

**Title:** **Application for a Residential Development at 22 and 22A Summit Drive, Mount Albert under Section 88 of the Resource Management Act 1991**

**Revision:** -

**Date:** 22<sup>nd</sup> of September 2025

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**Scope:** Assessment of Environmental Effects

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**Site Address:** 22 Summit Drive, Mount Albert 1025, and  
22A Summit Drive, Mount Albert 1025

**Applicant's Name:** A&Y Contractor Limited

**Owner:** Huimin An & Yanchao Sun

**Legal Description:** Lot 1 DP 603808 (22)  
Lot 2 DP 603808 (22A)

**Site Area:** 932m<sup>2</sup> (22)  
616m<sup>2</sup> (22A)

**District Plan:** Auckland Unitary Plan; Operative in Part (updated 11 July 2025)

**Zoning:** Residential: Single House Zone

**Overlays:** Natural Resources: Quality-Sensitive Aquifer Management Areas Overlay [rp] - Western Springs Volcanic Aquifer  
Natural Heritage: Outstanding Natural Features Overlay [rcp/dp] - ID 108, Mt Albert (Owairaka)  
Natural Heritage: Regionally Significant Volcanic Viewshafts And Height Sensitive Areas Overlay [rcp/dp] - A13, Mount Albert, Viewshafts  
Natural Heritage: Regionally Significant Volcanic Viewshafts And Height Sensitive Areas Overlay [rcp/dp] - A10, Mount Albert, Viewshafts  
Natural Heritage: Regionally Significant Volcanic Viewshafts And Height Sensitive Areas Overlay [rcp/dp] - A1, Mount Albert, Viewshafts  
Natural Heritage: Regionally Significant Volcanic Viewshafts And Height Sensitive Areas Overlay [rcp/dp] - Mount Albert, Height Sensitive Areas  
Historic Heritage and Special Character: Special Character Areas Overlay  
Residential and Business - Mt Albert, Residential Isthmus C

**Controls:** Macroinvertebrate Community Index – Urban

**Designations:** Designations: Airspace Restriction Designations - ID 1102, Protection of aeronautical functions - obstacle limitation surfaces, Auckland International Airport Ltd

**Modification:** Plan Changes, Plan Change 78 - Intensification, Multiple Layers, Proposed, 18/08/2022

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## 1.0 Introduction

The 'Applicant', A & Y Contractor Limited seeks consent for construction of two separate dwellings on two abutting separate properties (one dwelling at each property) at the 'Site' including 22 and 22A Summit Drive, Mount Albert. The separate sites were created in July 2024 after completion of physical works and due process for the subdivision consent (referenced as R/SUB/2016/743) included in Appendix L. The consenting scenario includes concurrent land use consent overall as a non-complying activity requiring public notification under the provisions of the Auckland Unitary Plan: Operative in Part (AUP OP), specifically standards D14.5(1)(a) and D14.5(1)(b). The two properties are subject to the Outstanding Natural Feature ('ONF') (108, Ōwairaka V2 – Large Volcanic Landform), Volcanic Viewshafts/Height Sensitive Area and Special Character Area – Residential Isthmus C (SCAR) overlays, the zoning of the site is Residential – Single House Residential. The Applicants project team have engaged with the Auckland Council Planning Policy Team, Auckland Council Resource Consents Team, The Te Puna Maunga Authority and local Iwi in preparing the application documentation.

The Proposal, as outlined in the following assessment can pass at least one of the gateway tests set out in Section 104D of the Act being that the proposed activity has actual and potential adverse effects that will be minor.

## 2.0 Existing Site Context

The maps, aerials and local council plans set out in the figures below demonstrate visually the existing site spatial context, in respect to location, features as well as applicable local authority planning regulations.

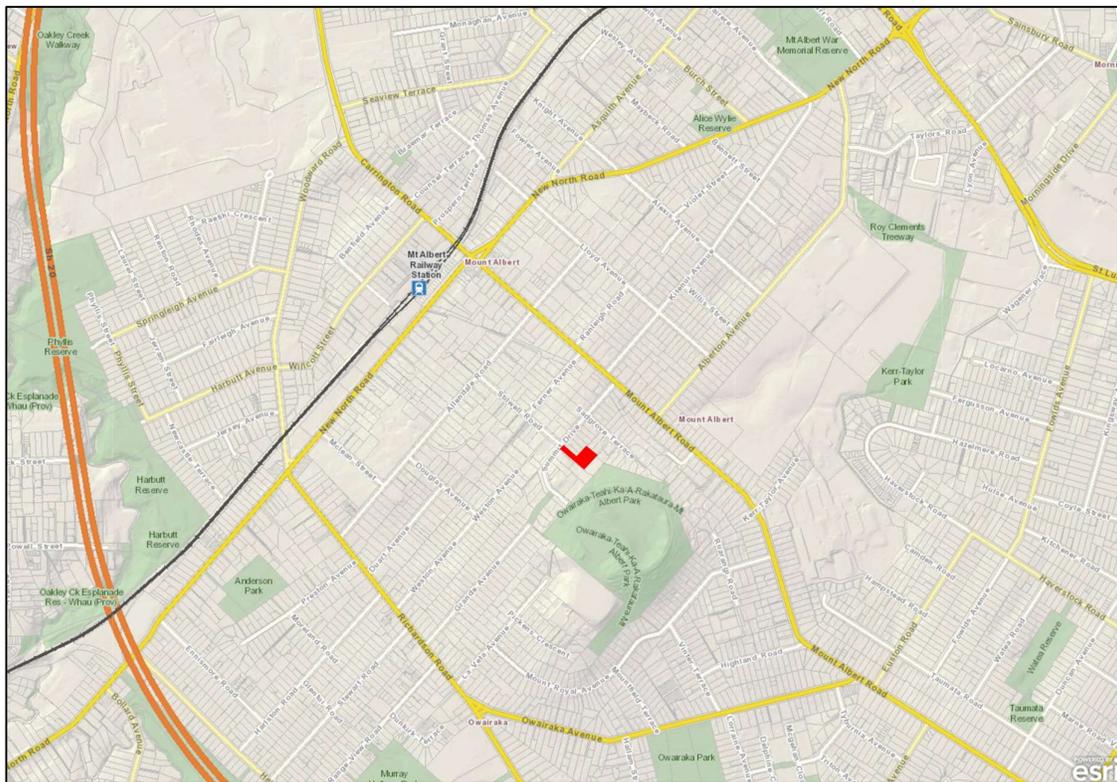


Figure 1: Auckland Council Geomaps Viewer - Wider Locational Context



Figure 2: Nearmap – May 2025 Wider Aerial including Local Area Context



Figure 3: Nearmap – May 2025 Site Aerial including Immediately Surrounding Context



