

BEFORE A PANEL OF INDEPENDENT HEARINGS COMMISSIONERS

FTA-2502-1019

UNDER the Fast Track Approvals **Act** 2024 ("**FTAA**")

IN THE MATTER of an application by Kiwi Property Holdings No.2 Limited
under section 42 FTAA for approvals relating to the Drury
Metropolitan Centre Project

MEMORANDUM OF COUNSEL FOR KIWI PROPERTY HOLDINGS NO. 2 LIMITED

9 JULY 2025

**ELLIS GOULD
LAWYERS
AUCKLAND**

REF: Douglas Allan (dallan@ellisgould.co.nz)
Alex Devine (adevine@ellisgould.co.nz)

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48 Shortland Street, Auckland
Tel: 09 307 2172
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May it please the Panel:

1. This memorandum is filed on behalf of Kiwi Property Holdings No.2 Limited (“**Kiwi Property**”). It identifies independent technical advisors who might appropriately be appointed, in the event the Panel elects to utilise its powers under the FTAA to prepare or commission a report on an issue relevant to the application¹ or appoint special and/or technical advisers.²
2. The advisors identified below have previously provided independent technical assistance to decision makers on Kiwi Property’s Drury development so have familiarity with and an understanding of the site, its physical context, and the relevant planning regime.
3. Ideally, any differences of opinion between expert consultants for parties invited to comment on the project and those advising Kiwi Property will be limited in scope and scale, given the activities proposed are anticipated by and largely consistent with the Drury Centre Precinct. If that is the case, then the Panel may not consider it necessary to commission any technical reports and/or appoint advisers.
4. If, however, differences of opinion do arise, then as noted in Kiwi Property’s memorandum to the Panel Convener (copy appended as **Annexure A** for ease of reference) these will most likely relate to transport, stormwater and ecology issues. The content of the Council’s memorandum dated 23 June 2025 regarding “*Section 67 Further Information*” appears to be broadly consistent with that view.
5. Stage 1 of the Drury Metropolitan Centre Project was progressed under the Covid-19 Recovery (Fast-track Consenting) Act 2020. As part of that process, the relevant panel appointed the following independent special advisers to assist:
 - (a) **Nigel Mark-Brown** on stormwater and flooding matters. Mr Mark-Brown provided reports to the panel and attended expert caucusing

¹ Section 67 FTAA.

² Clause 10(2) – (3), Schedule 3 FTAA.

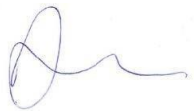
with Council and Kiwi Property witnesses.

- (b) **Leo Hills** from Commute Transportation Consultants on transportation and traffic matters. Mr Hills provided reports to the panel.

No other expert advisors were appointed by that panel.

6. Accordingly, if the Panel considers it necessary to appoint advisors Kiwi Property considers Mr Mark-Brown and Mr Hills would be well placed to assist the Panel (should they be available). They each have the necessary technical and background knowledge of the Project and area. Their involvement should assist with the efficiency and cost-effectiveness of the process, and to that end be consistent with the FTAA's procedural principles³.

DATED this 9th day of July 2025



Douglas Allan / Alex Devine
Counsel for Kiwi Property Holdings No. 2 Limited

³ At section 10 FTAA.

ANNEXURE A – MEMORANDUM FOR CONVENER CONFERENCE

BEFORE THE PANEL CONVENER

FTA-2502-1019

UNDER the Fast Track Approvals Act 2024 ("**FTAA**")
IN THE MATTER of a fast-track application by Kiwi Property Holdings No.2
Limited in relation to the Drury Metropolitan Centre

**MEMORANDUM ON BEHALF OF KIWI PROPERTY HOLDINGS NO. 2 LIMITED AS
APPLICANT**

3 JUNE 2025

**ELLIS GOULD
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**MEMORANDUM ON BEHALF OF KIWI PROPERTY HOLDINGS NO. 2 LIMITED AS
APPLICANT**

May it please the Convener:

1. This memorandum is filed on behalf of Kiwi Property Holdings No. 2 Ltd (“**Kiwi Property**”) in response to Minute 1 of the Panel Convener regarding the Drury Metropolitan Centre fast track application (“**Application**”). The memorandum addresses the issues listed in Schedules 1 and 2 to the Minute, using the same headings.

Approvals

2. A summary of approvals sought is set out in Part 7 of the Assessment of Environmental Effects¹ (“**AEE**”) filed in support of the application (pages 64 - 75) and in the **Annexure** to this memorandum.

