

# Decision on notification of an application for resource consent under the Resource Management Act 1991



Discretionary activity for a residential activity

**Application number:** LUC60332874  
**Applicant:** McConnell Development Limited  
**Site address:** 1 and 3 Purewa Road, Meadowbank  
**Legal description:** Lot 1A DP 47958 and Lot 1B DP 47958

## Proposal:

- Twenty-four (24) apartments over four levels, with a combination of one, two and three-bedroom dwellings;
- A basement carpark level to provide parking for 31 vehicles, along with refuse collection, plant and storage areas;
- Additionally, construction of the building necessitates the removal of several mature exotic trees, and three native trees, two of which are subject to protection as a consequence of the Outstanding Natural Feature (**ONF**) overlay (referred within application material as Trees 1 and 3). Some works within the dripline area of trees on adjoining properties is also proposed, as well as the removal of one Ti Kouka (cabbage tree) from the adjacent reserve.
- Earthworks approximating 5,900m<sup>3</sup> will be carried out across the site's entirety. The site's historic horticultural use has resulted in residual contamination that is to be addressed through the implementation of a Site Management Plan (as informed by an appropriately prepared Detailed Site Investigation).
- New connections to Council's 'three waters' infrastructure will also be required, with stormwater and wastewater connections requiring earthworks within the road reserve, adjoining Open Space zoned land and railway corridor respectively.

Resource consent is required for the following reasons:

## Auckland Unitary Plan (Operative in part)

### *Land disturbance – District*

- The proposal involves earthworks which exceed 500m<sup>2</sup> and 250m<sup>3</sup>, where approximately 1,223m<sup>2</sup> and 5900m<sup>3</sup> of earthworks are proposed. This is a *Restricted Discretionary* activity in the Residential - Mixed Housing – Urban Zone pursuant to Rules E12.4.1(A4) and (A8) respectively.

- The proposal involves earthworks which exceed 50m<sup>3</sup> in the Outstanding Natural Features Overlay, with 5,900m<sup>3</sup> of earthworks proposed. This is a *Restricted Discretionary* activity pursuant to Rule E12.4.3 (A41).

#### *Vegetation management and biodiversity*

- The proposal involves the removal of two indigenous trees, which exceed 6m in height, within the Outstanding Natural Features Overlay – Site Type V2 (privately owned). This is a *Discretionary* activity pursuant to Rule E15.4.2(A24) and Standard E15.6.6(1).

#### *Trees in open space zones*

- The proposal involves the removal of a Ti Kouka tree located on the adjacent land to the west known as the Macpherson Street Reserve (187 Meadowbank Road, Meadowbank) which is subject to the Open Space – Informal Recreation Zone. This is a *Restricted Discretionary* activity pursuant to Rule E16.4.1(A10).

#### *Infrastructure*

- The proposal requires resource consent as a *Restricted Discretionary* activity under Rule E26.7.3.1(A113) for earthworks within the Outstanding Natural Features Overlay associated with new and upgraded service connections.

#### *Transport*

- The proposed vehicle crossing has a width of 3.5m, where a minimum width of 5.5m is required for a crossing servicing 10 or more carparks, as required by Standard E27.6.4.3.2(T151). This is a *Restricted Discretionary* activity pursuant to Rule E27.4.1(A2).
- The proposed access arrangement will require waste collection trucks to reverse manoeuvre into or out of the site, whereas Standard E27.6.3.4 would require this to be carried out on site. This is a *Restricted Discretionary* activity pursuant to Rule E27.4.1(A2).
- The access arrangement will have a vertical clearance of 3m, where a vertical clearance of 3.8m is required for heavy vehicles (waste collection trucks) pursuant to Standard E27.6.3.5. This is a *Restricted Discretionary* activity pursuant to Rule E27.4.1(A2).
- A portion of the accessway has a gradient of 1 in 5 which will be used by heavy vehicles (waste collection trucks). Standard E27.6.4.4.1(T158) requires a maximum gradient of 1 in 8 for heavy vehicles. This is a *Restricted Discretionary* activity pursuant to Rule E27.4.1(A2).

#### *Outstanding Natural Features Overlay (ONF)*

- The proposal involves the construction of new buildings and structures within the Outstanding Natural Features Overlay - Site Type V2 (privately owned). This is a *Restricted Discretionary* activity pursuant to Rule D10.4.2(A1).

#### *Residential – Mixed Housing Urban Zone*

- The proposal is for 24 dwellings. Four or more dwellings in the Residential - Mixed Housing – Urban Zone is a *Restricted Discretionary* activity pursuant to Rule H5.4.1(A4).
- New buildings in the Residential - Mixed Housing Urban Zone have the same activity status as the activity the building is designed to accommodate. In this regard, the construction of a new building is a *Restricted Discretionary* activity pursuant to Rule H5.4.1(A34).

