

# Decision following the hearing of applications for resource consent under the Resource Management Act 1991 (RMA)



## Proposal

To establish and operate an Integrated Residential Development (Retirement Village) involving the construction of 28 new buildings; including the operation of a childcare centre; food and beverage activities, associated construction activities and car parking and to subdivide the site.

These resource consents are **GRANTED**. The reasons are set out below:

<b>Application numbers:</b>	LUC60345460, LUS60353537, SUB60360541 & WAT60353539
<b>Site address:</b>	Small Road, Silverdale
<b>Applicant:</b>	The Botanic Limited Partnership
<b>Hearing commenced:</b>	Tuesday 7 July 2020, 9.30am
<b>Hearing panel:</b>	Les Simmons (Chairperson) Dr Lee Beattie Justine Bray
<b>Appearances:</b>	<p><u>For the Applicant:</u> The Botanic Limited Partnership represented by: Jeremy Brabant, Legal Counsel Adam Thompson, Economic Matthew Ellingham, Corporate Phillip Brown and Keith Bell, Traffic Nicholas Rae, Urban Design Burnette O'Connor, Planning</p> <p><u>For Council:</u> Steve Seager, Team Leader Hannah Thomson, Planner John Mackay, Urban Designer Dave Paul, Principal Policy Planner Dr Mario Fernandez, Economics Mat Collins, Traffic Mitra Prasad, Auckland Transport</p> <p>Paulette Kenihan, Senior Hearings Advisor</p>
<b>Hearing adjourned</b>	4pm on 7 July 2020
<b>Hearing reconvened</b>	9.30am on 28 August 2020 and adjourned at 12.54pm

<b>Commissioners' site visit</b>	7 July 2020
<b>Hearing Closed:</b>	2 September 2020

## Introduction

1. This decision is made on behalf of the Auckland Council ("**the Council**") by Independent Hearing Commissioners Les Simmons (Chairperson), Dr Lee Beattie and Justine Bray, appointed and acting under delegated authority under sections 34 and 34A of the Resource Management Act 1991 ("**the RMA**").
2. This decision contains the findings from our deliberations on the applications for resource consent and has been prepared in accordance with section 113 of the RMA.
3. The applications were publicly notified and total of two submissions were received, with both being in support.

## Summary of proposal and activity status

4. The applicant proposes land use consent for a 501 unit retirement village complex (including 49 aged care beds, 442 apartments & 59 villas) a childcare centre for 100 children and 15 staff, commercial space, retail units and food and beverage activities (4 tenancies, totalling 664.7m<sup>2</sup> gross floor area), with associated car parking. This includes the construction of 28 new buildings and associated earthworks, groundwater diversion and stream works for the establishment of the activities. A subdivision is also proposed, to subdivide the site into two lots.
5. The proposal requires resource consent for the following reasons.

### National Environmental Standards

- National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health ('NESCS') - Discretionary Activity.

### Land use consent (s.9) – LUC60345460

### Auckland Unitary Plan (Operative in part)

#### Regional land use

##### *Stormwater Management Area*

- To establish more than 50m<sup>2</sup> or impermeable surface area with 42,107m<sup>2</sup> proposed is a **Discretionary Activity** E10.4.1 (A4).

##### *Land Disturbance (Regional)*

- To carry out earthworks greater than 2,500m<sup>2</sup> on land with a slope greater than 10 degrees is a **Restricted Discretionary Activity** Rule E11.4.1 (A8).
- To carry out earthworks greater than 2,500m<sup>2</sup> in a Sediment Control Protection Area is a **Restricted Discretionary Activity** Rule E11.4.1 (A9)

## **Streamworks - LUS60353537**

### *Stream Diversion*

- To divert Channel 4 (44m) in the southern portion of the suite adjacent to Mainstem Stream is a **Discretionary Activity** E3.4.1 (A19).

## **Groundwater- regional water permit- WAT60353539**

### *Groundwater Diversion*

- The diversion of groundwater caused by any excavation that does not meet the permitted activity standards is a **Restricted Discretionary Activity** E7.4.1 (A28).

## **District land use (operative plan provisions)**

### *Land Disturbance (District)*

- To carry out earthworks greater than 2,500m<sup>2</sup> is a **Restricted Discretionary Activity** pursuant to Rule E12.4.1 (A6).
- To carry out earthworks greater than 2,500m<sup>3</sup> is a **Restricted Discretionary Activity** pursuant to Rule E12.4.1 (A10).

### *Vegetation Management and Biodiversity*

- Vegetation alteration or removal within 10m of an urban stream is a **Restricted Discretionary Activity** pursuant to E15.4.1 (A19).

### *Signs*

- Comprehensive development signage is a **Restricted Discretionary Activity** under E23.4.2 (A53).

### *Noise and Vibration*

- The proposal involves use and development that fails to meet the following core standards and is a **Restricted Discretionary Activity** under rule C.1.9 (2):
  - The proposal involves vibration that will exceed the limits in 25.6.30. (1)(b); and
  - The proposal involves construction noise that will for short periods exceed the limits under E25.6.27.

### *Transport*

- The proposal involves accessory parking and access that does not meet the following parking and access standards and is a **Restricted Discretionary Activity** under Rule E27.4.1 (A2). Specifically, the proposal involves Integrated Residential Development exceeding 500 units (501 units) and therefore technically Restricted Discretionary resource consent is required as per Rule E27.6.1 (T2).

- The proposal involves use and development that fails to meet the following core standards and is a **Restricted Discretionary Activity** under rule C.1.9 (2):
  - Not meeting the minimum loading space requirements with three spaces required by E27.6.2.7 and two spaces proposed;
  - Parking spaces 69, 59 and 50 in the basement car park of Block A do not meet the dimensions set out in E27.6.3.1.1;
  - Block A garage door will have a 2.8m high vertical clearance for a rubbish truck where 3.8m is required; and
  - Not meeting the minimum 6m formed access widths as required by E27.6.4.2 (T155) with 5.5m proposed at portions of the access ways for Blocks AG.

#### *Natural Hazards*

- Buildings or other structures, including retaining walls (but excluding permitted fences and walls) located within or over an overland flow path is a **Restricted Discretionary Activity**.

Rule E36.4.1 (A2).

#### *Subdivision*

- To create a new vacant site complying with Standard E38.9.2.3 i.e. a site greater than 200m<sup>2</sup> in area is a **Restricted Discretionary Activity** (Rule E38.4.3 (A35)). Lot 1 has a Net site area of 1.3345 hectares and Lot 2 (retirement village site) has an area of 6.4342 hectares.

#### *Business – General Business Zone*

- The establishment of an Integrated Residential Development is a **Non-complying activity** Rule H14.4.1 (A4).
- The proposal involves use and development that fails to meet the following core standards and is a restricted discretionary activity under rule C.1.9 (2):
- The proposal does not meet Rule 14.6.1 maximum height control of 16.5m is breached by:
  - Block A – 19.4m high;
  - Block B – 17.9m high;
  - Block C – 17.9m high;
  - Block D – 20.1m high;
  - Block E – 19.7m high;
  - Block G – 18.25m high;
  - Block H- 19.8m high; and
  - Block I- 19.7m high.
- Building and structures will be located within the 10m riparian yard. This does not meet Standard H14.6.3.

- Blocks H and I exceed the Height in relation to boundary control of 3m plus a 45o angle opposite a Residential – Mixed Housing Urban zone. This is a **Restricted Discretionary** activity in accordance with Rule C1.9.

Note: Compliance will be achieved once the Spine Road is constructed.

### *Silverdale 3 Precinct*

- Any land use activity, that does not meet the Vehicle Movement in PM Peak Permitted activity Rule (A6), as the collective total traffic generation will be more than 136 vehicles per hour in the PM peak is a **Discretionary activity** under Rule I537.4.1 (A7).
- To construct new buildings is a **Restricted Discretionary activity** Rule I537.4.1 (A1) and I137.4.2 (A24).
- The establishment of a care centre is a **Restricted Discretionary activity** pursuant to Rule I537.4.1 (A21).
- Any development generally in accordance with 1537.10.1 Silverdale 3: Precinct plan 1 is a **Restricted discretionary activity** Rule I537.4.2 (A22).
- The proposal involves use and development that fails to meet the following core standards and is a **Restricted discretionary activity** under Rule C.1.9 (2):
  - The proposal fails to meet I537.6.3 – Residential floor area as the proposed residential use on the ground floor on Blocks B, V - Z are not ancillary to a business premise;
  - the proposal fails to meet the Building Frontage Control I537.6.6.1 (a) (i) as Blocks D, E and G are within 5m of the site frontage; and
  - The proposed veranda to the street will be 3m wide and therefore does not meet the 4m required by I537.6.6.2 (b) (v).

6. Overall the proposal has been considered as a **Non-complying** activity.

### **Procedural matters**

7. By way of a letter dated 28 April 2020 Fire and Emergency New Zealand advised they no longer wished to be heard, provided that conditions and advice notes were imposed in relation to water supply and access for firefighting purpose. The applicant agreed to this if consent is to be granted.
8. The only other submitter LM Painton Trust supported the proposal and did not request to be heard.
9. The hearing was adjourned on 7 July 2020 to enable the Council's reporting team to respond to matters raised during the hearing and provide an updated version of the recommended draft conditions of consent. This further information was provided on 17 July.

10. Mr Brabant had agreed to provide his reply in writing following the receipt of the above further information. His reply was received on 27 July and was accompanied by a letter from Ms O'Connor, in which she had responded to the further information provided on behalf of the Council.
11. We issued a Minute dated 31 July advising the parties that the hearing would be reconvened in order for Commissioners to question Ms Thomson and Ms O'Connor on their latest statements. We also sought further evidence and legal input from both parties in relation to two additional matters. Firstly, the relevance, if any, in relation to the consistent administration and integrity of the plan in terms of section 104 (1) (c) of the RMA. Secondly, as the NPS-UD 2020 came into effect on 20 August 2020, we sought advice in relation to the implications of the latest NPS on the proposal and the previous evidence that had been presented.
12. Agreement was reached that the hearing would reconvene on 28 August, being the earliest date the Commissioners and the parties were all available.
13. Due to Auckland being under Covid-19 restrictions on that date the reconvened hearing was held by way of Skype. To assist all parties during the Skype hearing it was agreed that the requested further evidence and the final reply would be pre circulated. Ms Thomson's final addendum report was received on 25 August. Ms O'Connor's supplementary evidence and Mr Brabant's supplementary Legal submissions were received on 27 August.
14. The Skype hearing was adjourned to enable Mr Brabant to provide a final set of recommend conditions, in response to matters that arose during the reconvened hearing. The recommended conditions together with brief legal submissions were received on 1 September
15. The hearing was closed the following day, 2 September.

#### **Relevant statutory provisions considered**

16. In accordance with section 104 of the RMA, we have had regard to the relevant statutory provisions including the relevant sections of Part 2 and sections 104D, 104B, 106, 108, 108AA, 125 and 220 of the RMA.

#### **Relevant standards, policy statements and plan provisions considered**

17. In accordance with section 104(1) (b) (i)-(vi) of the RMA, we have had regard to the relevant policy statements and plan provisions of the following documents.
  - National Environmental Standard (Assessing and Managing Contaminants in Soil to Protect Human Health)
  - National Policy Statement on Urban Development Capacity 2016
  - National Policy Statement on Urban Development 2020

- National Policy Statement on Freshwater Management 2017
  - National Policy Statement on Freshwater Management 2020
  - National Environmental Standards for Freshwater Regulations 2020
  - The relevant provisions of the Auckland Unitary Plan (OP) as set out in the section 42A report from page 56, as updated by the planning evidence we received during the hearing
18. We also considered the following other matters to be relevant and reasonably necessary to determine the application in accordance with section 104(1) (c) of the RMA.
- The Silverdale West Dairy Flat Industrial Area Structure Plan, adopted April 2020
  - The consistent administration and integrity of the AUP (OP)

**Local Board comments**

19. No specific comments on the application were received from the Hibiscus Coast and Bays Local Board, other than that the application should be notified.

**Summary of evidence heard**

20. The Council reporting planner, Ms Thomson, had prepared a Section 42A report, dated 10 June 2020, together with an addendum report dated 29 June 2020, both of which were circulated prior to the hearing and taken as read. Her recommendation was that the consents be refused.
21. The evidence presented at the hearing responded to the issues and concerns identified in the Section 42A report, the application itself and the submissions made on the application.
22. The evidence presented by the applicant at the hearing is summarised below.
23. The following witnesses had prepared and pre circulated evidence but did not attend the hearing as their evidence was not in contention between the applicant and the Council. In summary each of these witnesses had provided evidence with respect to their area of expertise in support of the grant of consent, in most case subject to the conditions they had recommended or agreed to.

Mr Culley (Civil Engineering)

Mr Delaney (Ecology)

Ms Hope (Landscape)

Mr McBride (Arboriculture)



Mr O'Brien (Land Contamination)

Mr Shang (Architecture)

Mr Styles (Acoustics)

Mr Carter (Geotech)

24. Mr Adam Thompson, director of Urban Economics Limited, had pre circulated his written evidence on economic matters and he provided an assessment of future demand for retirement village units and business GFA, an assessment of the available land for retirement villages and business GFA in the Hibiscus Coast and a review of the relevant economic matters raised and requests for information contained in the s42A report. His main findings were:
- (a) There is demand for an additional 2-3 retirement villages in the Hibiscus Coast over the next decade.
  - (b) There are no suitable zoned sites for additional retirement villages in the Hibiscus Coast area.
  - (c) There is 46 hectares of vacant industrial and General Business zone land in the Hibiscus Coast which is sufficient to meet demand growth for 6-7 years based on current land demand estimates.
  - (d) The proposal would ensure there is sufficient provision for retirement village units to meet demand, as required by NPS-UDC and the AUP (OP).
  - (e) The site is well suited for a retirement village and would be an efficient use of the site.
25. Mr Thompson tabled and spoke to a supplementary statement of evidence date 6 July at the hearing. This evidence responded to matters that had been raised by Mr Paul and Dr Fernandez in the Addendum report dated 29 June. Mr Thompson responded under the headings retirement village supply and demand and industrial land supply and demand. He concluded that he retained the view the proposal would have the significant economic benefit of increasing access to retirement housing in a suitable location.
26. Mr Matthew Ellingham, director and shareholder of Matvin Group Limited, had pre circulated his written evidence in which he addressed the discussions and negotiations that had taken place regarding the delivery of the infrastructure within the Silverdale 3 precinct. He tabled letters dated 3 and 7 July 2020 confirming the support of Build Rich Limited, who own or legally control the balance of the land within the precinct.
27. Mr Phillip Brown and Mr Keith Bell, traffic engineers, had pre circulated their joint statement of evidence, prior to the traffic matters being resolved with the Council and Auckland Transport. Their evidence addressed the traffic engineering aspects



of the proposal, including the proposed road upgrading and conditions of consent that had been recommended. Mr Brown advised that agreement had been reached the day before the hearing commenced. Mr Mat Collins on behalf of Auckland Transport confirmed that subject to conditions that had been agreed, all traffic matters had now been resolved.

28. Mr Nick Rae, urban designer and landscape architect, had pre circulated his written evidence. There were no matters in contention between Mr Rae and Mr John Mackay, the Council's urban design specialist. Mr Rae's attendance at the hearing was to respond to questions commissioner's had in relation to the overall design and connectivity of the proposal to adjacent sites.
29. Ms Burnette O'Connor, planning consultant, had pre circulated her planning evidence in which she had summarised the proposal, responded to matters raised in the s42A report, provided a planning assessment on the matters that remained in contention, discussed the conditions of consent and provided a brief statutory assessment and conclusions. Overall she concluded that the proposal passed both gateway tests of s104D and that taking other relevant matters such as the Silverdale West Dairy Flat Structure Plan in to consideration, that consent may be granted subject to the conditions she attached to her evidence.
30. Ms O'Connor's evidence remained in contention and will be discussed in more detail later in our decision where we consider and make findings on the principal issues that remain in contention. In addition to her evidence in chief we will also discuss the relevant matters contained in her subsequent responses dated 23 July and 25 August
31. There was no evidence presented by or on behalf of submitters, other than the letter dated 28 April 2020 tabled on behalf Fire and Emergency New Zealand.
32. Mr Brabant provided a written right of reply dated 26 July, supplementary legal submissions dated 27 August in response to our Direction of 31 July and brief submissions dated 1 September addressing the amended version of conditions that were recommended on behalf of the applicant. In addition, he had presented opening legal submissions dated 7 July on the first day of the hearing. To summarise his comprehensive submissions would not do them justice, suffice to say he submitted in support of the application on all of the relevant legal issues that arose during the hearing. We have carefully considered all of his submissions, have taken them into account and where appropriate made reference to them in our findings on the principal issues that remained in contention.

### **Principal issues in contention**

33. After analysis of the application and evidence (including proposed mitigation measures), undertaking a site visit, reviewing the Council Section 42A report, reviewing the submissions and concluding the hearing process, the proposed activity raises a number of issues for consideration.

34. At the time Ms Thomson's Section 42A report was pre-circulated she had identified that, subject to conditions, the majority of any actual and potential adverse effects on the environment were not considered to be in contention. She had identified the following effects, in the order she had assessed them from page 25 of her report, would be avoided, remedied or mitigated by the imposition of conditions.

- Construction
- Urban design
- Landscape and visual
- Reverse sensitivity
- Noise and vibration
- Stormwater
- Wastewater
- Water
- Power and communication
- Groundwater diversion
- Flooding and overland flow
- Geotechnical
- Earthworks
- Stream works
- Terrestrial ecology
- Contamination
- Cultural and heritage

35. In terms of other effects on the environment, the traffic and transportation effects were in dispute, as were economic effects.

36. The traffic and transportation effects were resolved prior to the hearing commencing. This was a result of the applicant amending the proposal in relation to the intersection of East Coast Road/the Hibiscus Coast Highway and the proposed Spine Road that traverses the application site.

37. The only actual or potential effects that remained in contention at the time of the hearing were the economic effects.
38. With respect the relevant statutory documents, the National Policy Statement- Urban Development Capacity 2016 (NPS-UDC 2016), Chapter B-Regional Policy Statement, General Business zone and the Silverdale 3 Precinct provisions were in contention. The National Policy Statement- Urban Development 2020 (NPS-UD 2020) took effect from 20 August 2020, replacing the NPS-UDC 2016. All of these documents remained in contention.
39. We have adopted the uncontested expert evidence presented on behalf of the applicant and the Council including the recommended conditions of consent that had been agreed by the experts. Below we focus only on the principal issues that remained in contention.
40. The principal issues that remained in contention for our consideration are:
- The relevant provisions of the NPS-UD 2020
  - The relevant provisions of the AUP (OP) including:  
Chapter B, H14 Business- General Business zone and I537 Silverdale 3 Precinct
  - The extent of any economic effects of the proposal
  - Whether the proposal passes the gateway tests of Section 104D of the RMA
  - Whether the proposal merits the grant of consent in terms of Section 104 of the RMA
  - If consent is to be granted what conditions should be imposed
  - Part 2 of the RMA

### **Main findings on the principal issues in contention**

41. Our main findings on the principal issues that were in contention are.

### **The relevant provisions of the NPS-UD 2020**

42. It was uncontested that the NPS-UD 2020 took effect from 20 August 2020 replacing the NPS-UDC 2016.
43. It was Ms Thomson's conclusion that *"In the context of this application, the issues between the two NPS's are similar and comments made previously in this regard*

remain relevant.”<sup>1</sup> In addition she noted that in her opinion the NPS-UD is more directive.