Complexity

3. The Application relates to the development of core structural (infrastructure, roading and open space), retail, entertainment, residential and commercial office elements of the Drury Metropolitan Centre on urban land zoned for that purpose. The scale of development and range of elements comprising it are extensive, but the activities are anticipated by and largely consistent with the details of the Drury Centre Precinct which has recently been applied to the land through a consent order giving effect to Private Plan Change 48 (“**PC48**”) to the Auckland Unitary Plan (“**AUP**”).
4. **Legal Complexity** - It is anticipated that the proposal will not raise novel or difficult legal questions.
5. **Evidentiary and Factual Complexity** – The reports supporting the proposal are extensive and the traffic analysis, in particular, includes material that is technical in nature (i.e.: modelling). It is expected, however, that expert advisors for Kiwi Property and other parties to the process (e.g.: Auckland

¹ [Drury Metropolitan Centre Stages 1 and 2 assessment of environmental effects, dated 25 March 2025.](#)

Council) will largely be in agreement as to the factual basis for the Panel's decision. Given changes to traffic conditions and funding for transport infrastructure improvements since PC48 was made operative, the proposal departs from the traffic infrastructure "*triggers*" introduced by PC48 and this issue may result in differences of opinion (e.g.: with Council and Auckland Transport advisors).

Issues

6. Kiwi Property considers that the issues most likely to arise through the fast-track process are:
 - (a) The appropriateness of the revised **transport** infrastructure triggers that are proposed by Kiwi Property's consultants in response to changes to traffic conditions and funding for transport infrastructure improvements since PC48 was made operative.
 - (b) Detailed matters of **urban design** relating to this large scale urban commercial centre development.
 - (c) The appropriateness of the proposed **stormwater** management proposal pending the approval of Kiwi Property's stormwater catchment management plan by Healthy Waters (Council's internal stormwater department) pursuant to its Regional Network Discharge Consent (which effectively creates a lower order catchment management plan consenting regime for Auckland).
 - (d) Whether the **ecological** benefits of removing an existing stormwater pipe and opening up a stream outweigh the proposal's departure from the extent of offsetting that would otherwise be expected under the AUP.

Panel Membership

7. Kiwi Property is not aware of any particular knowledge, skills or expertise required to decide the application under clause 7(1) of Schedule 3 of the FTAA.
8. Kiwi Property is not aware of any factors that warrant the appointment of more than four Panel members.

Tikanga

9. This is an issue for Iwi Authorities and Treaty Settlement Entities to address.

Procedural Requirements

10. Kiwi Property is willing to engage directly with the Panel as necessary to advance progress of the application efficiently (e.g.: through briefings, meetings and conferencing) and considers that such engagement is likely to be the most efficient and effective way to clarify and address issues.
11. It is not possible at this stage to identify whether any form of hearing process will be required. Kiwi Property considers it more likely that the process would benefit from alternative dispute resolution and in particular:
 - (a) Mediation between the parties; or
 - (b) A settlement conference with the panel,particularly to settle terms and conditions of consent.

Time Frames

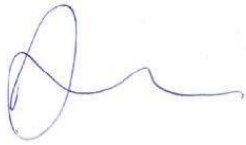
12. Schedule 2 to the Minute is a table inviting parties to set out estimated timeframes for various parts of the process. It is difficult to identify at this stage the time that will be required for each step, but Kiwi Property makes the following high-level observations:
 - (a) The Application contains extensive information and, while the proposal has been the subject of a very recent comprehensive plan change process, it is acknowledged that interested parties and the Panel will need sufficient time to review that material, to consider whether all necessary information is available, and to identify any additional material that they may wish to see.
 - (b) It will be desirable to ensure that the terms and conditions of any grant of consent are complete and well drafted. Opportunities for parties and the Panel to work collectively through the wording (including

through mediation or a settlement conference) are likely to be helpful and should be factored into the timetable.

- (c) In that context, Kiwi Property considers that an extension of the standard 30 working day period after the date specified for receiving comments under section 53 to **50 working days** would be suitable and fair in the case of the Drury Centre application.

13. Kiwi Property does not raise any other issues at this stage.

DATED this 3rd day of June 2025

A handwritten signature in blue ink, appearing to be 'Alex Devine', written over a faint, circular blue stamp.

Douglas Allan / Alex Devine

Counsel for Kiwi Property Holdings No. 2 Ltd

ANNEXURE

Summary of Consents required for the Proposal - Part 7 of the AEE

7.1 Overview

This section of the application is provided in accordance with clauses 5(1)(h), 5(2) and 5(3)(a) of Schedule 5 of the Act.

The application seeks all resource consents necessary for the staged implementation and ongoing operation of the Project. It is understood that the list of consents set out below is exhaustive but, for completeness, the list is presented on the basis that it does not limit the scope of the application. For completeness, this application also seeks consent for any matters that are not listed below but which are subsequently identified as being necessary through the processing of this application. If such matters are identified the applicant will, as a matter of urgency, provide to the EPA an assessment of any relevant adverse effects that are different to, additional to, or cumulative upon those discussed in this report and which would be generated by the Project as a consequence of the additional matters.