- The proposed built form has been designed to comply with the 11m occupiable building height under Standard H5.6.4(1), using the average height method, together with the 1m height allowance for roof forms which have a pitch of 15 degrees or more. However, the roof form comprises sections which have a pitch of less than 15 degrees (but which are lower than 11m in height), such that the roof form allowance standard is not technically available. In this regard, the proposal technically infringes Standard H5.6.4 Building height by 0.99m. This is a *Restricted Discretionary* activity pursuant to Rule C1.9(2).
- The proposed building infringes Standard H5.6.5 Height in relation to boundary, as it relates to the southern boundary, by a maximum vertical height of 3.734m over a horizontal distance of 17.667m. This is a *Restricted Discretionary* activity pursuant to Rule C1.9(2).
- The proposed basement level and retaining walls infringe Standard H5.6.8 Yards as follows:
  - the basement level infringes the 2.5m front yard (northern boundary) by 2.25m;
  - the basement level infringes the 1m side yard (western boundary) by 0.81m;
  - the basement ramp and retaining wall infringes the 1m rear yard (southern boundary) by 0.7m; and
  - the vehicle ramp retaining wall infringes the 1m side yard (eastern boundary) by 0.5m for the first 1.5m.

This is a *Restricted Discretionary* activity pursuant to Rule C1.9(2).

### National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health 2011

- The disturbance of land which contains concentrations of contaminants which exceed background levels, but which do not exceed the relevant criteria for a high density residential activity, is a *Controlled* activity pursuant to regulation 9(1) of the NES.

## Decision

I have read the application, supporting documents, and the report and recommendations on the application for resource consent. 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 notification.

### Public notification

Under section 95A of the RMA, this application shall proceed without public notification because:

1. Under step 1, public notification is not mandatory as:
  - a. the applicant has not requested it;
  - b. there are no outstanding or refused requests for further information; and
  - c. the application does not involve any exchange of recreation reserve land under s15AA of the Reserves Act 1977.

2. Under step 2, public notification is precluded as the application exclusively involves a residential activity which requires consent as a discretionary activity. The proposal qualifies as a residential activity as:
  - a. the land is zoned Residential Mixed Housing – Urban, being a zone that is intended to be used principally for residential purposes, and
  - b. the activity requiring resource consent is exclusively associated with the construction and use of the apartments, namely earthworks, vegetation removal, infrastructure connections, vehicle access requirements, and infringement to standards.
3. Consideration of step 3 is not required given the finding of step 2.
4. Under step 4, there are no special circumstances that warrant the application being publicly notified because there is nothing exceptional or unusual about the application to suggest that public notification should occur.

In this instance I have turned my mind specifically to the existence of any special circumstances and conclude that there is nothing exceptional or unusual about the application, and that the proposal has nothing out of the ordinary to suggest that public notification should occur as the proposal involves a residential development in a residential zone, albeit also being within the area of an Outstanding Natural Feature (ONF).

The ONF is described and recognised by an overlay within the Unitary Plan hierarchy of provisions, and as such the values of the feature, and matters to consider in assessing the application involving works to an ONF, have been articulated within the Unitary Plan. None of these preclude residential development. Therefore, this in itself is not a matter that is exceptional or unusual. There are a significant number of other properties also zoned Residential on the edge of the Orakei Basin within the ONF. Accordingly the situation where residential development is proposed within the ONF cannot be said to be exceptional or unusual. It is also considered that given the level of information supplied by the applicant and Council experts on the effects of the works on the ONF, no additional information is likely to come to light as the result of notification.

There is no significant public interest or controversy associated with the proposal that I am aware of. The Local Board in its email of 26 July 2019 has raised the issue of whether the proposal affects the adjacent parks and walkways and whether the location of such features constitutes a special circumstance. I am of the view that the proposal will have less than minor effects on the park and the walkways. I do not consider that the presence of such features constitute a special circumstance as such features are not exceptional or unusual and many properties interface with the parks and walkways.

The Local Board raised an issue of wastewater overflows that have occurred recently in the locality. Details of those concerns and for the potential for that to be a special circumstance are set out in the Local Board correspondence. The Council's Development Engineer, Ms Lee, looked into this issue as part of the review of the application. As addressed in her memorandum of 11 July 2019, the overflows were acknowledged but identified as occurring within the upstream catchment to the application site. Therefore, the review has confirmed that the proposal will not contribute to or exacerbate an existing problem in the locality. As such this aspect is also not considered to give rise to a special circumstance requiring the application to be notified.

