Albert-Eden Local Board

OPEN MINUTE ITEM ATTACHMENTS

<table>
<thead>
<tr>
<th>ITEM</th>
<th>TABLE OF CONTENTS</th>
<th>PAGE</th>
</tr>
</thead>
<tbody>
<tr>
<td>9.2</td>
<td>Public Forum - Stuart Tucker - Housing developments in Mt Eden</td>
<td></td>
</tr>
<tr>
<td>12</td>
<td>Te Tāruke-ā-Tāwhiri: Auckland’s Climate Action Framework - Proposed changes</td>
<td></td>
</tr>
<tr>
<td>13</td>
<td>Local Board feedback to the Independent Council-Controlled Organisations Review</td>
<td></td>
</tr>
</tbody>
</table>

Note: The attachments contained within this document are for consideration and should not be construed as Council policy unless and until adopted. Should Councillors require further information relating to any reports, please contact the relevant manager, Chairperson or Deputy Chairperson.
Unitary Plan Development Standards

Stuart Tucker
Albert Eden Local Board
17 March 2020
Development Standards

• Three key purposes:
  • Compliance with standards ensures “...a quality outcome for adjoining sites and the neighbourhood, as well as residents within the development site.”
  • They provide clear guidance to developers and applicants as to what Council expects with regard to quality outcomes in each zone
  • They provide residents with comfort and protection that development will proceed in a controlled and managed way, within a framework of well-known and well-understood planning rules
## Development Standards in Action

<table>
<thead>
<tr>
<th>Standard</th>
<th>20 Dexter</th>
<th>14 Sherbourne</th>
<th>5 Woodford</th>
<th>20 Fairview</th>
<th>18 Ashton</th>
</tr>
</thead>
<tbody>
<tr>
<td>Zone</td>
<td>Mixed Housing Urban</td>
<td>Mixed Housing Urban</td>
<td>Mixed Housing Urban</td>
<td>Mixed Housing Urban</td>
<td>Mixed Housing Suburban</td>
</tr>
<tr>
<td>HIRTB</td>
<td>Does not comply</td>
<td>Does not comply</td>
<td>Does not comply</td>
<td>Does not comply</td>
<td>Complies</td>
</tr>
<tr>
<td>Coverage</td>
<td>Does not comply</td>
<td>Does not comply</td>
<td>Does not comply</td>
<td>Does not comply</td>
<td>Does not comply</td>
</tr>
<tr>
<td>Impervious Area</td>
<td>Does not comply</td>
<td>Does not comply</td>
<td>Complies</td>
<td>Does not comply</td>
<td>Complies</td>
</tr>
<tr>
<td>Overall Compliance</td>
<td>5/10</td>
<td>6/10</td>
<td>9/11</td>
<td>6/11</td>
<td>9/10</td>
</tr>
<tr>
<td>Additional Approved “Volume”</td>
<td>30%</td>
<td>18%</td>
<td>15%</td>
<td>37%</td>
<td>10%</td>
</tr>
<tr>
<td>Notification</td>
<td>TBD</td>
<td>Non-Notified</td>
<td>Non-Notified</td>
<td>Non-Notified</td>
<td>Non-Notified</td>
</tr>
</tbody>
</table>
Summary

We contend that residents have a general expectation that Council will enforce development standards (accepting minor or inconsequential non-conformances) unless there are very good and specific reasons for not doing so. It is only through transparent enforcement of development standards that all parties (developers and residents) will develop confidence in the approvals process and the outcomes that that process delivers. Indeed, the converse is also true – residents become angry, frustrated and confused when these two simple tests are not met. In this scenario, development appears unmanaged, random, unpredictable and something to be fearful and anxious about.
Infringement

C1.9(3)

When considering an application for a restricted discretionary activity for an infringement of a standard under Rule C1.9(2), the Council will restrict its discretion to all of the following relevant matters:

(a) Any objective or policy which is relevant to the standard;
(b) The purpose (if stated) of the standard…;
(c) Any specific matter identified in the relevant rule…;
(d) Any special or unusual characteristic of the site which is relevant to the standard;
(e) The effects of the infringement of the standard; and
(f) Where more than one standard will be infringed, the effects of all infringements considered together.
Notification