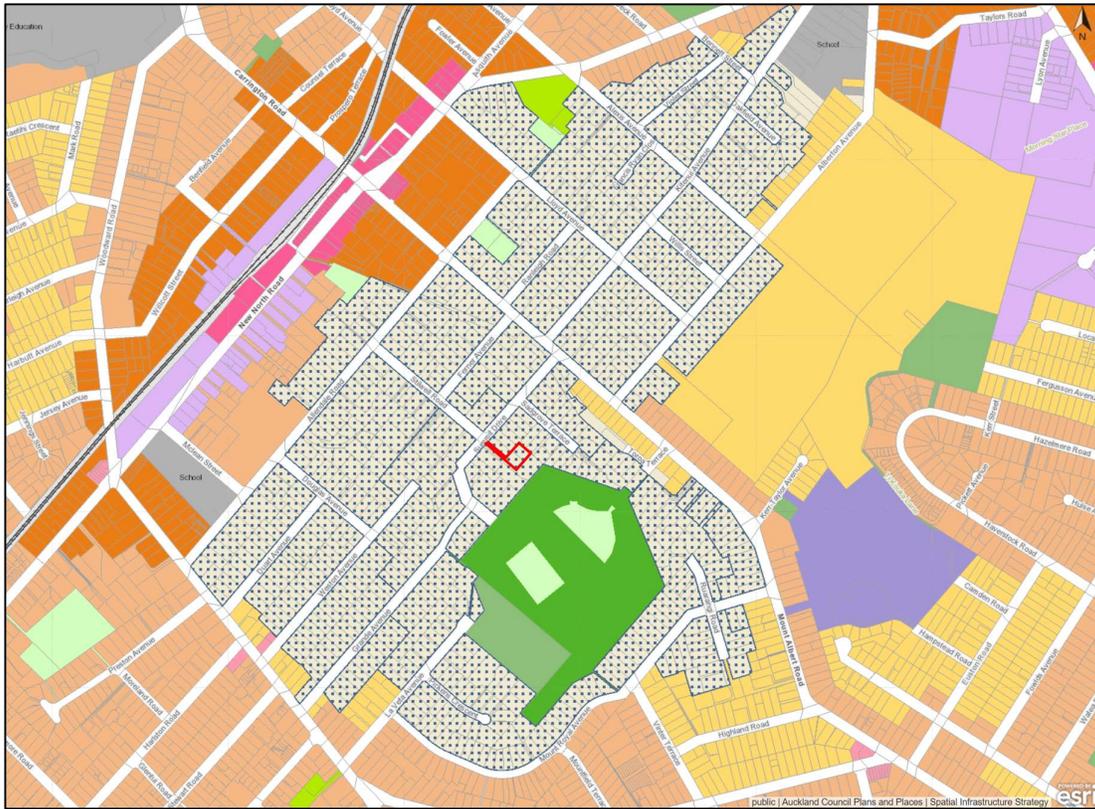


Figure 6: Auckland Council – AUP OP – Special Character Areas Overlay - Residential Isthmus C

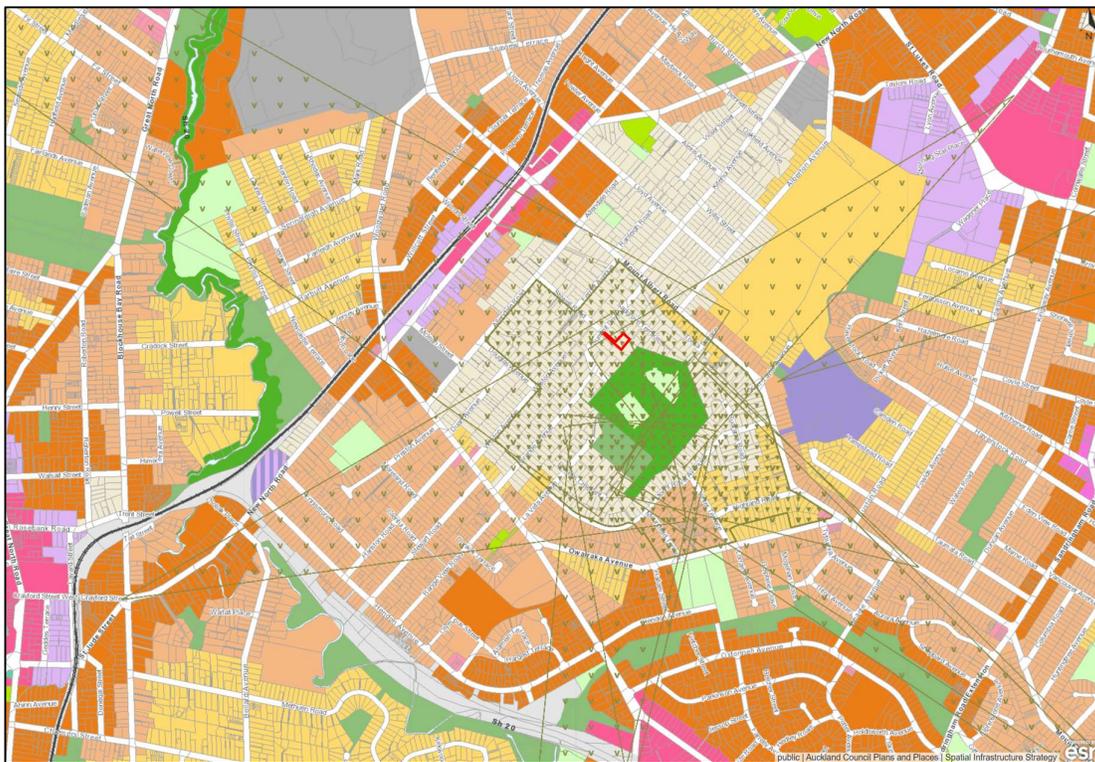


Figure 7: Auckland Council – AUP OP – Various Volcanic Viewshaft and Height Sensitive Area Overlays

### 3.0 Site and Context Description

The Site, inclusive of both 22 and 22A Summit Drive, Mount Albert has been recently subdivided and is held in two existing separate titles. Lot 1 (22 Summit Drive) is the southernmost property and is 932m<sup>2</sup> in land area (including the pan handle access for both properties which is subject to a right of way easement). Lot 1 is legally described as Lot 1 DP 603808. Lot 2 (22A Summit Drive) is the northernmost property and is 616m<sup>2</sup> in land area and is legally described as Lot 2 DP 603808.

Both properties are rear sites, and access to the Summit Drive public road reserve is via a recently formed shared concrete driveway, which is 3m in formed width within a 5m wide legal width panhandle contained within 22 Summit Drive with a right of way easement in favour of 22A Summit Drive.

The properties are currently vacant and include aside from the recently completed driveway and retaining walls, is dominated by rank grass with other vegetation features limited to scrub vegetation at the northern end of the 22A Summit Drive, which is dominated by weed species, with no high value tree or shrub specimens.

The existing land and slope at the subject site is a typical flank slope of one of Auckland's Volcanoes, the main portion of the subject site (excluding the pan handle) is sloping down from the southern corner high point (RL 89) towards the northern corner low point (RL 79) at an approximate 20% gradient. The geology of the site is characterised by ash/gravel soil with no rock exposures and is underlain with basalt.

The elevation of the site is such that views from the site are broad, panoramic views can be experienced to the north and northwest over the central city urban form, and harbour. Consequentially, and acknowledged in the application of several volcanic viewshafts which include the site under the AUP OP, the site can also be seen from a broad range of locations in the Isthmus.

The subject site is situated on the slopes of the Ōwairaka/Mount Albert volcanic land form, the Maunga, which is scheduled under the Auckland Unitary Plan as an 'Outstanding Natural Feature' inclusive of the subject site. Records show that the Maunga has been occupied and modified by both Māori and European settlement in recent history. Ōwairaka erupted approximately 30,000 years ago forming a large scoria cone, from the mid 19<sup>th</sup> to mid 20<sup>th</sup> century a significant amount of the top of the Maunga was quarried, and later farming and construction of roading, water reservoirs, sports fields as well as residential development and subdivision on the slopes of the Maunga were constructed which result in the highly modified land form present today.

The Ōwairaka /Mount Albert Domain publicly accessible reserve is close to the site and is only separated from the site by the neighbouring vacant property at 24 Summit Drive, abutting and directly east of the site. 24 Summit Drive, is currently vacant and held in one legal title, 1,857m<sup>2</sup> in land area, with a panhandle access which abuts and runs parallel to the existing access for the subject site.

In 2022, a two lot subdivision consent was approved at the 24 Summit Drive, included in Appendix M, the subdivision consent is live, but at this stage has not been given effect to. The other immediately adjacent properties relevant to the subject site include 16, 18A, 20, and 26 Summit Drive, as well as 1,

3A, 7 and 9 Sadgrove Terrace, which are all residential properties with existing houses of one, two and three levels.

The surrounding locality is a central residential suburb and is characterised by one to two level residential buildings, generally situated on properties approximately 600m<sup>2</sup> to 800m<sup>2</sup> in land area, as well as some larger properties. The existing mix of houses include a range of older housing stock, many modified, as well as more recent infill development and subdivision, which encompass a relatively diverse range of architectural styles and forms as well as lot pattern which inform the special character identified in the area.

In respect to locational context of the wider area, the site is afforded convenient access to schools, (Mount Albert Grammar, Marist College) and public transport connections, including bus services along Mount Albert Road, and the Mount Albert train station which are all walking distance from the subject site. The Mount Albert village, less than one kilometre walk from the site also offers a range of amenity facilities including restaurants, bars, supermarkets and medical facilities.

#### **4.0 Details of the Proposal**

##### **4.1 Subject Property Ownership**

A&Y Contractor Limited is the 'Applicant'. Yanchao Sun and Huimin An are the Owner of the property, as confirmed in the Certificate of Title (attached in Appendix A).

