

20 January 2020

Mr Tim Grace

Lands and Survey  
PO Box 33 917  
Takapuna, Auckland 0740  
**AUCKLAND**

**Issued via email:** [tim@landsandsurvey.co.nz](mailto:tim@landsandsurvey.co.nz)

Dear Tim,

**RE: Clause 23 RMA Further Information – Clevedon Kawakawa Road Private Plan Change Request**

Further to your private plan change request under Clause 21 to Schedule 1 of the Resource Management Act 1991 in relation to Clevedon Kawakawa Road from Stratford Properties Limited, Council has now completed an assessment of the information supplied.

Pursuant to Clause 23 of the Resource Management Act 1991 (please see Appendix 1), Council requires further information to continue processing the private plan change request.

The table in Appendix 2 attached to this letter sets out the nature of the further information required and reasons for its request.

Should you wish to discuss this matter or seek a meeting to clarify points in this letter please do not hesitate to contact me.

Kind regards,



Sanjay Bangs  
Planner  
Plans & Places Department  
021 619 327

## Appendix 1

### Basis for the Information Sought

#### First Schedule to the Resource Management Act 1991

Clause 23 Further information may be required

(1) Where a local authority receives a request from any person under [clause 21](#), it may within 20 working days, by written notice, require that person to provide further information necessary to enable the local authority to better understand—

- (a) the nature of the request in respect of the effect it will have on the environment, including taking into account the provisions of [Schedule 4](#); or
- (b) the ways in which any adverse effects may be mitigated; or
- (c) the benefits and costs, the efficiency and effectiveness, and any possible alternatives to the request; or
- (d) the nature of any consultation undertaken or required to be undertaken—

if such information is appropriate to the scale and significance of the actual or potential environmental effects anticipated from the implementation of the change or plan.

(2) A local authority, within 15 working days of receiving any information under this clause, may require additional information relating to the request.

(3) A local authority may, within 20 working days of receiving a request under [clause 21](#), or, if further or additional information is sought under subclause (1) or subclause (2), within 15 working days of receiving that information, commission a report in relation to the request and shall notify the person who made the request that such a report has been commissioned.

(4) A local authority must specify in writing its reasons for requiring further or additional information or for commissioning a report under this clause.

(5) The person who made the request—

- (a) may decline, in writing, to provide the further or additional information or to agree to the commissioning of a report; and
- (b) may require the local authority to proceed with considering the request.

(6) To avoid doubt, if the person who made the request declines under subclause (5) to provide the further or additional information, the local authority may at any time reject the request or decide not to approve the plan change requested, if it considers that it has insufficient information to enable it to consider or approve the request.

**Appendix 2:**

**Further information requested under Clause 23 First Schedule of the Resource Management Act 1991**

**Contents**

Planning, statutory and general matters – Sanjay Bangs, Plans & Places .....	2
Traffic matters – Wes Edwards, Arrive Ltd .....	4
Land use capability – Fiona Curran-Cournane, RIMU .....	6
Stormwater and flooding matters – Iresh Jayawardena, Healthy Waters.....	9
Contaminated Land – Rob Burden, Riley Consultants Limited.....	11
Geotech matters – James Beaumont, Riley Consultants Limited.....	12

**Please note that no further information has been requested in regard to the following matters:**

- Landscape and visual effects (Rob Pryor, LA4 Landscape Architects)
- Ecology (Carl Tutt, Environmental Services)
- Water supply and wastewater matters (John Newsome, Regulatory Engineering South)