Section C1.13(3)

“When deciding:

(a) whether an activity will have or is likely to have adverse effects...that are more than minor for the purposes of section 95D of the Resource Management Act 1991; and

(b) whether any person is affected in relation to an activity...;

the Council will have regard to the standards for any permitted activity on the same site as part of the context of the assessment of the effects on the environment.”
SUMMARY

We have become aware in recent months of a number of new housing developments within our broader community that have been approved by Council regulatory planning processes and yet have significant non-compliances with unitary plan development standards. These developments are also, in our opinion, contrary to the outcomes sought under the unitary plan. A quick search has identified five such developments in the broader community. We are concerned that there will be others – and that more will continue to be processed.

In my opinion, these five developments have used a processing loophole to gain approval for subdivision that is well below unitary plan requirement (Section E.38 stipulates a minimum net site area of 300m² for residential mixed housing urban and 400m² residential mixed housing suburban zones). The loophole allows a subdivision to be approved in accordance with an existing land use consent – and so developers are asking Council to process and approve the land use consent first and then consider the subdivision consent. The argument is then made that there is an existing land use consent and so the subdivision consent can be processed without reference to the minimum lot size required in the zone. This seems entirely inappropriate and clearly thwarts the outcomes sought under the Unitary Plan.

This subversion of process has resulted in approval of ten lots with net areas as small as 61m² at 20 Fairview Road. I would suggest that this is at odds with the community’s reasonable expectation that subdivision within that site (1338 m²) would be limited by Council under the Unitary Plan to three sites of around 450m². I’m sure you would agree that the outcomes resulting from ten units on a site at around 60-70m² per net site area compared to three units on the same site at 450m² are obviously very different.

Additionally, these developments incorporate significant non-compliances with key development standards. Importantly, all five developments significantly exceed maximum building coverage requirements and typically include significant non-compliances with respect to height in relation to boundary, maximum impervious area, minimum landscape area and provision of outdoor living space. These are the very standards that, both individually and in combination, control both intensity of development and residential density.

When used appropriately, the subdivision standards are, at least in part, designed to ensure that a net site area is big enough for an envisaged compliant development appropriate to that zone and the development standards are, at least in part, designed to achieve quality outcomes within that net site area. These objectives are expressly stated in the Unitary Plan.

Critically, the combination of non-compliances with minimum net area and maximum building coverage has resulted in developments in this case that are too intense for their receiving environment. The further application of maximal height in relation to boundary criteria results in developments of considerable scale, bulk and dominance. Put simply, each development amounts to gross over-development and imposes significant effects on neighbouring properties and the broader receiving environment.

My discussions with affected neighbours and the broader community typically elicit a reaction of genuine surprise when informed of these developments. Directly affected neighbours are angry and frustrated at both the developments themselves, and the Council processes used to approve them. It is
fair to say that while there is limited understanding of the unitary plan at a level of detail, residents are generally accepting of the need for greater intensity of development. However, it comes with a strong proviso that the protections of the development standards are adhered to. The standards are presumably there for a purpose — and it seems fundamentally wrong that they appear to have no particular relevance to obtaining approval for these sorts of developments. People are broadly aware of the standards relating to minimum lot size, building coverage and height in relation to boundary and they have a reasonable expectation that Council will enforce compliance with those standards as development proceeds. It is important to note that many of the residents I have spoken to in this regard are not anti-development, but rather articulate concerns relating to facilitating an appropriate development while maintaining a reasonable level of amenity and quiet enjoyment for existing residents.

Finally, a number of these developments have been granted consent approval on a non-notified basis. Noting that the unitary plan has created a relatively permissive approvals environment, we think that applications should be subject to a rigorous examination for anything other than the most minor non-compliances. This should include neighbour and community input. The extent of non-compliance and the significant effects on neighbouring properties and the broader street communities seems to cut across democratic principles of transparency and fair play. The developments at Fairview and Woodford (and potentially Dexter) can be described as more fitting and suited to a Terrace Housing and Apartment Building Zone (rather than Residential Mixed Housing Urban) and we contend that these lots are effectively being re-zoned by developers and Council using a non-notified resource consent process.

