

Decision on an Application for a Resource Consent under the Resource Management Act 1991



Application Number(s): L62297

Applicant's Name: WFH Properties Limited

Site Address: Millwater Precinct 3 Stage 1

Legal Description: Lots 53, 54, 62-98 and 104-112 DP 472234

Consent for blanket infringements including the following:

Building elements protruding in all yards (other than 1m side yard) by 0.6m rather than the permitted 0.3m

Proposal: Rear yards for lots orientated between NW & SW; NE & SE and NE & NW, being reduced from 10m/8m to 6m

Impervious surface coverage greater than 25m² per site as required by Rule H.4.14.2.1.

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 this application.

This requires resource consent for the following reasons:

Operative Plan

- Rule 12.8.19.11.7.2 – yards to remain unobstructed by buildings except for certain building elements which may project into the yards by a maximum of 300mm, considered a restricted discretionary activity.
- Rule 12.8.19.11.8.3 – lots orientated between NW (315°) and NE(45°) require a minimum rear yard of 10m and lots orientated between NE (45°) and SE (135°) and between NW (315°) and SW (225°) require a minimum rear yard of 8m, considered a restricted discretionary activity.

Proposed Auckland Unitary Plan

- Rule H.4.14.2.1 – impervious surface coverage greater than 25m² which meets hydrology mitigation requirements, considered a controlled activity.

Acting under delegated authority, under sections 104 and 104C, this application is **GRANTED** consent.

Reasons

Under section 113 of the RMA the reasons for this restricted discretionary activity consent decision are:

- In terms of section 104(1)(a) of the RMA , the actual and potential effects will be no more than minor for the following reasons:
 - The yard infringements will not adversely affect the safety and efficiency of the adjoining roads.
 - Ongoing maintenance to public utilities will not be restricted.
 - The residential development that may occur will be consistent with the scale of development that has occurred within the immediately surrounding area and the residential character of the area will not be adversely affected.
 - The proposed yard setbacks are sufficient to ensure no loss of light, overlooking or issues of overbearance will arise.
- In terms of section 104(1)(b) of the RMA, the proposal is not contrary to the relevant objectives and policies of the Auckland Council District Plan (Rodney Section) and the Proposed Auckland Unitary Plan.

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-62297.
 - Application Form, and Assessment of Environmental Effects prepared by Woods, dated 12 May 2014.

Reference number	Rev	Title	Architect/Author	Dated
Drawing 33405-P3-S1-BDP	No. 1	Precinct 3 – Stage 1 Building Dispensation Plan	Woods	May 2014
Drawing No. 1		<i>Millwater – Proposed Change to Rules 12.8.19.11.7.2(b) and 12.8.19.11.8.5(b) – Yards to remain unobstructed by buildings</i>	Woods	July 09
Drawing No. 2		<i>Millwater – Rule 12.8.19.11.8.3(a) and (c) – 6m rear yard for lots 450m2</i>		July 09

- 649.9m2

Drawing No. 3

Millwater -
Proposed Change
to Rule
12.8.19.11.7.1 -
Side and Rear
Yards RE: Rear
lots with precincts
4, 5 and 6

July 09

Other Additional Information

Dated

Email from Chris Walsh

23/05/2014
1:07pm

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 Resource Management Act 1991 (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.

Advice Note:

Development contributions levied under the Local Government Act 2002 are payable in relation to this application. The consent holder will be advised of the development contributions payable separately from this resource consent decision. Further information about development contributions may be found on the Auckland Council website at www.aucklandcouncil.govt.nz.

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. The consent holder shall pay the Council an initial consent compliance monitoring charge of \$260 (inclusive of GST), plus any further monitoring charge or charges to recover the actual and reasonable costs that have been incurred to ensure compliance with the conditions attached to this consent.

Advice Note:

The initial monitoring charge 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, inspections, in excess of those covered by the base fee paid, shall be charged at the relevant hourly rate applicable at the time. The consent holder will be advised of the further monitoring charge or charges as they fall due. Such further charges are to be paid within one month of the date of invoice. Only after all conditions of the resource consent have been met, will Council issue a letter confirming compliance on request of the consent holder.

6. For the avoidance of doubt, the application of rear yards on approved lots 65-70(inclusive), 85-87 (inclusive), 82, 83, 91, 97 and 98 (Precinct 3 Stage 1) shall consist of a 6m minimum rear yard.
7. For the avoidance of doubt, the ancillary building elements authorised to encroach all yards (with the exception of the 1m side yard) of approved Lots 53, 54, 62-98 (inclusive), 104-112(inclusive) (Precinct 3 Stage 1) 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.
8. For the avoidance of doubt, all sites within Precinct 3 Stage 1, can exceed the 25m² impervious surface coverage within Rule H.4.14.2.1 of the Proposed Auckland Unitary Plan but must still comply with the maximum 50% impervious surface coverage within Rule 12.8.19.11.5.1 of the Auckland Council District Plan (Rodney Section).

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 Historic Places Trust Act 1993. 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. *Compliance with the consent conditions will be monitored by Council in accordance with section 35(d) of the Resource Management Act. This will typically include site visits to verify compliance (or non compliance) and documentation (site notes and photographs) of the activity established under the Resource Consent. In order to recover actual and reasonable costs, inspections, in excess of those covered by the base fee paid, shall be charged at the relevant hourly rate applicable at the time. Only after all conditions of the Resource Consent have been met, will Council issue a letter on request of the consent holder.*
7. *The consent holder shall place a covenant on any certificate of titles issued for approved Lots 53, 54, 62-98 (inclusive), 104-112(inclusive) (Precinct 3 Stage 1) 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 L62297.*
8. *The consent holder shall place a covenant on any certificates of titles issued for approved Lots 65-70(inclusive), 85-87 (inclusive), 82, 83, 91, 97 and 98 (Precinct 3 Stage 1) to inform prospective owners of the encroachment of buildings into the rear yards to allow for a 6m minimum rear yard as authorised by Land Use Consent L62297.*
9. *The consent holder shall place a covenant on any certificate of titles issued for approved lots in Millwater Precinct 3 Stage 1 to inform prospective owners of the infringement of Rule H.4.14.2.1 of the Proposed Auckland Unitary Plan to allow for impervious coverage greater than 25m² but the need to still comply with the maximum 50% impervious surface coverage within Rule 12.8.19.11.5.1 of the Auckland Council District Plan (Rodney Section).*

Delegated decision maker:

Name: Steve Seager

Title: Team Leader, Resource Consents

Signed:



Date:

12/16/14