In summary, the Project requires: non-complying activity consent overall under the Auckland Unitary Plan; restricted discretionary activity under the National Environmental Standards for Contaminated Land; and restricted discretionary activity under the National Environmental Standards for Freshwater. Overall, the Project is to be assessed as a non-complying activity.

The site has urban zonings of Business – Metropolitan Centre, Business – Mixed Use and Open Space – Informal Recreation under the AUP as illustrated on Figure 1 of this report. The site is also located within the Drury Centre Precinct and is subject to the various overlays, controls and additional limitations as listed in section 1.0 of this report.

The proposal requires consent for the matters outlined in Sections 7.2 - 7.11 below. A detailed rules assessment against the applicable provisions of the AUP(OP), NESCS and NES-F is attached as Appendix 21.

7.2 Auckland Unitary Plan (Operative in Part)

In 2016, Auckland Council made the Proposed Auckland Unitary Plan ‘Operative in part’. This plan combines the regional policy statement, regional coastal plan, regional plans and district plans into one combined plan. The AUP (OP) has a hierarchical policy framework with the regional policy statement at the top, then with regional and district plan provisions giving effect to the regional policy statement.

Since being made operative in part in 2016, there have been a number of appeals and plan changes. The only Plan Change that has a bearing on this application is Plan Change 79 Amendments to the Transport Provisions (‘PC79’). The decision for PC79 was publicly notified on 9 August 2024 and therefore has legal effect. However, there have been several appeals on PC79 and therefore both the operative and PC79 transport provisions apply to this project.

Reasons for consent under the Auckland Unitary Plan (Operative in Part) in accordance with clause 5(1)(f) of Schedule 5 of the Act are as follows:

National Grid Corridor Overlay

- D26.4.3(A34) – The proposal involves the subdivision of land within the National Grid Subdivision Corridor overlay. This is a restricted discretionary activity.

Streams, Rivers, Streams and Wetlands

- E3.4.1(A1) – The proposal involves the construction of an arched culvert over Stream A approximately 20m in length where Road 5 crosses over Stream A in an east west direction. This activity is not otherwise provided for because the alignment of the arched culvert is not parallel to the direction of water flow. This is a discretionary activity.
- E3.4.1(A19) – The proposal involves the diversion of a section of Stream A to a new course and associated disturbance and stream discharge outside of the relevant overlays listed in Chapter E3. This is a discretionary activity.

Note: I450.4 of the Activity Table for Drury Centre Precinct states that all relevant overlay, Auckland-wide and zone activity tables apply unless the activity is listed in Activity Table I450.4.1 below. Therefore, non-complying consent is not required under E3.4.1(A49) for the new reclamation of Stream A proposed in this application because I450.4.1(A10) in the precinct provisions specifies that new reclamation or drainage within Stream A shown on Precinct Plan 2 required to construct Drury Boulevard is a discretionary activity and is therefore listed in Activity Table I450.4.1.

Stormwater Discharge and Diversion

- E8.4.1(A10) - The proposal involves the discharge of stormwater runoff from impervious areas not otherwise provided for by Table E8.4.1. This is a discretionary activity.
- E8.4.1(A11) – The proposal involves the diversion and discharge of stormwater runoff from a new stormwater network. This is a discretionary activity.

Stormwater quality – High contaminant generating car parks and high use roads

- E9.4.1(A6) – The proposal involves the development of a new high contaminant generating car park greater than 5,000m² with approximately 66,864m² of car parking and associated accessways proposed within the project area which complies with controlled activity standards E9.6.2.1. This is a controlled activity.
- E9.4.1(A7) – The proposal involves the development of a new high use road¹⁴ greater than 5,000m² with approximately 45,042m² of new high use road proposed which complies with controlled activity standards E9.6.2.2. This is a controlled activity.

Stormwater Management Area – Flow 1 and Flow 2

- E10.4.1(A3) – The proposal involves the development of new impervious area other than for a road greater than 50m² within the SMAF 1 control complying with standard E10.6.1 and E10.6.4.1. This is a restricted discretionary activity.
- E10.4.1(A6) – The proposal involves the development of new impervious area greater than 5,000m² for roads to be vested and operated by a road controlling authority within the SMAF 1 control with approximately 66,864m² proposed and complying with Standard E10.6.1 and Standard E10.6.4.2. This is a restricted discretionary activity.