44. Specifically with respect to the NPS-UD 2020 Ms Thomson noted that: the objectives and policies refer to development capacity for both housing and business, with land for housing not being identified as having primacy; a number of objectives and policies relate to plan change processes; the application site has a business zoning and is part of the Council’s wider long term planning to ensure that sufficient business development capacity is available to meet expected demand; the provision of adequate business land is required to ensure a well-functioning urban environment and to enable the local community to provide for its social, economic and cultural wellbeing now and into the future; the references to development and changes in urban environments ‘over time,’ appears to primarily anticipate this via a plan change process where significant additions are made to development capacity, noting that this is not the case here.<sup>2</sup>
45. Previously Ms Thomson and Mr Paul, the Council’s Principal Planner, had both concluded that the proposal was contrary to the relevant objectives and policies of the NPS-UDC 2016, as set out below.

*“Comments in this regard have also been provided by Mr Dave Paul, Council’s Principal Planner (Plans and Places) and are included in Attachment 2. The NPS provides for both residential and business development capacity. It refers to the requirement for councils to provide in their plans enough development capacity to ensure that demand can be met. This includes both the total aggregate demand for housing and business land, and also the demand for different types, sizes and locations. This development capacity must also be commercially feasible to develop, and plentiful enough to recognise that not all feasible development opportunities will be taken up. Relevant objectives and policies include:*

- OA1, OA2, OA3, OB1, OC1, OC2,
- PA1, PA3, PA4, PB, PC1, PC4.

*The application does provide for further residential development, but in an adhoc manner. Having been relatively recently rezoned and surrounded by land that is in various stages of development, neither the zone nor the precinct anticipate residential development. On the contrary, the AUP(OP) anticipates business development which will support residential development by providing job opportunities, goods and services to residents. This is part of the council’s long-term strategy for development in this area, and was undertaken to meet requirements of the NPS, including policy PA1 which requires sufficient housing and business zoned land to be available. Land has been zoned taking into account the expected changing needs of people and communities, and future generations. It is understood that the land is commercially feasible to develop, but that a retirement village has a potentially higher demand and financial return. As far as I am aware, no comprehensive or wide-reaching analysis has been undertaken to suggest that this land is not needed for business development (OB1) in the future. The land is zoned to provide for the social and economic wellbeing of existing or*

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<sup>1</sup> Page 3 Addendum report dated 25 August

<sup>2</sup>Page 2 Addendum report dated 25 August

future residents, including residents who will reside on nearby land that is within a residential zone.

*I agree with Mr Paul that the application does not provide the outcomes sought by objectives and policies of the NPS, and is contrary to the objectives and policies identified above. It does not recognise the future need for business zoned land and the associated land uses; this does not provide for the needs of future generations. It could be argued that providing a facility for the changing population demographics achieves this, but this land use is provided for in other locations and zones.”<sup>3</sup>*

46. Mr Paul’s specific comments were as follows.

*“I do not consider that the proposal meets the objectives and policies of the NPS on Urban Development Capacity. It is undermining the ability to provide for a range of business needs of the community by removing an area of land specifically identified for that use and replacing it with one that is not even contemplated in the zone, i.e. residential. Neither is it taking a long-term view in terms of ensuring a future supply of business land.*

*I also do not consider that the NPS objectives and policies about responsiveness means that the proposal is appropriate either. The provision of one land use over another should not be at the expense of land uses that are themselves in short supply i.e. business land, and in this case particularly industrial land. I am not convinced that the responsiveness should occur through the resource consent process and substitute one land use for another that is not even contemplated in the zone. Responding to the market in this way, in my view, would undermine the zoning approach adopted across most district plans in the country. On balance, I consider that the application is contrary to the NPSUDC.*

*In my view the proposal is also contrary to the objectives and policies of the RPS. It is removing an available supply of business land and replacing it with residential activity. It is important that the long-term supply of business land is protected in an area that is rapidly growing, as it is difficult to find land suitable for business activity and it is difficult, if not impossible to get it back once it is developed for other purposes. There is also the benefit of providing employment and services locally to reduce commuter trips on an already congested road network.”<sup>4</sup>*

47. Ms O’Connor, in her supplementary evidence dated 25 August, concluded as follows.

*“Overall, I consider granting consent , would be in keeping with the NPSUD as it would reflect a responsive planning decision enabling demand for retirement village living in this area to be partially satisfied and will not result in adverse effects on the environment. Granting consent will also not adversely affect the supply of business land given the quantum of new business land to be provided west of the motorway in the immediate future and the remaining capacity that exists in the live zoned areas in Silverdale.”<sup>5</sup>*

48. Mr Brabant, in his supplementary legal submissions dated 27 August, provided a comprehensive overview of the NPS-UD 2020 and identified the relevant

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<sup>3</sup> Page 55 S42A report

<sup>4</sup> Section 6.1 , Memo dated 8 June

<sup>5</sup> Para 40

differences from the NPS-UDC 2016. He submitted that generally Ms Thomson and Ms O'Connor agreed that the relevant policies remain similar, although he noted the NPS-UD 2020 is more directive.

49. The primary concern for Ms Thomson and Mr Paul (while acknowledging that Mr Paul did not attend the reconvened hearing and had only commented on the NPS-UDC 2016) was that the application site is zoned for business purposes and this proposal would remove this available supply of business land and replace it with residential activity.
50. Ms O'Connor concluded that the loss of this 6.4 hectare site would not adversely affect the supply of business land given the recently adopted Silverdale West Dairy Flat Industrial Area Structure Plan which has identified 293 hectares of land for future light industrial and 56 hectares heavy industrial purposes. She noted that that Stage 1 of the structure plan propose 87 hectares of light industrial land to be rezoned between 2022 and 2038. The Council's Future Urban Land Supply Strategy identifies the timing for this land to be development ready between 2018 and 2022. This Stage 1 land is located to the west of the Silverdale motorway interchange abutting State Highway 1. In terms of proximity to the application site, the width of the motorway designation separates the application site from the Stage 1 land.
51. Mr Paul's stated particular concern, with the loss of the application site, was in relation to what he identified as being the short supply of industrial land. Mr Paul acknowledged that *"there is a widely recognised shortage of industrial land in the north and the council has recently adopted the Silverdale West Industrial Area Structure Plan 2020 to provide for industrial development."*<sup>6</sup>
52. With respect to *"...development and changes in urban environments over time, in response to the diverse and changing needs of people"* Ms Thomson concluded that the NPS-UD *"...appears to primarily anticipate this is via a plan change process where significant additions are made to development capacity."*<sup>7</sup> We note Ms Thomson's reference to Part 4 of the NPS-UD and that it requires that plans must be amended as soon as practicable to give effect to its provisions. We also note that section 104 (1) (b) (iii) states that we must have regard to relevant provisions of national policy statements. We agree that any rezoning of land to add development capacity is a plan change matter, however we see no difficulty in having regard to the relevant provisions of the NPS-UD as contemplated by section 104 (1) (b) (iii) as part of our determination of whether or not consent should be granted to this proposal.
53. Overall, as we understood Ms Thomson's evidence, the most relevant objectives and policies that she specifically identified were Objectives 1, 3 and 4, and Policies 2, 4, 5, 7 and 8. She expressed no overall conclusion as to whether the proposal

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<sup>6</sup> Section 6.2 Memo dated 8 June

<sup>7</sup> Page 3 Addendum report dated 25 August



was consistent with, inconsistent with, or contrary to the NPS-UD. Ms O'Connor specifically identified Objectives 3 and 6, and Policies 1, 2, and 6 that the proposal "is in keeping with."

54. Mr Brabant submitted that the provisions that do not require plan changes to be implemented which have immediate effect by reference to this matter are: the definitions, all objectives, Policies 1, 2, 6, 8, 9 and 10.

55. With respect to definitions we note in particular the following.

***"Business land means land that is zoned, or identified in an FDS or similar strategy or plan, for business uses in urban environments, including but not limited to land in the following:***

- (a) any industrial zone*
- (b) the commercial zone*
- (c) the large format retail zone*
- (d) any centre zone, to the extent it allows business uses*
- (e) the mixed use zone, to the extent it allows business uses*
- (f) any special purpose zone, to the extent it allows business uses"*

***Decision-maker means any person exercising functions or powers under the Act***

***Development capacity means the capacity of land to be developed for housing or for business use, based on:***

*the zoning, objectives, policies, rules, and overlays that apply in the relevant proposed and operative RMA planning documents; and*

*the provision of adequate development infrastructure to support the development of land for housing or business use*

***FDS means the Future Development Strategy required by subpart 4 of Part 3***

***Planning decision means a decision on any of the following:***

*a regional policy statement or proposed regional policy statement*

*a regional plan or proposed regional plan*

*a district plan or proposed district plan*

*a resource consent*

*a designation*

*a heritage order*

*a water conservation order*



***Short-medium term means within the next 10 years***

***Short term means within the next 3 years”***

56. Of particular relevance we note that Business land includes zoned land and land identified in a Future Development Strategy. In this case the NPS-UD defines business land to include the application site, the surrounding General Business zone land and the land within the West Silverdale Dairy Flat Industrial Area Strategy, which is also identified within the Council’s Future Urban Land Supply Strategy (FULSS).

## **Findings**

57. After having regard to the NPS-UD 2020 we find the proposal is consistent with, rather than contrary to, the relevant provisions of this national policy statement.
58. We acknowledge the policy statement has only just taken effect and that the Council has not yet had the opportunity to promote any changes to the AUP (OP) to give effect to it.
59. We also record that the AUP (OP) was in fact prepared prior to the NPS-UDC 2016 taking effect.
60. We accept the uncontested planning evidence that the policy statement is more directive than its 2016 version.
61. A significant aspect of the NPS-UD 2020 is that the definition of business land has been widened and now means land that is zoned and land that is identified in a Council’s Future Urban. For this proposal the fact that the Council adopted the Silverdale West Dairy Flat Industrial Area Structure Plan in April this year, together with the specific identification within the FULSS that a total approximately 350 hectares will be the subject of plan changes to introduce live zonings in the short to medium term, cannot be ignored.
62. We acknowledge that from the Council’s perspective Mr Paul and Ms Thomson have placed significant weight on the AUP (OP) as it currently has zoned the application site and applied the more specific precinct provisions. We will address those concerns shortly when we consider the plan matters that are in contention.
63. With respect to the NPS-UD 2020 however, the focus is primarily on the future and directing how the regional and district plans can be more responsive and enabling in the provision of residential and business land.
64. With respect to the specific provisions identified by Ms Thomson we find that her concerns essentially come down to the loss of the 6.4 hectares of business zoned land. If it is to be used for residential purposes, rather than business purposes, we understand her conclusion is that this should be determined via a plan change process.

65. With respect to her comments that the objectives and policies relate to both housing and business land, with no primacy given to land for housing; the need for there to be sufficient development capacity to meet the expected demand for business land; the need to provide adequate business land to ensure a well-functioning urban environments and the need for urban environments to develop and change over time in response to diverse and changing needs, we find that this proposal is consistent with the specific provisions she identified in her 25 August addendum report.
66. In addition, we are of the view that the proposal is consistent with the overall outcomes being sought by the NPS-UD 2020. With respect to the loss of the application land from business use and the impact of that loss on the future business and housing development capacity in this locality, we find this to be a modest change to the current extent of business zoned land, particularly in the context of the development capacity identified to the west, together with the short to medium term timeframe proposed by the FULSS for the rezoning of that land.
67. Overall we have preferred the planning evidence of Ms O'Connor and the legal submissions of Mr Brabant. Collectively their approach was more compelling as they took a wider and more comprehensive approach to these national policy matters. They then separately undertook an assessment of the regionally and district planning provisions. In contrast Ms Thomson and Mr Paul, in his assessment of the NPS-UDC 2016, took a narrower more focussed approach on the application site and the existing zoned business environment.

### **The relevant provisions of the AUP (OP)**

68. The primary difference between the planning evidence of Ms Thomson and Ms O'Connor was the approach they took to the provisions of the General Business zone. We note that both confirmed that Integrated Residential Development, which includes retirement villages, is a non-complying activity in this zone. They also took a different approach to the provisions of the Silverdale 3 Precinct which has been applied to the application site and surrounding land.
69. Ms Thomson relied upon Mr Paul's assessment of the relevant plan provisions. He provided a summary of his assessment as set out below.

#### ***“Summary***

*This application seeks to establish a residential activity, a retirement village, in an area zoned for business activity.*

*In my opinion:*

- *the proposal is contrary to the objectives and policies of the National Policy Statement on Urban Development Capacity and the Auckland Regional Policy Statement as it is removing an available supply of business land and replacing it with residential activity.*

- *the proposal is also contrary to the purpose, objectives and policies of the General Business zone and the Silverdale 3 precinct. These are to provide for and enable a range of business activities.*
- *only small scale residential activity, secondary to business activity, is contemplated in the zone.*
- *removing land for future business opportunities in a growing area is inappropriate*
- *land for future business opportunities need to be protected*
- *a long-term view needs to be taken over the short-term view.”*

70. At the time she prepared her Section 42A report, Ms Thomson had concluded that the proposal was contrary to the relevant plan provisions. She had at that time also concluded that the proposal was contrary to the relevant transportation provisions. With the transportation issues resolved prior to the hearing commencing she updated her recommendation and recorded in her Addendum Report dated 17 July, that:

*“I conclude that the amended application is now consistent with objectives and policies related to transportation matters for the reasons set out above. This was not the case when the s42a RMA report was drafted. The application remains consistent with objectives and policies related to earthworks (district and regional), stormwater, vegetation, signs and natural hazards for the reasons set out in the s42a RMA report.*

*As noted above, objectives and policies of the zone and precinct are generally written in a positive frame, detailing outcomes that are expected. There are no references in zone objectives and few in policies that refer to outcomes that are not desired. This includes that there are no specific objectives or policies that refer to the avoidance of residential use.*

*The application is inconsistent with objectives and policies which seek to encourage and enable business use of this land, seek to provide for variety and range of activities in different planned locations, and direct residential use towards other zones (or sub- precincts where it is subordinate to a business activity). This includes H14.2(4), H14.2(6), H14.3(16), H14.3(19), I537.2(1), I537.2(2), I537.3(10).”<sup>8</sup>*

71. Under the heading “Zone and Precinct”, she provided a comprehensive assessment of those Plan provisions, as set out below.

**“Zone and Precinct**

*When reviewing plan provisions, the AUP(OP) is in my opinion clear in its intent for this zoning and precinct. The land is located in the General Business Zone (and within a precinct), where a variety of business activities are provided for either as permitted activities or requiring resource consent for a lower activity type. While the retirement village has some minor business elements, it is fundamentally a residential activity and the AUP(OP) defines it as such. In relation to residential activity, the Zone description states in H14.1:*

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<sup>8</sup> Page 7 Addendum report dated 17 July

*Residential activity is also not envisaged due to the potential presence of light industrial activities and the need to preserve land for appropriate commercial activities.*

*The General Business Zone description is explicit in that it provides for growth in commercial activity and management of the effects of large format retail. It does not provide for residential activity.*

*Taking a broad view residential activity is provided for in some business zones, specifically:*

- *City Centre Zone,*
- *Metropolitan Centre Zone,*
- *Town Centre Zone,*
- *Local Centre Zone,*
- *Neighbourhood Centre Zone,*
- *Mixed Use Zone.*

*Objectives and policies of these zones do refer to residential activity, with enabling language (for example H8.13(15), (16), H9.3(2), H10.2(8), H11.2(6), H11.3(2)).*

*The way that residential activity is provided for differs, but nonetheless a review of the zone provisions does show that the plan anticipates accommodating residential activity within some business locations.*

*Residential activity is however not provided for in the following zones:*

- *Business Park Zone,*
- *General Business Zone,*
- *Heavy Industry Zone,*
- *Light Industry Zone.*

*Even though residential activity is not contemplated in these zones by relevant rules and Standards, none of them expressly have objectives or policies referring to avoiding residential activity. Objectives are framed positively and, in general, so are related policies. Few policies have references to outcomes that are not desired. Irrespective of this, the policy framework is clear in that residential activity is directed towards specific zones.*

### **General Business Zone Objectives and Policies**

*Chapter H14 is set out in two parts in this regard. The first set of objectives and policies relate to all Centre Zones, Business- Mixed Use Zone, Business- General Business Zone and Business Park Zone. These same objectives and policies are replicated at the start of each of the relevant zone chapters. As identified above, some of these zones provide for residential activity (Centre zones and Mixed Use zone) and as a result there are some references to residential activity in sections H14.2 and H14.3. These are enabling but refer specifically to the identified zones*

rather than all zones. These do not apply to the General Business Zone. This indicates that residential development is intended to occur elsewhere. An example includes policy H14.3(2) which states:

*Enable an increase in the density, diversity and quality of housing in the centre zones and Business – Mixed Use Zone while managing any reverse sensitivity effects including from the higher levels of ambient noise and reduced privacy that may result from non-residential activities.*

*There are no objectives or policies which would enable or support residential development in the General Business Zone. The application includes a small degree of business activity but is primarily residential in nature and by definition. It does not provide for business activity as anticipated by the plan (H14.2(6)), or the spread of business activity as sought by objective H14.2(4). The AUP(OP) does expect residential activity in some business zones but not in others (and not in the General Business zone). This relates in part to the distribution of business activities as noted in objective H14.2(4) which states:*

*Business activity is distributed in locations, and is of a scale and form, that:*

- (a) provides for the community's social and economic needs;*
- (b) improves community access to goods, services, community facilities and opportunities for social interaction; and*
- (c) manages adverse effects on the environment, including effects on infrastructure and residential amenity.*

*This land is specifically identified for business uses, and these are encouraged by relevant objectives and policies. The application seeks to turn this over to another use, which is not anticipated by the plan in this location. Taking into account the concerns raised by Dr Fernandez, the application is not consistent with what this objective seeks.*

*The application does not recognise the functional or operational requirements of activities and development (H14.3(12)) anticipated in the zone as it introduces a residential activity into a business location where it may create a degree of reverse sensitivity effect (HH14.3(19)). For the reasons set out in the s42a RMA report, the application however is not considered to be contrary to this policy in the context of this specific location and this environment.*

*Zone specific policies refer to:*

- The location of the zone (H14.3(15)),*
- Enabling a range of business activities (H14.3(16)) that are difficult to accommodate in centres due to their scale and functional requirements or are more suitably located outside of the Centre zones,*
- Avoiding commercial and retail activities of a scale and type locating within the zone that will compromise the function of the centre zones (H14.3(17)), enabling light industrial activities (except those that have an objectionable odour, dust or noise emissions) (H14.3(19)).*



*Apart from four commercial tenancies, the application is not a business activity. It will largely remove a 6.5ha land area from potential business use. On the whole, the activity does not find support in the zone objectives or policies.*

*The built form is not dissimilar to what could reasonably be anticipated by a permitted activity. I acknowledge the assessment of Mr John Mackay and Ms Sally Peake in relation to urban design and landscape matters. Relying on this advice, I conclude that the application is consistent with objectives and policies H14.3(3), H13.3(5). The application has regard to the interface with residentially zoned land to the east (H14.2(8), H14.3(8), H14.3(22)).*

*The site is located within the Silverdale 3 Precinct, being partially within Sub-precinct A and Sub-precinct C. The Precinct introduces additional controls (above those in the zone), focusing on achieving a high-quality urban design outcome within a visually strong vegetated framework, and also to manage potential traffic effects on the surrounding road network (I537.1).*

*These are described in the AUP(OP) Precinct description as:*

*Sub-precinct A – the purpose of this sub-precinct is to enable a range of business activities.*

*Sub-precinct C – the purpose of this sub-precinct is to enable residential opportunities within the business area but which are secondary to business activity.*

