

Memorandum

To: Delmore Expert Panel C/O Environmental Protection Agency

From: Charlotte MacDonald – Barker & Associates Limited

Date: 26 June 2026

Re: Applicant response to request for further information

1.0 Introduction

This memorandum responds to the Request for Further Information dated 12 June 2026 issued by the Environmental Protection Authority on behalf of the Delmore Expert Panel pursuant to section 67 of the Fast-track Approvals Act 2024 (“FTAA”).

The following attachments are included with this memorandum:

- **Attachment 1:** Ellis Gould legal memorandum
- **Attachment 2:** Memorandum of counsel
- **Attachment 3:** Correspondence with Watercare Services Limited (“Watercare”)
- **Attachment 4:** Letter from Apex Water regarding on-site treated wastewater disposal for Delmore stage 2
- **Attachment 5:** Filenote from Terra Studios regarding on-site treated wastewater disposal for Delmore stage 2
- **Attachment 6:** Letter from Viridis Consultants regarding off-site treated wastewater disposal for Delmore stage 2
- **Attachment 7:** Correspondence with Auckland Urban Development Office and Auckland Transport
- **Attachment 8:** Proposed conditions of consent prepared in accordance with Request 11

2.0 Applicant Response to Request for Further Information

A response to each request for further information is provided below:

1. *What are the nature of the authorisations required for water supply and waste water under the Water Services Act? Should the Panel anticipate (for the purposes of drafting conditions) that authorizations from the Water Services Authority may be required for private wastewater systems in the future?*

Applicant response: A response to this request is included within the Ellis Gould legal memorandum at **Attachment 1**.

2. *In what way has the approach in Matvin been altered by later decisions of the Supreme Court in the East-West Link decision and the Court of Appeal in Glenpanel with respect to plan provision interpretation?*

Applicant response: A response to this request is included within the memorandum of counsel at **Attachment 2**.

3. *The Applicant's approach in the AEE to the interpretation of the relevant objectives and policies in the FUZ is to look at the intent of the provisions, rather than the plain and ordinary meaning. To what extent is this approach to the interpretation of planning provisions open to the Panel?*

Applicant response: A response to this request is included within the memorandum of counsel at **Attachment 2**.

4. *How should the Panel interpret the word 'avoid' in Objective H18.2(4) and associated Policy H18.3(6), particularly in relation to 6(b), (c), (d) and (g)?*

Applicant response: A response to this request is included within the memorandum of counsel at **Attachment 2**.

5. *Does the Applicant have more recent confirmation of Watercare's forecast completion dates for the:*
- *Army Bay WWTP Stage 1 Upgrade - anticipated to be completed 2031.*
 - *Army Bay WWTP Stage 2 Upgrade - anticipated to be delivered in line with the FDS timing of 2050+;*
 - *Orewa to Stanmore Wastewater Trunk Network Upgrade - anticipated to be completed by 2033.*
 - *Stanmore Wastewater Pump Station (WWPS) and Rising Main (RM) Upgrade - anticipated to be completed by 2031.*

Applicant response: In order to respond to this request, the applicant wrote to Watercare requesting confirmation of the completion dates referred to in the request. In response, Watercare has confirmed that there are no changes to the completion dates recorded in this request. The relevant correspondence is included at **Attachment 3**.

6. *While the Panel acknowledges that the disposal of Stage 2 wastewater is excluded from the current consent applications, the Panel must be satisfied that feasible disposal options could reasonably be approved prior to the issue of any section 224(c) certificate within Stage 2 (as per proposed Subdivision Condition 40):*

- (a) *How does the Applicant anticipate the Stage 2 wastewater system operating in the potential absence of a public network connection and with what potential adverse impacts?*
- (b) *To what extent does the proposed condition precedent requiring confirmation prior to the issue of s.224(c) certificates for Stage 2 meet the test of s.84A(1)?*

Applicant response: If Delmore stage 2 is not able to connect to the public network, the intention is wastewater will be treated at the on-site wastewater treatment plant ("WWTP") using the 4-stage Bardenpho activated sludge treatment process, a Membrane Aerated Biofilm Reactor and Hollow Fiber Ultra filtration membranes with Reverse Osmosis membranes for polishing of the resulting treated wastewater described in Appendix 29 to the AEE (pages 22-44), with disposal of the intensively treated water to land. This would involve:

