

BEFORE THE DELMORE EXPERT PANEL

In the matter of

the Fast-Track Approvals Act 2024 (the *FTAA*) appointed under section 50 and Schedule 3 of the *FTAA* to determine:

- (a) establish and subdivide approximately 1,217 dwellings across a site area of approximately 109 hectares in the Future Urban Zone;
- (b) undertake associated works, including bulk earthworks, and provide infrastructure and an on-site wastewater treatment plant and for stormwater discharges;
- (c) change consent conditions; and
- (d) to modify and destroy two archaeological sites.

Expert Panel

Helen Atkins
(*Chair*)

Nigel Mark-Brown
(*Member*)

Lisa Mein
(*Member*)

Comments received under Section 53 of the FTAA:

25 June 2025 (note and further comments received via the exercise of section 67 of the *FTAA*)

Details of any hearing under Section 57 of the FTAA:

No hearing was held

Date of Decision:

17 September 2025

Date issued:

17 September 2025

Record of Decision of the Expert Panel under Section 87 of the Fast-Track Approvals Act 2024

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APPENDIX A: CONDITIONS OF CONSENT

APPENDIX B: CONSENTS REQUIRED

DRAFT

DECISION MADE BY THE EXPERT PANEL: DELMORE

PART A: EXECUTIVE SUMMARY

- 1 This is an application for resource consent and archaeological approvals (**Application**) by Vineways Limited (**the Applicant**) to undertake a residential subdivision and construction of an interchange at Orewa (**Project**).
- 2 The Environmental Protection Authority (**EPA**) decided that the Application was complete and within scope¹ on 12 March 2025. The EPA made a recommendation on whether there are competing applications or existing resource consents for the same activity on 26 March 2025.² The EPA then provided the Application to the panel convenor and at the same time requested a report from the Ministry for the Environment³ (**MfE**) under section 18 of the FTAA. A report was received on 10 April 2025.
- 3 The application comprises the subdivision and construction of approximately 1,217⁴ residential lots and dwellings, a 9,400m² super lot, jointly owned access lots and roads to vest. Open space areas, as well as associated site preparation works, construction of civil infrastructure and landscaping on the Site which is located at 88, 130, and 132 Upper Orewa Road and 53A, 53B and 55 Russell Road, Orewa.
- 4 A resource consent, change of consent notice conditions and an archaeological authority is sought under section 42(4) of the FTAA.
- 5 The Application was included as a listed project in Schedule 2 of the FTAA. On 12 May 2025 an expert panel (**Panel**) was appointed to determine the Application.
- 6 The Panel has assessed the Application applying the relevant statutory criteria within the purpose and context of the FTAA.⁵
- 7 The Application material was extensive and included an Assessment of Effects (**AEE**) and some 41 Appendices. Unfortunately, as the Panel began to work through the documents it was obvious that a number of appendices had inadvertently not been included at the time of submitting. The Panel made a number of requests for this information and it was forthcoming.
- 8 The Panel received comments from invited commenters⁶ on 25 June 2025 and a response to those comments from the Applicant on 7 July 2025. The comments included those in support of the Application and those against. The primary commenter against the Application was Auckland Council (**Council**) which is summarised below. A full assessment of those comments is contained elsewhere in this decision report (**Decision**). The Panel has carefully reviewed all of that information in evaluating the Application.

¹ FTAA, section 43

² FTAA, section 47

³ The Ministry for the Environment is the responsible agency for the purpose of section 18.

⁴ Note this was originally 1,250 in the original AEE but was amended in the response AEE to 1,217.

⁵ Legislation Act 2019, s 10; and FTAA, ss 10 and Schedules 5 and 8.

⁶ FTAA, s 53.

- 9 The Council provided extensive comments in the form of a Strategic and Planning Memorandum, a Memorandum of Legal Comments of Counsel for Auckland Council, Auckland Transport (**AT**) and Watercare Services Limited (**Watercare**) and numerous specialist memoranda and reports. A summary of the Council's assessment is:

The Council family's comprehensive assessment concludes that adverse impacts substantially outweigh regional benefits, even accounting for proposed mitigation measures. The recommendation in the Planning Memo is to decline the Application. This recommendation aligns with the FTAA's purpose, which is to enable significantly beneficial projects, not those where adverse impacts are so significant as to outweigh benefits.⁷

- 10 In response to the Council comments, and those made by others, the Applicant suspended the Application for 3 working days. The Applicant then filed 148 documents by way of response which included: a track change AEE; a memorandum of Counsel; amendments to the appendices; and the addition of 18 additional appendices some of which consisted of multiple documents. Again, the Panel had to make requests for information that had inadvertently not been included. The Panel also asked for a track change set of conditions which was provided as Appendix 57.
- 11 Post the comments the Panel directed for requests for information, joint witness conferencing and an economic expert peer review. This is covered in more detail in other parts of this Decision. Suffice to say that from the beginning of the process the Panel was anticipating that the task of assessing the Application was going to be an onerous one. However, the significant number of further information requests that the Panel has exercised (either of its own volition or at the request of the Applicant and the Council) is evidenced from the number of minutes the Panel has had to issue. The Panel considers that it has assessed the issues appropriately notwithstanding how challenging it has been to do so. The Panel has covered the extensive information largely in its assessment of the effects in Part F of this Decision.
- 12 The time constraints set out in the FTAA do not provide an expert panel with time to ensure all the documents are in order and up to date throughout the process. It is imperative that for projects of this magnitude the application documents are thorough and that extreme care is taken to ensure no documents are missing. The Panel appreciates that the Applicant team has had an onerous task and have attempted to make the provision of information as simple as they can.
- 13 A summary of the relevant statutory tests for each approval sought are outlined below:
- a. Schedule 5, clause 17 of the FTAA sets out the criteria and other matters for assessment of resource consent applications. The Panel has concluded that while a number of the adverse effects can be addressed by way of conditions, a number cannot. Those effects that cannot be addressed by conditions are fundamental to the project and the Panel is left with no choice but to decline the Application.

⁷ Memorandum of Legal Comments of Counsel at paragraph 2.16.

- b. Likewise, the application to change resource consent conditions could be approved but given the integrated nature of the Project the Panel has not provided specific wording for these matters.
 - c. Schedule 8, clause 4 of the FTAA sets out the criteria for assessment of an application for an archaeological authority. The Panel has concluded that the archaeological authority can be approved. Similar to the change to conditions this approval is integral to the entire Application, however, given the agreement reached between the Applicant and the responsible agency (Heritage New Zealand Pouhere Taonga (**Heritage NZ**) the Panel has provided draft conditions in **Appendix A**.
14. The Panel considers that, having considered all relevant matters, the Project does not meet the purpose of the FTAA. While the Project was included in the list in Schedule 2 of the Act, it still needed to meet the threshold for approval set out in section 85. For the reasons explained elsewhere in this Decision, the Panel have concluded that the adverse impacts / effects⁸ (which are broadly in relation to ecological and transport effects and the lack of appropriate water services infrastructure) are so significant that they are out of proportion to the Project's regional benefits.
15. The Panel considers that it has been very transparent with the Applicant about its concerns and has given the Applicant every opportunity to consider how it is best to respond. This includes:
- a. clear articulation of the Panel's concerns during the request for comments phase;
 - b. various further information requests of both the Applicant and the Council;
 - c. assessment of the legal scope to accept the changes proposed between the time the Application was lodged and post response to comments;
 - d. an independent economic expert analysis of the regional benefits; and
 - e. expert witness conferencing to address the adverse impacts (effects) the Panel identified as being of concern to explore whether these could be addressed by way of conditions.
16. In relation to the economic analysis report, the Panel commissioned this analysis because the Applicant and the Council were not of the same view in relation to the regional benefits. The Panel had concerns from the outset that the regional benefits had been overstated and articulated this very early on in its invitation for comment. The Panel continued to be concerned such that it concluded that the best course of action was to engage an independent peer review of all the economic evidence. This review is covered in more detail below but in essence concluded that the analysis provided by the Applicant does not demonstrate significant net economic benefits.
17. The Panel acknowledge that the zoning of the Site clearly indicated that at 'the appropriate time' a project such as this would be able to be granted. In terms of what

⁸ See the discussion later in the Decision on the use of the word 'impact' in the FTAA and the way in which we have interpreted this vis a vis the term 'effect'.

the appropriate time is this is not necessarily the same as what the Council considers – which is access to Council infrastructure being able to be achieved. If the Applicant had provided a proposal that addressed all the concerns the Panel have about: water supply; wastewater management; transport infrastructure; and ecological effects, including the actual realisation of ecological benefits, then the Panel would have been more favourably disposed towards the granting the approvals sought. In short, this Application was not at the requisite standard required for such a significant project which is in a future urban zone with no infrastructure connectivity.

18. [placeholder for Applicant response to Draft Decision]
19. The Panel therefore declines the approval for the Application. The Panel has considered the conditions and whether anything could be done to change the declining of the approvals. This is further discussed in Part J.
20. This Decision is made in accordance with section 87 of the FTAA and covers all the approvals sought under the substantive application. This decision document includes:
 - a. The Decision – throughout and summarised in Part L;
 - b. The reason for the Decision – throughout and summarised in Part L;
 - c. A statement of the principal issues in contention – Part I and summarised in Part L;
 - d. The main findings of the principal issues in contention – Part E and summarised in Part L.

PART B: OVERVIEW OF THE APPLICATION AND PROCEDURE

Application

Applicant

21. Vineway Limited is the authorised person for the Delmore application as set out in Section 42 of the FTAA.
22. The documents that were lodged with the Application have been amended as a result of the comments, primarily those from the Council. The response from the Applicant included a track change version of the AEE (dated 7 July 2025), a track change version of the conditions (Appendix 22 renamed Appendix 57 provided as a result of a request on 17 July 2025) and 18 additional appendices. Some of these appendices were amendments to original appendices and some were completely new. The Panel requested clarification from the Applicant in relation to these appendices which is addressed in the procedure section below.
23. The references in the footnotes of this section of the Decision refer to the original AEE not the track change version. Comparing the two versions the Panel is satisfied that there have been no material changes to the description of the matters contained in this part of the Decision that would necessitate changes to the footnotes. The detailed analysis, and assessment below, addresses the amended version of the AEE and the amended and additional appendices.

Site and surrounding environment

24. The Applicant provides a detailed description of the site⁹, which the Panel has summarised as follows: The site is comprised of six contiguous lots located at 88, 130, and 132 Upper Ōrewa Road and 53A, 53B and 55 Russell Road, Ōrewa. The site is irregularly shaped, with a total area of approximately 109.18ha. The site is currently used for pastoral and agricultural production purposes, and consists predominantly of open paddocks, with a number of dwellings and other accessory buildings supporting these uses. Interspersed across the site are pockets of indigenous vegetation (mostly in gullies), specimen trees, boundary planting, shelterbelts and small pine plantations. A network of streams and some adjoining natural wetlands dissect the site (**Site**).
25. The topography of the Site rises and falls between a series of ridgelines and gullies, with steeper areas generally located within the northern portion of the Site, concentrated closer to waterbodies. In between the waterbodies much of the Site is described as 'rolling' with a general fall to the south-east towards the Orewa River.¹⁰ Neighbouring sites to the west and south share similar topographical characteristics.
26. The vegetation, hydrology, and wetlands on the Site, includes areas subject to consent notice conditions and a Significant Ecological Area – Terrestrial (SEA-T). These have been classified and mapped within the Ecological Impact¹¹ and Arboricultural¹² Assessments. The consent notices are more particularly described in the AEE.¹³
27. The Site is currently accessed via several private crossings from Upper Orewa and Russell Roads. The paper road that bisects the Site is located between 99 Ōrewa Road and 53B Russell Road. An application to stop this paper road will be made to the Auckland Council closer to when works begin for Stage 2.
28. There are no potentially contaminating activities on the Site as set out in the Preliminary Site Investigation.¹⁴ A detailed geology and geomorphology for the Site is contained in the Geotechnical Report.¹⁵
29. The Archaeological Assessment¹⁶ confirms that there are two archaeological features (shell midden) on the Site and the approval sought in relation to these is further noted below.
30. The existing infrastructure (water, wastewater, utilities and stormwater) is contained in the AEE¹⁷ and the key points are:
 - a. There is currently no stormwater reticulation infrastructure;
 - b. The Site is not currently serviced with regard to wastewater;

⁹ Delmore Fast Track Approval Application – Assessment of Environmental Effects and Statutory Analysis – 17 February 2025 (AEE) at section 6.0.

¹⁰ Ibid at paragraph 6.1.1.

¹¹ AEE, Appendix 4.

¹² AEE, Appendix 5.

¹³ At paragraph 6.1.2 and AEE, Appendix 1.

¹⁴ AEE, at paragraph 6.16 and Appendix 7.

¹⁵ AEE, Appendix 8.

¹⁶ AEE, Appendix 9.

¹⁷ AEE at paragraph 6.1.9 and Appendices 10 and 12.

- c. The Site is not currently serviced with a potable water supply;
 - d. Other utilities (power and gas) are available at the Site boundary.
31. The Site is located approximately 3.2 km west of Orewa Town Centre and 2.3km north-east of the emerging Milldale Local Centre. The Site is located in close proximity to State Highway 1 and the Orewa interchange. The indicative Wainui/Ōrewa Structure Plan (which accompanies the application)¹⁸ sets out the existing or proposed amenities.
 32. The main employment areas in proximity to the Site are located in Ōrewa Town Centre, the Highgate Industrial area (1.6km south of the Site) and Silverdale Town Centre / Industrial area (3km south of the Site). The proposed Milldale Rapid Transit Station lies adjacent to the Highgate Industrial Area. A major new industrial employment area, Silverdale West, is also proposed and is subject to a private plan change application¹⁹, south of Dairy Flat Highway approximately 3.2km south of the Site.
 33. In terms of zoning the relevant plan is the Auckland Unitary Plan (**AUP**). Immediately to the north, west and south of the Site are areas zoned Rural Production which contain rural dwellings, pockets of planting and paddocks. The land immediately adjacent to the north of the Site is zoned Open Space – Conservation Zone and contains the Nukumea Scenic Reserve. To the north, east, and south of the Site are properties zoned as Future Urban Zone (**FUZ**).
 34. The Ara Hills residential development is located to the north-east of the Site. The broader Ara Hills development is set over 84 hectares and has approval for 575 residential lots. Further to the east, the Strathmill residential development is under development.
 35. Immediately adjacent to the south of the Site is a mixture of Rural Production and FUZ land, which currently contains paddocks, rural dwellings and pockets of vegetation. Further to the south of the site, Plan Change 103 (Silverdale West Industrial Area) has been lodged and notified and it rezones 107ha of FUZ land to Business – Light Industry. Beyond this is Milldale, where residential development is currently under construction and one of the stages is listed in the FTAA. The application for stages of the Milldale development (stages 4C and 10-13) has been made and it is currently before an expert panel.

Overview of the application

36. The proposed development is 109.18 hectares of FUZ land into a comprehensively planned development, including approximately 1,217²⁰ dwellings, one super lot, supporting infrastructure, as well as associated works as described in the AEE and Appendices.
37. Under the AUP (OP) the activity status is a non-complying activity overall under the provisions of the FUZ. The activity is a restricted discretionary activity under the

¹⁸ AEE, Appendix 13.

¹⁹ AEE, section 6.2.

²⁰ Note this was amended from approximately 1,250 dwellings in the amended AEE and supporting documents.

Resource Management (National Environmental Standards for Freshwater) Regulations 2020 (**NES-F**). Other limitations include:

- a. The activity is also in the vicinity of Auckland Transport Notice of Requirement (NoR 6) which is the new Connection between Milldale and Grand Drive, Ōrewa.
- b. There are also flood prone areas, flood plains and overland flow paths noted on the Site.
- c. In addition, there are two archaeological sites (R10/776 and R10/1573) – shell middens on the Site.²¹

Resource consents

38. The Panel has reviewed all the documentation and the further information provided by the Applicant and the participants and summarises the necessary consents at **Appendix B**. The Panel agrees with the Applicant that, in terms of the AUP, overall, the Application is a non-complying activity. The Council agrees with this assessment and provides a detailed legal and planning analysis on why the application should be declined under section 85. This is further discussed below.
39. In relation to the various changes to resource consent conditions due to the integrated nature of the Application the Panel declines these applications also. However, should a different application be applied for or changes be made to this Application that addresses the issues then this Decision does not pre-judge what a later decision will conclude.

Approvals relating to an archaeological authority under the Heritage New Zealand Pouhere Taonga Act 2014

40. Schedule 8, clause 4 sets out the criteria for assessment of an application for an archaeological authority. As noted in Part F the Panel concludes that this authority can be granted.

Procedure

41. The procedure that the Panel undertook is detailed in this section of the Decision.

Meetings and site visits

42. The Panel invited the Applicant and other participants to an on-line briefing on 15 May 2025. As recorded in the Minute that followed the briefing²² the Applicant provided an overview of the Application/Project with reference to a pre-circulated PowerPoint presentation. The Panel also heard a summary of the regional benefits section of the AEE (section 14) and Appendix 34 from legal counsel Madeleine Wright. The Council provided an update on where it was at with regards to site visits and the preparation of specialist reports which will be provided to the Panel when Council is requested to comment. The Panel members had an opportunity to ask questions about the

²¹ AEE at page 7.

²² FTAA-2502-1015 - Minute 2 - Panel Minute recording the briefing meeting - 16 May 2025.

Application. The Panel noted that any specific matters will be included as an appendix to the invitation to comment which was due to be sent on 26 May 2025

43. The Panel undertook a site visit on 26 May 2025 and recorded this in a Minute²³. In addition to a walkover of the site the Panel also visited the surrounding area including Millwater, Ara Hills and Strathmill.
44. Much of the Panel's correspondence, deliberations and decision-making occurred over email following review, drafting and commenting on drafts of further information requests, this decision report and the conditions. Notwithstanding this, the Panel met (via MS Teams) on the following occasions to either discuss the Application generally or for the purpose of discussing minutes that needed issuing:
 - a. 9 June;
 - b. 27 June;
 - c. 31 July;
 - d. 8 August;
 - e. 13 August;
 - f. 27 August;
 - g. [insert final consideration date].

Invitations to comment

45. The Panel invited comments on the Application by a Minute dated 26 May 2025.²⁴ The Minute contained a series of specific matters the Panel wished to receive comments on in Appendix 4. Responses to this invitation were due on 25 June 2025. Comments were received on time from the following:
 - a. Auckland Council.
 - b. Jonathon Mason, 180 Upper Orewa Road;
 - c. Mark England, 105 Upper Orewa Road;
 - d. The Minister for Land Information;
 - e. AVJ Hobsonville Pty Ltd (who owns the development known as Ara Hills comprising 226 Grand Drive and 47 Ara Hills Drive);
 - f. Bill Hale and Nikki Browne, 927 Weranui Road, Silverdale;
 - g. Heritage New Zealand Pouhere Taonga;

²³ Minute 4 - Panel Minute with regard to site visit - 27 May 2025.

²⁴ Minute 3 - Panel Minute invitation to comment - s53 FTAA – 26 May 2025.

- h. Barnaby Wallace, 907 Weranui Road, Silverdale;
 - i. Jullianne Ollerenshaw on behalf of Dorothy Ollerenshaw, 117 Upper Orewa Road, Wainui;
 - j. Rod Clarke, 130 and 132 Upper Orewa Road;
 - k. Tieying Ma, 51 Kowhai Road;
 - l. Minister for Māori Crown Relations;
 - m. Associate Minister of Transport; and
 - n. Department of Conservation;
46. The Panel notes that there are also comments separately listed from ATand Watercare. These comments have been included in the comments from the Council.
47. There was one late comment from the Minister for Local Government which was in support of the Project. In accordance with Minute 13 the Panel confirmed the acceptance of this late comment.
48. The following commentators support the Application:
- a. Mark England (conditional support – wants noise and dust controls included in the conditions):
 - b. The Minister for Land Information neither supported nor objected but simply confirmed that the Application poses no issues for the functions of Land Information;
 - c. Heritage NZ supported the application in relation to heritage and archaeological matters;
 - d. Jullianne Ollerenshaw on behalf of Dorothy Ollerenshaw provided general support for the Application;
 - e. Rod Clarke as the custodian/owner of two of the properties within the Application Site comprising nearly 60% of the area that the project will occupy;
 - f. The Minister for Māori Crown Relations subject to any comments received from those relevant Māori groups identified in the section 18 report;
 - g. The Associate Minister of Transport on the basis of unlocking development and economic growth;
 - h. The Department of Conservation (**DOC**) provided conditional support and noted that it *"has minimal concerns regarding the application provided that the Applicant adequately implements the mitigations recommended in the Ecological Impact Assessment and a proper certification process is included for all management plans; as well as ensuring the appropriate Wildlife Act approvals are in place, as and when required."*

49. And the following commentators oppose the application:
- a. Council for the reasons set out primarily in Parts E, F and G but in essence its submission and evidence is: that the benefits have been overstated and the impacts / effects have been understated; and ultimately the benefits do not outweigh the impacts / effects;
 - b. Jonathan Mason for similar reasons to the Council including that the long-term management of the Site into the future is unclear and uncertain;
 - c. AVJ Hobsonville Pty Ltd for similar reasons as the Council in particular in relation to concerns about infrastructure provision including the inter-relationship with the land areas owned and being developed by the commentator. The commentator provided expert evidence to support its comments from Ila Daniels (Planner) and Mitchell Roberts (Engineer);
 - d. Bill Hale and Nikki Browne for similar reasons as other objectors including the lack of benefits and the adverse impacts / effects;
 - e. Barnaby Wallace for similar reasons as the other objectors including the significant amount of development that has been, or will be, occurring in the area and the lack of appropriate investment in relation to overwhelmed services;
 - f. Tieying Ma who appears to be concerned that the Application would be approved prior to other development proposals that have priority to infrastructure – particularly water supply and wastewater.

Applicant's response to invited persons comments

50. On 7 July 2025 the Applicant provided a response to the comments received on the application from those persons who were invited to comment under Section 53 of the FTAA.²⁵ This included the following:
- a. A Memorandum of Counsel;
 - b. An amended AEE (a clean and track change version);
 - c. Appendix 42 (42.1 – 42.7) - Ecology;
 - d. Appendix 43 (43.1 and 43.2) - Geotechnical;
 - e. Appendix 44 (44.1 – 44.5) - Landscape;
 - f. Appendix 45 (45.1 and 45.2) - Water and Wastewater;
 - g. Appendix 46 (46.1 – 46.6) – On-site Wastewater;
 - h. Appendix 47 (47.1 – 47.3) - Urban Design;

²⁵ Note that on 1 July 2025 the Applicant requested suspension of the Application for three working days until 7 July under section 64 FTAA. The suspension was granted and recorded in Minute 5.

- i. Appendix 48 (48.1 – 48.5) - Architecture;
 - j. Appendix 49 (49.1 – 49.8) – Earthworks and Streamworks;
 - k. Appendix 50 – updated Scheme Plans;
 - l. Appendix 51 (51.1 – 51.7) - Roading;
 - m. Appendix 52 (52.1 – 52.6) – Flooding and Stormwater;
 - n. Appendix 53 (53.1 – 53.4) – Economics;
 - o. Appendix 54 (54.1 – 54.3) – Response to Neighbours;
 - p. Appendix 55 – Management Plans and Management Plan Tracker;
 - q. Appendix 56 (56.1 and 56.2) – Response to Remaining AC Comments;
 - r. Appendix 57 – Updated Proposed Draft Conditions;²⁶
 - s. Appendix 58 (58.1 – 58.6) – Updated Civil Plans; and
 - t. Appendix 59 – Central Government Response.
51. Subsequent to the response from the Applicant the Panel has issued the following minutes:
- a. Minute 9 dated 14 July requesting further information from the Council to respond to the additional information provided by the Applicant;
 - b. Minute 10 dated 21 July regarding legal advice on the scope of the Application post the Applicant's response to comments;
 - c. Minute 11 dated 22 July requesting further information on capacity under section 67 of the FTAA;
 - d. Minute 12 dated 25 July requesting further information from the Applicant and the Council on the flood model rerun work (note this was at the Applicant's request);
 - e. Minute 13 dated 28 July confirming receipt of legal opinions on scope and acknowledging acceptance of a late comment;
 - f. Minute 14 dated 31 July regarding a request from the Applicant to submit further information;
 - g. Minute 15 dated 1 August regarding the appointment of an economic technical advisor;

²⁶ Note that a track-change version was requested and provided by the Applicant as recorded in Minute 10.

- h. Minute 16 dated 1 August confirming that the Applicant could provide the further information that was the subject of Minute 14 and a Memorandum from the Applicant dated 30 July;
 - i. Minute 17 dated 5 August which sets out the Panel request for expert witness conferencing;
 - j. Minute 18 dated 7 August responding to a request from Council regarding the attendance of ecological experts at the expert conferencing;
 - k. Minute 19 dated 13 August advising that the economic analysis prepared by the advisor appointed under Minute 15 had been received and directing the EPA to make the report available;
 - l. Minute 20 dated 19 August regarding the Applicant's offer to provide further information; and
 - m. Minute 21 dated 27 August recorded the outcome of expert witness conferencing; and
 - n. Minute 22 dated 28 August in response to a request from the Applicant dated 27 August
 - o. Minute 23 dated [insert date] recorded the release of the draft decision.
52. The Panel noted that this is a significant number of procedural minutes which demonstrates the issues with this Application and the need for clarification on a number of important points.
53. Given the significant material contained in the Applicant's responses the Panel refers to the detail in these comments and in the various responses (Applicant and Council), including the further information requested, in its assessment which is contained in other sections of this Decision, namely Parts E, F, G, J and L.

Appointment of technical advisors

54. On 11 June 2025 the Panel appointed Mr Dave Serjeant as a technical adviser to provide assistance to the Panel in relation to the writing of conditions. Mr Serjeant's specific role included:
- a. reading the application documents and related information (planning documents, legislation, summary of submissions, etc.).
 - b. reviewing and amending the applicant's draft conditions as requested by the Chair.
 - c. assisting with additional or revised conditions of consent as requested by the Chair.
 - d. attending Panel meetings if required.
 - e. handling any other matters as requested by the Panel.

55. This appointment was made under clause 10(3) of Schedule 3 of the FTAA and was formally recorded in Minute 5.²⁷
56. On 26 August Mr Serjeant facilitated expert witness conferencing. Minute 21 specifically covers this matter. The Panel has covered the details of the conferencing in Part J of this Decision as this section relates to conditions which was the primary focus of the conferencing.
57. On 30 July 2025 the Panel appointed Dr Tim Denne as a technical advisor to provide assistance to the Panel in relation to the project's regional benefits. Dr Denne's specific role included:
- a. To review the economic analyses provided by the Applicant and the Council;
 - b. To provide a report commenting on those economic analyses;
 - c. To be available for witness conferencing if required;
 - d. Attending Panel meetings if required; and
 - e. Handling any other matters as requested by the Panel.
58. This appointment was made under clause 10(3) of Schedule 3 of the FTAA and was formally recorded in Minute 15.²⁸
59. Dr Denne provided his report on 13 August, and the Panel directed the EPA to make it available to the parties to the Application and on the website on the date.²⁹ The details of this report are covered in Part G.

Further information

60. As noted above the Panel issued four minutes that requested further information under section 67. In terms of Minute 9, the Council provided its response to the further information request on 28 July 2025 in the following documentation:
- a. Fourth Legal Memorandum of Counsel for Council, Auckland Transport and Watercare Services Limited;
 - b. Memorandum of Supplementary Strategic and Planning Matters
 - c. The following specific technical assessment memorandum responses:
 - Funding & Financing
 - Economics
 - Strategic Planning
 - Healthy Waters

²⁷ Minute 5 - Panel Minute - appointment of a technical advisor – 11 June 2025.

²⁸ Minute 15 - Panel Minute - appointment of a technical advisor – economics – 1 August 2025.

²⁹ Minute 19 - Panel Minute – Review of Economic Analyses – 13 August 2025.

- Watercare
- Development Engineers Flooding Overland Flow Path
- Wastewater
- Earthworks
- Geotech
- Ground Water Diversion and Dewatering
- Stormwater
- Surface Water
- Transport
- Auckland Transport
- Freshwater Aquatic
- Terrestrial Ecology
- Parks
- Landscape.

61. The Applicant and the Council provided their responses to Minute 11 (capacity assessment) on 5 August 2025.
62. The Council was not able to provide specific data in relation to the question the Panel had asked of them in Minute 11 but they did provide an overview of resource and building consents for units (residential and commercial) which have been granted in the period between 2019 to 2024 which totals 1,084.³⁰ The Panel were also advised that consents granted within the whole Army Bay Catchment Area total 4,777 units (residential and commercial) and generally have a 5 year lapse period.
63. The Applicant updated capacity assessment was helpfully summarised in a Memorandum of Counsel dated 5 August as follows:

The applicant has not confirmed there is wastewater capacity for all live zoned land and all FUZ land.

The applicant has confirmed there is capacity within the wastewater network with the Army Bay Stage 1 upgrade (and the current water supply network) for existing connections, live zoned land, the Milldale fast-track project, and the full Delmore development. Residual capacity remains in both networks after meeting this demand. McKenzie & Co's revised capacity assessments are provided in Attachment appendix 1 to this memorandum. For completeness it

³⁰ Noting the Council noted that the zones did not match the boundary of the identified redline in Minute 11.

is also noted that there is capacity for approximately 3,703 homes to connect to the public wastewater network before the Army Bay Stage 1 upgrade.

The applicant has not confirmed there is capacity within these networks for all FUZ land as well. This approach has been taken on the basis that Delmore's listing in Schedule 2 FTAA, and its allocation to the fast-track process, removes the distinction between its FUZ zoning and 'live zoned land', and there is therefore no need to demonstrate capacity within the water supply and wastewater networks for other FUZ land.

...

Vineway Ltd also wishes counsel to note that Watercare's policy for granting connections in the Hibiscus Coast is that a connection is only guaranteed for those with building consent. Watercare also treats applications on a first come first served basis. In Vineway Ltd's opinion this is contrary to Watercare's position on Delmore that capacity needs to be reserved for consented live zoned land, and unconsented live zoned land and pre-2050 FUZ land both of which have indeterminate development dates. On one hand Watercare is saying building consent justifies a connection and on the other hand it is saying live zone land and pre-2050 FUZ land building consent nor a resource would justify a connection. However, for 2050-FUZ land it is essentially saying that neither a building consent nor a resource would justify a connection, even if there is sufficient capacity for connections to also be provided to surrounding live-zoned land which has neither building consent nor resource consent.

64. The Panel comments further on the capacity assessment in Part F of this Decision.

Scope question

65. Due to the volume of material lodged in the Applicant's response the Panel asked the following question of the Applicant and Council:

It is clear from the response that there have been a number of changes made to the substantive application, some of these changes appear to be significant and material. The Council and the Applicant are to provide a legal opinion on whether the amended substantive application is within scope.

The opinions should address whether the changes to the substantive application, as set out in the Applicant's response, are such that an issue of scope arises in terms of what:

- i. was applied for and considered under sections 46 and 47 FTAA; and
- ii. comments under section 53 FTAA were invited on.³¹

66. The Council responded to this question and stated that it was comfortable that the amended substantive application is within scope.³² The Council helpfully traversed the legal principles that concern questions of scope (largely under the Resource Management Act 1991 (**RMA**)) and the specific issues the Panel had sought answers on.

³¹ Minute 8.

³² Third Legal Memorandum of Counsel for Auckland Council, Auckland Transport, and Watercare Services Limited Regarding Issues of Scope – 18 July 2025.

67. The Applicant also responded to the Panel's question and stated that the Panel has jurisdiction to approve the changes to the substantive application.³³ Similar to the Council the Applicant covered the legal framework in the FTAA and the situation under the RMA.
68. As signalled in Minute 8 and confirmed in Minute 10 the Panel sought its own legal advice. This advice³⁴ concluded that:

In our opinion the changes to the substantive application by the Applicant in response to the comments are within scope of the project as listed in Schedule 2 of the FTAA. For completeness we also consider that the changes are within the scope of the substantive application.

69. The Panel therefore confirm that the changes made by the Applicant are within scope.

Conditions

70. The Application included a set of draft conditions which was subsequently amended in the response to the comments. The Council, in its capacity as a regulatory authority provided detailed feedback and various amended draft conditions with its formal comments as an invited commentor and in its response to further information. The detail of this is discussed further in Part J.
71. It is important to note here that Council was recommending that the approvals be declined so this is not a situation where the Panel have a comprehensive and agreed set of conditions. For this reason, the Panel directed expert witness conferencing on some of the conditions, and this is further discussed later in this Part J.
72. The following commentors also commented on the draft conditions provided with the Application. Immediately following a summary of these comments is the Applicant's response:
- a. Mark England wanted noise and dust effects to be appropriately managed. He did not recommend specific conditions, but this is one way these effects can be managed.
 - b. AVJ Hobsonville Pty Ltd considered that the following matters should be addressed by the Applicant and / or controlled by conditions³⁵:
 - Confirmation that Delmore will construct the Grand Drive Road extension required to access their site, noting that there are no existing resource consents for the physical construction of Grand Drive Extension.
 - Detailed retaining wall and earthworks plans and a construction methodology for the various matters set out in the comments – with a particular focus on the impact on the Ara Hills development that the commentor is undertaking.

³³ Memorandum of Counsel for the Applicant with Response to Minute 8 – 18 July 2025.

³⁴ Minute 13.

³⁵ These are set out in full as they mirror many things covered by the Council and the Applicant.

- Detailed earthworks plans and a construction methodology to demonstrate that there will be no impact on the Ara Hills site.
 - Assessment of the impacts from the large number of truck movements required to cart excess cut material from the Delmore site, including an assessment of noise and dust associated with these truck movements and appropriate construction management and construction traffic management conditions (especially noting the lack of reticulated water available at the site).
 - Confirmation that there will be no increase in flood risk downstream of the Delmore development, specifically on the Ara Hills Stage 2 development, such as by mitigating the increased flows & volumes on site or upgrading the culvert under SH1.
 - Confirmation that the Delmore development (taken together with the consented Ara Hills development) will not exceed the capacity of the existing DN315 wastewater pipe located under SH1 if a wastewater connection is allowed.
 - Provision of a water supply servicing proposal which is technically feasible and complies with Watercare's requirements and provides security of supply.
73. DOC requested a number of amendments to proposed conditions (5) and (6) in relation to the management plans including additional ecological management plans and suggested a new condition to provide for the certification and re-certification process. DOC also suggested amendments to the NoR condition (20) and the wetland offsetting plan (condition 23), the streamworks management plan (condition 86) and the finalised landscape design drawings (condition 41), work in progress conditions (87 and 88), water permit for dewatering / diversion of groundwater (90), the wastewater discharge permit (121 and 122) and some consequential amendments.
74. In response the Applicant submitted the following appendices:
- a. Appendices 54.1 and 54.2 – Responses to AVJ Hobsonville Pty Ltd;
 - b. Appendix 54.3 – Table Responses to Other Neighbours.
75. The responses to the AVJ Hobsonville Pty Ltd comment on the conditions are extensive.
76. On 1 August 2025 the Panel directed expert witness conferencing occur to discuss specific matters with regards to the conditions. These were identified in Minute 15. Mr Serjeant also prepared an agenda for the conferencing that the Panel agreed. The conferencing took place on 26 August, and the outcome was identified in a joint witness statement (**JWS**) which is referred to in Part J. The outcome also included a late Memorandum received on 28 August which the Panel accepted as per Minute 23.³⁶

³⁶ Minute 23 specifically refers to the expert conferencing documentation.