**ACTIONS SOUGHT:**

In bringing this matter to the Board’s attention, we seek the following actions:

1. That the Board review the developments at 20 Fairview Road, 16 Ashton Road, 14 Sherbourne Road and 5 Woodford Road with a view to providing residents confirmation that, in the Board’s opinion, these developments deliver the outcomes sought by the Unitary Plan and that the approval process used by Council has been fair, transparent and otherwise appropriate;
2. That the Board review the current application documentation for 20 Dexter Avenue and make a formal submission to Council on the merits of the application. We do not seek to sway the Board in this instance, rather we would hope that the Board reach its own conclusions on the acceptability (or otherwise) of the application;
3. That the Board, in its capacity as our elected representatives, work with Council to review the accumulating impact of these developments (and others like them) on our neighbourhood and community; and
4. That the Board engage with Council to ensure that affected neighbours, neighbourhoods and communities are made appropriately aware of new building developments proposed under the Unitary Plan.
5. That, in light of being made aware of these developments, the Board advise residents how it proposes to act, noting the policy platforms on which the various members were elected.
### Attachment A

#### Item 9.2

<table>
<thead>
<tr>
<th>Zone</th>
<th>20 Dexter Avenue</th>
<th>14 Sherbourne Road</th>
<th>5 Woodford Road</th>
<th>20 Fairview Road</th>
<th>18 Ashton Road</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Residential - Mixed Housing Urban</td>
<td>Residential - Mixed Housing Urban</td>
<td>Residential - Mixed Housing Urban</td>
<td>Residential - Mixed Housing Urban</td>
<td>Residential - Mixed Housing Suburban</td>
</tr>
<tr>
<td>No. of dwellings</td>
<td>3</td>
<td>2</td>
<td>4</td>
<td>10</td>
<td>2</td>
</tr>
<tr>
<td>Gross floor area</td>
<td>902m²</td>
<td>540m²</td>
<td>980m²</td>
<td>1,555m²</td>
<td>602m²</td>
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<tr>
<td>No. of bedrooms</td>
<td>16</td>
<td>9</td>
<td>18</td>
<td>36</td>
<td>10</td>
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</table>

#### Subdivision Standards

<table>
<thead>
<tr>
<th></th>
<th>20 Dexter Avenue</th>
<th>14 Sherbourne Road</th>
<th>5 Woodford Road</th>
<th>20 Fairview Road</th>
<th>18 Ashton Road</th>
</tr>
</thead>
<tbody>
<tr>
<td>Original lot size</td>
<td>845m²</td>
<td>Original lot 748m² then split in 2 x 374m²</td>
<td>1234m²</td>
<td>1338m²</td>
<td>1085m²</td>
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<tr>
<td>E38.8.2.3 Minimum net site area for vacant lots</td>
<td>300m²</td>
<td>300m²</td>
<td>300m²</td>
<td>300m²</td>
<td>400m²</td>
</tr>
<tr>
<td>Approved lot size</td>
<td>Application based on minimum net site areas of 247m², 224m² and 240m² (note 1)</td>
<td>Application based on minimum net site areas of 211m² and 163m² (note 1)</td>
<td>Application approved with minimum net site area of 275m², 267m² and 268m² (note 1)</td>
<td>Application based on 10 lots with minimum net site area of 61m² (note 1)</td>
<td>Application based on minimum net site area of 433m² (note 1)</td>
</tr>
<tr>
<td>Notification process</td>
<td>To be determined</td>
<td>Non-notified</td>
<td>Non-notified</td>
<td>Non-notified</td>
<td>Non-notified</td>
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</tbody>
</table>

**Notes:**
1. Minimum net site area is based on compliance with E38.8.2.1 or E38.8.2.2, which require:

   **E38.8.2.1.** Subdivision in accordance with an approved land use resource consent
   (1) Any subdivision relating to an approved land use consent must comply with that resource consent.