*Residential activity in Sub-precinct C (“Work/ Live”) is provided for as a restricted discretionary activity where it is between 40m<sup>2</sup>- 80m<sup>2</sup> and it must be in addition to a business premise with a gross leasable area greater than 80m<sup>2</sup>. This is highlighted because even in sub-precinct C where residential activity is anticipated, it is to be subordinate to the business activity.*

*Sub-precinct B also provides for residential opportunities. Sub-precinct A is the only sub-precinct which does not anticipate any residential activity. The majority of the development area is within sub-precinct A.*

*Objectives and policies I537.2(2), I537.3(3), I537.3(5) and (6) relate to the quality of built form and landscaping, achieving a “gateway” experience and high quality visual and landscape outcomes. Relying on the assessment of Mr Mackay and Ms Peake, I conclude that the built form and landscaping is consistent with these objectives and policies. The application also proposes publicly accessible pedestrian footpaths, which will connect with surrounding footpaths and roads (I537.2(5)).*

*Objective I537.2(1) seeks the comprehensive and integrated development of the Silverdale 3 Precinct; the application is a standalone activity and does not integrate with or have any clear connection or link with surrounding land uses. A range of activities are enabled within the precinct (I537.2(3)), with differentiation between the activity types provided for via the sub-precincts. The application is inconsistent with this.*

*Policy 10 states:*

*Enable a Work/Live area to provide opportunities for business and residential activities to co-locate where the residential activities are accessory to work/business activity.*

*In my opinion this policy relates to sub- precinct C. In any event, this policy reinforces that the primary function of the precinct (overall, noting that no residential activity is provided for in sub- precinct A) is as a business zone with residential use to be ancillary.*

*The small commercial tenancies proposed will not impact on the viability of Silverdale Town Centre (1537.3(9)).”*

72. In the same Addendum Report, she recorded the following overall comment.

**“Overall Comment**

*The resolution of traffic related matters has further isolated remaining concerns with the application and required reassessment of the proposal’s overall consistency with planning provisions in the context of section 104 RMA.*

*Overall, the design of the built form and landscaping proposed is generally consistent with what objectives and policies of the zone and precinct seek. However, in my opinion the issue is not, in simple terms, to make the development look appropriate but also to use the land for an appropriate purpose. AUP(OP) provisions are in my opinion clear, in that the land is intended for business use. No residential use is provided for. I acknowledge that residential use is not prohibited by the plan and I have assessed the application on its merits.*

*The activity proposed (retirement village) on the site is fundamentally at odds with what is anticipated by the AUP(OP). The land use is a central part of the AUP(OP) policy framework, and the set of objectives and policies identified above are important in this regard. This is not a case of a small residential activity in combination with a larger business activity, but a large residential activity with a very small business component. The application will in effect remove 6.5ha of land from business use, which is understood to represent 14% of the business land available in the wider catchment, and 16% of the Silverdale 3 Precinct. This is not an inconsequential area.”*

73. Ms O’Connor’s approach is perhaps best summarised in her response to Ms Thomson’s Addendum Report quoted above, where she stated:

**“General Business Zone Objectives and Policies:**

*I have addressed the planners first point in the preceding section. In short, the provisions, other than the one reference in the Zone description; and the objective about activities in Centre zones; do not discourage or prevent, or specifically guide the location of residential activity in business zones. As discussed above residential is provided for explicitly in Centre zones – Objective H14.2 (1), but it is also a permitted activity in the Business – Mixed Use zone, which is not a Centre zone. It could be said there is a disjunct in the flow through the objectives and policies to the rules as Policy H14.3 (2) does refer to the Business – Mixed Use zone as being a location for an increase in the density, diversity and quality of housing. I also note that there are policies that seek to require development adjacent to residential zones to maintain the amenity values in those areas (H14.3 (8) and discourage activities that are noxious, offensive or have undesirable qualities from the Centre or Business – Mixed Use zone. With reference to the policy this location would therefore be deemed suitable for such noxious, offensive, or undesirable effects however it is close to residential (opposite side of the Spine*



Road) adjacent to a consented childcare and a hotel and an established Park n Ride.

The specific zone policies do clearly state the type of activities to be enabled H14.3 (16) and (19) and activities that are to be avoided H14.3 (17) and (18). None of these policies make any reference to residential activities. I do not agree with the planners' statement regarding Objective H14.2 (4). If the retirement village were a business activity it would meet all the matters stated in that objective. There are no objectives and policies in support of or in opposition to residential activity in this location and zone. I do not agree that just because there are no provisions in support, that the activity is not appropriate or is somehow prevented.

Business activities are encouraged however the Precinct also needs to be evaluated. The Business – General Business objectives and policies need to be explicitly read in conjunction with the Precinct as this limits the scale and nature of activities in this location through the PM Peak rule and also the types of business activities that may be undertaken. As set out in my evidence there are many permitted business activities i.e. industrial, that would not achieve the Precinct objectives and policies in terms of quality of built form, support for the Hibiscus bus station and managing traffic effects on the road network. The Precinct provision seek to provide for a mix of land uses that support the bus station and achieve a high-quality gateway experience (Policies I537.3 (2) and (3)).

With respect to the extent to which a retirement village may be considered a business activity, I agree that it is defined as a residential activity in the Unitary plan however it is also an activity that generates significantly more employment than typical residential activities would such as single houses, apartment complexes etc.

Turning to the Precinct I addressed the fact that marae is listed as a permitted activity and by definition that activity can be solely residential for example solely kaumatua housing. This is important because the Sub – Precinct A does anticipate residential activity in the form of marae because it is a permitted activity. This is a different form of residential activity to standard housing; but so is a retirement village.

The Council planner states at least twice that no residential is provided for in Sub-Precinct A. I do not agree for the reasons I have set out above.

The Council Planner concludes that the proposed retirement village activity is fundamentally at odds with what is anticipated by the Plan. I do not agree for the reasons I have stated. In my opinion the zone and precinct provisions must be read together, and assessments must be undertaken in the context of the environment that exists.

I have also reviewed the provisions of Chapter B2 Urban growth and form. I do not consider that there are any objectives or policies in this Chapter that the proposal is not in keeping with or contrary to. There is on fact support for the proposed use over business activities for the reasons set out in the evidence of Mr Thompson given that there is an unmet demand for retirement village land i.e. no suitable sites and an increased demand that has no planning undertaken to alleviate whereas business light industrial land in this location has an existing supply and a significant planned future supply – (B2.2.2 (1), (5) and B2.3.1 (1), (2) and (3) that refer to the ability to adapt to changing needs, contributing to diversity, responding to intrinsic qualities and physical characteristics of the site and area; reinforcing a hierarchy of centres and corridors, maximising resource and infrastructure efficiency, utilising

*innovative design and promoting the health and safety of people and communities. The B2.3.2 policies are also relevant with respect to the planned future environment. As stated above this assessment needs to be undertaken in relation to the lawful existing environment, not just the zoning shown on the planning map.”<sup>9</sup>*

74. In her evidence in chief Ms O’Connor, after assessing the Plan provisions, concluded that:

*“In my opinion the suite of objectives and policies should be considered collectively. In any event even if I read the relevant provisions individually or collectively, I cannot determine that this proposal is contrary to the provisions, or even inconsistent with them. In my opinion when a full assessment is undertaken this proposal supports the relevant objectives and policies and in relation to high quality built form, vegetated environment, high quality urban outcomes, pedestrian walking and cycling connectivity, support to the Bus Station, minimising adverse effects on the road network, and managing reverse sensitivity effects, this proposal better achieves the provisions than many permitted or restricted discretionary activities in the zone would (for example trade suppliers, warehouse, storage and distribution activities).”<sup>10</sup>*

75. Section 104 (1) (b) requires regard be given to any relevant provision of the AUP (OP). While close scrutiny was given to the relevant zone and precinct provisions in the planning evidence, we did explore with Ms Thomson at the reconvened hearing any relevant guidance the Plan has in relation to the assessment of non-complying activity applications.

76. Chapter A, Introduction, at A1.7.5, clearly sets out how the Plan envisages proposals for non-complying activities are to be considered. After setting out the threshold/gateway tests of s104D, A1.7.5 states.

*“If the proposal is found not to breach one or other of those thresholds, then its merits may be considered on a broadly discretionary basis and consent may be granted (with or without conditions) or refused. If it found to breach both thresholds, the consent must be refused.*

*Activities are classed as non-complying where greater scrutiny is required for some reason. This may include:*

- *Where they are not anticipated to occur; or*
- *Where they are likely to have significant adverse effects on the existing environment, or*
- *Where the existing environment is regarded as delicate or vulnerable, or*
- *Otherwise where they are considered less likely to be appropriate.”*

77. In answers to questions she responded that, apart from the economic effects she was unable to quantify, there were no significant adverse effects on the

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<sup>9</sup> Page 3 Letter dated 23 July

<sup>10</sup> Para 43

environment and that the existing environment was not delicate or vulnerable. Her concluding answer was that she did not think the application site was an appropriate location for the proposed activity to occur.

## Findings

78. After carefully assessing the planning evidence, we find that Ms Thomson and Mr Paul have given considerable weight to the wording of the General Business zone description, the non-complying activity status of the proposed activity and the business zone activity tables that are more permissive with respect to residential activities in a number of business zones, but not in other zones including the General Business zone.
79. With respect to the precinct provisions Ms Thomson acknowledged that the proposal was consistent with most provisions. Her primary concern was that the proposal would result in residential activities being established within sub-precinct A where business activities were intended.
80. We find that Ms O'Connor placed considerable weight on the Plan provisions that supported the proposed development. Most of those provisions were not in contention with Ms Thomson, being the high quality built form and urban outcomes, achieving the transportation outcomes for the road network, connectivity and landscape outcomes. Ms O'Connor's overall conclusion was that the proposal was consistent with the majority of the plan provisions, therefore it was consistent overall, despite the inconsistency of greatest concern to Ms Thomson.
81. We find that the proposal is consistent with most of the provisions of the Plan, but with respect to the primary concerns raised by Ms Thomson, we agree that her concerns are valid ones and the proposal is inconsistent with these provisions.
82. We also find that this inconsistency with the intended plan outcomes does not necessarily lead to a conclusion that the proposal should be refused.
83. The RMA provides for non-complying activity applications and the gateway/threshold test of section 104D enables applications to proceed for further assessment in terms of section 104, provided at least one gateway/threshold is passed. Chapter A at A1.7.5 in the AUP (OP) clearly sets out how applications are to be given where greater scrutiny is required for some reason, including in the circumstances where applications are for activities that are not anticipated to occur, or where they are less likely to be appropriate.
84. We find, in paragraph 100 below, that the proposal having passed the gateway/threshold test of section 104D, requires a full assessment in terms of section 104. The inconsistency with Plan provisions being one of the matters to be assessed and taken into account after having regard to all of the matters set out in section 104.

## The extent of any economic effects of the proposal

85. Mr Brabant submitted in his reply that; *“No adverse economic effects of the proposed development enabled by this application have been identified in any evidence before the Commissioners.”*<sup>11</sup>
86. Mr Adam Thompson had provided evidence on economic matters and Dr Fernandez on behalf of the Council had peer reviewed that evidence. In his Peer Review dated 19 June Dr Fernandez identified a number of matters that he considered should be addressed by Mr Thompson. In his Addendum to his Peer Review, Dr Fernandez concluding comment was that:
- “Therefore, my position is to request for the authors to provide better context and reconcile the positions indicated between the attached reports and their economic reasoning in the Report and Response. It appears that industrial land shortage in the area of interest conflict with their interpretation of industrial land surplus in the Report and Response.”*
87. Mr Thompson tabled and spoke to his supplementary evidence dated 6 July. In that evidence he responded to matters that had been raised by Dr Fernandez and also matters raised by Mr Paul in his memorandum dated 8 June.
88. Dr Fernandez attended the hearing. As we understood his answers to our questions, Dr Fernandez retained his concerns and remained open to receiving any further information in support of the proposal.
89. Ms Thomson at the reconvened hearing confirmed to us that with respect to economic effects she was unable to conclude the extent of any adverse effects. Her primary concern was in relation to any economic effects in the long term, being beyond the seven year period that had been referred to in Mr Thompson’s evidence.
90. For completeness we record again the main findings from Mr Thompson’s evidence.

*“His main findings were:*

- (a) There is demand for an additional 2-3 retirement villages in the Hibiscus Coast over the next decade.*
- (b) There are no suitable zoned sites for additional retirement villages in the Hibiscus Coast area.*
- (c) There is 46 hectares of vacant industrial and General Business zone land in the Hibiscus Coast which is sufficient to meet demand growth for 6-7 years based on current land demand estimates.*
- (d) The proposal would ensure there is sufficient provision for retirement village units to meet demand, as required by NPS-UDC and the AUP (OP).*

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<sup>11</sup> Para 58

- (e) *The site is well suited for a retirement village and would be an efficient use of the site.*

## **Findings**

91. We find that the only evidence on economic effects we received was from Mr Thompson.
92. We accept that Dr Fernandez had undertaken a peer review and sought further information, but expressed no opinion that would assist Ms Thomson in concluding the extent of any adverse economic effects.
93. With respect to the longer term impact of this proposal on the supply of industrial land, being the primary concern of Mr Paul and Dr Fernandez, we find that the Council is well advanced in responding to the future provision of industrial land within the immediate and wider locality of the application site.
94. We find that based on the evidence of Mr Thompson, together with the intended outcomes arising from the Silverdale West Dairy Flat Industrial Area Structure Plan, that any adverse economic effects will be no more than minor with respect to the supply of industrial land and general business zoned land. With respect to the supply of land for retirement villages within the Hibiscus Coast this proposal will only result in positive effects.

## **Whether the proposal passes the gateway tests of Section 104D of the RMA**

95. By the end of the hearing Ms Thomson and Ms O'Connor agreed that the proposal passed the gateway tests.
96. Ms Thomson agreed with Ms O'Connor that the proposal was not contrary to the relevant objectives and policies.
97. Mr Paul had concluded that the proposal was contrary to the relevant objectives and policies. Ms Thomson in response to a question stated that she had considered Mr Paul's specialist input but had drawn her own final conclusions. We note that while she had in her original Section 42A report agreed with Mr Paul's policy assessment, it was clear she had reached a different overall view at the reconvened hearing. It was her final position that the proposal was inconsistent with, rather than contrary to the relevant objectives and policies of the AOP (OP).
98. While Ms O'Connor concluded the effects on the environment were no more than minor, Ms Thomson concluded that she did not have sufficient information to conclude that adverse economic effects would be more than minor. It was only the economic effects that remained in contention and we have considered those matters, above in our decision, to be minor.
99. We record that only one gateway needs to be passed to enable us to be satisfied the application can proceed to be considered under s.104 of the RMA.

## Findings

100. Based on the evidence of Ms Thomson and Ms O'Connor we are satisfied that the gateway tests of s.104D are met and that we can go on to consider the merits of the proposal in terms of s.104 of the RMA to determine if consent should be granted.

### Whether the proposal merits the grant of consent in terms of Section 104 of the RMA

101. At the reconvened hearing Ms Thomson clarified her final recommendations with respect to s.104 matters. In summary she concluded that:
102. With respect to s.104 (1) (a) that any adverse effects would be no more than minor, except in relation to any economic effects. In relation to any economic effects she stated that she had been unable to conclude that adverse economic effects are minor. She advised that based on Dr Fernandez's peer review dated 19 May 2020 and his memorandum dated 25 June 2020 there remained uncertainty as to what the extent of economic effects would be beyond the next 7 year period.
103. We note with respect to the economic effects in contention we have considered those earlier in our decision where we found that overall any adverse effects would be no more than minor.
104. With respect to s104 (1) (b) Ms Thomson concluded the proposal was "*...fundamentally at odds with what is anticipated by the AUP (OP).*" With respect to the relevant objectives and policies she had concluded the proposal was "inconsistent with" rather than "contrary to" those provisions.
105. With respect to s.104 (1) (c) she considered that the Silverdale West Dairy Flat Industrial Area Structure Plan was a relevant matter for our consideration as it indicates the Council's future plans for business zoned land. Noting that it is not a statutory document she said it should be considered in the overall context of this proposal.
106. Ms Thomson also considered that the consistent administration and integrity of the AUP (OP) was a matter that we could have regard to, but that we are not required to. In this particular case she concluded that we should have regard to these matters under section 104 (1) (c).
107. In terms of section 104 (1) (a) Ms O'Connor concluded that any adverse effects would be minor or less than minor. In terms of section 104 (1) (b) she concluded that the proposal was consistent with the relevant plan provisions.
108. Ms O'Connor agreed with Ms Thomson that the structure plan and the consistent administration and integrity of the Plan were relevant matters to be considered in terms of section 104 (1) (c). With respect the later she stated in her supplementary evidence dated 25 August that:



*“25. It is notable that the retirement village (integrated residential) proposal achieves all of the Precinct objectives, with particular reference to the key traffic and visual and urban design outcomes sought. In my opinion it is less likely they would be achieved by industrial activities. Industrial activities are much less likely to achieve a high-quality urban environment; a high-quality built form in a vegetated landscape; or the development of walking and cycling networks. I am also of the view that the outcome is in certain respects not dissimilar to a visitor accommodation activity, which the Precinct provides for as a discretionary activity.*

*26. In my opinion granting consent to this proposal will not establish a precedent or imperil plan integrity. The circumstances of this proposal, which include the existing environment (notably the Bus Station, and the granted resource consents for a. hotel on Lot 8 and the childcare), and the limitation on land uses imposed by the Silverdale 3 Precinct provisions; are sufficiently distinct to enable this proposal to be clearly differentiated from other applications that may be lodged. Although the case law confirms it is not required to be unique, in my view the circumstances could be validly described as such.*

*27. I have also concluded, based on my own experience, and in reliance on the evidence of other specialist for the Applicant that the grant of consent will not establish a precedent that would in turn result in unanticipated or adverse effects on the environment. The application will result in a high quality of built form set in a vegetated landscape that will support the Hibiscus Coast Bus Station and that will have little to no adverse effect on the road network.*

*28. Because the proposal achieves the outcomes sought by the precinct and does not threaten or compromise the outcomes sought for the Business – General Business zone; or the urban environment as addressed in the Regional Policy Statement (RPS), granting consent will not threaten the integrity of the Plan. The proposal is relatively unique in that it is the only area of Business – General Business zoned land in the Auckland region that is subject to a Precinct and which, to the best of my knowledge is not yet developed. For this same reason granting consent will not challenge the consistent administration of the Plan. There are clear and distinct reasons that set this proposal apart from others. I do not consider it would be possible to replicate these circumstances elsewhere in the region.*

*42. Granting consent will not challenge or compromise the integrity of the Unitary Plan.*

*43. Granting consent will not establish a precedent that could lead to unanticipated or adverse effects on the environment nor will granting consent challenge the consistent administration of the Plan. There are clear and distinct reasons that set this proposal apart from others. I do not consider it would be possible to replicate these circumstances elsewhere in the region.”*

## **Findings**

109. After having regard to any actual and potential effects on the environment, in terms of section 104(1) (a), we find there will no more than minor adverse effects and favour Ms O'Connor evidence in this regard for the reasons set out above. In particular find in relation to the remaining effects in contention, being the economic effects of the proposed retirement village being developed on business zoned land, will be minor and that there was no evidence to the contrary presented to us.