77. In this Decision reference to the conditions is contained in Part J and Appendix A. The Panel has not provided an agreed set of conditions for the resource consent aspects of the Application for obvious reasons. However, it has provided an agreed set of conditions with regards to the archaeological approval.
78. On the same day as providing the draft Decision to the Ministers referred to below the Panel also provided it to the Applicant. This is required by section 69 which states as follows:

69 Panel provides draft decisions to applicant before declining approval

- (1) This section applies if a panel—
 - (a) proposes to decline an approval under section 81; and
 - (b) has not previously invited the applicant to make a proposal under subsection (2)(b).
- (2) The panel must direct the EPA to—
 - (a) provide the applicant with a copy of its draft decision document for every approval sought in the substantive application; and
 - (b) invite the applicant to—
 - (i) propose conditions on, or modifications to, any of the approvals sought; or
 - (ii) withdraw the part of the substantive application that seeks any of the approvals sought.
- (3) A proposal under subsection (2)(b) must—
 - (a) be for the purpose of addressing the reasons for which the approval referred to in subsection (1) is proposed to be declined; and
 - (b) be within the scope of the substantive application.
- (4) An invitation for a proposal under subsection (2)(b) must include the date set by the panel by which the proposal must be received by the EPA.

79. Minute 23 dated 29 August sets out the process and the timing of that process for the Applicant to respond to.

Applicant's response under section 69

80. [insert]

Comments from the Minister for Māori Crown Relations: Te Arawhiti and Minister of Māori Development

81. Under section 72 of the FTAA the Panel invited comment from the Ministers for Māori Crown Relations: Te Arawhiti and Māori Development on 29 August 2025.³⁷
82. [insert reference to any comments received or note that no comments were received. Note that the Ministers have 10 working days to make comment from the date they were invited].

³⁷ [insert reference to any minute that recorded this matter]

Hearing

83. The Panel has exercised its discretion not to require a hearing on any issue under section 56 of the FTAA. The Panel was able to adequately consider all issues based on the information available including the Application, comments received, responses to comments and the further information provided by the Applicant, the Council and invited persons. The material issues involved were comprehensively addressed in the documentation provided thereby either resolving any technical expert differences of opinion or making it clear what differences remained outstanding. Residual issues were sufficiently clear for the Panel to consider.
84. In addition, the Panel was greatly assisted by the expert conferencing that was facilitated by Mr Serjeant and the joint witness statement that was provided. The Panel was also greatly assisted by the report from Dr Denne. These matters are discussed in more detail in Parts F, G and J of this Decision.
85. The Panel is mindful of the emphasis on time limited decision-making in the present process, the purpose of the FTAA in section 3 (to facilitate the delivery of infrastructure and development projects with significant regional or national benefits) and the procedural principles in section 10 of the FTAA, that require the Panel to take all practicable steps to use timely, efficient, consistent, and cost effective processes that are proportionate to the Panel's functions, duties or powers. It is for these reasons the Panel has exercised its powers:
 - a. under section 67 to request further information on numerous occasions as noted above and in Part F;
 - b. to direct expert conferencing as noted elsewhere in this Decision;
 - c. to obtain a technical expert peer review of the economic analyses.
86. It is the Panel's view that a hearing would not have furthered its understanding of the issues or allowed for a resolution of those issues. The Panel did not consider it necessary to 'test' the evidence via a traditional hearing approach.

Timing of the Panel decision

87. In accordance with the panel convenor minute dated 7 May 2025 the time frame for the panel to issue its decision documents under sections 79 and 88 is 17 September 2025³⁸.

³⁸ Note this was extended due to a suspension of the Application confirmed in Minute 5.

PART C: LEGAL CONTEXT

Legal context for a listed project under the FTAA

88. In accordance with section 42 an authorised person³⁹ for a listed project may lodge a substantive application with the EPA. The substantive application is required to follow the process set out in sections 43 and 44. The Applicant lodged the substantive application on 19 February 2025.
89. The EPA decided that the Application was complete and within scope⁴⁰ on 12 March 2025. The EPA made a recommendation on whether there are competing applications or existing resource consents for the same activity on 26 March 2025.⁴¹ The EPA then provided the Application to the panel convenor and at the same time requested a report from the Ministry for the Environment⁴² under section 18 of the FTAA. A report was received on 10 April 2025.
90. Section 81 of the FTAA sets out the framework the Panel must adopt when making decisions on approvals. The relevant parts of section 81 to this Application are set out here:

81 Decisions on approvals sought in substantive application

- (1) A panel must, for each approval sought in a substantive application, decide whether to—
 - (a) grant the approval and set any conditions to be imposed on the approval; or
 - (b) decline the approval.
- (2) For the purpose of making the decision, the panel—
 - (a) must consider the substantive application and any advice, report, comment, or other information received by the panel under section 51, 52, 53, 55, 58, 67, 68, 69, 70, 72, or 90:
 - (b) must apply the applicable clauses set out in subsection (3) (see those clauses in relation to the weight to be given to the purpose of this Act when making the decision):
 - (c) must comply with section 82, if applicable:
 - (d) must comply with section 83 in setting conditions:
 - (e) may impose conditions under section 84:
 - (f) may decline the approval only in accordance with section 85.

³⁹ FTAA, sections 4 and 42.

⁴⁰ FTAA, section 43.

⁴¹ FTAA, section 47.

⁴² The Ministry for the Environment is the responsible agency for the purpose of section 18.

(3) For the purposes of subsection (2)(b), the clauses are as follows:

- (a) for an approval described in section 42(4)(a) (resource consent), clauses 17 to 22 of Schedule 5:

...

- (j) for an approval described in section 42(4)(i) (archaeological authority), clauses 4 and 5 of Schedule 8:

...

(4) When taking the purpose of this Act into account under a clause referred to in subsection (3), the panel must consider the extent of the project's regional or national benefits.

(5) For the purposes of subsection (4), if the substantive application was made under section 42(1)(b), the panel—

- (a) must treat the stage of the project to which the application relates as constituting the project; but
- (b) may consider the regional or national benefits of the whole project, having regard to the likelihood that any later stages of the project will be completed.

(6) Despite subsection (2)(a), the panel—

- (a) is not required to consider any advice, report, comment, or other information it receives under section 51, 53, 55, 67, 69, 70, or 72 after the applicable time frame; but
- (b) may, in its discretion, consider the information as long as the panel has not made its decision under this section on the approval.

(7) To avoid doubt, nothing in this section or section 82 or 85 limits section 7.

91. In this Application the Panel received a report from Heritage NZ under section 51 of the FTAA, a report under section 18 as noted in section 52, comments from various persons under section 53, the Applicant's response to comments under section 55, feedback on the draft decision under section 69, and comments [or no comments] from the Ministers noted in section 72, and numerous pieces of further information under section 67. The Panel understands that the EPA requested and received information from administering agencies and the Council under section 90 which was provided to the panel convener and subsequently provided to the Panel. No other sections set out in section 81(2)(a) are relevant to this Application.
92. The Panel also exercised its discretion under section 81(6)(b) and considered information that was not provided within the requisite timeframes. In all such cases the Panel recorded this in a Minute.

Ability to decline the Application under section 85

Submissions from Auckland Council

93. Auckland Council are recommending that the Application is declined. In support of this recommendation, Council submitted a Memorandum of Legal Comments on 25 June 2025 (**Council Legal Memorandum**). The conclusion and recommendations are as follows:
- 5.1 As matters stand on 25 June 2025, the result of the Council family's comprehensive assessment is that under the FTAA's section 85(3) proportionality test the proposal's adverse impacts substantially outweigh any regional benefits (even accounting for proposed mitigation measures etc).
 - 5.2 The recommendation in the Planning Memo is to **decline** the Application.
 - 5.3 The Applicant has provided some additional material post-12 June 2025 and has foreshadowed further material being provided by 2 July 2025. The Panel may wish to consider exercising its power under section 67 of the FTAA to request further assessment by the Council family on updated material. The Council family comments have also identified a range of important information gaps, and the Panel may also wish to consider exercising its power under section 67 in relation to those matters.
 - 5.4 The potential for such further information processes raises issues of sequencing and fairness to the parties, and considerations with respect to the statutory timeframes under which the Panel must operate. Counsel and Council family representatives would be available to attend a conference with the Panel to address procedural matters if that were of assistance.
94. With regards to the recommendation by the Council to decline the Application, the Council's Legal Memorandum notes that there are no reasons why the Application **must** be declined.⁴³ The Council refers to section 85(3) and notes that the Panel may decline an approval where the adverse impacts are sufficiently significant to be out of proportion to the project's regional or national benefits. The Council Legal Memorandum sets out the relevant sections of the FTAA.
95. Section 85(1) and (2) sets out the matters that apply to a mandatory decline decision. This is not a case where these sections apply.
96. Section 85(3) sets out the matters that must be considered by the Panel in forming a view that the approval sought may be declined:

Approval may be declined if adverse impacts out of proportion to regional or national benefits

- (3) A panel may decline an approval if, in complying with section 81(2), the panel forms the view that—
 - (a) there are 1 or more adverse impacts in relation to the approval sought; and

⁴³ At paragraph 3.56.

- (b) those adverse impacts are sufficiently significant to be out of proportion to the project's regional or national benefits that the panel has considered under section 81(4), even after taking into account—
 - (i) any conditions that the panel may set in relation to those adverse impacts; and
 - (ii) any conditions or modifications that the applicant may agree to or propose to avoid, remedy, mitigate, offset, or compensate for those adverse impacts.
 - (4) To avoid doubt, a panel may not form the view that an adverse impact meets the threshold in subsection (3)(b) solely on the basis that the adverse impact is inconsistent with or contrary to a provision of a specified Act or any other document that a panel must take into account or otherwise consider in complying with section 81(2).
 - (5) In subsections (3) and (4), adverse impact means any matter considered by the panel in complying with section 81(2) that weighs against granting the approval.
- 97. The Council Legal Memorandum refers to this as a 'proportionality test' and states it requires the Panel to consider:
 - a. The nature and significance of adverse impacts identified through the section 81(2) process;
 - b. The project's regional benefits as assessed under section 81(4) (there being no suggestion of national benefits here);
 - c. Whether proposed conditions or applicant modifications could adequately address adverse impacts;
 - d. Whether the proportionality threshold is met even after accounting for mitigation measures, compensation etc.⁴⁴
- 98. The Memorandum correctly states that should the Panel assess the adverse impacts as being sufficiently significant such that they are out of proportion to the Project's regional benefits, the Panel may at its discretion, decline the Application.
- 99. In terms of what the term "adverse impact" means it is defined in section 85(5) as meaning *"any matter considered by the panel in complying with section 81(2) that weighs against granting the approval"*. The Council submits that the term is *"therefore broad, and could encompass (for example) adverse effects on the environment, matters arising from planning instruments, and section 104(1)(c) matters."*⁴⁵
- 100. The Council Legal Memorandum correctly refers to Section 85(4) which states that the Panel *"may not form the view that an adverse impact meets the threshold in*

⁴⁴ At paragraph 3.59.

⁴⁵ At paragraph 3.61.

subsection (3)(b) solely on the basis that the adverse impact is inconsistent with or contrary to a provision of a specified Act or any other document."⁴⁶

101. The Council submits that this provision:

... does not prohibit consideration of inconsistency or contrariness with planning documents – it only prevents reliance on inconsistency alone as sufficient grounds for decline. This suggests Parliament intended that inconsistency remains a relevant consideration. It simply cannot be the **only** factor supporting a decline decision.⁴⁷

102. The Council submits further that "*where inconsistency with planning provisions is coupled with actual adverse impacts both factors "may legitimately contribute to a decision to decline."*"⁴⁸

103. The Council refers to several material adverse impacts that it considers are sufficiently significant to be out of proportion to the project's regional benefits. The adverse effects/impacts assessment is set out in Part F and the benefits assessment is set out in Part G of this Decision.

104. The Council Legal Memorandum then sets out the legal tests with regard to the power of a decision maker to decline part of an application. The case of Kohimarama⁴⁹ decided under the Covid-19 Recovery (Fast-track Consenting) Act 2020 is referred to for supporting the submission that the Panel has three options:

- a. Grant the full approval (with conditions);
- b. Decline it entirely;
- c. Approve only part of what is sought (with conditions), and decline the remaining parts.

105. The submission is clear that any decision to decline an approval (in whole or in part) must be made in accordance with section 85 FTAA.⁵⁰

106. The Council's Legal Memorandum then considered a number of discrete legal topics that are relevant to the Panel's deliberations as follows:

- i. Case law and higher order planning instrument provisions confirming that infrastructure issues, including funding impacts, are valid considerations for the Panel;
- ii. Similarly, case law confirming that the Courts (and here the Panel) do not have power to direct the executive (i.e. the Council) or any of its agencies as to how they may collect or spend public moneys;
- iii. Update the Panel on Court of Appeal authority confirming Watercare's ability *inter alia* to decide what assets would vest in it;
- iv. The *vires* of consent conditions which purport to deem certification (it is understood that the Applicant may intend to propose such conditions);

⁴⁶ At paragraph 3.62.

⁴⁷ At paragraph 3.63.

⁴⁸ At paragraph 3.64.

⁴⁹ At paragraph 3.67.

⁵⁰ At paragraph 3.69.

- v. The status of the Council's Future Development Strategy.⁵¹

Submissions for the Applicant in response to the Council's Legal Memorandum

107. Unsurprisingly the Applicant does not agree with the Council's legal analysis and filed a legal memorandum in response (**Applicant's Legal Memorandum**). After considering the purpose of the FTAA and the change the legislation has made to the standard consenting and approvals process the Memorandum concludes that:

The Council family has failed to grasp this "shift". Across the Council family's memoranda there is repeated reference to Delmore being 'out of sequence' with the FDS's 2050 development date¹⁶ and to development ahead of a plan change to adjust the Future Urban Zoning ("FUZ"). This is to the point that Watercare Services Limited ("Watercare") opposes Delmore on the basis that capacity at Army Bay after the stage 1 upgrade should be reserved for other FUZ land to be developed at some indeterminate time in the future.⁵²

108. The Applicant's Legal Memorandum submits that the FTAA includes a stringent test that must be met before approval can be declined:

Conflict with policy in a planning instrument is not enough. Adverse impacts must be so significant that they outweigh the significant regional benefits of the project, in a context where those benefits are afforded the greatest weight. The bar for decline is high.⁵³

109. In discussing the recent judgement of *Glenpanel Development Ltd v Expert Consenting Panel* the Applicant submits that this decision is highly relevant to its consideration here. This submission was in direct response to the Second Memorandum of Counsel for Auckland Council, Auckland Transport and Watercare Services Limited dated 2 July 2025. In that Memorandum Council submits that the *Glenpanel* decision does not alter the analysis or recommendations in Section D of the Council's Planning Memorandum dated 25 June 2025, with the recommendation of decline "*being based on his assessment of a number of identified 'adverse impacts' (e.g. concerning infrastructure, ecology etc), which remain regardless of how planning documents are interpreted.*"⁵⁴
110. It is the Applicant's submission that the Council's position fails to recognise the transformational effect of the FTAA and is inconsistent with the findings of the Court of Appeal in *Glenpanel*.

Panel finding on the legal position on the ability to decline an approval/s

111. It is the view of the Panel that the ability to decline an approval is as set out in section 85. The Panel agrees with the Council that the Panel is required to consider the:
- a. nature and significance of adverse impacts identified through the section 81(2) process;
 - b. the project's regional benefits as assessed under section 81(4); and
 - c. whether proposed conditions or applicant modifications could adequately address adverse impacts.

⁵¹ At paragraph 3.71.

⁵² At paragraph 2.13.

⁵³ At paragraph 2.6.

⁵⁴ At paragraph 3.2(b)(ii).

112. The Panel agrees that the term “adverse impact” does correlate to a RMA consideration of adverse effect in this Application.
113. The Panel agrees that section 85(4) is clear that it cannot form a view that an adverse impact meets the threshold solely on the basis that the impact is inconsistent with or contrary to a provision of a specified Act or any other document (in this case the planning framework).
114. The Panel does not agree that the Council has grounded its recommendation to decline the approval solely on the basis of inconsistency with the Auckland Unitary Plan – namely that the Application site is not currently zoned urban. Nor does it agree that the Council has based its recommendation solely on the capacity of the wastewater infrastructure capacity at Army Bay.
115. The Council makes it very clear in both of its legal memoranda and in the documents submitted by way of comment that there are a number of adverse impacts regardless of how the planning framework is interpreted. The Council has also made it clear that it considers that the Applicant has overstated the regional benefits of the project. The adverse effects/impacts assessment is set out in Part F and the benefits assessment is set out in Part G.

Approvals relating to the Resource Management Act 1991

116. The relationship of the FTAA with the RMA is outlined in Schedule 5 which provides the consent application process that applies rather than the standard RMA consent application process. Clause 17 states:

17 Criteria and other matters for assessment of consent application

- (1) For the purposes of section 81, when considering a consent application, including conditions in accordance with clauses 18 and 19, the panel must take into account, giving the greatest weight to paragraph (a),
 - (a) the purpose of this Act; and
 - (b) the provisions of Parts 2, 3, 6, and 8 to 10 of the Resource Management Act 1991 that direct decision making on an application for a resource consent (but excluding section 104D of that Act); and
 - (c) the relevant provisions of any other legislation that directs decision making under the Resource Management Act 1991.
- (2) For the purpose of applying any provisions in subclause (1),—
 - (a) a reference in the Resource Management Act 1991 to Part 2 of that Act must be read as a reference to sections 5, 6, and 7 of that Act; and
 - (b) if the consent application relates to an activity that is the subject of a determination under section 23 of this Act, the panel must treat the effects of the activity on the relevant land and on the rights or interests of Māori as a relevant matter under section 6(e) of the Resource Management Act 1991; and

- (c) to avoid doubt, for the purposes of subclause (1)(b), when taking into account section 104(1)(c) of the Resource Management Act 1991, any Mana Whakahono ā Rohe or joint management agreement that is relevant to the approval is a relevant matter.
 - (3) Subclause (4) applies to any provision of the Resource Management Act 1991 (including, for example, section 87A(6)) or any other Act referred to in subclause (1)(c) that would require a decision maker to decline an application for a resource consent.
 - (4) For the purposes of subclause (1), the panel must take into account that the provision referred to in subclause (3) would normally require an application to be declined, but must not treat the provision as requiring the panel to decline the application the panel is considering.
 - (5) ...
 - (6) For the purposes of subclause (1), the provisions referred to in that subclause must be read with all necessary modifications, including that a reference to a consent authority must be read as a reference to a panel.
 - (7) Sections 123 and 123A of the Resource Management Act 1991 apply to a decision of the panel on the consent.
117. The Council submitted that under clause 17(1) while the fast-track approvals process prescribed in the FTAA applies to the Application instead of the usual RMA consenting process, the FTAA expressly incorporates (or imports) most RMA provisions relevant to the assessment of resource consent applications, with all necessary modifications.⁵⁵
118. In terms of the two statutory purpose provisions to resource consent decision-making the Council spelt these out as being: the FTAA purpose which is "*to facilitate the delivery of infrastructure and development projects with significant regional or national benefits*" and the familiar sustainable management purpose of RMA, which also applies in light of clause 17(1)(b), albeit with the 'greatest weight' given to the FTAA's purpose.⁵⁶
119. While the Applicant did not completely agree with everything the Council included in its submissions on clause 17 to the Panel it did state that:
- The applicant is not suggesting that in this case no weight should be given to the applicable RMA provisions. Indeed, it considers that when the application is correctly assessed against those provisions, they support grant of the RMA approvals sought. However, it is important that the panel is correctly informed as to the scope of its decision-making power.⁵⁷
120. The Panel has included its assessment of effects in Part F and its assessment of the planning framework in Part H of this Decision.

⁵⁵ Legal memo at paragraph 3.16.

⁵⁶ At paragraph 3.21.

⁵⁷ Applicant memo at 4.17 on page 10 (note this is an error in the numbering hence the page number is also provided).

Approvals relating to an archaeological authority under the Heritage New Zealand Pouhere Taonga Act 2014

121. Schedule 8, clause 4 sets out the criteria for assessment of an application for an archaeological authority. Given the archaeological authority was not the subject of extensive submissions the Panel confirms that it has considered the matters in Schedule 8 in deciding to approve the authority.

PART D: IWI AUTHORITIES

Section 18 Report for a listed project

122. The Ministry for the Environment provided a report under s18 in accordance with section 49. This a report noted the following:

Auckland has a complex Treaty settlement landscape with many overlapping interests. There are groups in the post-settlement phase with others at different stages of the Treaty settlement process, including some groups seeking both individual and collective settlement redress.

Treaty settlements that are relevant to the project area include Treaty settlement Acts and signed Treaty settlement deeds (where Treaty settlement Acts have yet to be passed). Treaty settlements Acts identified as relevant to the application are the Ngāti Manuhiri Claims Settlement Act 2012, Ngāti Whātua o Kaipara Claims Settlement Act 2013, Ngā Mana Whenua o Tāmaki Makaurau Collective Redress Act 2014, Te Kawerau ā Maki Claims Settlement Act 2015 and Ngāi Tai ki Tāmaki Claims Settlement Act 2018. Signed Treaty settlement deeds that do not yet have Treaty settlement Acts are Ngāti Paoa, Te Ākitai Waiohū and Te Patukirikiri.

We have not identified any court orders or agreements recognising customary marine title or protected customary rights under the Marine and Coastal Area (Takutai Moana) Act 2011 (MACA) that are relevant to the application. Similarly, we have not identified any Mana Whakahono ā Rohe or joint management agreements that have been entered into with local authorities under the RMA that are relevant to the project area.

While some of the principles and provisions of these Treaty settlements apply broadly to the project, we have not identified any specific provisions that must be considered when assessing the application under the Act.

We have not identified any documents that the panel must give the same or equivalent effect to under section 82, or procedural requirements that the panel must comply with under schedule 3, clause 5 of the Act.

Substantive application information

123. The AEE stated:

The proposal is considered to be consistent with the Treaty settlements and iwi planning documents relevant to the site, and the applicant has undertaken, and continues to undertake, extensive engagement with iwi.

....

The iwi authorities and/or Treaty settlement entities associated with each iwi are identified in the iwi consultation record in Appendix 24. These were used by Vineway Ltd as the point of

contact for each iwi and thus were also identified by Vineway Ltd as likely to be affected by Delmore. A total of 20 entities were approached by Vineway Ltd.

For completeness, it is noted that as defined by the FTAA a Treaty settlement deed does not include an agreement in principle or any document that is preliminary to a signed and ratified deed. There are four documents falling within this exclusion potentially relevant to the project site: The Deeds of Settlement initialled by Ngaati Whanaunga; Ngāti Maru (Hauraki) and Ngāti Tamaterā according to the record on the Māori Crown Relations office website; and the agreement in principle to settle historical claims signed by the Crown and Ngāti Whātua.

Despite these not being Treaty settlements for the purposes of the FTAA definition, Vineway Ltd has contacted these iwi about Delmore and Ngaati Whanaunga has prepared and provided a cultural impact assessment. For completeness it is noted that te Runānga o Ngāti Whātua had originally indicated they thought a cultural impact assessment would be necessary, however this has not eventuated.

Cultural impact assessments were also provided by Te Kawerau a Maki and Ngāti Manuhiri. The applicant prepared detailed responses to the recommendations in these assessments.

A summary of the relevant provisions and principles of the nine Treaty settlements applying to the site have been set out in Appendix 39, and Delmore is consistent with these.⁵⁸

Comments

124. Panel invited comments from the 28 iwi authorities and Treaty settlement entities under s53(2)(b) – (g) listed in Appendix 1 of Minute 3.

125. No comments were received.

Statutory requirements

Treaty settlements and recognised customary rights

126. The Panel is particularly cognisant of section 7 of the FTAA which states:

7 Obligation relating to Treaty settlements and recognised customary rights

- (1) All persons performing and exercising functions, powers, and duties under this Act must act in a manner that is consistent with—
 - (a) the obligations arising under existing Treaty settlements; and
 - (b) customary rights recognised under—
 - (i) the Marine and Coastal Area (Takutai Moana) Act 2011;
 - (ii) the Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act 2019.

⁵⁸ AEE at section 11.1.

- (2) To avoid doubt, subsection (1) does not apply to a court or a person exercising a judicial power or performing a judicial function or duty.
 - (3) In this section, **existing Treaty settlements** means Treaty settlements that exist at the time the relevant function, power, or duty is performed or exercised (rather than only those that exist at the commencement of this Act).
127. It is unclear to the Panel whether or not section 7(2) operates to exclude section 7(1) from its consideration. On the one hand, the Panel is clearly exercising a “judicial function” in making these decisions, which would indicate that the section 7(1) does not apply.
128. On the other hand, section 82(3) and 84(1) quite explicitly direct that the Panel is required to consider and apply section 7 in the context of making a decision or imposing a condition.
129. In respect of section 7(1), there are no relevant customary rights applied to the Site but there are existing Treaty settlements. The Panel understands⁵⁹ that the following Settlement Acts (and associated Treaty settlement deeds) are of relevance to the Application area:
- a. the Ngāti Manuhiri Claims Settlement Act 2012;
 - b. Ngāti Whātua o Kaipara Claims Settlement Act 2013;
 - c. Ngā Mana Whenua o Tāmaki Makaurau Collective Redress Act 2014;
 - d. Te Kawerau ā Maki Claims Settlement Act 2015; and
 - e. Ngāi Tai ki Tāmaki Claims Settlement Act 2018.
 - f. Signed Treaty settlement deeds that do not yet have Treaty settlement Acts are Ngāti Paoa, Te Ākitai Waiohū and Te Patukirikiri.
130. The section 18 report did not identify any court orders or agreements recognising customary marine titles or protected customary rights under the Marine and Coastal Area (Takutai Moana) Act 2011 (MACA) that are relevant to the application. Similarly, there were no Mana Whakahono ā Rohe or joint management agreements that have been entered into with local authorities under the RMA that are relevant to the project area.
131. The report advised that while some of the principles and provisions of these Treaty settlements apply broadly to the project, it did not identify any specific provisions that must be considered when assessing the application under the FTAA. It finally concluded that no documents were identified that the Panel must give the same or equivalent effect to under section 82, or procedural requirements that the panel must comply with under schedule 3, clause 5 of the FTAA.
132. As noted in Part B of this Decision, the Panel directed the EPA to seek comment from the Minister for Māori Crown Relations: Te Arawhiti and the Minister for Māori

⁵⁹ Based on the s18 Report provided by the Ministry for the Environment.

Development under section 72 of the FTAA. [insert comments received here].

Effect of treaty settlements and other obligations

133. In accordance with the advice provided in the section 18 report the Panel concludes that section 82 of the FTAA does not apply. Equally, section 84 does not apply.
134. For completeness the Panel note that under Schedule 8, clause 5 regarding the archaeological authority there is no reference to Treaty settlements or equivalent.

PART E: PRINCIPAL ISSUES IN CONTENTION

135. The principal issues in contention are:
 - a. Whether the following adverse effects/impacts are more significant than the Applicant asserts:
 - Wastewater
 - Water supply
 - Transport
 - Ecological.
 - b. Whether the benefits of the Application are as significant as the Applicant maintains.
136. The Panel's findings on these principal issues in contention are that the wastewater, water supply, transport and ecological effects are sufficiently significant that they are out of proportion to the Application's benefits. These effects are not capable of being addressed by way of conditions. The detail of the Panel's assessment is contained elsewhere in this Decision.
137. The Panel notes that these principal issues were not substantially refined or resolved through the expert witness conferencing session. This is further discussed in Part J of this Decision.

PART F: EVALUATION OF EFFECTS

138. Schedule 5 clause 5(4) requires a consent application to provide an assessment of an activity's effects on the environment covering the information in clauses 6 and 7. These matters include:

6. Information required to assess environmental effects

- (1) The assessment of the activity's effects on the environment under clause 5(4) must include the following information
 - (a) an assessment of the actual or potential effects on the environment:
 - (b) if the activity includes the use of hazardous installations, an assessment of any risks to the environment that are likely to arise from such use:
 - (c) if the activity includes the discharge of any contaminant, a description of—

- (i) the nature of the discharge and the sensitivity of the receiving environment to adverse effects; and
- (ii) any possible alternative methods of discharge, including discharge into any other receiving environment:
- (d) a description of the mitigation measures (including safeguards and contingency plans where relevant) to be undertaken to help prevent or reduce the actual or potential effect of the activity:
- (e) identification of persons who may be affected by the activity and any response to the views of any persons consulted, including the views of iwi or hapū that have been consulted in relation to the proposal:
- (f) if iwi or hapū elect not to respond when consulted on the proposal, any reasons that they have specified for that decision:
- (g) if the scale and significance of the activity's effects are such that monitoring is required, a description of how the effects will be monitored and by whom, if the activity is approved:
- (h) an assessment of any effects of the activity on the exercise of a protected customary right.

...

7. Matters to be covered in assessment of environmental effects

The assessment of and activity's effects on the environment under clause 5(4) must cover the following matters:

- (a) any effect on the people in the neighbourhood and, if relevant, the wider community, including any social, economic, or cultural effects:
- (b) any physical effect on the locality, including landscape and visual effects:
- (c) any effect on ecosystems, including effects on plants or animals and physical disturbance of habitats in the vicinity:
- (d) any effect on natural and physical resources having aesthetic, recreational, scientific, historical, spiritual, or cultural value, or other special value, for present or future generations:
- (e) any discharge of contaminants into the environment and options for the treatment and disposal of contaminants:
- (f) the unreasonable emission of noise:
- (g) any risk to the neighbourhood, the wider community, or the environment through natural hazards or hazardous installations.

139. The AEE provided an assessment of these matters at section 12 of the Revised AEE. Participants who commented also raised a range of actual and potential effects.

140. This is not an application where there has been a meeting of minds between the Applicant and the Council. In this part of the Decision, the Panel starts with the adverse effects identified by the Council and how the Applicant has responded to these. The Panel notes that this is an application where it has received a plethora of information (as identified elsewhere). The effects section primarily focuses on the main issues in contention and it contains a lot of information that addresses the various positions that the participants had (largely the Council and the Applicant) throughout this process. The Panel considers that it has provided significant feedback and opportunity for the participants -particularly the Applicant- to address the concerns that the Panel has articulated. Expert witness conferencing did not result in agreement on the outstanding issues. The conferencing is addressed in Part J of this Decision.
141. The Panel has addressed the effects in a similar manner to the Council and the Applicant. The Panel has also had regard to the relevant planning provisions in evaluating the effects of the Project, as noted in Part H of this Decision.
142. In terms of the relevant receiving environment, the Panel has applied the test in *Hawthorn*. The environment includes that which presently exists. It also

...embraces the future state of the environment as it might be modified by the utilisation of rights to carry out a permitted activity under a district or regional plan or by the implementation of resource consents which have been granted at the time a particular application is considered, where it appears likely that those resource consents will be implemented.⁶⁰

Auckland Council's position on the assessment of effects

143. In the Council's Legal Memorandum, it states that eleven adverse impacts that meet the threshold in section 85(3) were identified by the Council.
144. The Panel notes that these matters are addressed by using the term in section 85 of the FTAA which is 'impact'. The Panel considers that the term 'impact' is equivalent to the term 'effect' used in the context of clause 5(4) of Schedule 5 and use them interchangeably in this Decision.
145. For the purposes of the assessment under section 85 which is covered in Part C of this Decision, the term is impact. For the purposes of the assessment under clause 5(4) of Schedule 5 of the FTAA the term is effects.
146. The Council classed its eleven adverse impacts into broadly the following issues / topics⁶¹:
- a. **No / inadequate proposal for water supply servicing**- the absence of a clear proposal for water supply servicing is a key infrastructure deficit, creating significant uncertainty as to the feasibility of development, and concerns (if consent is granted) as to potential public health risks for the future community.
 - b. **Viability of wastewater servicing** - Watercare has assessed the capacity of the existing and planned bulk infrastructure required to support the proposal ahead of the 2050+ timing in the Future Development Strategy and confirm that

⁶⁰ *Queenstown Lakes District Council v Hawthorn Estate Ltd* [2006] NZRMA 424 at [84].

⁶¹ At paragraphs 2.8 summary and 4.3 full notes.

the earliest connections could be provided without precluding development of the existing live zoned areas and sequenced growth would be from 2050+. It is not yet clear whether there is viable long-term private wastewater solution, which (if there is no such solution) is a potentially significant adverse impact.

- c. **Design and metrics of the Neighbourhood Parks** - the design of the Neighbourhood Park in Stage 2 has limited utility noting the steep topography of part of the park land. In respect to the Stage 1 Neighbourhood Park, the area does not meet open space provisions (3,000m² minimum); and limited details have been provided in the application and Applicant responses in terms of the key metrics. The site-specific measures need to be met while accommodating a high level of useability for the land. If these key metrics are not met, it would be considered to have adverse effects on the wider and regional open space provision and future communities open space needs. In addition, it is doubtful that Council would acquire such spaces, and provision would need to be made for private ownership and maintenance.
- d. **Partial delivery and alignment of Notice of Requirement 6 (NoR 6)** - The proposal will deliver only a portion of the NoR 6. This is not considered a regionally significant benefit as it would only serve the development site and provide no efficiency or wider arterial corridor benefits. The benefits contended by the Applicant could only be considered regionally beneficial if the entire NoR 6 Connection between Milldale and Grand Drive Ōrewa corridor were to be delivered. The arterial road cannot operate with its intended function (as an arterial corridor supporting urban growth and improving access) until it is fully constructed and does not have any regional benefit until it can operate as an arterial corridor. The formation of only part of NoR 6, combined with the proposed alignment deviation, not only undermines transport outcomes but also creates potentially significant cost implications for Auckland Transport and the Council.
- e. **Inadequate provision of collector roads, and general road hierarchy, and potential need for further interim upgrades to address transport effects** - the proposal does not provide an appropriate road hierarchy with the one arterial road (NoR 6) and 28 local roads. No collector roads are proposed to accommodate buses and enable appropriate bus transport connections and connectivity for the proposal. The proposal has poor connectivity (vehicular and pedestrian/cyclist) both within the site and with surrounding rural and urban areas. The contributes to poor connectivity, car dependency and lack of public transport opportunities which are considered to be significant. Beca has also noted the potential need for further interim upgrades to the road network to provide safe and efficient access for the development, i.e. road widening, footpath/cycle paths, intersection upgrades etc.
- f. **High car dependency and fragmented urban form** - the proposed site and road layout, with a high number of cul-de-sacs, contributes to poor connectivity and a fragmented urban form that reinforces a car-dominated movement network. These poor urban design outcomes are considered to be significant and the proposal does not contribute to a well-functioning urban environment.
- g. **Potential ecological effects** - there are a number of key information gaps in the Application with respect to ecological effects. These information gaps mean adverse terrestrial and freshwater ecology effects are not able to be fully

assessed. Consequently, it is not possible to determine whether the measures proposed by the Applicant are appropriate to mitigate or avoid these effects.

- h. **Sedimentation effects** - An Adaptive Management Plan is considered necessary, given the extent and duration of the earthworks activity within the receiving environment that contains wetlands and streams, to ensure that adverse sedimentation effects are appropriately mitigated and managed. The Applicant is opposed to this mechanism.
 - i. **Adequacy of the Structure Plan** - the absence of a properly prepared Structure Plan creates a potential ad-hoc / piece-meal approach to future development of the wider area and integration with other land including Ara Hills, poor quality outcomes and a non-integrated approach for the delivery/ coordination of infrastructure, and roading which are considered to be significant.
 - j. **Impacts on planned investment and infrastructure provision** - bringing forward the timing of the proposed development would come at the expense of the delivery of other developments and is not possible without displacing planned investment and infrastructure service provision in existing live zoned areas and sequenced areas. There are significant infrastructure funding and financing gaps for the application and no agreements are in place to confirm the scope of proposed infrastructure and ongoing operational expenditure. The impacts of displaced development, planned investment, infrastructure service provision, and significant funding and financing gaps are considered to be significant.
 - k. **Uncertainty of infrastructure delivery and servicing** - the absence of resolved water supply, wastewater and transport infrastructure delivery and servicing creates significant uncertainty and risk that, if the Application is approved, interim solutions may be required. There is insufficient certainty that Council will not bear (or be placed under pressure to bear) the short, medium or long term operational and capital costs, which Council is not in a position to absorb. The impact of this uncertainty is considered to be significant.
147. All of these matters are contained in more detail within the documents that accompanied the Council's Legal Memorandum and the Council's Memorandum of Strategic and Planning Matters.
148. In addition to these adverse effects / impacts the Council identified three 'critical infrastructure deficits' (in terms of water supply, wastewater capacity and transport infrastructure) and material issues with urban form and connectivity (in terms of the lack of collector roads, the high number of cul de sacs and a fragmented street network). In addition, the Council assessment highlights ecological and environmental concerns and information gaps.⁶²

Applicant's response to Council's comments

149. In response the Applicant's Legal Memorandum submits that these eleven identified adverse impacts do not arise due to the additional information provided by the

⁶² For key information gaps see the Table in Section D of the Council's Planning Memorandum

Applicant in its response.⁶³ There are numerous documents that form part of the Applicant's response but for the purposes of this part of the Decision the Panel focuses on the summary of the impacts/effects contained in the Memorandum. The Memorandum specifically addresses all eleven 'purported' adverse effects which summarise here.⁶⁴ The Panel has included its assessment of adverse effects that addresses the specific technical reports later in this part of the Decision.

