



By email

4 May 2025

Application Lead, Fast-track Team
Environmental Protection Authority
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Attention: Daya Thomson

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Dear Daya

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COMMENTS OF WESTLAKE TRUSTEE LIMITED ON DELMORE FAST-TRACK APPLICATION – FTAA-2512-1164

We act for Westlake Trustee Limited (**Westlake**), the registered owner of 3 [REDACTED] a 7.23-hectare rural landholding.

The property shares a common boundary with the proposed Delmore development site (**Delmore Site**) along its northern and eastern boundaries, and is directly adjacent to the proposed NoR 6 arterial road and roundabout to its west.

Together with the neighbouring properties at 11 Russell Road and 3 Russell Road, which also share boundaries with the Delmore site, Westlake's property forms a cluster of existing rural landholdings that will be substantially surrounded by the proposed Delmore development on three sides.

Importantly, Westlake's sole legal and physical access is via Russell Road to the south. Westlake purchased the property in 2019 and it is currently occupied by a long-term residential tenant, making it an actively occupied dwelling and a long-term investment property used for residential tenancy and rural land use.

The directors of Westlake and members of their family and social network regularly use the property for lawful rural activities.

Further, Westlake also has a documented commercial solar energy development project for the property, supported by engineering drawings, financial analysis, meeting records and a formal electricity network pre-approval from the lines company. That project is currently paused but has not been abandoned.

Westlake was formally invited to comment pursuant to section 53(2)(h) of the Fast-track Approvals Act 2024 (**FTAA**) by Minute 2 of the Expert Panel dated 1 April 2026.

Westlake has reviewed the publicly available application documents and while not opposed in principle to the urbanisation of the Delmore site, has concerns regarding aspects of the proposal and its adverse impacts on the Westlake property. In particular, Westlake has substantial concerns regarding the structural, legal and practical consequences of the proposed development for the existing lawful uses and rights of adjacent landowners, and respectfully requests that the Panel impose specific conditions of consent to address the matters set out in Westlake's comments.

Westlake notes that the Panel itself has identified a number of significant unresolved questions in Minute 2.

Westlake's concerns are directly aligned with those questions and are directed solely at protecting the existing and long-term reasonable interests of adjacent rural landowners who will be substantially surrounded by the development.

Attached as Schedule One to this letter are Westlake's substantive comments on the Delmore proposal, which sets Westlake's key concerns and interests, the applicable legal and policy framework, and details of Westlake's concerns and suggested amendments and conditions to address those. **Attached as Schedule Two** to this letter is a summary of the amendments and conditions sought to the Application.

Westlake asks that the Panel consider appointing its own independent experts in wastewater engineering, stormwater management, development economics, and transportation to enable the Panel to properly evaluate the application.

Westlake would welcome the opportunity to participate further in any procedural conferences or hearings that the Panel may convene to assist the Panel to better understand the issues raised in these comments and how these could be addressed. Westlake reserves all rights under the FTAA, including the right to be heard at any procedural conference convened by the Panel.

Yours faithfully
Beresford Law



Joanna Beresford
Partner

SCHEDULE ONE: COMMENTS OF WESTLAKE TRUSTEE LIMITED
UNDER SECTION 53 OF THE FAST-TRACK APPROVALS ACT 2024 ON THE
DELMORE FAST-TRACK (SECOND) SUBSTANTIVE APPLICATION BY VINEWAY
LIMITED (FTAA-2512-1164)

INTRODUCTION AND SUMMARY

1. Vineway Limited (**the Applicant**) seeks resource consents under the Fast-track Approvals Act 2024 (**FTAA**) to develop approximately 109.18 hectares of FUZ land into a comprehensively planned development, including up to 1,213 dwellings, one residential super-lot, a commercial area, two neighbourhood parks, supporting infrastructure, as well as associated works as described in the application material, known as the Delmore Project (**Application**) on Future Urban Zone (**FUZ**) land at 88, 130, 132 Upper Ōrewa Road and 53A, 53B and 55 Russell Road, Ōrewa (**Delmore Site**).
2. These comments are made by Westlake Trustee Limited (**Westlake**), the owner of 35 Russell Road, Upper Ōrewa, Auckland (**Westlake Property**). Westlake was required to be invited to comment under s 53(2)(h) of the FTAA because the Westlake Property is immediately adjacent to the Delmore Site. The Westlake Property is also zoned FUZ.
3. In the longer term, Auckland Council (**Council**) has identified that the wider Upper Ōrewa area (including both the Delmore Site and the Westlake Property) is suitable for future urban development in accordance with the Upper Ōrewa Concept Structure Plan (**Concept Structure Plan**).¹ Accordingly, Westlake is generally supportive of the urbanisation of the area, including the Delmore Site, and does not oppose the Delmore development provided its concerns can be addressed by conditions or amendments to the proposal.
4. The resource management system uses a system of temporal and spatial hierarchies to co-ordinate urbanisation across the region and avoid ad-hoc development. This sequential process is well known, and is initiated by structure or master planning, followed by plan changes to settle zoning and determine where and how infrastructure will be delivered, and then resource consent applications once this wider framework is settled. Significant public infrastructure upgrades are required to service the wider Upper Ōrewa area and mitigate the adverse effects of development and these are presently unplanned or unfunded.
5. Westlake considers an equivalent of a plan change process needs to be achieved through the present Fast-track process and conditions imposed, to ensure that the Application will not result in significant adverse effects on the environment and / or potentially foreclose on, or limit, future urban development opportunities in the wider area as envisaged by the Concept Structure Plan. Westlake considers that such an ad-hoc outcome would fail to properly deliver the regional economic benefits that are fundamental to purpose of the FTAA.
6. To that end, these comments are directed at two key objectives:

¹ Delmore Application Supporting Materials, Appendix 14.

- (a) Ensuring that the eight-year construction and operational period and the resulting residential development does not irreversibly harm the existing occupants and lawful uses of 35 Russell Road.
 - (b) Ensuring that approval of Delmore does not permanently strand the adjacent FUZ landholdings outside the planning and infrastructure framework that the Concept Structure Plan already anticipates will apply in the future.
- 7. In the absence of the entirety of the Upper Ōrewa area having been through a plan change processes (in the usual way) that would co-ordinate infrastructure delivery and development and implement the Concept Structure Plan, Westlake considers that there needs to be alternative mechanisms to:
 - (a) Identify how environmental constraints (particularly in relation to wastewater, stormwater, traffic) for the wider Upper Ōrewa area, including the Westlake Property, will be addressed.
 - (b) Ensure that infrastructure required to service Delmore is not located, designed or operated to unfairly burden adjacent land.
 - (c) Ensure that infrastructure that is developed for Delmore is future proofed and has capacity to also service surrounding land (acknowledging that any future use would be subject to applicable Council processes at the relevant time).
 - (d) Ensure that land such as Westlake Property, that is anticipated to remain FUZ in medium term, can continue to be used for rural land use in the interim, without such land uses being curtailed by incoming residential or other more sensitive land uses.
- 8. In summary, Westlake requests that the Expert Panel:
 - (a) amend the proposal or impose conditions addressing all matters in these comments, and
 - (b) if the Panel is minded to grant the approvals sought, to record in its decision that the approval of Delmore creates an isolated rural enclave at 35, 11 and 3 Russell Road that is inconsistent with integrated urban development principles and recommend that Auckland Council should prioritise a plan change process for these properties as a direct consequence of approval.
- 9. Where specific amendments to the proposal or conditions are sought in these comments, these have been identified as underlined text.
- 10. Westlake would welcome the opportunity to participate further in any procedural conferences or hearings that the Panel may convene to assist the Panel to better understand the issues raised in these comments and how these could be addressed by conditions.