As previously outlined, neighbours and the Local Board have raised concerns over the proposed activity. I do not consider the proposal's characteristics, in respect of the ONF, to be unusual or exceptional circumstances noting my comments above. The remaining factors have been thoroughly addressed in the AEE and council's specialist reviews.

Accordingly, there are no special circumstances under section 95A(4) of the RMA that would justify notification of the application to any persons not already identified as likely to experience (at least) minor adverse effects.

### Limited notification

Under section 95B of the RMA, this application shall proceed with limited notification because:

1. Limited notification is neither mandatory nor precluded under steps 1 and 2.
2. However, under step 3, the following persons are found to be adversely affected by the proposal:
  - There are building mass, room and window placement effects that impact on the character, visual dominance and privacy effects that will be experienced by some neighbouring persons that are at least minor in nature and I therefore consider that the neighbours at 1, 3, 5 and 7 Puroto Street are adversely affected.
  - In addition, the applicant's noise report acknowledges that an infringement to the construction noise standards will arise for the neighbouring properties at 1, 3, 5 and 7 Puroto Street. The infringement has been anticipated when piling is being undertaken, which is noted to be of a relatively limited duration. However, without a proposed Construction Noise Management and Vibration Plan proposed at this time, it is considered that the identified affected neighbours at 1, 3, 5 and 7 will be adversely affected.
  - Further, the infringements in combination has led to a building mass that does have a resultant minor adverse effect on some adjacent neighbours (in particular to the streetscape, visual dominance and character). In addition, a cumulative effect is considered to arise in respect of the additional noise standard infringement, which again individually may have resulted in only limited effect with appropriate conditions if proposed in the application). It is considered that the same neighbours affected by the building mass would also be adversely affected by noise infringement, to the extent that a cumulative effect is considered to arise that would be at least minor for the neighbouring property owners/occupiers at 1, 3, 5 and 7 Puroto Street
  - It is considered that due to separation and visibility of the proposal, adverse effects on other surrounding properties in relation to character and building dominance will be less than minor. With regard to this, I have also taken into consideration any persons which will use the pedestrian walkways in and around the Orakei basin and concluded with consideration to all of the above that there will be less than minor streetscape effects.
3. Under step 4, there are no special circumstances that warrant the application being limited notified to any other persons.. In this instance I have turned my mind specifically to the existence of any special circumstances and conclude that there is nothing exceptional or

unusual about the application that would enable the identification of specific persons that should be notified in addition to the neighbours identified above.

4. The ONF is described and recognised by an overlay within the Unitary Plan hierarchy of provisions, and as such the values of the feature, and matters to consider in assessing the application involving works to an ONF, have been articulated within the Unitary Plan . None of these preclude residential development. Therefore, this in itself is not a matter that is exceptional or unusual. There are a significant number of other properties also zoned Residential on the edge of the Orakei Basin within the ONF. Accordingly the situation where residential development is proposed within the ONF cannot be said to be exceptional or unusual. It is also considered that given the level of information supplied by the applicant and Council experts on the effects of the works on the ONF, no additional information is likely to come to light as the result of notification.
5. The Local Board raised an issue of wastewater overflows that have occurred recently in the locality. Details of those concerns and for the potential for that to be a special circumstance are set out in the Local Board correspondence. Council's Development Engineer, Ms Lee, has looked into this issue as part of the review of the application. As addressed in her memorandum of 11 July 2019, the overflows were acknowledged but identified as occurring within the upstream catchment to the application site. Therefore, the review has confirmed that the proposal will not contribute to or exacerbate an existing problem in the locality. As such this aspect is also not considered to give rise to a special circumstance requiring the application to be notified. and even if it was, there are no specific persons that could be identified as being affected.
6. The Local Board in its email of 26 July 2019 has raised the issue of whether the proposal effects the adjacent parks and walkways and whether the location of such features constitutes a special circumstance. I am of the view that the proposal will have less than minor effects on the park and the walkways. I do not consider that the presence such features constitute a special circumstance as such features are not exceptional or unusual and many properties interface with the parks and walkways.
7. Accordingly, there are no special circumstances under section 95B(4) of the RMA that would justify notification of the application to any persons not already identified as likely to experience (at least) minor adverse effects.

Accordingly, this application shall proceed with **LIMITED NOTIFICATION**. Notice of this application shall be served on the owners and occupiers of the following properties, unless their written approvals are otherwise obtained:

- Owners and occupiers of the properties at 1, 3, 5 and 7 Puroto Street, Meadowbank

A handwritten signature in blue ink, appearing to be 'DW', with a long horizontal stroke extending to the right.

**David Wren**

**Duty Commissioner**

30 July 2019