Land Disturbance – Regional

- E11.4.1(A5) - The proposal involves approximately 20.85 hectares of earthworks where land has a slope less than 10 degrees outside the SPCA in the Business – Mixed Use Zone and Business – Metropolitan Centre Zone. This is a restricted discretionary activity.
- E11.4.1(A8) – The proposal involves greater than 2,500m² of earthworks where the land has a slope greater than 10 degrees on business zoned land with approximately 20.85 hectares of earthworks proposed. This is a restricted discretionary activity.
- E11.4.1(A9) – The proposal involves greater than 2,500m² of earthworks within the sediment control protection area on business zoned land with approximately 3.38 hectares proposed. This is a restricted discretionary activity.

Land Disturbance – District

- E12.6.2(1) (12) and (13) – The proposal requires restricted discretionary activity consent for earthworks which do not comply with the general standards under E12.6.2 for the following reasons which requires consideration as a restricted discretionary activity pursuant to standard C1.9(2).
 - Land disturbance within the 10m riparian yards will exceed 5m² and 5m³ for general earthworks with 8m³ of cut and 251m² of fill proposed within the riparian margins of the Hingaia Stream, and 3,200m³ of cut and 7,150m² of fill within the riparian margins of Stream A; and
 - Earthworks within the 100-year AEP flood plain on site will raise ground levels more than 300mm and the fill volume will exceed 10m³.
- E12.4.1(A6) – The proposal involves greater than 2,500m² of earthworks on business zoned land with approximately 20.85 hectares of earthworks proposed across the project area. This is a restricted discretionary activity.
- E12.4.1(A10) – The proposal involves greater than 2,500m³ of earthworks on business zoned land to facilitate development of this project. The proposed approximate earthworks volumes are approximately 212,225m³ of cut and approximately 195,873m³ of fill. This is a restricted discretionary activity.

Chapter E15 Vegetation management and biodiversity

- E15.4.1(A18) – The proposal involves vegetation alteration or removal within 20m of a natural wetland. This is a restricted discretionary activity.
- E15.4.1(A19) – The proposal involves vegetation alteration or removal within 10m of urban streams. This is a restricted discretionary activity.

Signs

- E23.4.2(A53) – The proposal involves the establishment of comprehensive development signage associated with Drury Centre and the various activities and buildings proposed. This is a restricted discretionary activity.

Noise and Vibration

- E25.6.27 – The proposal is predicted to involve exceedances to the permitted construction noise standards in Table E25.6.27.1 by up to 10dB that apply to receivers in the Business Mixed Use zone during the excavation and building foundation establishment/construction phases of the proposal. This is a restricted discretionary activity pursuant to standard E25.4.1(A2).
- E25.6.28 – The proposal is predicted to involve exceedances to the permitted construction noise standards in Table E25.6.28.2 by up to 5Db that apply to receivers in the Business Metropolitan Centre zone during the excavation and building foundation establishment/construction phases of the proposal. This is a restricted discretionary activity pursuant to standard E25.4.1(A2).
- E25.6.30(1)(b) – The proposal is predicted to involve exceedances to the permitted vibration amenity limits in Table E25.6.30.1 during construction phases of the project. This is a restricted discretionary activity pursuant to standard E25.4.1(A2).

Infrastructure

- E26.2.3(A55) – The proposal involves the construction of two stormwater detention/retention ponds (Wetland 2-1 and Wetland 2-2) within the Metropolitan Centre zone. This is a controlled activity.

Transport

- E27.4.1(A2) – The proposal involves the following parking, loading and access which is an accessory activity but which does not comply with the standards for parking, loading and access thereby requiring consideration as a restricted discretionary activity:
 - Standard E27.6.2(8) – The loading space provision for Lots A, B, C, D, E and G does not meet the minimum requirement as summarised in Table 10 of this report.
 - E27.6.3.5(1) – Insufficient manoeuvring space is provided on site because in

order to access the on-street loading space serving Lot H, the design vehicle will turn into the accessway serving H2, and reverse onto the road corridor before accessing the loading space.

- E27.6.4.2(1) – The vehicle crossing serving the customer carpark on Lot A and the entry access into the loading zone does not comply with the minimum separation distance requirements.
- E27.6.4.2(2) – The vehicle crossings serving Lot A, B, C, D and E do not comply with the vehicle crossing width requirements.
- E27.4.1(A5) - The vehicle crossing serving Lot C and Lot H does not comply with the Vehicle Access Restriction minimum requirements for separation from an adjacent intersection as they only achieve 0m and 7m separation from the nearest intersections, as required in standard E27.6.4.1(3). This is a restricted discretionary activity.

Contaminated Land

- E30.4.1(A6) – The proposal involves the discharge of contaminants into land and water from disturbing soil on land containing elevated levels of contaminants which exceed background concentrations and do not meet permitted standards E30.6.1.4, as a controlled activity. This consent is sought on a precautionary basis with respect to the ongoing additional investigation works at 108 Flanagan Road.
- E30.4.1(A7) – The proposal involves the discharge of contaminants into land and water from disturbing soil on land containing elevated levels of contaminants which exceed background concentrations and do not meet controlled activity standard E30.6.2.1, as a discretionary activity. This consent is sought on a precautionary basis with respect to the ongoing additional investigation works at 108 Flanagan Road.

