

Notification and substantive report for an application for resource consents under the Resource Management Act 1991



Discretionary activity

1. Application description

Application numbers:	BUN60344444 (Council Reference) LUC60344358 (s9 land use consent) DIS60344445 (s15 discharge permit)
Applicant:	HLC (2017) Ltd
Site address:	Various residentially zoned sites in the suburb of Oranga, bounded by Oranga Avenue, Rockfield Road, Mount Smart Road and Namata Road and including 40, 1-11/42, Oranga Avenue, 12 Houpara Street, 1-5/16, 1-10/18, 1-12/20, 1-12/22, 1-8/28A, 9-14/28A, 15-20/28A, and 21 – 24/28A Felix Street
Legal description:	Various
Site area:	Approximately 35 hectares
Auckland Unitary Plan (Operative in part)	
Zoning and precinct:	Residential - Mixed Housing Suburban and Residential - Mixed Housing Urban
Overlays, controls, special features, designations, etc:	Macroinvertebrate Community Index – Urban Arterial Road (Mt Smart Road) High-Use Aquifer Management Areas Overlay - Onehunga Volcanic Aquifer Quality-Sensitive Aquifer Management Areas Overlay - Onehunga Volcanic Aquifer Notable Trees Overlay - 568, Pohutukawa (69 Waitangi Road) Notable Trees Overlay - 576, Pohutukawa (67 Oranga Avenue) Notable Trees Overlay - 575, Pohutukawa (42 Oranga Avenue) Regionally Significant Volcanic Viewshafts And Height Sensitive Areas Overlay - O4, One Tree Hill, Viewshafts Airspace Restriction Designations - ID 1102, Protection of aeronautical functions - obstacle limitation surfaces, Auckland International Airport Limited NoR 7: Proposed Northern Runway, Airspace Restriction Designations Flood plains and Overland flowpaths (over various areas)

2. Locality Plan



Source: Figure 1 of AEE, with areas of work marked out in red

Note: The application does not include roads, Fergusson Domain, properties consented under Stage 1 and 2 of previous works (refer Masterplan (Attachment (a) of the application material)), nor business zoned land.

3. The proposal, site and locality description

Rachelle Hui of Planning Focus Ltd has provided a description of the proposal, subject site, surrounding environment and background on pages 5 – 15 of the Assessment of Environmental Effects (AEE) titled: “*Land Use and Discharge Consent Application, Assessment of Environmental Effects & Statutory Assessment, HLC (2017) Ltd, Neighbourhood-Wide Preparatory Site Works*” dated September 2019.

Having undertaken a site visit at various times in late 2019, I generally concur with that description of the site. However, I consider there are specific points regarding the proposal that need to be clarified, and these are set out below.

It is noted that since lodgement of the application HLC(2017) Ltd, and Housing New Zealand have been merged into a new entity called Kāinga Ora – Homes and Communities (Kāinga Ora). The application at the time however has been made at the time by HLC(2017) Ltd and as such reference is made to HLC where appropriate.

In summary, the proposal is to undertake site preparatory works across the Oranga suburb to enable 'development ready' sites for future residential development by Kāinga Ora. The physical preparatory works involve the removal of houses, existing sealed surfaces and vegetation from individual sites, and the stripping of the soils to a maximum depth of approximately 500mm to enable remediation due to potential contaminants contained within the soils.