   **E38.8.2.2.** Subdivision around existing buildings and development
   (1) Prior to subdivision occurring, all development must meet one of the following:
      (a) have existing use rights;
      (b) comply with the relevant overlay, Auckland-wide and zone rules; or
      (c) be in accordance with an approved land use resource consent.
**Attachment A**  
**Item 9.2**

<table>
<thead>
<tr>
<th>Development Standards</th>
<th>Gross Site/Net Site</th>
<th>Zone</th>
<th>Activity Class</th>
<th>20 Dexter Avenue</th>
<th>14 Sherbourne Road</th>
<th>5 Woodford Road</th>
<th>20 Fairview Road</th>
<th>18 Ashton Road</th>
</tr>
</thead>
<tbody>
<tr>
<td>H5.6.4 Building height</td>
<td>846m²/713m²</td>
<td>Residential - Mixed Housing Urban</td>
<td>A3 Up to three dwellings</td>
<td>Compiles</td>
<td>Compiles</td>
<td></td>
<td></td>
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<tr>
<td>H5.6.5 HIRTB (significant breaches)</td>
<td>Does not comply</td>
<td>Does not comply</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>H5.6.6 A1. HIRTB over front 20m</td>
<td>Does not apply</td>
<td>Does not apply</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>H5.6.7 HIRTB adjoining lower intensity zones</td>
<td>NA</td>
<td>NA</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>H5.6.8 Yards</td>
<td>Compiles</td>
<td>Compiles</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>H5.6.9 Impervious areas (site area)</td>
<td>70% c.f. permitted baseline of 60%</td>
<td>Compiles</td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>H5.6.10 Maximum building coverage (not site area)</td>
<td>58% c.f. permitted baseline of 45%</td>
<td>Does not comply</td>
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<td></td>
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<tr>
<td>H5.6.11 Minimum landscaped area (not site area)</td>
<td>Compiles</td>
<td>Compiles</td>
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<td></td>
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<td>H5.6.12 Outlook space</td>
<td>Does not comply</td>
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<td></td>
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<td></td>
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</tr>
<tr>
<td>H5.6.13 Daylight</td>
<td>Compiles</td>
<td>Compiles</td>
<td></td>
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<td></td>
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<td></td>
<td></td>
</tr>
<tr>
<td>H5.6.14 Outdoor living space</td>
<td>Compiles</td>
<td>Compiles</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>H5.6.15 Front, side and rear fences and walls</td>
<td>Compiles</td>
<td>Compiles</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
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<td>Compliant Standards</td>
<td>5 / 10</td>
<td>6 / 10</td>
<td>9 / 11</td>
<td>6 / 11</td>
<td>9 / 10</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Additional built-volume</td>
<td>30%</td>
<td>18%</td>
<td>19%</td>
<td>37%</td>
<td>10%</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Notification Process</td>
<td>To be determined</td>
<td>Non-notified</td>
<td></td>
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</table>

See notes on next page
NOTES:

1. Standards to be Complied With

Green shaded boxes indicate development standards to be complied with if the development was to be considered a permitted activity (for up to three dwellings per site) or a restricted discretionary activity (for four or more dwellings per site) under Section H4.4 Activity table. Section H4.4 notes that:

"Up to three dwellings are permitted as of right subject to compliance with the standards. This is to ensure a quality outcome for adjoining site and the neighbourhood, as well as residents within the development site."

The sites at Woodford and Fairview comprise four and ten dwellings respectively. Section H4.1 notes that:

"Resource consent is required for four or more dwellings and for other specified buildings in order to:
- achieve the planned urban built character of the zone;
- achieve attractive and safe streets and public open spaces;
- manage the effects of development on adjoining neighbouring sites, including visual amenity, privacy and access to daylight and sunlight; and
- achieve high quality on-site living environments.

The resource consent requirements enable the design and layout of the development to be assessed; recognising that the need to achieve quality design is important as the scale of development increases.

