

AUCKLAND

399 New North Road
Kingsland, Auckland 1020

P +64 9 361 6447 | align.net.nz

31 October 2022

Auckland Council
Private Bag 92300
AUCKLAND 1142

Attention: Joe McDougall
By email: joe.mcdougall@aucklandcouncil.govt.nz

Response to s92 Request – Counties Energy: Glenbrook Substation NoR

Please find below our responses to the request for further information dated 3 October 2022 under the corresponding headings.

The designation process is broadly the equivalent of a plan change to provide a 'spot zone' for a network utility site. To manage the effects of development within a zone, the AUP contains outcome-based development and performance standards for activities. Where specific considerations are subject to detailed design and layout, these are considered through the resource consent process and where necessary, conditions imposed at the appropriate time.

We emphasise, to avoid repetition through our response to individual items, that the design for the future substation has not been confirmed. The information and illustrations provided to date are for the purposes of demonstrating development feasibility and to understand the effects envelope in which we are operating. Most matters of detail must necessarily be provided at the Outline Plan of Works ("OPW") stage, which is broadly equivalent to the resource consent process. Where possible, we have provided some additional certainty through the Proposed Conditions (Revision 1) dated 25 October 2022 [Attached] or provided further explanation in the revised AEE.

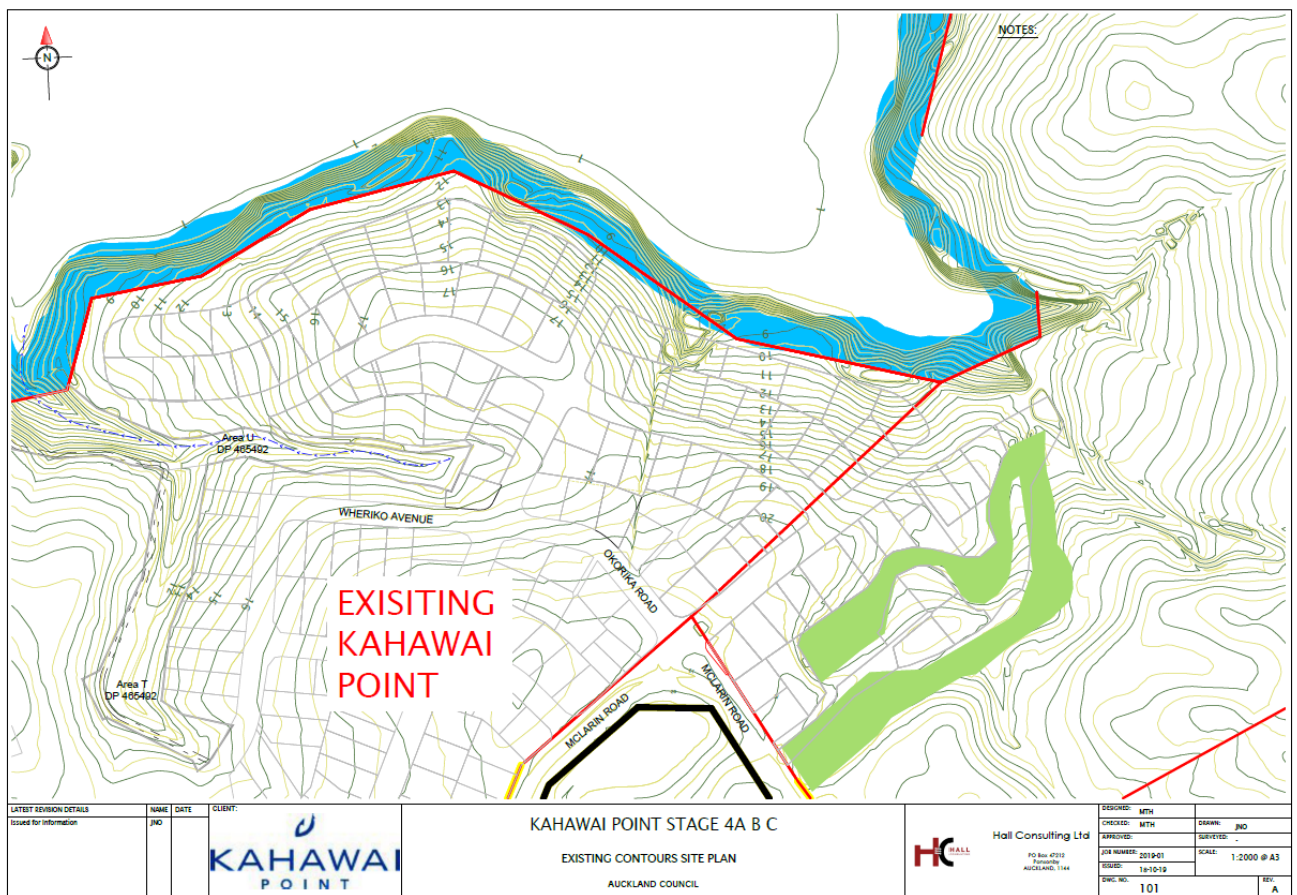
Construction

1. Please provide information and assessment of the type and level of potential adverse effects resulting from and during construction of the substation, including:
 - estimated length of construction period
 - anticipated vehicle movements, including large vehicles
 - noise, vibration and dust effects
 - hours of work.

Please include how the NoR will mitigate adverse effects of construction, in particular those effects on surrounding properties/persons and road users

Response: The physical works associated with the construction of substations of this size take approximately 8 months. The commissioning of the substation following physical construction is expected take a further 4 months. The site construction works will be carried out in accordance with the relevant permitted activity standards of the AUP(OP) and as per the Construction Management Plan which will be submitted as part of the Outline Plan of Works. Conditions have been proposed to this effect.

We are of the view that the effects of constructing a single facility on the designated site is likely to have less effects than the four individual construction sites initially proposed by the current owner developer for Kahawai Point Stage 4A:



Auckland Code of Practice for Land Development and Subdivision – Proposed Condition 1(g)

2. Please clarify how the Auckland Code of Practice for Land Development and Subdivision (version 1.0 December 2016) referred to in Proposed Condition 1(g) will adequately inform the Construction Management Plan and avoid, remedy or mitigate adverse effects on the environment, the surrounding area and in particular nearby owners/occupiers and road users. Please also provide details of which chapters in the code of practice you are referring to, noting there are 7 chapters.

Response: The Code of Practice comprehensively sets out all the statutory considerations and other legal requirements relating land development. In addition to compliance with the Resource

Management Act, Building Act, Council By-Laws, there are numerous other regulatory compliance matters that require oversight to ensure that construction takes place safely. The construction management plan and site supervision procedures are set out in Chapter 1 under clause 1.5.5.3.

The purpose of a Construction Management Plan is to articulate how the construction process will be carried out in practice, including the coordination of activities and events, and the communication of these to anyone affected. The Management Plans are generally undertaken once the detailed design has been completed and in conjunction with the contractors responsible for the construction of the project.

Construction noise

3. Please provide information about the anticipated level of adverse noise effects from and during construction, and how the NoR will mitigate these effects, and why no conditions are proposed that would mitigate such effects.

Response: The noise limits set out in Rule E25.6.27 of the AUP(OP) will be complied with, and confirmation of how this will be achieved will be provided with the Outline Plan of Works. Refer Condition 1(i)(v) of the revised conditions.

Subject site - assessment of adverse effects

4. Please provide an assessment of effects on all sites adjacent to the subject site and the subject site.

Response: Please refer to Sections 5.10 to 5.11 of the updated NoR report for information

Adjacent persons – assessment of adverse effects

5. Please provide a list of which persons Counties Energy considers to be adjacent for the purposes of their s149ZCC assessment.

Please clarify which of the Proposed Conditions will mitigate and manage potential adverse effects on adjacent persons from vibration, construction noise, and compliance with hazardous substances?

Response: Section s149ZCC contains no direct reference to adjacent persons. It is our view that no persons are affected for the purposes of s149ZCC. For the purposes of s149ZCE, Council must disregard any effects on persons who own or occupy the land on which the activity will occur, or any land adjacent to that land.