##### **4.2 Proposed Development**

The proposed development is for two dwellings, one per existing property at 22 and 22A Summit Drive. The two recently subdivided properties are both vacant and the conceptual design for the development importantly looks at the Site as a whole including both properties, and the fit of the proposed design for both houses which abut one another in the surrounding residential character, geological and landscape context of the site.

###### **4.2.1 Earthworks and Retaining Walls**

The site is currently vacant, and cleared asides from overgrown scrub and grass, no demolition or removal of trees is proposed to enable construction of the proposed development. Prior to works commencing, as a prudent measure the Applicant will seek out an Archaeological Authority from Heritage New Zealand to ensure there are appropriate procedures in place prior to works commencing.

The bulk earthworks for the overall site includes 250m<sup>3</sup> of cut and 60m<sup>3</sup> of fill, over a total area of 810m<sup>2</sup>. The maximum depth of excavation, reflecting geological and geotechnical investigation as well as responding to consultation as set out in Section 5, is 1.4m deep at the southern side of 22 Summit Drive only, with the majority of excavation for both houses platforms being less than 0.5m in depth.

The proposed earthworks will be managed in line with best practical erosion and sediment controls including silt fences and stabilised entrances, and will be supported by a Construction Management

Plan (CMP) to ensure that all physical works are managed appropriately in respect to noise, dust and traffic management in line with the permitted standards set out in the AUP OP.

Much of the retaining required has been incorporated into the proposed external walls at the southern and eastern side of each proposed building. There are several retaining walls which do not form part of the houses, these are detailed below:

- At the southern side driveway ramp to the proposed house at 22 Summit Drive a 7m long masonry retaining wall, up to 1.4m in height at its tallest eastern end is proposed to retain the existing higher land behind the proposed house at 22 Summit Drive and provide for access directly from the existing shared driveway.
- At the northern side driveway ramp to the proposed house at 22 Summit Drive a 4.75m long masonry retaining wall, up to 1.2m in height at its tallest eastern end is proposed to retain up the driveway ramp to the proposed house at 22 Summit Drive and provide for access directly from the existing shared driveway.
- At the eastern side of the proposed house at 22 Summit Drive, a 4.75m long masonry retaining wall, up to 0.7m in height at its tallest southern corner is proposed and retains the existing higher land behind the proposed house at 22 Summit Drive to provide access to the garden spaces from one of the ground floor bedrooms.
- At the northern yard of 22 Summit Drive, a 24m long masonry retaining wall, up to 1m in height retains up (in fill) is proposed to support the platform and outdoor area at 22 Summit Drive.
- At the boundary between 22 Summit Drive and 22A Summit Drive, a 20.5m long masonry retaining wall, up to 1m in height at the taller southern and eastern end of the wall is proposed to manage the level change between 22 Summit Drive and the proposed new dwelling at 22A Summit Drive, which sits lower in the topography. The wall allows for the driveway access to the proposed house at 22A Summit Drive to be directly from the existing shared driveway, as well as provides a service court behind the proposed dwelling at 22A Summit Drive.
- At the southern side of the pedestrian main entrance to the proposed building at 22A Summit Drive, a 3m long retaining wall up to 1m in height is proposed to manage the level change between the garage level and the front door level which is lower.
- At the northern side of the pedestrian main entrance to the proposed building at 22A Summit Drive, a 1.2m long retaining wall up to 0.4m in height is proposed to manage the level change between the front door access and the northern garden area at 22A Summit Drive, which is lower.

#### 4.2.2 Servicing and Access

The existing properties are provided access from Summit Drive by a recently constructed shared driveway, which will be retained as part of the proposed development, and connected to the new garaging by way of private driveway ramps which tie into the existing shared driveway surface.

It is proposed to install soakage chambers (Deep Bore Soakage) within each lot to service the proposed new dwellings, one per property. The underlying soil conditions are suitable for a soakage-based stormwater solution and the soak hole locations have been indicated in appropriate locations, which can be confirmed at time of building consent. Each existing property is already served with individual connections to the wastewater network traversing the subject site.

#### 4.2.3 *Overland Flow Path*

There is an existing small overland flow path that enters the eastern boundary of the subject site, and exits at the northern boundary of the subject site. The proposed development includes a 1.5m wide and 0.25m shaped planted swale along the eastern and northern boundaries of the site which will preserve the entry and exit point of the overland flow path and will adequately divert flows within the site away from the proposed buildings at 22 and 22A Summit Drive in a 100-year storm event.

#### 4.2.4 *Architectural Design*

The two dwellings each comprise two-level in-built forms and include tilted floor plans, split levels and lowered roof forms designed to balance out the depth of excavation and height of the buildings to ensure that the built form acknowledges and responds to the slope and geological features of the site, to ensure that the resultant built form (height, bulk and materiality especially) is not incongruous with nor detrimental to preserving the important views of the Maunga. The dwellings are designed for high amenity modern living with spacious indoor and outdoor living spaces and capturing panoramic views of the Isthmus.

The materiality of the houses incorporates use of materials with earthy colours and tones taken from the existing characteristics of the site and surrounding landscape context and includes grey brick, naturally stained cedar, black aluminium roofing and joinery and darker vertical flat sheet cladding.

The residential homes at 22 and 22A Summit Drive proposed are described as follows:

##### *New Dwelling at 22 Summit Drive*

- The ground floor gross floor area is 177.09m<sup>2</sup> and the first floor gross floor area is 157.44m<sup>2</sup>, amount to a total gross floor area of 334.53m<sup>2</sup>.
- The dwelling includes five bedrooms, with two bedrooms at the ground floor level and three at the first floor level.
- Three of the bedroom are afforded ensuites and there is a family bathroom at the first floor and a toilet at the ground floor.
- The master bedroom is complimented by a private balcony.
- The dwelling includes a double garage which includes a laundry/washroom space at the rear of the garage.
- The main living space is at the first floor level and includes a kitchen, scullery, living room and dining spaces which open up to a first floor balcony.
- The secondary living space is located at ground level and includes a living room space which opens out to the ground level deck and garden area.

##### *4.2.5 New Dwelling at 22A Summit Drive*

- The ground floor gross floor area is 185.45m<sup>2</sup> and the first floor gross floor area is 162.56m<sup>2</sup>, amount to a total gross floor area of 348.01m<sup>2</sup>.
- The dwelling includes five bedrooms, with two bedrooms at the ground floor level and three at the first floor level.
- Three of the bedroom are afforded ensuites and there is a family bathroom at the first floor and a toilet at the ground floor.
- The master bedroom is complimented by a private balcony.

- The dwelling includes a double garage.
- A laundry room is provided for at ground floor level.
- The main living space is at the first floor level and includes a kitchen, scullery, living room and dining spaces which open up to a first floor balcony.
- The secondary living space is located at ground level and includes a living room space which opens out to the ground level deck and garden area.

#### 4.2.6 *Landscape Design*

A planting palette of predominantly evergreen native trees, shrub, climbers and groundcover species are proposed to establish the built development into its landscaped and leafy setting. This includes evergreen native climber planting for the proposed retaining walls as well as for the existing retaining walls, which currently define the driveway to 22 and 22A Summit Drive, and the use of visually recessive, hard landscape materials including 1m – 1.5m high visually permeable timber slat fencing stained black to recess into the proposed site landscaping. Landscape treatment at the property boundaries (internal and external to the sites) has been carefully selected to ensure privacy is appropriately managed. The proposed landscaping will (by way of an offered condition of consent) be implemented in the first planting season available at completion of construction of each of the dwellings. The planting and maintenance methodology will be undertaken in line with best practice

#### 4.2.7 *Right of Way*

A Right of Way easement to be granted and request for council to issue a s348 under LGA 1974 certificate. Then I will need to prepare a LT plan for the ROW easement to be registered on the title. The proposal includes introduction of a small additional Right of Way (ROW) easement, which will be created under Section 348 of the Local Government Act and will be over 22 Summit Drive in favour of 22 A Summit Drive. The ROW Easement allows for compliance vehicle tracking for drivers entering the proposed garage at 22A Summit Drive. The ROW easement will need to be registered on both titles prior to issuing of Code of Compliance for the proposed buildings. While no subdivision consent is required to introduce the easement, it is interlocked with granting of the land use consent thus a condition and/or advice note suffices to ensures the easement is in place prior to occupation of either dwelling.