Natural Hazards

- E36.4.1(A56) – The proposal involves the construction of infrastructure such as roads and reticulation system for water supply and drainage on parts of the site which are located within the 1% AEP flood plain and on land which may be subject to instability. This is a restricted discretionary activity.

Subdivision – Urban

- E38.4.1(A7) – The proposal involves the subdivision of a site with two or more zones being Metropolitan Centre and Mixed Use zones in the Stage 1 and 2 area. This is a restricted discretionary activity.
- E38.4.1(A8) – The proposal involves subdivision establishing an esplanade reserve adjacent to the Hingaia Stream. This is a restricted discretionary activity.
- E38.4.1(A10) – The proposal involves subdivision with a reduction of the esplanade reserve to 19.5m at the pinch point abutting Lot 507 as a road to vest. This is a discretionary

activity.

- E38.4.1(A11) – The proposal involves the subdivision of land within the natural hazard areas of the 1% AEP flood plain and land which may be subject to instability. This is a restricted discretionary activity.
- E38.4.1(A12) - The proposal involves the subdivision of land in the Stage 2 area that does not meet the standards in E38.6 General standards for subdivision with respect to E38.6.4 Staging due to the proposed flexibility sought in relation to staging. This is a discretionary activity.
- E38.4.1(A13) – The proposal involves the subdivision of land in the Stage 2 area which does not meet subdivision for specific purposes standard E38.7.1.2 Subdivision for a network utility because the two stormwater wetlands require controlled activity consent in Chapter E26 and are therefore not permitted activities. This is a discretionary activity.
- E38.4.1(A13) - The proposal involves the subdivision of land in the Stage 2 area that does not meet the standards in E38.6 General standards for subdivision with respect to E38.6.4 Staging due to the proposed flexibility sought in relation to staging. This is a discretionary activity.
- E38.4.3(A35) – The proposal involves the subdivision of land in the Stage 1 area complying with standard E38.9.2.3 with respect to the minimum net site area of 200m² for vacant sites in the Mixed Use zone. This is a restricted discretionary activity.
- E38.4.3(A37) - The proposal involves the subdivision of land in the Stage 2 area with Business zoning that does not meet the standards in E38.6 General standards for subdivision with respect to E38.6.4 Staging due to the proposed flexibility sought in relation to staging. This is a discretionary activity.
- E38.4.3(A39) - The proposal includes subdivision for open spaces, reserves, and roads which are not otherwise provided for in Business zones. This is a discretionary activity.
- E38.4.4(A42) - The proposal involves the subdivision of land in the Stage 2 area with Open Space zoning that does not meet the standards in E38.6 General standards for subdivision with respect to E38.6.4 Staging due to the proposed flexibility sought in relation to staging. This is a discretionary activity.
- E38.4.4(A43) – The proposal involves the subdivision of business zoned land for the purposes of creating local purpose drainage reserves to be vested which is not otherwise provided for in Tables E39.4.1 and E38.4.4. This is a discretionary activity.

Temporary Activities

- E40.4.1(A24) – The proposal will involve temporary activities associated with building and construction (including structures and buildings that are accessory activities) for a duration of more than 24 months as provided or in E40.4.1(A20). These temporary activities include construction of the various

buildings and associated enabling works such as bulk earthworks and the proposed roading. This is a restricted discretionary activity.

Business – Metropolitan Centre Zone

- H9.4.1(A33) – The proposal involves the development of new buildings in the Metropolitan Centre zone. This is a restricted discretionary activity.
- H9.4.1(A34) – The proposal involves the demolition of buildings in the Metropolitan Centre zone to enable construction of the project. This is a controlled activity.
- H9.6.5 – The proposal involves the development of residential activity at ground floor in the form of an integrated residential development (apartments) and terrace dwellings within the Metropolitan Centre zone where there is frontage to public open space. This does not comply with standard H9.6.5 and requires consent as a restricted discretionary activity under C1.9(2).
- H9.6.6 – The proposal involves an infringement to the 10m riparian yard at Stream A with respect to a corner of the cantilevered deck of the hotel building ('H2'), a public shelter structure and Building G1 (hotel) extending into the riparian yard. This does not comply with standard H9.6.6 and requires consent as a restricted discretionary activity under C1.9(2).

Mixed Use Zone

- H13.4.1(A21) – The proposal involves retail greater than 200m² GFA per tenancy by way of the retail building on Lot C which has a GFA of 6,000m². This is a discretionary activity.
- H13.4.1(A45) – The proposal involves the development of a new building on Lot C in the Mixed Use zone. This is a restricted discretionary activity.