150. In relation to the **no or inadequate proposal for water supply servicing** raised by the Council, the Memorandum refers to a capacity analysis prepared by McKenzie & Co and provided in Appendix 45 to the revised AEE. The Panel notes that this capacity analysis was not included in the documents that were lodged with the Application. The Memorandum submits that this analysis *"demonstrates that there is capacity within the existing water supply network to service Delmore along with existing connections, consented but not yet connected residential development, and the neighbouring Milldale fast-track project."*
151. The Memorandum concludes that the Council's assertion is driven by its view that Delmore is "out of sequence" and so should not be approved. The Council's view is not based on the actual capacity within the water supply network but is *"just another version of the Council's FUZ argument, not a separate adverse impact."*
152. In terms of the Council's submission and evidence that there is **no viable wastewater solution**, the Applicant refers to the capacity analysis which it submits demonstrates that there is residual capacity at Army Bay now for approximately 3000 connections and that the homes provided by the Delmore project should be able to access this capacity. The Applicant further submits that the approach taken by Watercare is to infer that it will not *"provide connections to Delmore because it is "out of sequence" and on FUZ land, even when capacity is practically available, is entirely unreasonable and directly contrary to Parliament's intent that Delmore's homes should be delivered now."*
153. The Applicant goes on to submit that if there is a period before the Army Bay stage 1 upgrade where there is genuinely no capacity at Army Bay, then *"wastewater will be managed on-Site in accordance with a detailed and carefully planned wastewater strategy,"* as described in the revised AEE the technical assessments in Appendix 46.
154. In relation to the purported adverse effect – **design and metrics of the neighbourhood parks** the Memorandum refers to new appendices 48.3 and 44.1 to the revised AEE and states that a neighbourhood park is proposed for both Stage 1 and Stage 2. Based on this information the Applicant submits that there is no basis for the Council's concern about neighbourhood parks.
155. The **delivery and alignment of the NoR 6 Road** is discussed in a new Appendix 51.4 and the Memorandum submits that this demonstrates that the Applicant's realignment reduces the extent to which the road encroaches on the native vegetation to south of the Site and reduces the overall cost of this portion of the NoR 6 road. The Applicant submits that there is no basis for concluding ecological and delivery cost impacts are adverse.

⁶³ At paragraph [5.8].

⁶⁴ These sections are all contained in paragraph [5.9].

156. The Applicant goes onto submit that implementing Delmore would see the most challenging part of the NoR 6 road delivered and paid for, and with an alignment that reduces its environmental footprint.
157. In relation to the Council's position that there is **inadequate provision of collector roads, road hierarchy, and upgrades to road network** the Applicant submits that it is delivering the road network upgrades Commute Ltd has identified as being required to accommodate the Delmore development and the Council's this point. The Applicant goes onto to state that there are no adverse impacts arising from exclusion of collector roads and an additional appendix 47.2 addresses this point.
158. In terms of the Council's position that the Project promotes high car dependency and fragmented urban form new appendices 47.1 and 47.2 address this point and new appendix 51.2 addresses the other current and future transport options available to residents, from walking, to cycling, to bus.
159. The response to the Council comments on the **ecological impacts** are addressed in a new Appendix 42.2. In short, the Applicant submits that the urban form of the development is driven by the terrestrial and freshwater ecological values of the Site. The Applicant submits that a comprehensive suite of measures is proposed to minimise any impacts on native vegetation and fauna during construction, including pre-construction surveys, translocation, and ongoing management measures, and an overall assessment of the ecological impacts and benefits of the development are provided in the Ecological Assessment appended to the Application as lodged (Appendix 4), and the response to comments in the new Appendix 42.2.
160. In short, the Applicant submits that the development results in regionally significant ecological benefits, not adverse ecological impacts so significant that they support decline of the approvals sought.
161. In response to the Council's strategic and planning memo that the **sedimental effects** of the project are sufficiently significant to outweigh any regional benefits unless an Adaptive Management Plan is adopted, the Applicant states that the Council's earthworks assessment (Annexure 12) does not support that statement at section 4.8. In summary, the Applicant does not consider a condition requiring an AMP should be imposed.
162. In terms of the **adequacy of the Applicant's structure plan** the Applicant states that the Council's assertion that Delmore has not been designed in an integrated way with other surrounding development and FUZ land is wrong. The Applicant refers to the Architectural Drawings (Appendix 15); the strategic context of the Site (Appendix 27). The Applicant notes that it has undertaken the same analysis that would be undertaken in an ordinary plan change context, alongside the detail a resource consent application requires.
163. The Applicant has amended the masterplan to provide further connections to neighbouring sites as sought by the Council, to add a second neighbourhood park, and to add a small commercial area. It has also prepared a structure plan (with supporting written analysis) to ensure that its design ethos (as described above) is clear. This is provided in the new Appendix 47.1.
164. In terms of the impact on **planned investment and infrastructure provisions** the

Applicant states that the information it has provided demonstrates that Delmore can be serviced by existing and already planned infrastructure upgrades along with existing connections, exiting residential consents, and Milldale's fast-track development. It refers to the new Appendix 45 to the revised AEE). In relation to any upgrades to the road network required to service the development are either being provided as part of the application or are already required to be provided by other developers (new Appendices 28 and Appendix 51.2). The Applicant submits that the Council is not facing additional investment requirements now and the submissions made by the Council (case law) regarding lack of necessary infrastructure and infrastructure investment is not applicable.

165. Finally, the Applicant addresses the Council's **uncertainty of infrastructure** point as essentially being a conglomeration of those that proceed it which it is maintained are not made out.
166. The Applicant concludes by submitting that are no adverse impacts that come close to being "sufficiently significant to be out of proportion to the project's regional benefits" that they merit decline of the RMA approvals.⁶⁵

Council's section 67 response to the Applicant's response

167. In accordance with Minute 9 the Panel directed the Council to review the response from the Applicant and provide any further information that it considers is necessary for the Panel to consider. As noted above that response was provided on 28 July.
168. In summary the Council noted the following (in the same order as was covered in its initial comments)⁶⁶:
 - a. **Water supply servicing** - it remains Watercare's assessment that the existing bulk water supply network is limited in this area and does not have sufficient capacity to support growth in the existing live zoned areas in addition to the Delmore Project.
 - b. **Viability of wastewater servicing** - Watercare's assessment remains that the earliest connections could be provided without precluding development of the existing live zoned areas and sequenced growth would be from 2050+. Watercare's also confirms that it will not be accepting trucked wastewater from the Proposal. The Applicant has not demonstrated a viable long-term private wastewater solution, and the absence of this is a significant adverse impact with potential public health risks for the future community.
 - c. **Design and metrics of neighbourhood parks** - while the majority of deficiencies have been addressed, some key matters remain outstanding such that this remains a significant issue, albeit one which could potentially be addressed through the provision of further information.
 - d. **Transport infrastructure issues** -the formation of only part of NoR 6 does not deliver a regionally significant benefit. There are further adverse transport

⁶⁵ At paragraph [5.10].

⁶⁶ These are noted in the Fourth Legal Memorandum of Counsel for Auckland Council etc and are also covered in the supporting appendices which includes a supplementary strategic and planning assessment.

impacts listed in the Legal Memorandum and in the supporting appendix.

- e. **Freshwater and terrestrial ecology** – The development represents a potentially significant adverse impact on indigenous biodiversity that has not been properly assessed, avoided, or mitigated.
 - f. **Sedimentation effects** – A key issue remains relating to the need for an Adaptive Management Plan
169. The Council notes that the Applicant has resolved the concerns with respect to structure planning connectivity to the wider FUZ area.
170. The Council's conclusion is that the section 85(3) FTAA threshold for declining an approval is met is also informed by its evaluation of the scale of the regional benefits that arise from the Proposal. As noted above, the partial delivery of NoR 6 does not confer any regional benefit. The Council's assessment of ecological effects is that, rather than being a regional benefit, the effects are potentially adverse. The purported housing supply benefits are unsubstantiated without proper economic analysis showing net societal benefit over the planned development sequence.
171. The Panel includes its assessment of the adverse effects in this part of the Decision.
172. The following main categories of actual and potential effects on the environment exist:
- a. Archaeological values
 - b. Terrestrial ecological values
 - c. Freshwater ecological values
 - d. Servicing and Infrastructure (water supply, wastewater)
 - e. Transportation and Roading
 - f. Urban Form and Neighbourhood Character
 - g. Landscape and Visual Amenity
 - h. Stormwater and Flooding
 - i. Earthworks, erosion and sediment control
 - j. Geotechnical stability
 - k. Surface water diversion
 - l. Riparian margins
 - m. Construction noise and vibration
 - n. Construction traffic
 - o. Dust.

173. The Panel has addressed these effects in the order of the headings listed above. Some of the effects fall across multiple categories so there may be some repetition but the Panel has included a summary of its findings in each category for ease of reference.
174. The Panel has also had regard to the relevant planning provisions in evaluating the effects of the Project, as noted in Part H: Planning Framework. Noting the FTAA is clear that the Panel's effects assessment must not be solely on the basis that the adverse impact is inconsistent with or contrary to a provision in a specified Act (notably the RMA in this case) or any other document (such as the AUP or NPSs). The Panel's assessment of effects / impacts is grounded in the factual and opinion evidence before it.

Archaeological Values

Potential effects as identified by the Applicant

175. Section 11.4 of the AEE as lodged⁶⁷ identifies the effects on archaeological values, with reference to the Archaeological Assessment by Clough & Associates (Appendix 9 to the AEE).
176. Consultation with tangata whenua and any other person likely to be affected is also addressed within the Archaeological Assessment. Detailed responses to archaeological related recommendations within the Cultural impact Assessments are included within Appendix 24.
177. As stated elsewhere in this Decision, there are two recorded archaeological features within the site, both of which are shell midden. Both sit outside the areas identified for proposed development. Overall, it is considered unlikely that any complex sites are located within the project area. However, there is potential for additional sites associated with Māori settlement to be present, and therefore it is recommended that an authority to modify is applied for under the FTAA.

Comments received

178. Heritage NZ assessed the application, with input from specialist regional heritage staff, including those with Māori heritage, planning and archaeological expertise. Overall, Heritage NZ has no objection to the proposed development, agrees with the conclusions of the Archaeological Assessment, the consultation undertaken, and the proposed mitigation measures included in the Archaeological Management Plan and supports the proposed consent conditions 36, 37, 133 and 134 in Appendix 22⁶⁸ as these relate to archaeology and accidental discovery protocols.
179. The Panel notes that a number of changes to the conditions have been identified in the amended version of the conditions (AEE - Appendix 57). Conditions 36, 37 and 134 are now 62, 63 and 284 respectively within the amended proposed conditions and otherwise remain unchanged. Condition 133 is now 283 and has been amended to reflect Heritage NZ's recommended conditions.
180. With regard to the approval for an archaeological authority, Heritage NZ is of the view that there is no evidence to suggest that the historical and cultural value of any

⁶⁷ Section 12.4 in the track change version.

⁶⁸ Note this refers to the AEE and Appendices as lodged.

potential subsurface archaeological sites justify its protection. Heritage NZ recommends that the archaeological authority be granted, subject to conditions, under the FTAA and that Ellen Cameron be the approved person to carry out the archaeological work under the authority.

181. Auckland Council's archaeologist, Mica Plowman, also agrees with, and supports, the findings of the Archaeological Assessment and agrees it is appropriate to secure an archaeological authority prior to any earthworks on site.

Panel findings

182. The Panel accepts the findings within the Archaeological Assessment and the Heritage NZ recommendation for approval for an archaeological authority, which Council agree with.
183. The Panel notes that there were a number of conditions recommended by Heritage NZ, as set out in Part J, and further notes that the Applicant has provided a set of amended conditions which have largely accepted and integrated Heritage NZ recommendations as conditions 283-291.
184. The Panel is of the view that the archaeological approval can therefore be approved subject to the conditions recommended by Heritage NZ and set out in Appendix 57 to the application as conditions 283-291. However, in the absence of the other approvals sought, the Panel presumes that this approval will not be implemented. However, for completeness the Panel has indicated that this approval can be approved.

Terrestrial Ecological Values

Potential effects as identified by the applicant

185. Section 11.6 of the AEE as lodged⁶⁹ identifies the effects on vegetation and ecology. This section summarises the Ecological Impact Assessment (**EcIA**) report prepared by Mr Mark Delaney from Viridis Environmental Consultants (Appendix 4 to the AEE). The EcIA assesses the impacts on both terrestrial and freshwater ecology, split into terrestrial ecological values and freshwater ecological values for the purpose of the AEE.
186. While the Site, and much of the surrounding landscape, has been cleared over the years and used for pastoral farming, Mr Delaney acknowledges, in the EcIA, that the site is subject to a Significant Ecological Area (**SEA**) overlay, which also covers the Nukumea Scenic Reserve to the north of the site, and six covenanted areas. Relatively large areas of native vegetation were observed to be present within the site. These are primarily associated with the SEA and covenanted areas, but two additional areas were observed within the north-eastern part of the subject site.
187. Mr Delaney notes that the site provides potential habitat for threatened native species, including bats, lizards and birds. However, the EcIA relies on desktop analysis and observations during site visits; detailed surveys were not undertaken.
188. In the EcIA, Mr Delaney states that there is 21.25ha of existing vegetation within the site. Of this, 9.91 ha is proposed to be removed. A total of 2.25ha of native and exotic

⁶⁹ Section 12.6 AEE (track change version).

dominant vegetation is proposed to be removed, including where these vegetation types are within riparian and wetland margins and covenanted areas. Mr Delaney makes a distinction between the 2.25ha of vegetation to be removed and the removal of gorse scrub, pine plantation and other pest species, which is a permitted activity.

189. Mr Delaney identifies that the only vegetation proposed for removal within the SEA are pest plant species. However, some native vegetation is proposed to be removed within four of the covenanted areas to accommodate road crossings.
190. A revegetation planting plan has been prepared by Greenwood Associates and is provided within the landscape drawings at Appendix 10-1.⁷⁰ The total revegetation planting proposed comprises an area of 32.8ha. Mr Delaney considers that this planting will greatly increase the ecological value of the Site through improving plant species diversity and abundance, habitat diversity and abundance, connectivity (within the site and to the wider environment) and ecological resilience.
191. Mr Delaney affirms that all revegetation planting is proposed to be protected under covenants. He recommends, as a condition of consent, a planting maintenance plan is prepared to ensure that plant establishment is successful, and maintenance is undertaken in perpetuity.
192. With reference to avifauna (birds), Mr Delaney considers the ecological value of the larger areas of native vegetation and wetlands to be high. He goes on to state that, provided clearance of trees and vegetation removal is undertaken outside of the bird nesting season (September to February, inclusive), magnitude of effects of the proposed works on birds is considered to be temporary and low. If vegetation clearance needs to be undertaken during the main indigenous bird nesting season, he recommends a condition of consent that an experienced ecologist or ornithologist visually inspect all trees and shrubs prior to felling or removal in order to identify any active nests.
193. Similar to avifauna, Mr Delaney deems the ecological value of the larger patches of native vegetation for herpetofauna (lizards) to be high, and the ecological value of the rest of the vegetation outside of managed pasture to be moderate. He considers effects on lizards to be temporary, but moderate, and recommends a lizard management plan be prepared outlining how lizards can be managed during site works in order to mitigate effects. Following revegetation, Mr Delaney is of the opinion that this will increase habitat connectivity, shelter and food for lizards.
194. In relation to long-tail bats, Mr Delaney considers it is possible that they may periodically be present within the site and therefore the ecological value of the site would be moderate. Where bats are present, he considers the magnitude of effects on bats to be moderate, but able to be mitigated to low. He notes that bat surveys will be required within 'Identified Biodiversity Areas' and outside of such areas, pre-clearance monitoring of potential roost trees as a condition of consent. Overall, he considers the revegetation will be of benefit for bats.
195. Mr Delaney concludes that the proposal will have a low level of adverse effect on the ecological values, and will minimise impacts on terrestrial habitats and fauna, while providing the opportunity for a large net gain in biodiversity. Both the EcIA, and

⁷⁰ See drawings 2180/07, 2180/08 and 2180/09.

ultimately the AEE, conclude that the ecological protection, restoration or enhancement through retention, maintenance and revegetation provide a regionally significant benefit of addressing native biodiversity decline in the region.

Comments received

196. Comments from two neighbouring property owners raise concerns about the impacts of the proposed development on regenerating native vegetation and habitat of terrestrial fauna, not only on the Delmore property but on their land. One of the neighbour's requests conditions in relation to the keeping of domestic pets to protect wildlife.
197. The Department of Conservation acknowledges positive engagement with the Applicant, particularly around potential effects on the Nukumea Scenic Reserve and other conservation values. The Department is generally supportive of the recommendations within the EcIA but have recommended amendments to conditions (5) and (6) to require certification of management plans, including the addition of a fauna management plan and the Lizard Management Plan as described by Mr Delaney. An additional condition is recommended to ensure that any Management Plan must be certified by Auckland Council and that the consent holder must comply with the certified Management Plans. DOC notes and support the recommendations within Mr Delaney's EcIA but expresses concern that these have not been directly carried over into the consent conditions. With respect to terrestrial ecology DOC has recommended amendments to condition (20), in line with the Wildlife Act.
198. Mr Rue Statham from Council has undertaken a peer review of the EcIA and provided a memo on the likely impacts to terrestrial ecology (Attachment 23 to Auckland Council's response to the invitation to comment). Mr Statham expresses concern that the Applicant has not provided comprehensive fauna and flora surveys, instead relying primarily on desktop analysis and opportunistic observation. In his opinion, a development of this scale and magnitude would typically include site specific and detailed surveys for fauna and flora that would enable a more thorough assessment of actual or potential effects.
199. Mr Statham is also concerned that the EcIA does not address the issues of urbanisation at the scale proposed, including the introduction of domestic pets, lighting, and noise to sensitive habitats. He disagrees that all actual or potential effects are limited to construction activities. In Mr Statham's opinion, without adequate survey and urban design that responds to those values, the proposed development may have significant adverse effects on fauna and flora, including regionally and nationally threatened and protected species.
200. In terms of offsetting, Mr Statham considers that no proper offsetting analysis has been undertaken in accordance with Appendix 8 – Biodiversity offsetting, of the AUP, nor have the offsets been evaluated against other potential values or models such as the *Guidance on Good Practice Biodiversity Offsetting in New Zealand 2014*.
201. Mr Statham notes the realigned NoR 6 has not been assessed by Mr Delaney, so there is no supporting ecological discussion. He is also concerned at the impact of the proposed wastewater irrigation field on native vegetation, given this is proposed to be included within a covenanted area.
202. In relation to revegetation, while Mr Statham agrees the planting proposed is beneficial for the Site, he considers the Applicant's ecologist is overstating the significance of the

planting proposed. Ultimately, Mr Statham is of the opinion that the lack of thorough assessment for protected and threatened species on the Site, including within the existing SEA and covenanted areas, means there is a significant information gap with respect to ecological effects.

Applicant's response to comments

203. In response to comments, particularly those of Council's ecologist, Mr Delaney prepared a comprehensive memo addressing the key ecological items.⁷¹ Charlotte MacDonald from Barker and Associates addressed the remaining comments regarding NoR 6, SEAs, the Residential Society and pedestrian access and connections to and through the covenanted vegetation.⁷²
204. With respect to offsetting, Mr Delaney notes that offsetting is only proposed for unavoidable loss and offset actions focus on areas not subject to covenants (protective consent notices), or where there is planting of covenanted areas not currently covered in native vegetation. He reiterates that a total of 2.25ha of native and exotic dominant vegetation is proposed to be removed and that overall revegetation will comprise a total area of 32.8ha, equivalent to a 1:14.6 replacement ratio. All revegetation is proposed to be protected and managed under consent notices. In his view, the proposed offset actions are expected to achieve a net gain in ecological values even when taking into account potential values and that this is consistent with the principles outlined in Appendix 8 of the AUP.
205. Mr Delaney considers the flora surveys undertaken as part of the EcIA provide a sufficient level of detail to have enabled the effects of proposed activities on plant species to have been appropriately considered. Ms MacDonald notes that a small amount of vegetation is proposed for removal within covenanted areas to provide for vehicular crossings, but that these crossings have been located to minimise impacts.
206. In relation to formal surveys for fauna, including reviewing the effects of urbanisation on threatened species, Mr Delaney maintains the assessment approach was appropriate, effects-based, and proportionate to the scale and nature of the proposed vegetation clearance and associated works. Rather than focusing on detailed surveys, Mr Delaney states a condition-based approach has been adopted to ensure effective management of potential effects on fauna. He considers that the 16.1 ha of riparian and buffer planting and the additional 16.7 ha of revegetation planting enhances connectivity for species and provides buffering between SEAs, areas protected by covenants and riparian margins.
207. Mr Delaney comments on the wastewater irrigation area that is proposed within one of the covenant areas, stating this is a bush covenant dominated by young, regenerating native vegetation. The installation would be undertaken by hand to minimise disturbance to vegetation and wildlife habitat. He states the proposed irrigation of treated wastewater has been designed to maintain appropriate soil moisture and protect the health and sustainability of the covenant vegetation.
208. In relation to recreational trails through covenant areas, Mr Statham was concerned about the formation of these and loss of habitat. Mr Delaney also does not support these within existing covenant areas, as these would likely result in high ecological

⁷¹ Appendix 42.2 Viridis Response to AC Terrestrial Ecology.

⁷² Appendix 42.7 Response to Remaining Ecology Questions.

impact, which he had not accounted for in his assessment. In his opinion, it is at the Panel's discretion to determine whether the benefits of pedestrian connectivity through existing covenant areas outweigh the ecological effects. The only area where he supports the inclusion of a pedestrian trail is within the southeastern strip of land connecting to Russell Road, as this area does not contain established indigenous vegetation and the proposed track will not impact any offsetting. Ms MacDonald also addresses this point, stating locations for possible pathways have been identified within the Key Changes Memo (Appendix 48.2) and proposed conditions of consent that would require a public pathway easement in favour of Council.

209. In conclusion, Mr Delaney reasserts his opinion that the extent of revegetation proposed represents a meaningful contribution to reversing the decline of the kauri, podocarp, broadleaf forest ecosystem (WF11) in the Auckland region, which will in turn enhance habitat diversity, making a meaningful contribution to supporting indigenous biodiversity. A draft Fauna Management Plan is attached to the memo, addressing the comments made by the Department of Conservation.
210. Ms MacDonald confirms that the proposal will see the creation of a Residential Society for both Stages 1 and 2 that would own and manage areas of new vegetation. Existing covenanting areas would remain in private ownership; however, the intent is that overall management and maintenance of these would be the responsibility of the Residential Society. Ms MacDonald also notes that an example Planting Maintenance and Implementation Plan has been provided to the Council and a condition of consent proposed requiring such for the revegetation areas, which would be certified by the Council.

Further information requests and responses from Auckland Council

211. Mr Statham has provided a further response to the Applicant's updated memo. He remains of the opinion that the effects on indigenous biodiversity have not been adequately assessed and/or evaluated by the Applicant, because they have not undertaken site specific and detailed surveys. He makes the observation that while the conditions of consent proposed by the Applicant enable the survey, identification and management of indigenous fauna, the Applicant has not adequately assessed the effects on indigenous fauna and flora through construction and the urbanisation of a parcel of land that contains protected area within or adjacent to the development.
212. Mr Statham is not convinced by the need for disturbance and alteration of covenanted areas for the wastewater irrigation field. In his opinion, removal and alteration of indigenous species will be detrimental to habitat values and is not anticipated by the covenant. He also remains concerned that while the Applicant's engineer responds to questions about the realignment of NoR 6, this has not been evaluated by Mr Delaney. In his opinion, the adverse effects of the realignment will extend into the riparian forest significantly increasing the edge effects derived from the realignment.
213. Mr Statham has a somewhat stronger view than the Applicant team regarding pedestrian paths providing public access through covenanted areas, which he does not support. He does, however, note that there should be requirements for weed and pest animal control within these areas.
214. Mr Statham reiterates the need for restrictions on domestic pet ownership, similar to those imposed on Ara Hills. He has recommended a number of changes to the proposed conditions of consent.

Applicant's additional response

215. In his memo dated 7 August 2025⁷³, Mr Delaney states the potential effects of development in close proximity to areas of high ecological value have been assessed both within the EcIA and his subsequent response memo. In his opinion these assessments considered physical construction related effects such as vegetation clearance and earthworks, operational effects and mitigation measures for all areas of existing indigenous vegetation across the site.
216. Mr Delaney references the conditions to manage the effects of construction on terrestrial ecology, the requirements for setbacks and buffer planting and the extensive revegetation proposed across the wider site.

Panel findings

217. The Panel agrees with the Council's terrestrial ecologist, Mr Statham, that for a development of this magnitude a greater degree of upfront site specific and details surveys would typically be expected. If this had been undertaken there could have been a more thorough investigation and understanding of the impacts on terrestrial wildlife, including from urbanisation of the site, which the Panel acknowledges to be an anticipated outcome within the FUZ.
218. In relation to public access, while the Panel understands the desire for enhanced pedestrian connectivity, this needs to be considered in terms of the sensitivity of the receiving environment. Therefore, the Panel does not support walking tracks through any existing covenanted vegetation or the SEA. However, the Panel agrees with the Applicant that a pedestrian trail could be included within the southeastern strip of land connecting to Russell Road, as this area does not contain established indigenous vegetation.
219. While the Panel understands why the Applicant does not want to lose development yield, it remains unconvinced that the proposed wastewater irrigation field should be located within covenanted native vegetation, given the likely impacts on installation and subsequent removal of the irrigation mechanisms.
220. The extent of revegetation proposed, and outlined in the ecological report and landscape plans, is supported, subject to appropriate mechanisms for its maintenance and management in perpetuity. However, while this is of importance to the site and enhances the ecology of the local area, the Panel is not convinced that this constitutes a regionally significant benefit, as suggested by the Applicant.
221. Notwithstanding these concerns, the Panel accepts that with further information as outlined and greater consideration of the wording of the conditions, effects on terrestrial ecology associated with the Application could be appropriately managed by conditions. However, while the mitigation measures for construction and operational effects have been considered and are reasonably reflected in the conditions, the conditions requiring management and maintenance of vegetation by the Residents' Society have not been developed to a point where the Panel can have confidence the adverse effects on terrestrial ecology will be appropriately managed in perpetuity.

⁷³ Memo of counsel for the Applicant response to Minute 16 dated 8 August 2025.

Freshwater Ecological values

Potential effects as identified by the Applicant

222. As stated above both terrestrial and freshwater ecology have been considered in the EcIA prepared by Mr Delaney. Mr Delaney notes that during the site assessment, the presence and extent of all streams and watercourses were noted and classified, and the quality of any freshwater habitat was visually assessed.
223. Thirty-nine (39) intermittent and permanent streams were identified within the Site. Farm crossings and culverts were present throughout the Site, some of which formed partial or complete fish barriers. Ecological values of the streams ranged from low to high. Sampling was undertaken at three sites of a main tributary of the Ōrewa River for macroinvertebrates and fish surveys were also undertaken, these show that the stream has high fish community integrity.
224. A total of twenty-four (24) existing farm culverts are proposed to be removed, which Mr Delaney states, is expected to improve stream hydrology and improve fish passage. The proposed development will require the construction of thirteen (13) culverts and the temporary diversion of the streams along the culvert alignment. Ten of these have been designed to maintain the continuity of stream habitat and provide for appropriate fish passage. The remaining three are located in wide flat areas relatively high in the catchment, and Mr Delaney is confident that fish passage will only be impacted during periods of high flow. He recommends a Native Fish Management Plan as a condition of consent to ensure the rescue and relocation of indigenous fish from disturbed habitats.
225. Potential wetland areas were assessed to determine whether they meet the National Policy Statement on Freshwater Management (**NPS-FM**) definition of 'natural inland wetland'. Thirty-four (34) natural inland wetlands were identified within the Site, ranging in size from 16m² to 2,533m². Mr Delaney states that all wetlands have been degraded through historical and current agricultural practices. He noted that, while it is acknowledged that all wetlands have inherent ecological value, the ecological values of the wetlands and associated habitat were assessed as ranging from low to high.
226. Due to the creation of roads and culverts, earthworks will occur within 100m of all identified wetlands. Some earthworks will also be required directly adjacent to wetlands for the installation of 5 of the 13 culverts. However, Mr Delaney considers that the earthworks are not expected to alter the size of the catchment significantly. The intention is for the stormwater approach to mimic the existing catchments and sedimentation will be appropriately mitigated through erosion and sediment controls.
227. Mr Delaney notes that within Stage 1, 748m² of disturbance to wetlands will occur, including 277m² of permanent wetland removal to allow the creation of culvert 7, associated with NoR 6. In Stage 2 338m² of disturbance will occur. The wetland disturbance represents 5% of the total wetland habitat and he considers the magnitude of effect prior to mitigation to be moderate. To offset the loss, it is proposed that new wetlands are created at a 3:1 ratio with 2,244m² created in Stage 1 and 1,014m² created in Stage 2, resulting in a net gain of 2,172m² of wetland habitat. He recommends a detailed Wetland Offset Plan be prepared as a condition of consent.

Comments received

228. As with terrestrial ecology, comments from two neighbouring property owners raise concerns about the impacts of the proposed development on freshwater ecosystems

and biodiversity, particularly in terms of effects on water quality during construction works.

229. Antoinette Bootsma, Senior Freshwater Ecologist from Auckland Council, has undertaken a review of the application with a particular focus on the removal of the 24 culverts, the installation of the 13 culverts and the proposed earthworks within wetland required for the installation of 5 of the culverts.⁷⁴
230. Ms Bootsma appears to generally agree with Mr Delaney's assessment regarding the effects on the streams of the removal of existing culverts and installation of new culverts but recommends additional conditions of consent to manage potential effects to aquatic fauna.
231. In relation to the wetlands, Ms Bootsma considers the ecological assessment needs to correlate with the geotechnical data to confirm if hydrological changes to wetlands can be ruled out, as these effects are not currently accounted for. She draws reference to Council's assessment of groundwater matters. Ms Bootsma raises concerns that there are significant gaps in the Applicant's consideration of how groundwater drawdown will affect wetlands which means that consent triggers and management of effects cannot be thoroughly assessed. She also does not consider the Applicant has adequately assessed how stream morphology will be protected from increased erosion pressure, which may result in local and downstream loss of stream value, including adverse impacts on aquatic invertebrates and migratory fish.

Applicant's response to comments

232. In response to Council's freshwater ecologist, Mr Delaney prepared a comprehensive memo addressing the key items.⁷⁵ Williamson Water & Land Advisory provided a response to Council's comments on wetland hydrology⁷⁶ and Riley Consultants also provided an updated letter related to the assessment of groundwater drawdown and its impact on wetland hydrology.⁷⁷
233. Based on discussions with the Applicant's other consultants, Mr Delaney reiterates that the development will not change the size of the water catchments, and all pre-development surface and groundwater will still be directed to the wetlands and gullies. Mr Delaney notes that wetland modification, as a result of installation of culverts, will generally be temporary, with the exception of culverts 7 and 9 where permanent alteration will be required to retain upstream wetland habitat. He states the 3:1 offset ratio was proposed as a conservative measure, which he considers is more than sufficient to achieve a net ecological gain.
234. The Applicant concludes that the proposed culverts have been appropriately designed to minimise and avoid effects of wetland hydrology. They further state that that all proposed wetland offset areas will support wetland hydrology, facilitate the establishment of wetland vegetation, and promote the development of hydric soils. Nevertheless, Mr Delaney recommends that a detailed Wetland Offset Plan be prepared as a condition of consent to ensure successful establishment of a native wetland

⁷⁴ A22 – Freshwater Ecology Memo.

⁷⁵ Appendix 42.3 Viridis Response to AC Freshwater Ecology.

⁷⁶ Appendix 42.5 WW&LA Hydrology Memo.

⁷⁷ Appendix 43.1 Response to AC Groundwater.

ecosystem and that this be prepared in collaboration with a suitably qualified ecologist, hydrologist and engineer.

Further information requests and responses from Auckland Council

235. Ms Bootsma has provided a further response to the Applicant's updated memo and related information.⁷⁸ She highlights two significant gaps in the Applicant's response. First, an assessment of potential stream erosion has not been provided, and secondly clarification of the wetland loss/offset implications in the context of NoR 6 has not been provided. She concludes she is unable to confirm whether the Application is aligned with Appendix 6 of the NPS-FM where it relates to permanent loss of wetland extent and the effects management hierarchy is adhered to because of those gaps in assessment.

Applicant's additional response

236. In relation to freshwater ecology, Mr Delaney included in his memo (dated 7 August 2025)⁷⁹ correspondence between himself and Ms Bootsma indicating agreement that the effects on loss of wetlands will be adequately addressed as they pertain to the NoR 6.
237. In their second response to Council's questions regarding wetland hydrology (dated 7 August 2025)⁸⁰ Messrs Mawer and Williamson consider that functioning wetland habitat will re-establish inside the embedded culverts (1, 5 and 7). They are also of the opinion that no scour or erosion will occur in the wetlands as a result of proposed culverts 1, 7 and 10.

Panel findings

238. Based on the assessments by the two ecologists and further information from the Applicant's hydrologists, the Panel considers freshwater ecology has been adequately addressed. The Panel agrees that most effects on freshwater ecology during earthworks and construction, and post-construction, can be adequately managed through the proposed conditions of consent particularly those conditions relating to streamworks. The Panel considers this further in Part J of the Decision as it relates to conditions generally.

Stormwater and Flooding

Potential effects as identified by the Applicant

239. The stormwater management approach and design for the Site is detailed in the Draft Stormwater Management Plan⁸¹ and Stormwater Report by McKenzie & Co.⁸²
240. The stormwater management approach for the post-development outcome for the Site aligns with the provisions of the AUP and the objectives set out in Schedule 4 of the Auckland Council Regionwide Stormwater Discharge Consent (**NDC**) for greenfield developments. The purpose of this approach is to promote sustainable stormwater

⁷⁸ A15 Freshwater Aquatic Memo Response.

⁷⁹ Memo of Counsel for the Applicant Response to Minute 16 – dated 8 august 2025.

⁸⁰ Ibid.

⁸¹ Appendix 6 AEE.

⁸² Appendix 12 AEE.

management and to safeguard, restore, and improve the receiving environment, such as watercourses.

241. The Stormwater Management Plan outlines the proposed stormwater management requirements and proposed best practicable option to achieve the requirements. The following mitigation is proposed as the best practicable option⁸³:
- a. Within roads and JOALs:
 - Catchpits with sumps;
 - Pipes for conveyance of the 10% AEP event;
 - Communal raingardens designed per GD01 ; and
 - Conveyance of overland flow paths within road reserves.
 - b. Within residential lots:
 - Use of inert building materials;
 - Rainwater tanks to attenuate 10% AEP flows;
 - On-site raingardens;
 - T-bar discharge to streams where practical (preferred), or pipes for 10% conveyance to public system where not possible; and
 - Floodplain to be avoided, freeboard to be maintained above 1% AEP levels.
 - c. Velocity reduction measures will be employed to prevent scouring and erosion at outlets.
242. The stormwater system will be designed in accordance with Stormwater Management Flow requirements of the AUP to provide hydrological mitigation for all impervious surfaces. Stormwater retention and detention will be provided for by on-site rain tanks and bioretention devices, including raingardens.
243. For stormwater quality, treatment for all impervious areas in accordance with GD01 (treatment of all impervious areas) is proposed for the Project. Inert building materials will be used to address stormwater contamination effects as close to the source as possible. Both communal and private rain gardens are proposed for treatment where stormwater is discharged to the stream network within the Site. All catch pits will have sumps to capture gross pollutants and particulate matter.
244. In accordance with the AEE, the stormwater approach for the Site utilises the existing landform and stream network as far as practicable, by mimicking the existing catchments, and providing communal devices in the low points of the catchments. Where lots are directly adjacent to streams, treated stormwater will discharge to the

⁸³ Appendix 6, Table 5.

stream, in order to maintain stream flows and minimise flows entering the public system where possible.

