

# Decision on application(s) for resource consent under the Resource Management Act 1991



## Discretionary activity

<b>Application number(s):</b>	LAN-66590
<b>Applicant:</b>	WFH Properties Ltd
<b>Site address:</b>	Millwater Precinct 2 Stage 1B, Silverdale North
<b>Legal description:</b>	Lots 87-98, 122-131 and 133-137 DP 493136
<b>Proposal:</b>	

Blanket dispensation to allow the erection of a single household unit that complies with rule 12.8.19.11 including 12.8.19.11.8 on identified lots less than 450m<sup>2</sup>; to allow building elements to encroach into all yards (excluding the 1m side yard) by up to 600mm on all identified lots sized between 400-649.9m<sup>2</sup>; and to reduce the rear yard to 6m on all identified front lots sized between 400-649.9m<sup>2</sup>.

The resource consents required are:

## Land use consents (s9) – LAN-66590

### Auckland Council District Plan (Rodney section)

- Rule 12.8.19.10.2 – to enable the erection, addition to or external alteration to and/or relocation of buildings associated within a single household unit per site not exceeding 1 unit per site that complies with rule 12.8.19.11 including 12.8.19.11.8 on identified lots sized less than 450m<sup>2</sup>. The Activity Table outlines that the erection, addition to or external alteration to and/or relocation of buildings not otherwise listed is a discretionary activity and must demonstrate compliance with an approved Development Concept Plan (DCP). A DCP was approved under SLC-62477 and the subject lots less than 450m<sup>2</sup> have been created in accordance with this DCP.
- Rule 12.8.19.11.8.3 (a) and (c) – to reduce the depth of the rear yard to 6m on all identified front lots sized between 400-649.9m<sup>2</sup>, where the plan requires a minimum rear yard of 10m for lots orientated between NW (315°) and NE (45°) and a minimum rear yard of 8m on lots orientated between NE (45°) and SE (135°) and between NW (315°) and SW (225°). This is considered a restricted discretionary activity.
- Rule 12.8.19.11.8.5(b) – to enable the encroachment of building elements into all yards (excluding the 1m side yard) of up to 600mm for all identified lots between 400-649.9m<sup>2</sup>, where the plan allows encroachment of up to 300mm. This is considered a restricted discretionary activity.

## Decision

I have read the application, supporting documents, and the report and recommendations on the consent application. I am satisfied that I have sufficient information to consider the matters required by the Resource Management Act 1991 (RMA) and make a decision under delegated authority on the application.

Acting under delegated authority, under sections 104, 104B & 108 the application is **GRANTED**.

## 1. Reasons

The reasons for this decision are:

1. In accordance with an assessment under s104(1)(a) of the RMA the actual and potential effects from the proposal will be acceptable as:
  - Those sites less than 450m<sup>2</sup> have been considered and approved under a DCP. Allowing the same development rights as sites sized 450m<sup>2</sup> – 649.9m<sup>2</sup> will ensure consistency in the scale, shape and form of development throughout the area.
  - The proposed yard reductions will allow for development of a shape and form consistent with existing development in the area.
  - The proposed yard reductions are not anticipated to result in development which will adversely affect sunlight access, shading, visual and/or aural privacy for surrounding properties.
2. In terms of positive effects:
  - The proposal will allow for the efficient use of a land resource and will ensure consistency in development throughout the area.
  - The blanket dispensation will ensure development is not unnecessarily restricted and will still give effect to the provisions of the Garden Residential Policy area.
3. In accordance with an assessment under s104(1)(b) of the RMA the proposal is consistent with the relevant statutory documents. In particular:

