

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



**Application number(s):** L64938  
**Applicant's name:** WFH Properties Limited  
**Site address:** Precinct 7, Stage 4D, Silverdale North  
**Legal description:** Lots 539, 561-567, 570-583 and 632-642 DP 484774

**Proposal:** Blanket dispensation for infringements to the yard setbacks, by buildings and ancillary elements, as well as to infringe the maximum impervious area in a Stormwater Management Area (SMAF).

The resource consents required are:

Land use consents (s9) – L/LAN64648

Auckland Council District Plan (Rodney Section) 2011

- Rule 12.8.19.11.7.2 – Enable certain ancillary building elements to project into the yards by a maximum of 600mm (being an infringement of 300mm), as a restricted discretionary activity.
- Rule 12.8.19.11.8.3 – To enable buildings on lots orientated between NW (315°) and NE(45°) and lots orientated between NE (45°) and SE (135°) and between NW (315°) and SW (225°) to encroach into the 10m and 8m rear yard, respectively, to provide for a minimum rear yard of 6m, as a restricted discretionary activity.
- Rule 12.8.19.11.7.1 – To enable buildings to encroach the rear yard setback on rear lots (where all rear yards shall be a minimum of 6m), providing for one 6m rear yard with all other yards are to be defined as side yards, including at least one side yard of 1m and another of 3m, as a restricted discretionary activity.

Proposed Auckland Unitary Plan

*Regional land use consent*

- Rule H.14.2.1 /Activity Table – To enable impervious areas on sites in a SMAF 1 area to be greater than 25m<sup>2</sup>, to a maximum of 50% impervious area coverage, as a restricted discretionary 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 and 104C the application(s) are **GRANTED**.

## 1. Reasons

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

- The application/s are for a restricted discretionary activity resource consent, as such under s104C only those matters over which council has restricted its discretion have been considered. In addition, conditions have only been recommended in relation to those matters.
- In accordance with an assessment under s104(1)(a) of the Resource Management Act the actual and potential effects from the proposal will be avoided/acceptable as;
  - The proposed yards will provide for a development of a shape and form consistent with that which has occurred in the surrounding environment, and which is anticipated to occur on the sites in the Garden Residential Policy Area.
  - The yard infringements will not adversely affect the safety and efficiency of the adjoining roading network.
  - The yard infringements will not adversely affect the ongoing maintenance and/or operation of public utilities.
  - The dispensation to the SMAF1 control will not initiate or exacerbate flooding on or off the subject site.
- 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 Auckland Council District Plan (Rodney Section) 2011 (specifically Objectives 12.8.19.4.24, 12.8.19.4.25 and 12.8.19.4.26 ; Policies 12.8.19.5.36) and the Proposed Auckland Unitary Plan (specifically Objectives D.1.1.1.1, D.1.1.1.2, D.1.1.4.1, D.1.1.4.2, E.7.7.5.1, F.5.5.44.3 and F.5.5.44.11; Policies D.1.1.1.1, D.1.1.4.1, D.1.1.4.2, D.1.1.4.3, E.7.7.5.1, E.7.7.5.2, F.5.5.44.16, F.5.5.44.16 and F.5.5.44.19.).

A comprehensive assessment of the objective and policies of the above statutory documents was provided in the Assessment of Environmental Effects submitted with the application. I concur with the conclusions of this assessment, being that the proposal is not contrary to the relevant objectives and policies.

- In terms of section 104(1)(c) of the RMA, other relevant matters, including monitoring have been considered in the determination of the application.
- This application is considered to be consistent with Part 2 of the Resource Management Act because the proposal will promote sustainable management through providing for the residential development of the subject sites in accordance with the

intentions of the applicable zoning, appropriately avoiding, remedying or mitigating adverse effects.

## 2. Conditions

Under section 108 of the RMA, these consents are subject to the following conditions:

### General Conditions

These conditions apply to all resource consents.

1. The restricted discretionary land use 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) L64938.
  - Application Form, and Assessment of Environmental Effects prepared by: Woods, dated: 11 June 2015
  - Approved Plans as signed by Processing Planner, Simon Titter, dated 9/07/2015

Drawing / Ref. Number	Title	Architect/ Author	Dated
P7-S4D-BDP / 33405	Millwater Precinct 7 – Stage 4D – Building Dispensation Plan	Woods	June 2015
S. 01 / 31701	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	Woods	July 2009
S.02 / 31701	Millwater – Rule 12.8.19.11.8.3 (a) and (c), 6m rear yard for lots 450m <sup>2</sup> – 649.9m <sup>2</sup>	Woods	July 2009
S.03 / 31701	Millwater – Proposed Change to Rule 12.8.19.11.7.1 – Side and Rear Yards Re: Rear Lots with Precincts 4, 5 & 6	Woods	July 2009

### All Charges

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.

#### Term of Consent / Duration

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.

#### Monitoring

5. The consent holder shall pay the council an initial consent compliance monitoring charge of \$280 (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 the council issue a letter confirming compliance on request of the consent holder.*

#### Land Use Conditions

6. For the avoidance of doubt, the application of side and rear yards in rear lots on approved Lot 563, 564, 567, 570, 571, 575, 577, 578, 581 and 582 (Precinct 7 Stage 4D) 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.
7. For the avoidance of doubt, the application of rear yards on approved Lots 561-570, 572-576, 579, 580, 582, 583, 632-634, 637, 638 and 641 (inclusive) (Precinct 7 Stage 4D) shall consist of a 6m minimum rear yard.
8. 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 561-570, 572-576, 579, 580, 582, 583, 632-634, 637, 638 and 641(inclusive) (Precinct 7 Stage 4D) 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.

9. For the avoidance of doubt all sites within Precinct 7 Stage 4D, can exceed the 25m<sup>2</sup> 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 as detailed in 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.

### **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 561-570, 572-576, 579, 580, 582, 583, 632-634, 637, 638 and 641(inclusive) (Precinct 7 Stage 4D) 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 L64648.*
8. *The consent holder shall place a covenant on any certificate of title issues for approved Lot 563, 564, 567, 570, 571, 575, 577, 578, 581 and 582 (Precinct 7 Stage 4D) to inform prospective owners of the application of side and rear yards as authorised by Land Use Consent L64648.*
9. *The consent holder shall place a covenant on any certificate of title issued for approved Lots 561-570, 572-576, 579, 580, 582, 583, 632-634, 637, 638 and 641 (inclusive) (Precinct 7 Stage 4D) 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 L64648.*
10. *The consent holder shall place a covenant on any certificate of title issued for all approved Lots in Precinct 7 Stage 4D 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 25m<sup>2</sup>, and of the need to still comply with the maximum 50% impervious surface coverage as detailed in 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: 9/7/15