245. The Applicant considers that this approach can protect and enhance the receiving environment and provide for a stormwater system that will adequately service the site.⁸⁴
246. A Flood Hazard Assessment has been undertaken by McKenzie & Co within its Flood Assessment Report.⁸⁵ The Assessment assesses the flood hazards and effects on the 2, 5, 10, 20, 50 and 100-year ARI (Average Recurrence Interval) flood levels from the development of the overall Site.
247. The proposal has been modelled using a hydrologic modelling system (HEC-HMS) to understand the overall flood hazard effect of the development. The flood analysis shows that the proposed flood flows through the site are managed safely, with dwellings providing a minimum floor level above the 1% AEP flood level.
248. In terms of flooding within the Site, this has been assessed to be contained within the existing streams and channels. No buildings, parking, egress routes or roading will be located within any flood extent. The overland flow paths will be channeled within the road network and will avoid habitable areas.
249. In terms of off-site flooding effects, there are no major increases in flood risk as a result of the proposed development. However, there are two locations of minor localised increases in flood levels within neighbouring properties. Location A is located upstream of the site (180 Upper Orewa Road) and will see a post-development increase of up to 251mm during the 100-year ARI event. Location A is within bush land, and the run-off is contained within the existing channel profile without any spilling anticipated. Location E is located downstream of the site (226 Grand Drive) and will see a post-development increase of approximately 700mm. The flood extent at Location E is contained within the existing channel. The Applicant considers that the increases at the two locations to result in less than minor risk to the neighbouring properties, and no mitigation is considered to be necessary.
250. The development will adhere to the flood management and mitigation recommendations as set out in the McKenzie & Co reports to ensure that potential flood hazard effects are appropriately managed.
251. In terms of overland flow paths, the Flood Assessment Report confirms that the capacity of these will be maintained.

Comments received

252. Mr Mason has a concern about how rainfall has been factored into the civil and geotechnical engineering assessments. He notes:

I have personal experience of how often a "100-year rainfall event" can occur on the back of Lot 2 DP 153477; on occasion we had 2-3 a year. I well remember having to look for two 24 inch x 6 foot concrete culvert pipes which had been excavated by the stormwater from a farm crossing and carried a considerable distance downstream. My observation would be that storms coming in

⁸⁴ Section 12.5.2 – Amended AEE.

⁸⁵ Appendix 29 AEE.

from the west dump the bulk of their rain there, and before they reach Orewa. So I hope Orewa rainfall figures were not used. I also know high the creek can run off our current property, which again I hope the engineers have taken into consideration⁸⁶

253. Mr Roberts for AVJ Hobsonville noted his concern that the proposed increase in flood levels is likely to have an effect on the lower residential lots of the Ara Hills development, due to being flooded to a higher elevation in excess of 300mm in the 100-year storm event. In his view this has not been sufficiently considered or assessed as part of the Delmore flood assessment.

254. The New Zealand Transport Agency (**NZTA**) made the following comments⁸⁷:

For the scale of development proposed for the 1200 lot development it is anticipated that there will inevitably be events that will mobilise substantial debris from within the 'deforested' area. This presents risk of blockage at the NZTA major culvert system. A high flow relief riser will help to mitigate flood resilience risk at the highway embankment.

...

MAJOR CONCERN IS RAISED about the runoff from the new development entering the watercourse that leads to Orewa Deep River Culvert BSN 3900 which is believed to be inadequate for the water lows expected with the project attenuation being designed to only meet 111% AEP for hydrologic neutrality.

A full assessment of the adequacy of the culvert in the flow path to accommodate the 1% rain event flows is required, and upgrade of the asset or redesign of the attenuation for the project to be suitable.

255. The Council's freshwater ecology comments are:⁸⁸

I do not consider that the applicant has adequately discussed how stream morphology will be protected from increased erosion pressure. I consider inadequate controls are likely to lead to local and downstream loss of stream value in the receiving tributary of the Orewa River. I consider that erosion will result in mobilisation of sediment beyond the State Highway 1 to the east of the site. Recorded populations of aquatic invertebrates (including the endemic *Paratya curvirostris*) and fish that are particularly sensitive to sediment pollution (including banded kokopu) will be affected. I consider it likely that increased sedimentation and an eroded stream channel will significantly reduce the ability of these migratory fish to utilise this stream network, extending from the estuary approximately

256. The key aspect of the Council's position is:⁸⁹

While at this stage still awaiting a hydrological report, in principle the E8 and E9 consent standards have been met. However there are particular uncertainties remaining for erosive effects, flooding impacts and overland flow path changes. Healthy Waters are currently undertaking assessment of the flood model, and a geomorphic assessment is requested to further clarify risks of erosion. The hydrological effects on the wetlands and implications under

⁸⁶ At paragraph 9.

⁸⁷ A31 – NZTA Memo.

⁸⁸ A22 – Freshwater Ecology Memo dated 26 June 2025.

⁸⁹ A17 – Stormwater Memo dated 26 June 2025.

the NES: Freshwater is also of concern in this development due to the unknown impacts of this development on the wetlands with no specific hydrological assessment provided.

...

To provide certainty of the discharge a 35 year consent for the discharge of the entire network is proposed. While the expectation that vestment will occur prior to the expiry of this consent, conditions that appropriately allow the operation and maintenance of the entire network as private need to occur to provide certainty for the approval of the discharge even if the network were never to be vested.

While this assessment does not include analysis of the overland flow paths, the effects of culverts (in particular needed for AT) or the potential flooding and changes to flood plains with or caused by the proposed development (which will be undertaken by Healthy Waters and Development Engineers). Of particular note concern has been raised by NZTA about a high risk of damage to a 2100mm diameter culvert designed for maximum probability discharges in the 1990s. Key gaps as mentioned are a geomorphic assessment to determine the stability of the streams in this area.

257. Council's Development Engineering team also commented.⁹⁰ This followed an initial Council review which resulted in a request for further information on 5 matters. These matters and the Applicant's responses (provided 13 June) were commented on as follows (note the Panel was not privy to this exchange until it received the comments from the Council):
- a. Downstream properties are considered affected parties regarding flooding - provided the expected increase in flood level is accurate at a maximum of 140mm at the boundary and 210mm elsewhere at 35 Russell Road and flows are confined to within the existing stream channels as is suggested above, the effects to other properties would be expected to be relatively minimal. However, the confirmation of these flood levels is yet to be obtained.
 - b. It was noted that the Council has not viewed the stream channels on Site however it noted that, as a downstream property owner it is helpful that NZTA have recently provided feedback that recommends an upgraded inlet is installed to the existing culvert situated under the motorway to help mitigate increased flows and blockage potential. In the event of approval and subject to confirmation of flood levels downstream of the site, this approach is supported.
 - c. The overall development, including proposed works to be carried out within the flood plain and the existing and proposed overland flow paths, is expected to be appropriate from a Development Engineering perspective as long as the further information referred to is found to be adequate.
 - d. The Applicant indicates that the flow path depths and interactions with velocities now meet TDM requirements but there are still concerns regarding appropriate flood levels and velocities.

⁹⁰ A8 – Devt Engineer – Flooding OLFP Memo dated 25 June 2025.

- e. Further information is still waited on the OLFPs and flood plains that would be contained to areas subject to restricted covenants.
 - f. Further information on consent notices which refer to restricting future development is also to be provided.
258. The memo also recommended additional conditions on overland flows and minimum floor levels.
259. AT's comments⁹¹ are as follows:

AT's interest in the Projects stormwater management is twofold, firstly as future asset owner of any stormwater devices that take runoff (solely) from the road reserve. AT need to consider whole of life cycle costings for any devices proposed to be vested to AT, as ultimately ratepayers will bear the ongoing costs of these assets. Secondly, stormwater management must consider pedestrian and vehicle safety in storm events. The Applicant has not provided a complete Over Land Flow Path (**OLFP**) assessment and has not demonstrated that flood hazards associated with the OLFP within the road corridor are safely managed.

An assessment for the proposed culverts has not been provided and has not demonstrated that the culverts are appropriately sized or enable non-hazardous conveyance of stormwater. This is also highlighted in NZTAs comments to Auckland Council. If the culverts are identified to be insufficiently sized and require upsizing, this could affect lot boundaries near the culvert and channels.

The Applicant's Flood Assessment Report does not provide a suitable assessment of flooding within the development. The hydraulic modelling has not been demonstrated as appropriate for use and validation method has only been compared to the Healthy Waters Rapid Flood Hazard Assessment (**RFHA**) in a single location.

AT concur with the major concern raised by NZTA in relation to existing stormwater infrastructure being inadequate to accommodate impacts of the proposed development. A full assessment of the impact has not been provided. Therefore, it is not possible to determine flood hazards impacts, whether stormwater infrastructure is appropriate for the development, or the potential flood depth increases. There are serious flood risks that require further investigation to be undertaken to confirm the degree of safety risk to the public.

260. Healthy Waters provided comments by way of a memo dated 25 June.⁹² The key matters addressed in the memo together with recommendations are as follows:
- a. *Proposed stormwater management* - Some aspects of the proposed treatment train need clarification e.g. whether individual roof tanks will be used for non-potable reuse. For residential lots which are located directly adjacent to streams, treated stormwater will discharge directly to the stream through T-bar outlet devices. The feasibility of this method of discharge will need to be confirmed through a detailed Geomorphic Risk Assessment to confirm long-term stability of the gullies.

⁹¹ A20 AT Memo dated 25 June 2025.

⁹² A6 – Healthy Waters Memo dated 25 June 2025.

- b. *Waterways riparian management* - The Site's stream network is expected to adjust (widen, deepen, meander) in response to urbanisation. Hydrology mitigation and riparian planting alone may not prevent erosion or protect stream health in the long term. Given the site's steep topography, unstable soils, and dynamic watercourses a 20m riparian margin may be insufficient. A minimum of 20m, and ideally 30–50m, is recommended, particularly in steep or sensitive areas. Riparian setbacks should be variable and based on a Geomorphic Risk Assessment, not a uniform buffer. It is recommended that a Geomorphic Risk Assessment is sought to support existing ecological and geotechnical assessments. In addition, due to the existing geotechnical sensitivities of the site, the proposed use of multiple T-bar outlets has the potential to destabilize stream embankments, increase erosion, and potentially trigger significant slope instability. It is recommended that further assessment specifically in this regard is sought to evaluate this risk.
- c. *Raingardens* - If the Panel is minded to grant approval, a condition should be imposed to ensure that all raingardens are designed in accordance with GD01 requirements and will deliver the intended water quality mitigation, retention, and detention outcomes. The Memo noted that further discussion with the Applicant's Engineers, involving the HW Operations Team, is needed as the detailed design progresses to clarify preliminary design queries, optimise the design of the raingardens, as well as ensure sufficient maintenance access is provided. These matters must be agreed prior to lodgment of Engineering Plan Approval.
- d. *Land to vest for raingardens* - Detail on the final extent of land and design of stormwater assets proposed to be vested must be agreed with Council prior to lodgment of Engineering Plan Approval.
- e. *Water quality* - The proposed use of "inert building materials", is misleading. Studies have shown that commonly used inert materials are actually sources of heavy metals in stormwater runoff. Therefore, it is requested that "low contaminant generating" building materials are used instead. It should also be noted that in the Greenfield environment, the use of low contaminant generating materials is not considered a sufficient 'treatment' method and must be accompanied by a GD01 complaint device either at source or communally located. Where roof runoff utilizes either a first flush diversion device, or internally plumbed, non-potable reuse.
- f. *Overland flow paths* - More detail on the discharge locations of overland flowpaths to the gullies, together with flows, velocities and any erosion protection required to the gully and receiving watercourse is required.
- g. *Flood hazard* - Healthy Waters have not yet been afforded sufficient time to review the Applicant's modelling information to accurately verify and assess upstream and downstream effects, ensure the reliability of model outputs, and confirm HW's support for the proposed stormwater management strategy.

Applicant's response to comments

261. The Applicant's response to Mr Mason's comments is:

The geotechnical assessments have been carried out assuming a high degree of ground saturation during extreme rainfall events, as is normal practice. Further, the civil designs give appropriate consideration to the required rainfall event intensities prescribed by the design standards.

Rather than relying on regional Orewa figures, we've used the site-specific depth-duration curves from Auckland Council's TP108 standard, specific to the Delmore site. We then applied the a climate-change factor of 32.7% to account for a 3.8 degree climate change increase, in line with the latest best practice.

Using those TP108 rainfall inputs, we ran a dynamic 2- dimensional stormwater model to simulate runoff and creek flows at the peak of a '1-in-100-year plus' climate-change event. The model predicts water depths, velocities, and flow routes across your property boundary to the Delmore site, and downstream.

262. The response to AVJ Hobsonville comments⁹³ is the Applicant relied on the presented ground levels for the ARA Hills on the flood levels that Airey Consultants calculated pre and post development flood levels for Ara Hills. This information showed only the toe of the embankment being submerged with flood levels significantly lower than the building platform levels. The Applicant refutes Mr Roberts' comment that the batter slopes below the building platforms could be developed with patios, decking and swimming pools as it is very steep. There is a minimal increase in flood levels, approximately 140 mm, due to the proposed development.
263. The Applicant response to the Council's Development Engineering Flooding and OLFPs Memo, taken from the responses to stormwater matters. is summarised below.:
- a. Flooding is addressed in the response to Healthy Waters on this topic.
 - b. In response to the NZTA recommendation for riprap protection at the inlet and that a relief riser be installed on the inlet to the culvert under the motorway the applicant's response⁹⁴ was that detailed modelling shows the velocities adjacent to the culvert inlet are low, so provision of riprap protection is not considered to have any benefit. With respect to the recommendation that a culvert relief riser is needed, the applicant advised that they consider the risk of blockage due to debris from the catchment is very low due to the proposed total removal of existing pine plantation prior to earthworks and monitoring by the proposed Resident's Society.
 - c. The matters in E36.8.1 and E36.8.2 being matters of discretion and assessment criteria for flood plains and overland flow paths are yet to be addressed. It is not clear to the Panel what the intent of this was and it has not seen any particular response to this in the Applicant's responses.
 - d. The questions on overland flow paths appear to have been addressed in Appendices 52.1 – OLFP Memo Part 1 and 52.2 – OLFP Memo Part 2
 - e. The recommendation for a specific consent condition to require upgrade works to the culvert located under the Northern motorway to be carried out is not included in the Applicant's recommended conditions.

⁹³ Appendix 54.1 – Response to AVJ Hobsonville Engineering.

⁹⁴ Appendix 52.7 -NZTA Culvert Response – dated 5 August 2025.

- f. Additional recommended conditions for lots affected by overland flow paths have been included as proposed conditions 144 and 145.

264. The Applicant's response to AT comments are:

- a. No stormwater assets are proposed to be vested with AT;
- b. In response to the AT comment about culverts: A full culvert sizing and performance assessment has been carried out for all road and stream crossings. A detailed culvert compliance table is provided in Section 10 and calculations are located in Appendix B of the Stormwater Infrastructure Report (Appendix 12 as lodged with the substantive application), which demonstrates conformance with:
 - i. Auckland Council Stormwater Code of Practice (CoP v4);
 - ii. NES Freshwater Standards (Regulation 70 - fish passage, invert depth, velocity, geomorphic continuity); and
 - iii. AT Code of Practice & Technical Design Manual.
 - iv. The Applicant's consulting engineers confirm that all culverts are appropriately sized for non-hazardous conveyance of stormwater.

265. The Applicant's response to the Healthy Waters memo was comprehensive and addressed the matters raised as follows:

- a. *Proposed stormwater management* - The Council questions on the treatment train were responded to including advice that rainwater tanks will be mandatory for every lot including provision for achieving SMAF hydrology requirements.
- b. *Waterways riparian management* - The Applicant has prepared a Geomorphic Response Memo⁹⁵, which provides a site-specific assessment addressing the matters raised. The following is a summary. A review of long-term aerial field observations confirm that the stream network has remained geospatially stable under current hydrological conditions. The proposed stormwater system has been carefully designed to preserve natural flow patterns, with stormwater flows directed to vegetated, mechanically stabilised earth bunds via T-bar spreaders, which mimic diffuse stormwater sheet flow. This avoids creating concentrated discharges that could lead to stream bank / riparian gully erosion. In this regard, the development impact is considered low. The key mitigation strategies have been designed to be intentionally conservative, incorporating:
 - i. Stabilisation and Vegetation establishment on batters to enhance resistance to any long term channelisation scour from the T-bar spreaders and promote natural sheet flow runoff;
 - ii. Spreader structures and TR2013/018 compliant energy dissipating devices at all stormwater discharge points, including all private T bars and at centralised raingarden outlets; and

⁹⁵ Appendix 43.2 – Response to Ac Geotechnical (1).

- iii. Preservation of low-order stream headwaters to maintain stream baseflow and minimise large pipe/single discharge point type design.
- c. The Applicant's response to the Healthy Waters memo⁹⁶ advised that the Geotechnical Assessment Report confirms that the slopes adjacent to the stream riparian zone are suitable for development under the proposed stormwater regime, with recommendations below to minimise hazard potential:
 - i. The use of geotechnical engineered earthworks;
 - ii. Combination of mechanical and vegetated stabilization; and
 - iii. Limited earth fill and adequate setbacks in sensitive areas.
- d. Finally, the Applicant advises that no development is proposed in areas identified as having active landslips or creep, and all structures are set back in accordance with geotechnical advice. The Applicant (McKenzie & Co) is confident that the proposed stormwater and gully management approach provides a stable, resilient outcome over the 100-year design life, and a separate, standalone erosion risk assessment is not necessary.
- e. *Raingardens* - The response addresses a number of matters relating to treatment mechanisms, detailed design and operation and maintenance, noting also that these matters will be addressed at the detailed design stage as part of the Engineering approval process.
- f. *Land to vest for raingardens* - Detail on the final extent of land and design of stormwater assets proposed to be vested must be agreed with Council prior to lodgment of Engineering Plan Approval.
- g. *Water quality* - The response provides an explanation of how all impervious areas will be treated and description of measures to mitigate effects from run off from private lots through flow spreaders. It also provided an updated stormwater management approach for individual lots including the use of "low contaminant generating" building materials.
- h. *Overland flow Paths* - An Overland Flow Path (OLFP) memo (Part 1 and Part 2)⁹⁷ has been provided by the Applicant which contains OLFP routes, flow details and calculations. The memo advises the following:

The design satisfies all requirements of Auckland Transport's TDM Road Drainage Guide and Healthy Waters' SWCoP. As such, all flood hazards will be safely managed within the road reserve in accordance with all relevant standards. OLFPs and flooding are therefore not considered to have an adverse impact.
- i. *Flood hazard* - The response advised that the modelling has been provided to Council (Healthy Waters) and responses received back from the Healthy Waters modelling team. A Memo responding to these queries has been provided as

⁹⁶ Appendix 52.3 Healthy Waters Response.

⁹⁷ Appendix 52.1 OLFP Memo Part 1.

Appendix 52.2 Flood Model Response. This comprises a table with items FR-01 to FR-09. The responses included:

- response to queries on the extent and depth of flood flows at several locations,
- conclusion that tidal levels will not affect flows in the culvert under SH1
- technical matters re input data
- advice that a Rain on Grid model will be run as requested which will be part of a sensitivity test.

Further information requests and responses from Auckland Council

266. The Council advises that there are the following outstanding matters:⁹⁸

- a. *Riparian margins*: The Applicant has provided a Geomorphic Response Memo in lieu of a detailed Geomorphic Risk Assessment. While the response from the Applicant asserts stream stability based on aerial imagery and site inspections, Healthy Waters maintains that these methods are insufficient in Auckland's cohesive soils, where early-stage incision often precedes visible instability. No direct assessment has been undertaken to confirm whether the proposed development will accelerate incision or increase erosion risk over the 100- year design life. Without this, Council cannot confirm whether the proposed 10m riparian setbacks are adequate. A 20m minimum setback remains a precautionary interim position, consistent with the AUP and field observations, until a site-specific geomorphic assessment is provided which might justify the smaller setback sought by the applicant (or not). HW therefore continues to strongly recommend a Geomorphic Risk Assessment to inform appropriate riparian margins and ensure long-term resilience of stormwater and land development infrastructure.
- b. *T-Bar outlets*: Healthy Waters remains concerned with the long-term viability of the proposed T-Bar outlets. Flow spreaders are known to clog over time, are rarely maintained by private owners, and are vulnerable to damage or destruction. In steep, erosion-prone environments such as this Site, the failure of these devices could result in bank destabilisation, gully incision, or slope failure. While the Applicant asserts that stabilised earth walls will mitigate this risk, no supporting design detail or durability assurances have been provided. The Council does not consider private flow spreaders a suitable stormwater solution for this development. A reduction in their use and redesign of these discharges to connect with the public stormwater network is strongly recommended. Detailed erosion assessments for outlet structures also remain reliant on unverified assumptions of channel stability.
- c. *Raingardens*: While some concerns have been sufficiently addressed or are acceptable to defer to Engineering Plan Approval, several remain. In particular, clarification is needed regarding which catchments drain to each device, impervious area assumptions, and the basis for confirming sizing and treatment

⁹⁸ A4 Healthy Waters Memo Response dated 23 July 2025.

performance. Concerns remain that leaving key design details including infiltration feasibility to EPA stage may lead to changes that affect road or lot layout. Treatment of some areas (e.g. JOALs 01, 03 and 016) remains unclear. Uneven flow distribution in larger raingardens, maintenance access, and integration of GPTs with splitter boxes also require further detail.

- d. *Land to vest*: Land associated with stormwater assets was proposed to be vested as '*Local Purpose (Drainage) Reserve*'. The revised drawings provided now show land labelled as '*Land in Lieu of Reserve – for Drainage Purposes*' in line with the preference from Council. As acknowledged in the initial Healthy Waters memorandum, detail on the final extent of land and design of assets proposed to be vested will not be provided by the Applicant until further stages of development (i.e. Engineering Plan Approval). Healthy Waters has not yet confirmed whether the proposed stormwater management assets and associated land is suitable for vesting. Matters such as long-term maintenance implications still require further assessment. Confirmation of whether the land will be accepted for vesting will be subject to ongoing review and coordination with Healthy Waters as part of future stages. Conditions must therefore provide for the eventuality that this land will not be accepted for vesting.
- e. *Flood management*: The Applicant responded to comments provided by Healthy Waters on the modelling information for the development and provided a revised model which is discussed further below.

267. In terms of the Overland Flow Paths and Flooding comments the recommendation is as follows:⁹⁹

As a Development Engineering overview, the overland flow paths, flooding extents and reported levels and velocities within the road as reported or predicted by the applicant would be expected to be generally satisfactory. However, at this time, Healthy Waters are yet to receive an updated flood model, the requested Geomorphic stream assessment is outstanding and Auckland Transport considers that further information is outstanding in order to demonstrate that culverts and designed overland flow paths within roads are appropriate. I am therefore not in a position to confirm that these aspects have been adequately dealt with

Minute 12 – Flood Model Update

- 268. In accordance with Minute 12 the Applicant provided a flood model update. As a result of the updated model, post-development flood depths both within the site and at neighbouring properties have changed from the levels provided within the substantive application.
- 269. In order to reflect the updated changes, McKenzie & Co has updated the relevant reports and drawing sets, which supersede the existing documents. A full list of updated documents in the was provided as follows:
 - a. Appendix 1: Delmore Flood Model Response

⁹⁹ A6 DE Flooding and OLFP Response Memo.

- b. Appendix 2: Delmore Flood Assessment Report (Originally submitted as *Appendix 29*)
- c. Appendix 3: Flood Hazard Risk Assessment
- d. Appendix 4: Flood Model Drawings
- e. Appendix 5: Culvert Drawings and Checklist (The design of culverts 5, 8, 9 and 11 have been revised).

Council response to Flood Model Update

270. The Council response to the model update identified two outstanding issues as follows:
- a. Council is still concerned with the risk of blockage at the SH1 culvert (2.05m Dia). This culvert is significantly less than other culverts upstream (5x5m or 5x4m) and the downstream Arran Drive Bridge. The consequence of blockage at this culvert will result in significant ponding with a depth of over 14 metres. The culvert invert is about 20m below the Motorway.
 - b. They consider that a more resilient design is needed at this location with an additional culvert of suitable size and high-level entry with screens. Some debris control structure will also be needed.
271. The ultimate zoning or land uses in the overall catchment area for the future 50yr beyond the development sites should be taken into account for hydrological modelling, to ensure the flood risk is not under-estimated for the life of the development. Change of roughness value can impact flood depth. Council reviewed the changes made to the existing and future land cover data and noticed that for the internal and external stream area, the roughness values have been kept the same at 0.06
272. As future riparian planting, if proposed, can increase stream margin roughness, Council requested a check to confirm this has been considered.

Further comment from the Applicant

273. Further comments on stormwater and flooding¹⁰⁰ matters were limited to:
- identification of stormwater infrastructure that would be funded by the Applicant
 - technical advice that the proposed parks are not subject to inundation in the 10 year and 100-year events.

Panel findings

274. There are a number of outstanding matters of concern to Council. Many of the concerns can be addressed by conditions, however the information necessary to assist in the formulation of appropriate conditions is insufficient to meet the issues identified by the Council. Of particular concern is riparian management where the Geomorphic Response Memo provide by the Applicant in lieu of a requested detailed Geomorphic

¹⁰⁰ Memo of Counsel responding to Minute 16 dated 8 August 2025.

Risk Assessment is considered insufficient to ascertain whether the proposed 10m riparian setbacks are adequate. A 20m minimum setback remains Council's precautionary interim position, consistent with the AUP and field observations, until a site-specific geomorphic assessment is provided which might justify the smaller setback sought by the Applicant (or not).

275. As the proposed earthworks include significant areas where gullies are proposed to be filled, based on providing 10 riparian setbacks this is a significant matter.

Earthworks and Construction – groundwater take

Potential effects as identified by the Applicant

276. The Geotechnical Report¹⁰¹ noted that groundwater level monitoring to date indicates that groundwater is likely perched on top of shallow rock that is present throughout the Site. The proposed earthworks generally involve cutting from the elevated ridge lines and filling on their side slopes as well as across the gullies to construct accessways. Subsoil (underfill) drains will be installed as part of the earthworks. Any groundwater intercepted by these will be returned to the streams/wetlands in the gullies and will not be diverted to other catchments. The report considers that the proposed excavations should not alter the receiving flows for the downstream catchments. Accordingly, for the bulk of the development there should be no groundwater drawdown effects that extend beyond the site boundaries with respect to the downstream receiving environments.
277. There are some areas, however, where it is proposed to form cut batters adjacent to the external boundary of the development and where the groundwater table is likely to be intercepted. The Geotechnical Report has assessed the magnitude of the associated settlement at the location of maximum groundwater drawdown (being at the base of the deepest excavations adjacent to the site boundary). Because of the slope of the cut batters, the location of maximum drawdown is more than 5.4m inside the site boundary. Accordingly, the Geotechnical Report considers that there should be no influence on the groundwater table extending beyond the site boundary. There are no existing structures within the zone of influence so the drawdown effect on neighbouring sites is expected to be negligible.
278. The proposed consent conditions include a Groundwater and Settlement Monitoring and Contingency Plan which sets out the practices and procedures to be adopted to ensure compliance with the consent conditions. This is to be prepared by a suitably qualified and experienced practitioner and be submitted to Council for certification at least 20 working days prior to the commencement of bulk earthworks for any stage or sub-stage of the development.
279. The AEE considers that adoption of the recommended conditions of consent, which include that design and construction of the excavations must be undertaken in accordance with the recommendations and analysis contained within the Geotechnical Report, effects relating to the proposed groundwater diversion will be less than minor.

Comments received

280. The Council comments are summarised as follows:

¹⁰¹ Appendix 8 to the AEE.

- a. The proposal is not likely to cause adverse effect on the existing structures beyond the Site boundary as a result of the proposed excavations. However, construction is underway at the Ara Hills development, and the effect of the proposed excavations on any new structures or services at neighbouring properties should be assessed prior to excavation.
- b. Mechanical settlement of the proposed retaining walls near the boundaries should be considered together with the groundwater drawdown settlement to determine the effects on the proposed road at Ara Hills, including any other proposed structures within the influence zone of the proposed excavation.
- c. Consolidation settlement and mechanical settlement can be managed by a Groundwater Settlement Monitoring and Contingency Plan. The preparation of a draft Plan is required as a condition of consent of the water permit.
- d. Provided that the take of groundwater (dewatering) and groundwater diversion activity is undertaken in the manner described in the application material and subject to the provided proposed conditions, the potential adverse effects of the activity on neighbouring buildings, structures and public services are considered likely to be less than minor, depending on mechanical settlement calculations.
- e. The proposed dewatering and groundwater diversion could have potential adverse effects on the wetlands identified at the subject site, because significant dewatering is proposed at the subject site and groundwater diversion and dewatering was not assessed at the locations and within the influence zones of the identified wetlands. The reporting did not assess wetland losses resulting from groundwater diversion and dewatering. The Application does not address this matter, which is considered to be a significant omission.
- f. The Applicant's proposed conditions of consent for the water permit are appropriate, however, additional conditions are provided for clarity.

Applicant's response to comments

- 281. The Applicant response included providing a number of detailed calculations assessing the effect of dewatering. It also advised that results of calculations to assess the consolidation assessment as a result of groundwater drawdown at the Site boundary showed no adverse effects on structures beyond the site boundary.¹⁰²
- 282. In response to Council's concern that the proposed dewatering and groundwater diversion could have potential adverse effects on the wetlands its response is as follows:

As part of development works, the size of the water catchments is not being altered and all pre-development surface and groundwater that would otherwise have passed through the wetlands/gullies is still directed there following development.

The groundwater intercepted upslope of the wetlands by excavations, subsoil and retaining wall drainage will be discharged into the wetlands/gullies at the nearest practical point to where the water is collected. It will be discharged at discrete locations via appropriately designed energy dissipation devices (e.g. over rock rip-rap or similar) to minimise the erosion risk. Because of the discrete nature of the discharges, there may be some localised concentration of water at the drain

¹⁰² Appendix 43.1 – Amended AEE.

outlets from pre-development conditions, but overall, all the groundwater that would otherwise have entered the wetlands should still be directed to them.

283. In addition, revised consent conditions were proposed which included a number of, but not all of conditions recommended by Council.

Further information requests and responses from Auckland Council

284. The Council's response to the Applicant's response is:¹⁰³

Based on the inclusion of the recommended conditions outlined in the Groundwater Diversion and Dewatering memo, dated 24 June 2025, which were included in the proposed conditions set provided on 7 July 2025 and addressing dewatering and diversion at the existing wetlands, I am in support of the application.

Panel findings

285. The Panel finds that the matters raised in this section of the Decision can be addressed by way of conditions.

Servicing and Infrastructure

Water Supply

Potential effects as identified by the Applicant

286. McKenzie & Co's Water, Wastewater and Utilities Report (Appendix 10) advises that the proposed development can be provided with adequate water supply utilising the 355mm Grand Drive main, until network capacity is reached. Once capacity has been reached, the Report advises that the remaining dwellings can be sufficiently serviced by the 250mm main at Wainui Road. Local water reticulation will be designed and constructed in accordance with The Auckland Code of Practice for Land Development and Subdivision Water and Wastewater Code of Practice for Land Development and Subdivision Chapter 6: Water, and in accordance with the standard Engineering Plan Approval process. Internal watermains will be provided for firefighting purposes. The Applicant (via McKenzie & Co) accordingly consider that the proposed development can be adequately serviced with regard to water supply.

Comments received

287. Mr Mason comments that he is not sure where water supply will come from and is concerned that the water supply approach, or development generally will alter a semi-artesian bore on which his property is dependant.
288. Mr Ying wants water supply infrastructure prioritised before development is enabled.
289. Comments on behalf of AVJ Hobsonville, by way of evidence from Mr Roberts, addressed the complexity of the water reticulation to serve Ara Hills and made the following concluding comments:

.. the vested road reserve within Ara Hills does not currently extend to the

¹⁰³ A10 GW DW Memo Response.

boundary of the Delmore site, and therefore Delmore would require approval from AVJ to extend the water network over private property up to the boundary. It is very unlikely that Watercare will provide approval for a public water supply pipe to be constructed over private property as this does not comply with their Code of Practice.

Given the above, AVJ's reservoir design and associated infrastructure are not yet approved, Delmore cannot not rely on or integrate with AVJ's water infrastructure unless and until AVJ's designs have been approved and there is clarity that the timing will align (and if AVJ's land is to be acquired, that relevant land acquisition agreements are in place). Given Watercare's concerns about land availability / suitability it is not immediately clear that there is sufficient land within AVJ's land for a reservoir to service Delmore. AVJ is not required to design and construct a reservoir to service Delmore's land.

Delmore should be required to deliver its own compliant water storage and supply system and be required to meet the same standards that AVJ is.

290. The Council's response is in two parts. The Council includes comments in the two memoranda filed on 25 June and there are also specific comments from Watercare. The memoranda notes that it would be useful to have further information on several aspects of the environmental effects of the proposed discharge. With the exception of the request for further information on the ecological issues all other matters appear to be able to be resolved by conditions.
291. The primary comment on water supply from the Council is contained in an assessment by Watercare¹⁰⁴ dated 25 June 2025. The key matters identified in relation to water supply are:
 - a. The Site is not currently serviced by the public water supply network. The Applicant proposes to connect the Site to the existing public water supply network in two phases utilising first the capacity of the Grand Drive watermain and then secondly via a network extension, utilising the capacity of the existing 250mm main at Wainui Road. Watercare notes that the Applicant has only considered the capacity of the local water supply network (and not the bulk water supply network).
 - b. The existing bulk water supply network is limited in this area and does not have sufficient capacity to support growth in the existing live zoned areas in addition to the Delmore Project. The following bulk water supply pre-requisites are identified as being required to enable servicing of the Upper Ōrewa future urban area which includes the Site:
 - i. The NH2 watermain is currently anticipated to be completed by 2034 and is a significant project that will run for 32 kilometres between the proposed Manuka Road Reservoir in Titirangi and the Albany Reservoirs. While the NH2 is currently forecast for completion in 2034, there are risks associated with its delivery timeline, and this could extend beyond 2034. That poses programme risk for the Orewa 3 Watermain which is

¹⁰⁴ A7 Watercare Memo.

dependent on the completion of NH2 first.

- ii. The Orewa 3 Watermain scheme (transmission watermain, reservoir and pump station) which is currently anticipated to be completed by 2038 and is dependent on the completion of the North Harbour 2 (**NH2**) watermain;

- 292. Watercare is of the opinion that given that connections to the public water supply network will not be available until 2038 at the earliest, the Delmore Project will need to demonstrate a permanent private water supply servicing solution because Watercare is not able to confirm a future connection and acceptance of assets so far in advance.
- 293. Watercare therefore seeks that, if the Application is granted (notwithstanding Watercare's opposition) the proposed conditions related to future connections to the public water supply network are removed.
- 294. Watercare notes that the Applicant has proposed neither an interim nor a permanent private water supply servicing option where connections to the public water supply network are not possible.

Applicant's response to comments

- 295. In response to the comments by Mr Mason the Applicant advised that the capacity analysis prepared by McKenzie & Co¹⁰⁵ confirms that there is capacity in the public network to supply Delmore. They also noted that Mr Mason's bore would not be affected as the proposed development is to use reticulated water.
- 296. In response to the comment of Mr Ying the Applicant advises that water supply capacity analyses prepared by McKenzie & Co demonstrate that there is sufficient capacity in the water supply network for the Application.
- 297. The Applicant's response to comments by Mr Roberts on behalf of AVJ Hobsonville is:

It is noted that AVJ are progressing with a reservoir for the Ara Hills development, which—based on their memo— appears to be primarily driven by the presence of a single point of supply for their development and the associated limitations on network redundancy.