The land adjacent to the land being designated is:

- The land zoned Public Open Space which is currently in the ownership of Kahawai Point Developments Limited (also the owner and vendor of the land being designated).
- 115 McLarin Road, currently owned by Landco 3 Limited, who are also half share owners of the access allotment that provides access to the land subject to the NoR.

Conditions have now been included to require construction works to be in accordance with the permitted standards under the relevant sections of the AUP(OP). A condition requiring a hazardous substance management plan to be submitted at the outline plan of works stage have now been included to ensure potential adverse effects on adjacent person from hazardous substance are avoided. The adjacent land owners are also party to a 'no complaints' covenant, the effect of which is further outlined below.

Form restrictions

6. Please explain why the proposed conditions make reference to the Single House Zone, while also stating a definitive height limit.

Response: Rule I453.5.13.1 of the Glenbrook 3 Precinct states that the building height standards in the Single House zone shall apply. The Residential Single House Zone at Rule H3.6.6(1) (Building Height) states that buildings must not exceed 8m in height with some exceptions. Those exceptions are not relevant to this proposal, and hence only the 8m maximum building control has been specified. The 'purpose' specified in the rule provides a suitable explanation and reason for the 8m height limit.

Record of title

7. Please provide information about whether the covenant(s)/easements on the record of title will affect the construction or operation of the proposed substation.

Response: There are two land covenants affecting the land being designated (10902552.10 and 11008524.7) which are attached for your information. The subject site is within the "dominant tenement" in a 'no complaints' covenant that restricts the owners of neighbouring properties from:

- (a) objecting to, making a submission objecting to, frustrating, hindering or preventing any application for a resource consent, building consent or a plan change by the Grantee **or any third party** relating to the Property (or any other land listed in Appendix A as being a 'dominant tenement'); and
- (b) complaining or objecting to, make a submission objecting to, frustrate, hinder or prevent the use of the Property (or any other land listed in Appendix A as being a 'dominant tenement') for residential purposes and/or **other uses than residential use that may result in noise, lights and other environmental affects not generally present in a predominately residential area.**

The benefit of these covenants will be deemed revoked in respect of any single dwelling residential lot that has been issued with a separate title and is no longer owned by Kahawai Point Developments Limited, or in respect of any road or reserve to vest.

The covenants are deemed to be for a term of 20 years (from 2017) or until Kahawai Point Developments Limited no longer owns any part of the land contained in titles NA56A/323, NA56A/324, 210814 and 210815 (whichever is earlier).

Consideration of alternatives

8. Please provide further information about the consideration of alternative sites or information that demonstrates that Counties Energy has an interest in the land sufficient to undertake the work

Response: Please refer to Sections 4.97 and Section 4.98 of the updated NoR report for information.

Permitted baseline

9. Please provide assessment of the permitted baseline, and whether the construction and operation of the proposed substation is considered to generate adverse effects that would be similar to or greater than the permitted baseline.

Response: Please refer to Sections 4.3 and 4.4 of the updated NoR report for information.

Assessment of relevant Regional Policy Statement (RPS) objectives and policies

10. Please provide assessment of the proposed NoR against all relevant RPS objectives and policies including the following chapters:
- B6 Mana Whenua
 - B7.3 Freshwater systems
 - B7.4 Coastal water, freshwater and geothermal water
 - B10.3 Land – hazardous substances (noting the transformer oil is a hazardous substance)
 - B10.4 Land – contaminated

Response: Please refer to Sections 4.58 to 4.80 of the updated NoR report for information

Landscape and visual amenity – The proposal

11. Could the applicant please provide details about the maximum height, width and length of the proposed substation, together with details about the proposal's transformers, bus and any other structures that are proposed?

Could the applicant please describe the application site's zoning, together with any relevant provisions?