110. After having regard to the relevant national environmental standards and policy statements, in terms of section 104(1) (b) (i) and (iii), we find the proposal will be consistent with the relevant provisions of those documents.
111. After having regard to the relevant regional policy statement and plan provisions of the AUP (OP), in terms of section 104 (1) (b) (v) and (vi), we find the proposal is consistent with the vast majority of the provisions within the AUP (OP). We find the proposal is inconsistent with the General Business zone and precinct provisions that do not envisage residential activities on the application site to the extent proposed. We also find that given the nature of the existing and planned development surrounding the application site, (Hibiscus Coast Bus Station, childcare centre, proposed hotel, church under construction and adjacent residential development under construction), together with the absence of light industrial activity in close proximity of the application site, this inconsistency is of little consequence, particularly in the context of the proposal achieving the vast majority of environmental and design outcomes contemplated by the precinct provisions and the General Business zone.
112. After having regard to the Silverdale West Dairy Flat Industrial Area Structure Plan April 2020 and the Council's Future Urban Land Supply Strategy, in terms of section 104 (1) (c) we find this structure plan and the time frame envisaged for the live zoning of future light industrial land in the immediate locality, to be relevant and reasonably necessary to favourably determine the outcome of the application.
113. After having regard to the consistent administration and integrity of the AOP (UP), in terms of section 104 (1) (c) we find that there are characteristics that distinguish this proposal and the site, that take it outside the generality of cases. These distinguishing characteristics include: the scale of the proposal on this 6.5 hectare site; the fact that a vacant site of this size with the General Business zone is extremely rare, possibly not available elsewhere with Auckland; the nature of the urban design, traffic and environmental outcomes contemplated by the Silverdale 3 Precinct that are achieved by the proposal; the nature of the existing and consented development in the surrounding environment; that activities contemplated by the zone and the precinct, light industrial for example, would have considerable difficulty in achieving the urban design, traffic and environmental outcomes contemplated by the precinct provisions.
114. Overall we find the section 104 considerations in support of the grant of consent to be far more compelling than any considerations that would contemplate a refusal of consent.

**If consent is to be granted what conditions should be imposed**

115. The majority of the recommended conditions of consent were agreed. Those where agreement had not been reached related to the proposed hydrological monitoring.

116. Ms Thomson had recommended conditions requiring baseline monitoring of the Mainstem in order to determine the extent of any adverse hydrological effects. If adverse effects were detected then a further works plan would be triggered.
117. Mr Brabant submitted that, given the significant modifications that had already taken place downstream of the application site, a stormwater pond and piping, together with upstream earthworks and development beyond the application site, the proposed conditions were excessive. In his 1 September final submissions, while still of the view that the monitoring was not required, the applicant offered an amended form of monitoring. As the amended conditions were presented as part of the final reply, they had not been assessed by the Council's reporting team.
118. However, we are also reminded of Mr Brabant's comment to us, in response to our questions on 28 August 2020, that we should not be undertaking monitoring as a "*form of job creation, but must have a purpose*". We agree with the view, believe that the level of monitoring now proposed is appropriate in this context

### **Finding**

119. For the reasons set out in Ms O'Connor's evidence and Mr Brabant's legal submissions we find that the amended monitoring conditions will appropriately respond to the concerns raised by Ms Quinn and Ms Thomson.
120. Overall we find that the latest version of the recommended conditions attached to Mr Brabant's final reply will appropriately avoid, remedy or mitigate any adverse effects of the proposed activities on the environment.

### **Part 2 of the RMA**

121. There was relatively little reference to Part 2 matters in the planning evidence.
122. Ms O'Connor, in Section 10 of her AEE, noted that there were no matters of national importance that required assessment. With respect to "other matters" in terms of section 7, she concluded that:

*"The proposed development represents an efficient use of the land resource in a manner that contributes positively to the quality of the environment through building form and character, landscaping and building materials. Amenity values will be enhanced by these features as well as enhanced pedestrian connectivity."*

123. Ms Thomson, in Section 17 of her s42A report, concluded that:

*"In the context of these non-complying activity applications 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 I find that 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."*

124. Despite Ms Thomson's view, we consider that it is appropriate for us to consider Part 2 matters before determining this application.
125. Firstly, because we are being asked to grant consent for residential activities within the General Business zone. The zone description for this zone includes the statement that *"Residential activity is also not envisaged due to the potential presence of light industrial activities and the need to preserve the land for appropriate commercial activities."*
126. Secondly, because we are being asked to grant consent for residential activities within sub-precinct's of the Silverdale 3 Precinct where the purpose of these sub-precincts are to enable a range of business activities, or enable residential opportunities which are secondary to business activity.
127. Thirdly, because we consider that the AUP (OP) has been competently prepared and the evidence on behalf of the Council raised policy concerns.
128. If we were to refuse consent, then we would tend to agree with Ms Thomson, that an assessment against Part 2 may not add anything to the evaluative exercise.
129. In the event we were to grant consent, then we consider it appropriate to consider if such a decision would promote the sustainable management of natural and physical resources as contemplated by Part 2 of the RMA.
130. Earlier in our decision we have discussed the policy concerns raised on behalf of the Council. Ms Thomson in the end concluded the proposal was "inconsistent with" rather than "contrary to" the relevant objectives and policies. Mr Paul in his evidence concluded that the proposal was "contrary to" the relevant objectives and policies. His primary concern being the removal of an available supply of business zoned land and replacing it with residential activity. We have earlier considered the issues around the consistent administration and integrity of the AUP (OP). We also recognise the application is for a non-complying activity. All of these matters appeared to us to be at the heart of the concerns the Council planners had with the possible grant of consent to this proposal.
131. Section 5 of the RMA states *"...sustainable management means managing the use, development, and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic and cultural wellbeing and for their health and safety ..."*
132. As was discussed with Ms Thomson at the reconvened hearing, the AUP (OP). Chapter A, at A1.7.5, provides for non-complying activities. Mr Brabant reminded us the RMA also provides for non-complying activities. A1.7.5 clearly sets out how the Plan envisages proposals for non-complying activities are to be considered.
- "If the proposal is found not to breach one or other of those thresholds, then its merits may be considered on a broadly discretionary basis and consent may be*

*granted (with or without conditions) or refused. If it found to breach both thresholds, the consent must be refused.*

*Activities are classed as non-complying where greater scrutiny is required for some reason. This may include:*

- *Where they are not anticipated to occur; or*
- *Where they are likely to have significant adverse effects on the existing environment, or*
- *Where the existing environment is regarded as delicate or vulnerable, or*
- *Otherwise where they are considered less likely to be appropriate.”*

133. It is clear to us that a competently prepared Plan should deliver sustainable management outcomes as contemplated by the RMA. It is also clear to us that sustainable management outcomes may be able to be delivered by way of non-complying activity applications. In other words the Plan while, providing a regional policy framework, providing zones, describing zone expectations, setting objectives and policies, specifying activities and providing detailed place-based provisions by way of precincts, the Plan itself is not the only way sustainable management outcomes can be achieved.
134. In this particular case the Plan envisages significant future urban growth and development and extensive areas have been zoned Future Urban. A structure plan has been recently adopted for the sole purpose of providing approximately 350 hectares of industrial land in close proximity to the application site. In addition the Silverdale 3 precinct sets out specific outcomes for the application site and surrounding land.
135. In addition we are faced with the primary concern that this proposal will undermine the ability to enable business activity, particularly light industrial activities on the application site and that there is a shortage of such zoned land in this part of the district. In addition to the prospect of additional light industrial land being rezoned in the short to medium term, we note the extent of vacant land in the locality. 31.2 hectares in the Highgate Business Park and 9.6 hectares in the Silverdale area which in the opinion of Mr Thompson equates to 6 to 7 years supply. Given the nature of existing and consented development surrounding the application site, referred to earlier in our decision, we cannot be certain that light industrial for example, or other business activities for that matter, would be able to promote the overall sustainable management of resources as effectively as the proposed development will.

## Finding

136. Overall we find the grant of consent in this particular case would promote the sustainable management of natural and physical resources as contemplated by Part 2 of the RMA.

## Decision and Reasons

137. In exercising our delegation under sections 34 and 34A of the RMA and having regard to the foregoing matters, sections 104D, 104, 104B, 106, 108, 108AA, 125, 220 and Part 2 of the RMA, we determine that resource consent to establish and operate an Integrated Residential Development (Retirement Village) involving the construction of 28 new buildings; including the operation of a childcare centre; food and beverage activities, associated construction activities and car parking and to subdivide the site is **granted** for the reasons set out in our findings on the principal issues in contention, summarised below in general terms and must be read in conjunction with our whole decision, and subject to the conditions set out below.
138. We note for completeness, as considered above, we find that the application meets both gateway tests at s.104D and we have the jurisdiction to consider the application under s.104.

### Summary reasons for the decision

139. In summary, and as detailed throughout, this decision is made for the following reasons:
- a) After having regard to any actual and potential effects on the environment, in terms of section 104(1) (a), there will no more than minor adverse effects. In particular, the economic effects of the proposed retirement village being developed on business zoned land, will be minor
  - b) In terms of section 104(1) (b) (i), the proposal will be consistent with the relevant provisions of the applicable national environmental standards and policy statements.
  - c) Having regard to the relevant regional policy statement and plan provisions of the AUP (OP), in terms of section 104 (1) (b) (v) and (vi), the proposal is consistent with the vast majority of the provisions within the AUP (OP). Although the proposal is inconsistent with the General Business zone and precinct provisions that do not envisage residential activities on the application site, given the nature of the surrounding existing and planned development, together with the absence of light industrial activity in close proximity, this inconsistency is determined to be of little consequence. In particular, within the context of the proposal achieving the vast majority of environmental and design outcomes contemplated by the precinct provisions.

- d) In terms of section 104 (1) (c), after having regard to the Silverdale West Dairy Flat Industrial Area Structure Plan April 2020 and the Council's Future Urban Land Supply Strategy, this plan and the time frame envisaged for the live zoning of future light industrial land in the immediate locality, is a relevant matter and reasonably necessary to determine the outcome of the application.
- e) After having regard to the consistent administration and integrity of the AOP (UP), in terms of section 104 (1) (c) it was determined there are characteristics that distinguish this proposal and the site, that take it outside the generality of cases.
- f) Overall, the grant of consent would promote the sustainable management of natural and physical resources as contemplated by Part 2 of the RMA.

140 Under section 108, 108AA, 106, 220 and Part 2 of the RMA, this consent is subject to the following conditions:

## General conditions

- This consent shall be carried out in accordance with the documents and drawings and all supporting additional information submitted with the application, detailed below, and all referenced by the council as resource consent numbers LUC60345460, LUS60353737, SUB60360541 and WAT60353539.

- Application Form and Assessment of Environmental Effects prepared by Burnette O'Connor of The Planning Collective dated 20/5/2020.

Report title and reference	Author	Rev	Dated
Preliminary Geotechnical Investigation report	Engineering Geology Ltd	-	19 February 2020
Riparian Planting Plan	Bioresearches	2	30 July 2019
Assessment of Ecological Effects	Bioresearches	3	11 May 2020
Economic Impact Assessment Report	Urban Economics	-	22 July 2019
Traffic Impact Assessment Report	Traffic Engineering & Management Ltd	-	28/4/2020
Waste Management Plan	Kevin Healy, Rubbish Direct Limited	-	5/8/ 2019
Land Management Plan	MSC Consulting Group L B		16/01/2020
Engineering Infrastructure Report	MSC Consulting Group L B		10/1/2020
Urban Design assessment	Transurban Limited.	4	27/02/2020
Arboricultural memo	The Tree Consultancy Company	2	13/5/2020
Detailed Site Investigation, ref 1421/DSI/Jun2020	Geosciences Ltd	-	17/6/2020

Drawing title and reference	Author	Rev	Dated
[Scheme Plan] Lots 1 - 2 Being a Subdivision of Sec 216 PSH Of Okura SO 18072, Drawing C150	Hall Surveying	8	16/6/2020
Civil Resource consent drawings, sheets C000, C100, C110, C113-C118, C120-C122, C130-C139, C200, C201, C210, C300, C303-C308, C310-C16, C400-C402, C420 and C421.	MSC Consulting group	A	8/5/2020
Landscape Plan 1- Context Plan	Shafer Design Limited	06	20/05/2020
Landscape Plan 2- Overall Plan	Shafer Design Limited	06	20/05/2020
Landscape Plan 3-Overall Plan Key	Shafer Design Limited	06	20/05/2020



Landscape Plan 4- Revegetation overview	Shafer Limited	Design	06	20/05/2020
Landscape Plan 5- Entrance landscape plan	Shafer Limited	Design	06	20/05/2020
Landscape Plan 6- Entrance 3D	Shafer Limited	Design	06	20/05/2020
Landscape Plan 7- Playground/Block A Plaza	Shafer Limited	Design	06	20/05/2020
Landscape Plan 8- Playground/Block A Plaza- 3D	Shafer Limited	Design	06	20/05/2020
Landscape Plan 9- Club House Plaza	Shafer Limited	Design	06	20/05/2020
Landscape Plan 10- Edible Garden	Shafer Limited	Design	06	20/05/2020
Landscape Plan 11- Spring Walkway	Shafer Limited	Design	06	20/05/2020
Landscape Plan 12- Summer lawn/autumn/winter	Shafer Limited	Design	06	20/05/2020
Landscape Plan 13- Eastern Gardens	Shafer Limited	Design	06	20/05/2020
Landscape Plan 14- Crossing/street	Shafer Limited	Design	06	20/05/2020
Landscape Plan 15-Crossing/street 3D	Shafer Limited	Design	06	20/05/2020
Landscape Plan 16-Paving Palette	Shafer Limited	Design	06	20/05/2020
Landscape Plan 17- Riparian and revegetation	Shafer Limited	Design	06	20/05/2020
Landscape Plan 18- Villa Landscape 1, blocks N, O, T, U, V, W and X.	Shafer Limited	Design	06	20/05/2020
Landscape Plan 19- Villa Landscape 2, blocks J, K, L and Q	Shafer Limited	Design	06	20/05/2020
Landscape Plan 20- Villa Landscape 3, blocks M,P and S	Shafer Limited	Design	06	20/05/2020
Landscape Plan 21- Villa Landscape 4, blocks Y and Z.	Shafer Limited	Design	06	20/05/2020
Landscape Plan 22- Section key	Shafer Limited	Design	06	20/05/2020
Landscape Plan 23- Sections	Shafer Limited	Design	06	20/05/2020
Landscape Plan 24- Tropical Street Planting	Shafer Limited	Design	06	20/05/2020
Landscape Plan 25- Mixed deciduous planting	Shafer Limited	Design	06	20/05/2020

Landscape Plan 26- Fruiting and evergreen planting	Shafer Limited	Design	06	20/05/2020
Landscape Plan 30- Berm Planting	Shafer Limited	Design	06	20/05/2020
Landscape Plan 31- Western Berm Planting	Shafer Limited	Design	06	20/05/2020
Landscape Plan 32- Northern Berm Planting	Shafer Limited	Design	06	20/05/2020
Landscape Plans 27- 29 Revegetation Planting	Shafer Limited	Design	06	20/05/2020
Vegetation clearance plan, drawing 001	The Tree B Consultancy Company			Undated
A100 Drawing List	Pacific Environments architects			Rev B 26/05/2020
A101 Site Context	Pacific Environments architects			Rev B 26/05/2020
A102 Existing Site Survey	Pacific Environments architects			Rev B 26/05/2020
A200 Site Plan with Aerial Overlay	Pacific Environments architects			Rev B 26/05/2020
A201 Overall Site Plan - Level B1	Pacific Environments architects			Rev B 26/05/2020
A202 Overall Site Plan - Level 0	Pacific Environments architects			Rev C 26/05/2020
A203 Overall Site Plan - Level 1	Pacific Environments architects			Rev B 26/05/2020
A204 Overall Site Plan - Level 2	Pacific Environments architects			Rev B 26/05/2020
A205 Overall Site Plan - Level 3	Pacific Environments architects			Rev B 26/05/2020
A206 Overall Site Plan - Level 4	Pacific Environments architects			Rev B 26/05/2020
A207 Overall Site Plan - Roof	Pacific Environments architects			Rev B 26/05/2020
A208 Schedule of Unit Types	Pacific Environments architects			Rev B 26/05/2020
A209 Indicative Staging Plan	Pacific Environments architects			Rev B 26/05/2020
A210 Building Coverage Site Plan	Pacific Environments architects			Rev C 26/05/2020
A211 Impervious Area Site Plan	Pacific Environments architects			Rev C 26/05/2020
A212 Site Plan - Max. Height Infringements 1	Pacific Environments architects			Rev B 26/05/2020

A213 Aerial Perspectives 1	Pacific Environments architects	Rev B	26/05/2020
A214 Aerial Perspectives 2	Pacific Environments architects	Rev B	26/05/2020
A215 Perspective from Dairy Flat Highway	Pacific Environments architects	Rev B	26/05/2020
A215-1 Perspective from Dairy Flat Highway	Pacific Environments architects	Rev B	26/05/2020
A216 Perspective from Small Road	Pacific Environments architects	Rev B	26/05/2020
A216-1 Perspective from Small Road	Pacific Environments architects	Rev B	26/05/2020
A217 Shading Diagrams Summer Solstice	Pacific Environments architects	Rev B	26/05/2020
A217-1 Shading Diagrams Summer Solstice Permitted	Pacific Environments architects	Rev B	26/05/2020
A218 Shading Diagrams Winter Solstice	Pacific Environments architects	Rev B	26/05/2020
A218-1 Shading Diagrams Winter Solstice Permitted	Pacific Environments architects	Rev B	26/05/2020
A220 Overall Site - North Elevation	Pacific Environments architects	Rev C	26/05/2020
A221 Overall Site - East Elevation	Pacific Environments architects	Rev B	26/05/2020
A222 Overall Site - South Elevation	Pacific Environments architects	Rev B	26/05/2020
A223 Overall Site - West Elevation	Pacific Environments architects	Rev C	26/05/2020
A230 Internal Site Elevations - Lane 1	Pacific Environments architects	Rev B	26/05/2020
A231 Internal Site Elevations - Lane 1	Pacific Environments architects	Rev B	26/05/2020
A232 Internal Site Elevations - Lane 2	Pacific Environments architects	Rev B	26/05/2020
A233 Internal Site Elevations - Lane 2	Pacific Environments architects	Rev B	26/05/2020
A234 Internal Site Elevations - Lane 3	Pacific Environments architects	Rev B	26/05/2020
A235 Internal Site Elevations - Lane 3	Pacific Environments architects	Rev B	26/05/2020
A236 Internal Site Elevations - Loop Road	Pacific Environments architects	Rev B	26/05/2020
A240 Site Section AA	Pacific Environments architects	Rev B	26/05/2020
A241 Site Section BB	Pacific Environments architects	Rev B	26/05/2020
A242 Site Section CC	Pacific Environments architects	Rev B	26/05/2020