SCOPE OF COMMENTS

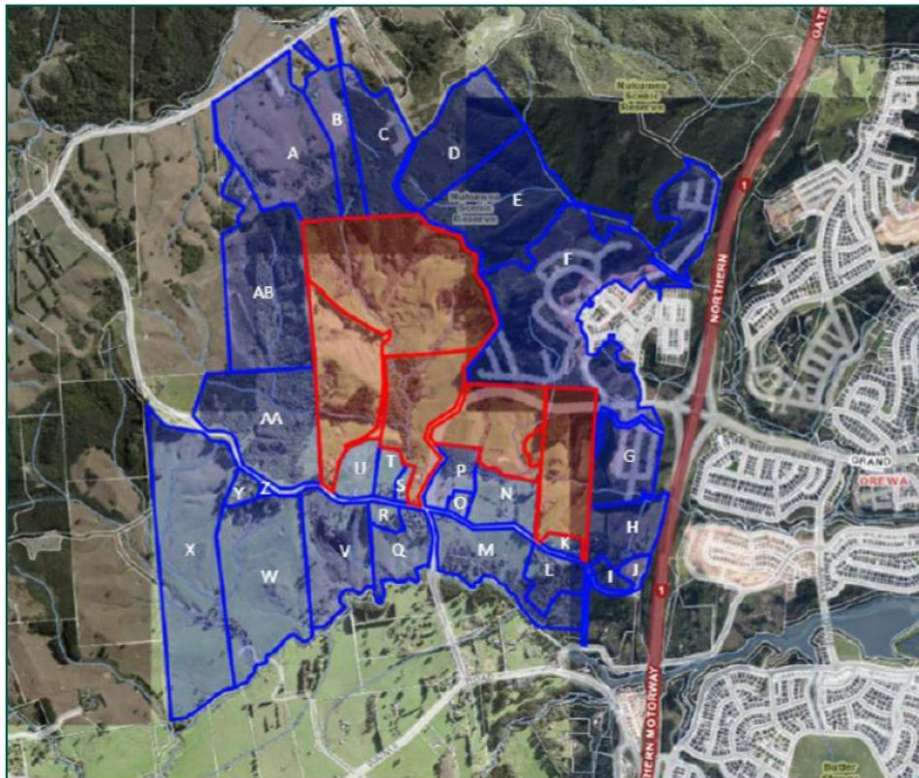
- 11. These comments address the following topics:
 - (a) Westlake's interest in the Application and surrounding area.
 - (b) How FTAA legislative and AUP planning framework necessitates the imposition of conditions to address Westlake's concerns.

- (c) Adverse impacts of the Application and outcomes sought to address adverse impacts.

WESTLAKE'S INTERESTS IN THE APPLICATION AND SURROUNDS

12. Westlake is the owner of 35 Russell Road, Upper Ōrewa (Lot 1 DP Lot 1 DP 397356, comprised in identifier 388617). The Westlake Property is an approximately 7.23ha FUZ site currently used for rural lifestyle living. The Westlake Property is identified and described as property "N" in the Application documents as shown in the figure below.²
13. It is bounded by the north and east by the Delmore Site and along with 3 and 11 Russell Road (marked as "P" and "O" in the figure below) forms a stranded rural enclave north of Russell Road that will be surrounded on three sides by the Delmore urban development.

Delmore Neighbouring Properties Summary



14. The Westlake Property was acquired in 2019 by Westlake Trustee Limited as a long-term investment property. It has been continuously used for residential tenancy since acquisition. In 2022 Westlake entered into a heads of agreement to progress the development of the Westlake Property as a solar farm with a solar developer. That project is on hold but not abandoned by Westlake.
15. Westlake is not a property developer, has not engaged in any subdivision or land development activity in respect of 35 Russell Road, and does not currently propose to do so. Westlake's interest in Application is to ensure that the lawful uses, residential amenity, and existing investment value of the Westlake Property are not unilaterally diminished by a development that has been designed without regard to its effects on adjacent rural landholdings. Westlake has not lodged, and does not

² Application supporting materials, Appendix 49.

16. In the wider context the Westlake Property sits in a rural strip between the Delmore Site to the north and Milldale North development to the south:³



Consideration of approvals

19. For resource consents, the Panel must apply clauses 17-22 of Schedule 5 of the FTAA, which also specify the weight to be given to the purpose of the FTAA when making its decision.⁵ When taking the purpose of this FTAA into account under

5 FTAA, s 81(2)(b) and s 81(3)(b).

clauses 17-22 of Schedule 5 of the FTAA, the Panel must consider the extent of the project's regional or national benefits.⁶

20. Under cl 17 of Schedule 5 the Panel, when considering the Application (including proposed conditions) must take into account (giving greatest weight to (a)):
 - (a) The purpose of the FTAA, being *"to facilitate the delivery of infrastructure and development projects with significant regional or national benefits."*⁷
 - (b) Parts 2, 3, 6, and 8 to 10 of the Resource Management Act 1991 (**RMA**) that direct decision making on an application for a resource consent (but excluding section 104D of that Act).
21. Accordingly, the following provisions of the RMA remain relevant to the Panel's consideration of the Application:
 - (a) The purpose and principles of the RMA including sustainable management, matters of national importance (including management of significant risks for natural hazards), and the efficient use and development of natural and physical resources all remain relevant to the Panel's consideration of the Application.
 - (b) Section 104(1) (but not the gateway tests for non-complying activities), which requires that Panel to have regard to:
 - (i) any actual and potential effects on the environment of allowing the activity;
 - (ii) any measure proposed or agreed to by the applicant for the purpose of ensuring positive effects on the environment to offset or compensate for any adverse effects on the environment that will or may result from allowing the activity;
 - (iii) any relevant provisions of a national environmental standard, other regulations, a national policy statement, a New Zealand coastal policy statement, a regional policy statement or proposed regional policy statement, a plan or proposed plan; and
 - (iv) any other matter the consent authority considers relevant and reasonably necessary to determine the application.
 - (c) Section 106 that provides that the Panel may refuse to grant a subdivision consent if it considers that there is a significant risk of natural hazards.

Power to set conditions

22. Clause 18 of Schedule 5 of the FTAA provides that the provisions of Parts 6, 9, and 10 of the RMA that are relevant to setting conditions on a resource consent apply (with all necessary modifications).
23. This means that the starting point for the imposition of conditions is that the Panel has full access to the full range of conditions allowed for under the RMA, (including

⁶ FTAA s 81(4).
⁷ FTAA, s 3.

bonds under s 108A), along with the usual constraints that conditions must be directly connected to an adverse effect of the Application or an applicable district or regional rule that has triggered a requirement for consent (unless offered by the Applicant).⁸

24. However, an additional consideration applies to Fast-track approvals being that the Panel must not exercise its discretion to set a condition that is more onerous than necessary to address the reason for which it is set in accordance with the provision of the FTAA that confers the discretion.⁹
25. Importantly, the FTAA was amended in December 2025 to insert s 84A, which specifically provides that (in addition to other powers to impose conditions) the Panel may set conditions to ensure that the infrastructure in the project area or other infrastructure the project will rely on is or can be made adequate to support the project and that a condition, under s 84A, may only be imposed on the Applicant.
26. This amendment makes it clear infrastructure required to service the development is the Applicant's responsibility. The Panel could not for example include a condition that required a public infrastructure provider to provide capacity that has been earmarked for other developments in the area (but not yet taken up) to the Delmore development

Power to decline or grant consent

27. The Panel may decline the approval only in accordance with s 85 of the FTAA.¹⁰ Subsections 85(1) and 85(2) specify when an approval must be declined. Subsection 85(3) specifies when a Panel may decline an approval, being where there are one or more adverse impacts that are sufficiently significant to be out of proportion to the project's regional or national benefits, after taking into account any conditions that the Panel may set in relation to those adverse impacts.

Application of FTAA framework to Delmore

28. The task before the Panel is a balancing exercise. The Panel is required to assess the regional benefits of the Delmore Application against the adverse impacts of the proposal (as mitigated by any conditions offered by the Applicant or proposed to be set by the Panel).
29. While that balancing exercise is initially weighted towards granting a proposal, if there are regional benefits associated with the Application, that balance can be tipped in favour of decline where the adverse impacts are sufficiently significant to be out of proportion to those benefits.
30. In the context of undertaking the required balancing exercise, it is important that:
 - (a) the level of the regional benefits of a particular development proposal are rigorously assessed by the Panel and not allowed to be overstated by the Applicant; and

⁸ RMA, s 108AA(1) and s108AA (2).

⁹ FTAA, s 83.

¹⁰ FTAA, s 81(2)(f).

- (b) the level of adverse impacts of the Application are rigorously assessed by the Panel and not allowed to be understated by the Applicant.
- 31. An error on either side of the scale could result in an incorrect evaluation of the application under the FTAA decision making framework.
- 32. While Westlake does not oppose Delmore in principle, this is on the basis that its concerns could be addressed by amendments to the proposal or imposition of conditions. In the absence of such amendments or conditions, Westlake's position would be that the level of adverse impacts is significantly out of proportion with the benefits and the Application should be declined.
- 33. Given the importance of this factual evaluation exercise to properly assessing the adverse impacts of the Application, Westlake asks that the Panel consider appointing its own independent experts in wastewater engineering, stormwater management, development economics and transportation to enable the Panel to properly evaluate the Application and subsequent responses from the Applicant.