The following is noted:

- This application is for all residentially zoned land contained within the red line areas identified in Figure 1 above, excluding the properties within the Stage 1 and Stage 2 areas of the HLC Masterplan (Attachment (a) of the application material).
- The application does not relate to any roads or open space zoned land (apart from in relation to works in the dripline of these trees), nor to any business zoned land.
- The application material refers to 54ha of land, however this figure includes all land within the red line (i.e. including that which has been identified as being excluded) as such the actual proposed works site area is approximately 35ha (refer email dated 17 October 2019 from Rachelle Hui).
- The application does include residentially zoned properties that are not currently in the ownership of Kāinga Ora. As a resource consent runs with the land, for any property that is developed in the life of this consent by the private owner/developer of that property, the private owner may choose to implement this consent and its associated conditions or not¹. Of note, the fact that the consent relates to these privately-owned properties does not mean that Kāinga Ora has the intention of purchasing these. However, should the option present itself then they may negotiate with private owners to purchase these properties and would implement the subject consent.
- No works are proposed to, or within the protected root zone of, any of the Notable Trees identified under the AUP(OP) and located within the area.
- The consent holder will ensure that each occupied dwelling will not receive more than 20 weeks of consecutive construction noise. When taking into account site preparatory works within 140m of the site, a 10 week break will apply for works in such proximity if 20 weeks of consecutive construction noise is reached.
- The works do not involve any rock breaking, nor altering the entrance or exit of any overland flow path of greater than 4,000m², nor flood displacement effects that will adversely affect surrounding properties
- Any development site that requires work that is outside of the scope of this consent, for example the matters above, will require a separate resource consent to be obtained.
- The applicant has provided a series of flowcharts that will be utilised by the contractors to determine whether the proposed works fall within or outside the scope of the consent.

¹ It is noted that this is extremely unlikely to happen in practice due to the anticipated conditions that will be required to be complied with to implement the consent on any one site. This is likely to make the consent impractical to implement for any private owner on their site.

- At the beginning of each quarter (ie January, April, July, October) the applicant will submit to Council details on which development sites will be worked on, including their location and size.

Conditions of Consent

The applicant has proffered a suite of conditions as part of the application. Council's specialists have reviewed these conditions and flow charts, and have amended the conditions as necessary to assist with effective Council monitoring of the proposed works. The applicant has accepted these amendments to, and additional conditions, in their email dated 19 December 2019, and as such these now form part of the application. In addition, the applicant has updated the Flowcharts (referred above) to be consistent with the numbering of these conditions.

4. Background

Specialist Input

The proposal has been reviewed and assessed by the following specialists:

- Matt Byrne, Specialist Advisor – Earth, Streams & Trees;
- Marija Jukic, Senior Specialist – Contamination;
- Gavin Donaldson, Senior Arborist – Earth, Streams & Trees;
- David van Echten, Development Engineer;
- Daniel Winter, Consultant Noise Specialist;
- Tim O'Grady, Principal Specialist – Compliance Monitoring.

Mana Whenua Consultation and Cultural Values

The applicant advises at Section 4.4 of the AEE that Kāinga Ora has ongoing communication and engagement with Mana Whenua regarding the redevelopment of Oranga as well as the other Auckland Housing Projects.

Ngati Whatua o Orakei requested information regarding the application through the weekly Lodged Applications Report on 12 September 2019. The information was sent to them on 13 September 2019. Since that time no further correspondence has been received.

It is considered that a cultural values assessment is not required for this proposal. As the applicant advises, ongoing consultation with iwi has occurred. Te Ākitai Waiohū initially opposed the proposed works but have agreed appropriate cultural mitigation measures with Kāinga Ora outside of the regulatory process. Te Ākitai Waiohū has withdrawn their opposition to the proposed works in an email from Jeffrey Lee dated Thursday 7 November, where he stated *'we have received written confirmation and a commitment from Kāinga Ora that our reasonable expectations and appropriate mitigation measures to culturally monitor enabling works including conducting cultural inductions when required in this culturally sensitive landscape has been given effect to and provided for by Kāinga Ora outside the regulatory process'*.

Previous Consents

As set out in the AEE there have been other resource consents obtained for site preparatory works in the Oranga area. In particular resource consents have been obtained for Stage 1 (Council reference: BUN60329445) consisting of 11 superlots (32 individual sites), and Stage 2 (Council reference: BUN60332066) consisting of 15 superlots (41 individual sites). A section 127 application was approved for Stage 2 to add two superlots and additional sites totalling 6 individual sites. A further section 127 application was approved to address potential exceedance of construction noise and works in the dripline of street trees for all sites covered by Stage 2.