Drury Centre Precinct

- I450.4.1(A1) – The proposal involves the subdivision of land including private roads in the Precinct. This is a restricted discretionary activity.
- I450.4.1(A3) – The proposal involves the development of new buildings in the Precinct. This is a restricted discretionary activity.
- I450.4.1(A5) – The proposal involves subdivision and development in the Precinct that does not comply with Standard I450.6.2 Staging of Subdivision and Development with Transport Upgrades with respect to the transport upgrades in rows (a) and (b). This is a non-complying activity.
- I450.4.1(A6) – The proposal involves subdivision and development in the Precinct that does not comply with Standard I450.6.2 Staging of Subdivision and Development with Transport Upgrades with respect to the transport upgrades in rows (c) and (d) to (f). This is a discretionary activity.
- I450.4.1(A10) – The proposal involves new reclamation within Stream A as shown on I450.10.2 Precinct Plan for the construction of Drury Boulevard. This is a

discretionary activity.

- I450.6.7(1)(b) – The proposed landscape design surrounding Stream A includes walkways within the 10m riparian planting area. This does not comply with the standard and requires consent as a restricted discretionary activity under C1.9(2).

Overall, the application is a non-complying activity under the AUP.

7.3 AUP Plan Change 79

- E27.4.1(A2) – The proposal involves the following parking, loading and access which is an accessory activity but which does not comply with the standards for parking, loading and access thereby requiring consideration as a restricted discretionary activity:
 - E27.6.3.2(A) - Accessible parking spaces have been provided in accordance with the requirements outlined in Table 1, operative AUP and NZS4121:2001, however the provisions do not comply with Appendix 23 of PC79.

7.4 National Environmental Standard for Assessment and Managing Contaminants in Soil to Protect Human Health 2011

The NESCS is a nationally consistent set of planning controls and soil contaminant values. It seeks to ensure that land affected by contaminants in soil is appropriately identified and assessed before it is developed and, if necessary, the land is remediated or the contaminants contained to make the land safe for human use.

A Preliminary Site Investigation was undertaken for the project area and this identified that there was the potential for contamination to be present on site with the sources including the residential dwellings and associated outbuildings, offal and/or burn pits, and the storage and usage of super- phosphate fertiliser. As such, this piece of land is deemed to have been used for the Ministry for the Environment's HAIL activities and industries which may have the potential to lead to soil contamination.

The Remediation Action Plan (RAP) prepared by Engeo in Appendix 13A concludes that the site will be suitable for development. However, resource consent is required under the NESCS regulations as follows:

- Regulation 10 – The proposal involves the subdivision of land, change of land use and soil disturbance to a piece of land whereby soil contaminants exceed human health criteria within the earthworks area. This is a restricted discretionary activity.

7.5 National Environmental Standards for Freshwater 2020

The NES Freshwater regulates activities that pose risks to the health of freshwater and freshwater ecosystems such as farming activities reclamation of streams and wetlands, and the passage of fish affected by structures.

Resource consent is required under the NES-F regulations as follows:

- Regulation 45C(1) – The proposal involves vegetation clearance within Stream A wetland and within a 10m setback of Wetlands 1 and 2 and Channel D wetland for

the purpose of constructing urban development. This is a restricted discretionary activity.

- Regulation 45C(2) – The proposal involves earthworks or land disturbance within a 10m setback of Wetlands 1 and 2 and Channel D wetland for the purpose of constructing urban development. Earthworks are also proposed within the Stream A wetland that will result in the complete drainage and reclamation of this wetland. This is a restricted discretionary activity.
- Regulation 45C(3) - The proposal involves earthworks or land disturbance within a 100m setback of Wetlands 1 and 2 and Channel D wetland for the purpose of constructing urban development and is likely to result in the partial drainage of those wetlands. This is a restricted discretionary activity.
- Regulation 45C(4) - The proposal involves the diversion of water within a 100m setback of Wetlands 1 and 2 and Channel D wetland for the purpose of constructing urban development and is likely to change the water level range or hydrological function of the wetlands. This is a restricted discretionary activity.
- Regulation 45C(5) - The proposal involves the discharge of water within a 100m setback of Wetlands 1 and 2 and Channel D wetland for the purpose of constructing urban development and is likely to change the water level range or hydrological function of the wetlands. This is a restricted discretionary activity.
- Regulation 57 – The proposal involves the reclamation of the reclamation of 66m of existing stream length of which 10m is currently culverted (118m² stream bed area) in the upstream reach of Stream A. This is a discretionary activity.

