

Proposed Sandspit Road Apartments

This submission is made by the Cockle Bay Residents and Ratepayers Association. It outlines the main themes in our objections to the proposed development. The detail provided has been reduced to fit with the suggested 10 minute time frame suggested on the submission form, but we expect our detailed submission to be presented at the future hearing to include more specific evidence to support our objections.

Our objections are based around 5 major issues. These are outlined below, with supporting information following:

1. The application does not comply with the definition of an Integrated Residential Development.
2. The application must be rejected because of environmental risks, including ground movement; stormwater and flooding risks; and hazards at the time of excavating asbestos and contaminated land.
3. The application should be rejected because of adverse “effects”.
4. The application should be rejected because of concerns regarding traffic and children’s safety.
5. The application should be rejected because of inadequate infrastructure.

Additional Background

The information in the following submission was placed on our web site (including an option of supporting the proposed development). We provided a caveat to those who wished to support the application that, if approved, it has the potential to create a precedent that would allow developers to apply to construct blocks of apartments or terraced housing in Single House Zones throughout all of Auckland, under the guise of being Integrated Residential Developments.

The only negative response we have received was from Mr D Jans, the developer, (who is a relatively new member of the Association). He stated “Please correct the following statements on your web site under Section 7.a, ‘A very short history’”. The text of this Section, Mr Jans objections, and our response, is as follows:

Quotation from our web site, to which Mr Jans is objecting: “Section 7 a Submission Issue 1 Definition of an Integrated Residential Development”

“a. A very short history”

“The developer has previously tried to obtain a Plan Change, and failed. He has also had a consent application for a block of apartments on the same site rejected by Independent Hearings Commissioners. He has appealed this decision to the Environment Court. Ratepayers are therefore already facing high costs to be incurred by the Council because of these actions. This is a new application by the same developer”.

Mr Jans first objection to our first sentence “The developer has previously tried to obtain a Plan Change, and failed”. He states: **“Incorrect there has never been any attempt to obtain a plan change”**.

Our Response: *Our statement is based on the decisions for Plan Change 4 which states:*

“Box Properties Ltd owns a number of properties in the Howick area, on Sandspit Road. One of these properties is a former service station site. The submission seeks a change in zoning from Single House Zone to Mixed Housing Urban Zone. Plan Change 4 did not propose any changes to the zoning of the properties”. (Paragraph 92)

“The submission sought an alternative residential zoning for land in Howick. Having heard the evidence of the submitter, we do not consider there to be an obvious ‘gap’ or ‘error’ in the Plan that is causing confusion or problems with implementation that needs to be addressed. There is nothing to suggest that the zoning as it currently stands was incorrectly applied through the IHP process. The issue raised in the submission is the appropriate zoning of the properties and whether a different zone to the existing zoning would better achieve sustainable management”. (Paragraph 130)

Mr Jans second objection is to the sentence: “He has appealed this decision to the Environment Court”. He states: **“Incorrect there has not been an appeal on this decision”**

Our response: *Mr Jans is making a quotation out of context. The full statement reads “He has also had a consent application for a block of apartments on the same site rejected by Independent Hearings Commissioners. He has appealed this decision to the Environment Court”. The Environment Court appeal was lodged on 9 September 2019 and carries reference ENV 2019-AKL-000176 Box Properties Investment Ltd v Auckland Council*

Mr Jans third objection is to our statement: “Ratepayers are therefore already facing high costs to be incurred by the Council because of these actions”. He states: **“Incorrect the council invoices the developer for all costs incurred and they have been paid in full”**.

Our response: *We have not suggested that Mr Jans has not paid invoiced costs. What we have said is that Council, and therefore ratepayers, are committed to the high legal costs of both the Environment Court appeal and the subsequent consent application to be heard before the Court.*

Submission Issue 1 Definition of an Integrated Residential Development

- 1 The application does not comply with the definition of an Integrated Residential Development. This definition is focussed on rest homes and retirement villages. The Independent Hearings Commissioners who considered the earlier application from the same developer agreed with submitters that the original application was non-compliant. (Assessment of Effects on the Environment [AEE] page 6 paragraph 1.10). We will provide all references in our detailed submission.
- 2 The application is inconsistent with the policies and objectives of the Single House Zone. (See Auckland Unitary Plan, Chapter H, paragraphs H3.1 -3.3)
- 3 The Council has assessed the application as a non-complying activity. (See Executive Summary). Council cannot therefore consent to the proposed development.
- 4 The application fails to meet 4 of the 7 standards for permitted activities in the Single House Zone. (AEE Table, page 25)
- 5 The application infringes rules H.3.4.1 (A6) in the Auckland Unitary Plan. This rule restricts the numbers of dwellings per site. This application is for 54 dwellings on land zoned for 9 houses only. (AEE page 28, paragraph 4.22)
- 6 Ratepayers are entitled to expect the safeguards set out in the Auckland Unitary Plan to be maintained. If approved, the application will establish a precedent that will allow apartments and terraced housing to be built in all Single House Zones throughout all of Auckland, as more and more developers learn that defining their applications as Integrated Residential

Developments becomes a mechanism for by-passing the zoning rules. The Auckland Unitary Plan, developed at a cost of \$75 million¹, becomes a meaningless sham and a waste of ratepayers money.

- 7 Council has established zones where intensification can occur under the rules of the Auckland Unitary Plan. The amenity values of all Single House Zones should not be destroyed by permitting intensification in such areas for the benefit of a developer's bottom line profits.
- 8 Many people in Cockle Bay had been led by a Local Board member to believe that in addition to the protections from the Auckland Unitary Plan the old "heritage zone" protections also applied. At least one family purchased property in the locality because the heritage status appeared on the LIM presented after the Unitary Plan was approved.