A243 Site Section DD	Pacific Environments architects	Rev B	26/05/2020
A244 Site Section EE	Pacific Environments architects	Rev B	26/05/2020
A250 Material Palette	Pacific Environments architects	Rev B	26/05/2020
A260 Day Light Sections	Pacific Environments architects	Rev B	26/05/2020
A261 Day Light Sections	Pacific Environments architects	Rev B	26/05/2020
A300 Detailed Site Plan - Level B1 - Part 1	Pacific Environments architects	Rev B	26/05/2020
A301 Detailed Site Plan - Level B1 - Part 2	Pacific Environments architects	Rev C	26/05/2020
A302 Detailed Site Plan - Level B1 - Part 3	Pacific Environments architects	Rev C	26/05/2020
A303 Detailed Site Plan - Level B1 - Part 4	Pacific Environments architects	Rev B	26/05/2020
A310 Detailed Site Plan - Level 0 - Part 1	Pacific Environments architects	Rev C	26/05/2020
A311 Detailed Site Plan - Level 0 - Part 2	Pacific Environments architects	Rev C	26/05/2020
A312 Detailed Site Plan - Level 0 - Part 3	Pacific Environments architects	Rev C	26/05/2020
A313 Detailed Site Plan - Level 0 - Part 4	Pacific Environments architects	Rev C	26/05/2020
A320 Detailed Plan - Bridge Area	Pacific Environments architects	Rev B	26/05/2020
A400 Club & Pool House Floor Plan	Pacific Environments architects	Rev B	05/05/2020
A401 Club & Pool House Roof Plan	Pacific Environments architects	Rev B	05/05/2020
A410 Club & Pool House - Artist Impressions	Pacific Environments architects	Rev B	05/05/2020
A411 Club & Pool House North & South Elevations	Pacific Environments architects	Rev B	05/05/2020
A412 Club & Pool House West & East Elevations	Pacific Environments architects	Rev B	05/05/2020
A-A100 Building A Floor Plan - Level B	Pacific Environments architects	Rev C	05/05/2020
A-A101 Building A Floor Plan - Level 0	Pacific Environments architects	Rev C	05/05/2020
A-A102 Building A Floor Plan - Level 1	Pacific Environments architects	Rev C	05/05/2020
A-A103 Building A Floor Plan - Level 2	Pacific Environments architects	Rev B	05/05/2020

A-A104 Building A Floor Plan - Level 3	Pacific Environments architects	Rev B	05/05/2020
A-A105 Building A Floor Plan - Level 4	Pacific Environments architects	Rev B	05/05/2020
A-A106 Building A - Roof Plan	Pacific Environments architects	Rev B	05/05/2020
A-A110 Building A - Artist Impressions	Pacific Environments architects	Rev B	05/05/2020
A-A200 Building A - North Elevation	Pacific Environments architects	Rev B	05/05/2020
A-A201 Building A - East Elevation	Pacific Environments architects	Rev B	05/05/2020
A-A202 Building A - South Elevation	Pacific Environments architects	Rev B	05/05/2020
A-A203 Building A - West Elevation	Pacific Environments architects	Rev B	05/05/2020
A-B100 Building B Floor Plan - Level B - Part 1	Pacific Environments architects	Rev C	05/05/2020
A-B101 Building B Floor Plan - Level B - Part 2	Pacific Environments architects	Rev C	05/05/2020
A-B102 Building B Floor Plan - Level B - Part 3	Pacific Environments architects	Rev C	05/05/2020
A-B103 Building B Floor Plan - Level 0 Part 1	Pacific Environments architects	Rev B	05/05/2020
A-B104 Building B Floor Plan - Level 0 Part 2	Pacific Environments architects	Rev B	05/05/2020
A-B105 Building B Floor Plan - Level 0 Part 3	Pacific Environments architects	Rev B	05/05/2020
A-B106 Building B Floor Plan - Level 1 Part 1	Pacific Environments architects	Rev B	05/05/2020
A-B107 Building B Floor Plan - Level 1 Part 2	Pacific Environments architects	Rev B	05/05/2020
A-B108 Building B Floor Plan - Level 1 Part 3	Pacific Environments architects	Rev B	05/05/2020
A-B109 Building B Floor Plan - Level 2 Part 1	Pacific Environments architects	Rev B	05/05/2020
A-B110 Building B Floor Plan - Level 2 Part 2	Pacific Environments architects	Rev B	05/05/2020
A-B111 Building B Floor Plan - Level 2 Part 3	Pacific Environments architects	Rev B	05/05/2020
A-B112 Building B Floor Plan - Level 3 Part 1	Pacific Environments architects	Rev B	05/05/2020
A-B113 Building B Floor Plan - Level 3 Part 2	Pacific Environments architects	Rev B	05/05/2020
A-B114 Building B Floor Plan - Level 3 Part 3	Pacific Environments architects	Rev B	05/05/2020
A-B115 Building B Floor Plan - Level 4 Part 1	Pacific Environments architects	Rev B	05/05/2020

A-B116 Building B Floor Plan - Level 4 Part 2	Pacific Environments architects	Rev B	05/05/2020
A-B117 Building B Floor Plan - Level 4 Part 3	Pacific Environments architects	Rev B	05/05/2020
A-B118 Building B Roof Plan - Part 1	Pacific Environments architects	Rev B	05/05/2020
A-B119 Building B Roof Plan - Part 2	Pacific Environments architects	Rev B	05/05/2020
A-B120 Building B Roof Plan - Part 3	Pacific Environments architects	Rev B	05/05/2020
A-B130 Building B - Artist Impressions	Pacific Environments architects	Rev B	05/05/2020
A-B200 Building B - North Elevation - Part 1	Pacific Environments architects	Rev B	05/05/2020
A-B201 Building B - North Elevation - Part 2	Pacific Environments architects	Rev B	05/05/2020
A-B202 Building B - South Elevation - Part 1	Pacific Environments architects	Rev B	05/05/2020
A-B203 Building B - South Elevation - Part 2	Pacific Environments architects	Rev B	05/05/2020
A-B204 Building B - West Elevation	Pacific Environments architects	Rev B	05/05/2020
A-B205 Building B - West Elevation	Pacific Environments architects	Rev B	05/05/2020
A-C100 Building C Floor Plan - Level B	Pacific Environments architects	Rev C	05/05/2020
A-C101 Building C Floor Plan - Level 0	Pacific Environments architects	Rev C	05/05/2020
A-C102 Building C Floor Plan - Level 1	Pacific Environments architects	Rev B	05/05/2020
A-C103 Building C Floor Plan - Level 2	Pacific Environments architects	Rev B	05/05/2020
A-C104 Building C Floor Plan - Level 3	Pacific Environments architects	Rev B	05/05/2020
A-C105 Building C Floor Plan - Level 4 Roof	Pacific Environments architects	Rev B	05/05/2020
A-C106 Building C Roof Plan	Pacific Environments architects	Rev B	05/05/2020
A-C110 Building C - Artist Impressions	Pacific Environments architects	Rev B	05/05/2020
A-C200 Building C - North Elevation	Pacific Environments architects	Rev B	05/05/2020
A-C201 Building C - South Elevation	Pacific Environments architects	Rev B	05/05/2020
A-C202 Building C - West & East Elevation	Pacific Environments architects	Rev B	05/05/2020
A-D100 Building D Floor Plan - Level B	Pacific Environments architects	Rev B	05/05/2020



A-D101 Building D Floor Plan - Level B - Part 1	Pacific Environments architects	Rev C	05/05/2020
A-D102 Building D Floor Plan - Level B - Part 2	Pacific Environments architects	Rev C	05/05/2020
A-D103 Building D Floor Plan - Level 0 Part 1	Pacific Environments architects	Rev B	05/05/2020
A-D104 Building D Floor Plan - Level 0 Part 2	Pacific Environments architects	Rev B	05/05/2020
A-D105 Building D Floor Plan - Level 1 Part 1	Pacific Environments architects	Rev B	05/05/2020
A-D106 Building D Floor Plan - Level 1 Part 2	Pacific Environments architects	Rev B	05/05/2020
A-D107 Building D Floor Plan - Level 2 Part 1	Pacific Environments architects	Rev B	05/05/2020
A-D108 Building D Floor Plan - Level 2 Part 2	Pacific Environments architects	Rev B	05/05/2020
A-D109 Building D Floor Plan - Level 3 Part 1	Pacific Environments architects	Rev B	05/05/2020
A-D110 Building D Floor Plan - Level 3 Part 2	Pacific Environments architects	Rev B	05/05/2020
A-D111 Building D Roof Plan - Part 1	Pacific Environments architects	Rev B	05/05/2020
A-D112 Building D Roof Plan - Part 2	Pacific Environments architects	Rev B	05/05/2020
A-D120 Building D - Artist Impressions	Pacific Environments architects	Rev B	05/05/2020
A-D200 Building D - North Elevation	Pacific Environments architects	Rev B	05/05/2020
A-D201 Building D - East Elevation	Pacific Environments architects	Rev B	05/05/2020
A-D202 Building D - South Elevation	Pacific Environments architects	Rev B	05/05/2020
A-D203 Building D - West Elevation	Pacific Environments architects	Rev C	05/05/2020
A-E100 Building E & F Floor Plan - Lev B1	Pacific Environments architects	Rev C	05/05/2020
A-E101 Building E & F Floor Plan - Lev 0	Pacific Environments architects	Rev B	05/05/2020
A-E102 Building E & F Floor Plan - Lev 1	Pacific Environments architects	Rev B	05/05/2020
A-E103 Building E & F Floor Plan - Lev 2	Pacific Environments architects	Rev B	05/05/2020
A-E104 Building E & F Floor Plan - Lev 3	Pacific Environments architects	Rev B	05/05/2020
A-E105 Building E & F Roof Plan	Pacific Environments architects	Rev B	05/05/2020
A-E110 Building E - Artist Impressions	Pacific Environments architects	Rev B	05/05/2020

A-E200 Building E - East Elevation	Pacific Environments architects	Rev B	05/05/2020
A-E201 Building E - West Elevation	Pacific Environments architects	Rev B	05/05/2020
A-E202 Building E - North & South Elevations	Pacific Environments architects	Rev B	05/05/2020
A-F100 Building E & F Floor Plan - Lev B1	Pacific Environments architects	Rev B	05/05/2020
A-F101 Building E & F Floor Plan - Lev 0	Pacific Environments architects	Rev B	05/05/2020
A-F102 Building E & F Floor Plan - Lev 1	Pacific Environments architects	Rev B	05/05/2020
A-F103 Building E & F Floor Plan - Lev 2	Pacific Environments architects	Rev B	05/05/2020
A-F104 Building E & F Floor Plan - Lev 3	Pacific Environments architects	Rev B	05/05/2020
A-F105 Building E & F Roof Plan	Pacific Environments architects	Rev B	05/05/2020
A-F110 Building E - Artist Impressions	Pacific Environments architects	Rev B	05/05/2020
A-F200 Building E - East Elevation	Pacific Environments architects	Rev B	05/05/2020
A-F201 Building E - West Elevation	Pacific Environments architects	Rev B	05/05/2020
A-F202 Building E - North & South Elevations	Pacific Environments architects	Rev B	05/05/2020
A-G100 Building G Floor Plan - Level B	Pacific Environments architects	Rev C	05/05/2020
A-G101 Building G Floor Plan - Level 0	Pacific Environments architects	Rev C	05/05/2020
A-G102 Building G Floor Plan - Level 1	Pacific Environments architects	Rev C	05/05/2020
A-G103 Building G Floor Plan - Level 2	Pacific Environments architects	Rev C	05/05/2020
A-G104 Building G - Roof Plan	Pacific Environments architects	Rev B	05/05/2020
A-G110 Building G - Artist Impressions	Pacific Environments architects	Rev B	05/05/2020
A-G200 Building G - North and South Elevations	Pacific Environments architects	Rev C	05/05/2020
A-G201 Building G - East Elevation	Pacific Environments architects	Rev C	05/05/2020
A-G204 Building G - West Elevation	Pacific Environments architects	Rev C	05/05/2020
A-H100 Building H Floor Plan - Level B	Pacific Environments architects	Rev B	05/05/2020

A-H101 Building H Floor Plan - Level 0	Pacific Environments architects	Rev B	05/05/2020
A-H102 Building H Floor Plan - Level 1	Pacific Environments architects	Rev B	05/05/2020
A-H103 Building H Floor Plan - Level 2	Pacific Environments architects	Rev B	05/05/2020
A-H104 Building H Floor Plan - Level 3	Pacific Environments architects	Rev B	05/05/2020
A-H105 Building H Roof Plan	Pacific Environments architects	Rev B	05/05/2020
A-H200 Building H - West Elevation	Pacific Environments architects	Rev B	05/05/2020
A-H201 Building H - East Elevation	Pacific Environments architects	Rev B	05/05/2020
A-H202 Building H - North & South Elevations	Pacific Environments architects	Rev B	05/05/2020
A-H300 HIRB Sections	Pacific Environments architects	Rev B	05/05/2020
A-H301 HIRB Elevations	Pacific Environments architects	Rev B	05/05/2020
A-I100 Building I Floor Plan - Level B1	Pacific Environments architects	Rev B	05/05/2020
A-I101 Building I Floor Plan - Level 0	Pacific Environments architects	Rev B	05/05/2020
A-I102 Building I Floor Plan - Level 1	Pacific Environments architects	Rev B	05/05/2020
A-I103 Building I Floor Plan - Level 2	Pacific Environments architects	Rev B	05/05/2020
A-I104 Building I Floor Plan - Level 3	Pacific Environments architects	Rev B	05/05/2020
A-I105 Building I Roof Plan	Pacific Environments architects	Rev B	05/05/2020
A-I200 Building I - West Elevation	Pacific Environments architects	Rev B	05/05/2020
A-I201 Building I - East Elevation	Pacific Environments architects	Rev B	05/05/2020
A-I202 Building I - North & South Elevations	Pacific Environments architects	Rev B	05/05/2020
A-I300 HIRB Sections	Pacific Environments architects	Rev B	05/05/2020
A-I301 HIRB Elevations	Pacific Environments architects	Rev B	05/05/2020
A501 Artist Impressions 1	Pacific Environments architects	Rev B	05/05/2020
A502 Artist Impressions 2	Pacific Environments architects	Rev B	05/05/2020
A503 Artist Impressions 3	Pacific Environments architects	Rev B	05/05/2020

A504 Artist Impressions 4	Pacific Environments architects	Rev B	05/05/2020
A505 Artist Impressions 5	Pacific Environments architects	Rev B	05/05/2020
A510 Villa U, V, W, X - Elevations	Pacific Environments architects	Rev B	05/05/2020
A511 Villa N - Elevations	Pacific Environments architects	Rev B	05/05/2020
A512 Villa T - Elevations	Pacific Environments architects	Rev B	05/05/2020
A513 Villa M, P, S - Elevations	Pacific Environments architects	Rev B	05/05/2020
A514 Villa J, K, L Q - Elevations	Pacific Environments architects	Rev B	05/05/2020
A515 Villa O - Elevations	Pacific Environments architects	Rev B	05/05/2020
A516 Villa R - Elevations	Pacific Environments architects	Rev B	05/05/2020
A517 Villa Y - Elevations	Pacific Environments architects	Rev C	05/05/2020
A518 Villa Y - Elevations	Pacific Environments architects	Rev B	05/05/2020
A519 Villa Z - Elevations	Pacific Environments architects	Rev C	05/05/2020
A520 Villa Z - Elevations	Pacific Environments architects	Rev B	05/05/2020
A600 Villa 1 Bed - Type 1A & 1B Plans	Pacific Environments architects	Rev B	05/05/2020
A601 Villa 2 Bed - Type 2A & 2B Plans	Pacific Environments architects	Rev B	05/05/2020
A602 Villa 2 Bed - Type 2C & 2D Plans	Pacific Environments architects	Rev B	05/05/2020
A603 Villa 2 Bed - Type 2E & 2F Plans	Pacific Environments architects	Rev B	05/05/2020
A604 Villa 3 Bed - Type 3A Plan	Pacific Environments architects	Rev B	05/05/2020
A610 Aged Care Unit Plan & Apt 1 Bed	Pacific Environments architects	Rev B	05/05/2020
A611 - Type 1A & 1B Plans	Pacific Environments architects	Rev B	05/05/2020
A612 Apt 2 Bed Apt - Type 2A & 2B Plans	Pacific Environments architects	Rev B	05/05/2020
A613 Apt 2 Bed Apt - Type 2C & 2D Plans	Pacific Environments architects	Rev B	05/05/2020
A614 Apt 2 Bed Apt - Type 2E & 2F Plans	Pacific Environments architects	Rev B	05/05/2020
A615 Apt 2 Bed Apt - Type 2G & 2H Plans	Pacific Environments architects	Rev B	05/05/2020

A616 Apt 2 Bed Apt - Type 2I & 2J Plan	Pacific Environments architects	Rev B	05/05/2020
A617 Apt 2 Bed Apt - Type 2K Plan	Pacific Environments architects	Rev B	05/05/2020
A618 Apt 3 Bed Apt - Type 3A Plan	Pacific Environments architects	Rev B	05/05/2020
A619 Apt 3 Bed Apt - Type 3B & 3C Plans	Pacific Environments architects	Rev B	05/05/2020
A620 Apt 3 Bed Apt - Type 3D Plan	Pacific Environments architects	Rev B	05/05/2020
Concept Design 1347 – CON, job number 1347	Aspire Consulting Engineers		June 2020

Other additional information	Author	Rev	Dated
[S92 response letter] RE: Matvin Retirement Village – Response to Outstanding Further Information Requests	Burnette O'Connor, The Planning Collective	-	14 May 2020
[s92 response letter] RE: Updated Plan Set - Final	Burnette O'Connor, The Planning Collective	-	14 May 2020
[s92 response cover letter] Silverdale Retirement Village, Small Road, Silverdale.	Pacific Environments architects		07/05/2020
[Memorandum] Small Road, Silverdale, LUC60345460 – Ecology Queries	Bioresearches	-	13 May 2020
[Letter] RE: Consent Application LUC60345460 – Request for Further Information (NES-Contamination assessment)	GeoSciences Ltd	-	30 April 2020
[Economic assessment] RE: proposed Silverdale Retirement Village: Site Construction and Annual Operation FTE Employee Estimates	Urban Economics	-	14/5/2020
[Photos] Perspective from Small road, sheet A216, A216-1 and A216-2.	Pacific Environments architects	A	10/2/2020
Further Analysis on economic matters and objectives and policies (including Attachment A by Urban Economics)	The Planning Collective	-	11/6/2020

## Landuse conditions- LUC60345460

- Under section 125 of the RMA, this consent lapses ten years after the date it is granted unless:

- i. The consent is given effect to; or
  - ii. The council extends the period after which the consent lapses.
3. The consent holder shall pay the council an initial consent compliance monitoring charge of \$1005 (inclusive of GST), plus any further monitoring charge or charges to recover the actual and reasonable costs incurred to ensure compliance with the conditions attached to this consent.

Advice note:

*The initial monitoring deposit is to cover the cost of inspecting the site, carrying out tests, reviewing conditions, updating files, etc., all being work to ensure compliance with the resource consent. In order to recover actual and reasonable costs, monitoring of conditions, in excess of those covered by the deposit, shall be charged at the relevant hourly rate applicable at the time. The consent holder will be advised of the further monitoring charge. Only after all conditions of the resource consent have been met, will the council issue a letter confirming compliance on request of the consent holder.*

4. Upon the construction of any public or habitable building, sufficient water volume, pressure and flows be provided in accordance with NZFS Fire Fighting Water Supplies Code of Practice SNZ PAS 4509:2008 (or any replacement code of practice approved under s72 of the Fire and Emergency New Zealand Act 2017) and that this water supply be accessible for firefighting purposes. This must be detailed in the Building consent application

*Advice note: Should the applicant determine that an alternative water source cannot be accessed for firefighting purposes for the development or does not have sufficient capacity or pressure in accordance with the New Zealand Fire Service Fire Fighting Water Supplies Code of Practice SNZPAS 4509:2008, consultation and agreement on an alternative supply such as water sprinklers will need to be sought from Fire and Emergency New Zealand and evidence of this agreement provided to Auckland Council for its consideration and agreement when determining whether the consent notice relating to the Code of Practice has been satisfied.*

5. Prior to the construction of any public or habitable building, adequate access shall be provided in accordance with the New Zealand Fire Service Fire Fighting Water Supplies Code of Practice SNZ PAS 4509:2008.