- Upgrades to the WWTP as set out by Apex Water in the technical note included in Attachment 1 to Appendix 1 to the applicant's Response to Comment's letter from 5 June 2026 (see pages 64-65). In summary, the WWTP has been designed as a modular system to enable it to be easily expanded if it is required to service Delmore stage 2.
- Final confirmation of a location or locations for disposing treated water to land. At this point in time, the applicant has investigated and identified suitable locations both on-site and off-site. In terms of on-site disposal, the information provided by Apex Water and Terra Studios in **Attachment 4 and Attachment 5** demonstrates that treated wastewater for all or part of Delmore stage 2 could be discharged to land within the Stage 2 area. If on-site disposal was ultimately only able to accommodate part of Delmore stage 2, this could be paired with off-site disposal. In terms of off-site disposal, the information provided by Viridis Consultants in **Attachment 6** demonstrates that the applicant has been investigating off-site disposal locations

close to the Delmore site and that (subject to detailed design) off-site disposal of treated wastewater is feasible.

The legal aspects of request 6(a) and request 6(b) are addressed in the Ellis Gould legal memorandum in **Attachment A**.

7. *Clarify whether the construction of the Grand Drive extension within Ara Hills is covered by the current consent applications.*

Applicant response: The approvals needed to construct the Grand Drive extension within Ara Hills are not covered by the Delmore FTAA application. This is because the land in which it is located is not within the approximate geographical location described in Schedule 2 to the FTAA and because that land is not under the control of the applicant. Rather, it is, with the exception of a small triangle of land, vested in Auckland Transport.

However, the conditions of consent proposed by the applicant as part of the Delmore FTAA application include a condition requiring the applicant to construct the Grand Drive extension as one of the numerous upgrades to the public transport network the applicant has committed to undertaking. The relevant condition is condition 11 in section 3.1.5 of the subdivision consent in **Attachment 8**.

As set out in the memorandum of counsel provided in Appendix 1 to the applicant's Response to Comment's letter from 5 June 2026 (see paragraphs [5.19]-[5.23]), the applicant considers that this proposed condition falls squarely within the lawful use of s 84A and that it is appropriate given the context, in particular that: the vast majority of land required to construct the extension is vested in Auckland Transport; AV Jennings has advised in its comments to the Panel that it will provide the small area that remains to be acquired for the extension for a "peppercorn" fee; the land is subject to a designation which limits the extent of further approvals required to enable construction and acts to earmark the land for use as an arterial road; and the applicant is working closely with the Auckland Urban Development Office and Auckland Transport to confirm a funding agreement which will include provisions relating to delivery of the extension. With respect to the final point, further progress has been made with the Auckland Urban Development Office (AUDO) and Auckland Transport on a funding agreement and correspondence demonstrating this is included in **Attachment 7**.

3.0 Conditions

The Panel's requests 8-10 were directed to Auckland Council and related to the proposed conditions of consent. However, request 11 identified that "should the Applicant and Auckland Council consider that jointly producing a single annotated copy of the proposed conditions would be more efficient, they are to advise the Panel accordingly [which may also involve a further suspension for time to complete, with or without the assistance of a facilitator]."

In accordance with this request, on 18 June 2026 the applicant advised the Environmental Protection Agency that it was working with Auckland Council to produce an updated, and annotated version of the proposed conditions of consent. Since that date there has been correspondence between various technical consultants for the applicant and Auckland Council regarding technical aspects of the proposed conditions, and the planning consultants for the applicant and Auckland Council met on 23 June 2026 and 27 June 2026. The output of this work is the amended version of the proposed conditions included in Auckland Council's response to the Panel's request and also provided in **Attachment 8** to this memorandum for completeness.

Within the amended and annotated version of the proposed conditions included in **Attachment 8**:

- Conditions agreed between the applicant and Auckland Council are highlighted **green**.
- Conditions in respect of which the applicant and Auckland Council have different views that have not been able to be reconciled are highlighted in **yellow**.
- Conditions in respect of which the applicant and Auckland Council have agreed would benefit from a workshop between technical specialists are highlighted in **blue**.

For agreed conditions (**green** highlight) an annotation has been included in a comment box where the applicant and Auckland Council considered the rationale for amendments would not necessarily be self-evident.