POLICY FRAMEWORK

National Direction

- 34. Policy 8 of the National Policy Statement on Urban Development 2020 (**NPS UD**) anticipates that out of sequence land release will be advanced by plan changes (and the level of assessment that such changes entail):

Policy 8: Local authority decisions affecting urban environments are **responsive to plan changes** that would add significantly to development capacity and contribute to well-functioning urban environments, even if the development capacity is:

(a) unanticipated by RMA planning documents; or

(b) out-of-sequence with planned land release.

(Emphasis added).

- 35. The Future Development Strategy (**FDS**) required under the NPS-UD to integrate and co-ordinate land release, infrastructure and development, anticipates that urbanisation in the Upper Ōrewa area will not occur before 2050+.

Regional Policy Statement Growth Framework

- 36. In terms of the Panel's consideration of the applicable planning instruments, the Auckland Unitary Plan Operative in Part (**AUP**) contains both the Auckland Regional Policy Statement (**RPS**) and the district planning rules that apply to FUZ land.

Regional Policy Statement

- 37. Urban growth and form is identified as a significant resource management issue for the Auckland region¹¹ and the RUB, Structure Plan Guidelines (in Appendix 1 of the AUP) and zone objectives, policies and rules are regulatory methods used to

¹¹ RPS, B1.4 Issues of Regional Significance.

implement the RPS.¹² Chapter B2 of the RPS sets out the issues, objectives and policies with respect to Auckland's urban growth and form. The policies in B2.2.2, that address the promotion of a quality compact urban form are particularly relevant to the Application.

38. Delmore, being a large-scale urban development in advance of a live urban zoning, is inconsistent with the RPS growth framework. Such inconsistencies are not necessarily fatal under the Fast-track regime (for example if the national or regional benefits were sufficiently significant) but these issues should be considered an adverse impact of the Application that needs to be mitigated and then weighed against the regional benefits of the Application.

Zoning

39. The Applicant is not proposing to rezone the Delmore site, however, the effect of implementing the consents would be that in practice the boundary between urban Auckland and rural Auckland would be the boundary between the Delmore Site and the Westlake Property (and others in the Russell Road enclave). There is no strong natural or physical boundary between these two sites that demarks this as a sensible location for an urban edge.
40. Westlake considers that if this area is to be urbanised it should be done so in a way that is consistent with the properties between the Delmore site and Russell Road being urbanised as envisaged in Concept Structure Plan.
41. In summary, the zone descriptions, objectives and policies of the FUZ provide that FUZ is applied to land that has been identified as suitable for urbanisation, the AUP uses strongly directive language stating that FUZ 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*" and "*[u]rbanisation on sites zoned Future Urban Zone is avoided until the sites have been rezoned for urban purposes*."
42. It is unlikely to be in dispute that the Application is inconsistent with the zoning. Again, this inconsistency may not be fatal in a Fast-track regime, however, it is submitted that this is an adverse impact of the Application and needs to be mitigated and then be weighed against the regional benefits of the Application and considered carefully when imposing conditions to mitigate adverse impacts, including adverse effects on existing rural uses.
43. Specifically in relation to the Russell Road enclave, this inconsistency between zoning and land use needs to be mitigated by ensuring that Westlake's existing rural recreational uses and its proposed solar farm (which are consistent with zoning) can continue or proceed.

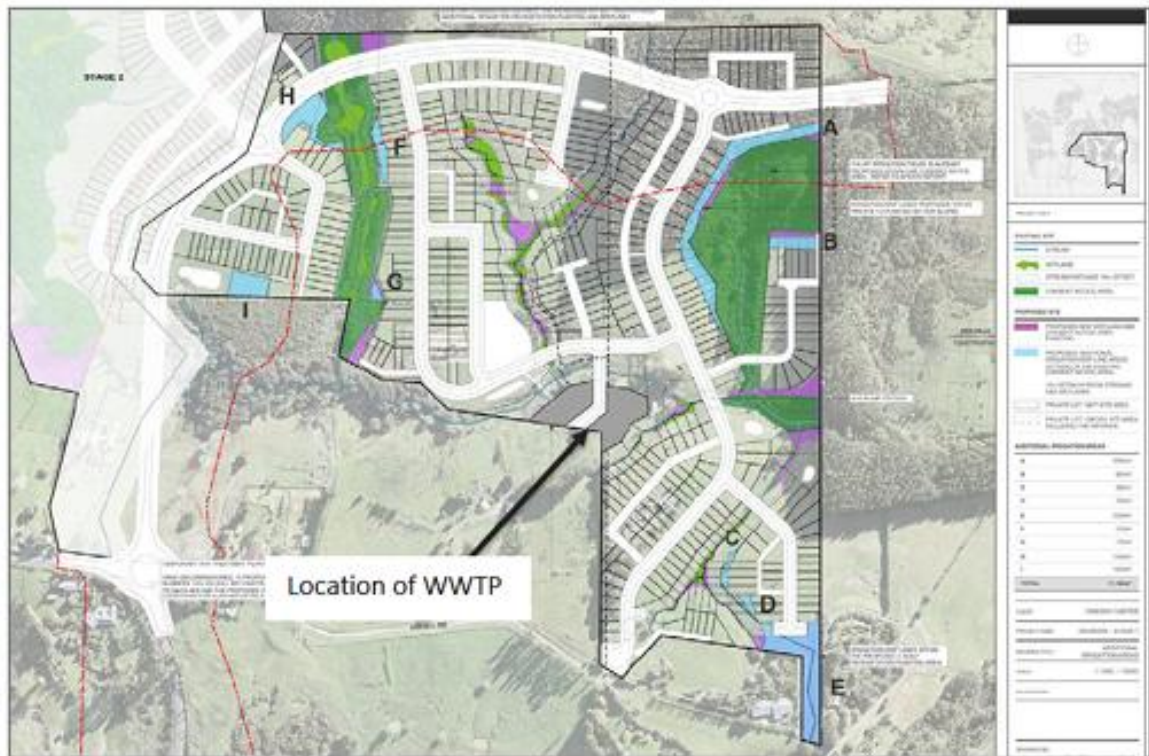
¹² RPS, B1.6 Methods.

ADVERSE IMPACTS AND AMENDMENTS / CONDITIONS SOUGHT BY WESTLAKE

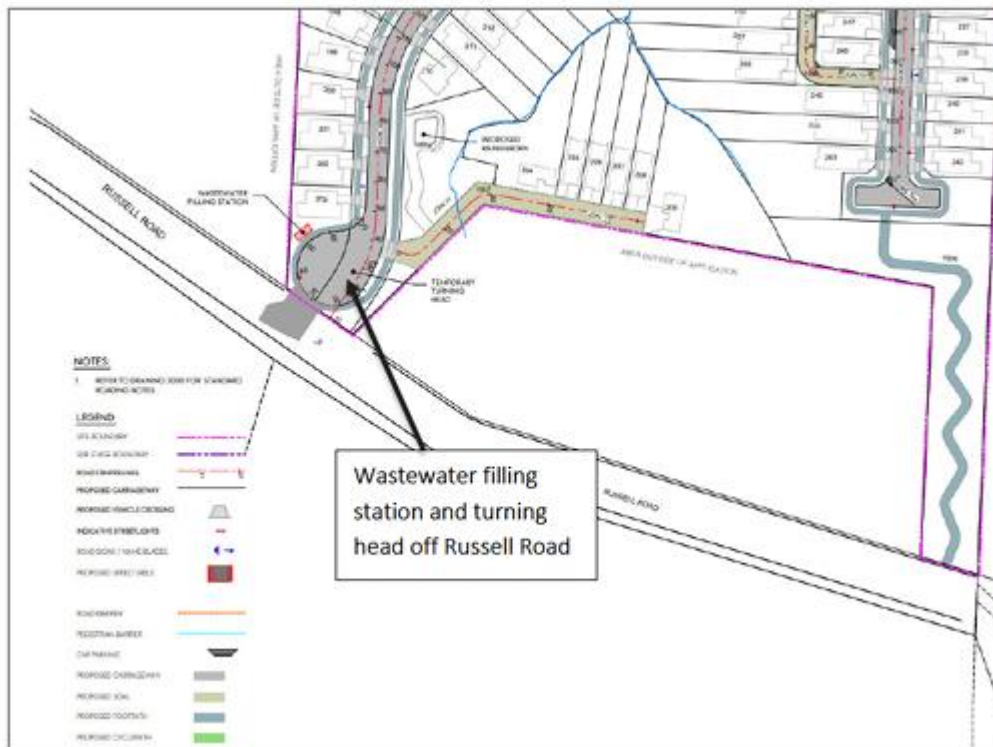
Adverse impact 1: Access to Private Water and Wastewater Infrastructure

