

Decision on Application(s) for Resource Consent under the Resource Management Act 1991



Application number(s): LAN-64768
Applicant's name: WFH Properties Limited
Site address: Precinct 7 Stage 4A2
Legal description: Lots 477-479, 491-498, 526-538, 644, 645 and 1006 DP 484072

Proposal: Consent for blanket infringements including the following:

- Rule 12.8.19.11.7.2(b) and 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 lots sized between 450-649.99m².
- Rule 12.8.19.11.8.3 (a) and (c) to reduce the depth of the rear yard/open space to 6m on lots sized between 450-649.9m².
- Rule 12.8.19.11.7.1 to re-define the yard setbacks on 'rear' sites so these sites benefit from one side yard of 1m, a rear yard of 6m and two side yards of 3m. The rear yard shall be that which is located opposite the lot access.
- Rule H.4.14.2.1 to enable impervious surface on each site greater than 25m², up to the permitted threshold of 50% as noted in the Operative District Plan.

The resource consents required are:

Land use consents (s9)

Auckland Council District Plan (Rodney section)

- Rule 12.8.19.11.7.2(b) and 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 lots sized between 450-649.99m², as a restricted discretionary activity.
- Rule 12.8.19.11.8.3 (a) and (c) to reduce the depth of the rear yard/open space to 6m on lots sized between 450-649.9m², as a restricted discretionary activity.
- Rule 12.8.19.11.7.1 to re-define the yard setbacks on 'rear' sites so these sites benefit from one side yard of 1m, a rear yard of 6m and two side yards of 3m, as a restricted discretionary activity.

Proposed Auckland Unitary Plan

- Rule H.4.14.2.1 to enable impervious surface on each site greater than 25m², as a controlled activity.

I have read the application(s), supporting documents, and the report and recommendations on the consent application(s). 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(s).

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

1. **Reasons**

Under section 113 of the RMA the reasons for this decision are:

- The application/s are for controlled / restricted discretionary activity resource consents, as such under s104A/s104C only those matters over which council has reserved its control and restricted its discretion have been considered. Those matters are related to stormwater hydrology, and the scale siting and design of buildings and structures.
- In accordance with an assessment under s104(1)(a) of the Resource Management Act the actual and potential effects from the proposal will be less than minor. The adverse effects will be less than minor as the residential development that may occur will be consistent with that which has occurred in the surrounding area and the residential character of the area will not be adversely affected. The proposed yard setbacks will be sufficient to ensure no loss of light, overlooking or issues of overbearance will arise.
- In accordance with an assessment under s104(1)(b) of the Resource Management Act the proposal will be consistent with the relevant statutory documents. In particular, the following objectives and policies in Chapter 12 'Special 19' – 12.8.19.4.24, 12.8.19.4.24, 12.8.19.4.29, 12.8.19.5.3, 12.8.19.5.5 and 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, create spacious environs and provides for natural surveillance of the street. Although no buildings are being proposed at this time, future development of the site will still be able to provide adequate space for on-site amenity, a sense of openness and spaciousness and natural surveillance of the street and will be consistent with the objectives and policies for the Special 19 zone.
- Under the Proposed Auckland Unitary Plan (PAUP) the site is situated in the Silverdale North sub-precinct B zone which seeks to ensure that residential development is undertaken in a comprehensive manner, with good connectivity and high standards of urban design. The proposed infringements relate to sites that are part of a comprehensive development and are not of a nature that will prevent the sites from being developed in a residential manner with good on-site amenity and levels of openness and spaciousness.

2. Conditions

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

General Conditions

1. The restricted discretionary 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(s) LAN-64768.
 - Application Form, and Assessment of Environmental Effects prepared by Woods, dated 18th May 2015.

Plan title and reference	Author	Rev	Dated
Drawing No. 33405-P7-S4A2-BDP P7 Stage 4A2, Building Dispensation Plan	Woods	1	May 2015
Drawing No. 1, 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	Woods		July 09
Drawing No. 2, Rule 12.8.19.11.8.3 (A) and (C) 6m Rear Yard for Lots 450m ² – 649.9m ²	Woods		July 09
Drawing No. 3, Proposed Change to Rule 12.8.19.11.7.1 – Side and rear yards	Woods		July 09

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.
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 application of side and rear yards in rear lots on approved Lots 644 and 645 (Precinct 7 Stage 4A2) shall consist of one 6m rear yard, one side yard of 1m, with the remaining yards being 3m. The rear yard will be applied to the boundary located opposite the lot access.
6. For the avoidance of doubt, the application of rear yards on approved lots 477, 492-498 (inclusive) and 527-538 (inclusive) (Precinct 7 Stage 4A2) 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 477, 492-498 (inclusive) and 527-538 (inclusive) (Precinct 7 Stage 4A2) 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 7 Stage 4A2, 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).

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 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 title issued for approved lots 477, 492-498 (inclusive) and 527-538 (inclusive) (Precinct 7 Stage 4A2) 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 L64768.*
8. *The consent holder shall place a covenant on any certificate of title issues for approved 644 and 645 (Precinct 7 Stage 4A2) to inform prospective owners of the application of side and rear yards as authorised by Land Use Consent L64768.*
9. *The consent holder shall place a covenant on any certificate of title issued for approved Lots 477, 492-498 (inclusive) and 527-538 (inclusive) (Precinct 7 Stage 4A2) 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 L64768.*
10. *The consent holder shall place a covenant on any certificate of titles issued for approved lots in Millwater Precinct 7 Stage 4A2 to inform prospective owners of the infringement of Rule H.4.14.2.1 of the Proposed Auckland Unitary Plan to allow 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:


29/5/15