### 5.0 **Consultation**

#### 5.1 ***Adjacent Property Owners***

Based on the findings of this assessment of effects, and reflecting all attached specialist reporting, it is concluded that any actual and/or potential adverse effects on adjacent property owners will be less than minor, and therefore no consultation with adjacent property owners has been undertaken; coupled with the understanding that the proposal must be publicly notified in any case.

#### 5.2 ***Mana Whenua***

Ōwairaka has cultural significant to Māori and the Maunga remains a place of significance to Māori and an important archaeological site. As part of preparing the concept and application material, details

of the Proposal have been shared with iwi groups identified (as held by in records by the Auckland Council) as having connection to the local area and Maunga. Consultation has commenced with Iwi and will continue as part of the resource consent and notification process. Refer to Appendix P for relevant recorded correspondence.

### **5.3 Auckland Council**

Consultation with Auckland Councils policy and resource consent teams has been undertaken as part of preparing this application. Refer to the recorded minutes included in Appendix N.

### **5.4 Te Puna Maunga Authority**

Consultation with Te Puna Maunga Authority has been undertaken as part of preparing this application. Refer to the recorded minutes included in Appendix Q.

## **6.0 Reasons for Consent**

Resource consent is required for the following reasons under the provisions of the Auckland Unitary Plan; Operative in Part (AUP OP).

### **6.1 Chapter E12 Land Disturbance**

- Pursuant to Standard E12.4.1(A4) and E12.4.1(A8) consent is required as a Restricted Discretionary Activity for earthworks amounting to 310m<sup>3</sup> of material across 810m<sup>2</sup> of land area.
- Pursuant to Standard E12.4.2(A32) and E12.4.2(A33) consent is required as a Discretionary Activity for earthworks amounting to 310m<sup>3</sup> of material.
- Pursuant to Standard E12.4.3(A41) consent is required as a Restricted Discretionary Activity for earthworks amounting to 310m<sup>3</sup> of material across 810m<sup>2</sup> of land area.

### **6.2 Chapter D10 Outstanding Natural Features**

- Pursuant to Standard D10.4.2(A1) consent is required as a Restricted Discretionary Activity for the construction of two new buildings at 22 and 22A Summit Drive, as well as supporting retaining wall structures.

### **6.3 Chapter D14 Maunga Viewshafts and Height Sensitive Areas Overlay**

- Pursuant to Standard D14.4.1(A4) consent is required as a Restricted Discretionary Activity for the construction of retaining walls and fences at 22 and 22A Summit Drive which are within the viewshaft but less than 2.5m in height.

- Pursuant to Standard D14.4.1(A6) consent is required as a Non-complying Activity for the construction of two new buildings at 22 and 22A Summit Drive within the Viewshaft which do not comply with the standards under D14.6
- Pursuant to Standard D14.4.1(A11) consent is required as a Non-complying Activity for the construction of two new buildings at 22 and 22A Summit Drive within the Height Sensitive Area which do not comply with the standards.

#### **6.4 Chapter D18 Special Character Areas Overlay**

- Pursuant to Standard D18.4.1(A5) consent is required as a Restricted Discretionary Activity for the construction of two new buildings at 22 and 22A Summit Drive which are within the Special Character Residential overlay
- Pursuant to Standard D18.6.1.2 consent is required as a Restricted Discretionary Activity (under C1.9(2)) for the construction of two new buildings at 22 and 22A Summit Drive which infringe the height in relation to boundary recession plane as follows:
  - A portion of the proposed building roof form at 22A infringes the height in relation to boundary 3m plus 45o at the southern boundary shared with 22 Summit Drive by up to 2.262m vertically over a running length of 5.525m.
  - A portion of the proposed building roof form at 22 infringes the height in relation to boundary 3m plus 45o at the northern boundary shared with 22A Summit Drive by 1.948m vertically over a running length of 11.556m.
- Pursuant to Standard D18.6.1.3 consent is required as a Restricted Discretionary Activity (under C1.9(2)) for the construction of a new buildings at 22A Summit Drive which infringes the rear yard setback as follows:
  - The proposal includes the construction of a new buildings at 22A Summit Drive which will infringe the 3m rear yard at the southern boundary shared between 22 and 22A Summit Drive in two placed by a depth of 1.876m and 0.245m respectively.
- Pursuant to Standard D18.6.1.7 consent is required as a Restricted Discretionary Activity (under C1.9(2)) for the construction of three retaining walls which are 1m – 1.4m in height as follows:
  - At the southern side driveway ramp to the proposed house at 22 Summit Drive a 7m long masonry retaining wall, up to 1.4m in height at its tallest eastern end is proposed to retain the existing higher land behind the proposed house at 22 Summit Drive and provide for access directly from the existing shared driveway.
  - At the northern yard of 22 Summit Drive, a 24m long masonry retaining wall, up to 1m in height retains up (in fill) is proposed to support the platform and outdoor area at 22 Summit Drive. This will have a 1m high safety from fall fence above, and a combined height of 2m.

- At the boundary between 22 Summit Drive and 22A Summit Drive, a 20.5m long masonry retaining wall, up to 1m in height at the taller southern and eastern end of the wall is proposed to manage the level change between 22 Summit Drive and the proposed new dwelling at 22A Summit Drive, which sits lower in the topography. The wall allows for the driveway access to the proposed house at 22A Summit Drive to be directly from the existing shared driveway, as well as provides a service court behind the proposed dwelling at 22A Summit Drive. This will have a 1m high safety from fall fence above, and a combined height of 2m.

### **6.5 Chapter H3 Residential Single House Zone**

- Pursuant to Standard H3.6.7 consent is required as a Restricted Discretionary Activity (under C1.9(2)) for the construction of two new buildings at 22 and 22A Summit Drive which infringe the height in relation to boundary recession plane as follows:
  - A small portion of the proposed building roof form at 22A infringes the height in relation to boundary 2m plus 45o at the northern boundary by 0.410m vertically over a running length of 12.776m.
  - A small portion of the proposed building roof form at 22A infringes the height in relation to boundary 2m plus 45o at the southern boundary shared with 22 by 2.762m vertically over a running length of 6.771m.
  - A small portion of the proposed building roof form at 22 infringes the height in relation to boundary 2m plus 45o at the northern boundary shared with 22A by up to 2.448m vertically over a running length of 14.603m.

### **6.6 Other**

- Consent is also sought for any other consenting matters that the Council may identify when processing this application.

### **6.7 Overall Activity Status**

In regard to the identified reasons for consent as above, the application overall is for a Non-complying Activity under the provisions of the AUP OP.

### **6.8 Other Considerations**

#### **6.8.1 Plan Change 78 – Intensification**

Plan Change 78, giving effect to The National Policy Statement on Urban Development 2020 (NPSUD) was notified by Auckland Council in August 2022, and submissions closed in September 2022. The amendments to the AUP OP as set out in Plans Change 78 have little if any weight given the statutory process timelines, however the Proposal is consistent with the over-arching principles and direction for the NPS UD as set out in Plan Change 78.

It is noteworthy that as part of the development of Plan Change 78, a survey and assessment of special character areas was undertaken namely, Special Character Residential Findings Report Central

Isthmus Part 3. The findings of that assessment relevant to the Special Character Areas Overlay Residential - Mt Albert, Residential Isthmus C, as applicable to this proposal for 22 and 22A Summit Drive concluded that:

*The Owairaka Special Character Area - Residential is not of high- quality special character value. An area of high quality is determined to be one that has 75% or more individual properties scoring either 5 or 6. This area has 53% of individual properties scoring either 5 or 6.*

As a result, it was found that the Special Character Overlay did not amount to a qualifying matter applicable to the subject site.

Although this does not hold any statutory weight, the special character assessment that informed the Plan Change 78 process is a Council led recent assessment with respect to special character associated with the site, and in my view is a relevant matter in assessing this proposal as the physical and other values associated with the site(s), have not altered over the time since that recent Council assessment.

That Council assessment is included in Appendix O.