The Infrastructure Proposed

44. The Application proposes a wholly private water and wastewater system: a private low-pressure sewer (**LPS**) network conveying waste to an on-site wastewater treatment plan (**WWTP**) (with trucking from a wastewater filling station when capacity constraints arise (**WWFS**)), and a private water treatment plant (**WTP**) fed by four groundwater bores. These are proposed because Watercare Services Limited (**Watercare**) has declined to service the development, indicating public connections may not be available until approximately 2038. The wastewater discharge consent sought has a proposed duration of 35 years.
45. The Applicant has 109ha of land to locate its wastewater infrastructure yet has chosen to externalise the adverse effects of that infrastructure to the greatest degree possible by locating both the WWTP and WWFS immediately adjacent to the boundaries with the Westlake Property:¹³



¹³ Application AEE, Figures 29 and 30.



Vineway's Special Purpose Entity Structure

46. Vineway Limited is a special-purpose entity incorporated in September 2023, and this development is its sole activity.¹⁴
47. This means that once the development is completed and lots are sold, Vineway will effectively become a shell with no assets and no ongoing obligations. All infrastructure management responsibilities will fall to the proposed Residential Society and subsequent title holders.
48. The Panel's concern¹⁵ about what would happen if the consent holder went into liquidation is not a remote contingency – it is the intended end-state of this corporate structure.
49. A consent holder that is purpose-built to be dissolved cannot provide meaningful long-term accountability for the infrastructure it creates. This reality makes robust performance bond conditions, securing obligations by way of instruments registered on the title, and clear transition arrangements not merely prudent but essential.

Structural Exclusion of Adjacent Landowners

50. The proposed Residential Society governance model restricts membership to owners of residential lots within Delmore. Condition 135 requires all residential lot owners to belong to the Residential Society.

¹⁴ Application, AEE section 3.1.

¹⁵ Minute 2 at paragraph 10(d)(i)).

51. The Panel has already raised a question about how the commercial superlot within the development will obtain infrastructure services given this membership structure – noting that Condition 114 otherwise appears to restrict itself to residential lots.¹⁶
52. The same structural concern applies with even greater force to adjacent landowners outside the development entirely. The owner of 35 Russell Road is neither a residential lot owner nor the owner of any lot within the Delmore development. By structural definition, Westlake is permanently excluded from the Residential Society, has no membership rights, no constitutional standing, and no basis on which to acquire infrastructure services. This is not an administrative gap but a structural exclusion built into the governance design.
53. The Residential Society Overview¹⁷ confirms that obligations and enforcement operate entirely through the Residential Society's Constitution, which only lot owners within the development can access. No mechanism in the proposed conditions, Residential Society documents, or technical reports provides for or contemplates infrastructure access by adjacent landowners.

Thirty-Five Years of Structural Exclusion

54. If the consent is granted to the Application as proposed, the following will apply to the Westlake Property:
 - (a) Watercare will not provide public connections to the area until approximately 2038 at earliest.
 - (b) The private Delmore infrastructure will be the only practically available reticulated water and wastewater system in proximity to the Westlake Property, controlled by a Residential Society to which Westlake has no access rights.
 - (c) For the entire 35 year duration of the wastewater discharge consent, the private WWTP will be the only viable wastewater facility in the area, and land outside of Delmore will be structurally excluded from accessing that facility.
 - (d) There is no condition requiring the Society or any successor to make infrastructure available to adjacent landowners (on any terms).
55. Such an outcome is contrary to the orderly and integrated urban development of the Upper Orewa Area as envisaged in Concept Structure Plan. That Council document, identifies the surrounding land (including the Westlake Property) as part of a broader area anticipated by Council to support approximately 600 additional dwellings in due course.
56. A critical technical point arises in this context. The proposed WWTP appears to be designed for a maximum capacity of 1,250 dwellings, which is approximately equal to Delmore's own demand of 1,213 dwellings. The system is described as semi-modular, but only within that 1,250-dwelling design ceiling. There is therefore minimal residual processing capacity available beyond Delmore's own demand, even before regard is had to the additional dwellings anticipated by Auckland Council's Concept Structure Plan for the wider area. Connection points without reserved processing capacity are of limited practical value.

¹⁶ Minute 2 at paragraph 10(d)(iv)).

¹⁷ Application, Appendix 45.

57. It is submitted that any condition the Panel imposes regarding infrastructure access for adjacent landholdings must therefore address both physical connection points and reserved processing capacity within the WWTP design.

The WWTP Is Designed to be Temporary

58. The Water, Wastewater and Utilities Report¹⁸ discloses that a valve arrangement will be installed within the LPS specifically to allow future diversion of flows from the private WWTP to the Army Bay WWTP.
59. This design feature confirms that the Applicant itself anticipates and plans for the private WWTP to be decommissioned when a public connection becomes available. Watercare has confirmed the Army Bay WWTP upgrade is scheduled for completion by 2031 and is actively exploring options to release capacity earlier. The private WWTP may therefore operate for as little as five to eight years.
60. The WWTP is designed by Apex Water Limited using the same hybrid biological nutrient removal system, including 4-stage Bardenpho activated sludge process, Membrane Aerated Biofilm Reactor, Hollow Fibre Ultra Filtration and Reverse Osmosis membranes, that Apex Water has applied to the Karaka North Village development (also approximately 1,200 dwellings, also a private temporary WWTP). The Karaka North system has been built but remains pre-operational, awaiting first connections. A directly comparable 1,250-dwelling Apex Water system at Milldale is also recently consented but not yet operational. There is no comparable private temporary WWTP of this scale and configuration that has completed a full operational cycle in New Zealand. The Delmore WWTP would be amongst the first such systems to be commissioned at scale in the country.
61. This creates a critical transition risk. When the WWTP is decommissioned and Delmore connects to the Watercare public network, the Residential Society may at that moment negotiate a Watercare connection solely for its own members, permanently locking out adjacent landowners – whose land may by then have been rezoned for residential development.
62. The consent conditions are entirely silent on this transition point and require amendment to ensure that the Residential Society is able to and required to provide access to the Watercare connection.

The LPS Encroachment Licence Contradiction

63. Auckland Transport's response memo¹⁹ confirms that private pipes cannot be placed under public road reserve without an encroachment licence, that approval is not guaranteed, and that such licences are generally given for only 20 years.
64. This creates a direct contradiction with the proposed 35-year wastewater discharge consent duration.
65. After 20 years, the LPS network's legal right to occupy the road reserve may lapse, potentially leaving the entire private wastewater system without a legal operational basis at a time when the Army Bay upgrade may still not have delivered a public alternative.

¹⁸ Application, Appendix 27.

¹⁹ Application, Appendix 24.1.

66. This structural uncertainty directly affects the reliability of any future infrastructure access rights for adjacent landowners.

The Panel's Unresolved Questions

67. Minute 2 raises unresolved questions including: what happens to infrastructure services if the consent holder goes into liquidation; how the Residential Society would fund major plant repairs without owning the land or plant; and which party is responsible for operating the water treatment plant (a matter the Panel noted the proposed conditions are entirely silent on).²⁰
68. These questions remain unanswered and are directly relevant to Westlake's concerns.

Section 84A of the Fast-track Approvals Amendment Act 2025

69. The Panel has invited comment on the extent to which s 84A changes the Panel's ability to impose conditions relating to infrastructure.²¹
70. Westlake supports the Panel exercising whatever powers are available under section 84A to ensure that (in the absence of a plan change that would ordinarily co-ordinate infrastructure funding and delivery) conditions are imposed that would do the usual work of a plan change to ensure that Delmore does not permanently exclude adjacent landowners from access to essential water and wastewater services, and that address the transition from private to public infrastructure.