Stage 1 has been implemented and works are starting to commence on Stage 2.

Resource consents have also started to be applied for, and in some cases granted, for Kāinga Ora housing on various Stage 1 superlots.

5. Reasons for the application

Resource consents are required for the following reasons:

Land use consent (s9) – LUC60344358

Auckland Unitary Plan (Operative in part)

District land use (operative plan provisions)

E12 Land Disturbance - District

- To undertake general earthworks of up to 373,000m² and 186,500m³, as the earthworks are greater than 2,500m² and 2,500m³ in a residential zone, is a restricted discretionary activity under rules E.12.4.1(A6) and (A10) respectively.
- To undertake earthworks which infringe the standards is a restricted discretionary activity under rule C1.9(2). The proposal will not comply with the following standards:
 - E12.6.2(13): Temporary land disturbance and stockpiling of soil and other materials within the one per cent annual exceedance probability (AEP) flood plain and/or overland flow path for up to a maximum of 28 days in any calendar year.

E16 Trees in open spaces

- To undertake works in the protected rootzone of trees in Open Space Zones not meeting Standard E16.6.2 is a restricted discretionary activity under Rule E16.4.1(A8).

E17 Trees in roads

- To undertake works in the protected rootzone of trees within the road not meeting Standard E17.6.3 is a restricted discretionary activity under Rule E17.4.1(A8).

E25 Noise and vibration

- To exceed the construction noise standards in Rule E25.6.27 is a restricted discretionary activity under rule E25.4.1(A2).

Regional land use (operative plan provisions)

E11 Land Disturbance – Regional

- To undertake earthworks of greater than 50,000m² (up to 35 hectares) on land with a slope of less than 10 degrees and outside of the sediment control protection area, is a restricted discretionary activity under rule E11.4.1(A5).

National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health (“NES:CS”)

- Pursuant to Regulation 11 of the NES, resource consent as a discretionary activity is required as the proposed soil disturbance does not meet the requirements for a permitted activity under Regulation 8 of the NES, and a detailed site investigation has not been undertaken.

Discharge permit (s15)- DIS60332066

Auckland Unitary Plan (Operative in part)

- To undertake soil disturbance with soils containing concentrations of contaminants above environmental discharge criteria that does not meet controlled activity standard E30.6.2.1 as no detailed site investigation has been undertaken is a discretionary activity under rule E30.4.1(A7).

6. Status of the resource consents

Where a proposal:

- consists of more than one activity specified in the plan(s); and
- involves more than one type of resource consent or requires more than one resource consent; and
- the effects of the activities overlap;

the activities may be considered together.

Where different activities within a proposal have effects which do not overlap, the activities will be considered separately.

In the instance, the effects of the proposed resource consents will overlap and thus they are considered together as a discretionary activity overall.

7. Public notification assessment (sections 95A and 95D)

Section 95A specifies the steps the council is to follow to determine whether an application is to be publicly notified. These steps are addressed in the statutory order below.

Step 1: mandatory public notification in certain circumstances

No mandatory notification is required as:

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- the applicant has not requested that the application is publicly notified (s95A(3)(a))
- there are no outstanding or refused requests for further information (s95C and s95A(3)(b)), and
- the application does not involve any exchange of recreation reserve land under s15AA of the Reserves Act 1977 (s95A(3)(c)).

Step 2: if not required by step 1, public notification precluded in certain circumstances

The application is not precluded from public notification as:

- the activities are not subject to a rule or national environmental standard (NES) which precludes public notification (s95A(5)(a)); and
- the application does not involve one or more of the following activities exclusively: a controlled activity; a restricted discretionary or discretionary activity for a residential activity (as defined in s95A of the RMA) or a subdivision; a boundary activity; or a prescribed activity (s95A(5)(b)). In particular, while the works are on residentially zoned land and will facilitate future dwellings no dwellings are proposed as part of this application so it cannot be considered a residential activity.