#	Category of information	Specific Request	Reasons for request
<b>Planning, statutory and general matters – Sanjay Bangs, Plans &amp; Places</b>			
P1	Shape files	<p>Please provide shape files defining the extent of the private plan change (<b>PPC</b>) area, in terms of both:</p> <ul style="list-style-type: none"> <li>- The proposed area to be rezoned from Rural – Rural Coastal to Rural – Countryside Living; and</li> <li>- The proposed amended extent of the Clevedon Precinct – Sub-precinct C</li> </ul>	<p>Shape files are required to show the extent of the private plan change on the AUP(OP) GIS Viewer once the plan change is notified for submissions.</p>
P2	Defensible boundary	<p>Please explain how the proposed PPC provides a defensible boundary against future expansion of the Rural – Countryside Living Zone zone and Clevedon precinct – Sub-precinct C.</p>	<p>Paragraph 102 of the Statutory Assessment Report (<b>SAR</b>) notes that “<i>The character and amenity of the rural area beyond this land to the east towards the coast does change to a more productive rural type environment as the extent of dwellings dissipate, and the properties become larger. The plan change site therefore provides a natural boundary or barrier for rural residential or lifestyle land uses at the eastern edge of the countryside living environment that surrounds the Clevedon village</i>”</p> <p>However, it appears that properties east of the plan change areas are comparable in size to sites within the PPC area, many of which are smaller and more fragmented than 278 Clevedon Kawakawa Road. Sites to the east also appear to be similar in terms of land uses as they accommodate rural production with dwellings focussed towards Clevedon Kawakawa Road.</p>

#	Category of information	Specific Request	Reasons for request
			Further explanation is required as to how the plan change area provides a defensible boundary against future proposals for expanding the extent of countryside living at Clevedon.
P3	No-complaints covenant	Please explain whether a bespoke rule in the Clevedon Precinct: Sub-precinct C has been considered to ensure a no-complaints covenant is registered on future titles.	Paragraph 124 of the SAR notes that the plan change land is proximate to productive rural activities and could therefore lead to complaints from future residents. A no-complaints covenant registered at the time of subdivision is suggested as a potential mitigation measure. It is unclear whether bespoke standards in the Clevedon Precinct: Sub-precinct C have been considered to achieve greater certainty that such a covenant will be registered on future titles.
P4	Wastewater disposal	Please explain how future development of 12 dwellings can accommodate wastewater disposal fields outside of the 1% AEP flood plain.	<p>Policy I408.3(9) of the Clevedon Precinct seeks that building platforms and areas for wastewater disposal are located within natural contours/landforms outside the floodplain and inundation areas, taking into account the effects of future climate change.</p> <p>It is not clear from the On-site Wastewater Treatment and Disposal Report (Technical Report No 3) whether the disposal fields shown on the indicative development plans would be located outside the flood plain.</p> <p>It is understood that as a detailed design component this will be demonstrated at the time that subdivision consents are sought. However, confidence is needed that the plan change does not compel/require a development scenario that is inconsistent with the AUP(OP) provisions.</p>

Traffic matters – Wes Edwards, Arrive Ltd			
T1	Future environment	Please provide an assessment of transport impacts for the future environment	<p>The Transport Assessment (<b>TA</b>) provides an assessment of the plan change on the existing environment, but does not provide a description of the expected future environment, and does not assess the effect of the proposal on that environment.</p> <p>Without such an assessment the impact of the proposal on the future environment cannot be properly understood.</p> <p>Information should be provided on expected traffic growth in the area, preferably from regional/ district transport models, and assessment against that baseline provided for an appropriate future year (eg 2036).</p>
T2	Access	Please demonstrate that safe access to the land can be provided.	<p>The TA assesses the access location and form shown on the proposed subdivision drawings, and assesses sight distance on the basis of the LTSA RTS 6 “Guidelines for Visibility at Driveways” document for a location in the proposed driveway.</p> <p>There are a number of issues with the sight distance assessment:</p> <ol style="list-style-type: none"> <li>a. The RTS 6 guideline was published in 1993 and was based on the 1988 NAASA1 Guide to traffic engineering practice. The NAASRA guideline has been superseded by more recent Austroads guidelines having longer minimum sight distances as the result of road safety research, and different measurement parameters.</li> <li>b. While the general approach of RTS 6 is considered to remain appropriate, the minimum distances should be calculated using current versions of Austroads Guidelines. For driveways on arterial roads, RTS 6 uses distances calculated from the Safe Intersection Sight Distance (SISD) standard.</li> <li>c. The minimum sight distance stated in the TA is the RTS 6 distance for an operating speed of 90km/h, not the measured operating speeds of 94 and</li> </ol>