### **Childcare**

6. Construction of the childcare centre shall not commence until the improvements to the Hibiscus Coast Highway / East Coast Road intersection required by Rule I537.4.1 (A4) (c) of the Auckland Unitary Plan – Operative in part are constructed as shown on the plans prepared by Aspire Consulting Engineers, Concept Design 1347 – CON, job number 1347, date June 2020.
7. Resource consent LUC60332164 for a childcare centre on Lot 9 DP 520205 shall be formally surrendered in accordance with the requirements of s138 of the Resource Management Act, if this resource consent (LUC60345460) is implemented.



8. The childcare centre shall accommodate a maximum of 100 children and 15 staff.
9. Hours of Operation – The childcare activity shall be restricted to operating between the hours of 6:00am to 9:00pm Monday to Saturday, excluding public holidays.
10. Prior to the operation of the childcare centre, the consent holder must construct an acoustically effective barrier along the northern boundary of the outdoor play area, as shown on the plans detailed in condition 1. The acoustic barrier must be no less than 2000 mm in height. The barrier must have no gaps along its length or at its base, including where it is joined to any other structure. The surface density of the barrier must be no less than 10 kg/m<sup>2</sup>, and the acoustic barrier must be constructed from transparent materials. Any gate in the barrier must comply with the minimum construction specifications of this condition when closed and must remain closed during periods of outdoor play. The barrier must be maintained to be acoustically effective for as long as the childcare centre is in operation.
11. The noise rating level arising from operation of the childcare activity with a maximum capacity of 100 children shall not exceed 65 dB L<sub>Aeq</sub> when measured within the boundary of any other site in the Business – General Business Zone. Noise levels shall be measured in accordance with the provisions of NZS 6801:2008 Acoustics – Measurement of environmental sound and shall be assessed in accordance with NZS 6802:2008 Acoustics – Environmental noise.

*Advice Note: The consent holder is reminded of their general obligation under section 16 of the Resource Management Act 1991 to adopt the best practicable option to ensure that the emission of noise does not exceed a reasonable level.*

12. The consent holder must implement any mitigation measures necessary within the subject site to ensure that the noise level arising from any other lawfully established and compliant activity in the Business – General Business Zone as received in the outdoor play area does not exceed 55 dB L<sub>Aeq(15 min)</sub> during periods when it is normally used by children. The consent holder must ensure that this noise limit is complied with for as long as this consent is given effect to and must provide a report from a suitably qualified acoustics consultant to demonstrate compliance with the limit at the reasonable request of Auckland Council.

### **Regional earthworks conditions**

13. Resource consent LUC60345460 relating to regional earthworks shall expire five years from the date of issue unless it has been surrendered or cancelled at an earlier date pursuant to the RMA.
14. Prior to the commencement of bulk earthworks at the site:
  - a. The proposed planting areas and details of any drainage, depth and specification of top soil are to be confirmed by the landscape architect.
  - b. an updated set of Erosion and Sediment Control Plans (ESCPs) based on the ESCPs listed in Condition 1 and prepared in accordance with Auckland Council Guideline Document 2016/005 Erosion and Sediment Control Guide for Land

Disturbing Activities in the Auckland Region (GD05) must be submitted to the Team Leader Compliance Monitoring NW1 for certification. The updated ESCPs must address erosion and sediment control across the full site and include:

- A revised design for Sediment Retention Pond 2 that incorporates:
  - a forebay volume of 10% of the main pond volume i.e. in addition to the design volume); and
  - a reverse slope pond base rising from inlet to outlet and retaining the full dead and live storage depth at the outlet.
- Details of erosion and sediment control measures to be implemented prior to the filling of Channels 1 and 4 as identified in the report 62371 Retirement Village, Small Road, Silverdale: Assessment of Ecological Effects listed Condition 1.
- A requirement to monitor all dirty water diversion bunds and channels and stabilise any sections that are exhibiting significant erosion. For the purposes of determining significant erosion, minor erosion is that which is shallow / surficial across a range of storms, while significant erosion is that which is clearly identified as deeper scouring and/or a defined erosion channel that forms during one-off or multiple storm events.
- A requirement to install contour drains across all exposed earthworks areas at the end of each working day when rain is predicted, and before rainfall that is predicted to occur during working hours.

No earthworks may commence until the Team Leader Compliance Monitoring NW1's written certification has been received by the Consent Holder.

*Advice Note:*

*In the event that future minor amendments to the updated ESCPs are required, any such amendments should be limited to the scope of this consent. Any amendments which affect the performance of the updated ESCP may require an application to be made in accordance with section 127 of the RMA. Any minor amendments should be provided to the Team Leader Compliance Monitoring NW1 prior to implementation to confirm that they are within the scope of this consent.*

15. Prior to the commencement of earthworks, a Chemical Treatment Management Plan (CTMP) must be submitted to the Team Leader Compliance Monitoring NW1 for written certification against the requirements of the conditions and Auckland Council Guideline Document 2016/005 Erosion and Sediment Control Guide for Land Disturbing Activities in the Auckland Region. No earthworks may commence until that certification has been received by the Consent Holder. The CTMP shall include as a minimum:
  - a) Specific design details of the chemical treatment dosing system based on a rainfall activated methodology for all sediment retention ponds and decanting earth bunds;

- b) Monitoring, maintenance (including post-storm) and contingency programme (including a record sheet);
- c) Details of optimum dosage (including assumptions);
- d) Results of initial chemical treatment trial;
- e) A spill contingency plan; and
- f) Details of the person or bodies that will hold responsibility for long-term operation and maintenance of the chemical treatment system and the organisational structure which will support this system.

Any amendments to the CTMP must be submitted in writing to the Team Leader Team Leader Compliance Monitoring NW1, for written certification prior to implementation.

*Advice Note:*

*In the event that minor amendments to the CTMP are required, any such amendments should be limited to the scope of this consent. Any amendments which affect the performance of the CTMP may require an application to be made in accordance with section 127 of the RMA. Any minor amendments should be provided to the Team Leader Compliance Monitoring NW1 prior to implementation to confirm that they are within the scope of this consent.*

- 16. All sediment retention ponds and decanting earth bunds must be treated in accordance with the Chemical Treatment Management Plan certified under Condition 15.
- 17. Prior to the commencement of the earthwork's activity, the consent holder must hold a pre-start meeting that:
  - is located on the subject site
  - is scheduled not less than five days before the anticipated commencement of earthworks
  - includes representation from the Team Leader Compliance Monitoring NW1
  - includes representation from the contractors who will undertake the works

The meeting shall discuss the erosion and sediment control measures including the silt fence location and number of returns and shall ensure all relevant parties are aware of and familiar with the necessary conditions of this consent.

The following information shall be made available at the pre-start meeting:

- Timeframes for key stages of the works authorised under this consent;
- Resource consent conditions;
- The updated Erosion and Sediment Control Plans;
- Chemical Treatment Management Plan.

*Advice Note:*

*To arrange the pre-construction meeting please contact the Team Leader Compliance Monitoring NW1 to arrange this meeting on email at [monitoring@aucklandcouncil.govt.nz](mailto:monitoring@aucklandcouncil.govt.nz).*

18. Prior to earthworks commencing, a certificate signed by an appropriately and experienced person must be submitted to the Team Leader Compliance Monitoring NW1, to certify that the erosion and sediment controls have been constructed in accordance with the updated Erosion and Sediment Control Plans certified under Condition 14 and Auckland Council Guideline Document 2016/005 Erosion and Sediment Control Guide for Land Disturbing Activities in the Auckland Region.
19. Certified controls must include sediment retention ponds, decanting earth bunds, silt fences, cleanwater and dirty water diversions and stabilised construction entrance. The certification for these measures must be supplied immediately upon completion of construction of those measures. Information supplied, if applicable shall include:
  - a) Specific erosion and sediment control measures for the earthworks (location and dimensions, capacity);
  - b) Contributing slope length and gradient and / or contributing catchment area of each device;
  - c) Spacing of silt fence returns;
  - d) Size and stabilisation of diversion bunds; and
  - e) Other relevant requirements of Auckland Council Guideline Document 2016/005 Erosion and Sediment Control Guide for Land Disturbing Activities in the Auckland Region.
20. The site must be progressively stabilised against erosion in accordance with Auckland Council Guideline Document 2016/005 Erosion and Sediment Control Guide for Land Disturbing Activities in the Auckland Region as soon as practicable as earthworks are finished over various areas of the site.
21. The operational effectiveness and efficiency of all erosion and sediment control measures specifically required as a condition of this resource consent must be maintained throughout the duration of earthworks activity, or until the contributing catchment of each control is permanently stabilised against erosion.
22. Earthworks shall be managed to minimise the deposition of earth, mud, dirt or other debris onto any public road or footpath resulting from earthworks activity on the subject site. In the event that such deposition does occur, it must immediately be removed. In no instance shall roads or footpaths be washed down with water without appropriate erosion and sediment control measures in place to prevent contamination of the stormwater drainage system, watercourses or receiving waters.
23. Upon completion or abandonment of earthworks on the subject site all areas of bare earth must be permanently stabilised against erosion in accordance with Auckland

Council Guideline Document 2016/005 Erosion and Sediment Control Guide for Land Disturbing Activities in the Auckland Region.

24. No earthworks on the site may be undertaken between 1 May and 30 September in any year, without the prior written approval of the Team Leader Compliance Monitoring NW1. Revegetation/stabilisation is to be completed by 30 April in accordance with measures detailed in GD05 and any amendments to this document.

### **Development Engineering**

25. Prior to the commencement of earthworks or construction, a Construction Management Plan (CMP) must be prepared and certified by the Team Leader Compliance Monitoring NW1. No earthworks or construction activity shall commence until the plan is certified.

The CMP must include a finalised Construction Traffic Management Plan (CTMP) prepared in accordance the Council's requirements for CTMPs and New Zealand Transport Authority's Code of Practice for Temporary Traffic Management shall be submitted to the Team Leader Compliance Monitoring NW1.

The Construction Management Plan should contain include specific details relating to avoiding, remedying or mitigating adverse effects on the environment from earthworks, construction and management of all works associated with this development as follows:

- i. control of construction access to the site and traffic control adjacent to the site,
- ii. and the protection of the public.
- iii. Construction dates and hours of operation including any specific non-working hours for traffic congestion/noise etc, aligned with normally accepted construction hours in the Auckland region;
- iv. Truck route diagrams both internal to the site and external to the local road network;
- v. Temporary traffic management signage/details for both pedestrians and vehicles to appropriately manage the interaction of these road users with heavy construction traffic; and
- vi. Details of site access/egress over the entire construction period. All egress points are proposed to be located so that they achieve appropriate sight distances as per the RTS-6 Guide.
- vii. Measures to ensure satisfactory vehicle and pedestrian access is maintained to adjacent properties at all times
- viii. Measures to ensure the continued safe and efficient operation of the Hibiscus Coast bus interchange and the bus layovers on Painton Road
- ix. Plans showing the location of any site offices, staff facilities and staff car parking required during the construction period

All measures identified in that plan as needing to be put in place prior to commencement of works must be implemented.. A copy of the certified CMP, together with the verification letter shall be kept on the site at all times. All measures for the protection of the public and other personnel set out in the verified Plan shall be maintained and complied with at all times until such time as the works are completed.

26. All cut and fill / site retaining works / removal of non-engineered fill must be carried out under the supervision of a Chartered Professional Engineer experienced in geotechnical engineering and familiar with the Preliminary Geotechnical Investigation Report prepared by Engineering Geology Ltd, ref: 8842, dated 28 June 2019 and to the satisfaction of Auckland Council. Certification from a Chartered Professional Engineer responsible for supervising the works shall be provided to the Team Leader Compliance Monitoring NW 1 confirming that the works have been completed in accordance with the above report, within ten (10) working days following completion. Written certification shall be in the form of a geotechnical completion report, producer statement or any other form acceptable to Council.
27. The proposed earthworks shall be undertaken in a manner which ensures that the land within the site, and on adjoining properties, remain stable at all times. In this regard;
- (a) The consent holder shall employ a CPEng qualified Engineer, Registered Professional Surveyor or other suitably qualified person acceptable to Council to investigate, direct and supervise all construction works, particularly in close proximity to neighbouring properties to ensure that an appropriate design and construction methodology is carried out to maintain the short and long term stability of the site and surrounds.
- (b) All retaining walls and/or temporary stabilising works shall be constructed in a timely manner under engineering supervision. The consent holder shall ensure that all necessary design/approvals for retaining walls are obtained and that sufficient resources are available to construct the required retaining walls, as directed by the engineer, prior to commencement of any significant excavation works.
- Advice Note: A Building Consent is required for (structures, retaining walls, private drainage, demolitions etc) unless exempted under Schedule 1 of the Building Act 2004.*
- (c) All works shall be undertaken in a manner that does not create an adverse effect on neighbouring properties due to vibration.
- (d) A geotechnical completion report shall be submitted to the Council within 1 month of the completion of the bulk earthworks that:
- Confirms the suitability of the completed works
  - Includes advice of any ongoing maintenance requirements, if any and
  - any other recommendations necessary for the continued stability of the site or surrounds.



28. The use of noise generating motorised equipment and vehicle movements to and from the site associated with earthworks activity on the subject site shall be restricted to between the following hours:
- a. Monday to Friday: 7:30 a.m. to 7p.m.
  - b. Saturday: 8:00am to 5:30pm

There is to be no operation of noise-generating, motorised equipment and vehicles associated with earthworks activity on the subject site on Sundays or public holidays.

29. Where earthworks on the site are creating vibrations, that in the opinion of the Development Engineer, constitute an unreasonable disturbance beyond the boundaries of the subject site, the consent holder shall cease works until a suitably qualified expert has been engaged to undertake monitoring and provide confirmation that peak particle velocities measured on any foundation or uppermost full storey of any building not located on the subject site, do not exceed the limits set out in Table 1 of German Standard DIN 4150 Part 3:1986 "Structural Vibration in Buildings – Effects on Structures."
30. There shall be no obstruction of access to public footpaths, berms, private properties, public services/utilities, or public reserves resulting from the earthworks activity. All materials and equipment shall be stored within the subject site's boundaries.
31. All necessary actions shall be taken to prevent a dust nuisance to neighbouring properties and public roads; including but not limited to:
- (a) The staging of areas of the works;
  - (b) The retention of any existing shelter belts & vegetation;
  - (c) The installation & maintenance of wind fences and vegetation strips;
  - (d) Watering of all haul roads and manoeuvring areas during dry periods
  - (e) Spraying of load dumping operations;
  - (f) Suspension of all operations if necessitated by the prevailing conditions.

The site, or parts thereof as appropriate, shall be re-grassed or otherwise protected from wind & water erosion immediately upon completion of bulk earthworks whether or not other works are completed.

32. There shall be no damage to public roads, footpaths, berms, kerbs, drains, reserves or other public asset as a result of the earthworks activity. In the event that such damage does occur, the (name) is to be notified within 24 hours of its discovery. The costs of rectifying such damage and restoring the asset to its original condition will be met by the consent holder.

*Advice Note:*

*In order to prevent damage occurring during the earthwork activity, the consent holder should consider placing protective plates over footpaths, kerbs, and drains. Where*

*necessary, prior to works commencing, photographing or video recording of roads, paths and drains may be appropriate.*

33. All imported fill used shall be solid material of a stable, inert nature, shall not contain contaminants and shall not be subject to biological breakdown. Any fill shall conform to NZS 4431:1989 'Code Of Practice for Earth Fill for Residential Development'.
34. Within 10 working days following the completion of earthworks, the suitably qualified engineering professional responsible for supervising the works shall provide to the Development Engineer, written evidence that all fill used on the subject site has the characteristics set out in Condition 33 (above). Written evidence shall be in the form of a receipt, compaction certificate(s), producer statement or similar.
35. The portion of land to be vested as public road adjacent to Small Road shall be formed and constructed as road with 90 degree parking spaces to Auckland Transport standards including the provision of street furnishing and markings.
36. An Engineering Plan Approval application for this work is required to be submitted to Auckland Council's Development Engineering and approved prior to the works commencing.
37. All new vehicle crossings shall be designed and formed in accordance with the Auckland Transport standard commercial vehicle crossing design. The new crossing shall maintain an at-grade (level) pedestrian footpath across the length of the crossing, using the same materials, kerbing, pavings, patterns and finish as the footpath on each side of the crossing.

**Advice note:**

*Works within the legal reserve require prior approval from Auckland Transport. The consent holder should contact Auckland Transport as soon as possible to ensure any required approvals are issued prior to construction.*

38. That Road Markings, as shown on the approved plans, shall be provided in accordance with the New Zealand Transport Agency's "Manual of Traffic Signs and Markings" (MOTSAM).
39. The pedestrian access/walkway within the portion of road to be vested to Auckland Transport on the southern side of Small Road, shall be constructed in accordance with the Council's current Local Engineering Standards (or approved plans).
40. The detailed design and supporting calculations for the stormwater reticulation and pedestrian bridge are to be provided at the Engineering Plan Approval stage.

Advice Note: The detailed design and supporting calculations for the stormwater reticulation and pedestrian bridge are also to be provided with the Building Consent application.

41. The consent holder must provide and install a stormwater connection/s to serve all buildings to the Council's standards.

*Advice Note:*

*New lot connections shall be shown on the engineering design drawings submitted for Engineering Approval (EA).*

42. The consent holder must provide and install a complete stormwater drainage system to serve all buildings to the Council's public stormwater standards to the satisfaction of the Council. Stormwater connections shall be provided at the boundaries to cater adequately for run-off from catchment areas above the subdivision, including stormwater from existing roads, and adequate overland flow paths catering for a 1% annual recurrence interval (ARI) storm event shall be provided. As Built Plans shall be provided for overland flow paths with contributing catchments exceeding 2000m<sup>2</sup>. Where ever practical, overland flow paths shall be along roadways or reserve areas and where such flow paths are required to be through residential lots minimum floor levels shall be established and plans detailing overland flow paths provided for inclusion in any consent notices for registration on the respective titles. Easements shall be created for overland flow paths with contributing catchments exceeding 4000m<sup>2</sup> or if private connection pipes are required outside the served lot.

At the end of the defects liability period for all of the stormwater system, evidence shall be provided that the process to transfer any Stormwater Discharge Consent to Council has been initiated.

*Note: Last paragraph and Advice(iii) Note to be used only where Discharge Consent is an identified requirement. Any piping of natural watercourses would require specific conditions.*

*Advice Note*

- (i) Easements for overland flow paths may be created for smaller catchment areas than 4000m<sup>2</sup>.*
  - (ii) Overland Flow Paths are designed for 100 year ARI flows taking account of blockages in the primary system.*
  - (iii) Auckland Council will accept transfer of a Stormwater Discharge Consent only in respect to public assets which are to vest.*
43. The consent holder must provide an extension of the public wastewater system to serve all lots and install such reticulation to the boundary of the upstream properties in accordance with Watercare Service Limited standards; refer Water and Wastewater Code of Practice for Land Development and Subdivision and correspondence from Ilze Gotelli – Watercare, dated 17 April 2020 and the accompanying Technical Memo prepared by Barry Richardson, MSC Consulting dated 27 March 2020.

Wastewater servicing shall be provided as follows:

Note: The Short-Term Solution will not be required if the Long-Term Solution is in place at the time connection is required.

1. Short Term Solution:

Construct a pump station that will provide 24-hour tank storage to comply with Watercare's Pump Station design guidelines. The pump station will connect to the

existing wastewater network to the west and flows will be transferred during periods of low flow into the existing network.

2. Long Term Solution:

Construct the new pump station to accommodate the wastewater flows from all stages of the Small Road developments and distribute the flows to the point of connection west of State Highway 1.