Submission Issue 2 Environmental Impacts and Risks

- 9 The AEE includes a number of references to the environment. Additional information is in Appendix 12 (3 attachments that also deal with Infrastructure) and less directly in some other appendices. A key consideration in assessing risks is compliance with the Auckland Unitary Plan. This specifies many requirements relating to the environment, in particular in Chapter E (sections E.3 and E.8 cover streams and wetlands, and stormwater respectively); E.26 (Infrastructure); E 30 (contaminated land) and Chapter F (coastal).
- 10 We will present a more detailed analysis of environmental risks and impacts in our presentation to the Environment Court. Some key points include:
 - Apart from removing the eyesore of a disused commercial facility in a Single House Zone, (something that would also be achieved with single houses), how exactly does the development produce "positive effects for the environment"? (AEE page 48, para 7.2)
 - We disagree that the locality "does not match the zone description and that the streetscape is characterized by commercial buildings and carparks" (AEE page 12, para 2.10)
 - Given changing rainfall patterns, should the developer and his engineers – and even Auckland Council - be held liable for any flooding caused by stormwater that cannot be accommodated within the stormwater retention tanks, which they have stated have adequate capacity for rainfall projections? (AEE page 59, para 7.44)
 - We note it will be necessary to increase the existing 150mm diameter stormwater pipe to 255 mm diameter (AEE page 20, para 3.36). The stream below is on private land. Are Council staff satisfied that there is adequate downstream capacity to accommodate the associated increased stormwater flows? Have property owners been consulted?
 - Is it justifiable to rely on the site area only when stating that "no overland flow paths will be affected by earthworks" and "no flood plain is identified on the site"? (Table Assessment of Development Standards, AEE page 119, E.12.6.2.12 and E.12 2.6.13.) There is a flow path below the site, and a flood plain in shown on the relevant maps. There is also a history of downstream flooding.
 - How does the development comply with policy E.10.3 of the AUP which requires "minimization of the effects of run-off, and retention and enhancement of stream naturalness, biodiversity, bank stability and other values" (AEE 10.3 (1) page 58)
 - Has there has been an independent verification of the site coverage calculation of 48.2%, in view of the fact that this is only marginally below the 50% threshold set out in the AUP Clause 10.3 (2.c) (AEE page 58)

¹ Council cost estimate

- If excavations are to a depth of 3.5 metres and the water table is at 3.7 metres, (appendix 14) what guarantees does the developer and his engineers offer to compensate local homeowners if these estimates are incorrect and land stability is effected?
- A general concern is about adequate monitoring and enforcement of standards during the removal of asbestos, heavy-metal contaminated soil and old fill from the site,(AEE 3.40 page 21), especially in view of the close proximity of 2 schools; the risks to marine life in the stream immediately below the development; and possible siltation of the very popular Cockle Bay beach.

Submission Issue 3 Submission including concerns on “effects”.

- 11 These will be of most concern to residents in the immediate location, whose submissions will include more evidence on this point.
- 12 However, there is a bigger picture. If the application is approved and becomes a precedent then anyone living in any Single House Zone anywhere in Auckland will face the prospect of a developer acquiring 3 – 4 adjacent sections and receiving approval to build a so-called Integrated Residential Development. This could mean loss of amenity; shading, being overlooked, and facing a 2 year construction period with noise and vibration exceeding specified limits, as is the case for the proposed development.
- 13 We understand the height of the cell phone tower in the pictures is approximately 14 metres. The height of the development is 11.31 metres (AEE page 25). Do the artists impressions on the Executive Summary and the cover pages of the AEE look in the right proportions? (80% of the cell phone tower height?) If a precedent is established similar developments could occur along the whole of the ridgeline.
- 14 There are 53 references to minor effects in the AEE. Some are quoting requirements in the Auckland Unitary Plan. Some are repetitive. But many state the effects of the development are “minor or less than minor”. When do less than minor effects create a major change?

Submission Issue 4 Traffic Concerns

- 15 This issue effects more than just the immediate local residents. During the 2 year construction period work is planned for 6 days per week; vehicles for excavation will be entering from Trelawn Place and exiting from Reydon Place; and following a circular route including Paparoa Road and Sandspit Road. Someone has calculated that removing 7051m³ soil excavation (AEE page 32 para 3.41) will require about 470 truck and trailer loads. Deliveries will be extra! Tradespeople will require parking; After completion there will be an additional 84 garaged vehicles (and 56 bicycles) using adjacent streets. The developer considers the impact of construction will be “less than minor”. (AEE page 74, paragraph 8.26).
- 16 Concerns include not only congestion but more importantly pupil safety for the 3000 students at the adjacent primary and college schools, and also pupils from Shelly Park Primary and Somerville Intermediate School – with the latter being on the proposed truck route.

Submission Issue 5 Adequacy of Infrastructure

- 17 The earlier application for a larger number of apartments required an increase in sewerage capacity. It appears the current application does not. We still need to read the fine print in the appendices in terms of infrastructure capacity planning. Those considering the application

will hopefully decide it should be rejected, but if it is still being considered as eligible for approval they must be satisfied that there is sufficient infrastructure capacity to handle all requirements without reducing service levels for existing users.

- 18 An additional consideration is to ensure that the Infrastructure Growth Charge payable to Watercare is levied against all individual apartments and the café. (This charge cover access to infrastructure already paid for by ratepayers and users). There should be no implicit subsidy from ratepayers towards infrastructure costs.