			<p>95km/h. The minimum distances should either be based on the rounded-up speed (ie 100km/h), interpolated, or preferably calculated from the formula.</p> <ul style="list-style-type: none"><li>d. Vehicles approaching the access location from the west would be braking on a down-grade, which requires longer stopping distances. The TA does not adjust the minimum sight distance to take account of grade in the braking area.</li><li>e. The TA states that the measured sight distances do not meet the (outdated and rounded down) RTS 6 requirements.</li><li>f. The TA notes that the Austroads SSD and MGSD standards are met, but neither are considered to be appropriate for driveways on an arterial road. RTS 6 only uses the lower SSD standard on lower-order roads.</li><li>g. Sight distances to vehicles waiting to turn right into the driveway (ie BD and BC in RTS 6) are not stated and are likely to be less than those measured from the driveway.</li><li>h. Speeds were measured using radar equipment which is subject to under-representing vehicle speeds as a result of drivers being alerted by radar-detecting devices.</li></ul> <p>Further information is required to demonstrate that an access location is available that would allow the land to be developed safely. An access should meet the current Austroads SISD standard for vehicles turning in and out of any driveway.</p>
--	--	--	---

Land use capability – Fiona Curran-Cournane, RIMU			
LC1	Soil Assessment Report	Please provide New Zealand Soil Classification with the soil series names corresponding to the Land Resource Inventory	A Land Resource Inventory for each of the soil observations was carried out by Dr Douglas Hicks. Corresponding New Zealand Soil Classification with the soil series names used would also be helpful.
LC2	Soil Assessment Report	Please clarify whether Mr Stuart Ford is indeed the author of the 'The Agribusiness Group' referenced in the Soil Assessment Report.	In Soil Assessment Report ( <b>SAR</b> ), Dr Douglas Hicks refers to a separate assessment by Mr Stuart Ford that "confirms that neither area suffices to support a viable horticultural enterprise". An assessment specifically co-authored by Mr Stuart Ford has not been indicated.
LC3	Soil Assessment Report	Please explain why the Soil Assessment Report concludes that the LUC Class 3 land does not meet the definition criteria for prime soils, particularly given that Dr Hicks' rebuttal evidence for the Self Family Trust and Auckland Council Environment Court hearing 29875791 v 1 makes a contrary conclusion regarding the classification of LUC 3.	<p>In the SAR, Dr Douglas Hicks concludes that 6.03 hectares (or 11%) of the land in the subject area conforms to the AUP(OP) definition of land occupying prime soil and regards it as LUC class 2. Dr Douglas Hicks also concludes that 35.1 ha (or 67.5%) of the land does not meet the definition criteria for prime soils but rather is LUC class 3 which he has defined as land that has moderate physical limitations to arable use as per Lynn et al 2009.</p> <p>However, in paragraph 4.4 of his rebuttal evidence for the Self Family Trust and Auckland Council Environment Court hearing 29875791 v 1, Dr Douglas Hicks previously regarded land containing prime soils as both LUC class 2 and 3 land (i.e. which arguably implies that any soil occupying LUC class 2 and 3 land falls within the definition of prime soils).</p> <p><u>Note:</u> The AUP(OP) definition of 'land containing prime soil' is defined as 'Land identified as land use capability classes two and three (LUC2 and 3), with slight to moderate physical limitations for arable use' and land in the subject area would therefore meet this qualifier. The reference to LUC class 3 land in the AUP(OP) 'land containing prime soil' definition is intended to elevate the importance and value of this land in its definition. The value of LUC classes 2 and 3 are also reflected in National</p>