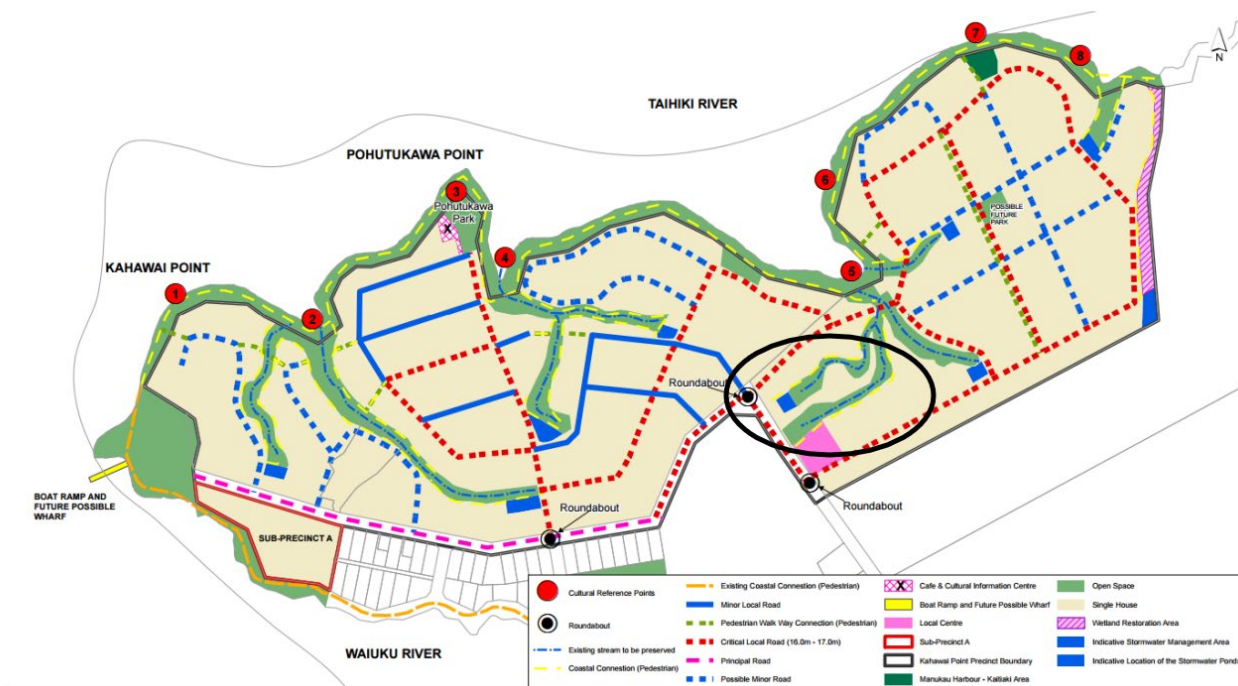
Exactly which surrounding / nearby properties would be affected by the proposal and what would the nature of those effects be? This matter is clearly linked to the extent and height of the existing vegetation around the site, together with the additional planting proposed.

What would be the substation's effect overall: it appears likely to be of a low order, but this needs to be evaluated and confirmed?

Response: The area subject to the NoR is in the Residential Single House Zone. This zone is generally characterised by one to two storey high buildings consistent with a suburban built character. The Infrastructure Chapter (E26) of the Auckland Unitary Plan list (at A21) 'Unenclosed Substations' as Discretionary Activities. 'Substations within new buildings' (at A18) are listed as Controlled Activities.

The land is also within the Glenbrook 3 Precinct which overlays the area. This precinct will provide approximately 800 additional homes to this Glenbrook Beach coastal settlement. It is intended the precinct will be completed in general accordance with the precinct plan (illustrated in I453.9 below):

I453.9 Precinct Plan



The Precinct Plan anticipates residential development within the area being designated. As stated in our response to Item 1, the earlier Staging plans for this development indicated 4 residential allotments being created in this location, each being able to accommodate a single dwelling in accordance with the zone rules.

There is presently no specific design for the substation so the details you request cannot be provided. We can confirm that the likely intensity of development on the site is comparatively less than the cumulative bulk and footprint of four two-story single dwellings within the site, which is the likely alternative use of the site. Refer to Figure 5 of the Landscape Design Statement appended to the NoR as lodged for a scale cross section of the site and adjoining vegetation.