2. Use of Alternative Height in Relation to Boundary

Both Dexter and Sherbourne applications have incorrectly applied the alternative height in relation to boundary standard (H5.6.6). It is clear from activity table H5.4.1 that this standard only applies to the following activity classes:
- A4 Four or more dwellings per site
- A8 Integrated residential development
- A10 Supported residential care accommodating greater than 10 people per site inclusive of staff and residents
- A12 Boarding houses accommodating greater than 10 people per site inclusive of staff and residents
- A14 Visitor accommodation accommodating greater than 10 people per site inclusive of staff and visitors

3. Treatment of Infringements or Non-compliances

Under section C1.9 Infringement of Standards of the Unitary Plan, these applications must comply with all the standards that apply to the activity class. An activity that does not comply with one or more standards becomes a restricted discretionary activity. When deciding whether an activity will have or is likely to have adverse effects, the Council must have regard to the standards for permitted activity on the same site. That is to say, the permitted development standards are the baseline against which non-compliance must be compared.
Albert-Eden Local Board feedback on the consultation report and proposed changes for Te Tāruke-ā-Tawhiri—Auckland’s Climate Action Framework.

Albert-Eden Local Board supports the three pillars and eight priorities laid out in the proposal for Te Tāruke-ā-Tawhiri—Auckland’s Climate Action Framework.

The consultation report shows strong support across Auckland for the Framework. The Board is pleased to note the strong engagement from youth, Māori and Pacific submitters. The proportionally high level of engagement by Albert-Eden residents (223 submitters) indicates a strong interest by our constituents in an effective climate action framework.

The Board notes that there is substantial variation between local board areas in which challenges were rated most important by submitters. For instance, Albert-Eden residents are more concerned than the average about air quality, while Franklin residents are concerned about access to public transport. This suggests that local boards should be resourced to undertake locally appropriate actions that respond to their communities’ specific concerns.

The Board stresses the need to partner with central government to meet the challenge of the climate crisis, and to ensure representation across sectors in climate action planning and implementation, especially mana whenua and rangatahi.

The climate crisis requires coordinated action by the Governing Body, local boards and CCOs. In keeping with the structure of Auckland Council, local boards are best placed to partner with local communities and implement local solutions; to facilitate this, a dedicated funding stream for climate-related projects should be made available to local boards.

The Board agrees with the feedback in question 1 that the framework takes us in the right direction, and that we need to move swiftly. Transparent, ambitious, concrete targets, both short- and long-term, are required in order to drive meaningful, effective action, along with regular reporting of our progress in meeting those targets. There are clear limits to the amount of carbon we can emit before we lose the chance to limit warming to 1.5°C, past which the impacts are likely to be catastrophic for the global economy and Aucklanders’ livelihoods and wellbeing. We need clear communication about how close we are to these limits, about the targets we are setting, and about whether we are meeting those targets.

In the private sector, businesses need certainty and a level playing field; clear regulations and support in following them are needed to create conditions in which businesses can act to reduce their risks from climate change without the fear of being undercut by less scrupulous competitors. Both local and central government have a regulatory role here, and local government has an important role as a source of information, education and support. Information and support from Council will also encourage community and non-governmental organisations to act on climate, while Council can and should set expectations for CCOs.

The Board agrees that the Framework should also include adaptation measures. Under any realistic scenario, Auckland is highly vulnerable to sea-level rise, drought and extreme weather, and our long-term planning needs to take these impacts into account. Aucklanders need clear communication of what these impacts will look like and what is being done to adapt our infrastructure and support our communities.

Specific comments on the eight priorities follow:

Natural Environment:
The Board supports protection and restoration of the natural environment. Council should step up funding and support for community groups which work on environmental protection and restoration, and should make environmental protection and restoration a priority in management of parks, reserves and waterways. Council also have an important role in communicating what is already being done and coordinating between community groups.

We support an increased focus on tree protection and planting, noting, however, that increased tree protection may require legislative action from central government. If the RMA reforms do not restore the ability to enact blanket tree protection measures, Council should advocate strongly for legislation to allow this. Council should also expand existing tree-planting programmes and undertake a programme of planting street trees, both for carbon sequestration and to provide shade and cooling in the urban environment.