			Policy Statement for Highly Productive Land Discussion Document which proposes the definition of Highly Productive Land as land containing LUC classes 1-3 in the interim <sup>1</sup> .
LC4	Land Use Capability Report	Please clarify the statement in the Land Use Capability Report that the 'AUPOiP provisions are to ensure that Auckland retains sufficient soils which have the desirable characteristics to enable the continuation of horticultural production, particularly the commercial vegetable production sector'.	<p>The AUP(OP) recognises the value of Auckland's rural land which contains extensive, productive and valuable areas beyond horticulture which are also used for commercial farming, forestry and recreation as well as the productive potential of land that does not contain elite or prime soil<sup>2</sup>. The purpose of sustainable management includes safeguarding the life-supporting capacity of natural resources now and in the future. This includes protecting the productive potential of the land to provide for present and future generations as well as significant indigenous biodiversity. Any reference to LUC classes 1-3 also includes all-encompassing rural production activities (potential or actual) and recognises that 'no matter what type of rural production occurs, retaining land with high productive potential for primary production provides flexibility to improve economic performance, sustainably manage land resources and enable communities to pursue sustainable lifestyles'<sup>3</sup>.</p> <p>Bearing the above in mind, not only are the development types proposed in the Clevedon-Kawakawa PPC proposal seeking to disproportionately occupy the better parts of the land (as identified as LUC class 2 at the farm-scale); but paragraphs 4-5 of the above tend to be disregarded in the Land Use Capability Report which fails to acknowledge the productive potential of land identified as LUC class 2, considering its development endorsement of this land. Additionally, the Land Use Capability Report disregards the nearly 80% (41.13ha) of the subject that has been mapped at the farm scale as occupying LUC classes 2-3 land as per Dr Doug Hicks' SAR. If indeed it was</p>

<sup>1</sup> Ministry for Primary Industries (2019). "Discussion document on a proposed National Policy Statement for Highly Productive Land. Ministry for Primary Industries. August 2019."

<sup>2</sup> AUPOiP Rural Environment Chapter B Regional Policy Statement B9 B.1.1 Issues and B9.3.1.(3)

<sup>3</sup> AUPOiP Rural Environment Chapter B Regional Policy Statement B9.5

			Mr Stuart Ford who authored the Land Use Capability Report for the subject area, this author previously placed equal weight, if not close to, when presenting evidence on Topic hearings 011 and 056+057 concerning elite and prime soils as part of the Proposed Auckland Unitary Plan Hearings.
LC5	Land Use Capability Report	Please substantiate the statement that “ <i>the commercial vegetable production sector regard blocks of land below 50 ha as unsuitable to be able to operate them efficiently</i> ” (p.3 Land Use Capability Report)	The Land Use Capability Report refers to the commercial vegetable production sector regarding blocks of land below 50ha as being unsuitable to be able to operate efficiently. This statement needs to be substantiated with a robust reference.
LC6	Land Use Capability Report	Please clarify the reference to the term ‘viable operation’ which is used frequently in the Land Use Capability Report	The Land Use Capability Report in various sections refers to what is or is not a viable operation which needs to be substantiated with a robust reference; the term ‘economically viable’ has otherwise not only been reported as being an incredibly subjective term but has also been regarded as being a rather dated term as far as horticultural operations are concerned <sup>4</sup> .
LC7	Land use map	Please provide a land use map of the subject land and surrounding area.	A land use map of the subject and surrounding area is requested to substantiate the statement in paragraph 122 of the Statutory Assessment report that “ <i>the land use around the plan change site is characterised by mostly rural lifestyle properties, particularly around the southern part of the site where the clustered countryside living development is proposed to be located</i> ”.

---

<sup>4</sup> Clothier, B. (2009). "Evidence in Chief before the Environment Court in the matter of the Resource Management Act 1991 and the matter of an Appeal under Section 120 of the Resource Management Act 1991 between Bunnings Limited (appellant) and Hastings District Council (respondent) APPEAL: ENV-2009-WLG-0182."