McKenzie & Co have undertaken further testing and modelling of the surrounding network, which confirms that water supply to the Delmore development can be provided from the existing network without adversely affecting flows or pressures within Ara Hills. Our updated hydraulic analysis shows that sufficient capacity and service levels are maintained, even with the addition of Delmore's demand. Refer to the Water Capacity Memorandum prepared by McKenzie & Co for more comprehensive detail.

While it is acknowledged that the existing 355 mm diameter main is currently aligned to the proposed Ara Hills reservoir, its location within the Future Urban Zone makes it highly likely that it will ultimately form part of a future Watercare ring main extending to Wainui Road. As such, it remains a viable and appropriate servicing option for Delmore as part of

¹⁰⁵ In the amended AEE and associated appendices.

that broader network, although the timing of this full connection is yet to be confirmed.

With the inclusion of the Wainui Road link, the McKenzie & Co modelling demonstrates that both standard supply pressures and firefighting demands can be met across the Delmore site.

In response to items 8.12 and 8.13 of Mr. Roberts Memorandum, it is noted that Delmore is not requesting to connect to the Ara Hills reservoir. Delmore will connect to the existing public network, which is located at Delmore's boundary. We note that connecting to transmission mains—such as the DN355 main—is a common and accepted practice, including for the Ara Hills development itself. Several other neighbourhoods are already connected to this pipe, so it is unclear what specific concern is being raised in relation to Delmore's proposed connection.

298. The Applicant responded to Watercare's comments by way of a memo on water and wastewater capacity dated 2 July 2025. Key aspects of this memo are:
- a. Watercare in previous meetings in April 2024 did not express concerns regarding water supply.
 - b. When existing development and resource consented development is considered, there is sufficient capacity for Delmore within the Transmission network. A 355/315 diameter is extended close to the site boundary and can be readily extended to Wainui Rd as part of the development when required.
 - c. Hydraulic modelling and hydrant testing show sufficient pressure is available for both Stages 1.
 - d. The upper reaches of stage 2 will require either a booster pump, or a reservoir at the top end of the site to provide the necessary pressure to the upper reaches of stage 2.

Further information requests and responses from Auckland Council

299. Watercare provided a further response to the Applicant's response.¹⁰⁶ The main points of this response are:
- a. The Applicant's methodology that evaluates infrastructure capacity primarily by examining the number of resource consents already granted for development in the defined Figure 1 area, alongside the Delmore development does not consider / actively excludes the additional demand that will arise from zone-enabled and sequenced development as identified in statutory and strategic documents such as the Auckland Unitary Plan, the Future Development Strategy, and Auckland Council Growth Scenario (AGSv1). Watercare does not support the Applicant's methodology and considers it both flawed and inconsistent with responsible infrastructure management and planning.
 - b. In response to the Applicant's suggestion that there are no constraints on water servicing, broadly based on the proximity of existing water infrastructure and

¹⁰⁶ A5 – Watercare Memo response 25 July 2025.

the absence of explicit constraints on the 2024 Watercare development map, Watercare responded that, the response was based on:

- i. a flawed understanding of capacity assessment and planning; and
- ii. a misinterpretation of Watercare's network capacity mapping (which excludes FUZ areas).

300. Watercare refers to its earlier comment on 13 June and reiterates the comments included above from that response.
301. Watercare reiterates its position that given that connections to the public water supply network will not be available until 2038 at the earliest, the Delmore Project will need to demonstrate a permanent private water supply servicing solution.
302. Watercare also seeks that, if the Application is granted notwithstanding Watercare's opposition, the proposed conditions related to future connections to the public water supply network are removed.
303. Watercare notes that the Applicant has not proposed either an interim or a permanent private water supply servicing option where connections to the public water supply network are not possible.
304. Watercare fundamentally does not support the establishment of permanent long-term private water or wastewater treatment facilities for servicing of FUZ land. This is due to the lack of efficiency and long-term sustainability of private infrastructure including the different legislative obligations of private bodies corporate versus public bodies, the impact on funding of planned public infrastructure to support planned growth, and the risk of sub-standard process units being installed, incurring costs to homeowners or the public sector later if the infrastructure needs to be vested to Watercare.
305. However, due to the complexity of connecting 1,250 (note now 1,217) individually owned dwellings to the public network some 25 years in the future, including the vesting of private assets that have been operational, managed and maintained outside of Watercare's control, future connections to the public networks may not be feasible and cannot be committed to now. Given this considerable uncertainty, it would be prudent for the Applicant to assume that private water and wastewater servicing will be required on an ongoing basis. That is, the interim solutions cannot rely on a future connection to the public networks and should be designed and consented to be able to continue for an indefinite period of time without needing to switch to public servicing.

Panel questions as per minute 11

306. The Panel had a number of questions which were set out in Minute 11.¹⁰⁷ The bulk of these questions were for the Applicant to answer but there was a question of Council. The responses to these questions were provided and are summarised as:

¹⁰⁷ 22 July 2025.

a. Applicant¹⁰⁸ –

- clarification of the location of and the areas served by Orewa pipelines 1, 2 & 3
- clarification of apparent discrepancy between the applicant's assessed capacity of the Orewa 2 pipeline and Watercare's advice on its capacity
- clarification of population estimates for the Army Bay WWTP catchment.
- provision of updated capacity assessments for water and wastewater for the Whangaparaoa area

b. Council¹⁰⁹ –provision of numbers of resource consents and building consents lodged for years 2019 to 2024 for the Whangaparaoa area together with details of connected sewer and/or water connections for the Whangaparaoa Peninsula.

Panel findings

307. The Applicant's updated capacity assessments for water based on their assessment of existing demand and total number of live zoned lots not yet connected to the network, together with future demand from the Delmore development, indicates available capacity. Watercare have not responded to this assessment and the Panel has not sought a comment from them.
308. The Panel's comment on this assessment is that it is not sure that the assessment includes all relevant live zoned areas. In addition, the Panel notes that it appears to not allow for any infill of the Hibiscus Coast. The Panel accordingly accepts Watercare's position in its 25 July response memo that as connections to the public water supply network will not be available until 2038 at the earliest, the Delmore Project will need to demonstrate a permanent private water supply servicing solution because Watercare is not able to confirm a future connection and acceptance of assets so far in advance.
309. The Panel also notes Watercare's concern about private water supplies for FUZ land expressed in their 25 July memo.
310. The Panel agrees with the Council that unless there is at least an interim and more likely permanent option for water supply this issue cannot be resolved.

Wastewater

Potential effects as identified by the Applicant

311. A Watercare gravity network connection is located approximately 200m to the east of the site at Grand Drive. A 1050mm diameter transmission gravity network is located 600m south of the site in proximity to Wainui Road. These networks have been

¹⁰⁸Memo of Counsel for Applicant responding to Minute 11 dated 5 August 2025.

¹⁰⁹ Auckland council Response dated 5 August 2025.

identified within the Delmore Capacity Memo (Appendix 45.1 and Appendix 45.2) as having capacity. These networks discharge to the Army Bay Wastewater Treatment Plant.

312. The proposal includes three wastewater solutions, with the proposed consent conditions enabling any of these to be adopted. A suite of solutions is provided with flexibility for the applicant to select a solution at a later date, to respond to the limited capacity current available at Army Bay and the fact that the date for the Army Bay upgrade is not yet set in stone. Watercare has publicly announced the upgrade will be complete 2031, although its current consent conditions contemplate earlier delivery given the short-lived nature of its temporary discharge limits and Army Bay is approaching its 13,500m³ Average Dry Weather Flow threshold for their discharge consent, with upgrades under its consent required before that occurs.
313. The primary and preferred solution is to connect to the Watercare network. According to McKenzie & Co's assessment there is sufficient capacity remaining at Army Bay now for approximately 3000 dwellings. With the Application now comprising 1,217 dwellings, there is the potential for there to be capacity within Army Bay's current flow limits to accommodate those homes. This is dependent on how many of those remaining connections are taken up before homes in the Site are ready to connect. However, McKenzie & Co has also assessed capacity after the Stage 1 upgrade to Army Bay. Its analysis demonstrates that there is ample capacity at that time. The timing of Stage 2 means that it aligns with Watercare's publicly stated date for completing the Army Bay upgrade. As a result, an interim solution is not considered necessary.
314. The Applicant proposes construction of a new gravity network to service the proposed dwellings and a pumpstation within the southeastern portion of the Site, to be vested in Watercare. If this option is pursued for Stage 1, the proposed wastewater treatment plant /holding tank solutions would not be required, and this area will be developed into residential lots
315. Notwithstanding this, alternative and interim wastewater solutions for the Site have been designed and the Panel is asked to consider them as part of the Project. The first solution would be used for Stage 1 only, given the upgrades to the Army Bay will provide more than sufficient capacity for Stage 2 and temporally align with construction of Stage 2. This sees provision of an on-site wastewater treatment plant (**WWTP**) as described in the Wastewater Design Report prepared by Apex as Appendix 30, and further response memos attached as Appendix 46. In summary, this wastewater method would involve the following:
 - a. The WWTP would use a modular, hybrid system combining a membrane bioreactor, membrane aerated biofilm reactor, and reverse osmosis membranes for high-quality wastewater treatment.
 - b. The treated wastewater would be discharged to land via an irrigation field or infiltration bed.
 - c. During the summer months, only 20% of flows will be directed to the irrigation field and 80% of total treated wastewater flows for the full Stage 1 development would be trucked off-site³. Treated wastewater would be pumped to a filling station on Russell Road, whereby trucks would load the treated wastewater into truck and trailer units to be transported and disposed of at an appropriate facility.

316. Although the WWTP has been sized to accommodate wastewater flows from Stage 1 of the proposed development, due its modular nature, the WWTP is readily able to be scaled to accommodate the additional flows from Stage 2, should this be required. The WWTP would be decommissioned at such time capacity became available at Army Bay. At this point, the WWTP site would be developed into residential lots.
317. As a contingency option, a third solution enabling untreated wastewater to be taken off-site, without the WWTP in operation is proposed. The proposal includes a 1,000m³ balance tank, which could connect directly to a wastewater load-out tankering system on Russell Road, without going through the WWTP. Odour control units would be installed to manage the effects of odour on adjacent dwellings. This option is needed to manage the financial realities of constructing the on- site WWTP. For example, if only a small portion of the Stage 1 houses need to have on-site servicing, either because others are serviced by the existing network capacity or because of the timing of the Army Bay upgrade, it is not economical or efficient to construct the on-site WWTP.

Comments received

318. Mr Mason was concerned that there are inadequate plans for dealing with wastewater. His concerns included the lack of clarity in the information including: the ability to connect to Army Bay ahead of Stage 1 upgrade; level of treatment of treated water; on- site treatment produces no solid waste; and no trucking of waste. Mr Ying requested that water supply and wastewater infrastructure is prioritised before development enabled. Mr Hale was concerned that the infrastructure supporting development on the Hibiscus Coast is already stretched with major infrastructure support needed in the area. He referred to a Stuff article he attached to his comments regarding insufficient wastewater connections with recent developments, such as Milldale, requiring effluent to be removed by truck.
319. Comments on behalf of AVJ Hobsonville were included in the evidence from Mr Roberts, he stated as follows¹¹⁰:

I have reviewed the ACL calculations provided to Watercare in support of the EPA application for the DN315 gravity pipe under the NZTA motorway, that demonstrated that this pipe has a full capacity of approximately 60L/s which includes a spare capacity of approximately 20L/s following the complete intended¹ development of Ara Hills (which assumed 900 lots plus an allowance for dry and wet retail).

The Delmore report states an ultimate development peak wet weather flow of 50.9l/s (for 1,250 lots) which exceeds the planned spare capacity of this pipe. The completed development of Stages 1, 2 and 3 of Ara Hills have already reserved a portion of this capacity and will continue to utilise this capacity as the development progresses.

I acknowledge that once assets have been vested to Watercare (of which the DN315 pipe has been) the developer that built the asset has no direct control over other properties connecting to the asset. However, it should also be noted that AVJ is continuing to develop Ara Hills in stages and completing new lots regularly, so in my opinion it is likely that the majority of the capacity available within the DN315 pipe will be taken up by the Ara Hills development over the next several years.

¹¹⁰ Statement of Evidence of Mitchell Logan Roberts for ANJ Hobsonville Pty Limited (Civil Engineering) 25 June 2025.

There does not appear to have been any analysis of the total capacity of the DN315 pipe against the consented Ara Hills development (575 lots) and the proposed Delmore development (1,250) lots. I have undertaken calculations which demonstrate that this would generate a peak wet weather wastewater flow of approximately 76L/s, which exceeds the full capacity of the pipe. There is no mention in the Delmore application of how this is proposed to be addressed.

In my opinion there is a potential solution, subject to Watercare's views, which would require 24 hours of wet weather wastewater storage at the relevant Delmore pumpstation. This would allow peak flows to be stored and discharged at off-peak times.

320. In its comments Council noted a number of matters that needed to be addressed before conditions could be recommended.¹¹¹
321. The Site is not currently serviced by the public wastewater network. The Application includes two wastewater options, with the proposed conditions enabling either option to be adopted. In relation to option 1 which is for the Site to connect to the existing public wastewater network, this is not supported by Watercare.
322. The existing bulk wastewater network is limited in this area and does not have sufficient capacity to support the existing live zoned areas and the Delmore Project. The Army Bay WWTP Stage 1 Upgrade, currently anticipated to be completed by 2031, is planned to support growth within the existing live zoned areas and the 2030+ to 2035+ future urban areas and will not have sufficient capacity to support development of the 2050+ future urban areas, including the Site.
323. While the Applicant offered to 'workshop' the Army Bay WWTP Stage 1 upgrade so that the Applicant can "understand the nature of the resourcing constraints faced by Watercare" and discuss "mini upgrade options", this may have been prior to the Applicant appreciating that both the Army Bay WWTP Stage 1 and Stage 2 upgrades would be required before any capacity would be available for the Delmore Project.
324. The following bulk wastewater pre-requisites are identified as being required to enable wastewater servicing of the Upper Ōrewa Future Urban Area (FUA), including the Site:
 - a. Army Bay WWTP Stage 2 Upgrade, currently anticipated to be delivered in line with the Auckland Future Development Strategy (**FDS**) timing of 2050+;
 - b. Orewa to Stanmore Wastewater Trunk Network Upgrade, currently anticipated to be completed by 2033.
325. Option 2 for the Site has been designed and is to be consented as part of the Delmore Project. This solution is proposed to be used for either or both Stages 1 and 2 of the Delmore Project if connection to the Watercare network is not possible when construction of buildings is completed. Option 2 includes provision of a private on-site WWTP as described in the Wastewater Design Report prepared by Apex as Appendix 30.
326. The WWTP is proposed be in place on an "interim" basis only until the public bulk wastewater network has sufficient available capacity to service the development of the Site, after which the private WWTP would be decommissioned, and the Site would be

¹¹¹ A7 – Watercare Memo 25 June 2025.

connected to the public wastewater network. The Application anticipates the interim WWTP would only be required until the early 2030s. Watercare comments that given that connections to the public wastewater network from this area will not be available until 2050+, the Delmore Project will need to demonstrate a permanent private wastewater servicing solution because Watercare is not able to confirm a future connection and acceptance of assets so far in advance.

327. Watercare therefore seeks that, should the Application be granted notwithstanding Watercare's opposition, the proposed conditions related to future connections to the public wastewater network are removed.
328. Watercare notes the inclusion of an option for off-site discharge of treated wastewater to the public wastewater network as a solution for treated wastewater that cannot be discharged on site.⁴ Watercare does not support any tankering of wastewater, whether treated or untreated, that would discharge to its public network and there is no general right of entry of wastewater tankers onto Watercare sites for disposal (Watercare's consent would be required). Additionally, tankering is not supported because:
- a. Increased traffic associated with tankering operations can lead to disruptions to the local community including noise, odour, congestion, and safety concerns.
 - b. Tankering wastewater requires specialised tankers and trained personnel, leading to significant operational costs. The fuel consumption, monitoring, cleaning and equipment maintenance contribute to the overall high cost of tankering.
 - c. Wastewater from tank farms contains hazardous silt or sludge that requires regular cleaning via specialist Hydro Evacuation trucks and disposal at specialist waste facilities, adding cost and complexity.
 - d. Transporting wastewater over long distances has a high carbon footprint as there are only limited facilities that can receive the tankers in Auckland. There is also the risk of spills or leaks during transportation which can result in damage to the natural environment.
 - e. There is the potential for infiltration of stormwater into the wastewater network, particularly during heavy rainfall events. This can fill the tank farms in a very short period of time and requires increased tankering to empty the tanks. It carries risk of system failure and overflows.
 - f. Further discharges to the Rosedale WWTP will not be accepted by Watercare as the plant's ability to accept more trucking discharge is limited and needs to be preserved for emergency situations.

Applicant's response to comments

329. As part of its response to comments the Applicant provided the following documents:
- Appendix 55.4 - Draft WWTP Emergency Response Plan
 - Appendix 55.5 - Draft WWTP Environmental management Plan
 - Appendix 55.6 - Draft WWTP Odour Operation and Maintenance Plan
 - Appendix 55.7 - Draft WWTP Operation and Maintenance Plan

- Appendix 46.4 - Air Matters memo
- Appendix 46.5 - SLR WWTP memo
- McKenzie plans - Wastewater filling station
- Appendix 46.7 - McKenzie drawings-wastewater holding tanks
- Appendix 46.8 - WWLA Wastewater memo.

330. The Applicant's response to the comments of Messrs Mason, Ying and B. Hale is encapsulated in the response to Mr Hale¹¹²:

The water supply and wastewater capacity analyses prepared by McKenzie & Co demonstrate that there is sufficient capacity in the water supply network for Delmore, and also within the wastewater network possibly before the Army Bay upgrade and definitely after. If there is a period where houses within the site are occupied before the Army Bay upgrade and there is no capacity at Army Bay, wastewater will be managed using an on-site solution. The on-site solutions put forward have been carefully assessed and would be subject to conditions to ensure required standards are met.

331. The Applicant's response to the comments from AVJ Hobsonville is:

A review of the existing DN315 gravity wastewater pipe, located within the NZTA land east of Ara Hills, has identified that it has full-flowing capacity of 267 L/s, so the pipe capacity is not a constraint, contrary to the statements provided by Mr. Roberts. Peak wet-weather flows for Ara Hills and Delmore development represent less than 30% of that capacity, being 75 l/s. The limiting factor is Watercare's Wastewater Code of Practice, which cites a guideline maximum velocity of 3 m/s. McKenzie & Co's hydraulic model shows a peak of approximately 3.8 m/s under full- development loading.

Section 5.3.5.6 of Watercare's Code of Practice provides some solutions where velocities are above 3m/s, such as providing an energy dissipating chambers at the end of the steep pipe.¹¹³

332. The Applicant's response to Council's comments is contained in the document entitled Wastewater Discharge Memo from Viridis dated 1 July.¹¹⁴ This memo addresses the request for further information from the Council on several environmental aspects of the proposed discharge.

333. The Applicant response to Watercare's comments is contained in the document entitled: McKenzie and Co. Memo: Transmission and Wastewater Supply Capacity dated 2 July 2025 and can be summarized as follows:

- An assessment of existing wastewater flows to the Army Bay Wastewater Treatment Plant based on population estimates and assessed industrial areas, is 12,187 m3/day average dry weather flow (ADWF) which is consistent with flow monitoring at Army Bay Plant in July 2024 of approximately 12,000 m3 /day

¹¹² Appendix 43.3 – Amended AEE.

¹¹³ Appendix 54.1 – Amended AEE

¹¹⁴ Appendix 42.1 – Amended AEE.

- b. The approximate number of yet to be connected consented residential lots within a "water catchment" comprising Strathmill, Ara Hills, Milldale, Pacific Heights, Millwater, Woodlands Rise and East Coast Heights would result in 2028 m³/day ADWF
- c. Delmore Stage 1 wastewater ADWF is 321 m³/day, Delmore Stage 2 wastewater ADWF is 504 m³/day. The addition of wastewater flows from Stage 1 of the Delmore development to the existing connected ADWF would still keep the total flow below this 13,500 m³/day current operational envelope of the Army Bay WWTP.
- d. When the analysis is extended to include all resource-consented but currently unconnected dwellings in Strathmill, Ara Hills, Milldale, Pacific Heights, Millwater, Woodlands Rise and East Coast Heights areas , and both Stage 1 and Stage 2 of the Delmore development (1,250 dwellings), the resulting cumulative ADWF is 14,765 m³/day, which falls well within the consented WWTP Stage 1 capacity of 22,500 m³/day—provided the Stage 1 upgrades have been commissioned.

Further information requests and responses from Auckland Council

334. The Council response to the Applicant's response¹¹⁵ is:
- a. That a critical outstanding issue remains regarding the ultimate fate of the treated wastewater, reverse osmosis reject water, and intermittently, raw wastewater;
 - b. The Applicant proposes tankering these waste streams off-site to several possible Watercare-operated treatment facilities and possibly to Wainui Golf Course. Watercare does not support this and has not granted consent for such discharges to its network;
 - c. No evidence has been provided confirming Wainui Golf Course is prepared to accept any waste streams. Without firm agreements or approvals for these disposal pathways, the proposal lacks the certainty required for technical endorsement;
 - d. Accordingly, it is not possible at this stage to recommend conditions of consent for the wastewater discharge. Certainty regarding the final disposal of all wastewater and waste by-products is necessary to confirm the viability and environmental acceptability of the proposed treatment strategy.
335. As noted under the discussion for water supply above, the Council's position is that the Applicant's approach to evaluating capacity based solely on consented developments excludes zone-enabled growth identified in the AUP and sequenced growth under the FDS and is fundamentally flawed for infrastructure and capacity planning purposes.¹¹⁶
336. Watercare reiterates that no spare capacity currently exists within the public wastewater network that would allow for the Delmore development to be serviced. The existing Army Bay Wastewater Treatment Plant and parts of the wastewater network in

¹¹⁵ A7 Wastewater Memo Response – note date of 18 June must be incorrect as the Panel only received the memo on 29 July.

¹¹⁶ A5 Watercare Memo Response 25/7/25.

Hibiscus Coast are already at or near capacity. As noted in Watercare's previous commentary, while a Stage 1 upgrade is programmed for approximately 2031, that upgrade is required to support zoned and sequenced land in the near-term pipeline. The Delmore development is located in a FUZ area timed for 2050+, and therefore is not included within that capacity planning. Therefore, the Applicant's assessment that Stage 1 can accommodate the Delmore proposal is incorrect.

337. The position that Watercare noted in its earlier comments remains the same. Servicing Delmore before the above upgrades would necessarily displace other planned development or force Watercare to reprioritise infrastructure delivery in a way that contradicts the regional growth strategy. Watercare cannot endorse such an approach. Delmore cannot be connected to the public wastewater network for the foreseeable future without significant negative implications for the system and other planned users.

338. Watercare refers to the Applicant's response in the memo by McKenzie & Co's¹¹⁷, which states:

Wastewater servicing is contingent on the commissioning of Stage 1 upgrades at the Army Bay WWTP. Under existing conditions, Stage 1 of Delmore can be accommodated without breaching consented flow limits. Full build-out, including other consented developments in the catchment, remains within the 22,500 m³/day discharge consent limit post-upgrade.

339. Watercare notes that the Stage 1 upgrade will increase the capacity of the Army Bay WWTP to 22,500m³/day, which is based on the WWTP's discharge consent conditions. The capacity provided by the Stage 1 Upgrade will be fully utilised by infill growth in live zoned areas and Future Urban Areas planned for release in 2030+ and 2035+ as set out in the FDS. If Delmore connects to the public wastewater network ahead of the Stage 2 upgrade, which will increase capacity to 31,500m³/day, then the Stage 2 upgrade would need to be brought forward (and, as noted, wastewater servicing is also contingent on the Orewa to Stanmore Wastewater Trunk Network Upgrade).

340. Therefore, as noted in Watercare's previous comments, if the Application is approved a permanent private wastewater solution is required which does not involve tankering to Watercare facilities.

341. In relation to private servicing and tankering Watercare had already provided its comments in the first comment round. In this further comment round Watercare notes that the Applicant proposes a private wastewater treatment and disposal system involving onsite treatment, supported by tankering of treated (and potentially untreated) wastewater. In this latter regard, Apex Water state:¹¹⁸:

A list of some potential locations for the receipt of these liquid waste streams include:
WSL Rosedale
WSL Mangere
WSL Warkworth
WSL Omaha Beach
WSL Snell's Beach WSL
Pukekohe

¹¹⁷ Appendix 45.2, page [11].

¹¹⁸ Appendix 46.2, page 32.

Wainui Golf Course (Variation to the existing Wainui Gold Course consent for discharge of treated wastewater would be required)

Discharge to these locations would need to be confirmed with the facility operator or under commercial agreement.

342. Watercare states that the only wastewater treatment plants equipped with facilities to receive wastewater from tankers are Rosedale and Pukekohe WWTP. However, assuming Watercare would allow access to any additional tankers at these sites is incorrect. A recent request for tankering to Pukekohe WWTP has been declined and Watercare is not planning on allowing additional tankers to Rosedale WWTP. The other sites listed above do not receive discharges from wastewater tankers.

343. Watercare therefore confirms that¹¹⁹:

No part of its wastewater infrastructure (including the various sites referenced in the Applicant's response above) will accept discharge from Delmore's tankered effluent; and

It will not enter into any commercial arrangement with the Applicant for tankering of waste to any of its facilities.

While this applies to treated wastewater and reject, Watercare records for the avoidance of doubt that it would not accept RO waste stream based on the nature (composition and concentration) of the reject in any event (something discussed in Appendix 46.2, page 8).

In light of the above, Watercare recommends private servicing **without** tankering if the development is approved.

Aside from the Watercare sites, Apex Water mentions the possibility of tankering to Wainui Golf Course. Watercare does not have any specific comment to make in that regard, save to note from Appendix 46.2 that there appears to be some uncertainty in relation to whether Wainui Golf Course is available for this purpose given the need for a consent variation. Watercare encourages the Panel to look at other examples of where such an arrangement has not worked including Whitford.

Further responses by Applicant and reference to expert conferencing

344. The Applicant's updated capacity assessment¹²⁰ for wastewater was based on their assessment of existing flows, total number of live zoned lots not yet connected to the network together with future demand from the Delmore development. This indicates the existing Army Bay WWTP has sufficient capacity for existing flows together with Delmore Stage 1 and once the Army Bay WWTP Stage 1 upgrade is complete will have sufficient capacity for all live zoned lots and Delmore Stages 1 and 2.

345. The response from Mr Fawcett of Myland Partners¹²¹ in response to Watercare's position that it does not support and will not accept any tankering of wastewater (both treated

¹¹⁹ A5 Watercare Memo Response 25 July 2025 paragraphs 37 – 40.

¹²⁰ Memo of Counsel for Applicant responding to Minute 11 dated 5 August 2025.

¹²¹ Memorandum of Counsel for the Applicant responding to Minute 16 dated 8 August 2025 Attachment C.

and untreated) from Delmore to any of its treatment plants is set out as follows (note this is important so it is included in full):

The Watercare 28 July Information does not give any reasons for Watercare's position. We have assumed that the reasons for its position are those set out at points a) to f) on pgs 6-7 of the Watercare 25 June Comments.

The matters raised and points a)-e) in of the Watercare 25 June Comments have all been addressed by the independent technical advisors Vineway Ltd has engaged. The relevant technical reports are Appendix 46 to the updated Assessment of Effects lodged by Vineway Ltd on 7 July 2025. We understand that these are all matters the panel will assess, and about which conditions can be put in place to manage any potential effects. It is difficult for us to comment further, or ask our technical advisors to comment further, when Watercare has not engaged with our technical advisors' recommendations for managing these matters. We understand that the panel has identified some of the wastewater management conditions as ones to be discussed at expert conferencing. We agree that well-considered, and evidence-driven conditions are the way to address these matters.

Point f) of the Watercare 25 June Comments, says that further discharges will not be accepted because the Rosedale WWTP's ability to accept more trucking discharge is limited. No explanation for why it is limited is provided. We are not sure what this statement is based on because it is at odds with Watercare's 2021-2024 Asset Management Plan which says that the Rosedale WWTP currently services about 251,000 people and it has capacity to service around 578,000 people. This is confirmed in its most recent 2025-2034 business plan which says that the Rosedale WWTP currently services around 250,000 people and that it has capacity to service around 578,000 people. That means the Rosedale WWTP is only operating at about half capacity. There is also the Pukekohe WWTP which we understand is currently servicing around 33,800 people and which has been upgraded to now serve around 60,000 people. The temporary addition of 400 odd homes from Delmore Stage 1 is an insignificant reduction in the remaining capacity.

The Rosedale WWTP in particular is set up for receiving tankers, and there are many different businesses that need to get rid of both treated and untreated wastewater that truck it to Rosedale WWTP for disposal. We understand that this is where Warkworth Ridge trucks its untreated wastewater. This is located in Warkworth, much further from the Rosedale WWTP than Delmore. We are also aware of at least one very recent request to dispose wastewater from a portoloo company with similar disposal quantity requirements to us, that seems to have not been told it cannot truck untreated waste to a Watercare facility. It therefore seems that Watercare has decided to treat the Delmore project differently to other commercial operators, with no valid reason for doing so. This is unfair and something we are looking into further.

Further, Watercare's comments do not recognise any of the specific aspects of the waste product that would be coming from Delmore. First, any waste product (treated or untreated) tankered from Delmore would only be a temporary measure because ultimately the development would connect to the public network. Second, if the product being taken to the WWTP is treated water or reject from the treatment plant, our technical advice is that it will actually have a positive or neutral impact on the WWTP.

Vineway Ltd will continue to try to work constructively with Watercare about this and about Delmore more generally. We also note that if on-site treatment is the short-term option we ultimately select, there are other options for dealing with discharges that cannot be disposed of on-site. For example, this could be discharged to land somewhere else. We understand that this would require other approvals, but in our experience, this is something the consent conditions

could require to occur before certain other actions are taken if the on-site option was the option ultimately adopted.

From our perspective, it is important that the consent provides us with flexibility to confirm the final wastewater solution, out of the three put forward, further down the track. This is because there are a lot of commercial matters going into that decision, as this note highlights. For example, an on-site treatment plant will cost around \$15million to construct. If, because of the timing of housing delivery vis-à-vis the timing of the Army Bay Stage 1 upgrade, the on-site treatment plant would only serve say ¼ of Delmore Stage 1, or would only serve Delmore Stage 1 for a short period, it may not be financial or environmentally efficient or effective to build and then promptly decommission the on-site treatment plant and drip line system.

Panel findings

346. The Applicant's updated capacity assessments¹²² for wastewater based on their assessment of existing flows, total number of live zoned lots not yet connected to the network together with future demand from the Delmore development indicates the existing Army Bay WWTP has sufficient capacity for existing flows together with Delmore Stage 1 and once the Army Bay WWTP Stage 1 upgrade is complete will have sufficient capacity for all live zoned lots and Delmore Stages 1 and 2.
347. The Panel's comment on this assessment is that it is not sure that the assessment includes all relevant live zoned areas and the Panel notes that it appears to not allow for any infill of the Hibiscus Coast. The Panel accordingly accept Watercare's position that no spare capacity currently exists within the public wastewater network that would allow for the Delmore development to be serviced.
348. With respect to the issue of tankering treated or untreated wastewater from the site the Panel concurs with the Council view¹²³ that *"it is not possible at this stage to recommend conditions of consent for the wastewater discharge. Certainty regarding the final disposal of all wastewater and waste by-products is necessary to confirm the viability and environmental acceptability of the proposed treatment strategy."*
349. The Panel agrees with the Council that unless there is at least an interim and more likely permanent option for wastewater that is acceptable to the Council / Watercare, the Panel does not see that this issue can be resolved.

Transportation and Roading

Potential effects as identified by the Applicant

350. Transport matters, including traffic, access and parking, have been considered in the Integrated Transport Assessment Report prepared by Commute.¹²⁴ Commute's assessment considers effects with respect to the road network, public transport, safety, trip generation, modelling, parking, servicing, access and construction. The key conclusions with respect to traffic related matters were as follows:

¹²² Memo of Counsel for Applicant responding to Minute 11 dated 5 August 2025.

¹²³ A7 Wastewater Memo Response – note date of 18 June must be incorrect as the Panel only received the memo on 29 July.

¹²⁴ Appendix 28 of the AEE.

- a. A road safety analysis was undertaken where it was concluded that there are no significant safety issues arising from road or intersection designs;
 - b. With regard to the safety of the road network to pedestrians and vehicles, it was considered that the proposal achieves a safe network. Vehicle speed calming will be provided in the form of speed tables at approximately 60m intervals on the local roads. Further, intersections will provide sight distances that generally meet minimum sight distance requirements. Where these requirements cannot be achieved, the Transport Assessment finds that the sight distance provided will be acceptable. Pram crossings will be provided at all key intersections and other main pedestrian routes throughout the site. In terms of the proximity of vehicle crossings to intersections, a total of 73 vehicle crossings are proposed within a 'vehicle access restriction area'. The Transport Assessment concludes that provided the recommendations within the Assessment are adopted, the proposed crossing locations are considered to be acceptable.
 - c. Vehicle crossings onto roads have generally been minimised where possible and have been designed to meet the AUP (OP) width requirements for urban crossings. Access to individual lots have been provided directly onto roads via individual vehicle crossings, combined vehicle crossings, or via JOALs. Vehicle crossings have been combined to minimise crossing points and maximise crossing separation. Vehicle access gradients are considered by the Transport Assessment to be appropriate. JOALs have been provided on higher volume roads to minimise the number of vehicle crossings. The proposed JOALs have been designed to comply with the AUP (OP) access width requirements for urban accessways, except where noted in the Transport Assessment. It was considered by Commute that the JOAL gradients are appropriate.
 - d. It was noted that the NoR 6 arterial road will allow for potential future public transport. In 2027, a new connector bus service is planned to run between Orewa, West Hoe Heights, Ara Hills and Hibiscus Coast Station. The provision of NoR 6 road within the site is considered to improve the feasibility of public transport services in the future relating to the subject site.
 - e. Modelling undertaken by Commute confirmed that the proposed design of the intersections will be able to operate within an acceptable level of service in both the AM and PM peak such that the additional traffic generated by the proposed development are able to be accommodated within the road network.
 - f. On-site parking for one to two cars is to be provided within the residential lots. Commute considers that the proposed access gradients and vehicle crossings are acceptable. With regard to any driveways that require reverse manoeuvring, these will be restricted to those serving less than four vehicles, and, in all cases, will be less than 30m from the road boundary. Whilst some dwellings will have vehicle crossings within 10m of an intersection, Commute's Assessment noted that provided visibility splays are provided, it is considered acceptable for vehicle to reverse manoeuvre from these crossings.
351. In conclusion, Commute considers that the proposal will provide good pedestrian, cyclist and potentially public transport connectivity. With regard to the surrounding context, the proposed road network is considered to integrate effectively with the existing network without producing adverse safety effects. Intersection modelling demonstrates that proposed roundabouts will be able to accommodate the anticipated

generated trips. The internal road and JOAL layout, crossing locations, widths and gradients, and on-site parking and access are considered to be safe and appropriate. The site is considered to be able to be serviced by on-street public collection. Construction effects are anticipated to be acceptable with the adoption of the CTMP.

Comments received

352. Commentor, Mr Mason noted that Mr Allsop-Smith's responses regarding the increased traffic during development and after completion amounted to "it will all be fine" are not something he could accept when the section of Upper Orewa Road involved has margins which have been subject to continual sinking and have repeatedly needed remedial work, and the Wainui Road is already a bottleneck and will only get worse as the development on that road advances. He also noted in response to the Applicant's position that bus routes will prevent excess traffic:

... what guarantee is there that there will in fact be bus routes in place, running at the stated frequency? We have family experience elsewhere in NZ of developers promising bus services, doing a quick survey that suggested younger families preferred their own vehicles, and as a result feeling free to put in place none of the promised bus services, ever. As with so much of this proposal, talking a good story about low-cost housing is all very well; but how will anyone ever hold the developers to their words?