*Chapter 19 Silverdale North zone*

Objectives: 12.8.19.4.24, 12.8.19.4.25, 12.8.19.4.26, 12.8.19.4.29

Policies: 12.8.19.5.5, 12.8.19.5.20

These objectives and policies seek to ensure that residential development creates good urban design outcomes, provides for a high level of on-site amenity, creates spacious environs and provides for natural surveillance of the street. Although no buildings are being proposed at this time, the blanket dispensation proposed will allow for development consistent with the objectives and policies of the Special 19 zone.
4. In accordance with an assessment under s104(1)(c) of the RMA no other matters are considered relevant.
5. Under the Proposed Auckland Unitary Plan (PAUP) the sites are zoned Single House. This zone provides for low density suburban housing, generally characterised by one building

per site of one or two storeys surrounded by areas of private open space. No buildings are proposed at this time however the blanket dispensation will allow dwellings to be erected with high on-site amenity with provision made for areas of private open space. The proposal is not considered to be contrary to the provisions of the Single House zone, however it is noted that the PAUP provisions are subject to change pending the outcome of the hearings process.

6. This proposal achieves the sustainable management purpose of the RMA under Part 2 as the adverse effects are considered to be less than minor and the proposal will allow for the efficient use of a land resource.

## 2. Conditions

Under section 108 of the RMA, this consent is subject to the following conditions:

1. The activity shall be carried out in accordance with the plans and all information submitted with the application, detailed below, and all referenced by the council as consent number LAN-66590.
  - Application Form, and Assessment of Environmental Effects prepared by Woods, dated 12 January 2016.

Plan title and reference	Author	Rev	Dated
Millwater – Precinct 2 – Stage 1B Building Dispensation Plan – Drawing No. 33405-P2-S1B-BDP	Woods	1	January 2016
Proposed Changes to Rules 12.8.19.11.7.2(b) And 12.8.19.11.8.5(b) Yards to Remain Unobstructed By Buildings – Drawing No. 01	Woods		July 2009
Rule 12.8.19.11.8.3 (A) and (C) 6m Rear Yard for Lots 450m <sup>2</sup> – 649.9m <sup>2</sup> – Drawing No. 02	Woods		July 2009

2. This consent (or any part thereof) shall not commence until such time as the following charges, which are owing at the time the council's decision is notified, have been paid in full:
  - a. All fixed charges relating to the receiving, processing and granting of this resource consent under section 36(1) of the RMA; and
  - b. All additional charges imposed under section 36(3) of the RMA to enable the council to recover its actual and reasonable costs in respect of this application, which are beyond challenge.
3. The consent holder shall pay any subsequent further charges imposed under section 36 of the RMA relating to the receiving, processing and granting of this resource consent within 20 days of receipt of notification of a requirement to pay the same, provided that, in the case of any additional charges under section 36(3) of the RMA that are subject to challenge, the consent holder shall pay such amount as is determined by that process to be due and owing, within 20 days of receipt of the relevant decision.
4. Under section 125 of the RMA, this consent lapses five 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.
5. For the avoidance of doubt, the erection, addition to or external alteration to and/or relocation of buildings associated within a single household unit per site not exceeding 1 unit per site that complies with rule 12.8.19.11 including 12.8.19.11.8 is authorised on Lots 91, 92, 95, 96, 125, 126, 129, 130, 135 and 136 (Precinct 2 Stage 1B).
  6. For the avoidance of doubt, the application of rear yards on approved Lots 87-98 (inclusive), 122-130 (inclusive) and 133-137 (inclusive) (Precinct 2 Stage 1B) shall consist of a 6m minimum rear yard.
  7. For the avoidance of doubt, the ancillary building elements authorised to encroach 600mm into all yards (with the exception of the 1m side yard) of approved Lots 87-98 (inclusive), 122-131 (inclusive) and 133-137 (inclusive) (Precinct 2 Stage 1B) shall consist of the following: fascia, gutters, downpipes and eaves, masonry chimney backs, flues, pipes, domestic fuel tanks, cooling and heating appliances or other services, light fittings, electricity or gas meters, aerials or antennae, pergolas or sun blinds.