#### *6.6.2 Plan Change 79 – Amendments to the Transport Provisions*

Plan Change 79, is intended to manage the impacts of development on Auckland’s transport network, with a focus on pedestrian safety, accessible car parking, loading and heavy vehicle management, and catering for EV-charging and cycle parking. It was notified by Auckland Council in August 2022, submissions closed in September 2022, and a decision was notified on the 9th of August 2024, with the appeal period ending on the 20th of September 2024. While the new provisions are operative from the time the decision was notified pursuant to Section 86B, there will be a weighting exercise relevant to any consideration of applications pursuant to Section 86F of the RMA until such time as all appeals, and in particular seeking to overturn the new provisions relevant to the subject consent, have been determined, withdrawn or dismissed. The amendments to the AUP OP as set out in Plan Change 79 have little if any weight given the statutory process timelines, and the subject proposal includes no changes to the approved and constructed shared access design. The private parking and transport arrangement and compliance is consistent with the over-arching principles and direction set out in Plan Change 79.

#### *6.6.3 Wallace V Auckland Council*

Case law established in Wallace versus Auckland Council, means that Council is now required to assess building intensity, permitted baseline and the receiving environment. According to the Wallace decision, building intensity is intended to include the density of buildings, the number of residents and the effects of the activities within those buildings. The Proposal is for the construction of two houses, one house each on the two existing properties at 22 and 22A Summit Drive, both of which meet the compliant lot size for the Single House Zone. The addition of two residential dwellings is anticipated in full by the creation of the two sites by way of a recent subdivision consent and the applicable residential zoning. Following on from that, the proposed residential development and use is to an acceptable scale and intensity, as supported by the expert assessments contained in this application. The proposal is consistent with the scale and intensity of the surrounding properties and is considered to be appropriate in this context and the receiving environment.

## **7.0 Purpose of the Resource Management Act 1991**

The RMA provides the statutory framework for the sustainable management of natural and physical resources in New Zealand. With respect to housing supply and affordability, key considerations include those purposes within the RMA that seek to enable the social, economic and cultural wellbeing of people and communities.

The purpose of the Act is stated at Section 5, namely to promote the sustainable management of natural and physical resources. Sections 6, 7, and 8 are also relevant in achieving the purpose of the Act, those being matters of national importance, other matters, and the Treaty of Waitangi.

In the context of this application, where the objectives and policies of the relevant statutory documents were prepared having regard to Part 2 of the RMA, they capture all relevant planning considerations and contain a coherent set of policies designed to achieve clear environmental outcomes. They also provide a clear framework for assessing all relevant potential effects and there is no need to go beyond these provisions and look to Part 2 in making this decision as an assessment against Part 2 would not add anything to the evaluative exercise.

Overall, it is considered that the proposed land use activities will have inherent positive environmental effects and high level of amenity for future occupants, therefore will have acceptable effects and achieve the purpose and principles of the RMA particularly within the local context.

## **8.0 RMA Sections 104 – 104F**

Section 104 (1) states that a consent authority must have regard to a number of matters when considering an application for resource consent.

For the proposal the relevant considerations include the actual and potential effects of an activity on the environment, the relevant provisions of a national or regional policy statement, a regional plan, a district plan, any other relevant statutory document, and any other matter the consent authority considers relevant and reasonably necessary to determine the application.

The following assessment addresses all relevant considerations under s104 of the RMA.

### **8.1 *Actual and Potential Environmental Effects***

An assessment of environmental effects relating to the proposal is set out below and references the separate specialist assessments undertaken which form part of the application and are relevant to this Section 104 assessment.

In particular the assessment of effects below is relevant in respect to determining under Section 104(1)(a) and (ab) of the RMA, the actual and potential effects from the proposal and whether the adverse effects are minor and therefore able to pass the 'gateway test' pursuant to Section 104D (1)a.

### 8.1.1 Residential Amenity Effects

The proposed new buildings at 22 and 22A Summit Drive, are designed as high amenity residential homes with modern open plan living with warm, and functional indoor and outdoor living spaces which will capture the panoramic views of the wider landscape. The buildings have been designed to be sympathetic with the receiving residential amenity context. They are large single-family homes, reflective of those that define the existing neighbouring properties and wider neighbourhood. The built form of each home includes strong residential materiality with brick and cedar primary features, and includes elements of modern architectural form, which is also commonplace within the local neighbourhood, and acknowledged in the special character overlay which broadly applies to the surrounding area.

The proposed dwellings comply with applicable building coverage, landscaped area, and impervious surface standards. While an infringement is proposed to the applicable volcanic viewshaft sinking building height standard, the proposed building height of both buildings is much lower than that of the corresponding houses which abut the site, (and which sit higher on the Maunga), thus protecting those neighbouring property views over the proposed built form. The buildings comply with all yard setback and height in relation to boundary standards at the external boundaries of the site; with the exception of the height in relation to boundary standard at the northern boundary of 22A Summit Drive.

The infringement of the height in relation to boundary standards at the northern boundary of 22A Summit Drive relates to a small and slender portion of roof form only. As the infringement is south of the proximate residential neighbour there is no adverse shading effects associated with the infringement, and furthermore, due to the horizontal separation of the closest neighbouring dwelling, (22m approximately), and the fact that the main views from that dwelling face to the north, there is not considered to be any overlooking conflict or visual dominance adverse effects arising from the proposed infringement at the south.

The proposal includes internal infringements to yards and height in relation to boundary between the proposed houses at 22 and 22A Summit Drive; however these are two buildings that have been designed together as a whole, and that integrated design process considered the offsets and separations between the homes appropriately, using appropriate hard and soft landscape screening and by dividing main outdoor living areas and outlook in a way that does not create conflict or reverse sensitivity effects for future occupants and thus avoids potential loss of a sense of space between the proposed homes. The buildings include stepped and sunken levels, and balanced façade and roof forms which avoid blank and/or long walls and is supported by a robust planted landscape which will effectively soften and 'bed' the new buildings into the existing residential context.

Based on the design process considerations and the outcomes achieved through the proposed built form and overall site development design, overall, the actual and potential adverse residential amenity effects arising from the proposal are considered to be no more than minor and thus acceptable.

### 8.1.2 Visual Effects

22 and 22A Summit Drive, the Site, are existing residential properties with title, which sit on the slopes of Ōwairaka and are surrounded by residential houses, sited both higher and lower on the Maunga. The site is elevated and is one part of a Maunga landmark landform. Ōwairaka is significantly modified as a natural landform, albeit the subject site and abutting property at 24 Summit Drive are undeveloped and reflect the natural slope of the Maunga. The important and sensitive parameters contextually of the site, both in respect to the effects of modifying land and providing new built form have been carefully considered in the proposal concept design as set out in the design statements prepared by 10x10 and included in Appendix B. In respect to visual effects, and the way in which these are framed by the AUP OP as applicable Volcanic Viewshaft overlay, and Outstanding Natural Features overlay which cover the site.

The volcanic viewshaft overlay applicable to 22 and 22A Summit Drive sit below the existing ground level of the subject site, and the applicable height control in Chapter D14, being D14.6.3(a) (i) utilises the average height of adjacent buildings. The matrix of controls which apply to the subject site are less common place in the Auckland and AUP OP context, as the entire site (both properties) are covered by an Outstanding Natural Feature Overlay, and furthermore, while there are other private residential properties which are abutting the site, and are higher on the Maunga, those properties with existing buildings which are higher either do not share property boundaries or are currently a vacant site with no building thereon.

As a result, the application of maximum height standards pursuant to D14.6.3(a)(i) goes further than the intention of the control, as noted by the Council policy team in the consultation process, who noted *'the intension of the rule was to limit building 'creep' up the slope'* as set out in the correspondence in Appendix N. Although the height control applies by averaging the height of the abutting buildings, the specific application site characteristics means that applying the height standard lowers the permissible building height to a greater extent than that of the existing built form in the immediate context of the site, such existing development being much higher on the slopes of the Maunga.

Applying D14.6.3(a)(i) to the sites, both proposed buildings will infringe the applicable maximum building height as demonstrated in the architectural plans prepared by 10x10, with vertical infringements ranging from 1.215m to 2.505m; therefore requiring consent as a non-complying activity. The buildings have been carefully lowered into the site contour as well as tilted to follow the contours of natural slope of the land to reduce building height without requiring deep excavation. Flatter, stepped and lowered roof forms have been used to limit the height of both buildings and are clad in dark and earthy natural tones of brick, cedar and metal cladding with lower reflectivity. Several masonry retaining walls are proposed which step the building forms and driveway levels into the contours and both buildings and driveways are supported by comprehensive landscape planting, to filter, screen and 'bed' the new built form comfortably into the landscape and existing environment.

The combination of these methods effectively ensure appropriate built form in this sensitive visual and cultural environment.