7.6 National Environmental Standards for Air Quality 2004

The NES Air Quality contains prohibitions and restrictions on discharges from certain activities, requirements for ambient air quality standards for contaminants, and other requirements in relation to the discharge of PM10, other contaminants, and domestic burners. Resource consent is not required for air discharges under the NES Air Quality.

7.7 Other National Environmental Standards

The proposal does not require resource consents under any of the other National Environmental Standards, including:

- National Environmental Standards for Sources of Drinking Water
- National Environmental Standards for Telecommunication Facilities
- National Environmental Standards for Electricity Transmission Activities
- National Environmental Standards for Plantation Forestry
- National Environmental Standards for Marine Aquaculture

7.8 Permitted Activities

In accordance with clause 5(5)(a) of Schedule 5 of the FTAA the following permitted activities are part of the proposal to which the consent application relates such that a

resource consent is not required for the activities under section 87A of the RMA 1991.

7.8.1 Auckland Unitary Plan Operative in Part

Chapter D26 National Grid Corridor Overlay

- The proposal involves land disturbance partly located within the National Grid Corridor overlay that complies with the relevant permitted activity standards in Table D26.4.1(A19). Table 2 of Infrastructure Report and drawings in Appendices 9 and 10 provides an assessment against these standards and demonstrate how the activity complies with the permitted activity standards.
- The proposal involves road activities in the form of a short section of Road 2 North located within the National Grid Corridor overlay which is provided for as a permitted activity in Table D26.4.2(A28).

Chapter E3 Lakes Rivers Streams and Wetlands

- Pest plant removal complying with the standards in E3.6.1.8 outside of any overlays is provided for as a permitted activity in Table E3.4.1(A14).
- The demolition or removal of the existing culvert structure in the lower reaches of Stream A complying with the standards in E3.6.1.13 is provided for as a permitted activity in Table E3.4.1(A23). The Infrastructure Report in Appendix 10 provides an assessment against these standards to demonstrate how the activity complies with the requirements.
- Bridges and the associated bed disturbance complying with standards in E3.6.1.16 is provided for as a permitted activity outside of any overlays in Table E3.4.1(A29). The landscape design for the area around Stream A includes bridges in the form of boardwalks over Stream A. The relevant standards are captured in the proposed consent conditions in Appendix 5 to ensure compliance will be achieved.
- Stormwater outfall structures and the associated bed disturbance complying with standards E3.6.1.14 is provided for as a permitted activity outside of overlays in Table E3.4.1(A39). The design for stormwater discharge from this project includes stormwater outfall structures discharging to Stream A. The Infrastructure Report in Appendix 10 provides an assessment against these standards to demonstrate how the activity complies with the requirements and the relevant standards are captured in the proposed consent conditions in Appendix 5 to ensure compliance will be achieved.
- The removal of an existing reclamation or drained area complying with the standards in E3.6.1.24 outside of overlays is provided for as a permitted activity in Table E3.4.1(A45). The existing reclamation in the lower reaches of Stream A where it has been piped will be removed. The Infrastructure Report in Appendix 10 provides an assessment against these standards to demonstrate how the activity complies with the requirements.

Chapter E7 Taking, using, damming and diversion of water and drilling

- The diversion of groundwater caused by any excavation in all zones and outside of the overlays complying with permitted standards in E7.6.1.10 is provided for as a permitted activity in Table E7.4.1(A27). The geotechnical report in Appendix 12 provides an assessment against these standards to demonstrate how the activity complies with the requirements.

Chapter E12 Land Disturbance – District

- The proposal involves earthworks including 20m³ of cut and 383m³ of fill on the Open Space zoned land of the project area. This is provided for as a permitted activity in Table E12.4.1(A8).
- The proposal involves earthworks over an area of 577m² on the Open Space zoned land of the project area. This is provided for as a permitted activity in Table E12.4.1(A4).

Chapter E15 Vegetation management and biodiversity

- The proposal involves vegetation removal within the project area to facilitate development of the project which is likely to include pest plant removal which is provided for as permitted activity in Table E15.4.1(A6).
- The proposal involves vegetation alteration or removal within the project area to facilitate development of the project in the Metropolitan Centre, Mixed Use and Open Space zones and areas not otherwise covered in the activity table which is provided for as permitted activity in Table E15.4.1(A22A). This is discussed in the EIA in Appendix 17.

Chapter E16 Trees in Open Space Zones

- E16.4.1(A4) - Pest plant removal of any tree less than 4m height and less than 400mm in girth on land zoned Open Space is a permitted activity.
- E16.4.1(A9) - Pest plant removal of any tree less than 4m height and less than 400mm in girth on land zoned Open Space is a permitted activity.