Conditions Sought to Address Adverse Impact 1: Access to Private Water and Wastewater Infrastructure

71. Westlake seeks conditions requiring that:
- (a) The consent holder must design and construct the private water supply and wastewater systems with sufficient physical capacity and appropriately located connection points to accommodate the future urban development anticipated by the Concept Structure Plan for adjacent landholdings including 35 Russell Road (Lot 1 DP 397356), 11 Russell Road and 3 Russell Road. Specifically, the design must reserve processing capacity within the WWTP and WTP equivalent to the additional dwellings anticipated by the Concept Structure Plan for the wider area, of which 35, 11 and 3 Russell Road form part, in addition to physical connection points. This is requested in order to give effect to Council's pre-existing planning framework, not to facilitate any specific development by the adjacent landowners. Connection points without reserved processing capacity would be of limited practical value to anyone seeking to give effect to the Concept Structure Plan in due course.
 - (b) The consent holder must, and must ensure any successor and/or the Residential Society must, upon written request from the owner of any directly adjoining land, negotiate in good faith to permit connection to the private networks. Terms must not exceed the reasonable actual cost of connection and maintenance.

²⁰ Minute 2, paragraphs 10(d)(i) through 10(d)(v)).

²¹ Minute 2, paragraph 10(e).

- (c) The Residential Society's Constitution must expressly provide for infrastructure services agreements with adjacent landowners and must not contain provisions that prohibit or unreasonably restrict such agreements.
- (d) If a connection agreement is not concluded within 60 working days of a written request, the matter must be referred to independent arbitrator determination (with appointment to be agreed between the parties, or failing agreement appointed by the President of the New Zealand Law Society, with costs borne equally unless the expert determines one party acted unreasonably.
- (e) Upon decommissioning of the private WWTP and/or WTP and transition to a Watercare public connection, the consent holder and Residential Society must notify owners of all adjacent landholdings at least 40 working days in advance and must actively facilitate and not obstruct Watercare connection applications from adjacent landowners as part of or following the same transition process.
- (f) The consent holder must not seek or accept any Watercare connection arrangement that expressly or in effect excludes adjacent landowners from equivalent connection rights.
- (g) Prior to commencement of infrastructure operations, the consent holder must lodge with Auckland Council a performance bond or unconditional bank guarantee equivalent to not less than five years' estimated operating costs of the WWTP and WTP, to be held as security against failure of infrastructure services. This bond must not be released until Watercare public connections for the Delmore have been confirmed as operational. Westlake notes that in 2019, a consortium of developers building water infrastructure in the Karaka/Hayfield area of South Auckland went into liquidation mid-project, leaving hundreds of completed homes without water connections for years. This is not a theoretical risk.
- (h) The consent holder must demonstrate, prior to commencement of operations, that the proposed Residential Society annual levy of \$1,318 per dwelling²² is adequate to cover the actual long-term operating costs of the Apex Water WWTP and WTP technology proposed (which on industry comparators may exceed \$1,000 per dwelling per year for WWTP operation alone), in addition to the Society's other obligations including roading, landscaping, common areas and reserves. Independent cost verification must be provided to Auckland Council.

Adverse Impact 2: Groundwater Dewatering and Adjacent Properties

72. The application proposes large scale earthworks and dewatering including drawdown of up to 6m near the boundary with the Westlake Property²³. Westlake requests conditions requiring:
- (a) A baseline groundwater survey in the vicinity of adjacent properties including 35 Russell Road, completed prior to commencement of earthworks.

²² Refer Application, Appendix 45.
²³ Application, Appendix 16.

- (b) In the event that dewatering demonstrably causes material adverse effects on adjacent properties, the consent holder must take immediate remedial action at no cost to adjacent landowners.

Adverse Impact 3: Earthworks, Stormwater, Flooding and Boundary Stability

- 73. The development involves bulk earthworks across approximately 109 hectares immediately adjacent to 35 Russell Road along its northern and eastern boundaries.
- 2. These works will materially alter surface drainage, ground contours and slope stability in proximity to the shared boundaries.
- 74. Westlake seeks conditions requiring:
 - (a) Pre and post-development stormwater flow modelling must specifically assess impacts on 35 Russell Road, and results must be made available to adjacent landowners prior to bulk earthworks commencing.
 - (b) The consent holder must ensure no earthworks, grading, stormwater infrastructure or other stormwater management works creates or increases flooding or ponding on 35 Russell Road compared to pre-development conditions.
 - (c) The consent holder must ensure no earthworks, grading, stormwater infrastructure or other stormwater management works creates or increases erosion or scour at 35 Russell Road compared to pre-development conditions.
 - (d) For earthworks within 50 metres of the northern or eastern boundaries of 35 Russell Road, the consent holder must, prior to those works, provide an independent geotechnical assessment of boundary slope stability to Council, and must construct any necessary retaining structures or batters at its own cost and on its land to prevent soil movement onto Westlake's land.
 - (e) Settlement monitoring adjacent to the shared boundaries must be conducted for six months following completion of earthworks, with results provided to the owner of 35 Russell Road.
 - (f) In the event that post-development monitoring identifies adverse stormwater or geotechnical effects on 35 Russell Road, the consent holder must remediate those effects at its cost.

Adverse Impact 4: Russell Road Access, Traffic Safety and Roundabouts

The Roundabout Funding Gap

- 75. The Roding and Access Report²⁴ identifies two future roundabouts described as 'to be built by others', specifically at the intersections of (a) NoR 6 and Russell Road, and (b) Road 17 and Russell Road.
- 76. The Panel in Minute 2 (paragraph 10(b)) has identified the timing and implications of road upgrades and connections as a matter of concern, with particular reference to Wainui Road and the Ara Hills development.

²⁴ Application, Appendix 25, Section 4.8.

77. Westlake considers that the same concern applies with equal force to the two future roundabouts at Russell Road, which have no identified funding party, no trigger condition, and no construction timeframe.
78. Westlake notes that unlike the Road 17/Upper Orewa Road roundabout (which the Applicant has committed to constructing when cumulative occupancy reaches 1,325 dwellings), the two Russell Road roundabouts have no identified funding party, no trigger condition, and no construction timeframe.
79. The proposed development will generate significant additional traffic at these intersections from the date of first occupation. The absence of any consent condition requiring either the completion of these roundabouts before a specified occupancy threshold, or the installation of interim traffic management measures at Russell Road intersections, leaves the existing rural residents of Russell Road without protection during what may be an extended period of elevated traffic risk.

Road 1/Russell Road Lifting Arm – Dual Use Compound Risk

80. Auckland Transport's response memo²⁵ states that the Road 1/Russell Road vehicle crossing is controlled by an automatic lifting arm, and that in the event of Grand Drive Interchange closure or significant congestion, this access 'can be converted to an alternative route for Stage 1 traffic' until the Upper Orewa Road secondary access is opened.
81. This means Russell Road will serve not only as a regular route for WWTP tanker trucks but also as an emergency overflow route for up to 483 Stage 1 dwellings.
82. This dual use creates a compounding risk for the existing rural residents of Russell Road, whose sole access route may simultaneously face WWTP commercial traffic and emergency residential overflow traffic, with no condition currently proposed to manage these concurrent demands or protect existing residents' access.

Safety Deficiency at Russell Road/Upper Orewa Road Intersection

83. Auckland Transport's response memo²⁶ explicitly states that sight lines at the Russell Road/Upper Orewa Road intersection are not supported by AT, and that a driver turning right into Russell Road would need to execute a 135-degree turn from an unsafe position. Every journey to or from the Westlake Site necessarily passes through this intersection, (as do all journeys to and from 11 and 3 Russell Road).
84. Westlake's long-term tenant regularly drives a large modified four-wheel drive vehicle – a vehicle type with a wider turning radius and different sight line requirements to a standard passenger car – through this intersection.
85. Auckland Transport has identified a safety deficiency at exactly the intersection used daily by Westlake and / or the property's occupant, and the proposed consent conditions do not require this deficiency to be remedied.

²⁵ Application, Appendix 24.1, item 8.

²⁶ Application, Appendix 24.1, item 16.

WWTP Tanker Truck Operations on Russell Road

86. The Roding and Access Report²⁷ confirms that Road 1's cul-de-sac has been designed to accommodate a 6-metre 'sucker truck' for WWTP waste removal, and that a commercial vehicle crossing with restricted access will be constructed between Road 1 and Russell Road.
87. This confirms that regular heavy commercial vehicles will use Russell Road as a permanent operational route during the WWTP's operational life, which may extend for five to eight years.
88. This is not a construction-period effect but a long-term operational impact on a rural road used as the sole access for existing rural properties. While there is a right for traffic to use roads, in this case, this additional long term adverse effect arises as direct consequence of the Applicant's proposed infrastructure arrangements that are required due to the development being out of sequence with planned urbanisation and provision of public infrastructure.
89. No condition currently limits tanker operating hours, frequency, or requires repair of road surface damage caused by these vehicles.