Stormwater and flooding matters – Iresh Jayawardena, Healthy Waters			
SW1	Potential restoration and enhancement areas	Please clarify whether bespoke precinct provisions have been considered to require the implementation of ecological enhancements opportunities identified in the <i>Ecological Report</i> (Technical Report No 9) prepared by 4Sight Consulting.	<p>Section 5 and Section 6 of the Ecological Report (Technical Report No 9) prepared by 4Sight Consulting found that the ecological values currently present on the site are negligible. Section 6 of the report has also indicated that there is potential for positive effects as part of any future subdivision and development of the site through the implementation of identified enhancement opportunities, such as wetland and riparian restoration, inanga spawning habitat creation and improvement to fish passage (ref to Figure 3 Suggested enhancement and restoration areas).</p> <p>It is acknowledged that ecological report identified enhancement opportunities that can be implemented at the time of subdivision and development stage of the site. However, given the land use is known, adequate provisions could be made at the plan change stage to enable better outcomes at the resource consent stages to be achieved (i.e. additional precinct provisions). Please clarify whether these environmental enhancement opportunities should be expressed through the provisions proposed in this plan change, rather than leaving it to the resource consent stage.</p>
SW2	Natural Hazards (Policy directives)	Please expand the Section 32 analysis to adequately assess the flood hazard associated with the likely location of development, particularly in relation to the objectives and policies of Chapter E36 and RPS Policy B10.2 of the AUP(OP).	<p>The site is located within both 1% AEP flood plain as well as coastal inundation 1% AEP plus 1m Sea Level Rise Controls within the AUP(OP).</p> <p>Paragraph 132 (p. 33) of the SAR states that <i>“it also ensures that future subdivision and development only occurs where the risks of adverse effects from flood hazards are not increased overall and where practicable are reduced, taking into account the likely long-term effects of climate change.”</i></p> <p>The plan change proposal is to allow rural residential development on the site, which enables more vulnerable activities to locate in areas subject to flood hazards. Therefore, the risks around flood hazards associated with the PPC are greater compared with what can be developed under the current zoning.</p>

			<p>While taking into account outcomes of the proposal, the Section 32 report does not adequately assess the actual and potential effects of locating activities vulnerable to flood risk within areas subject to flood hazards, and how the proposal fits within relevant objectives and policies of the plan, in particular RPS Policy B10.2 and those within Chapter E36.</p> <p>The Section 32 planning report should also provide an assessment against relevant Chapter E36 objectives and policies to understand the actual and potential effects of the PPC while taking into account the likely effects on climate change, coastal and flood hazards</p>
SW3	Natural Hazards (Flooding)	Please provide justification/rationale in regard to why development in areas subject to natural hazards (flooding) cannot be avoided, rather than considering mitigating adverse effects.	<p>Page 33 of the SAR states that <i>“as a result of these natural hazard flood risks being identified on the site any future subdivision and development on the site will require resource consent under the rules contained in Table E36.4.1 of the AUP (OP). These rules enable the risk of adverse effects from flood hazards to be appropriately assessed at the time of subdivision and development and for significant adverse effects to be avoided through refusal of resource consent where necessary.</i></p> <p>It is acknowledged that for any subdivision or development within the subject site a resource consent will be required under Chapter E36 of the AUP(OP), and will therefore be subject to the objectives and policies of E36. However, given the indicative development that would be enabled by this plan change is located on land subject to natural hazards and climate change risks, these risks should be</p>
SW4	Integrated stormwater management outcomes	Please expand the Section 32 assessment or provide further discussion/assessment on how the proposed plan change request will give effect to relevant E1.2 Objectives and Policies E1.3. (9) under Chapter E1 Water Quality and Integrated Management of the AUP(OP).	<p>Taking into account the future re-development of the subject site, the Section 32 report does not provide any discussion/assessment on how the proposed plan change request meets or gives effect to the objectives and policies under E1.2 and E1.3. (9) of Chapter E1 Water Quality and Integrated Management within the AUP(OP).</p> <p>The proposal will create impacts on the hydrology through newly created impervious surfaces. The plan change provides an opportunity to ensure that the approach to stormwater achieves integrated management as required by Chapter E1 of the</p>