*Note: Installation of public drainage requires engineering plan approval and follow with final sign-off of the Engineering Approval Completion Certificate (EACC) is issued by Council's Development Engineering Team Leader.*

44. Provide a separate water service pipe to serve Lots in accordance with Watercare Services Limited standards; refer Water and Wastewater Code of Practice for Land Development and Subdivision.
45. Provide as-built plan of the private water service pipes by a certified drain layer/plumber and/or Licensed Cadastral Surveyor to the satisfaction of Council' Development Engineering Team Leader.
46. Fire Hydrant/s and any necessary additional water mains are to be installed and situated so that no part of the proposed Lot(s) are more than 135m from a hydrant.

An Engineering Plan Approval application for this work is required to be submitted to Auckland Council's Development Engineering and approved prior to the works commencing.

47. The consent holder must submit complete design drawings for written approval of the Development Engineer before the commencement of street lighting works. The design shall comply with the Auckland Council's Code of Practice Section 4 (ATCOP Chapter 19) and the works constructed and commissioned in compliance with those standards and the written approval. An as-built plan shall be submitted upon completion of the works.
48. Power and telecommunication services shall be installed underground within the road berm and common access lots/private ways to provide suitably located service connections to each lot/dwelling.
49. The power and telephone services within the road reserve shall be located in accordance with Auckland Councils service layout requirements:
  - (a) The services shall be satisfactorily located, within the property, to facilitate the future development of the property by way of subdivision. Ducts may alternatively be installed (to the service provider's specifications) to allow for future power and telecommunication cable installation.
  - (b) Any/The existing overhead services for the existing dwelling shall be relocated underground as a part of these works.
  - (c) The consent holder shall supply a copy of the subdivision sign off from both the power and telecommunication service providers.

- (d) The consent holder shall supply Completion / Provisioning certificates, from the utility service providers, and certified as-built plans giving locations of all Plinths, Cables and Ducts.
50. All as-built documentation is to be provided to Council for all new public assets to be vested in the Council. The documentation is to be in accordance with Auckland Council's Development Engineering As-built Requirements. The as-built information will require approval by Auckland Council's Development Engineering.
51. Vesting of public assets to Auckland Council and close off and completion of related Engineering Approval consent must be completed.
52. The consent holder must provide a name for each/the new road and any private carriageway serving six dwellings or more and shall obtain evidence of acceptance by NZ Post Ltd before submitting the name/s to the Council for approval. In giving its approval the Council will require to be satisfied that each road name is relevant to the locality or is otherwise appropriate. The consent holder must provide and install the appropriate street signs to Council's standard.

## **Noise**

### *Construction*

53. At least 10 days before earthworks start on the Site, the consent holder must prepare and submit a Construction Noise and Vibration Management Plan (CNVMP) to the satisfaction of Auckland Council. The objective of the CNVMP is to identify and ensure the adoption of the Best Practicable Option for minimising the noise and vibration effects of all construction works and ensure compliance with the construction noise and vibration limits set out in in the AUP(OP) and conditions 55-57. The CNVMP must be prepared with reference to Annex E of NZS 6803:1999 *Acoustics – Construction Noise* and must address the following matters as a minimum:
- i. The construction noise and vibration limits for the project
  - ii. Specifications and locations for any acoustically effective barriers required on site for compliance with the project noise limits
  - iii. The minimum setback distances required for compliance
  - iv. Procedures for response to neighbour's concerns and dealing with any complaints
  - v. Procedures for noise and vibration monitoring during works close to neighbouring buildings
  - vi. Details of further noise and vibration mitigation measures available
  - vii. Details for providing advice to receivers within 50 m of the site boundary about the works, including when the higher noise and vibration levels can be expected

- viii. Details for ensuring that contractors and operators are aware of the potential for noise and vibration effects on neighbours and procedures for the minimisation of noise and vibration as far as practicable.
54. The consent holder must advise the occupants of all neighbouring sites within 50 m of the site boundary of the works. The advice will be provided in writing at least 10 days before earthworks start on site and will include:
- i. An overview of the construction works including the duration of the project and working hours on site
  - ii. The expected duration of any high noise and vibration works near the boundary
  - iii. The mitigation to be implemented, such as acoustic screening
  - iv. A contact and phone number for any concerns regarding noise and vibration and the availability of monitoring where concerns about noise or vibration are raised
55. All earthworks on the site must be designed and conducted to ensure that construction vibration does not exceed the guideline vibration values set out in Rule E25.6.30(1)(a) when measured from any surrounding building in accordance with the Standard. Note that this resource consent permits an infringement of the vibration (amenity) limits in Table E25.6.30 (1) (b).
56. All construction works on site must be designed and conducted to ensure that noise emissions do not exceed the permitted construction noise limits set out in E25.6.27 of the Auckland Unitary Plan when measured in accordance with the NZS 6803:1999 Acoustics – Construction Noise from any neighbouring occupied building, with the following exception:

<b>Receiver address</b>	<b>Assessment position</b>	<b>Noise limit</b>
Lot 1 DP 200971 East Coast Road	Upper facade	80 dB LAeq and 95 dE LAMax

57. All rock breaking works on site must be designed and conducted to ensure that noise emissions do not exceed the permitted construction noise limits set out in E25.6.27 of the Auckland Unitary Plan when measured in accordance with the NZS 6803:1999 Acoustics – Construction Noise from any neighbouring occupied building, with the following exceptions:

<b>Receiver address</b>	<b>Assessment position</b>	<b>Noise limit</b>
Lot 1 DP 200971 East Coast Road	Upper facade	75 dB LAeq and 90 dB LAMax
Lot 2 DP 202121 Small Road	1.5 m Upper facade	75 dB LAeq and 90 dB LAMax



Receiver address	Assessment position	Noise limit
43 Small Road	Upper facade	75 dB LAeq and 90 dB LAMax
39 Small Road	1.5 m	80 dB LAeq and 95 dB LAMax

### *Residential Receivers*

58. Prior to the issuing of building consent, the consent holder shall provided to the satisfaction of the Council, a report from a suitably qualified and experienced acoustic expert confirming that the following requirements have been met.

Any facade of any noise sensitive space within a unit exposed to noise levels greater than 55dB LAeq(24hr) (i.e. facades with a predicted noise level greater than 55dB LAeq(24hr) as identified in the report prepared by Styles Group – Assessment of Acoustic Insulation Requirements, dated 4 December 2019) must be designed and/or insulated so that the internal noise level in those rooms does not exceed 40dB LAeq(24hr).

59. Where a new room is constructed that is subject to condition 58 and the noise limit of 40dB LAeq(24hr) can only be complied with when external doors or windows to those rooms are closed those rooms must, as a minimum:
- a. Be mechanically ventilated and/or cooled to achieve an internal temperature no greater than 25°C based on external design conditions of dry bulb 25.1°C and wet bulb 20.1°C. Mechanical cooling must be available for all habitable rooms provided that at least one mechanical cooling system shall service every level of a dwelling that contains a habitable room (including bedrooms); or
  - b. Provide a high volume of outdoor air supply to all habitable rooms with an outdoor air supply rate of no less than:
    - i. 6 air changes per hour for rooms with less than 30% of the facade area glazed;
    - 15 air changes per hour for rooms with greater than 30% of the facade area glazed;
    - 3 air changes per hour for rooms with facades only facing south (between 120 degrees and 240 degrees) or where the glazing in the façade is not subject to any direct sunlight.
  - c. Shall be provided with relief for equivalent volumes of spill air.
  - d. Where mechanical ventilation and / or cooling systems are installed, they must be individually controllable across the range of airflows and temperatures by the building occupants in the case of each system;

## Traffic and Transportation

60. Prior to any works taking place, the consent holder shall provide a report that details the current state of Council roading related assets on Small Road adjacent to the site for the acceptance of the Team Leader Compliance Monitoring NW1. On completion of each stage, the consent holder shall provide an updated report that details the state of these roading assets and identifies any damage and how and when this will be rectified. These reports shall be certified by the Team Leader Compliance Monitoring NW1.

If in the opinion of the Council's Monitoring Officer any roading assets have been damaged as a result of the construction activity, the consent holder shall arrange for repair of the road pavement to the existing condition established under Condition 60, to the Council's satisfaction. Such repair shall be at the expense of the consent holder and undertaken no more than five days after the damage has been indicated to the consent holder as needing repair

61. Prior to the occupation of any units, the Small Road upgrading works detailed in the report by TEAM (noted in condition 1) shall be undertaken in accordance with Auckland Council's Code of Practice (these works should be included in the Engineering Plans Approval process), including the formation of 17 car parks on Small Road.
62. Prior to the occupation of any units, all necessary crossings, access, bicycle spaces, parking (and any required disabled spaces) and manoeuvring areas for that stage must be formed, sealed with an all-weather surface, marked out, sign posted and drained in accordance with the approved plans to the satisfaction of the Team Leader Compliance Monitoring NW1. At each stage, the consent holder shall demonstrate compliance by providing a table of land uses and how compliance with traffic Standards in E27 has been achieved.

Parking areas should be marked out in accordance with the approved site plan to ensure appropriate parking supply, access, signage, directions and vehicle manoeuvring. This includes the allocation of specific parking spaces to each unit/dwelling where relevant.

63. Prior to the application for a Code of Compliance Certificate (CCC) under the Building Act for more than 250 retirement village units the upgrade works associated with improvements to the Hibiscus Coast Highway / East Coast Road intersection required by Rule 1537.4.1 (A4) (c) of the Auckland Unitary Plan – Operative in part shall be constructed as shown on the plans prepared by Aspire Consulting Engineers, labelled Concept Design 1347 – CON, job number 1347, dated June 2020.
64. The Spine Road adjoining the sites' western boundary up to the intersection with Small Road / Painton Road, shall be constructed by the consent holder in conjunction with the adjacent property owner at the time that the full construction of this length of the Spine Road is undertaken.

## Contamination

65. The consent holder shall carry out earthworks and implement control measures in accordance with the Site Management Plan included in the Detailed Site Investigation

of Section 216 Parish of Okura, Silverdale (Geosciences Ltd, 17 June 2020) (DSI); and changes to the plan shall be approved in writing by the Team Leader Compliance Monitoring North-West, Licensing & Regulatory Compliance, Auckland Council;

66. Surplus surficial soil shall be disposed of at a managed fill facility unless further testing demonstrates an alternative disposal site is appropriate. Copies of the disposal dockets for the material removed from the sites shall be retained and included in a Work Completion Report (WCR) required by Condition 71;
67. The consent holder shall not result in any airborne and deposited dust beyond the property boundary of the site that is determined to be noxious, objectionable or offensive. Good practice measures, such as those described the Good Practice Guide for Assessing and Managing Dust, Ministry for the Environment (2016) shall be adopted at all times;
68. If evidence of contamination, which has not been previously identified is discovered during any excavation at the site, the consent holder shall immediately cease the works and notify the Team Leader Compliance Monitoring North-West, Licensing & Regulatory Compliance, Auckland Council and agree on appropriate remediation and validation actions;
69. The consent holder shall ensure that the contamination level of any imported soil complies with the definition of 'Cleanfill material', as per the Auckland Unitary Plan (Operative in Part). Any imported material shall be solid material of an inert nature and must not contain hazardous substances or contaminants above natural background levels of the receiving site. Imported soils shall be tested at a rate of 1 per 500m<sup>3</sup> of material imported to site.
70. All land disturbance works shall be managed to minimise any discharge of debris, soil, silt, sediment or sediment-laden water from beyond the subject site to either land, stormwater drainage systems, watercourses or receiving waters.
71. The consent holder shall, within three months following the completion of the earthworks, provide to the acceptance of the Team Leader Compliance Monitoring North-West, Licensing & Regulatory Compliance, Auckland Council a Work Completion Report (WCR).

The WCR shall include, but not be limited to:

- a. confirmation of the performance of earthworks involving soil contamination being conducted in accordance with approved plan and consent conditions;
- b. details and tabulated results of any testing undertaken, and interpretation of the results against appropriate health and environmental criteria;
- c. any unexpected contamination identified during excavation on the site and response actions
- d. volume of contaminated soil excavated from the site, disposed off-site and landfill receipts

- e. locations of any soil contamination including low levels of contamination remaining on the site, and encapsulation details (if applicable)
- f. any complaints received and response during remediation works

### **Arboricultural**

72. Prior to works commencing, the consent holder shall provide a final arboricultural report (generally in accordance with the report from The Tree Consultancy dated 15/5/2020, Revision 2) from a suitably and experienced professional, for certification of the Team Leader Compliance Monitoring NW1. This must include:
- Detailed plans of the final boardwalk locations,
  - Commentary regarding how the location has been identified, and how more significant areas of vegetation have been avoided,
  - Details of materials and construction methodology, and how these seek to minimise potential ongoing adverse effects on the riparian margin ecology,
  - Works methodologies, to ensure that potential adverse effects on riparian vegetation is minimised,
  - Any staging proposed.

Once certified, the works shall be undertaken in accordance with this plan and under the supervision of the consent holders appointed arborist.

73. Except in relation to riparian works hereby consented, all riparian areas must be fenced with protective fencing prior to works commencing, to the satisfaction of the Team Leader Compliance Monitoring NW1. This shall be sufficiently sturdy to prevent inadvertent access. The fences shall remain in place until works in that stage have been completed.

### **Urban design and landscape conditions**

74. Prior to the lodgement of Building Consent for each stage, a finalised set of architectural detail drawings, materials and colour specifications shall be submitted to Council for written certification by Council's Team Leader Monitoring (Northern). These shall be generally consistent with the plans noted in Condition 1. For Blocks H and I these plans shall confirm the position and levels of these buildings in relation to the Spine Road (these shall be reviewed against the plans noted in condition 1; a variation to conditions under s127 RMA may be required depending on the nature and scale of any changes proposed in final plans).
75. Prior to the lodgement of Building Consent, the consent holder must provide a Lighting Plan and Certification/Specifications that demonstrate compliance with Auckland Unitary Plan lighting standards, to Council's Team Leader Monitoring (Northern) for certification. This shall include lighting of the proposed public pedestrian footpath.
76. a) Either no later than at the time of lodgement of building consent for each stage; or at least 3 months prior to any landscape hardworks (internal roads, paths, retaining walls, drainage) occurring on site the consent holder must provide to the council's Team

Leader – Compliance Monitoring NW1 for certification a finalised set of landscape design drawings and specifications prepared by a landscape architect or suitably qualified professional.

The submitted information shall be consistent with the consented landscape concept (by Shafer design Ltd dated 20/5/2020) and, at a minimum, shall include:

- dimensioned landscape design drawings,
- planting schedule, detailing the specific planting species, the number of plants provided, locations, heights/Pb sizes, including street trees (mature size at least 8m);
- specifications for planting soil medium and bed preparation with annotated sections with key dimensions to illustrate that adequate widths and depths are provided for planter boxes / garden beds;
- Details of fencing (including the use of visually permeable fencing on top of retaining walls);
- retaining walls, detailing materiality, height and colour;
- any proposed irrigation system;
- pavement plan and specifications, detailing materiality and colour throughout the development site including parking areas;
- detail of the location, formation and lighting of the proposed publicly accessible walkway/s;
- planting proposed around walkway areas (including boardwalks through riparian areas);
- It shall take into account the key urban design principles and recommendations in the Urban Design Assessment by Transurban, dated 27/02/2020 and screen / soften all blank walls and integrate car park access;
- annotated sections with key dimensions to illustrate that adequate widths and depths are provided for planter boxes / garden beds;
- a management/maintenance programme, in particular details of maintenance methodology and frequency, allowance for replacement of plants, including specimen trees in case plants are severely damaged / die over the first five years of the planting being established;
- includes a management/maintenance programme for the planting on the Small Road Berm to ensure that the planting is maintained in a tidy condition and that it does not obstruct, damage or otherwise interfere with the operation of Small Road or public infrastructure located in the road; and
- as a precautionary measure: vandalism eradication policies; and

- Planting above and below the proposed retaining walls along the southern and western boundaries is to be installed within the first planting season following the construction of these walls. This planting shall be consistent with the concept provided by Shafer Design listed in Condition 1 unless modified in accordance with the advice note below.

*Advice note: this is required to assist with the visual mitigation of these walls and mitigation of visual effects of the walls from neighbouring properties and for residents within the adjacent buildings; terraced planting may be appropriate in some locations.*

b) Prior to occupation of the relevant development stage, and within the first planting season after the substantial completion of construction of each stage of development, the consent holder shall implement the certified landscape design and thereafter retain and maintain the landscape in perpetuity to the satisfaction of the Council's Team Leader – Compliance Monitoring NW1.

Advice note: The landscape set currently proposes native planting around the periphery of the site and in riparian areas. In order to meet the intent of the precinct, it will be important that native trees be incorporated throughout the site (including tall canopy trees where space allows). Attention also needs to be paid to each stage of development to ensure a suitable vegetated framework and visual amenity values are maintained throughout the site and programme.

77. Prior to the commencement of any work on site the consent holder must provide a Signage Schedule and Specifications for the proposed external signage. This information shall be submitted to the Resource Consent Monitoring Team Leader for certification. The final comprehensive signage package should reflect the concepts presented in the application:

- No film or signage, including opaque film, shall be placed on the windows of retail tenancies that cover more than 25% of the glazed area.

### **Terrestrial ecology conditions**

78. Prior to the commencement of any works on the site, an ecological management plan for the site, from a suitably qualified ecologist, must be submitted to, and certified in writing, by the Councils team Leader Compliance Monitoring NW1 in consultation with the Council Ecologist. The management plan must:

- State the timing for implementation of the program;
- Describe the nature and placement of artificial habitats intended for trapping of fauna; where captured fauna are to be relocated to, including the locality and nature of habitat to be created if applicable, and any follow up monitoring/management as required to ensure success of the translocation; if required, the nature of fauna protective fencing when and where it is to be erected, and what herpetofauna landscaping mitigation is to be undertaken if required;



- State the ecologist/herpetologist, to be approved by Council, and their contact details to manage the implementation of the program.

The requirements of the management plan will subsequently be commenced only in suitable seasonal and climatic conditions, prior to the vegetation clearance being commenced, and carried out in accordance with the approved plan to the satisfaction of Council's Team Leader, Compliance Monitoring NW1.

79. Upon completion of works, all findings resulting from the implementation of the Wildlife Management Plan shall be recorded by a suitably qualified and experienced ecologist/herpetologist in an appropriate format and provided to the Team Leader (North/West) Biodiversity. An Amphibian and Reptile Distribution Scheme (ARDS) Card shall be completed where necessary and sent to relevant authorities.

*Advice Note 1: The Wildlife Act 1953*

*All native lizards are totally protected under the Wildlife Act where it is an offence to disturb or harm or remove them without a permit from the Minister of Conservation.*

*All correspondence relating to lizard management conditions can be emailed to [ecologicaladvice@aucklandcouncil.govt.nz](mailto:ecologicaladvice@aucklandcouncil.govt.nz)*

80. Should vegetation be removed during the native bird breeding season (early September until the end of February), all trees and shrubs other than the blackberry bramble areas shall be inspected immediately prior to felling by an approved and experienced ecologist for native bird nesting activity. Should any nesting be observed, a 10 metre buffer of vegetation shall be required to remain around the nest site until the chicks have hatched and naturally left the natal site.
81. A finalised detailed Riparian Planting/Revegetation and Maintenance Plan from a suitably qualified ecologist, including an implementation and maintenance programme for a minimum of five years, shall be submitted for certification by the Team Leader, Compliance Monitoring NW1 prior to any works commencing on the site. The plan shall be in accordance with Appendix 16 of the Auckland Unitary Plan (Operative in Part).
82. The plan shall include details of all site planting, including species to be planted, size of plants and where they are to be planted within the overall area of planting, density of planting, sourcing of plants and fertilisers. All plants to be eco-sourced from the Rodney ecological district.
- The plan shall provide for planting of the riparian areas of the realigned Channel 4, and additional riparian enhancement to mitigate the proposed riparian vegetation removal.
  - The plan shall include depiction of the location of all planting areas and the area (m<sup>2</sup>/ha) of each planting area.
  - The plan shall include details of the implementation methodology, timing, and duration of different activities (including site preparation, plant releasing, mulching, plant maintenance including weed and pest plant and animal control).