Requested Conditions to address Adverse Impact 3

90. Westlake seeks conditions requiring that:
 - (a) Prior to first occupation of any Delmore dwelling, the consent holder must obtain from Auckland Transport written confirmation of the funding party, construction trigger and delivery timeframe for the NoR 6 / Russell Road and Road 17 / Russell Road roundabouts and provide that confirmation to Auckland Council. Until that confirmation is received and roundabouts are operational, the consent holder must install and maintain interim traffic management measures at both intersections adequate to safely manage the interaction between Delmore traffic and Russell Road rural access.
 - (b) The AT-identified sight line deficiency at the Russell Road/Upper Orewa Road intersection must be remedied as a pre-occupation condition for Stage 1, and the remedy must be designed to accommodate large vehicles including modified four-wheel drives.
 - (c) The Construction Traffic Management Plan (CTMP) must specifically address Russell Road including tanker truck routes, operating hours (not before 07:00 or after 18:00 on weekdays, not at all on weekends or public holidays), maximum weekly frequency of heavy vehicle movements, and the consent holder's obligation to repair any road surface damage caused by commercial or construction vehicles at its own cost. The draft CTMP must be provided to the owner and occupant of 35 Russell Road for comment prior to certification.
 - (d) The Road 1 / Russell Road lifting arm must be designed and maintained to permit immediate unobstructed passage by emergency services vehicles at all times, independently of any management or override system. The owner and occupant of 35 Russell Road must be provided with emergency contact details and access override information for the lifting arm.

²⁷

- (e) The consent holder must maintain continuous, safe and unobstructed vehicular access to 35 Russell Road at all times during construction, including during any road works near Russell Road. At least 20 working days' written notice must be given to the owner and occupant of 35 Russell Road prior to any works affecting access.

Adverse Impact 3: WWTP and WWFS Operational Odour and Noise

91. The Delmore WWTP will operate 24 hours a day, 7 days a week for an estimated five to eight years, processing wastewater from up to 1,250 dwellings. The WWTP Design Report (Appendix 29) includes a dedicated section on odour management, confirming that odour generation is a recognised operational risk of the proposed treatment technology.
92. The WWTP and the WWFS will be located on land that shares a boundary with 35 Russell Road, which is actively occupied as a residential dwelling.
93. The Apex Water system proposed includes specific operational risks beyond standard WWTP impacts that require explicit conditions: (a) Reverse Osmosis membranes require high-pressure pump operation, generating continuous mechanical noise distinct from biological treatment noise; (b) the RO process produces a concentrated reject stream of approximately 15-25 percent of the treated flow, requiring ongoing disposal arrangements that have not been clearly described in the Application; (c) the system requires regular chemical cleaning of membranes using sodium hypochlorite, sodium hydroxide and citric acid, all of which require on-site bulk storage and create odour, accidental spill and air emission risks; (d) odour scrubber chimney stacks form part of the design and emit treated air at elevated heights; (e) the chemical delivery apron requires ongoing tanker delivery of bulk chemicals to the site over the entire 5-8 year operational period.
94. The current proposed consent conditions do not identify 35 Russell Road as a sensitive receiver for WWTP operational odour or noise. All odour and noise conditions appear directed at construction-period effects.
95. Westlake considers that the Applicant should amend the proposal to relocate the WWTP and WWFS away from external boundaries of the Delmore Site and that its current proposed location is disproportionately requiring Westlake to take the burden of wastewater infrastructure that it receives no benefit from because it is structurally excluded.
96. If the WWTP and WWFS are not relocated to a central location within the Delmore Site then Westlake seeks conditions that require:
- (a) A minimum 150-metre buffer between any WWTP/WWFS infrastructure and external boundaries of the Delmore Site, consistent with industry best practice for residential receivers.
- (b) 35 Russell Road must be expressly identified as a sensitive odour and noise receiver in all WWTP and WWFS operational management plans and consent conditions relating to odour and noise emissions from the WWTP and WWFS.

- (c) WWTP and WWFS operational odour at the boundary of 35 Russell Road must not exceed the limits applicable to residential receivers under the AUP(OP) at any time.
- (d) A complaints management procedure for WWTP operational odour and noise must be established that is accessible to adjacent landowners and not limited to internal Delmore residents. The consent holder must respond to any complaint from the owner or occupant of 35 Russell Road within 5 working days and must take remedial action where odour or noise exceedances are confirmed.
- (e) Operational noise from WWTP plant and equipment must be assessed against NZS 6802:2008 Acoustics – Environmental Noise using 35 Russell Road as a measurement receptor, and compliance must be demonstrated prior to WWTP commissioning.
- (f) The consent holder must disclose, prior to commencement, the proposed disposal arrangements for the Reverse Osmosis reject stream, the on-site chemical storage volumes, and the chemical delivery schedule. Bulk chemical deliveries to the site must be limited to weekday daytime hours and routed to avoid the Russell Road/Upper Orewa Road intersection during peak periods.
- (g) Odour scrubber chimney stack emissions must comply with AUP residential air quality standards at the boundary of 35 Russell Road, with continuous emission monitoring data available to the owner and occupant on request.

Adverse Impact 6: Construction Noise, Vibration and Dust

- 97. 35 Russell Road shares northern and eastern boundaries with the Delmore site, separated only by post-and-wire farm fencing. The property is actively occupied as a residential dwelling. The proposed development involves 8 years of bulk earthworks and construction across 109 hectares (indicative timeline 2026–2034).
- 98. Westlake seeks conditions requiring:
 - (a) 35 Russell Road must be expressly identified as a sensitive receiver in the CNVMP and CAQMP, with specific mitigation measures for activities within 200 metres of the northern and eastern boundaries.
 - (b) At least 10 working days' written notice must be provided to both the owner and the occupant of 35 Russell Road prior to bulk earthworks, vegetation clearance or significant construction activities within 300 metres of the shared boundaries.
 - (c) The consent holder must provide the occupant of 35 Russell Road with a direct site manager contact name and phone number prior to commencement of any works, updated promptly on any change.
 - (d) In the event that construction noise or vibration causes the residential tenant to vacate or to seek a rent reduction under the Residential Tenancies Act 1986, the consent holder must reimburse the owner 35 Russell Road for the resulting rental income loss, to the extent that loss is directly attributable to non-compliance with the CNVMP or applicable noise standards.

Adverse Impact 7: Existing Lawful Activities

99. The AEE (Section 11.10) addresses reverse sensitivity in the context of Delmore's own sensitivity to surrounding rural activities. However, the Application does not assess the reverse sensitivity effect that 1,213 new urban dwellings will have on the existing lawful activities currently conducted at 35 Russell Road. This is a material omission.
100. The AUP H18.3 policies require avoidance of development that 'gives rise to reverse sensitivity effects in relation to existing rural activities'.
101. The effect of Delmore on existing lawful activities needs to be assessed in the context that this is urbanisation of FUZ land, well ahead of the proposed 2050+ development timeframe in the FDS.
102. Westlake identifies two specific existing lawful activities that will be significantly and adversely affected.

Commercial Solar Energy Development Project

103. Westlake's associated entity, Westlake Capital Limited, in which Westlake holds a 99.8% shareholding, entered into a formal Heads of Agreement with Solar Hub NZ Limited dated 13 December 2022 for the establishment of the Russell Road Solar Farm at the Westlake Property.
104. This project is not a concept or aspiration but a documented commercial undertaking supported by: a formal engineering design plan and site layout submitted to Auckland Council as part of a resource consent pre-inquiry; a specialist contractor's detailed cost breakdown of approximately NZD \$3.8 to \$4.3 million covering components, installation, geotechnical assessment and grid connection; and formal engagement with Vector as the relevant lines company regarding grid connection pricing and capacity under Vector's Northern Network.
105. The project proposes 7,131 solar panels with a total capacity of approximately 3.9MW and an estimated first-year generation of approximately 5,440MWh, with an operational lifespan of 35 to 40 years. The project has been explored at a preliminary level but not progressed due to commercial considerations arising from the uncertainty created by the Delmore application, but has not been abandoned.
106. Solar photovoltaic development is an appropriate use of FUZ land. The proposed solar farm is a commercial energy installation that is fully compatible with the property's continued rural and agricultural use, and is not associated with any subdivision or residential development of the land.
107. Delmore will adversely affect this project in several material and irreversible ways:
 - (a) First, once 1,213 residential dwellings are constructed on three sides of 35 Russell Road, new residents will have standing to lodge glare and visual amenity complaints regarding solar panel installations with Auckland Council, creating a practical barrier to commissioning the solar farm regardless of its legal permissibility.

