

Delmore Fast-Track

25/06/2025 – Auckland Council Response

Annexure 5:

Planning Policy

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Memorandum

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Fast Track Application **Delmore | 88, 130, 132 Upper Ōrewa Road and 53A, 53B and 55 Russell Road**
Policy Comments

Proposal

1. The application, as stated by the applicant, is for the development of 109.18 hectares of Future Urban Zoned (FUZ) land into a comprehensively planned development, including approximately 1,250 dwellings, one super lot, supporting infrastructure, as well as associated works.
2. The land is zoned Future Urban in the Auckland Unitary Plan 2016 (Operative in Part).
3. The application has been lodged under the Fast-track Approvals Act 2024 ('FTAA'). The purpose of the FTAA is (Section 3 of the FTAA):

The purpose of this Act is to facilitate the delivery of infrastructure and development projects with significant regional or national benefits.

4. The FTA in Schedule 5 s5(1)(h) requires an applicant to include an assessment of the activity against any relevant provisions in any of the documents listed in subclause (2). The documents in subclause (2) include a national policy statement, a regional policy statement and a plan. Subclause (3) states:
 - (3) *An assessment under subclause (1)(h) must include an assessment of the activity against—*
 - (a) *any relevant objectives, policies, or rules in a document listed in subclause (2);...*
5. My comments relate to the assessment under these provisions of the FTA.

Comments

6. My comments relate primarily to strategic and land use policy issues. Comments on other detailed aspects, such as traffic, economic, landscaping, wastewater disposal etc, are provided by the relevant experts.

7. There are four key themes that I raise concerns about. I outline these first and then comment in more detail about the application in relation to the relevant policy documents.

Development ahead of structure planning and a plan change

8. As the land is FUZ, the application is effectively rezoning by resource consent. This approach is contrary to the objectives and policies of the RPS and the FUZ zone which require that a structure plan and plan change process be followed to rezone and develop FUZ land. The matter of developing FUZ land is addressed in more detail below.
9. A structure plan is required to be prepared in accordance with the guidelines set out in Appendix 1 of the AUP. The specific policies and detail of Appendix 1 are outlined below. The issue is that a detailed structure plan and plan change process has not been followed for the applicant's site. The applicant refers to a "structure plan" that has been prepared but this appears to only consist of a plan and has no supporting technical documents, supporting analysis or discussion as required by Structure Plan Guidelines in Appendix 1 of the AUP.
10. In my view, a structure plan for the area should have included all of the FUZ land south of the application area as far as the Orewa River and (see Figure 1 below). This would enable a detailed and integrated approach with the rest of the FUZ to the south of the applicant site and north of the Orewa River.

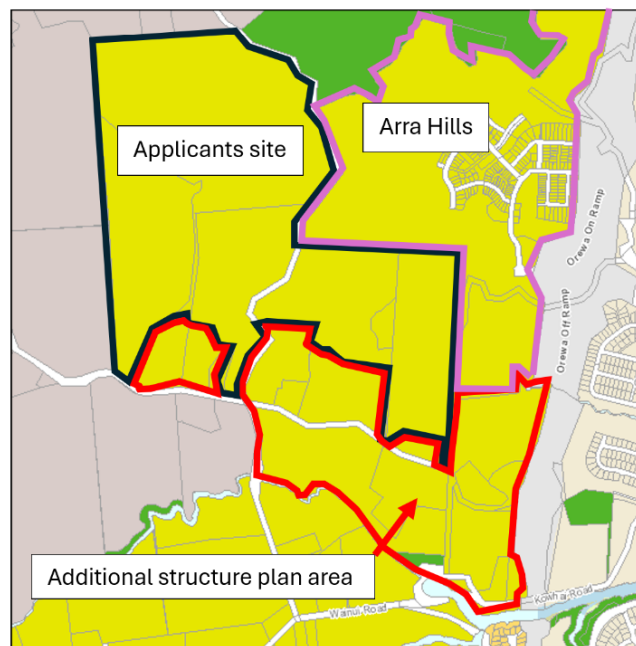


Figure 1 Extent of area that should have been structure planned

11. There doesn't appear to be an analysis of the need for centres to serve the needs of the residents. Instead, the application relies on centres on adjoining land which does not provide a high level of accessibility to parts of the applicants site, particularly to the west. Preparing a structure plan would have addressed this.