Hazardous substances, bunding and flooding

12. Please provide information about how the NoR will ensure any adverse effects from transformer oil storage areas or oil leaks (i.e. hazardous substances) will be avoided, remedied or mitigated. Please include why no conditions are proposed that would require bunding and why no conditions are proposed that would require a hazardous substances management plan, but the NoR Report/AEE appears to rely on such conditions to mitigate adverse effects.

Response: Please refer to response to Item 5.

Erosion and sediment control

13. Please provide an assessment of effects related to proposed earthworks and include how the NoR will mitigate adverse effects and manage erosion and sediment, in particular noting that streams/watercourses are in proximity to NoR. Please include why no conditions are considered necessary.

Response: Until the design of the substation is confirmed, the extent of required earthworks and methodology cannot be determined with any greater certainty than already provided in the Infrastructure Design Report submitted with the application. That report (on page 11) indicates that the area of earthworks is limited to the clearance of building platforms and basement, with the total area of earthworks being approximately 900m². This is within the limits for permitted activities in Rule E26.5.3.1 and 2. A proposed condition has been included to ensure compliance with the standards for permitted activities in Rule E26.5.

Groundwater

14. Please clarify the nature of the impact on groundwater outlined in the geotechnical report by ENGINEERING GEOLOGY LIMITED.
Please confirm that potential groundwater incursion or tank failure will not result in adverse effects, including the release of hazardous substances into the wider environment

Response: The design of the substation will be finalised at the outline plan of works stage. If the construction of the substation and its associated excavation will involve diversion of groundwater or dewatering which will be addressed separately through a regional resource consent application at the time when the substation is established.

Mana Whenua

15. Please include an assessment of potential adverse effects the construction and operation of the substation could have on Ngāti Tamaoho and Ngāti Te Ata, and why these effects are less than minor.
16. Please provide information about whether any iwi other than Ngāti Te Ata and Ngāti Tamaoho, were contacted or consulted by Counties Energy regarding the NoR and what the outcome of this was. Please include why Counties Energy does not consider any other iwi to be an affected party.

Response: In their written response to the proposal (included as Appendix G to the NoR) Ngati Tamaoho took an interest in the treatment of stormwater from the impermeable surfaces, and deferred to Ngati Te Ata in relation to design and appearance. While they confirm that no further engagement is required at this time, the proposed conditions ensure further input is obtained at the detailed design stage.

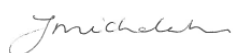
On page 10 of CIA supplied with the NoR, Ngati Te Ata confirms that the site chosen for the substation does not adversely impact upon any cultural heritage. In the interests of maintaining a strong collaboration with Ngati Te Ata, Counties Energy will continue to involve Ngati Te Ata in the detailed design stage of the project as expressed through proposed Condition 2.

No other iwi was consulted by Counties Energy regarding the NoR. Counties Energy have ongoing dialogue with Ngati Tamaoho and is aware of their connections with the area through this and

other projects taking place within their rohe. Counties Energy are also aware of the great importance that Kahawai Point, and the Glenbrook Special Housing Area in particular, has to Ngati Te Ata. The Auckland Council's decision¹ on Variation 14 to the Glenbrook 3 Precinct and associated qualifying development approvals under the Housing Accords and Special Housing Areas Act 2013 notes recognised and describes the close association between Ngati Te Ata and the current landowner of the site, Kahawai Point Development Limited. No other mana whenua group was deferred to by either Ngati Te Ata or Ngati Tamaoho.

Please do not hesitate to contact the undersigned if you have any queries.

Ngā mihi and kind regards



Jo Michalakis
Auckland Manager – Planning



M +64 27 232 0496
jmichalakis@align.net.nz

¹ <https://www.aucklandcouncil.govt.nz/plans-projects-policies-reports-bylaws/our-plans-strategies/unitary-plan/history-unitary-plan/modifications/upmod123specialhousingglenbrook3precinct.pdf>