- (b) Second, the 8-year construction period will make safe installation of solar infrastructure on the property impractical.
 - (c) Third, the northern boundary residential buildings may affect solar access angles during winter months, reducing the project's energy yield and financial viability. Fourth, future rezoning of the surrounding area to residential zones may introduce planning restrictions on commercial energy installations in proximity to residential development.
108. The AEE contains no assessment of these effects on the Westlake's commercial solar project, which represents a documented investment commitment of approximately \$3.8 to \$4.3 million and a project life of 35 to 40 years.
109. Westlake requests that:
- (a) The Panel record in its decision that the AEE has failed to assess the reverse sensitivity effects of Delmore on this existing commercial solar energy project; and
 - (b) Consent conditions be imposed requiring covenants to be registered on the titles of lots within Delmore within 100m of a boundary with 35 Russell Road or with a direct line of sight to Russell Road or within 100m (whichever is greater) that acknowledge that the lot adjoins a FUZ, that rural and rural infrastructure land uses are anticipated in the FUZ, and expressly preserves the right of the owner of 35 Russell Road to install, operate and maintain solar photovoltaic infrastructure on that property, and confirm that Delmore residents may not raise glare or visual amenity objections through any Council process to obstruct the development or operation of that infrastructure.

Agricultural and Rural Activities

110. The Westlake Property has historically been used for pastoral farming including cattle grazing, and all associated infrastructure and facilities remain in place in operational condition.
111. The property is currently in an agricultural resting period with no active grazing at present, but it is fully capable of resuming pastoral farming operations at any time.
112. The continuation of lawful rural use is a permitted activity under AUP H18 of the AUP. Once 1,213 new urban dwellings are established on three sides of this cluster of rural properties, any continuation or resumption of ordinary rural activities at 35 Russell Road will be subject to noise, odour and nuisance complaints from new residents, effectively deterring their resumption without any planning process.
3. Westlake requests consent conditions that require:
- (a) That the consent holder include in the Residential Society's Constitution a provision that new residents acknowledge the pre-existing rural character and lawful rural activities of adjacent landholdings, and agree not to use Council complaint mechanisms to obstruct those activities.
 - (b) Covenants to be registered on the titles of Delmore lots within 100m of a boundary with 35 Russell Road that acknowledge that the lot adjoins a FUZ, that rural and rural infrastructure land uses are anticipated in the FUZ and

confirm that Delmore residents may not object or complain about, or use Council processes to limit, rural land uses on adjoining properties.

Adverse Impact 8: Residential Tenant Rights as Occupier

113. 35 Russell Road is actively occupied by a long-term residential tenant. Under sections 53(2)(h) and 53(h)(i) of the Act, both owners and occupiers of adjacent land must be invited to comment. Westlake notes that the tenant, as an occupier, has an independent right to comment and has been advised of this right and the deadline.
114. The tenant's specific concerns include: the daily use of a large modified four-wheel drive vehicle at the Russell Road/Upper Orewa Road intersection that Auckland Transport has identified as unsafe; the impact of 8 years of construction noise and dust on quiet enjoyment of the dwelling; and the adequacy of the WWTP operational odour management given the proximity of the WWTP site to the residential dwelling.
115. Westlake requests that all conditions relating to noise notification, dust management, and access safety expressly extend to the occupant of 35 Russell Road and not only to the registered owner.

Adverse Impact 9: Planning Coherence – Isolated Rural Enclave

116. The approval of Delmore as proposed, without any assessment of or provision for the future of 35 Russell Road, 11 Russell Road and 3 Russell Road, will create an isolated rural enclave of approximately 13 hectares surrounded on three sides by 1,213 urban dwellings and on the fourth side by what will become an urban arterial road (Russell Road).
117. This outcome directly conflicts with the AUP H18.3 policy requiring avoidance of '*subdivision that will result in the fragmentation of land and compromise future urban development*', and the policy requiring avoidance of development that '*undermines the form or nature of future urban development*'.
118. This concern is raised on planning grounds, not on the basis of any development intention. Westlake has held 35 Russell Road since 2019 for long-term investment, residential tenancy and rural use, and is content to continue using the land for those purposes.
119. The fragmentation problem identified here arises from the planning structure itself: The Concept Structure Plan already anticipates the eventual integrated urban development of the wider Upper Ōrewa Area, including 35, 11 and 3 Russell Road.
120. It is Council's planning framework, not Westlake that contemplates future urban use of these properties. Westlake asks that the Panel and Council give due regard to that pre-existing planning framework when evaluating the present application, so that long-term planning coherence is preserved regardless of any individual landowner's future intentions.
121. The Concept Structure Plan already identifies the surrounding approximately 60 hectares, including these three properties, as part of a broader Upper Ōrewa Area expected to support approximately 600 additional dwellings.

122. Approving Delmore without ensuring that its infrastructure design is consistent with Council's pre-existing structure plan would defer the resolution of these planning matters to a later date when the practical and infrastructure cost of doing so will be substantially greater.
123. As a matter of orderly planning, the appropriate moment to ensure consistency with Council's structure plan is at the design stage of the present application, before the surrounding development is built. Whether and when any individual landowner pursues development is a separate matter for that landowner and Council in due course.
124. Additionally, the Note of Requirement No. 6 (**NoR 6**) alignment traverses or affects land at 3 Russell Road. This has not been addressed in the application documents in terms of its effect on that landowner.
125. Westlake requests that the Panel record in its decision that:
 - (a) the approval of Delmore creates an isolated rural enclave at 35, 11 and 3 Russell Road that is inconsistent with integrated urban development principles;
 - (b) Council should, as a consequence of this approval, prioritise the initiation of a plan change process to address the future planning status of these three properties; and
 - (c) the Applicant must design all infrastructure adjacent to these three properties with sufficient capacity and connection points to give effect to the urban development anticipated by the Concept Structure Plan.

Adverse Impact 10: Inadequate Public Facilities and Open Space and Recreation Provision

126. The Application proposes 1,213 dwellings, with an estimated future population of 3,000 to 3,500 residents. However, the proposed public facilities and open space provision are limited to: approximately five neighbourhood parks of unspecified size; stream-margin walkways; and approximately 50 hectares of native bush protection (which consists almost entirely of pre-existing covenanted vegetation, not newly created public open space).
127. The Application does not provide for, and contains no commitment in respect of, any of the following public facilities that would ordinarily accompany an urban community of this scale: a school site; a neighbourhood retail or commercial centre; sports fields; community or civic facilities; dedicated children's playgrounds; or public esplanade reserves along stream margins. Indeed, the original referral application expressly states: "It is not anticipated that esplanade reserves will be required because of initial stream width assessments" – meaning the stream walkways may be privately controlled by the Residential Society rather than dedicated as public open space.
128. This level of public facility provision falls substantially short of Auckland Council's open space provision standards for new urban communities of comparable scale in the recently adopted Manaaki Tāmaki Makaurau: Auckland Open Space, Sport and Recreation Strategy. By way of comparison, the neighbouring Milldale development (4,500 dwellings) includes a town centre, a school site, a retirement village, multiple

parks, sports fields and integrated community facilities. Delmore, at approximately 27% the scale of Milldale, provides none of these complementary facilities.

129. The absence of these facilities has direct adverse consequences for Westlake and adjacent landowners:

- (a) Without sports fields or dedicated recreational open space, residents of 1,213 dwellings will likely seek informal recreational use of adjacent rural land, including the Westlake Property. This is a tangible reverse sensitivity effect on existing lawful rural activities.
- (b) Without a neighbourhood retail centre, residents will need to travel to existing centres in Orewa or Silverdale for daily needs, materially increasing traffic at the Russell Road/Upper Orewa Road intersection that Auckland Transport has already identified as having unsafe sight lines.
- (c) Without an indicative school site, an estimated 400–600 school-aged children will travel to schools outside the development, creating concentrated morning and afternoon traffic peaks at the same safety-deficient intersection.
- (d) Without public esplanade reserves, the stream walkway network may become privately controlled common property of the Residential Society, structurally excluding adjacent landowners and the wider public from a network of recreational open space that, should appropriately be vested as public reserve.