12. The structure plan and plan change process would also enable wider public consultation, including, eg environmental groups, other interest groups and the wider community than just the immediate neighbours.
13. If a comprehensive structure plan had been prepared, many of the issues raised by other Council specialists would have likely been addressed eg, provision of parks, traffic congestion at the Grand Drive roundabout, road and active mode links to adjoining areas, eg the proposed school.
14. In my view, a structure plan and plan change approach is required by the regional policy statement and is a more appropriate approach to enable development of the land.

Regional Significance

15. As noted above, the purpose of the FTAA is to facilitate proposals of “regional significance”.
16. The applicant has made much of the “regional significance” of providing infrastructure, particularly the section of NOR 6 the road extension from Milldale to Grand Drive. I query whether the delivery of a short section of NOR 6 is “regionally significant”. I doubt that delivering the whole of NOR 6 is even “regionally” significant. I agree that the route is locally significant ultimately providing a connection northward between Milldale and the Grand Drive interchange and Orewa and southward from Ara Hills and the applicants site to Milldale.
17. The applicant is only delivering approximately 850m of a road that is approx. 2.2km long (see Figure 2 below). The applicant is inconsistent in how it describes the route and, in some places, gives the impression it is providing the whole route¹. These statements are misleading as they are not providing all of the road between Grand Drive and Wainui Road. The leg to the south is not provided so it doesn’t connect to Milldale as is suggested. I acknowledge that the ITA is clear that only part of the route is being provided. Consequently, these statements are used to support the assessment against several policies and in my view overstates the section of road being of regional importance.

¹ pg 98 AEE applicant states that the proposal “includes delivery of major and regionally significant road infrastructure, linking Grand Drive West extension to Upper Orewa Road” and at pg 1 of Appendix 33 the objectives and policies assessment.

23. The integration with the adjoining future urban land to the immediate south has not been addressed in detail by the applicant.

Future Development Strategy 2023

24. The Council's Future Development Strategy 2023 (FDS) identifies the area as "Upper Orewa" and indicates that the land is not to be zoned for development before 2050+ due to infrastructure constraints. The FDS also sets out Infrastructure Prerequisites for the area which are:

- Wainui Road upgrade
- Milldale and Grand Drive connection
- North Shore Rapid Transit (extension to Milldale)
- Army Bay Wastewater Treatment Plant Upgrade.

25. I note that the application is providing part of the Milldale and Grand Drive connection as discussed above.

26. The application therefore seeks the development of the land well in advance of timeline identified in Councils strategic planning document. Other Council specialists provided more comment on the application in terms of the FDS.

Regional Policy Statement

27. The Regional Policy Statement in B2 Urban Growth and Form sets out the high-level strategic objectives for the management of growth in Auckland and my comments focus on the B2.2 Urban growth and form objectives and policies. In the context of this application, in my view, the following objectives and policies are particularly relevant:

B2.2 Urban growth and form Objectives 2.2.1

(1A) A well-functioning urban environment that enables all people and communities to provide for their social, economic, and cultural wellbeing, and for their health and safety, now and into the future.

(1) A well-functioning urban environment with a quality compact urban form that enables all of the following:

(a) a higher-quality urban environment;

(b) greater productivity and economic growth;

(c) better use of existing infrastructure and efficient provision of new infrastructure;

(d) good accessibility for all people, including by improved and more effective efficient public transport or active transport;

(e) greater social and cultural vitality;

(f) better maintenance of rural character and rural productivity; and

(g) reduced adverse environmental effects; and

- (h) *improved resilience to the effects of climate change.*
- (5) *The development of land within the Rural Urban Boundary, towns, and rural and coastal towns and villages is:*
 - (a) *integrated with the provision of appropriate infrastructure; and*
 - (b) *improves resilience to the effects of climate change.*