Built Environment:

The infrastructure that we build today will be with us for decades, so it is crucial that we make climate change a key criterion in all infrastructure decisions, from urban form and transport infrastructure to building design. This should include adaptation as well as mitigation; even at 1.5°C, Auckland will experience significant negative impacts; we need to make sure that our infrastructure is designed to help us weather those impacts. Council should also advocate for the necessary changes to the RMA and the Building Act to require green building design, less carbon-intensive building practices and design which takes into account the adaptations that will be required over the life of a building.

Transport:

With transport responsible for 47% of Auckland’s emissions, increasing uptake of low- or zero-carbon transport modes is the single most effective intervention we can make. The Board supports urgent action to encourage and support people to travel by public transport, foot or bike. More infrastructure is needed to support active transport, and more investment is needed in the public transport networks to improve access and reliability. Maximising access to cycling, walking and public transport should be given priority in the planning process for new developments.

Council should also lead by example in transitioning its vehicle fleet to low- or zero-carbon vehicles, and requiring similar measures from CCOs. Auckland Transport should use the public transport contracting process to require operators to adopt electric buses.

Economy

As previously noted, businesses need certainty and a level playing field. The Board supports Council taking a regulatory, educational and supportive role to help businesses adopt sustainable models and practices.

Council should also encourage mixed land use through its planning process, so that more people are able to work and shop near home, reducing the need for daily travel.

Community:

Climate change will have major impacts on Auckland communities. Aucklanders need clear communication of the impacts climate change above 1.5°C will have on our livelihoods and wellbeing, and of the need for urgent, concerted action to keep warming below 1.5°C.
Council has an important role in supporting communities’ efforts to reduce emissions and adapt to the effects of climate change. The impacts of climate change will not be evenly distributed, and those who have the least resources will often be worst affected. Efforts to improve people’s resilience and ability to respond to climate change must take equity into account. Council should also support community-led initiatives such as the Eco-Neighbourhoods.

Māori:

The Board agrees with submitters that the Framework must uphold Te Tiriti o Waitangi and include Māori knowledge and practices. We support the principle of co-governance and support working with mana whenua to design and implement our responses to the climate crisis. We support the inclusion of mātauranga Māori in planning, communication and implementation of these responses.

Energy

The Board supports incentivising decentralised and renewable energy. Council should lead by example by including energy generation in public buildings, and should include renewable energy generation and energy efficiency measures in design guidelines.

Food:

The Board supports using the planning process to protect elite soils, which are scarce in the Auckland region, and will be needed for Auckland’s future food security. Council should use its planning tools to prohibit development on highly productive fertile soils, and should work with other local governments to encourage them to protect fertile soils outside Auckland’s boundaries that are at risk from development.

The Board supports partnering with community groups to encourage food production in urban gardens. Council should identify appropriate locations on council land suitable for fruit and nut trees or other food production and partner with community groups to establish food forests or community gardens. Council should also require AT to allow appropriate berm planting, and support community groups to offer training so that people can establish berm gardens.

We support the planned food waste pick-up scheme, but this should function as a back-up, second-choice option for disposal of food waste. Where possible, food waste should be composted locally and the compost used to build fertility in community gardens, and Council should support community groups in establishing local composting schemes.
Albert-Eden Local Board input to the independent review of Auckland's CCOs:

1. We welcome this opportunity to provide feedback to the review of Auckland Council’s substantive Council Controlled Organisations (CCOs)
2. We acknowledge there are problems with the accountability and transparency regarding decision-making for some of the CCOs
3. We acknowledge there are inefficiencies and duplication of some services within the wider Council family
4. We consider there are opportunities to decrease Council expenditure by merging some functions into existing Council structures eg permitting for film and events.
5. We consider that there should be more governance controls and increased accountability mechanisms in their Statements of Intent alongside regular reporting to Local Boards
6. Watercare appears to function effectively and efficiently and should remain as a CCO.