Input and assessment from BGLA – as included in Appendix F, has been a critical driver of the overall design of the proposal from a landscape and visual perspective. BGLA in their assessment, clearly describe the landscape values associated with the site and local area and representative viewpoints and visual simulations have been prepared to support their assessment of visual effects and findings.

A summary of the assessment of each of those viewpoints is stated below.

*Viewpoint 1: Corner of Summit Drive and Stilwell Road*

*4.13 On balancing these considerations, adverse visual amenity effects for this audience are rated as low (less than minor) reducing to very low (less than minor) as the proposed plantings establish and mature (approximately 5 years).*

*Viewpoint 2: Corner of Summit Drive and Mount Albert Road*

*4.20 On balancing these considerations, adverse visual amenity effects for this audience are rated as very low (less than minor) reducing further, as the proposed plantings establish and mature (approximately 5 years).*

*Viewpoint 3: Corner of Saint Lukes Road and New North Road*

*4.28 On balancing these considerations, adverse visual amenity effects for this audience are rated as very low (less than minor) reducing further as the proposed plantings establish and mature (approximately 5 years).*

Immediate viewpoints from abutting neighbouring properties have also been considered by BGLA and in conclusion, BGLA find that actual and potential adverse visual amenity effects are very low. Views from both the pedestrian tracks along Ōwairaka, Nikau Street (near Maungawhau train station) and from Maungawhau are also considered and BGLA concludes the proposal to have actual and potential visual effects that are very low.

The findings from BGLA in their assessment included in Appendix F are restated below.

*7.1 In conclusion, this landscape assessment has considered the proposed development at 22 and 22A Summit Drive, Ōwairaka (Mount Albert), in relation to its physical, perceptual and associative landscape effects. The assessment confirms that the proposal has been carefully designed to respond to the unique characteristics of the site, including its location on the lower urban fringe of the maunga, its inclusion within an Outstanding Natural Feature overlay, its position within a Maunga Viewshaft and its location within a Special Character Area.*

*7.2 The proposed dwellings have been positioned and designed to minimise earthworks, respect the volcanic landform, and integrate sensitively with the surrounding built environment. The use of locally appropriate native planting and visually recessive materials further supports the integration of the development into its landscape setting.*

*7.3 The visual simulations and viewpoint analysis demonstrate that the proposal will not result in significant adverse visual effects, and the development will maintain the visual integrity of the maunga and surrounding neighbourhood. The proposal aligns with relevant statutory provisions, including those relating to Outstanding Natural Features, Maunga Viewshafts and Special Character Areas.*

*7.4 Overall, the proposed development represents a high-quality and contextually appropriate response to the site and is considered to be appropriate from a landscape perspective with adverse effects rating as, at worst, low (less than minor), reducing to very low (less than minor) in the medium term once plantings have established.*

I have considered the assessment prepared by BGLA, and I accept their assessment and findings. It is on that basis, and framed within the statutory context under which the application is to be considered, it can be concluded that the actual and potential adverse visual effects arising from the proposed development are considered to no more than minor and thus acceptable.

### *8.1.3 Earthworks, Retaining walls, and Geological Modification Effects*

The subject site is a part on the Maunga and part of the Auckland Volcanic Field. The site is subject to an Outstanding Natural Features Overlay, more specifically ID108, Mt Albert, (Owairaka), which Schedule 6 defines the applicable ONF ID 108 as follows:

*Mt Albert is the western-most eruptive centre in the Auckland volcanic field. The volcano consists of a large scoria cone (now severely modified by quarrying), which overlies obscured tuff ring remnants. Lava flows spread in three directions from the volcano to cover some 3.3km.*

As already noted, under Standard D10.4.2(A1) consent is required as a Restricted Discretionary Activity for the construction of two new buildings at 22 and 22A Summit Drive, as well as supporting retaining wall structures within the ONF. Also, the proposal requires consent for earthworks in a Special Character Area Overlay, and Outstanding Natural Features overlay; pursuant to Standard E12.4.3(A41) consent is required as a Restricted Discretionary Activity for earthworks amounting to 310m<sup>3</sup> of material across 810m<sup>2</sup> of land area.

The adverse effects of modification of land within the ONF are broad and contemplate, effects on geological characteristics, as well as landscape values, and mana whenua values. The actual and potential effects of geological modification are specifically considered below.

The proposed development has been designed to avoid deep excavation and to limit the volume and area of earthworks and retaining at the site. This has been implemented through the proposed building design tilting to follow the contour of the sites natural land form, and via stepping floor levels within each proposed building to reduce vertical cut. The proposed excavation is also supported by geotechnical investigation, and will limit deep foundations, rock breaking and other intrusive earthworks, focussing any modification to the land form to 1.4m depth into the ground.

The earthworks and retaining wall design seeks to create the least impactful but practical levels for establishing the buildings and access at the two properties and have been designed in a way which results minimises the volume of material to be excavated. The design is supported by best practice erosion and sediment control as detailed in the civil engineering reporting prepared by Anchor Consultants in Appendix E, which will protect any receiving environments from sedimentation, as well as avoid rock breaking noise and vibrations. Importantly, the landscape design prepared by BGLA and

included in Appendix D, will ensure that masonry retaining walls are not visually obtrusive, and are softened by either planting or screened by nature of their position on the site.

A Geological specialist was engaged early in the concept development to understand the geological factors at the subject site, in particular those relevant to the proposed application which is subject to the Outstanding Natural Features (ONF) Overlay, and more specifically ID108, Mt Albert,(Owairaka).

Chapter D10 focuses the feature relevant to the subject site in Table D10.4.1 as follows:

*V2 – Large Volcanic landforms – The privately owned and partially modified portions of the scoria cones, explosion craters and tuff rings of the Auckland and South Auckland volcanic fields.*

The AUP OP contemplates matters and assessment criteria relevant to application for consent and utilising that guidance.

Initia, in their assessment included in Appendix I provides the following key assessment of the subject site geological features with respect to the ONF as contemplated under the AUP:OP:

- a) The landform of the site does not display significant geological features, we assess that there is no contribution to understanding of geology, New Zealand or the earth, including no presence of rock formations, minerals or fossils. The biota appears modified as garden and grass.*
- b) We consider that the site does not display any features as an outstanding representative of Auckland’s natural landforms and geology.*
- c) The landform is a typical flank slope of one of Auckland’s Volcanoes. It is very generic in the ash/gravel soil with no rock exposures, and is unremarkable in comparison to hundreds/thousands (including distal flank slopes) of similar residential sections in Auckland*
- d) The landform offers no geological contribution to the value of the wider landscape. It shows no distinctive geological difference from surrounding and neighbouring residential lots.*
- e) There is currently no public access to the site, and it is bordered by residential subdivided lots. We therefore assume low to no public appreciation or value.*
- f) We assess there is no potential value of the site for public education (there are no distinctive geological features).h) We assess there is no potential value of the site for understanding of geological history beyond what is interpreted and presented in this memo letter (there are no distinctive geological features, we assume the biota is highly modified).*
- g) The site appears highly modified and there are no features to preserve.*

I accept the assessment and findings of Initia. Furthermore, I consider the minimised excavation depth (responding to early consultation with the Te Puna Maunga Authority, Iwi, and Council) interlocked with the architectural design and built form composition as being appropriate at the site. Having

interrogated the necessity of earthworks to form practical levels for residential houses, and the modification of the geology at the site in context of the findings as set out by Initia, as well as the 'effects' factors set out in the ONF provisions of the AUP OP it can be concluded that the actual and potential adverse effects of siteworks/ earthworks, construction of retaining walls and geological modification are considered to be no more than minor, and thus acceptable.

#### 8.1.4 Special Character Effects

The subject site consists of two vacant rear properties, which are set back quite substantially from the street scape. The subject site is also subject to the Special Character Areas Overlay - Mt Albert, Residential Isthmus C (SCAR) and consent is required as part of this application for the construction of new two new buildings, several retaining walls and small development standard modifications.

The Ōwairaka SCAR area is not of a high-quality special character value, as illustrated in the Section 32 survey analysis which supported Plan Change 78 included in Appendix O, with almost half of the housing within this particular SCAR overlay not contributing to the special character values as defined in Schedule 15 of the AUP OP.