Policies 2.2.2

- (3) *Enable rezoning of future urban zoned land for urbanisation following Structure Planning and plan change processes in accordance with Appendix 1 Structure plan guidelines.*
- (7) *Enable rezoning of land within the Rural Urban Boundary or other land zoned future urban to accommodate urban growth in ways that contribute to a well-functioning urban environment and that do all of the following:*
 - (a) *support a quality compact urban form;*
 - (b) *provide for a range of housing types and employment choices for the area;*
 - (c) *integrate with the provision of infrastructure; and*
 - (caa) *provide good accessibility, including by way of efficient and effective public or active transport;*
 - (ca) *incorporate resilience to the effects of climate change;*
 - (d) *follow the structure plan guidelines as set out in Appendix 1.*
 - (e) *support, and limit as much as possible adverse impacts on, the competitive operation of land and development markets.*
- (8) *Enable the use of land zoned future urban within the Rural Urban Boundary or other land zoned future urban for rural activities until urban zonings are applied, provided that the subdivision, use and development does not hinder or prevent the future urban use of the land.*

28. In respect of Objective 1, the applicant states²:

The proposal will be transformational for the Hibiscus Coast's social and cultural vitality as Delmore is designed has designed to be a sustainable, destination where people can live and recreate in one location, with existing and planned employment opportunities within close proximity.

It is unclear what social and cultural aspects the proposal is providing, as it seems to be relying on facilities provided elsewhere, similarly for commercial facilities. As noted above, the issue is that the application does not seem to address these as they would have been required to do through a structure plan process.

² Appendix 33 objectives and policies assessment pg15

29. In my view, the proposal is contrary to Objective 5 as there is uncertainty about the integrated provision of infrastructure, particularly wastewater, and which option is to be used.
30. In respect of policies (3) and (8) in relation to structure planning and the plan change process, and the use of FUZ land, I note that the AEE does not refer to the two policies at all. Appendix 33 Objectives and policies assessment, does however address them. In respect of Policy (3), the assessment states:

Whilst re-zoning is not proposed at this time, it has taken a structure plan approach.

On Policy (8) it states:

This proposal is to effectively re-zone land for urbanisation by way of a resource consent application for land use and subdivision.

31. In my view the application is contrary to these policies. I consider that this is significant as the policies set out the process for the conversion of land for urban development. The applicant has argued that it has taken a structure plan approach but as I have outlined above, I do not think that this has been done comprehensively or in as much detail as it should have been. The applicant has argued that the application needs to be considered in the context of the objectives and policies as a whole. In my view, because it is contrary to these key policies, this is a significant issue as they set the regional process for the conversion of land for urban development, and this is not outweighed by the other objectives and policies.
32. In respect of Policy 7, there are aspects of the criteria that are not met. As noted above it is questionable the extent which it provides for a well-functioning urban environment, integrates with the provision of infrastructure or provides good accessibility (as outlined by the Council's transport specialist) and does not address these matters, and other matters raised by other Council specialists, set out in the Structure Plan Guidelines.

Auckland Unitary Plan

33. The site is zoned Future Urban in the AUP(OP). The zone statement states that the Future Urban Zone is a transitional zone. Land may be used for a range of general rural activities but cannot be used for urban activities until the site is rezoned for urban purposes.
34. The Future Urban zone includes objectives and policies that seek to protect the land for future urbanisation and retain its use as rural until it is rezoned through a plan change process. They are:

H18.2 Objectives

- (1) *Land is used and developed to achieve the objectives of the Rural – Rural Production Zone until it has been rezoned for urban purposes.*
- (2) *Rural activities and services are provided for to support the rural community until the land is rezoned for urban purposes.*
- (3) *Future urban development is not compromised by premature subdivision, use or development.*

- (4) *Urbanisation on sites zoned Future Urban Zone is avoided until the sites have been rezoned for urban purposes.*