353. Mr Wallace commented that other developments within the area (Millwater, Milldale, Ara Hills, Strathmill, and the unnamed development at Dairy Flat) mean thousands more houses are already expected. He notes that this is overwhelming services including transport, schools, doctors, hospital/emergency; police; ambulance; fire. In his view development should wait until services are available.

354. The evidence of Mr Roberts for AVJ Hobsonville Pty Ltd is:

- a. All of Stage 1 of the Delmore development is proposed to be accessed via Grand Drive through Ara Hills. There is no requirement or obligation for AVJ to form Grand Drive up to the boundary with the Delmore site.
- b. The Grand Drive connection proposed within AVJ land is a critical access component to service the proposed Delmore Stage 1 development. If Delmore are not going to construct the extension, then an alternative access strategy would need to be demonstrated for Stage 1.
- c. If Stage 1 is to access Grand Drive, as proposed, then a design for the road extension will need to be prepared.
- d. The topography is steep and any solution will need careful analysis. The work required to construct a road is likely to trigger a number of resource consents.

355. There were a number of matters¹²⁵ raised by the Council and Auckland Transport¹²⁶ which noted that there were a few outstanding issues that information from the Applicant was requested. This is covered further below in the further information from the Council section.

¹²⁵ Council comments A19 Transportation Memo.

¹²⁶ Auckland Transport – Delmore comments.

Applicant's response to comments

356. The Applicant's response to the comments from Mr Mason was that the Integrated Traffic Assessment reviewed the specific Delmore site and concluded that the site and surrounding areas can operate safely both during development and post-development without requiring further upgrades of the surrounding road network.¹²⁷ This comment is also specifically addressed in the response memo prepared by Commute Ltd provided in Appendix 51.2 to the AEE.
357. With regard to bus services the Applicant notes that this is the responsibility of Auckland Transport and, as such, the Applicant cannot control this. But it was noted that the timing for a new buses service generally aligns with the time that the houses within Stage 1 will be built.
358. With regard to the comments from Mr Wallace, the Applicant notes that the traffic, civil engineering, and urban design assessments which have informed the development conclude that there are sufficient services to support the development. In particular, the response from Commute in Appendix 51.2 concludes that there is sufficient capacity within the road network, subject to the development's design adopting the Council's recommendations, which it does.
359. With regard to the technical matters raised by Auckland Transport the Applicant responds that these are addressed via the thoroughness and appropriateness of the application material. The Applicant also notes that there is a \$2.5m saving that would be achieved from the Applicant's proposed realignment of NoR 6.¹²⁸

Further information requests and responses from Auckland Council

360. The Council response to the Applicant¹²⁹ advised the following matters remain outstanding:
- a. Monitoring and mitigation conditions for the Grand Drive / SH1 intersection at 670 dwellings;
 - b. Non-compliance with loading bay requirements;
 - c. Non-compliance with vehicle tracking requirements.
361. In relation to each of the outstanding issues the position of the Council is:
- a. That a condition is imposed to deal with the Grand Drive / SH1 monitoring issue;
 - b. The Council is not supportive of the non-compliance with the loading bay requirements. It noted that the reference by the Applicant to rubbish truck use of the loading bays was one of the many scenarios. The Council is of the view that "[p]rovision of a loading bay will be always necessary for a large community like Delmore, and the infringement cannot be acceptable from a traffic point of view."

¹²⁷ Appendix 51.2 Amended AEE.

¹²⁸ Appendix 51.4 Amended AEE.

¹²⁹ A13 Council Response 17 July 2025.

- c. The Council notes that the Applicant prefers to re-check the vehicle tracking and required widening at the EPA (engineering planning approval) stage. The Council does not support this because failed tracking will create ongoing maintenance, safety issues and redesigning of light pole locations. The large residential nature of the proposal, generation of high vehicle volume based on partial completion of the project, high expected future pedestrian counts, speed management measures are not finalised, lighting pole locations are not finalised - where the vehicles may overlap with pole locations, damage to kerb/ grass berm/ utility poles will be an ongoing maintenance, means that this infringement is not acceptable from a traffic point of view.

362. In addition to the traffic input from the Council Auckland Transport also responded to the Applicant's response¹³⁰. This identified outstanding and new issues and information gaps as follows:

- NoR 6 purported regional benefits, alignment, extent and cost implications
- Grand Drive/ SH1 interchange adverse impacts
- Road Design and Road Safety
- Interim upgrades required along the existing rural network on Upper Ōrewa Road and Russell Road
- Public transport serviceability / inability to service development by public transport until 2048+
- Internal road layout concerns including lack of roading hierarchy that includes collector roads
- Stormwater mitigation to demonstrate road user and pedestrian safety, culvert sizing under State Highway 1; and
- Road widening required at Upper Ōrewa Road and Russell Road intersection and three horizontal curves on Russell Road to accommodate wastewater trucks accessing Russell
- Trip generation rate, sensitivity modelling and mitigation at Grand Drive/SH1 interchange
- Stormwater management concerns.

Applicant's additional response

363. In the Applicant's further response on traffic matters¹³¹ the response was that Beca have provided some specific recommendations for widening shoulders (1m minimum) of both Upper Orewa Road and Wainui Road to accommodate traffic and cyclists from the proposed development. In this regard:

¹³⁰ AT Memo Response.

¹³¹ Memo for Counsel for the Applicant responding to Minute 16 dated 8 August 2025 Attachment B.

Upper Orewa Road

We agree Upper Orewa Road is a rural road with minimal shoulders. We do however note it does have approximately 6.5m road width (edge lines) and thus meets the AT Urban and Rural Roadway Design minimum lane width for local or collector roads. It does not however meet the shoulder widths requirements however the speed limit has been reduced to 60km/hr which we consider already partly mitigates this lack of shoulder width.

Wainui Road

We do not consider it appropriate for people to walk along Wainui Road (regardless of shoulder width) and there would be no reason for future residents of Delmore to do so.

This road already caters for reasonable levels of traffic and already has road shoulders of between 0.5-1.0m as follows.

- East of Orewa River, the road is essentially urban with kerbs
- West of Orewa River, the road is typically 7.6m wide (edgeline to edgeline)
- The shoulder widths varies from 0.4m to 1.2m as per Figure 1 below.

Overall, Wainui Road is some 1.2km from the site, generally meets Auckland Transport standards, already caters for reasonable levels of traffic already and as such, any upgrade is not considered the responsibility of the applicant.

364. The Commute response regarding road widening for wastewater collection was that road widening will need to occur on Russell Road to accommodate the tanker. Details of road widening would be confirmed at Engineering Plan Approval stage. Commute noted and agreed with Mr Schischka's (from PTM Consultants) comments regarding the curves to be widened and the use of the van rather than car.
365. In terms of the tanker tracking in the cul-de-sac, the cul-de-sac has specifically been made larger than typical residential (11m radii) to a 12.5m radii. This allows the tanker to turn around while also allowing a 10.3m rubbish truck to undertake a three-point turn

Panel findings

366. There are numerous outstanding matters that are still to be resolved. Some of these matters are matters that appear to be able to be conditioned but some of them cannot. The most significant of these include:
 - a. the perceived regional benefits of the NoR 6 (dealt with in Part G);
 - b. the impacts on Grand Drive / SH1 interchange;
 - c. interim upgrades required along the existing rural network on Upper Orewa Road and Russell Road and lack of collector roads; and
 - d. numerous detailed design issues that remain unresolved and may not be able to be appropriately managed by way of the conditions.

367. It is the Panel's view that to grant a consent with significant pre-conditions is not genuinely granting a consent at all. The Panel does not have adequate information available to provide it with certainty that it can impose appropriate conditions to mitigate potential adverse effects noted by the Council.

Urban Form and Neighbourhood Character

Potential effects as identified by the Applicant

368. Section 11.7 of the AEE identifies the urban form and neighbourhood character effects of the masterplan. This section references the Urban Design Assessment prepared by Mr Frank Pierard from Barker & Associates (Appendix 27 to the AEE), noting that the Urban Design Assessment report cross-references the Architectural Drawings prepared by Terra Studio (Appendix 15 to the AEE).
369. The architectural drawing package includes context plans and an overall masterplan for the development; staging plans; schedules and calculations of coverage and other development controls against a proposed MHS type zone; detailed site plans; details of the dwellings for each of the 64 typologies including floor plans, elevations and materiality, outlook space and outdoor living space as per the MHS provisions. Dwellings are three- to five-bedrooms and 1-2 levels.
370. In his report, Mr Pierard describes the wider site context as peri-urban, with both urban and rural features fragmented throughout. He acknowledges that the land is zoned FUZ, and therefore the application requires consent as a non-complying activity under the RMA, but that the MHS zone provisions were utilised as a basis for the masterplan and site layout and so the urban design assessment of the proposed development is reviewing the outcomes against the provisions of the MHS zone.
371. Mr Pierard notes the site sits within a context of similar rolling pastoral farmland to the east and south, while the land to the west and north-west boundary features dense native vegetation, including the Nukumea Scenic Reserve. To the north-east is Ara Hills, which is still being developed. Ara Hills development includes provision for a neighbourhood centre, which at its closest is approximately 100m from the subject site boundary. Orewa Town Centre is located approximately 3.2km to the east and the emerging Milldale Local Centre approximately 2.3km to the south-west. The site is also located within close proximity to social infrastructure including a number of existing and proposed schools, open space and recreational facilities, and commercial centres.
372. According to Mr Pierard the proposal has been influenced by the site's constraints including the topography, protected vegetation and wetlands and streams and that it is consistent with the AUP's intended outcomes for how subdivision and development should respond to landform, landscape and natural features. A total of 27 roads are proposed to be constructed and vested with Council, comprising one arterial road (the section of NoR 6 through the site) and 27 local roads, including connections through to Russell Road and neighbouring sites to the south of Stage 1. No collector roads are proposed.
373. The masterplan is arranged so that key connecting roads and developable land follow the ridgelines, generally avoiding the gullies. In addition to the public street network, the masterplan provides for a total of 40 private JOALs with varying formed and legal widths. It is acknowledged by Mr Pierard, that the road network is somewhat fragmented due to the topography and stream network, but that cul-de-sacs have been largely limited to the periphery of the development. Streetscape amenity includes

street trees, raingardens and vegetation within riparian margins. It is intended that street trees align with Auckland Council's Urban Ngahere Strategy. Additional amenity will be provided by proposed front yard landscaping.

374. Mr Pierard outlines that there are a number of different open spaces proposed across the site, including a 3,200m² neighbourhood park within Stage 2. However, this is under discussion with Auckland Council regarding acquisition. In addition, 23 open space 'drainage reserve' areas are proposed to be vested to the Council, along with walking tracks and lookout points within proximity to Nukumea Scenic Reserve. Some of these walkways appear to be within the covenanted areas.
375. Mr Pierard concludes that the proposed development is appropriate to its context and site conditions, the proposed subdivision layout and street pattern will support connectivity and contribute positively to the continued urbanisation of the Upper Ōrewa area, provides a choice of housing types which deliver appropriate levels of on-site amenity and enable safe and attractive streets.

Comments received

376. The Council provided a comprehensive comment on the urban design related aspects of the proposed development. The urban designer was asked to review the proposed development as if it had an underlying zone of MHS applied, rather than the FUZ. Auckland Council's urban design expert, Mr Demiralp, notes that while the proposal has not been developed through a private plan change process, which would have enabled greater co-ordination of land use, infrastructure and open space outcomes, it does reflect an emerging urban narrative supported by anticipated access to neighbourhood centres, educational facilities, parks and frequent public transport via the new NoR 6 corridor. However, he highlights that these facilities and services are not yet available or in existence.
377. Mr Demiralp considers the proposed streetscape treatments along public roads to be positive and that the housing typologies generally provide functional layouts that relate well to the topography. However, in his opinion this has to be balanced against the fragmented street network with limited connection options, topographical challenges, the extent of tall retaining walls and elevated lots that limit street-level interaction, and the reliance on narrow JOALs without pedestrian paths.
378. It appears from the comments received by Mr Demiralp that, subsequent to lodgement, the Applicant made some amendments to the proposal to include a second neighbourhood park within Stage 1, a neighbourhood centre within Stage 2 and additional pedestrian connections. At the time of receipt of comments from invited parties, the Panel was not privy to those changes, noting that Mr Demiralp considers them to be positive urban design features, however the Panel did receive them subsequently as noted below under the Applicant's response to comments received. Mr Demiralp does, however, caution that the benefits from the amendments must be considered in tandem with outstanding concerns raised by Auckland Transport and the Council Parks team relating to the timing, certainty and functional delivery of transport infrastructure and the appropriateness of open space provision respectively.
379. In addition to the urban design memo, Mr Cas Hannink provided a specialist memo on behalf of Auckland Council Parks. Like Mr Demiralp, Mr Hannink references the indicative neighbourhood parks proposed for both Stages 1 and 2. Council Parks generally support the provision of the two neighbourhood parks subject to confirmation

of key metrics, including the location of each park, a total area of 3,000m² and an unobstructed area at suitable gradients for access and usability. In relation to the interfaces with the potential parks, Mr Hannick noted existing plans indicate retaining walls exceeding 1m in height adjacent to open space lots which would create poor outcomes for safety.

380. Mr Hannick also commented on the proposed layout for street trees, expressing concern that the location of service lines creates conflicts between infrastructure provision and tree growth. So, while the intent for a large number of street trees is good, service lines may encumber street tree growth and the ability to achieve the street tree canopy desired by the Urban Ngahere Strategy.
381. Like Mr Demiralp, Mr Hannink commented on the disconnected open space network and the fragmented route legibility, supporting the inclusion of alternative routes and informal connections and recommending that any proposed informal walking connections outside the road network include public access easements. He included a number of recommended amendments and advice notes for addressing parks and streetscape outcomes.

Applicant's response to comments

382. In response to the Council's comments, the Applicant has prepared a Concept Structure Plan for the Upper Orewa area and appended it to the application material as Appendix 47.1. The purpose of this is to assist both the Council and the Panel in understanding how development not only of the site, but the wider area, could be undertaken in an integrated matter that supports a well-functioning urban environment. Three key plans are included that set out: indicative land uses, typologies and densities; high level transport network; and parks and open space network. This is in direct response to comments by Council specialists around the co-ordination and integration of outcomes.
383. The development of the Concept Structure Plan helped to identify where additional neighbourhood centres were required. Similarly, it helped to identify appropriate open space provision based on walkable neighbourhood catchments (see also the Connectivity and Accessibility Memo at Appendix 47.2). The Applicant has provided a Key Changes memo (Appendix 48.2), as indicated within Mr Demiralp's memo, the applicant is now proposing a small neighbourhood centre (via a 1,000m² superlot) within the north-western part of the site (Stage 2) and a second neighbourhood park within the eastern part (Stage 1) these are depicted in the updated site plans at Appendix 48.1.
384. The neighbourhood centre is located adjacent to the proposed Stage 2 park. These revisions to the masterplan have resulted in the removal of 15 residential lots and two JOALs, with a proposed overall lot number of 1,205 private lots and 1 unserviced superlot. According to the applicant, both parks meet the key Park metrics of minimum size, provision of a suitable kick-ball area and exclusion of utilities and structures, although the Stage 2 park still does not meet the gradient requirements for the land surrounding the kick-ball area.
385. The Applicant has also prepared a connectivity analysis (Appendix 47.2). Based on this analysis, the Applicant considers the proposed development has appropriate access to social infrastructure and collector roads are not required. In response to initial requests by the Council, the applicant has amended the plans to include four additional key

pedestrian connections and two road connections to external boundaries. One of the proposed pedestrian connections is through an area of proposed offset planting, and the other is through covenanted native bush, these were also discussed by the terrestrial ecologists.

386. The architectural plans have been further refined and now 71 housing typologies different floor plan types are proposed. The lots that were identified by Mr Demiralp as having retaining walls greater than 2m that were limiting street-level interaction, have been redesigned to include either stepped treatments for planting or batter slopes to reduce wall heights. Four of the JOALs have been widened to accommodate wider footpaths and planting. The landscape plans have been updated to depict how the street trees can meet the requirements and with alternative species.
387. Memos from both Terra Studio (Appendix 48.3) and Greenwood Associates (Appendix 44.1) respond to Auckland Council Parks. Following Mr Hannink's review, the new Stage 1 park has been increased to 3,100m² and earthworks refined so that the proposed park for Stage 1 meets all the key Parks metrics. It also provides a firmer location for the park, with dual road frontages so that it is legible and easily accessible and a third frontage alongside one of the streams and defined by native bush revegetation. The 3,200m² Stage 2 park has been redesigned to offer more flat, usable space and meets most of the key metrics. However, it does not meet the gradient requirements outside the kick-ball area, resulting in approximately one-third of the park being in 1:3 planted batter slope (as depicted in Appendix 48.3).

Further information requests and responses from Auckland Council

388. In its response to the further information provided by the applicant, Auckland Council acknowledged that the Structure Plan provided a more detailed analysis with respect to how the site will be integrated with other FUZ land in the vicinity. It did, however, continue to raise concerns regarding the delivery and co-ordination of infrastructure and roading, which is discussed elsewhere in this decision report.
389. Auckland Council Parks provided a further memo, stating that the majority of previously identified neighbourhood park metrics deficiencies have been addressed. The retaining wall and other boundary treatments have been updated and are acceptable from a Parks perspective. The response to street trees is also deemed acceptable subject to AT approval. However, Mr Hannink notes the required Parks planning conditions relating to neighbourhood parks have not been included and other conditions significantly altered, which he states remains of concern.

Panel findings

390. The Panel commends the Applicant on its positive approach to feedback regarding the urban form and neighbourhood character. In particular, reviewing requirements for social infrastructure, preparing a detailed concept structure plan and identifying suitable locations for a neighbourhood centre within Stage 2 and an additional neighbourhood park within Stage 1. The Panel agrees with the respective experts that the proposed revisions to the site plan represent a positive urban design response overall.
391. The Panel notes there remain outstanding concerns raised by Auckland Council with respect to fragmented urban form, albeit the masterplan and neighbourhoods have been informed by site opportunities and constraints including topography and

ecological features. The Applicant has proposed additional connections, which in part address these concerns. However, the Panel does not support the creation of pedestrian linkages through covenanted native bush for the reasons outlined under Terrestrial Ecology above.

392. The Panel finds the scale and intensity of proposed development to be commensurate with that existing and proposed urban development in the wider area including Ara Hills, West Hoe Heights, Strathmill, Millwater and Milldale. Overall, urban form and neighbourhood character are adequately addressed within the material supporting the application and provided subsequently in response to comments and further information requests. However, to ensure creation of a well-functioning urban environment, the timing of the development does need to be undertaken in parallel with the coordination and delivery of bulk infrastructure and roading.
393. The Panel notes the open space and streetscape concerns have now been addressed in the masterplan and supporting documentation and any outstanding issues could be adequately addressed via conditions of consent.

Landscape and Visual Amenity

Potential effects as identified by the Applicant

394. Section 11.9 of the AEE identifies the landscape and visual effects of the development on the rural character of the existing landscape. This section summarises the Landscape Assessment (LVA) prepared by Mr Chris Campbell from Greenwood Associates (Appendix 19 to the AEE). The LVA has been prepared with reference to Te Tangi a Te Manu Aotearoa New Zealand Landscape Assessment Guidelines.
395. The existing landscape character is rural, with undulating landform which include seven gullies. The site and its immediately surrounding environs to the north, south and west are described as exhibiting a traditional rural character. Mr Campbell notes the site sits within wider landscape that is undergoing residential transformation. He summarises this as *traditionally rural in character with urban influences from an ongoing change in land use patterning*.
396. Mr Campbell considers the proposal will see a transformation in the landscape from a traditional rural character to one that he describes as a modern urban character. In his opinion the applicant has managed this transition appropriately by retaining the majority of the existing native riparian planting and additional revegetation.
397. Mr Campbell acknowledges that neighbouring rural properties will be most sensitive to the visual change as the outlook they currently experience will permanently change. In his opinion the placement of dwellings on the southern and eastern boundary of the site minimises adverse visual effects on neighbouring properties by restricting the number of dwellings directly on these boundaries and interspersing them with open spaces and allowing for deeper rear yards to allow for informal screening.
398. Overall, Mr Campbell concludes the level of cumulative adverse landscape effects generated by the proposal will be low.

Comments received

399. One neighbour on Upper Orewa Road expressed concern about the impact the proposed development will have on their ongoing rural production activities. From a

landscape and reverse sensitivity aspect the concern is with the number of lots proposed along their boundary fence. They are seeking a planted buffer of 20m or more between their boundary and the nearest occupied building plot.

400. Auckland Council's consultant urban designer Ms Helen Mellsop has provided detailed feedback on the landscape aspects of the proposed development. Ms Mellsop agrees with Mr Campbell that the proposal will result in a complete change of landscape character from rural to urban.
401. However, Ms Mellsop considers that the Applicant has underestimated the potential adverse effects on the visual and rural amenities of the properties to the immediate south of the proposed development, who may not have been anticipating future urban development on this site for several years under the zoning. She also disagrees with Mr Campbell's conclusion of a 'low' overall effect on landscape character and values. In her opinion, the proposed development would result in moderate-high adverse landscape effects during construction and moderate adverse effects on completion, reducing to low-moderate over time as proposed planting of street trees and revegetation within the ecological corridors matures.
402. Ms Mellsop raises concerns around the visual impacts associated with the extent of retaining walls and batters and considers these require substantial planting to mitigate visual amenity impacts. She recommends additional conditions to provide greater certainty that revegetation areas, existing bush, walkways and other community facilities would be consistently maintained and protected in perpetuity.

Applicant's response to comments

403. In response to Auckland Council's comments the Applicant has provided a suite of documents and plans as Appendix 44 including a landscape response memo addressing the matters raised by Ms Mellsop, an addendum to the LVA, updated landscape plans including the additional park and edge treatments as well as lower riparian planting mix, and retaining wall sections indicating how changes in levels will be treated.
404. Greenwood Associates acknowledged their LVA did not include an assessment of effects during construction and comments that the extent of retaining across the site has been reduced since Ms Mellsop undertook her assessment, therefore the extent of potential adverse effects has also been reduced. Additional fence typologies of a lower height are also proposed to aid in reducing visual dominance of retaining walls.

Further information requests and responses from Auckland Council

405. An addendum has been prepared by Ms Mellsop, stating that many of the issues she had previously identified have been resolved through changes to the design and proposed conditions of consent. However, she remains of the opinion that pedestrian connectivity within and beyond the development is relatively poor, recommending further connections, and removal of fences where they are within or on the boundary of revegetation within private lots (PM) planting areas, except where prevention of access to wetlands or stormwater treatment devices is required for safety.

Panel findings

406. The Panel agrees with the landscape architects that the proposed development will result in a change of character from rural to urban. The Panel is of the view that

change of itself is not a bad thing and is in general agreement with the Applicant that this change in character is anticipated by the application of the FUZ to the subject site. The issue is how that is managed during and post-construction.

407. While the Applicant's and the Council's landscape experts disagree on the level of adverse effect on landscape and visual amenity values at completion, the Panel notes Ms Mellsop considers these adverse effects will diminish over time such that, in terms of the long-term effects, the landscape experts are largely in agreement. The Panel also acknowledges there are positive effects associated with the extent of planting and revegetation proposed and that the landscape and visual amenity effects could be adequately addressed via conditions of consent.

Earthworks, Erosion and Sediment Control

Potential effects as identified by the Applicant

408. Extensive earthworks are required across the site for geotechnical stabilisation of existing soils, for stockpiling of topsoil stripped from the earthworks area for later reuse, for the formation of road corridors and initial building platforms, for the installation of palisade walls, retaining walls and reinforced slopes, for the construction and installation of civil infrastructure including in-stream culverts, for the construction and installation of temporary erosion and sediment controls and to generally prepare the land for eventual subdivision development.
409. The proposal includes approximately 2,227,000m³ of cut and fill earthworks across approximately 60ha, together with earthworks associated with:
- a. the construction and installation of the thirteen culverts within various tributaries of the Orewa River;
 - b. forming temporary stream diversions where necessary including locations within 10m of natural inland wetlands on the site; and
 - c. the reclamation of natural inland wetlands and former farming ponds on the site.
410. The potential environmental effects of the proposed earthworks associated with erosion of exposed surfaces at the site are sedimentation of the receiving environment, being a number of unnamed tributaries of the Orewa River, which generally flow through the site in an easterly direction.
411. Sediment can degrade aquatic values such as water quality, smother habitat for aquatic fauna within these receiving environments, and directly impact aquatic fauna by blocking their breathing apparatus.
412. During construction it is proposed to install erosion and sediment control measures to mitigate any adverse environmental effects. An Earthworks Report detailing the proposed bulk earthworks and control measures has been prepared by McKenzie & Co and is supported by a draft Erosion and Sediment Control Plan contained in the civil drawings. The proposed measures for control have been designed in accordance with the guidelines in Guideline Document 2016/005 'Erosion and Sediment Control Guide for Land Disturbing Activities in the Auckland Region' Key elements include clean and dirty water diversion bunds, super silt fences and sediment retention ponds. Areas of the site will be stabilised as soon as possible to prevent sediment runoff.

413. With respect to effects on freshwater, The Ecological Impact Assessment report¹³² advises that provided the proposed control measures are adhered to sedimentation effects can be mitigated to be low.
414. The Applicant's AEE advised that it is anticipated that regular site visits, weekly contractor meetings, and meetings with the council officers will ensure that the control measures planned on site are robust, and up to date with the works programme.
415. The Applicant proposes to stage construction of the project to limit the area of exposed surfaces that could be sources for erosion and sediment.
416. The Applicant's AEE states that it is considered any adverse effects associated with sediment runoff and erosion control, including the resulting effects on water quality, will be less than minor and acceptable.

Comments received

417. The Council's comments¹³³ on erosion and sediment control matters included the following recommendations:
- a. Prepare and implement an Adaptive Management Plan;
 - b. Include monitoring triggers, efficiency thresholds for sediment retention ponds, and detailed responses to rainfall events and sediment discharges that exceed expected erosion and sediment control efficiencies;
 - c. Provide finalised post-bulk earthworks erosion and sediment control plans;
 - d. Submit finalised plans for certification by Council, for any given stage of the project where bulk earthworks have been completed, and civil / subdivision earthworks are to commence. Provision of these post-bulk earthworks control plans must be submitted prior to any land disturbance associated with civil / subdivision works.
418. Regarding the recommendation for an AMP the Council response included the following:

Auckland Council's AMP Guidance Document suggests that adaptive management should be applied to the most significant and/or long-term earthworks activities, and as this proposal is for 60ha of earthworks which are likely to take up to 5-years or more to complete, and as the earthworks will be undertaken in close proximity to freshwater streams and in close proximity to or within a number of natural inland wetlands, I consider that the proposal is indeed significant and should therefore be subject to adaptive management practices.

The applicant has stated that as the proposal already includes ESC measures in accordance with GD05, no further measures are required. I do not agree with the applicant in this regard as the purpose of an AMP is to supplement a project's existing ESCP, not replace it. An AMP does not replace day-to-day ESC management, nor does it apply to compliance with consented ESC methodologies. Its purpose is to address the management of sediment-related effects that may still occur when full compliance with the consent is maintained in order to avoid or minimise

¹³² Section 6.2.5 of Ecological Impact Assessment, Viridis, February 2025

¹³³ A12 Earthworks Memo dated 25 June 2025.

adverse effects on the receiving environment.

For adaptive management to be successful, an earthworks regime must rely heavily on setting appropriate threshold trigger levels as part of a monitoring program and must detail the types of responses and actions that will be undertaken as part of a feedback loop that goes above and beyond any standard maintenance measures such as those detailed in GD05. An AMP must also provide a process for modification of the erosion and sediment control devices and/or earthworks methodology to keep any potential adverse effects within a given range anticipated by a given consent.

AMPs also provide “real time” information which allows a project team to continuously improve the performance of ESCs on site, whilst also adapting to what does and doesn’t work, from an ESC point of view, on any given site or portion of a site.

Further, based on my more than 20 years of compliance monitoring earthworks sites in the Auckland region, “appropriate monitoring and maintenance of all controls in accordance with GD05” is often touted, but rarely is it undertaken in full accordance with the guidance contained in GD05. Provision and implementation of an AMP addresses this as project staff must regularly inspect their ESC measures and as a result, they develop a much better understanding of the ESC process. Put simply, adherence to an AMP results in better erosion and sediment control and better environmental outcomes.

419. Council’s geotechnical comments included the following¹³⁴:

We have highlighted that consideration should be given to the potential migration of streams over the 100-year period for assessment under E36.9(2). Noting that streams can meander and encroach on building platforms/access ways therefore posing a risk to future development and potential development yield. We understand that Healthy Waters address this further in their memo (and have assessed the riparian margins as insufficient to allow for this migration and have recommended a further Geomorphic Risk Assessment to justify/assess this).

420. Amendments to some of the proposed land use and subdivision conditions were recommended together with new conditions as follows:

- a. Settlement Monitoring Plan for the significant filling works proposed and for this to be referenced in Condition 47.
- b. An Operation and Maintenance Plan for the subsoil drainage to prevent porewater pressure build up and increase risk of slope instability.

The conclusions were that:

The geotechnical assessment provides relevant detail for the scale of works intended. Some minor discrepancies in the analyses persist and we suggest that these be responded to by the applicant with detailed design to ensure that the slope stability and geotechnical risks are adequately managed and controlled as to not create adverse safety or operational issues

Applicant’s response to comments

421. The response to Council’s recommendation to require preparation of an AMP¹³⁵ is summarised as follows:

- a. Practically speaking, the extent of earthworks being managed at any one time is

¹³⁴ A15 Geotechnical Memo.

¹³⁵ Appendix 49.1 Earthworks Response Memo, McKenzie & Co. 27 June 2025.

only 30ha.

- b. This is a scale of earthworks where the potential effects are able to be identified, and are understood, and so can be managed through best practice ESCP measures in accordance with GD05 – which is what is proposed. It is not a situation where an AMP is needed, as per section 2 of the Council’s AMP guidance document.
 - c. Alongside the GD05 compliant ESCP measures that will be used on site, there are adaptive and preventative measures already proposed.
 - d. Regular audits will be conducted with Auckland Council officers every 7–14 days to confirm that all erosion-and-sediment controls remain effective.
 - e. The Applicant’s adjacent development (Strathmill) which involved comparable earthworks—was successfully completed without an AMP. Given the similarity in scale and methodology, requiring an AMP here would be unduly onerous.
 - f. Earthworks under the consent are restricted to the earthworks season. During the winter period, when there is a heightened risk of sediment discharge, earthwork activities must be approved through a winter works application, as required under the proposed conditions. This condition mandates the submission of a formal "Request for Winter Works," which is subject to Council approval based on an assessment of potential environmental effects. If winter works are approved, erosion and sediment controls are further enhanced through increased monitoring requirements, including post-rainfall event reporting and monthly reviews of open areas, in accordance with the specific conditions imposed with each winter works approval.
 - g. Even during the summer period when earthworks are expressly enabled under the proposed conditions, contractors are also required to monitor weather conditions on a daily basis and adjust site practices accordingly to mitigate environmental risks. These measures are supported by regular inspections from Council and oversight by the project’s environmental consultants.
 - h. Given the above described controls it is not considered necessary to impose an AMP in addition to the existing suite of proposed conditions.
422. The Applicant’s response to Council’s recommendation for Post-Bulk Earthworks and Sediment Control Plans was that they accepted this recommendation as it aligns with how ESCPs are used in practice, being treated as a live document which is regularly updated as works progress.

Further information requests and responses from Auckland Council

423. The Council’s Earthworks Response Memo¹³⁶ recommended three amendments to the Applicant’s proposed condition requiring Post-Bulk Earthworks and Sediment Control Plans. It also made the following comments.
- a. The proposal includes a number of sub-stages of development, typically

¹³⁶ Earthworks and Erosion and Sediment Control Technical Addendum dated 16 July 2025.

associated with subdivision, often having their entire areas, "re-exposed" to construct roads, berms, and footpaths, to construct retaining walls, for trenching to install civil infrastructure, and in some cases, to complete minor releveling of building platform areas. The result being that an area greater than 30ha is highly likely to be exposed for the majority of the development.

- b. Similar developments, the closest of which is the Ara Hills development which is adjacent to the Delmore project along its eastern boundary, has an open area restriction of 15 ha with implementation of an AMP.
- c. No "adaptive and preventative measures" over and above what is typically required by GOOS have been proposed in the application
- d. The application has not proposed any additional ESC measures during the winter period, nor are any post-rainfall reporting or any monthly reviews of open areas proposed.
- e. An AMP is necessary to address sedimentation risks to a significant marine ecological area from the scale and duration of earthworks proposed.

Applicant further response

424. There is no further response from the Applicant to the Council's response.

Panel findings

425. The Panel concludes that the main issue is that the Council requires an adaptive management plan condition, but the Applicant does not agree. The Panel agrees with the Council that such a plan should be provided and a condition to this effect is required.

Geotechnical -Stability

Potential effects as identified by the Applicant

426. The Geotechnical Report¹³⁷ concluded that parts of the site comprise land with moderate or high geotechnical constraints, due to existing instability features such as steep slopes and saturated groundwater conditions. It accordingly recommended the use of stability improvement measures including subsoil drainage beneath all engineered fill, shear keys, palisade retaining walls, buttress fills, and mechanically stabilised earth fills. The geotechnical report recommended a number of consent conditions and made a number of recommendations including:
- a. geotechnical observations and resting will be required during site development earthworks and service line installation
 - b. further geotechnical input, including geotechnical investigations at some locations, will be required for the detailed design of the stability enhancement measures.

427. The Report concluded the proposed development is suitable for the site subject to a

¹³⁷ Geotechnical Report-Proposed Residential Development Russell Road and Upper Orewa Road, Wainui, Riley Consultants, 14 February 2025.

number of recommendations in the report. The proposed consent conditions include requirements for stability related construction activities to be carried out in accordance with relevant recommendations of the geotechnical report.

Comments received

428. The Council comments included a number of technical queries and recommended a number of amendments to consent conditions and that additional conditions be considered for a settlement monitoring plan and an operation and maintenance plan for subsoil drainage.
429. The summary is that the geotechnical assessment provides relevant detail for the scale of works intended. Some minor discrepancies in the analyses persist and they suggested that these be responded to by the Applicant with detailed design to ensure that the slope stability and geotechnical risks are adequately managed and controlled as to not create adverse safety or operational issues.

Applicant response to comments

430. The Applicant's response is that it had previously prepared and issued responses to earlier queries raised by the Council to the geotechnical specialist who subsequently provided feedback in a letter titled Delmore Fast-Track – Auckland Council Response, Annexure 15: Geotechnical, dated 25 June 2025.
431. The specific responses to the matters raised are:¹³⁸
- a. A new information gap being minor discrepancies of retaining wall alignment between that shown on Drawing No A-S- 1-09 Rev B by Terra Studio and Riley Sketches SK180-189.
 - b. Proposed conditions 26, 47 to 52, 113 & 114, 142, 163 and 181 are generally acceptable. Noted that the applicant has updated the conditions set and adopted a Settlement Monitoring Plan (conditions 17 and 48) which is appropriate given the scale of the filing works proposed.
 - c. Recommend a small change to condition 51 to reference the Settlement Monitoring Plan:
 - d. Recommend a condition for an Operation and Maintenance Plan for the subsoil and counterfort drainage to prevent porewater pressure build up and increase risk of slope instability.

432. The recommendations of the memo are:

Based on the provided information I can advise that the reporting, conclusions and recommendations of the provided geotechnical report are reasonable for the scale and magnitude of the works and indicate the site can be safely developed from a geotechnical/stability perspective, subject to the conditions mentioned above. If appropriately managed, no other properties are likely to be affected from soil instability issues arising from the

¹³⁸ Appendix 43.2 – Response to AC Geotechnical.

earthworks.

To aid in the certainty of outcomes and assurances for global stability, it is recommended that land use and subdivision conditions support the Operation and Maintenance of subsoil and counterfort drainage.