Schedule 15 of the AUP OP describes the special character values of the overlay, which includes a mix of Victorian and Edwardian villas, transitional villas, Arts and Crafts, English Cottage, neo-Georgian, and Modern style houses. Two level built form is commonplace and materials found in the area include timber, brick concrete and corrugated iron. Houses are situated in a landscape defined by early period subdivision in the 20th century and the valleys, rises and ridges associated with the Auckland Volcanic field and Maunga, with homes on elevated positions on larger sections ranging from 600m<sup>2</sup> to over 1,500m<sup>2</sup> that include large established planted gardens.

The streetscape character, as defined in the existing environment immediately abutting and northwest of the site is represented by 16, 18 and 20 Summit Drive, the three existing houses which contribute to the streetscape built form most proximate to the subject rear site and include weatherboard houses constructed in the second half of the 20th century. Two pre 1940 houses are present immediately south of the site at 26 and 28 Summit Drive southwestern boundary, being: no. 28, fronting Summit Drive; and no. 26, a rear lot. These homes are typical of the character residential area, with timber weatherboard and corrugated iron roofing, including large windows, gable ends and balconies facing views to the north and Isthmus and are supported by generous planted gardens and basalt and masonry retaining walls.

The proposed new built form draws on the makeup of the existing built form character surrounding the subject site. In regard to Streetscape, BGLA in their assessment included in Appendix F surmise that:

*4.10 The careful use of high-quality materials such as cedar and brick respond positively to the materiality of houses in the local area and the scale and height of the dwellings will fit well with the local residential fabric as viewed from the street. The rear lot character of the site combined with the appealing and visually recessive architectural design means that the development will maintain the continuity and coherence of the special character values of the area and the streetscape qualities and*

*cohesiveness. The proposed layout and site conditions (i.e. rear lot) will also avoid an impression of carparking or garaging dominating the streetscape.*

*4.12 Overall, the development will read as a high quality and sympathetic addition to the local residential neighbourhood that maintains a strong visual connection from the street to the mature vegetated backdrop associated with the maunga. This outcome is considered to be of importance in maintaining the setting of the special character area and the relationship of built form to open space and landscape context associated with the area.*

I agree with these findings, and through the proposed composition of residential materiality (timber and brick) which already informs the built character of the existing environment, as well as by proposing stepped and refined facades which avoid large blank building bulk, the proposed new buildings are complementary to the special character values identified in the relevant SCAR overlay provisions. The development will not detract from the high-quality urban fabric of the locality, and continues to protect the high quality and legible (cultural) values of the Maunga in a planted landscape setting.

Accordingly, it can be concluded that the actual and potential adverse effects of the proposed new built form (buildings and retaining walls and landscaping) on the existing character (relevant to the SCAR overlay) are considered to be no more than minor and thus acceptable.

#### *8.1.5 Flooding and Instability Hazard Effects*

In respect to hazards at the subject site established by way of the proposed physical works to construct two houses, flooding and instability have been contemplated and assessed as a part of this application.

A geotechnical investigation prepared by GeoStudio as included in Appendix G, concludes that the land is generally suitable for the proposed development. The report includes recommendations for earthworks, retaining walls and design of building foundations. The investigation also confirms the following relevant to any consideration of groundwater, and instability.

*On the day of our site investigation, no groundwater was encountered in all hand auger locations down to the termination depths. The proposed 1.4m deep excavation will unlikely intercept groundwater.*

...

*On the day of our site visit, no obvious signs of global instability were observed. The proposed development will involve cut and fill earthworks supported by specifically engineer designed retaining walls. Based on our site investigation and observations, it is our professional opinion that, provided our recommendations in Section 10 are fully implemented, the building site of the proposed construction is considered stable with a low risk of large-scale ground instability and is unlikely to accelerate, worsen, or result in instability of the land or any other property.*

The proposed earthworks and retaining design plans prepared by Anchor Consultants and included in Appendix E, have been informed by the findings of the geotechnical investigation, and furthermore,

the proposed building design prepared by 10x10 included in Appendix C, will follow the recommendations of GeoStudio at time of building consent.

In consideration of the above analysis and proposed adherence to the geotechnical recommendations set out by GeoStudio, no instability hazard will be established by way of the proposed physical works and construction.

There is an existing small overland flow path that enters the eastern boundary of the subject site and exits at the northern boundary of the subject site. The design of the overland flow path and flood management is supported by reporting and plans prepared by Anchor Consultants and included in Appendix E. The proposed development includes a 1.5m wide and 0.25m shaped planted swale along the eastern and northern boundaries of the site which will preserve the entry and exit point of the overland flow path and will adequately divert flows within the site away from the proposed buildings at 22 and 22A Summit Drive in a 100-year storm event. Anchor Consultant conclude that:

*Based on the above analysis, the 100-year flood level will be fully contained within the proposed V-shaped channel and will not impact the proposed building.*

On this basis, the management of the flood will not compromise the safety or establish any risk to property associated with the construction and occupation of the proposed buildings.

I accept the findings and assessment informing the proposal as supported by specialist input from GeoStudio and Anchor Consultants and conclude that the actual and potential adverse hazard effects established by the proposed development are considered to be no more than minor and thus acceptable.

#### 8.1.6 Cultural and Archaeological Effects

Ōwairaka is a place of significance to Māori and has an extensive history or pre European activity including a pa site, terraces and pits, which have been extensively modified by quarrying, farming, infrastructure and housing in the 19<sup>th</sup> and 20<sup>th</sup> century.

##### *Archaeological Effects*

In regard to archaeological matters Clough and Associates were engaged in the development concept to investigate the subject site and advise on development parameters; their assessment is included in Appendix H, and notes the following:

*“This assessment has established that the proposed residential development will not affect any known archaeological remains but has some potential to expose unidentified subsurface remains relating to Māori occupation and settlement. If resource consent is granted, conditions are recommended requiring archaeological monitoring of the black outlined areas for building platforms and for landscaping in the yellow outlined area shown in Figure 33, to identify if any archaeological remains are present. It is also recommended that an advice note regarding the provisions of the HNZPTA is included, as an Authority under that Act would be required for any modification and investigation of archaeological remains.*

*Overall, the proposed development is not considered to have any adverse heritage landscape or visual effects on the scheduled historic place Mount Albert/Ōwairaka Volcanic Cone Pā, as it would be well screened by existing mature trees along the border of the Ōwairaka Domain and would be consistent with the existing residential housing adjacent to the domain.*

*In the absence of specific consent conditions or an Authority under the HNZPTA, the Accidental Discovery Rule (E12.6.1) set out in the AUP OP would apply if previously unidentified archaeological remains are exposed. These require that works must cease within 20m of the discovery and the Council, Heritage NZ, Mana Whenua and (in the case of human remains) NZ Police must be informed. The Rule would no longer apply in respect to archaeological sites if an Authority from Heritage NZ was in place.*

*There are no previously recorded archaeological sites in the Project Area, nor were any identified in this assessment. It is noted that while the subject land has been used for agriculture, and modified by way of earthworks and construction to form the shared access and servicing for the two properties, the property has never been built on, and is located on the lower slopes of Ōwairaka/Mount Albert, a significant volcanic cone pā. As such, it is considered that there is the potential for unidentified subsurface archaeological remains relating to Māori occupation and settlement to be exposed during future residential development, particularly in the form of shell midden. As such, it is recommended that an Archaeological Authority is sought from Heritage New Zealand prior to any earthworks on the property being carried out.*

I accept the finding and recommendations of Clough and Associates; an Accidental Discovery condition should form (and is offered) a part of any consent approval conditions as will a condition requiring that an precautionary Authority under Section 44(a) of the Heritage New Zealand Pouhere Taonga Act 2014 (HNZPTA) to cover all proposed physical works will be sought prior to physical works proceeding on site. Accordingly, the actual and potential adverse archaeological effects of the proposed development are considered to be no more than minor and thus acceptable.

#### *Cultural Effects*

In respect to cultural effects, specifically on Mana Whenua, as part of preparing the concept and application material, details of the proposal have been shared with the iwi groups as identified as having connection to the local area and Maunga (as held in the required records of the Auckland Council). Consultation has commenced with Iwi and will continue as part of the resource consent and notification process. The communication with Iwi to date is included in Appendix P.

Ngaati Te Ata Waiohua, sought engagement early with the Applicant on the project and formed a draft view of the preliminary proposal on in April 2025 in their conclusion noted below.