H18.3 Policies

- (1) *Provide for use and development which supports the policies of the Rural – Rural Production Zone unless that use and development is inconsistent with policies H18.3(2) to (6).*
- (2) *Enable activities that are reliant on the quality of the soil or require a rural location to operate or which provide for the day to day needs of the local rural community.*
- (3) *Require subdivision, use and development to maintain and complement rural character and amenity.*
- (4) *Avoid subdivision that will result in the fragmentation of land and compromise future urban development.*
- (5) *Prevent the establishment of more than one dwelling on a site except for the provision for minor dwellings and workers' accommodation.*
- (6) *Avoid subdivision, use and development of land that may result in one or more of the following:*
- (a) structures and buildings of a scale and form that will hinder or prevent future urban development;*
 - (b) compromise the efficient and effective operation of the local and wider transport network;*
 - (c) require significant upgrades, provisions or extension to the wastewater, water supply, or stormwater networks or other infrastructure;*
 - (d) inhibit the efficient provision of infrastructure;*
 - (e) give rise to reverse sensitivity effects when urban development occurs;*
 - (f) give rise to reverse sensitivity effects in relation to existing rural activities or infrastructure; or*
 - (g) undermine the form or nature of future urban development.*

35. At a broad level I have concerns with any urban type of activity occurring in the Future Urban Zone ahead of structure planning and rezoning through a plan change process.

36. The proposal is in my view specifically contrary to Objectives (1) (2) and (4) and is urban development occurring before the land is rezoned for urban purposes. In respect of Objective (3) the application is proposing urban development of the site, but it is unclear whether it compromises future development of adjoining FUZ land because there is no comprehensive structure plan.

37. The proposal is clearly contrary to Policies (1), (2), (3) and (5) as it is not retaining rural activities. In respect of Policy (4), this issue is addressed above in relation to Objective (3). On Policy (6), the first point to note is the use of the strong term to “avoid” activities relating to the subsequent bullet points. In relation to (6)(a) and (g) the application is proposing urban development, and I referred to this above in respect of the objectives. The other bullets relate to specific matters which other Council specialists have addressed and raise issues that need to be considered, particularly relating to the provision of infrastructure and transport effects.
38. The issue of the development of the Future Urban Zone ahead of a plan change has been addressed by the High Court in *Auckland Council V Matvin*³. This was a case under the Covid Fast Track legislation and addressed a proposal for a retirement village ie urban development, in the FUZ. Justice Woolford’s view is captured in his comment below⁴:

However, I view the Zone description as a synthesis of the objectives and policies. It is quite clear in its meaning. It succinctly states in three sentences:

The Future Urban Zone is applied to greenfield land that has been identified as suitable for urbanisation. The Future Urban Zone is a transitional zone. Land may be used for a range of general rural activities but cannot be used for urban activities until the site is re-zoned for urban purposes.

39. Justice Woolford goes further in his decision referring to the specific wording of the objectives and policies and refers to the strong words used – “require”, “avoid” and “prevent”⁵. He then states:

[36] In interpreting the FUZ provisions, it is not a question of weighing up the various objectives and policies for and against urban development. There are no provisions specifically allowing urban development.

40. At paragraph 37 Justice Woolford states:

[37] I am therefore persuaded that the Panel made an error of law in finding that the overall purpose of the FUZ was to preclude activities that may compromise future urban development. The overall purpose of the FUZ is as a holding zone and to provide a transition from rural to urban use and development. The zone recognises the need for comprehensive and intentional design for soon-to-be urban areas. Until rezoned urban, the primary set of activities that are to occur in the FUZ are rural.

41. I am therefore of the view that the appropriate process for pursuing the development of the land is by the preparation of a comprehensive structure plan and a plan change.

Conclusion

42. In my opinion, the proposal is contrary to key objectives and policies of the RPS and the Future Urban Zone in respect that a comprehensive structure plan and plan change process has not been followed.

³ CIV-2023-404-835 [2023] NZHC 2481

⁴ *Auckland Council V Matvin* paragraph 29

⁵ *Auckland Council V Matvin* paragraph 35

