, with resultant economic, environmental, and social benefits.

Although vehicle movements associated with the project will generate greenhouse gas emissions, these would arise wherever the industrial and 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 of the proposed industrial land to the freight network (SH18/the Auckland motorways), the consumer (the population of the Auckland metropolitan area) and a large employment source comprised in the substantial residential areas close to the site.

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. At this stage, PC5 is unlikely to be determined by the Council before the second half of 2022 and may be subject to appeals or other further delays. The processes enabled by the COVID-19 Recovery (Fast-track Consenting) Act 2020 would facilitate civil works for forming the subdivision commencing on the site in the middle of 2022 and provide greater certainty around the timing.

## **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 minimal natural hazards, in the form of overland flow paths and a few small parts 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 or road. 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**

### **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*

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.

**Further information:**

The applicant has obtained a number of technical and specialist assessments to support the development of the project and would be happy to provide copies of any of those documents that may be of assistance.

Released under the provision of  
the Official Information Act 1982