In terms of the wall alignment discrepancy issue, it is recommended Riley to undertake a review of the updated retaining wall and earthwork plans and confirm if the geotechnical assessment and recommendations remain valid.

Further information requests and responses from Auckland Council

433. The Geotechnical Memo-Response¹³⁹ noted that while the proposed underfill subsoil and counterfort drains are a generally a robust system, there remains uncertainty regarding potential construction damage to the filter sock and the risk of fine particle accumulation leading to blockage.
434. Without a scheduled maintenance regime, such issues may go unnoticed and unresolved, prolonging exposure to risk.
435. It is not appropriate to defer this to a consent holder's obligation under the Stormwater Bylaw and Council strongly recommend a condition for a minimum 5-yearly flushing schedule to maintain counterfort drainage performance and reduce long-term stability risk. This is also recommended in a published literature from New Zealand Geotechnical Society and aids in certainty that the works and activity is not compromised as a result of negligent maintenance.
436. The memo recommended a condition to require an Operation of Maintenance Plan for subsoil and counterfort drainage to prevent porewater pressure build up and increased risk of slope instability. This should be included as part of the land use conditions and updated in Condition 116 of the subdivision conditions.
437. A further matter in the Geotechnical Memo-Response was retaining wall alignment discrepancy. There are a number of discrepancies regarding descriptions of retaining walls between the Riley and Terra Studio drawings, not allowing accurate assessment of the remediation scope or suitability for these areas. It is unclear if cut ground will be adequately retained. While variations in retained height can be addressed at the detailed design stage, the alignment discrepancies raise concerns about how cut ground will be managed long-term where no retention is currently shown. It would be beneficial for Riley to review the updated earthworks and retaining wall plans and confirm whether their proposed remediation measures remain valid.

Applicant further response

438. The Riley Geotechnical response¹⁴⁰ addressed the retaining wall alignment discrepancies noted in the Council's Geotechnical Memo-Response.

Panel findings

¹³⁹ A9 Geotechnical Memo - Response dated 28 July 2025.

¹⁴⁰ Memo of counsel for the Applicant - Response to Minute 16 dated 8 August 2025.

439. The Panel finds that the matters identified are expected to be able to be addressed by conditions.

Surface Water Diversion

Potential for effects as identified by the Applicant

440. Temporary diversion of surface water within existing streams is required to remove existing culverts and construct new culverts.
441. The Applicant proposes that a Streamworks Management Plan be prepared as part of a resource consent condition. The purpose of the Plan is to provide a finalised streamworks methodology and management measures that enable effects of streamworks to be managed during construction in accordance with best practice.
442. The Plan will detail proposed erosion and sediment control measures, how potential contaminants will be managed, how fish passage is to be maintained, and the methodology for diverting flows and for the construction of structures.

Comments

443. Council comments per their surface water memo¹⁴¹ were as follows:
- a. Proposed temporary diversions could be constructed so that they will not adversely affect upstream wetlands and water levels beyond what is proposed for the permanent culvert crossings.
 - b. The temporary diversion could be granted consent subject to provision of adequate methodology and recommended conditions, for the reason that it is considered that the adverse effects on the environment likely will be less than minor.
 - c. Additional standards should form part of the conditions to guide the preparation of methodology for the temporary surface water diversions in the SWCP.
 - d. The methodology for installation of the short-term surface water diversions must be in general accordance with the memorandum prepared by McKenzie & Co titled "Delmore – Methodology for Culvert Works within Stream" dated 12 June 2025.
 - e. The temporary diversion cut must be designed to provide stable stream bed conditions to avoid scouring and erosion both upstream and downstream of the diversion and any other instability of any land or water body.

Applicant response

444. There was no specific response to the Council Surface Water memo as they had previously provided the Memo - Methodology for Culvert Works within Stream dated 12 June 2025, referred to immediately above.

¹⁴¹ Annexure 18 Surface Water Memo 25 June 2025.

Further response from Auckland Council

445. The Council's surface water response¹⁴² was that there were no outstanding issues or information gaps. Consent conditions that were previously sought are now included in the Applicant's recommended conditions being numbers 191 and 196.

446. Applicant's response to comments

447. The Applicants revised recommended streamworks conditions include the two additional conditions as recommended in the Council's response in A12 Surface Water Memo Response.

448. Panel findings

The Panel finds that the proposed conditions are expected to adequately address stream works issues, noting that they only address the temporary diversion works and do not address long term stormwater and ecological matters relevant to streams

Construction Noise and Vibration

Potential effects as identified by the Applicant

449. An assessment of the construction noise and vibration effects of the proposal has been undertaken by SLR in its Noise Assessment Report. This assessment concludes that the AUP (OP) permitted activity standards for construction noise (E25.6.27) cannot be met at a small number of surrounding properties due to their proximity and the nature of the required works. In particular, the standards will not be met for the properties located to the south at 19A Kowhai Road, 59 Russell Road, and 90 Upper Ōrewa Road.

450. The report also notes that through the use of vibration monitoring and careful compaction methods, construction vibration can be managed to comply with construction vibration limits. Vibration monitoring has been recommended where vibration intensive construction activity (rock breaking or compaction) is required to be undertaken at locations close to two receivers (being 59 Russell Road and 90 Upper Ōrewa Road).

451. The AEE states that given the nature, limited duration of these exceedances, and the proposed management measures to be set out in the Construction Noise and Vibration Management Plan (CNVMP), including advising neighbours in advance of the works, adverse effects on the environment and neighbours can be appropriately managed.

452. The AEE considered that the construction noise and vibration effects associated with the development will be less than minor.

453. Comments

454. Mark England requested that there be no construction noise before 10 am at weekends and public holidays.

455. Council's noise and vibration comments were that the Applicant's noise report has adequately assessed the proposed construction noise and the future operational noise, the noise data and modelling methodology used in SLR report are representative. It also

¹⁴² A12 Surface Water Response -Technical Specialist 9 July 2025.

noted that construction noise effects may be managed to a reasonable level by the proposed mitigation measures, such as prior communication, scheduling noisy work at least sensitive time, noise monitoring etc.

456. The Council comments recommended changes to two conditions and an additional two conditions.

Panel finding

457. The Panel finds that construction noise can be appropriately managed by way of the proposed_Construction Noise and Vibration Management Plan condition

Construction Traffic

Potential effects as identified by the Applicant

458. Construction traffic effects have been assessed within Section 12.1 of the Transport Assessment provided by Commute as Appendix 28. This section notes that the construction activities associated with the development will be temporary in nature and consistent with construction activities anticipated by the Plan. Construction activities can be appropriately managed by a Construction Traffic Management Plan ('CTMP') and are considered by Commute to be minimal.
459. It is proposed that a CTMP is prepared and submitted to Auckland Council to be certified prior to works commencing on the site. The Applicant considers that the mitigation provided within the CTMP will adequately manage the traffic effects associated with construction activities.

Comments

460. AVJ Hobsonville Pty Ltd comments that transporting the excess earthworks material off site will generate a large number of truck movements (in excess of 6,000 truck movements), which is assumed to be through Ara Hills (along Grand Drive). In its view the large number of truck movements has not been sufficiently considered or assessed as part of the Delmore application (particularly given the amount of excess soil in stage 1). Council has comprehensive standard consent conditions relating to establishing Construction Management Plans and Construction Traffic Management Plans and those conditions should be applied along with the more detailed reporting / analysis required.
461. Mr Mason was concerned about increased traffic upper Orewa Road.
462. Council comments relating to construction traffic recommended including an additional requirement in the conditions relating to the CTMP:¹⁴³

Provide cleaning facilities within the site to thoroughly clean all vehicles prior to exit, to prevent mud or other excavated material from being dropped on the road. In the event that material is dropped on the road, resources should be on hand to clean up as soon as possible.

Applicant's response to comments

¹⁴³ A19 Transport Memo Response.

463. The response to comments from Mr Roberts on behalf of AVJ Hobsonville Pty Ltd was that the applicant will manage any required haulage of surplus through Ara Hills and Grand Drive via a detailed Construction Traffic Management Plan which will be submitted to Auckland Council for certification prior to earthworks commencing. This plan is required as a condition of consent.
464. Although the lodged model currently indicates a Stage 1 surplus of 146,000 m³, the applicant advised that ongoing refinements to the digital terrain model and phasing strategy will potentially further reduce these volumes. Any remaining material will be reused on site wherever feasible.
465. In response to Mr Mason's concerns the applicant advised that the Integrated Traffic Assessment (Appendix 28 to the AEE) has reviewed the specific Delmore site, and concludes that the site and surrounding areas can operate safely both during development and post-development, without requiring further upgrades of the surrounding road network. This comment is also specifically addressed in the response memo prepared by Commute Ltd provided in Appendix 51.2 to the AEE.

Panel findings

466. The construction traffic effects can be expected to be adequately managed by way of implementation of the Construction Traffic Management Plan provided for in the proposed conditions.

Dust

Potential effects as identified by the Applicant

467. The AEE noted that due to the nature and scale of the proposed development, there is the potential for the generation of dust during earthworks and construction activities.
468. A Construction Management Plan is proposed to be provided by way of a consent condition. This will detail the measures that will be undertaken during construction to ensure that the discharge of dust from the site does not adversely affect the wider environment or any persons. Methods to manage dust may include the staging of earthworks across the site, controlling vehicle speeds on site, and providing shelter from the wind for stockpiles. These measures will be confirmed once a contractor for the works has been appointed.
469. The Applicant's AEE considered that the implementation of these methods under the Construction Management Plan will ensure that the emission of dust to air does not cause adverse effects beyond the site.

Comments received

470. Comments from AVJ Hobsonville Pty Ltd were that an assessment is required of the impacts from the large number of truck movements required to cart excess cut material from the Delmore site, including an assessment of noise and dust associated with these truck movements and appropriate construction management and construction traffic management conditions (especially noting the lack of reticulated water available at the site).

471. Mr England commented on the need to control dust as local rural properties collected rainwater from roofs.
472. Council comments on dust were as follows.¹⁴⁴

Discharges of dust from all phases of the project's construction are not likely to cause significant amenity effects if controlled in accordance with the proposed measures in the AEE:

- An appropriate Construction Management Plan (CMP) with a range of measures to control and minimise discharges of nuisance dust is proposed by Vineway. The AEE suggests these measures will adequately incorporate the best-practice recommendations of the Good Practice Guide for Assessing and Managing Dust (Ministry for the Environment, 2016).
- I concur with the applicant that the project's air discharge mitigation strategies, together with the adoption of the proposed consent conditions, will ensure air quality effects remain within acceptable limits, consistent with both the Auckland Unitary Plan (Operative in Part) E14 provisions and the National Environmental Standards for air quality.

Applicants' response to comments

473. The applicant's response to the council comments was that it was noted.

Panel findings

474. The Panel finds that these matters can be addressed by conditions.

PART G: REGIONAL OR NATIONAL BENEFITS OF THE PROJECT

475. As noted above in Part C section 81(4) of the FTAA specifically requires the panel to consider the extent of the project's regional or national benefits.¹⁴⁵
476. Section 3 of the FTAA states that the purpose of the Act is to facilitate the delivery of infrastructure and development projects with *significant regional or national benefits*.
477. The assessment of adverse impacts in relation to an approval sought is particularly relevant in the context of a decision to decline an approval. An approval can only be declined if the adverse impacts are out of proportion to regional or national benefits.¹⁴⁶
478. There is no specific definition of significant regional or national benefits in the context of listed projects. However, the Panel notes that the Applicant refers to section 22 of the FTAA, which relates to the criteria for assessing a referral application as including economic benefits.
479. The Panel has referred to the benefits of the Project in Part C, however this section of

¹⁴⁴ A10 Air Discharge Memo.

¹⁴⁵ If the application was a referral application – the panel must treat the stage of the project to which the application relates as constituting the project; but may consider the regional or national benefits of the whole project, having regard to the likelihood that any later stages of the project will be completed (section 81(5) FTAA).

¹⁴⁶ Section 85(3) FTAA.

the Decision considers them in more detail. The Applicant included an assessment of the benefits in its original AEE as Appendix 34. The Council then provided a detailed comment of that assessment. The Applicant responded to that assessment and provided an additional report in Appendix 53.

480. As noted above, the Panel engaged a technical advisor, Dr Tim Denne, to provide a peer review of the various assessments before it. The Applicant commented on Dr Denne's report and asked the Panel if it wished to seek further information from the Applicant in a memorandum dated 8 August. The Panel declined to request further information in Minute 20 and it noted that it had all the information needed on this issue to make a decision.

The Council's overall assessment of benefits

481. In the Council Legal Memorandum it states:

There is no suggestion by the Applicant of the project having national benefits. However, the Applicant contends that the combination of the following benefits will make a *"regionally significant contribution to ensuring Auckland has a well-functioning urban environment"*:

- i. Housing supply, and the delivery of approximately 1,250 dwellings;
- ii. Roothing infrastructure, and the funding and delivery of a portion of the NoR 6 road;
- iii. Ecological enhancement, relating to the protection, restoration and enhancement of land through retention, covenanting, planting and pest plant management, plus creation of new wetland environment; and
- iv. Economic benefits stemming from the project's contribution to Auckland's GDP and job creation.¹⁴⁷

482. The Council's assessment is that the *"project's contended benefits are overstated, and do not reach the level of regional significance."* The Council goes onto submit that the Applicant's position, which appears to be that the regional significance of the project has in effect already been "determined" is not agreed with. It goes onto say that¹⁴⁸:

- a. The fact that a project has been listed under the FTAA on the basis that it may deliver regional or national benefits does not preclude, or diminish the need for, a careful and substantive assessment of whether the project, as proposed in the substantive application, will in fact deliver such benefits.
- b. The Ministry for the Environment's advice in relation to Delmore's potential listing is clear that it reflects an *"initial (Stage 1) analysis of the application"*, and is subject to the following "disclaimer":

Given time and scope constraints, the initial assessment is solely based on information provided by applicants. There may be additional relevant information which has not been provided to MfE. Contrary to the Applicant's apparent position, the initial listing

¹⁴⁷ At paragraph 3.31.

¹⁴⁸ At paragraph 3.34.

decision is not determinative of this question at the consent stage.¹⁴⁹

483. The Council, submits that, *"contrary to the Applicant's apparent position, the initial listing decision is not determinative of this question at the consent stage."* The Panel are invited to conclude that it is essential that it interrogates and test the alleged benefits of a project, consistent with its duties under sections 81(4) and 85(3) of the FTAA.

484. The Council Legal Memorandum then goes on to state that the Panel's testing should be evidence based as for some types of claimed benefits (eg the regional ecological enhancement benefits, or regional transport benefits arising from the partial construction of the NoR 6 road) the Panel has ecological and transport evidence from both the Council and the Applicant. This is addressed in Part F of this Decision.

485. Where the claimed benefits are economic, the Council submits that the Panel must also:

... consider whether the alleged benefits represent a net economic contribution or benefit. This requires scrutiny not only of the gross outputs, but also of associated economic costs – which, in a given case, might include for example opportunity costs and displacement effects. Without such a net assessment, benefits risk being overstated, in turn distorting the proportionality exercise required under section 85(3).

The FTAA is silent on whether regional or national economic benefits are to be assessed on a gross or net basis. The Council submits that the only reasonable approach is that economic benefits should be considered on a net basis. A gross-benefit approach risks perverse outcomes, where projects that may deliver significant gross economic outputs but impose economic costs that outweigh those outputs could nonetheless be elevated under the FTAA's purpose. Parliament cannot have intended that result, absent express language (such as a specific reference to "gross economic benefits"). Mr Stewart is correct when he expresses the view that it is necessary to consider the net position, as "[t]o interpret it otherwise would depart from basic principles of sound economic analysis".

While he holds different views from Council's economics expert (James Stewart), the Applicant's economics expert, Adam Thompson, agrees that "external costs can occur and need to be considered". Both Mr Stewart and Council's economics peer reviewer, Dr Richard Meade, consider it essential to assess both the economic costs and benefits.¹⁵⁰

The Applicant's overall response to the Council's assessment

486. The Applicant deals with the Council's submissions in its Legal Memorandum and submits that:

The suite of information provided by the applicant demonstrates that the benefits fall into seven groups (which align with the criteria in s 22 FTAA) and respond directly to identified needs or important long-term outcomes for the region. The groups represent the scope of the benefits Demore provides, and their impact represents the degree of the benefits it provides.

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¹⁴⁹ Ibid at (b).

¹⁵⁰ At paragraphs 3.36 – 3.38.

¹⁵¹ At paragraph 5.2.

487. The Memorandum summarises the regionally significant benefits (set out in the revised AEE and supporting technical information) as being:
- a. Paying for and constructing the most difficult part of the NoR 6 road, which forms part of AT's and NZTA's Northern Project road network, and is therefore a regionally significant piece of infrastructure.
 - b. Increasing the supply of housing in Auckland, and in a part of Auckland where demand is notably elevated from the rest of the region.
 - c. Addressing housing needs in Auckland by providing homes, at an affordable price point compared with the average sale price in the Hibiscus Coast.
 - d. Helping to address the significant environmental issue of population decline within the region through providing housing at an affordable price point in an area where demand is high, and close to employment centres like Albany.
 - e. Ensuring that in completing the circle of development within Upper Orewa Delmore contributes to a well-functioning urban environment in a way that aligns with its physical and geographical context as the outer most point of Auckland's urban environment.
 - f. Generating a notable number of full time equivalent jobs and contributing a significant figure to the construction sectors GDP, estimated at \$292.9m, which ultimately also supports primary industry GDP
 - g. More efficient cost recovery of planned infrastructure upgrades. This is estimated at \$123m.
 - h. Treating the native vegetation and waterways within the Site as assets not constraints and focusing development around protecting and enhancing these spaces.¹⁵²

Panel's assessment of economic benefits

488. The Applicant's Economic Report, prepared by Adam Thompson of Urban Economics (Appendix 34 and updated as Appendix 53.1), considers the proposal will make a significant contribution towards a well-functioning urban environment by virtue of adding a second major greenfield development in the Hibiscus Coast that will increase housing supply in a high demand area and, due to the anticipated price, increase housing choice and supply within an affordable bracket.
489. In the Panel's view, Mr Thompson appears to conflate greenfields with future urban zone, stating that only developments that have occurred within the FUZ since 2016 are considered to be greenfield capacity. On the basis of that definition, Mr Thompson considers there has only been one new greenfield residential development that has occurred in the study area since 2016, being Ara Hills. Mr Thompson appears to imply that there are a number of households that would only choose to live in greenfields locations, rather than existing urban areas.

¹⁵² At paragraph 5.3.

490. The Council's economist, Mr Stewart considers the definition of greenfields adopted by Urban Economics to be atypical, as it only includes FUZ land at the time the AUP became operative. In this way Mr Thompson implies that Milldale is not a greenfield development, which Mr Stewart considers Milldale to be. Furthermore, development of Milldale and its extensive social infrastructure is required to support the proposed residential development of Delmore.
491. In the Panel's experience, greenfield development includes all land that has not yet been developed, including that zoned for development. For this reason, the Panel prefers Mr Stewart's definition of greenfield development and consider Milldale to fall within the definition of a greenfield development. As a consequence, the Panel also agree with Mr Stewart that the demand for greenfield residential land, identified within Mr Thompson's report, has been overstated.
492. Notwithstanding the above, Mr Stewart agrees that the proposed development could contribute to more affordable housing outcomes by creating more development opportunities and enabling supply to be more responsive to demand. However, he cautions that Mr Thompson's report only discusses land / house prices without really addressing affordability. Mr Stewart notes that the concept of affordability is contextual and relates to individual's needs, preferences and constraints. In his view, while greenfields locations can have lower land values this is often because they are located further away from the city centre and other amenities, so while the land and house may be cheaper this does not account for travel, infrastructure and other whole of life costs.
493. Mr Thompson's report also cites the proposal will contribute to regional GDP and employment through construction with direct and indirect benefits to primary industry. This is estimated at \$292.9m to GDP and approximately 2,200 FTE jobs in the regional economy, including building and related services as well as agriculture, forestry and logging, during the construction phase. The report also estimates employment and GDP from ongoing household expenditure.
494. Mr Stewart expresses some reservations about the other benefits cited within Mr Thompson's report, considering that the figures given are meaningless without the context of costs involved. In his view Mr Thompson has not adequately considered costs nor quantified benefits. Furthermore, the infrastructure required to support the proposal would likely be redirecting planned investment from other growth areas, and those opportunity costs have also not been assessed.
495. Mr Stewart's report has been peer reviewed by Richard Meade of Cognitus Economic Insight. He finds that the Applicant's assessed benefits have not been reliably established and concurs with Mr Stewart that a more comprehensive assessment of the proposed development's costs and benefits should be undertaken. He also makes the observation that if the application is declined, residential development similar to that proposed would likely occur at a later date, and that Mr Thompson's assessment should have considered the benefits of the development being realised sooner rather than later, after accounting for the costs of accelerating the proposal.
496. Given the divergent views of the Applicant's and the Council's economic experts, the Panel commissioned Dr Tim Denne to review the economic analysis by Urban Economics and the Council commentary. He also finds Mr Thompson's analysis to be inadequate relative to the key economic benefit criteria of the FTAA and considers the decision criteria of the FTAA seem to require a regional and/or national cost benefit

analysis, as suggested by Auckland Council. However, he suggests the analysis could be undertaken more simply than suggested by Messrs Stewart and Meade.

497. As noted by Mr Stewart, Dr Denne also observes that the wider discussion of the housing market, the alleged importance of greenfield site development and of more affordable housing, while raised by Mr Thompson, is not included within his economic analysis.
498. Dr Denne also notes that Mr Thompson has conducted a form of Economic Impact Analysis to estimate GDP effects rather than a cost benefit analysis. He references Treasury's comparison of Economic Impact Analysis and cost benefit analysis, that concludes while Economic Impact Analysis can provide useful contextual information for decision-makers, it is not suitable as a tool for measuring the balance of costs and benefits of a decision to society. By contrast a cost benefit analysis would also identify the opportunity costs of land and labour, as well as infrastructure costs and environmental effects.
499. Through both evaluating the various analyses and his own interpretation of the FTAA, Dr Denne also concludes that consistency with the net benefit criterion of the FTAA would be best achieved using a cost-benefit analysis. He concludes that the analysis provided by the applicant does not suggest significant net economic benefits.
500. Based on the reports by the four economists, the Panel agrees that the methodology adopted by Mr Thompson is not sufficiently robust to analyse and consequently value benefits. The Panel finds that in the absence of a detailed cost-benefit analysis, it would be imprudent to suggest that economic benefits of the proposed development are of such significance that it needs to be developed in advance of the timing and availability of appropriate supporting infrastructure. As such the Panel agrees with Messrs Stewart and Meade and Dr Denne that the benefits have been overstated.

Panel's finding on benefits

501. The Panel agrees with the Council that simply because the project is in Schedule 2 of the FTAA does not mean there is no requirement for the Panel to assess the benefits. Sections 81(2) and 85 of the Act are very clear in this regard.
502. With regards to the benefits that the Applicant submit occur due to the various environmental matters (transport, ecological and the urban environment) the Panel includes its assessment of these in Part F of the Decision. In relation to the economic benefits the Panel's assessment is set out above.
503. The Panel concludes that it agrees with the Council and Dr Denne that the benefits (largely economic), claimed to occur from the Project have been overstated.

PART H: STATUTORY DOCUMENTS

504. The AEE addressed the relevant statutory documents and identified relevant provisions and provided a detailed objectives and policies assessment as Appendix 33 to the original AEE. Rather than repeat all of that, this section addresses the documents of particular relevance to the Application (particularly relevant provisions) and the comments received. The Panel also relies on its conclusions on effects in support of the conclusions reached on relevant planning provisions (including Part H: Regional and

District Planning Framework as relevant to the topic area).

National Policy Statements

505. The relevant National Policy Statements were addressed in section 12 of the AEE and include:

- a. National Policy Statement for Freshwater Management 2020 (**NPSFM**);
- b. National Policy Statement on Urban Development 2020 (**NPS-UD**); and
- c. National Policy Statement for Indigenous Biodiversity 2023 (**NPSIB**).

National Policy Statement for Freshwater Management 2020

506. The NPS-FM sets out a framework under which local authorities are to manage freshwater (including groundwater).¹⁵³

507. The objective of the NPSFM is to ensure that natural and physical resources are managed in a way that prioritises the:¹⁵⁴

- a. health and well-being of water bodies and freshwater ecosystems;
- b. health needs of people (such as drinking water); and
- c. ability of people and communities to provide for their social, economic, and cultural well-being, now and in the future.

508. This objective reflects the hierarchy of obligations in Te Mana o te Wai.¹⁵⁵

509. In the AEE the Applicant has assessed the Project against the objective and policies of the NPSFM in terms of the direction that local government manages water in an integrated and sustainable way while providing for economic growth within set water quantity and quality limits.¹⁵⁶ The Panel has considered this analysis and generally agrees with it.

510. The Panel notes there are 34 NPS-FM qualifying natural inland wetlands within the site. As discussed in part F of this decision in relation to effects on freshwater ecology, the Applicant has proposed that while two natural inland wetlands will be reduced in extent, additional wetland areas are being proposed to offset adverse effects associated with loss of area. According to the AEE and associated appendices, the proposal will result in a net gain of 2,172m² of wetland habitat.

511. The proposed development also maintains all the permanent streams within the site, which will be planted with native riparian vegetation.

512. The Applicant's detailed assessment against the objectives and policies of the NPS-FM, in Appendix 33 to the AEE, finds that the proposal manages natural and physical resources in a way which aligns with the objective and relevant policies of the NPS-FM.

¹⁵³ NPSFM clause 1.5.

¹⁵⁴ NPSFM clause 2.1.

¹⁵⁵ NPSFM clause 1.3.

¹⁵⁶ AEE, 12.2.2

The Panel does not disagree with this analysis but notes that it has concerns with regards to ecological effects which are set out in Part F.

National Policy Statement on Urban Development

513. The Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 requires Auckland Council, as a Tier 1 Urban Environment to implement the NPS-UD. Auckland Council is in the process of revisiting its Intensification Planning Instrument prepared in accordance with the NPS-UD to enable:¹⁵⁷
- (a) in city centre zones, building heights and density of urban form to realise as much development capacity as possible, to maximise benefits of intensification; and
 - (b) in metropolitan centre zones, building heights and density of urban form to reflect demand for housing and business use in those locations, and in all cases building heights of at least 6 storeys; and
 - (c) building heights of at least 6 storeys within at least a walkable catchment of the following:
 - (i) existing and planned rapid transit stops
 - (ii) the edge of city centre zones
 - (iii) the edge of metropolitan centre zones; and
 - (d) within and adjacent to neighbourhood centre zones, local centre zones, and town centre zones (or equivalent), building heights and densities of urban form commensurate with the level of commercial activity and community services.
514. The Panel notes the Council's stated position in its comments on the Application, that the adverse impacts are such that the proposed development does not constitute, nor contribute to, a well-functioning urban environment.
515. Policy 6 of the NPS-UD applies to 'planning decisions that affect urban environments', requiring that councils have regard to among other things:
- a. that the planned urban built form in those RMA planning documents may involve significant changes to an area, and those changes:
 - (i) may detract from amenity values appreciated by some people but improve amenity values appreciated by other people, communities, and future generations, including by providing increased and varied housing densities and types; and
 - (ii) are not, of themselves, an adverse effect;
 - b. ... the benefits of urban development that are consistent with well-functioning urban environments (as described in Policy 1);
 - c. any relevant contribution that will be made to meeting the requirements of this National Policy Statement to provide or realise development capacity; ...
516. As the Application is for a resource consent, it is considered a 'planning decision' for

¹⁵⁷

NPSUD, Policy 3.

the purposes of the NPS-UD.¹⁵⁸ The Applicant has stated that the proposed development will assist the Council to fulfil its functions and responsibilities with respect to providing for urban growth and is consistent with the outcomes anticipated by the NPS-UD.¹⁵⁹ The Panel generally agrees with the Applicant's overall assessment of the NPS-UD. However, the Panel, notes the Council's comments and general discomfort regarding the Application and the policy direction proposed of the Council, which currently retains this land as FUZ, rather than live-zoning it for urban purposes.

517. The Panel considers that the Project may improve housing affordability by supporting competitive land and development markets (Objective 1). The revisions proposed will enable the development to contribute to a well-functioning urban environment by enabling a variety of homes. It is in a location that, over time will have good access to public open spaces, town centres and transport services (Policy 1). It will also provide urban development benefits and release significant development capacity (Policy 6). However, due to the lack of infrastructure to service the development in the short to medium term the Panel is not persuaded the application is consistent with the objectives and policies of the NPS-UD.

National Policy Statement for Indigenous Biodiversity 2023

518. The objective of the NPSIB is:

- (a) to maintain indigenous biodiversity across Aotearoa New Zealand so that there is at least no overall loss in indigenous biodiversity after the commencement date; and
- (b) to achieve this:
 - (i) through recognising the mana of tangata whenua as kaitiaki of indigenous biodiversity; and
 - (ii) by recognising people and communities, including landowners, as stewards of indigenous biodiversity; and
 - (iii) by protecting and restoring indigenous biodiversity as necessary to achieve the overall maintenance of indigenous biodiversity; and
 - (iv) while providing for the social, economic, and cultural wellbeing of people and communities now and in the future.

519. The Applicant considers the proposed development has been designed to avoid adverse effects on native vegetation to the maximum extent practicable¹⁶⁰. The Council, however, considers the Applicant has not demonstrated how the proposal will protect areas of significant indigenous vegetation and significant habitats of indigenous fauna.

520. The Panel is not convinced that the conditions currently proposed will avoid outcomes for indigenous biodiversity on the Site that would otherwise be contrary to the objective of the NPSIB.

¹⁵⁸ NPSUD, 1.4 interpretation, definition of 'planning decision'.

¹⁵⁹ AEE.

¹⁶⁰ AEE, 12.2.3

PART I: REGIONAL AND DISTRICT PLANNING FRAMEWORK

521. The Council and the Applicant both refer to the Council's Future Development Strategy 2023-2053 (**FDS**).

Future Development Strategy

522. The Council notes that **FDS** anticipates urbanisation of this area in the future but it does not anticipate development of the Upper Orewa future urban area until 2050 and beyond. The FDS identifies the infrastructure prerequisites needed to enable development in the Upper Orewa future urban area: Wainui Road upgrade (NoR 10); Milldale and Grand Drive connection (NoR 6); North Shore Rapid Transit (extension to Milldale) (NoR 2); and the Army Bay Wastewater Treatment Plant Upgrade.
523. In summary the Council states that bringing the timing of the proposed development forward has wide ranging local and subregional implications, particularly in terms of infrastructure investment and costs.¹⁶¹
524. The Council submits that the FDS is a relevant consideration to "have regard to" under section 104(1)(c) of the RMA.¹⁶²
525. In response the Applicant does not disagree that the FDS is relevant but notes that the FDS is only a document that would be had regard to under s 104(1)(c) RMA. The weight it is being given by the Council does not match the weight it is afforded by clause 17 FTAA. The Applicant goes on to submit that the *"FDS 2050 indicative date for urban development does not make a finding that there is insufficient capacity reasonable. The FDS itself contemplates exceptions to its future urbanisation dates. In this case, urbanisation is brought forward on the basis of a decision by Parliament that it should occur now via a streamlined and facilitated process."*¹⁶³
526. The Panel agrees with the Applicant and the Council that the FDS is a relevant consideration under Schedule 5, clause 17 FTAA. The issue of the relevance of the FDS is grounded in the assessment of the capacity of infrastructure, particularly water supply and wastewater that have been exhaustively addressed in Part F.
527. An assessment of the relevant statutory plans has been included within the AEE as is required by Schedule 5, clause 5(1)(h).
528. The Panel has reviewed and considered the assessment provided by the Applicant and the comments particularly provided by the Council. The Panel outlines the key matters in the following sections of the Decision (as well as adding further considerations and assessment).

Auckland Unitary Plan (Operative in Part) Regional Policy Statement

529. Section 13.3 of the AEE, sets out an assessment of Auckland's Regional Policy Statement (**RPS**). The RPS forms Chapter B of the AUP(OP). The RPS sets out the overall strategic statutory framework to achieve integrated management of the natural and physical resources of the Auckland Region. The RPS was amended through Plan

¹⁶¹ Strategic & Planning Memo dated 25 June 2025.

¹⁶² Council Legal Memo dated 25 June 2025.

¹⁶³ Memorandum of Counsel for the Applicant with Response to Comments dated 5 July 2025.

Change 80 to integrate the concepts well-functioning urban environment and qualifying matters and direction on urban resilience to the effects of climate change into the objectives and policies in several chapters of the RPS.

530. The AEE identifies the following sections of particular relevance to the proposed development:
- a. B2.2 Urban Growth and Form
 - b. B2.3 Quality Built Environment
 - c. B2.4 Residential Growth
 - d. B6 Mana Whenua; and
 - e. B7 Natural Resources.
531. The analysis in Appendix 33 to the AEE provides a more detailed assessment against the objectives and policies of Chapter B, which also includes B2.7 Open Space, B3 Infrastructure, transport and energy, and B10 Environmental Risk.
532. The AEE considers the proposal is consistent with the policy direction of B2.2 as it provides for a quality, compact residential neighbourhood on land within the Rural Urban Boundary, to provide residential capacity in an accessible location to a potential future public transport network¹⁶⁴.
533. The AEE considers the proposed development to be consistent with the quality built environment policy direction of B2.3 as it has been comprehensively master planned and designed to respond to intrinsic qualities and characteristics of the site, including natural watercourses and the overall topography of the site¹⁶⁵.
534. Policy B2.4 relates to residential growth and intensification. The AEE considers the proposal to be consistent with this policy direction as it will deliver additional residential capacity within a quality, compact urban form through a range of housing typologies and sizes in keeping with the existing built character of the wider area and the planned built character of the locality, including Ara Hills, Milldale North and Strathmill¹⁶⁶.
535. In relation to B2.7, the proposed development is offering two neighbourhood parks, one of which was proposed subsequent to the preparation of Appendix 33. As noted within the assessment, these parks together with walking paths and informal spaces, will provide open space and recreational facilities consistent with the policy direction¹⁶⁷.
536. B3 sets out objectives and policies for the planning and delivery of infrastructure, transport and energy. While largely focused on infrastructure service providers, it is of relevance to this application because the Applicant is proposing possible interim solutions for wastewater and water supply prior to the proposed upgrades by Watercare. The analysis concludes the infrastructure will be designed to serve the

¹⁶⁴ AEE 12.3.1.8, B2.2.

¹⁶⁵ AEE 12.3.1.8, B2.3.

¹⁶⁶ Ibid, B2.4.

¹⁶⁷ Appendix 33.

proposed development and is not considered to produce adverse effects.