For conditions in respect of which the applicant and Auckland Council have different views (**yellow** highlight) the applicant and Auckland Council have both included a table in their response to the Panel's request identifying the relevant condition and the rationale for the condition wording that is preferred. The wording preferred by Auckland Council is recorded in track-changes in the amended version of the proposed conditions included in **Attachment 8** and in Auckland Council's response. The wording preferred by the applicant is recorded in an additional column in the table (see Table 1 below).

The conditions in respect of which the applicant and Auckland Council have agreed would benefit from a technical workshop relate to:

- Geomorphology;
- The dam and PIC assessments prepared by the applicant;
- Transport matters relating to vehicle tracking, sight distance assessments, and other minor condition wording; and
- Retaining walls.

The applicant and Auckland Council have already agreed dates for these workshops during the week beginning 29 June 2026. It is anticipated that the outcome will either be agreed amendments to the proposed conditions that resolve each issue, or a narrowing of any points of difference between the applicant and Auckland Council about how those issues should be addressed in the proposed conditions. Consequently, the applicant respectfully suggests that the Panel may wish to issue a further request for further information, directing the applicant and Auckland Council to provide any proposed conditions

relating to these issues and identifying any remaining points of difference by the end of Wednesday 8 July 2026.

For completeness, it is acknowledged that Attachment 1 to the consent conditions is required to be updated (which sets out the table of Plans and Reports). This can be done in the final stages once the drawings and reports are confirmed to be final.

Table 1: Proposed conditions in Attachment 8 about which the applicant and Auckland Council have different views

Condition reference	Rationale for the applicant's view	Condition drafting proposed by the applicant
Shared path over SH1 from Ara Hills Drive to Arran Drive (new condition proposed by Council in Section 3.1.5 of the subdivision consent in Attachment 8)	This is addressed within Appendix 8: A21 (Auckland Transport) within the Response to Comments Letter of 5 June 2026 (refer Section 1.2, Point 6 of the table).	No condition required.
Grand Drive extension (Section 3.1.5, condition 11 of the subdivision consent in Attachment 8)	This is addressed within Appendix 8: A21 (Auckland Transport) within the Response to Comments Letter of 5 June 2026 (refer Section 1.2, Points 2 and 12 of the table). The applicant considers it unnecessary for the condition to prescribe the form or standard of the road (for example, whether it is provided as a temporary access road or constructed to the ultimate arterial road standard), as these matters will be determined through subsequent design and approval processes. The key outcome required through this consent is that legal and physical access to the site is established prior to the issue of the first section 224(c) certificate. The proposed condition achieves this outcome while allowing the detailed road design to be addressed through the appropriate subsequent approval processes.	<i>Prior to the issue of a section 224(c) certificate for the first stage of the subdivision that is to be developed, the Consent Holder must construct access from the termination point of Grand Drive to the site in the location shown on the drawing prepared by Terra Studio, titled "Traffic Upgrades Plan", drawing reference "A-RFI-1-20", Rev B.</i>

	Importantly, the proposed wording does not preclude construction of the ultimate arterial road connection. The applicant's preference remains to construct the full two-lane arterial road in accordance with Designation 14108 and the applicant is continuing to work the AUDO to achieve this outcome.	
NOR6 Southern Extension (Section 3.1.5, condition 14 of the subdivision consent in Attachment 8)	The remaining point of difference between the applicant and Auckland Transport is the timing for when the arterial road (known as the NoR6 southern extension) is to be constructed. The evidence from the applicant's traffic engineer is that this road is not required as part of the development. Auckland Transport's traffic engineer has also confirmed this. Refer to paragraph 110 of the PTM memo (Council's Section 53 Comments, Annexure A21) which states "<i>The possibility of the Delmore applicant constructing the full NOR 6 connection through to the intersection with Russell Road and Upper Orewa Road was discussed with the applicant as part of the engagement process. I consider that this connection is not needed to support the proposed development.</i>"	<i>Prior to the issue of a s224(c) certificate for the last sub-stage of the subdivision, the Consent Holder must construct the portion of the arterial road, known as designation 14108 in the Auckland Unitary Plan, identified on the drawing prepared by Terra Studio, titled "Traffic Upgrades Plan", Rev B, from the southern boundary of Stage 1 of the Delmore development through to the intersection of Upper Orewa Road and Russell Road. The road must be constructed as a two-lane arterial road with active mode facilities on each side. The intersection of the arterial road (designation 14108) with Russell Road and Upper Orewa Road must be designed and constructed as a roundabout.</i>
Temporary path to the land owned by MoE (new condition proposed by Council in Section 3.1.5 of the subdivision consent in Attachment 8)	This is addressed within: The memorandum of counsel provided in Appendix 1 to the applicant's Response to Comment's letter from 5 June 2026; and	No condition required.