130. The cumulative effect of these omissions is that the Application, as currently proposed, would not deliver a 'well-functioning urban environment' within the meaning of NPS-UD Policy 1. It delivers residential dwellings without the supporting urban infrastructure, services and amenities that make a residential community viable as an urban community.

131. The shortfall is deferred onto neighbouring areas (existing Orewa, Silverdale and adjacent rural land) and onto adjacent landowners (the Westlake Property and 11 and 3 Russell Road) who will absorb the indirect effects.

132. These conditions are sought to safeguard the Westlake's long-term residential and rural use of 35 Russell Road, and the existing planning framework established by Council. Westlake is not seeking access to or use of any of these public facilities for development purposes, but is exposed as a passive adjacent landholder to the consequences of their absence.

133. Westlake requests that:

- (a) The Applicant is to provide a detailed open space provision analysis assessed against Manaaki Tāmaki Makaurau: Auckland Open Space, Sport and Recreation Strategy, identifying any shortfall and the proposed remedy by way of amendments to the scheme plan.
- (b) The Applicant is to amend the proposal to provide at least one sports field of minimum 1 hectare within the development to accommodate informal recreational demand.

- (c) The Applicant amend the proposal so that esplanade reserves of standard width must be vested as public reserves along all permanent streams within the development site as if these were streams of 3m width under the RMA.
 - (d) The Applicant to provide details of any prior consultation with the Ministry of Education regarding whether a school site is anticipated to be required within the Delmore Site or, if such consultation has not been undertaken to consult with the Ministry of Education and advise the Panel of the outcome of that consultation. If consultation indicates a school will be required, then Westlake seeks that the Application be amended to reserve land for a school site (available to be acquired by the Crown for education purposes).
134. Westlake seeks a condition requiring that the Residential Society Constitution must expressly prohibit the Society or its members from obstructing the lawful rural use of adjacent landholdings on the basis that residents have insufficient on-site recreational facilities.

Adverse Impact 11: Stage 2 Non-Completion Scenario

135. The Application documents clarify that Stage 2 (approximately 730 dwellings) may not proceed until Army Bay WWTP upgrade capacity is confirmed, which is not expected before 2031.
136. If Stage 2 is delayed significantly beyond that – due to Watercare delays, capacity constraints from competing developments, the Applicant’s own financial difficulties, or Residential Society governance disputes – the Westlake Property could, for an extended period, face Stage 1 development on its northern boundary while Stage 2 land on its eastern boundary remains in a partially disturbed, partially earthworks state, potentially for many years.
137. This scenario, which the application documents acknowledge as possible, is worse for adjacent landowners than full build-out. No conditions address this contingency.
138. Westlake requests that consent conditions require that if Stage 2 civil works have not commenced within three years of Stage 1 title issue, the consent holder must remediate the Stage 2 earthworks area to a stable, revegetated condition, and must provide the owner of 35 Russell Road with a written update on Stage 2 status and timeline.

CONCLUSION

139. Westlake does not oppose Delmore provided that the concerns in these comments are addressed by amendments to the proposal or imposition of conditions.
140. The conditions requested in these comments are directed at ensuring that a development of this scale and complexity, constructed over eight years immediately adjacent to and substantially surrounding the Westlake Property, does not permanently and irretrievably harm Westlake’s existing lawful property rights, commercial activities, residential tenancy, and the property’s existing planning status as recognised by Council.
141. Westlake is not a property developer, has not undertaken any subdivision or development activity in respect of the property, and does not propose to do so.

142. The matters raised in these comments, and the conditions sought, are concerned with the protection of the Westlake Property and the lawful uses presently associated with it. Further, Westlake is concerned to ensure that the planning framework already established by the AUP and Concept Structure Plan for the wider Upper Orewa Area is not compromised by Delmore.
143. Several of the concerns raised in these comments are directly aligned with unresolved questions the Panel itself has identified in Minute 2.
144. In particular, the Panel has identified the governance of the private WWTP and WTP as matters of serious concern. Westlake respectfully notes that the application is structured around a special-purpose entity that is designed to be dissolved once development is complete, leaving a private Residential Society with no public accountability in permanent control of the only available water and wastewater infrastructure for a 13-hectare cluster of adjacent rural properties.
145. Westlake respectfully requests that the Panel record in its decision while the Application would deliver significant housing benefits, it creates an isolated rural enclave at 35, 11 and 3 Russell Road that requires proactive planning attention from Council, and that the Supporting Growth Alliance's 2019 North Auckland Indicative Strategic Transport Network confirms Wainui Road upgrades as an official strategic priority that should inform the sequencing of further development in this area.
146. Westlake requests the opportunity to be heard by the Panel if the matters raised in these comments are not satisfactorily addressed through the comment process.

SCHEDULE TWO: SUMMARY OF REQUESTED CONDITIONS

Private Infrastructure (Water and Wastewater):

- Infrastructure capacity and connection points for adjacent landowners.
- Good faith negotiation obligation on consent holder, successors and Residential Society.
- Residential Society Constitution to permit adjacent landowner agreements.
- 60-working-day independent expert determination if agreement not reached.
- 40 working days' notice of WWTP/WTP decommissioning; no exclusion of adjacent landowners from Watercare transition.
- Performance bond equivalent to 5 years' operating costs, released only on confirmed Watercare connection.

Groundwater:

- Baseline and ongoing monitoring; remediation obligation if dewatering associated with earthworks causes adverse effects.

Earthworks, Stormwater and Boundary Stability:

- Pre/post stormwater modelling; no increase in flooding on 35 Russell Road.
- Geotechnical assessment and retaining structures within 50 metres of shared boundaries.
- Six-month settlement monitoring after earthworks completion.

Russell Road Access and Traffic Safety:

- Written AT confirmation of roundabout funding/timing before first occupation; interim traffic management until roundabouts operational.
- Russell Road/Upper Orewa Road sight line deficiency remedied for large vehicles as pre-occupation condition.
- CTMP to address tanker hours, frequency, road repair; provided to owner and occupant for comment.
- Lifting arm to permit emergency services passage at all times; owner and occupant given override access.
- 20 working days' notice of access-affecting works to owner and occupant.

WWTP and WWFS Operational Odour and Noise:

- 35 Russell Road identified as sensitive receiver in operational plans.
- Compliance with residential odour and noise limits at 35 Russell Road boundary.
- Complaints procedure accessible to adjacent landowners; response within 5 working days.

Construction Noise, Vibration and Dust:

- 35 Russell Road identified as sensitive receiver in CNVMP and CAQMP.
- 10 working days' notice of earthworks within 300 metres to owner and occupant.
- Rental income loss reimbursement if construction causes tenant to vacate or seek rent reduction.

Reverse Sensitivity and Existing Lawful Activities:

- Panel to record that AEE has not assessed reverse sensitivity effects on solar development, and agricultural activities at 35 Russell Road.
- Consent conditions to ensure that the existing lawful right to operate commercial solar energy infrastructure at 35 Russell Road is not obstructed by Delmore residents through Council complaint mechanisms.
- Residential Society Constitution to include rural activities acknowledgement clause.
- Registration of non-complaints covenants.

Tenant/Occupier:

- All notification, noise and access conditions to extend to occupant of 35 Russell Road, not only registered owner.

Planning Coherence:

- Panel to record that approval creates isolated rural enclave inconsistent with integrated urban development principles.
- Panel to recommend that Council prioritise plan change process for 35, 11 and 3 Russell Road.
- Infrastructure adjacent to these three properties to be designed with capacity consistent with Council's Concept Structure Plan.

Public Facilities and Open Space and Recreation:

- Detailed open space provision analysis against Auckland Council standards before bulk earthworks commence.
- At least one sports field of minimum 1 hectare provided within the development.
- Public esplanade reserves vested along all permanent streams within the Delmore Site.
- Ministry of Education consultation and reservation of school site if required by catchment demand.
- Residential Society Constitution to prohibit obstruction of adjacent rural land use on the basis of insufficient on-site recreational facilities.

Stage 2 Contingency:

- If Stage 2 not commenced within 3 years of Stage 1 title issue, earthworks area to be remediated and owner of 35 Russell Road provided written status update.