

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



Restricted discretionary activity

Application number(s): LAN-65815
Applicant: WFH Properties Ltd
Site address: Millwater Precinct 7 Stage 4C1, Silverdale North
Legal description: Lots 468-476, 480-490, 499-510, 524 and 525 DP 487474

Proposal:

Blanket dispensation to allow building elements to encroach into all yards (excluding the 1m side yard) by up to 600mm on all lots sized between 450-649.9m²; to reduce the rear yard to 6m on lots sized between 450-649.9m²; to redefine the yard setbacks on rear sites to allow one rear yard of 6m, one side yard of 1m and two side yards of 3m with the rear yard to be located opposite the access lot; and to enable impervious surface area up to a permitted level of 50% in SMAF 1.

The resource consents required are:

Land use consents (s9) – LAN-65815

Auckland Council District Plan (Rodney section)

- Rule 12.8.19.11.7.2(b) and 12.8.19.11.8.5(b) – restricted discretionary activity – to enable the encroachment of building elements into all yards (excluding the 1m side yard) of up to 600mm for all lots between 450-649.9m², where the plan allows encroachment of up to 300mm.
- Rule 12.8.19.11.8.3 (a) and (c) – restricted discretionary activity – to reduce the depth of the rear yard to 6m on lots sized between 450-649.9m², 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°).
- Rule 12.8.19.11.7.1 – restricted discretionary activity – to enable rear lots to provide one rear yard of 6m, one side of 1m and two side yards of 3m, where the plan requires all yards on rear lots to be between 6-10m depending on orientation.

Proposed Auckland Unitary Plan

- Rule H.4.14.2.1 – controlled activity – to enable impervious surface area up to a maximum of 50% of the net site area, where the plan permits impervious surface area up to 25m².

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, 104A, 104C & 108 the application is **GRANTED**.

1. Reasons

The reasons for this decision are:

1. The application is for controlled / restricted discretionary activity resource consent, as such under s104A/s104C only those matters over which council has reserved its control or restricted its discretion have been considered. Those matters are listed under rules 12.8.19.14.7.5 and 12.8.19.14.8 of the ACDP:RS and rule H.4.14.2.3.1 of the PAUP. In addition, conditions have only been recommended in relation to those matters.
2. In accordance with an assessment under s104(1)(a) of the RMA the actual and potential effects from the proposal will be acceptable as:
 - o The proposed yard reductions will allow for development of a shape and form consistent with existing development in the area.
 - o 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.
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: 12.8.19.5.3, 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. As a restricted discretionary activity no other matters can be considered under s104(1)(c).
5. Under the Proposed Auckland Unitary Plan (PAUP) the proposal is considered to be consistent with the objectives and policies outlined in 2.E.7.5 relating to Stormwater Management Area – Flow. This consent allows for an infringement to the maximum 25m² impervious surface area permitted under the PAUP, however is not seeking to infringe the 50% impervious surface coverage for a site, as allowed under the ACDP:RS. The capacity for the receiving stormwater pond was calculated on the basis of sites having 50% impervious surface coverage and it is therefore considered hydrology mitigation is met.

2. Conditions

Under section 108 of the RMA, this consent is subject to the following 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 LAN-65815.

- Application Form, and Assessment of Environmental Effects prepared by Woods, dated 28 September 2015.

Plan title and reference	Author	Rev	Dated
Building Dispensation Plan – Drawing No. 33405-P7-S4C1-BDP	Woods	1	September 2015
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 ² – 649.9m ² – Drawing No. 02	Woods		July 2009
Proposed Change to Rule 12.8.19.11.7.1 – Side and Rear Yards – Drawing No. 03	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:
- All fixed charges relating to the receiving, processing and granting of this resource consent under section 36(1) of the RMA; and
 - 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:
- The consent is given effect to; or
 - 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 475 and 482-486 (inclusive) (Precinct 7 Stage 4C1) shall consist of one 6m rear yard, one side yard of 1m, with the remaining yards being 3m. The rear yard shall be applied to the boundary located opposite the lot access.
6. For the avoidance of doubt, the application of rear yards on approved Lots 468-474 (inclusive), 476, 488 and 499-505 (inclusive) (Precinct 7 Stage 4C1) 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 468-474 (inclusive), 476, 488 and 499-505 (inclusive) (Precinct 7 Stage 4C1) 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 4C1 can exceed the 25m² impervious surface coverage under Rule H.4.14.2.1 of the Proposed Auckland Unitary Plan but must still comply with the maximum 50% impervious surface coverage under 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 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 468-474 (inclusive), 476, 488 and 499-505 (inclusive) (Precinct 7 Stage 4C1) 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-65815.*

7. *The consent holder shall place a covenant on any certificate of title issued for approved Lots 475 and 482-486 (inclusive) (Precinct 7 Stage 4C1) to inform prospective owners of the application of side and rear yards as authorised by Land Use Consent LAN-65815.*
8. *The consent holder shall place a covenant on any certificate of title issued for approved Lots 468-474 (inclusive), 476, 488 and 499-505 (inclusive) (Precinct 7 Stage 4C1) 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-65815.*
9. *The consent holder shall place a covenant on any certificate of titles issued for approved lots in Precinct 7 Stage 4C1 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, and of the need to still comply with the maximum 50% impervious surface coverage under Rule 12.8.19.11.5.1 of the Auckland Council District Plan: Rodney Section, and any subsequent plans where a same or similar rule applies.*

Delegated decision maker:

Name: Steve Seager

Title: Team Leader, Resource Consents

Signed:



Date:

28/10/15