*To conclude this site is an important part of the Ōwairaka ONF as it projects it out of the limited reserve. This is particularly important as the site has suffered heavily from quarrying and urban sprawl up its slopes.*

*Our recommendation is: - That the site not be developed, to maintain the integrity of the Owairaka ONF.*

The proposal has been refined since these consultations and prior to formal lodgement has been distributed to all relevant Iwi including Ngaati Te Ata Waiohua. Engagement with Mana Whenua has

been aligned with the obligations set out in the Act (and as established in the AUP OP) and further engagement is anticipated as part of the consenting and notification process.

Following from the archaeological findings and the offered conditions of consent as noted above, and noting the ongoing engagement with Iwi, the actual and potential adverse cultural effects of the proposed development are considered to be no more than minor and thus acceptable.

The Iwi responses to date followed by any further input during the processing of this proposal establishes the cultural perspective that must be considered 'in the round' in conjunction with all other aspects of the proposal. In that context, the recentness of the subdivision that created the two sites subject of this proposal established an expectation that additional built form was enabled on the sites. This application further details out the appropriateness of the proposal in its detail in relation to any input from Iwi on cultural effects arising from the proposed built form and allied site development outcomes.

#### *8.1.7 Summary of Assessment of Effects*

The proposed development will not give rise to any adverse effects on the environment that will not be avoided or mitigated through the proposed design, as supported by expert assessments and recommendations and as reinforced by conditions of resource consent.

It is concluded that the overall actual or potential adverse effects on the environment will be no more than minor and the proposal will contribute to positive acknowledgement of, and a sympathetic response to the existing visual landscape, maunga viewshafts, geology, special character, cultural value and particular hazards as identified for the site and locality.

Following this assessment, it can be concluded that the proposal will pass at least one of the 'gateway tests' under Section 104D.

## **9.0 Relevant Provisions of the Auckland Unitary Plan; Operative in Part**

### **9.1 Objectives and Policies**

The relevant AUP OP objectives and policies applying to the proposed development include those pertaining to development, land use and infrastructure. The relevant chapters of the AUP OP are as follows:

- *B2.3 A Quality Built Environment*
- *B4. Te tiaki taonga tuku iho - Natural heritage*
- *B5. Ngā rawa tuku iho me te āhua – Historic heritage and special character*
- *B6. Mana Whenua*
- *D10. Outstanding Natural Features Overlay and Outstanding Natural Landscapes Overlay*
- *D14. Maunga Viewshafts and Height Sensitive Areas Overlay*
- *E12. Land disturbance – District*
- *E36. Natural hazards and flooding*
- *H3. Residential – Single House Zone*

These objective and policies are assessed in Appendix J. Overall and on balance the proposal responds to its receiving environment and is consistent with the relevant objectives and policies outlined under the AUP OP.

## **9.2 Standards**

The relevant Auckland Unitary Plan Operative in Part standards are set out and considered in Appendix K. The proposed development is a non-complying activity overall under the AUP OP provisions.

## **10.0 Relevant Provisions of Other Statutory Documents**

### **11.0 RMA Part 2 Matters**

Section 104 is expressly subject to Part 2 of the RMA. Part 2 sets out the purpose and principles of the Act, with a focus on promoting sustainable management of natural and physical resources (s5); recognising and providing for matters of national importance (s6); having particular regard to other significant resource management matters (s7); and taking into account the principles of the Treaty of Waitangi (Te Tiriti O Waitangi) (s8). The relevant sections of the Auckland Unitary Plan (Operative in Part) applicable to the consideration of this application have only recently been made operative and the provisions contained within the Plan give effect to the outcomes sought by Part 2. An assessment of the proposal against Part 2 may not add anything to the evaluative exercise.

The purpose of the RMA is to promote the sustainable management of natural and physical resources. The definition of sustainable management in section 5 supports the use and development of resources to enable people and communities to provide for their wellbeing. This approach is tempered through the requirements of sections 5(2)(a), (b), and (c) to avoid or manage effects on the environment.

The analysis which forms part of this application has taken section 5 of the RMA into consideration, and it is considered that the proposal provides for the sustainable management of the natural and physical resources in a manner that will appropriately avoid adverse effects on the surrounding environment.

The matters of national importance as set out in section 6 of the RMA, are relevant to the application and the following findings are noted:

- the proposal has been assessed to not adversely affect the “outstanding” natural features or landscapes associated with the volcanic viewshafts (section 6(b));
- the proposal has been assessed to not adversely affect any identified ancestral lands, water, sites, waahi tapu, and other taonga (section 6(e)).

The proposal is considered to represent and enable the efficient use, development and management of the physical land resource (section 7(b)) and will not compromise the quality of the environment.

The proposal is not inconsistent with section 8 of the Act and consultation has been undertaken, and feedback has been sought.

## **12.0 Notification**

### **12.1 Notification Overview**

Section 95 of the RMA states that:

- 1) *A consent authority must, within the time limit specified in subsection (2), —*
  - a. *decide, in accordance with sections 95A and 95B, whether to give public or limited notification of an application for a resource consent; and*
  - b. *notify the application if it decides to do so.*
- 2) *The time limit is, -*
  - a. *in the case of a fast-track application, 10 working days after the day the application is first lodged; and*
  - b. *in the case of any other application, 20 working days after the day the application is first lodged.*

The application requires public notification under s95A(8) pursuant to s95A(1)

### **12.2 Public Notification Determination (s95A)**

To determine whether to publicly notify an application for resource consent, a consent authority must follow the steps set out under Section 95A of the Resource Management Act (1991).

#### *12.2.1 Mandatory Public Notification (Step 1)*

Step 1 of Section 95A states that it is mandatory to publicly notify an application for resource consent if:

- a) *the applicant has requested that the application be publicly notified,*
- b) *public notification is required under section 95C,*
- c) *the application is made jointly with an application to exchange recreation reserve land under section 15AA of the Reserves Act 1977.*

In relation to s95A, it is noted that the applicant does not request that the application be publicly notified. Subsection c) is not relevant.

Therefore, pursuant to Section 95A(2)(b), the subject application does not meet the mandatory notification criteria of Step 1.

#### *12.2.2 Precluded from Public Notification (Step 2)*

As public notification is not required under Step 1, the consent authority must determine whether the application for resource consent is *precluded* from public notification. Public notification is precluded if the application meets either of the following criteria:

- All of the activities in the application are subject to a rule in a Plan or NES which precludes public notification.

- The application is for one or more of the following (but no other) activities:
  - a controlled activity,
  - a 'residential activity' with restricted discretionary or discretionary activity status,
  - a subdivision of land with a restricted discretionary or discretionary activity status,
  - a 'boundary activity' (any activity status),
  - an activity prescribed by regulations made under s360H(1)(a)(i) precluding public notification (if any).

The proposed activity is not subject to a rule in a Plan or NES which precludes public notification.

#### *12.2.3 Required Public Notification (Step 3)*

If public notification is not required under Step 1, and is not precluded under Step 2, it is necessary to determine if public notification is still required under Step 3.

The application requires public notification under s95A(8) pursuant to s95A(1), specifically

The relevant rules in the Unitary Plan which require the application to be publicly notified are D14.5(1)(a) and D14.5(1)(b) which applies to an application for resource consent for non-complying activities under D14.4.1(A6) or D14.4.1(11).

#### *12.2.5 Conclusion with regard to Public Notification*

Pursuant to s95A(8)(a), the application must be publicly notified.

### **12.3 Limited Notification Determination (s95B)**

As the application must be publicly notified pursuant to standards D14.5(1)(a) and D14.5(1)(b), it is not necessary to undertake an assessment of the proposal against section 95B of the RMA.

### **13.0 Conclusion**

The Proposal will provide for considered and sympathetic residential development at 22 and 22A Summit Drive. The proposed development reflects the relevant zoning and Plan overlays in the context of the existing environment and will achieve the planned outcomes that the AUP OP contemplates.

Relying on the specialist findings forming part of the proposal, having framed (and assessed) the proposal against the relevant matters specified in the Auckland Unitary Plan Operative in Part, it is considered that the proposal is consistent with the objectives and policies of the AUP OP and that the proposed development is consistent with the purpose and principles of the Act being that any actual and potential effects adverse effects of the proposal are no more than minor overall.

The proposal passes at least one of the statutory tests for a non-complying activity and thus can proceed to be determined. Following from the application detail and this assessment, consent can be granted subject to conditions.