### **3. Advice notes**

1. *Please read the conditions of this resource consent carefully and make sure that you understand all the conditions that have been imposed before commencing the development.*
2. *The consent holder shall obtain all other necessary consents and permits, including those under the Building Act 2004, and the Heritage New Zealand Pouhere Taonga Act 2014 (HNZPTA). This consent does not remove the need to comply with all other applicable Acts (including the Property Law Act 2007), 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. Please note that the approval of this resource consent, including consent conditions specified above, may affect a previously issued building consent for the same project, in which case a new building consent may be required.*
3. *A copy of this consent should be held on site at all times during the establishment and construction phase of the activity.*
4. *If you disagree with any of the above conditions, or disagree with the additional charges relating to the processing of the application you have a right of objection pursuant to sections 357A or 357B of the RMA. Any objection must be made in writing to Council within 15 working days of notification of the decision.*
5. *The granting of this resource consent does not in any way allow the applicant to enter and construct drainage within neighbouring property, without first obtaining the agreement of all owners and occupiers of said land to undertake the proposed works. Any negotiation or agreement is the full responsibility of the applicant, and is a private agreement that does not involve Council. Should any disputes arise between the private parties, these are civil matters which can be taken to independent mediation or disputes tribunal for resolution. It is recommended that the private agreement be legally documented to avoid disputes*

arising. To obtain sign-off for the resource consent, the services described by the conditions above are required to be in place to the satisfaction of Council.

6. The consent holder shall place a covenant on any certificate of title issued for approved Lots 91, 92, 95, 96, 125, 126, 129, 130, 135 and 136 (Precinct 2 Stage 1B) to inform prospective owners of the erection, addition to or external alteration to and/or relocation of buildings associated with a single household unit per site not exceeding 1 unit per site that complies with rule 12.8.19.11 including 12.8.19.11.8 authorised by Land Use Consent LAN-66590.
7. The consent holder shall place a covenant on any certificate of title issued for approved Lots 87-98 (inclusive), 122-130 (inclusive) and 133-137 (inclusive) (Precinct 2 Stage 1B) to inform prospective owners of the encroachment of buildings into the rear yard to allow for a 6m minimum rear yard as authorised by Land Use Consent LAN-66590.
8. The consent holder shall place a covenant on any certificate of title issued for approved Lots 87-98 (inclusive), 122-131 (inclusive) and 133-137 (inclusive) (Precinct 2 Stage 1B) to inform prospective owners of the encroachment of ancillary building elements into all yards excluding the 1m side yard, by up to 600mm as authorised by Land Use Consent LAN-66590.

**Delegated decision maker:**

Name: Steve Seager  
Title: Team Leader, Resource Consents  
Signed:

Date:

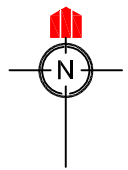
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**LAN 66590**