- d) The planting/revegetation plan shall stipulate that any planting must be implemented in full within the next recognised planting season (generally April-September) following completion of bulk earthworks.
- e) A weed and animal pest control plan shall be included; This plan shall specify:
  - i. existing pest species in all riparian areas as listed under the Auckland Regional Pest Management Plan 2019-2029 (RPMP) or subsequent versions, including but not limited to pest plants, possums, rats, mustelids.
  - ii. methodologies of control including why these methodologies are suitable for the purpose and the environment in which they are being used
  - iii. any pathogens (e.g. kauri dieback, myrtle rust) which are present or may establish and proposed methodology for avoidance, containment and/or control as appropriate
  - iv. timeframes for control and eradication
  - v. where pest management will be carried out on the site
  - vi. any chemical control proposed to be used and methodologies associated with this detail of record keeping and monitoring in terms of herbicides and vertebrate toxic agents used or other methods of control (e.g. shooting, trapping).

The consent holder shall implement the planting and weed / pest control in first available planting season following completion of bulk earthworks and can be staged to allow for construction schedules. Weed and pest control shall continue in perpetuity.

## **Ground Dewatering (Take) and Groundwater Diversion conditions- WAT60353539**

- 83. The take (dewatering) and groundwater diversion consent WAT60353539 shall expire on 31 July 2055 unless it has lapsed, been surrendered or been cancelled at an earlier date pursuant to the RMA.
- 84. Under section 128 of the RMA the conditions of this consent WAT60353539 may be reviewed by the Manager Resource Consents at the Consent Holder's cost:
  - At intervals of not less than one year following Commencement of Dewatering to vary the monitoring and reporting requirements, and performance standards, in order to take account of information, including the results of previous monitoring and changed environmental knowledge on:
    - ground conditions
    - aquifer parameters
    - groundwater levels; and

- ground surface movement

85. The Team Leader Compliance Monitoring NW1 shall be advised in writing at least ten (10) working days prior to the date of the Commencement of Dewatering.
86. The design and construction of the retaining walls and basement walls shall be undertaken in accordance with the specifications contained in the reports titled "RE: Proposed Development of Small Road, Silverdale, Preliminary Geotechnical Investigation Report", Ref. 8842, prepared by Engineering Geology Ltd, dated 19 February 2020, and "Engineering Infrastructure Report for Proposed Residential Development at Small Road, Silverdale", Job No. 40192C, Rev A, prepared by MSC Consulting Group Ltd, dated 9 August 2019.
87. The Bulk Excavation shall not extend below the levels shown on the plans titled "Hibiscus Coast Highway Stage 2 Silverdale Civil Drawings", Drawing numbers RC110-112 and RC130-139, Project No. 40192, Rev A, prepared by MSC Consulting Group Ltd, dated 9 August 2019.
88. All excavation, dewatering systems, retaining structures, basements and works associated with the diversion or taking of groundwater, shall be designed, constructed and maintained so as to avoid Damage to buildings, structures and Services on the site or adjacent properties, outside that considered as part of the application process unless otherwise agreed in writing with the asset owner.
89. External visual inspections of the surrounding ground and neighbouring buildings and structures located at 39 Small Road and Lot 2 DP 202121 Small Road, Silverdale shall be undertaken for the purpose of detecting any new external Damage or deterioration of existing external Damage. Inspections are to be carried out weekly from the Commencement to Completion of Dewatering. A photographic record is to be kept, including time and date of each inspection and all observations made during the inspection, and should be of a quality that is fit for purpose. The results of the inspection should be held in a log and made available to Council no later than 48 hours after any request.

The results of the external visual inspections and an assessment of the results are to be reviewed by a SQEP. Should any defects or damage be identified during the inspection, a notification should be provided to the Team Leader Compliance Monitoring within 48 hours of such a defect or damage being identified.

This condition does not apply to any land, building or structure where written evidence is provided to the Team Leader Compliance Monitoring NW1 confirming that the owner of the land, building or structure does not require visual inspections to be carried out.

90. Additional condition surveys of any building, structure, or Service shall be undertaken, if requested by the Team Leader Compliance Monitoring NW1, for the purpose of investigating any Damage potentially caused by ground movement resulting from dewatering or retaining wall deflection. A written report of the results of the survey shall be prepared and/or reviewed by the SQEP responsible for overseeing the monitoring. The report shall be submitted to the Team Leader Compliance Monitoring NW1.

The requirement for any such additional condition survey will cease six (6) months after the Completion of Dewatering unless ground settlement or building deformation monitoring indicates movement is still occurring at a level that may result in Damage to buildings, structures, or Services. In such circumstances the period where additional condition surveys may be required will be extended until monitoring shows that movement has stabilised and the risk of Damage to buildings, structures and Services as a result of the dewatering is no longer present.

91. Where any monitoring, inspection or condition survey in this consent requires access to property/ies owned by a third party, and access is declined or subject to what the consent holder considers to be unreasonable terms, the Consent Holder shall provide a report to the Team Leader Compliance Monitoring NW1 prepared by a SQEP identifying an alternative monitoring programme. The report shall describe how the monitoring will provide sufficient early detection of deformation to enable measures to be implemented to prevent Damage to buildings, structures or Services. Written approval from the Team Leader Compliance Monitoring NW1 shall be obtained before an alternative monitoring option is implemented.
92. If the consent holder becomes aware of any damage to buildings, structures or Services potentially caused wholly, or in part, by the exercise of this consent, the Consent Holder shall:
  - a) Notify the Team Leader Compliance Monitoring NW1 and the asset owner within two (2) working days of the consent holder becoming aware of the Damage.
  - b) Provide a report prepared by a SQEP (engaged by the Consent Holder at their cost) that describes the Damage; identifies the cause of the Damage; identifies methods to remedy and/or mitigate the Damage that has been caused; identifies the potential for further Damage to occur, and describes actions that will be taken to avoid further Damage.
  - c) Provide a copy of the report prepared under (b) above, to the Team Leader Compliance Monitoring NW1 and the asset owner within ten (10) working days of notification under (a) above.

*Advice Note: It is anticipated the Consent Holder will seek the permission of the damaged asset to access the property and asset to enable the inspection/investigation. It is understood that if access is denied the report will be of limited extent.*

93. The Team Leader Compliance Monitoring NW1 shall be advised in writing within ten (10) working days of when excavation and dewatering has been completed.
94. At the Completion of Dewatering, the Team Leader Compliance Monitoring NW1 shall be provided with a maintenance programme for any permanent groundwater drainage system used to manage groundwater levels.

*Advice Note: The Consent Holder is advised that the discharge of pumped groundwater to a stormwater system or waterbody will need to comply with any other regulations, bylaws or discharge rules that may apply.*

## **Subdivision conditions**

95. Under section 125 of the RMA, this consent lapses five years after the date it is granted unless:
- i. A survey plan is submitted to council for approval under section 223 of the RMA before the consent lapses, and that plan is deposited within three years of the approval date in accordance with section 224 of the RMA; or
  - ii. An application under section 125 of the RMA is made to the council before the consent lapses (five years) to extend the period after which the consent lapses and the council grants an extension.

### **Survey plan approval (s223) conditions**

96. Before council will approve the survey title plan pursuant to s.223 of the Act, the following requirements are to have been satisfied at the consent holders' cost. The consent holder shall submit a survey plan in accordance with the approved resource consent subdivision plan.
- a) The rights-of-way and any services easements over parts of Lot 1 shall be included in a memorandum of easements endorsed on the survey plan and shall be duly granted or reserved. The consent holder shall meet the costs for the preparation, review and registration of the easement instruments on the relevant computer registers (certificates of title).
  - b) Easements in gross in favour of the Auckland Council for the purpose of providing public pedestrian access shall be created over parts of Lot 2 and shall be included in a memorandum of easements endorsed on the survey plan and be granted or reserved. The consent holder shall meet the costs for the preparation, review and registration of the easement instruments on the relevant computer registers (certificates of title).
  - c) The survey plan shall show the Spine Road as "Land to vest in Auckland Council as Road". The area to be vested shall reflect approved engineering design plans for the Spine Road and the intersection with Painton Road. As a minimum the land to vest shall be a minimum of 5.5 metres from the property boundary unless an approved engineering design requires a lesser distance.
  - d) The scheme plan shall show the 212m<sup>2</sup> area on the northern boundary of the site (see Sheet A201, Rev B by Pacific Environments Ltd) as a Lot and as "Land to vest in Auckland Council as Road". The consent holder shall meet all costs associated with the vesting.
  - e) The scheme plan shall show the area in the south- western corner of the site (Watercare Services pump site) as a Lot and as "Land to vest in Auckland Council as Utility Reserve". The consent holder shall meet all costs associated with the vesting.
  - f) Pursuant to section 220(1)(b)(ii), show the following condition on the scheme plan:
    - i. Lot 1 and Lot 3 shall be held in the same computer freehold register.

## **Section 224(c) compliance conditions**

97. The application for a certificate under section 224(c) of the RMA shall be accompanied by certification from a professionally qualified surveyor or engineer that all the conditions of subdivision consent have been complied with, and that in respect of those conditions that have not been complied with:
- i. The consent holder shall demonstrate that Lots 1 and 2 have access to suitable services, in accordance with Auckland Councils Code of Practise.

## **Section 221 consent notice conditions**

98. The consent holder shall register with the Registrar-General of Land a consent notice, under section 221 of the RMA, against the computer registers (certificates of title) for Lots 1 and 2. The consent notice/s shall record that the following conditions are to be complied with on a continuing basis.
- a) The Spine Road adjacent to Lot 1 and Lot 2 shall be constructed by the owners of Lots 1 and 2 at the same time that construction of the section of the Spine Road between Lots 1 and 2 and Painton Road / Small Road is undertaken.  
  
Note: This consent notice will lapse following construction of the Spine Road.
  - b) The owner of Lot 2 shall be responsible at all times for the maintenance and upkeep of the public pedestrian areas on Lot 2, to the standards set out in Auckland Transports Code of Practise (including lighting).

## **Streamworks Consent- LUS60353537**

99. Prior to upstream flows being dammed, diverted or stream works commencing, baseline monitoring of the Mainstem shall be completed in accordance with the Stream Hydrology Monitoring Plan required by condition 100.
100. Prior to upstream flows being dammed, diverted or stream works commencing a finalised Native Fish Rescue and Relocation Plan and Stream Monitoring Plan shall be prepared and submitted to the Team Leader, Compliance Monitoring NW1 for certification. No flow diversion or stream works activity on the subject site shall commence until confirmation from the Team Leader Compliance Monitoring NW1 is provided that the above plans are satisfactory.

### **Seasonal Restrictions**

101. Stream works shall only be carried out during periods when all flows, normal for the time of year the works are undertaken can be diverted around the area of works and a two day weather forecast predicts no rainfall for the site location.
102. Notwithstanding condition 101 no stream works on the site shall be undertaken between 1 May and 30 September in any year, without the prior written approval of the Team Leader, Compliance Monitoring NW1 at least two weeks prior to 30 April of any year. Revegetation/stabilisation of the works site is to be completed by 30 April in accordance with measures detailed in GD05 and any amendments to this document.



### **Pre-commencement**

103. Prior to the commencement of the stream works activity, the consent holder shall hold a pre-start meeting that:

- is located on the subject site.
- is scheduled **not less than five days** before the anticipated commencement of earthworks and/or stream and/or wetland works.
- includes an Auckland Council Monitoring officer.
- includes representation from the contractors who will undertake the works.

The meeting shall discuss the stream works (earthworks) methodology and shall ensure all relevant parties are aware of and familiar with the necessary conditions of this consent.

The following information shall be made available at the pre-start meeting:

- Timeframes for key stages of the works authorised under this consent.
- Stream works methodology.
- Fish Relocation Plan
- Stream diversion design
- Stream Monitoring Plan.
- Resource consent conditions.

A pre-start meeting shall be held prior to the commencement of the streamworks activity in each period between October 1 and April 30 that this consent is exercised.

#### *Advice Note:*

*To arrange the pre-start meeting) please contact the Team Leader, Compliance Monitoring NW1 on [monitoring@aucklandcouncil.govt.nz](mailto:monitoring@aucklandcouncil.govt.nz) or 09 301 0101. The conditions of consent should be discussed at this meeting. All additional information required by the Council should be provided 2 days prior to the meeting.*

104. Prior to the commencement of any stream or wetland works authorised by the granting of consent, the consent holder shall provide to the Team Leader, Compliance Monitoring NW1, details regarding how the constructed Channel 4 shall be legally and physically protected, in perpetuity, by land covenant or consent notice(s) or similar, placed on the subject area of the land's title. No stream works shall commence at the site until confirmation by the Team Leader Compliance Monitoring NW1 has been provided which indicates that the protection of the mitigation site in perpetuity has been confirmed as appropriate.

## **Duration**

105. Pursuant to section 125 of the RMA, permit LUS60353537 shall lapse ten years after the date it is granted unless:
- a. The consent is given effect to: or
  - b. The Council extends the period after which the consent lapses

## **Specific Conditions**

106. The Native Fish Rescue and Relocation Plan required by the condition above shall detail how native fish will be salvaged from streams and pond prior to works commencing and shall include but not be limited to:
- a. Methodologies to capture fish within the stream and pond habitats;
  - b. Fishing effort;
  - c. Details of the relocation site;
  - d. Storage and transport measures including prevention of predation and death during capture; and
  - e. Euthanasia methods for diseased or pest species.
107. A suitably qualified and experienced freshwater ecologist shall carry out all native fish relocation and capture as per the approved Native Fish Rescue and Relocation Plan and shall be on site during stream works and pond dewatering in order to relocate any native fish to a suitable and healthy stream habitat should they be found on site.

*Advice note: Permits may be required by the Ministry of Primary Industries or Department of Conservation to undertake the fish salvage and relocation proposed. Any salvage activities should be undertaken in accordance with the conditions of those permits, where*

108. Stream and pond dewatering shall only be carried out after native fish capture and relocation has been undertaken in accordance with the approved Native Fish Rescue and Relocation Plan (condition 100).
109. Any pumps used for dewatering of watercourses shall contain a screen to prevent fish from entering the pump.
110. Perched culverts within the Mainstem shall be removed.
111. If fish salvage is carried out, the Team Leader, Compliance Monitoring NW1 shall be provided information regarding the relocation site, the species and number of fish relocated prior to and during dewatering within 5 days of completion of salvage.

112. Prior to construction commencing, final stream bed and bank design details including in-stream and riparian features for the diverted Channel 4 shall be provided to Team Leader, Compliance Monitoring NW1 for certification.
113. The diversion Channel 4 must be designed and in accordance with the NIWA, April 2018, New Zealand fish passage guidelines for structures up to 4 metres. NIWA client report No: 2018019HN.
114. The construction of diversion Channel 4 shall be in accordance with the certified plan and under the supervision of a suitably qualified and experienced freshwater ecologist to ensure the design is implemented to provide ecological function as per the approved plans.
115. The construction of diversion Channel 4 and all associated in-stream habitat and riparian planting shall be implemented within 12 months following commencement of the streamworks authorised under this consent and maintained thereafter, in accordance with that plan.
116. Before any stream flows are re-diverted into the stream channels, the constructed Channel 4 bed and banks shall be stabilised against erosion to the satisfaction of the Auckland Council Team Leader - Compliance Monitoring NW1.
117. Prior to diverting flow into the new Channel 4, written confirmation from a suitably qualified and experienced freshwater ecologist shall be supplied to Auckland Council Team Leader - Compliance Monitoring NW1, to confirm that the new channel has been constructed in accordance with the plans approved under condition 112 No flow shall be diverted into the new stream channels until written confirmation has been provided by the Team Leader - Compliance Monitoring NW1.
118. Written confirmation shall be provided to the Auckland Council Team Leader - Compliance Monitoring NW1, within 30 days of flows being diverted to the Channel 4.
119. Prior to stream works commencing monitoring of Mainstem shall be undertaken by a suitably qualified/experienced freshwater ecologist. The monitoring shall:
  - (a) Measure native fish diversity and the Macroinvertebrate Community Index score of Mainstem;
  - (b) Baseline monitoring shall be undertaken in October 2020 and thereafter annually following the commencement of stream works for a period of not less than 5 years.
  - (c) Consist of two separate monitoring sites, upstream and downstream of the proposed works.
  - (d) Be reported to the Team Leader Compliance Monitoring NW1 no later than 6 weeks following completion of the initial and each subsequent monitoring.
120. The conditions of this consent may be reviewed by Council's Team Leader Compliance Monitoring South pursuant to section 128 of the Resource Management Act 1991

(RMA), by the giving of notice pursuant to section 129 of the Act, in September every year and thereafter. The purpose of the review shall be:

- a) To deal with any adverse effects on the environment which may arise from the exercise of the consent and which it is appropriate to deal with at a later stage;
  - b) To require the consent holder to adopt the best practicable option to avoid or mitigate any adverse effects on the environment;
  - c) To deal with any other adverse effects on the environment which the exercise of the consent may have an influence on;
  - d) To deal with any adverse environmental effect arising from the exercise of the consent identified as a result of the Stream Monitoring Plan.
121. No machinery shall enter the wetted cross section of the bed of any stream. All machinery shall be operated (including maintenance, lubrication and refuelling) in a way, which ensures no hazardous substances such as fuel, oil or similar contaminants are discharged. In the event that any discharge occurs, works shall cease immediately, and the discharge shall be mitigated and/or rectified to the satisfaction of the Auckland Council - Team Leader Compliance Monitoring NW1.

*Advice note: Refuelling, lubrication and maintenance activities associated with any machinery should be carried out away from any water body with appropriate methods in place so if any spillage does occur that it will be contained and does not enter the water body. If a construction management plan is required under any land use consent, you are advised to include any maintenance / servicing areas as part of that construction management plan.*

## **Advice notes**

1. *Any reference to number of days within this decision refers to working days as defined in s2 of the RMA.*
2. *For the purpose of compliance with the conditions of consent, “the council” refers to the council’s monitoring inspector unless otherwise specified. Please email [monitoring@aucklandcouncil.govt.nz](mailto:monitoring@aucklandcouncil.govt.nz) to identify your allocated officer.*
3. *For more information on the resource consent process with Auckland Council see the council’s website: [www.aucklandcouncil.govt.nz](http://www.aucklandcouncil.govt.nz). General information on resource consents, including making an application to vary or cancel consent conditions can be found on the Ministry for the Environment’s website: [www.mfe.govt.nz](http://www.mfe.govt.nz).*
4. *If you disagree with any of the above conditions, and/or disagree with the additional charges relating to the processing of the application(s), you have a right of objection pursuant to sections 357A and/or 357B of the Resource Management Act 1991. Any objection must be made in writing to the council within 15 working*

*days of your receipt of this decision (for s357A) or receipt of the council invoice (for s357B).*

5. *The consent holder is responsible for obtaining all other necessary consents, permits, and licences, including those under the Building Act 2004, and the Heritage New Zealand Pouhere Taonga Act 2014. This consent does not remove the need to comply with all other applicable Acts (including the Property Law Act 2007 and the Health and Safety at Work Act 2015), regulations, relevant Bylaws, and rules of law. This consent does not constitute building consent approval. Please check whether a building consent is required under the Building Act 2004.*



Les Simmons

Chairperson

22 September 2020