			<p>AUP(OP). For example, what is the anticipated maximum area of impervious surfaces across the development proposed within the sub-precinct?</p> <p><b>Advice note:</b></p> <p><i>Best Practicable Options (BPO) should be considered as an integrated stormwater management approach and provide sufficient details to all understanding of how runoff from the development is managed through the proposed stormwater management approach, in particular, water quality improvements</i></p> <p><i>Please not that property owners are responsible for maintaining stormwater assets created from the proposed development, and the Healthy Waters will not accept stormwater assets for vesting</i></p>
<b>Contaminated land – Rob Burden, Riley Consultants Limited</b>			
C1	Scope of analysis	Please provide further information on the potential for contamination on the properties at 272 and 274 Clevedon Kawakawa Road, initially in the form of a Preliminary Site Investigation.	Part of the properties at 272 and 274 Clevedon Kawakawa Road appear to be part of the plan change request area. However, there does not appear to be contamination related information within the Preliminary Site Investigation ( <b>PSI</b> ) for the parts of the plan change area that fall within these properties.
C2	Existing structures	Please provide further information on the potential for soil contamination arising from the demolition of farm buildings identified by the PSI.	Historical aerial photographs taken in 1960 and 1972 appear to identify a number of small farm buildings. Please provide further information on the potential for soil contamination by lead (lead from paint) and/or asbestos resulting from deterioration and/or demolition of these buildings. Please identify the areas of potential soil contamination on an appropriate site plan
C3	Uncertified fill	Please provide further information on the potential for uncertified filling to have been carried out on the plan change request	The PSI does not address the potential for uncertified fill and where this may be located on the PPC land.

		area. Please show the extent of any uncertified filling on an appropriate site plan	
C4	Horticulture	Please provide further information on the potential for horticultural activities to have been carried out on the plan change area prior to 1960.	The Council Site Contamination Enquiry notes the possibility of historical horticultural activities having been carried out on the plan change request area. The earliest aerial photograph reviewed in the PSI is dated 1960. Further analysis is required to determine the presence of horticulture prior to 1960 and any residual risk of contamination as a result.
C5	Farm dumps	Please provide further information on the potential for historical farm dumps to exist on the plan change request area. Please identify any farm dumps on a suitable site plan and provide information on the potential for contamination from those dumps.	Corrugated iron, timber and fencing wire were observed near an existing shed. Further information is required to understand the potential contamination related to this material and any other farm dumps on the PPC land.
C6	Mounds	Please provide further information on the contents of the four mounds covered by white sheeting on the western part of the site.	During the site walkover four mounds, covered by white sheeting, were observed on the western part of the site. Please provide further information on the contents of the mounds and the potential for contamination from the mounds.
<b>Geotech matters – James Beaumont, Riley Consultants Limited</b>			
G1	Lateral spread	Please provide further information on the assessment of lateral spread.	The area of the site potentially affected by the calculated lateral spread is significant. Please provide further information on the method of assessment used for lateral spread, comment on the calculated lateral spread in relation the height of the free face, whether or not the calculated lateral spread are expected and why, provide lateral spread contours and also outline how this hazard is intended to be mitigated.

G2	<b>Advice Note</b>	<i>Please reconsider the assessed seismic site subsoil category. By inspection of the CPT records we have noted that there are materials with <math>C_u &lt; 12.5 \text{ kPa}</math> and <math>SPT N &lt; 6</math> present within the tested profile;</i>
----	--------------------	---