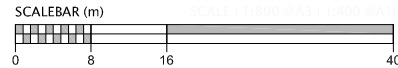
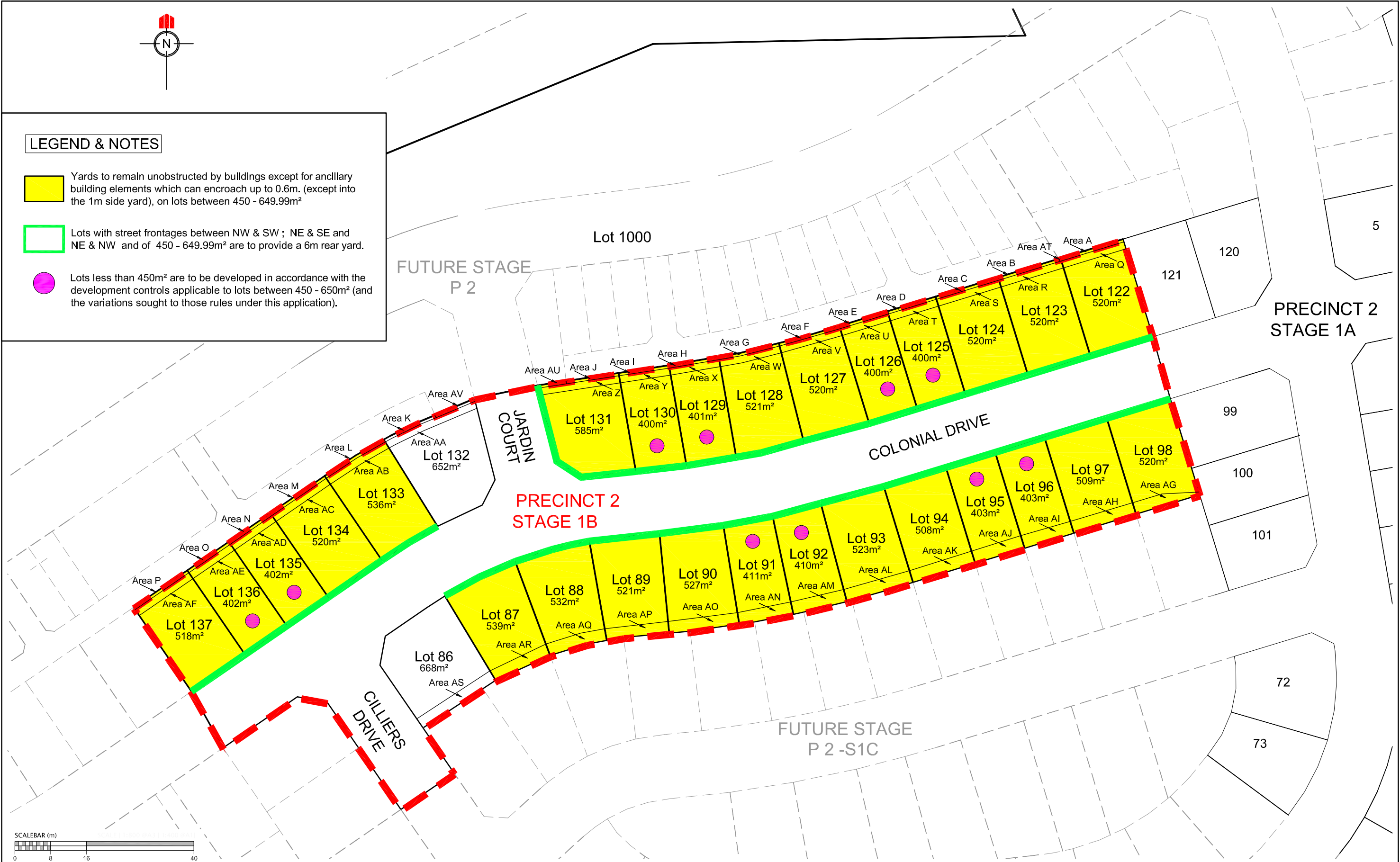
Approved by Delegated Officer

11/02/2016



**LEGEND & NOTES**

- Yards to remain unobstructed by buildings except for ancillary building elements which can encroach up to 0.6m. (except into the 1m side yard), on lots between 450 - 649.99m<sup>2</sup>
- Lots with street frontages between NW & SW ; NE & SE and NE & NW and of 450 - 649.99m<sup>2</sup> are to provide a 6m rear yard.
- Lots less than 450m<sup>2</sup> are to be developed in accordance with the development controls applicable to lots between 450 - 650m<sup>2</sup> (and the variations sought to those rules under this application).



REVISION DETAILS	NAME	DATE	CLIENT:
1. ISSUED FOR RESOURCE CONSENT	CW	14-01-2016	



**MILLWATER - PRECINCT 2 - STAGE 1B**

BUILDING DISPENSATION PLAN

AUCKLAND COUNCIL



DESIGNED:	ISSUED FOR INFORMATION
TJ	
CHECKED: <i>[Signature]</i>	DRAWN: TUI
APPROVED:	SURVEYED: AC
JOB NUMBER: 33405	SCALE: 1:1000 @ A3
ISSUED: JANUARY 2016	
DWG. NO. 33405-P2-S1B-BDP	REV. 1