	Appendix 8: A21 (Auckland Transport) within the Response to Comments Letter of 5 June 2026 (refer Section 1.2, Point 15 of the table).	
Stage 1 Park (Section 3.3.1, condition 90 of the subdivision consent in Attachment 8)	This is addressed within Appendix 8: A29 (Parks) within the Response to Comments Letter of 5 June 2026 (refer Section 1.2, Point 1 of the table).	Lot 1800 shall be transferred to Council as land in lieu of reserve (for the purpose of recreation) if by the time of application for the survey plan for Stage 1B to be approved under section 223, the Consent Holder has entered into an agreement with Council for the sale and purchase of Lot 1800. Lot 1800 must be free of easements and encumbrances and with no utility devices or structures on the land or on any of its road frontages or berms, unless agreed in writing with Council. If no agreement is in place in accordance with Condition 81 by the time of application for the survey plan for Stage 1B-2 to be approved under section 223, then Lot 1800 shall be developed into residential lots in accordance with the following plans: - Scheme plan titled “Alternative Plan for Lots 359 – 370, 1512 Being Subdivision of Lot 1800 DP XXXXXX Stage 1B-1”, dated 20 May 2026. - Architectural plans prepared by Terra Studio titled “A-S1-1-87, A-S1-1-88, A-S1-1-89, A-S1-1 90”.
Vesting of drainage reserves (Conditions 71, 88 and 110 of the	This is addressed within Appendix 8: A20 (Healthy Waters) within the Response to Comments Letter of 5 June 2026 (refer Section 1.2, Row 1 of the table).	Lots 1605, 1606 and 1609 on the scheme plans approved and referenced under Attachment 1 must be vested to Council as land in lieu of reserve – for drainage purposes. A right of way easement, in favour of Council, must be

subdivision consent in Attachment 8)		established over any lots required for the purposes of public access and/or reserve maintenance to allow access to Council staff and contractors. • Lots 1601-1604 and 1616 on the scheme plans approved and referenced under Attachment 1 must be vested to Council as land in lieu of reserve – for drainage purposes. A right of way easement, in favour of Council, must be established over any lots required for the purposes of public access and/or reserve maintenance to allow access to Council staff and contractors. • Lots 1620, 1621, 1623, 1624, and 1627 on the scheme plans approved and referenced under Attachment 1 must be vested to Council as land in lieu of reserve – for drainage purposes. A right of way easement, in favour of Council, must be established over any lots required for the purposes of public access and/or reserve maintenance to allow access to Council staff and contractors.
Ecology offset (new condition proposed by Council in Section 7 in Attachment 8)	This is addressed within: • The memorandum of counsel provided in Appendix 1 to the applicant's Response to Comment's letter from 5 June 2026; and • Appendix 8: A24 (Terrestrial Ecology) within the Response to Comments Letter of 5 June 2026 (refer Section 1.2, Point 17 of the table).	The applicant's legal and technical evidence is that no condition is required, however in order to respond to Council's concerns, the applicant proposes an amendment to the conditions to require on-site remediation in the unlikely event that a failure occurred at the irrigation lines. This could involve a line item in the Wastewater Management Plan and Ecological Management Plan as follows:

		<u>Procedures to be implemented in the event of a failure of the wastewater irrigation system that results in adverse ecological effects, including:</u> • <u>investigation of the cause and extent of any effects by a suitably qualified ecologist;</u> • <u>preparation of a remediation plan, where required, identifying any remedial works and replacement or supplementary planting necessary to restore the affected area;</u> • <u>implementation of the approved remediation works and replacement planting; and</u> • <u>certification by the Council that the remediation works and replacement planting have been completed in accordance with the approved remediation plan.</u>
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The applicant is available to assist the Panel in any way and thanks the Panel for considering this response.