537. The objectives and policies of B6 seek to ensure that the principles of Te Tiriti o Waitangi are recognised and provided for in the sustainable management of natural and physical resources. The AEE notes that consultation has been undertaken with Mana Whenua, and their feedback from Mana Whenua has been considered in the design of the proposal and is considered to be consistent with the policy direction of B6.
538. The AEE notes that B7, in particular B7.2, B7.3 and B7.4 have objectives and policies of relevance to the proposed development. These provisions place an emphasis on protection of indigenous biodiversity in terrestrial and freshwater to be protected from the adverse effects of subdivision, use and development. The AEE considers the proposal to be consistent with the policy direction, because of the off-set of wetland and extent of revegetation and stream restoration works proposed.
539. The objectives and policies of B10 seek to ensure that communities and infrastructure are more resilient to natural hazards and the effects of climate change. While this is not included within the AEE, it is addressed in Appendix 33, concluding that effects of climate change on natural hazards have been recognised and provided for in designing the layout and structure of the development.
540. Overall the Applicant concludes the proposed development is consistent with the policy direction of the RPS.
541. The Council concludes that the Application is contrary to key RPS objectives and policies, particularly Policies 2.2.2(3) and 2.2.2(8) which require structure planning and plan change processes for Future Urban zoned land conversion. While the Applicant claims a "structure plan approach", Council considers this inadequate and not done comprehensively, with the proposal contradicting the established regional process for urban development conversion.¹⁶⁸

Panel Finding

542. Objectives and policies within B2.2 of the RPS seeks to achieve a well-functioning environment with a quality, compact urban form. It anticipates urbanisation of FUZ land within the Rural Urban Boundary, where this is integrated with the provision of appropriate infrastructure and improves resilience to the effects of climate change. The direction is to enable the rezoning of FUZ for urbanisation following structure planning and plan change processes. The Panel is conscious that this land has not undergone a structure planning or plan change process as required by B2.2.2(3). The Panel largely accept the approach is to integrate residential development with the provision of open space, and to a lesser extent transport infrastructure and it is therefore more or less consistent with the anticipated urban outcomes for the site and locality in the longer term. However, the Panel also agrees with the Council's analysis that the Project is contrary to the objectives and policies seeking integration with the provision of servicing infrastructure, particularly with respect to water and wastewater.
543. Objectives and policies of B2.3 seek to achieve a quality-built environment, which responds to the intrinsic qualities and characteristics of place, and that fosters safe and

¹⁶⁸ Strategic & Planning Memo dated 25 June 2025.

well-connected neighbourhoods. The objectives and policies of B2.4 seek to achieve quality, compact urban form. At a high level the Panel agrees that the proposed development contributes to these policies. However, because the Application is for residential activity, with some provision of open space, only parts of the overall development will be within close proximity to existing or planned social facilities. The consequence of this is that in the short-medium term, residents will be reliant on social infrastructure that is well beyond a comfortable walk and therefore rather than a quality, compact urban form this will be car-dependent residential development. Furthermore, the proposal is contrary to policy 2.4.2(6) which seeks to *"ensure development is adequately serviced by existing infrastructure or is provided with infrastructure prior to or at the same time as residential intensification, including, as a qualifying matter, limiting intensification prior to the upgrade of capacity in areas of known water and wastewater infrastructure constraints."*

544. The Panel agrees that B3 within the AEE, is generally intended for infrastructure service providers. The Council and other invited parties have raised issues of the inadequacy of bulk infrastructure, in particular water supply and wastewater servicing. The Panel concurs with the Council and finds the proposed development to be inconsistent with objective B3.2.1(5) and (6) and policy B3.2.2(5).
545. Auckland Council has raised concerns that the Applicant has not properly identified areas meeting SEA criteria under policy B7.2. This is part of the information gap that has been raised by the Council and which the Panel acknowledges.
546. In summary, the Panel agrees the Application provides for a range of housing types and will contribute to a well-functioning urban environment. The Panel also accepts that, while the land is zoned FUZ and a structure plan and plan change should generally be developed in advance of land use consent, the Applicant has provided a satisfactory structure plan and there is precedent within Ara Hills for zoning to be applied through conditions of consent.
547. However, the Panel is unconvinced by the argument put forward by the Applicant that the development is generally consistent with the policy direction the RPS. This is fundamentally due to the lack of integration of residential development with the timely provision of bulk infrastructure.

Auckland Unitary Plan (Operative in Part)

548. Section 13.4 of the AEE sets out the relevant sections of the AUP. The Application has provided a detailed assessment of the provisions of the AUP and concludes that the evaluation of the policy framework is not on the basis of whether the Application complies entirely with each and every relevant objective and policy, but rather whether, reading the relevant objectives and policies in the round, it can be said that it is not contrary to them as a whole. The AEE concludes that based on the assessment undertaken while there are some inconsistencies with the Future Urban Zone provisions, *"it is considered that the proposal will not be contrary to the objectives and policies overall."*
549. With regard to the consideration of the relevant rules and assessment criteria in the AUP the AEE concludes that non-complying activity consent is required for the Application overall. This means that the assessment of is not limited to matters over which Council has reserved its control or restricted its discretion. The AEE notes that the assessment has given regard to the relevant assessment criteria and it concludes that the adverse effects on the environment will be avoided or mitigated to be minor -

overall, it is considered that the proposal meets the assessment criteria of the AUP”

550. The Council and the Applicant agree that the Application is a non-complying activity. However, they do not agree that the Application is not contrary to the objectives and policies of the AUP overall. Nor do they agree that the Application meets the assessment criteria in the AUP. The details of this is dealt with in Part F.

Panel Finding

551. The Panel notes that the planning framework is not a pivotal factor in its assessment of effects. The Panel's assessment of effects set out in Part F has been undertaken with the planning framework in mind, but it is not the determinative factor in the Panel's overall conclusions on effects.

Planning documents recognised by a relevant iwi authority and lodged with the Council

552. An application for a resource consent must include an assessment of the activity against any relevant provisions of a planning document recognised by a relevant iwi authority and lodged with a local authority.¹⁶⁹
553. It is the Panel's understanding, from the AEE, that 16 planning documents recognised by relevant iwi authorities lodged with the Council were provided by the Council's Team Leader Māori Heritage. Of the 16, the Applicant's team determined that 7 have, or may have, provisions relevant to this application. These are summarised in section 10 of the AEE. The Applicant concludes that Delmore is consistent with the relevant provisions of the applicable iwi management plans¹⁷⁰.
554. The Council sets out its comments in Annexure 27 – Māori Heritage and concludes: given the engagement undertaken with iwi to date; the avoidance of the recorded archaeology of Māori origin with respect to planned earthworks within the application boundary; the provisions of the Archaeological Management Plan in relation to Māori cultural values; and the provisions of the Archaeological Management Plan in relation to Accidental Discovery Protocols, that the impact on Māori cultural heritage has been appropriately accounted for by the Application.

Panel findings

555. The Panel agree with the Applicant and the Council that the matters raised in planning documents recognised by iwi have been appropriately addressed by the Application.

PART J: CONDITIONS

556. Given the Panel has determined that the Application for resource consent should be declined it has not provided a set of conditions. The Panel has also not provided a set of conditions with regard to the change of consent conditions aspect of the Application.

¹⁷⁰ AEE 11.2.

557. The conditions in Appendix A relate to the archaeological authority that the Panel has approved.
558. This section of the Decision is included for completeness and largely focuses on the outcome of the expert witness conferencing as this was largely addressing condition matters.

FTAA general requirements for conditions

559. Section 81 provides that the Panel must set any conditions to be imposed on the approval. The statutory requirements on what conditions are set is determined by what approvals are being sought.
560. Section 83 must be complied with and provides:

83 Conditions must be no more onerous than necessary

When exercising a discretion to set a condition under this Act, the panel must not set a condition that is more onerous than necessary to address the reason for which it is set in accordance with the provision of this Act that confers the discretion.

FTAA requirements for conditions

Resource consent

561. For a resource consent the following clauses of Schedule 5 apply:

18 Conditions on resource consent

When setting conditions on a consent, the provisions of Parts 6, 9, and 10 of the Resource Management Act 1991 that are relevant to setting conditions on a resource consent apply to the panel, subject to all necessary modifications, including the following:

- (a) a reference to a consent authority must be read as a reference to a panel; and
- (b) a reference to services or works must be read as a reference to any activities that are the subject of the consent application.

562. Generally speaking, a resource consent condition must:¹⁷¹
- a. be for a resource management purpose, not an ulterior one;
 - b. fairly and reasonably relate to the development authorised by the resource consent or designation; and
 - c. not be so unreasonable that a reasonable planning authority, duly appreciating its statutory duties could not have approved it.

¹⁷¹ *Newbury District Council v Secretary of State for the Environment* [1980] 1 All ER 731 (HL), at 739.

563. The underlying purpose of the conditions of a resource consent is to manage environmental effects by setting outcomes, requirements or limits to that activity, and how they are to be achieved.¹⁷² Conditions must also be certain and enforceable.¹⁷³
564. A condition must also not delegate the making of any consenting or other arbitrary decision to any person, but may authorise a person to certify that a condition of consent has been met or complied with or otherwise settle a detail of that condition.¹⁷⁴ Such authorisation is subject to the following:
- a. The basis for any exercise of a power of certification must be clearly set out with the parameters for certification expressly stated in the relevant conditions.
 - b. This power of certification does not authorise the making of any waiver or sufferance or departure from a policy statement or plan except as expressly authorised under the Act (s 84 of the RMA).
 - c. This power of certification does not authorise any change or cancellation of a condition except as expressly authorised under the Act (s 127 of the RMA).
565. Section 220 specifies the conditions that may be imposed on a subdivision consent.

Archaeological authority

566. For the grant of an archaeological authority the following clause of Schedule 8 apply:

5 Imposition of conditions on archaeological authorities

- (1) In relation to an archaeological authority, a panel may impose any conditions, including conditions that—
 - (a) the consent of the land owner and the holder of any specified registered interest must be obtained before the holder of an archaeological authority may enter the relevant site or undertake any activity under that authority; and
 - (b) the site must be returned as nearly as possible to its former state (unless otherwise agreed between the owner of the land on which the site is located and the panel); and
 - (c) any activity undertaken at the site under the archaeological authority must conform to accepted archaeological practice; and
 - (d) Heritage New Zealand Pouhere Taonga, or the person approved under this schedule to carry out an activity, must provide a report to—
 - (i) the holder of the authority; and
 - (ii) the owner of the archaeological site concerned, if different from

¹⁷² *Summerset Village (Lower Hutt) Ltd v Hutt City Council* [2020] NZEnvC 31 at [156].

¹⁷³ *Bitumix Ltd v Mt Wellington Borough Council* [1979] 2 NZLR 57.

¹⁷⁴ *Turner v Allison* (1970) 4 NZTPA 104.

the holder of the authority; and

- (iii) Heritage New Zealand Pouhere Taonga, unless Heritage New Zealand Pouhere Taonga prepared the report.

- (2) The panel may impose a condition requiring an investigation under the HNZPT Act, but only if the panel is satisfied on reasonable grounds that the investigation is likely to provide significant information in relation to the historical and cultural heritage of New Zealand.

567. The Panel notes that there were a number of conditions recommended by Heritage NZ have been accepted by the Applicant and are contained in Appendix A.

Expert witness conferencing

568. As noted elsewhere expert witness conferencing took place on 26 August. The documents relevant to that conferencing are the subject of Minute 21 and they are on the Fast-track website including:

- a. The agenda;
- b. The joint witness statement; and
- c. A report from Strata Title Administration Limited.

569. The key issues outstanding from the conferencing (taking from the JWS) are:

Topic 1 – Consents

570. **Question:** The Panel seeks confirmation from the experts that the Application seeks all of the consents required under the Resource Management Act 1991?

571. **Answer:** In short, the answer to this question was not agreed. The Applicant considered they had applied for all consents. The experts for AVJ Hobsonville and Council (which included Watercare, Healthy Waters and Auckland Transport) did not agree and the JWS records the details of that disagreement.

Topic 2 – Transport

572. **Question:** Do the proposed draft conditions of consent address requirements for all consents sought?

573. **Answer:** The Applicant accepted that a condition would be required to ensure that the road link for the Grand Drive Extension as it relates to the AVJ land is in place prior to a section 224c certificate being issued for Delmore lots. AVJ Hobsonville considers that until the road extension is designed and assessed it is not clear what conditions would be necessary. Council noted its answer to this question, was the same as the answer to first question under this topic.

Topic 3 – Wastewater Infrastructure

574. **Question:** The Panel acknowledges the differences in the position of the applicant and the Council family on the matter of access to wastewater treatment and disposal (and water) infrastructure. However, on the specific matter of on-site wastewater

treatment, are the experts satisfied that the proposed conditions of consent for on-site treatment and disposal of wastewater are appropriate?

575. **Answer:** There were a number of specific responses to this question, and no resolution of the matters was reached. The experts covered all facets of this issue including access to Watercare's network, the private wastewater treatment plant, and tankering and disposal of wastewater.

Topic 4 – Ecological Information

576. **Question:** The Council remains of the view that ecological information typically required for a significant project is missing, both in relation to areas which may qualify for ongoing protection and to the adverse effects of activities on ecological values. Is the lack of information of a nature that is determinative of the shape and form of development, or can requirements for future investigation prior to development be conditioned in order to specify appropriate protection (including covenant areas) and mitigation measures?
577. **Answer:** This matter continues to be an issue for the Council and the detail of this is covered the JWS and also in the effects assessment above.

Topic 5 – Residential Society

578. **Question 1:** The long-term management of infrastructure and environmental protections is to reside with a proposed Residential Society. While the Panel is familiar with Body Corporates and the obligations of consent notices for specific properties, it seeks the views of the experts as to their experience with and the viability of such an extensive obligation as is proposed for the Residential Society.
579. **Question 2:** Can the experts advise as to examples they are familiar with of resident groups with such extensive obligations?
580. **Question 3:** What has been the track record of these residents' groups in performing obligations?
581. **Answer:** the Applicant provided a report at the JWS on these issues and the Council responded post the conference session in a Memorandum dated 27 August as follows¹⁷⁵:

Residents' societies can be used to manage shared infrastructure and ecological obligations. In principle, the model is available to Delmore. However, the scale and complexity proposed here presents challenges and risks.

The Council family's planning view is that: The model is theoretically workable but carries significant practical risks, particularly in relation to governance, financial sustainability, and compliance at scale.

¹⁷⁵ Note given the Council did not have an opportunity to respond to the Strata information from the Applicant at the time of conferencing Minute 23 records the Panel's acceptance of the Council's Memorandum.

The Whitford Manor experience illustrates how even smaller societies can struggle with WWTP responsibilities, leading to a range of issues.

The Delmore WWTP would likely be permanent and not temporary. This may result in on-going operation and maintenance costs for the residents' society which may increase over time.

Similarly, if ecological obligations and their true costs are underestimated at the outset, societies may find themselves under-resourced, leading to compliance shortfalls, levy disputes etc.

Should approval be granted, it is critical that governance, financial, and management arrangements are comprehensively secured from the outset to mitigate risks to residents, Council, and the wider environment.

582. The Panel remains concerned about the use of a residential society to deliver a number of fundamental matters that are included in the conditions. The Panel agrees with the concerns that are expressed in the Council's most recent memorandum.

Conclusion on conditions

583. In accordance with the requirements of section 85 of the FTAA, the Panel has considered if any conditions or modifications can avoid, remedy, mitigate, offset or compensate for the adverse effects / impacts. The Panel has concluded they cannot. The conferencing has not resolved any of these issues. The Panel accepts that conferencing does not have to result in total agreement of every outstanding issue. However, in this case there are so many outstanding issues that the Panel has no option but to conclude that conditions are not the path to resolution.

PART K: OVERALL ASSESSMENT

584. [note this section may change once we have had feedback from the Applicant under section 69]
585. The Panel has considered the Application and all advice, reports and other information received, in accordance with section 81(2)(a) of the FTAA. The Panel has applied the provisions of Schedule 5 in the manner required by section 81(2)(b) of the FTAA. The Panel finds that the Project will not promote the purpose of the FTAA.
586. The Panel has taken into account the relevant elements of Parts 2, 3, 6 and 10 of the RMA (excluding section 8 of that Act) and finds that the Project will not promote the purpose of the RMA. The Panel finds that the Application is not consistent with (or in some cases is contrary to) the objectives and policies of the relevant national, regional and district planning instruments as set out in Part I of this Decision. The Panel also finds that the Application is not entirely consistent with the relevant national policy statements as set in out in Part H of this Decision.
587. Finally, as covered elsewhere, the Panel's decision is subject to the purpose of the FTAA, contained in section 3, namely to: facilitate the delivery of infrastructure and development projects with significant regional or national benefits. The Panel does not accept that the Project will deliver infrastructure and development with significant regional benefit. Part C refers to Schedule 5, clause 17 which sets out how the Application is to be accessed under various provisions of the RMA. As covered earlier

in this Decision, while a number of effects are able to avoided, remedied or mitigated the Application by conditions many are not.

588. The Panel accepts that the purpose of the FTAA must be given the greatest weight but in this case, when section 85 of the FTAA is applied, the Panel concludes that the adverse impacts (effects) are sufficiently significant to be out of proportion to the Project's regional benefits (noting national benefits are not at issue here). The Panel confirms that in accordance with section 85 it has considered whether conditions can avoid, remedy mitigate, offset or compensate for the adverse impacts and are of the view that conditions cannot.

PART M: FINAL DECISION

589. [note this section may change once we have had feedback from the Applicant under section 69]
590. The Panel has considered the Application and supporting information, the comments received on the Application and on the draft conditions, the further information provided as a result of comments received from other participants, as well as the technical advisor work on the economic benefit peer review and on the expert witness conferencing. The Panel also considered the subsequent amendment and refinement of the Application undertaken by the Applicant. The Panel thanks all those who commented for their contributions, particularly those who participated in expert witness conferencing.
591. Overall, the Panel is not satisfied that the matters set out in section 81 of the FTAA have been addressed appropriately and that purpose of the FTAA is achieved by this Decision. In accordance with section 85 the RMA approvals (both for new resource consents and amendments to existing consent conditions are declined. The archaeological authority is approved subject to the conditions in Appendix A
592. As required by section 99 of the FTAA the persons listed in that section are entitled to appeal and must commence any appeals within the 20-working day period from the day this Decision is published under section 88(3).

Helen Atkins
(Chair)

Nigel Mark-Brown
(Member)

Lisa Mein
(Member)

APPENDIX A: CONDITIONS OF CONSENT

The Applicant has provided a set of conditions (Appendix 57) many of which would be acceptable for the Application as set out in the effects assessment and in Appendix C. However, as the decision is to decline the resource consent aspects of the Application there is no utility in including the conditions.

As the decision is to approve the archaeological authority those conditions (as proposed by the Applicants in Appendix 57) are included in this appendix.

Archaeological Authority

All works must be undertaken in accordance with the Archaeological Management Plan prepared by Clough and Associates titled "Delmore Proposed Residential Development, Upper Ōrewa, Auckland" dated February 2025 (**AMP**).

Any changes to the AMP require the prior written agreement of Heritage New Zealand Pouhere Taonga.

A copy of the AMP (and any updates to these documents) shall be provided to Ngāti Manuhiri, Te Kawarau ā Maki, te Runanga o Ngāti Whātua, and Ngaati Whanaunga.

Proposed Consent Conditions

1. Any activity undertaken at the site under the archaeological authority must conform to accepted archaeological practice.
2. Within 12 months of the completion of the on-site archaeological work, the authority holder shall ensure that a final report, completed to the satisfaction of Heritage New Zealand Pouhere Taonga and following the Archaeological Report Guideline (AGS12 2023), is submitted to Heritage New Zealand Pouhere Taonga for inclusion in the Heritage New Zealand Pouhere Taonga Archaeological Reports Digital Library.
 - a. One hard copy and one digital copy of the final report are to be sent to the Heritage New Zealand Pouhere Taonga Senior Archaeologist.
 - b. Digital copies of the final report must also be sent to: the NZAA Central Filekeeper, Auckland Museum, Auckland Council, and Tangata Whenua.
3. Prior to any works commencing, the authority holder must ensure that all contractors working on the project are briefed on site by the approved person, who may appoint a SQEP to carry out the briefing on their behalf, on:
 - a. The possibility of encountering archaeological evidence;
 - b. How to identify possible archaeological sites during works;
 - c. The archaeological work required by the conditions of this authority; and
 - d. Contractors responsibilities with regard to notification of the discovery of archaeological evidence to ensure that the authority conditions are complied with.

4. Prior to the start of any on-site archaeological work, the authority holder must ensure that Heritage New Zealand Pouhere Taonga is advised of the date when work will begin. This advice must be provided at least two (2) working days before work starts. The authority holder must also ensure that Heritage New Zealand Pouhere Taonga is advised of the completion of the on-site archaeological work, within five (5) working days of completion.
5. All earthworks that may affect any archaeological sites must be monitored by the approved person who may appoint a person to carry out the monitoring on their behalf.
6. In addition to any tikanga agreed to between the authority holder and Ngāti Manuhiri, Te Kāwarau ā Maki, te Runanga o Ngāti Whātua, and Ngaati Whanaunga provided with the authority application, the following shall apply:
 - a. If any kōiwi (human remains) are encountered, all work should cease within 5 metres of the discovery. The Heritage New Zealand Pouhere Taonga Senior Archaeologist, New Zealand Police and [name of Tangata Whenua] must be advised immediately in accordance with Guidelines for Kōiwi Tangata/Human Remains (AGS8 2010) and no further work in the area may take place until future actions have been agreed by all parties;
 - b. Ngāti Manuhiri, Te Kāwarau ā Maki, te Runanga o Ngāti Whātua, and Ngaati Whanaunga shall be informed if any possible taonga or Māori/Moriori artefacts are identified to enable appropriate tikanga to be undertaken, so long as all statutory requirements under the Heritage New Zealand Pouhere Taonga Act 2014 and the Protected Objects Act 1975 are met;
 - c. Ngāti Manuhiri, Te Kāwarau ā Maki, te Runanga o Ngāti Whātua, and Ngaati Whanaunga shall be provided with a copy of any reports completed as a result of the archaeological work associated with this authority and be given an opportunity to discuss it with the s45 approved person if required.
7. Annually, from the date of issue of this authority, Site Record Forms are to be updated or submitted to the NZAA Site Recording Scheme, and the authority holder must submit to the Heritage New Zealand Pouhere Taonga Senior Archaeologist and Ngāti Manuhiri, Te Kāwarau ā Maki, te Runanga o Ngāti Whātua, and Ngaati Whanaunga a written report containing a summary of the progress of the project.

APPENDIX B: APPROVALS REQUIRED

1. The AEE summarises the approval required at section 9. As noted, this section of the Application is provided in accordance with clauses 5(1)(h), 5(2) and 5(3)(a) of Schedule 5 of the Act, and clause 2(2) of Schedule 8.
2. The Panel notes that expert witness conferencing addressed a question on the approvals required and a number of additional matters under the Auckland Unitary Plan were identified. None of these matters change the approvals that are required but they do pertain to particular consents under particular rules. The Panel has not included these matters here, but they are identified in the JWS.¹⁷⁶ For example, the JWS notes that a new consent is required for the access road. This Appendix therefore focuses on the material the Panel has reviewed in the Application documentation (as amended by the Applicant comments) and from the comments.
3. The site is zoned FUZ under the AUP and is subject to the following overlays/controls under the AUP:
 - a. SEA-T;
 - b. Macroinvertebrate Community Index – Native;
 - c. Macroinvertebrate Community Index – Exotic; and
 - d. Macroinvertebrate Community Index – Rural.
4. National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health – no activities on the HAIL register and is not considered to be a 'piece of land'.
5. National Environmental Standard for Assessment and Managing Contaminants in Soil to Protect Human Health 2011 - resource consent is not required under the provisions of the NES-CS as detailed in Appendix 7.
6. National Environmental Standards for Freshwater 2020 - resource consent is required under the provisions of the NES-F as follows:
 - a. Vegetation clearance and land disturbance within, and within a 10m setback from a natural inland wetland, land disturbance outside a 10 but within a 100m setback, and diversion and discharge for the purpose of urban development as **restricted discretionary activities** under Regulation 45C(1) to 45C(5).
 - b. Culverts which do not comply with the conditions in regulation 70(2) as a **discretionary activity** under regulation 71(1).
7. The Application does not require resource consents under any of the other National Environmental Standards.¹⁷⁷

¹⁷⁶ As per Minute 21.

¹⁷⁷ Air Quality; Sources of Drinking Water; Telecommunication Facilities; Electricity Transmission Activities; Plantation Forestry; and Marine Aquaculture.

8. Auckland Unitary Plan – Operative in Part Version in accordance with clause 5(1)(f) of Schedule 5 of the Act are as follows:
- a. *E3 Lakes, Rivers, Streams and Wetlands*
 - i. Any new structures and associated diversion of water not complying with the general permitted activity standard E3.6.1.14 is a **discretionary activity** pursuant to E3.4.1(A44) as follows - E3.6.1.14 Standards for activities involving the disturbance and the associated sediment discharge - Scour management works (riprap) will exceed 5m in length on one or both sides of proposed culverts 3, 4, 5, 6, 8, 9 and 11.
 - ii. All proposed culverts do not comply with Standard E3.6.1.14(1)(c) and are a **discretionary activity** under Rule E3.4.1(A44);
 - iii. The removal of constructed ponds is required under Rule E3.4.1 (A49) as a **non-complying activity**;
 - iv. New reclamation of a natural inland wetland is a **non-complying activity** pursuant to E3.4.1(A49).
 - b. *E6 Wastewater Network Management*
 - i. The discharge of treated wastewater into water from a wastewater treatment plant is a **discretionary activity** pursuant to E6.4.1(A6).
 - c. *E7 Taking, Using, Damming and Diversion of Water and Drilling*
 - i. Temporary diversion of surface water for urban development purposes not otherwise listed is a **discretionary activity** pursuant to E7.4.1(A13).
 - ii. The diversion of groundwater caused by excavation that does not meet the permitted activity standards is a **restricted discretionary activity** pursuant to E7.4.1(A28).
 - iii. The dewatering does not meet the permitted activity standards and requires consent as a **restricted discretionary activity** pursuant to E7.4.1 (A20)¹⁷⁸
 - d. *E8 Stormwater Discharge and Diversion*
 - i. The discharge of stormwater runoff from impervious areas not otherwise provided for by Table E8.4.1 - a **discretionary activity** pursuant to E8.4.1(A10); and

¹⁷⁸ Hester Hoogenboezem, Auckland Council Response Annexure 16: Groundwater and Dewatering, 25 June 2025.

- ii. The diversion and discharge of stormwater runoff from a new stormwater network - a **discretionary activity** pursuant to E8.4.1(A11).
- e. E9 Stormwater Quality – High Contaminant Generating Carparks and Roads
 - i. the construction of a new high use road greater than 5,000m² in area - a **controlled activity** pursuant to E9.4.1(A7).
- f. E11 Land Disturbance - Regional
 - i. A\approximately 39.9 hectares of earthworks where land has a slope less than 10 degrees outside the SCPA in the FUZ - a **restricted discretionary activity** under E11.4.1(A5).
 - ii. General earthworks of approximately 19.1 hectares, being greater than 2,500m², where land has a slope equal to or greater than ten degrees - a **restricted discretionary activity** pursuant to E11.4.1(A8).
 - iii. The proposal involves general earthworks of approximately 308,011m², being greater than 2,500m², within the SCPA in the FUZ - a **restricted discretionary activity** pursuant to E11.4.1(A9).
- g. E12 Land Disturbance – District
 - i. General earthworks of approximately 584,000m², being greater than 2,500m², in the FUZ - a **restricted discretionary activity** pursuant to E12.4.1(A6).
 - ii. General earthworks of approximately 2,227,000m³, being greater than 2,500m³, in the FUZ - a **restricted discretionary activity** pursuant to E12.4.1(A10).
 - iii. The following non-compliances with general standards which requires resource consent as a **restricted discretionary activity** pursuant to Rule C1.9(2):
 - 1. Earthworks exceeding 5m² and 5m³ are proposed within riparian yards where up to 5m² or 5m³ is permitted under Standard E12.6.2(1); and
 - 2. Approximately 64,553m³ of fill is proposed within flood plains which will raise ground levels by more than 300mm where fill volume up to 10m³ and ground level change of up to 300mm is permitted under E12.6.2(11).
- h. E14 Air Quality
 - i. Discharge of contaminants into air from treatment of municipal wastewater in the medium quality air – dust and odour rural area is a discretionary activity under E14.4.1(A163).
- i. E15 Vegetation Management and Biodiversity

- i. Removal of vegetation within 20m of rural streams - a **restricted discretionary activity** pursuant to E15.4.1(A16).
- ii. Removal of vegetation within 20m of a natural wetland and in the bed of a stream - a **restricted discretionary activity** pursuant to E15.4.1(A18).
- j. E25 Noise and Vibration
 - i. Construction works potentially exceeding the applicable maximum 75dB LAeq long-term construction noise limits under Standard E25.6.27 - a **restricted discretionary activity** under E25.4.1(A2).
- k. E26 Infrastructure
 - i. Aboveground pipelines and attached ancillary structures for the conveyance of wastewater - a **restricted discretionary activity** pursuant to E26.2.3.1 (A50).
 - ii. Wastewater treatment plants are a **restricted discretionary activity** pursuant to E26.2.3.1(A54).
 - iii. Stormwater ponds and wetlands are a **controlled activity** pursuant to E26.2.3.1(A55).
- l. E27 Transport¹⁷⁹
 - i. Parking, loading and access which is an accessory activity but which does not comply with the standards for parking, loading and access - a **restricted discretionary activity** under E27.4.1(A2):
 - 1. E27.6.3.4 Reverse Manoeuvring: A total of 73 new vehicle crossings will reverse onto a road within a VAR; and
 - 2. E27.6.4.2 Width and Number of Vehicle Crossings – non-compliance with rural access width dimensions.
 - ii. E27.6.4.4 Gradient of vehicle access:
 - 1. The following Lots in Stage 1 do not comply with the 1 in 20 (5%) maximum gradient for parking pads (Lots 6–11, 17–18, 26–27, 32–45, 47, 49, 51, 53, 56–74, 97–105, 143–149, 170–185, 187, 189, 209, 225–226, 229–242, 270, 272, 274, 276, 279, 308–314, 323–326, 328–331, 338–353, 373, 391, 393, 410–411, 424, 426, 428, 439, 441, 443, 445–460, 461–466).
 - 2. The following Lots in Stage 2 do not comply with the 1 in 20 (5%) maximum gradient for parking pads (Lots 600, 603, 627, 629,

¹⁷⁹ There were additional items listed in the Auckland Council's transport assessment but they did not change the overall status of the activity. These are not included here but can be found in A19 – Transport Memo dated 25 June 2025.

631, 633, 636, 650-654, 668-672, 674, 675, 677, 682-695, 717-739, 764-769, 770-774, 809-826, 870-878, 952-965, 975-976, 980-981, 995-998, 1000, 1047, 1048, 1092-1096, 1108-1112, 1138-1141, 1152-1160, 1175-1187, 1189, 1226, 1301-1303, 1330-1337, 1346-1353).

- iii. The Project exceeds trip generation standards set out in Standard E27.6.1 - a **restricted discretionary activity** pursuant to E27.4.1(A3).
 - iv. Construction of new vehicle crossings where a vehicle access restriction applies under Standard E27.6.4.1(3) - a **restricted discretionary activity** under E27.4.1(A5).
- m. E31 Hazardous Substances
 - i. Hazardous facilities that store or use hazardous substances above the specified thresholds for controlled activity and restricted discretionary activity status in the activity tables or are not otherwise provided for are a **discretionary activity** under E31.4.1(A7).
- n. E36 Natural Hazards and Flooding
 - i. Construction of stormwater management devices in the 1 per cent annual exceedance probability (AEP) floodplain - a **restricted discretionary activity** pursuant to E36.4.1(A33).
 - ii. piping an overland flow path - a **restricted discretionary activity** pursuant to E36.4.1(A41).
 - iii. Construction of infrastructure such as roads and infrastructure servicing on parts of the site which are located within the 1% AEP flood plain - a **restricted discretionary activity** pursuant to E36.4.1(A56).
- o. E39 Subdivision – Rural
 - i. Subdivision of land within the 1% AEP floodplain - a **restricted discretionary activity** pursuant to E39.4.1(A8).
 - ii. Subdivision which does not meet the standards in E39.6.1 - a **discretionary activity** pursuant to E39.4.1(A9).
 - iii. Subdivision for open spaces, reserves and roads in the FUZ - a **discretionary activity** pursuant to E39.4.3(A28).
 - iv. Subdivision in the FUZ not provided for in Tables E38.4.1 or E39.4.3 - a **non-complying activity** pursuant to E39.4.3(A29).
- p. E40 Temporary Activities
 - i. Construction activity exceeding 24 months - a **restricted discretionary activity** pursuant to E40.4.1(A24).
- q. H18 Future Urban Zone

- i. New dwellings = **non-complying activity** pursuant to H18.4.1(A2);
- ii. Retaining walls greater than 1.5m in height or within 1.5m of a public place - **non-complying activity** under H18.4.1(A2);
- iii. MHS H4.6.7 Yard non-compliances (with regard to all retaining walls that require consent:
 - 1. Lots 1, 18-26, 28-76, 96, 97, 124, 130, 155, 183-203, 210-249, 256-276, 280-291, 300-314, 320-371, 377-379, 381-384, 386-414, 416-467, 474-614, 624-672, 676-700, 703-763, 770-852, 870-892, 906-918, 932-951, 959-966, 968, 982-1059, 1073, 1080-1149, 1152-1201, 1203-1213, 1218-1243, 1249-1277, 1283-1294, 1304-1353 have a retaining wall meeting the definition of 'building' located within the 3m front yard setback;
 - 2. Lots 1-10, 26, 87-92, 101-105, 173-194, 234-242, 249, 269, 270, 277, 322-334, 338-350, 381-385, 387-392, 395, 396, 470, 472, 653, 654, 660, 661, 1087-1096, 1103-1112, 1152-1160, 1166-1200, 1320-1353 have a retaining wall meeting the definition of a building' located within the 1m rear yard setback; and
 - 3. Lots 28, 63, 64, 69, 76, 106, 124, 169, 189, 190, 242, 268, 270, 277, 308, 309, 321, 351, 381, 421, 422, 470, 472, 654, 711, 1087, 1103, 1166, 1275, 1276 have a retaining wall meeting the definition of a building' located within the 1m side yard setback.
- r. Dwellings that do not comply with Standard H18.6.8 - a **non-complying activity** pursuant to H18.4.1(A28); and
- s. The proposal involves use and development that does not meet the following core standard - a **restricted discretionary activity** under Rule C1.9(2):
 - i. H18.6.3 Yards in respect of:
 - 1. Front yards (arterial roads): All dwellings fronting an arterial road will have a minimum front yard setback of 3m where a 20m setback is required, which is a maximum encroachment depth of 17m;
 - 2. Front yards (all other roads): All dwellings fronting a road will have a minimum front yard setback of 3m where a 10m setback is required, which is a maximum encroachment depth of 7m. The exception to this is where a dwelling has two road frontages, whereby the second frontage will have a minimum setback of 1m, which results in a maximum encroachment depth of 9m;
 - 3. Rear yards: All dwellings will have a minimum rear yard of 1m, where a minimum 6m rear yard is proposed. This is a maximum encroachment depth of 5m;
 - 4. Side yards: Zero-lot dwellings will not provide a side yard setback where 6m is required, which is a maximum encroachment depth of

6m. All detached dwellings will provide a minimum of a 1m side yard setback where 6m is required, which is a maximum encroachment depth of 5m; and

5. Riparian yards: A minimum 10m riparian yard setback is provided on each lot subject to a riparian yard, where a minimum 20m riparian yard setback is required. This is a maximum encroachment depth of 10m.

9. Auckland Unitary Plan (Proposed Plan Change 79 Decisions Version)

- a. E27 Transport
- b. Trip generation standards exceeded - Standard E27.6.1 - a **restricted discretionary activity** pursuant to E27.4.1(A3).
- c. E27.6.6 Design and location of pedestrian access in residential zones:
 - i. JOALs serving more than two dwellings, do not have frontage to a local road and only provide pedestrian pathways of 1.2m in width where a minimum width of 1.8m is required.
- d. Standard E27.6.3.2(A) Accessible Parking:
 - i. A total of 51 accessible parking spaces are required, where no formal spaces are provided.
- e. E38 Subdivision – Urban
 - i. Subdivision not meeting the standards in E38.8 Standards for subdivision in residential zones - a **discretionary activity** under Rule E38.4.2 (A30):
 1. Non-compliance with E38.8.1.2.1 as follows: Stage 1: JOALs 1, 2, 3, 4A, 4B, 5A, 5B, 6, 9, 10, 11, 30, 40, 40A; and Stage 2: JOALs 16, 21, 22, 26, 27, 29, 35, 36, 39.

10. Change of Conditions to Consent Notices

- a. Changes to conditions of consent notices 10576706.2, 6079871.2 and 7405348.2 - a **discretionary activity**.

11. Archaeological Authority to Modify

- a. Approval to modify is not sought for the two recorded archaeological sites, (R10/776) and (R10/1573).
- b. Approval of Ellen Cameron to undertake an activity under the authority (Ellen Cameron) under Clause 7(2)(a) of Schedule 8 of the FTAA.