Chapter E24 Lighting

- The proposal involves the provision of external lighting throughout Stage 2 of Drury Centre complying with general standards E24.6.1 and the relevant standards that apply in Table E24.6.1.1 for lighting in the project in the Metropolitan Centre, Mixed Use and Open Space zones. Lighting activities that comply with all the relevant permitted activity standards is provided for as a permitted activity in Table E24.4.1(A1). The relevant standards are captured in the proposed consent conditions in Appendix 5 to ensure compliance will be achieved.

Chapter E25 Noise and vibration

- The proposal involves both activities emitting construction and operational noise and vibration during construction that will comply with the relevant permitted activity standards and is provided for as a permitted activity in Table E25.4.1(A1). The acoustic report in Appendix 18 demonstrates how the relevant permitted activity standards will be complied with and the proposed conditions of consent in Appendix 5 include relevant noise and vibration standards to ensure compliance will be achieved.
- The proposal involves the development of 'noise sensitive spaces' in terms of dwellings and visitor accommodation within the Metropolitan Centre zone that will be designed and/or insulated so that the internal noise levels do not exceed those specified in Table E25.6.10.1 for the zone. The acoustic report specifies in Appendix 18 states that there will no challenges to achieving compliance with this design standard and the proposed conditions of consent in Appendix 5 requires an acoustic engineer to provide written certification to confirm buildings containing 'activities sensitive to noise' have been designed and constructed to those standards.

Chapter E27 Transport

- Section 7.1 of the ITA in Appendix 16 provides a detailed permitted activity assessment of the proposal against the relevant transportation standards.

Chapter E36 Natural hazards and flooding

- The proposal involves surface parking and above ground parking areas in the 1% AEP floodplain that comply with standard E36.6.1.7 which is provided for as a permitted activity in Table E36.4.1(A24). The Infrastructure Report and drawings in Appendices 9 and 10 demonstrate how the activity complies with the permitted activity standards.
- The proposal involves the construction of private roads and accessways within the 1% AEP flood plain which is provided for as a permitted activity under Table E36.4.1(A27). The engineering drawings in Appendix 9 and Stormwater Report in Appendix 11 demonstrate how the activity complies with the permitted activity standards.
- The proposal involves buildings and structures on land which may be subject to land instability that comply with standard E36.6.1.11. The geotechnical report in Appendix 12 provides site stability or geotechnical recommendations for the proposal and the proposed conditions of consent in Appendix 5 contains those recommendations to ensure they will be complied with.

Chapter H9 Metropolitan Centre zone

- The proposal involves dwellings on land zoned Metropolitan Centre which is provided for as a permitted activity in Table H9.4.1(A2).

- The proposal involves visitor accommodation on land zoned Metropolitan Centre which is provided for as a permitted activity in Table H9.4.1(A6).
- The proposal involves entertainment facilities on land zoned Metropolitan Centre which is provided for as a permitted activity in Table H9.4.1(A10).
- The proposal involves commercial services and offices on land zoned Metropolitan Centre which is provided for as permitted activities in Table H9.4.1(A7) and (A12).
- The proposal involves retail activities on land zoned Metropolitan Centre which is provided for as a permitted activity in Table H9.4.1(A13).
- The proposal involves community facilities on land zoned Metropolitan Centre which is provided for as a permitted activity in Table H9.4.1(A17).

7.9 AUP Plan Change 79

Section 7.2 of the ITA in Appendix 16 provides a detailed permitted activity assessment of the proposal against the relevant transportation standards in PC79.

7.10 National Environmental Standards for Contaminated Land

- Regulation 8(4) provides for the subdivision of land as a permitted activity where the requirements in subpart (a) to (d) are met. Engeo whom are suitably qualified and experienced practitioners in relation to contaminated land have provided a summary of the previous investigations and remediation of the land within the Stage 1 area where the superlots are proposed to further subdivided, and the extent to which the permitted activity requirements of Regulation 8(4) are met – see Appendix 13B.

7.11 Overall Activity Status

Overall, the application requires non-complying activity consent under the AUP-OP, restricted discretionary activity consent under the NES Regulations for Contaminated Land and restricted discretionary activity consent under the NES Regulations for Freshwater. The majority of reasons for consent either have a controlled, restricted discretionary or discretionary activity status under the AUP-OP.

However, in this case, we have taken a conservative approach and assessed the application overall as a non-complying activity. Where there is a group of activities in an application which are closely associated with each other, or are directed towards one dominant use or purpose, they should be assessed holistically as a single “bundle”, according to the most stringent activity status. Part C1.5 of the Unitary Plan (Applications for more than one activity) and Part C1.6. (Overall activity status) also inform this judgment.

For efficiency purposes, to enable the proposal to be comprehensively considered, this approach has been taken here however this does not preclude scope in the future to have the activities considered separately. The overall activity status for this application is non-complying.