Step 3: if not precluded by step 2, public notification required in certain circumstances

The application is not required to be publicly notified as the activities are not subject to any rule or a NES that requires public notification (s95A(8)(a)).

The following assessment addresses the adverse effects of the activities on the environment, as public notification is required if the activities will have or are likely to have adverse effects on the environment that are more than minor (s95A(8)(b)).

Adverse effects assessment (sections 95A(8)(b) and 95D)

Effects that must be disregarded

Effects on persons who are owners and occupiers of the land in, on or over which the application relates, or of land adjacent to that land

The council is to disregard any effects on the land in, on, or over which the activity will occur, and on persons who own or occupy any adjacent land (s95D(a)). In this case as the location of the development sites and the timing of works on each site is not known due to the global nature of the consent application, it is not particularly useful or possible to identify individual properties or persons that are considered as adjacent land.

Any effect on a person who has given written approval to the application

No persons have provided their written approval to the application. However, it is recognised that a large number of the properties in the Oranga area are owned by Kāinga Ora and therefore the approval as property owner is inherent with the application.

Effects that may be disregarded

Permitted baseline

The permitted baseline refers to the effects of permitted activities on the subject site. The permitted baseline may be taken into account and the council has the discretion to disregard those effects where an activity is not fanciful. In this case the permitted baseline is of limited relevance as any soil disturbance that does not meet the permitted thresholds of the NESCS requires resource consent.

However, the removal or demolition of dwellings is a permitted activity. Works within the dripline of both trees in open space zone and trees in road reserve can be undertaken as a permitted activity provided the specific permitted activity standards are met as specified in Standard E16.6.2 and E17.6.3 respectively. In addition, construction noise of up to 75dBA for a duration of 20 weeks is a permitted activity. The applicant has also confirmed that all works will comply with the vibration standards of Standard E25.6.30, in particular no rock breaking is required. These permitted activities, and the associated effects, are a useful comparison and benchmark when considering the adverse effects of the proposed works.

Assessment

Receiving environment

The receiving environment beyond the subject site includes permitted activities under the relevant plans, lawfully established activities (via existing use rights or resource consent), and any unimplemented resource consents that are likely to be implemented. The effects of any unimplemented consents on the subject site that are likely to be implemented (and which are not being replaced by the current proposal) also form part of this reasonably foreseeable receiving environment. This is the environment within which the adverse effects of this application must be assessed.

In this case, the receiving environment is as described in Section 3 of this report in cross-reference to Section 3 of the agent's submitted AEE. As noted above there are a number of unimplemented or partially implemented resource consents in the surrounding area particularly those by Kāinga Ora for site preparatory works or new social housing. It is anticipated there will be some privately-owned properties within the wider area of works which have obtained consent for residential works seeking activities such as additional residential units or undertaking additions and alterations to existing dwellings. However, given the extent of the proposal area these have not been specifically identified or reviewed.

Adverse effects

The agent has provided, in accordance with schedule 4 of the RMA, an assessment of actual and potential environmental effects in such detail as corresponds with the scale and significance of the effects that the activities may have. This can be found on pages 17-22 of the AEE. The AEE concludes in Section 7.1.7 that *"the potential adverse effects of the proposal on the wider environment will be no more than minor."* And that *"overall, it is therefore concluded that the proposal will have no adverse effects of any significance"*.

Having reviewed the application material, council's specialist peer reviews and having visited the site, I generally concur with this conclusion, I also make the following assessment regarding specific effects:

Arboriculture Effects

The application has been supported by an Arboricultural Assessment prepared by Peers, Brown Miller Ltd, dated 2 August 2019 which provides a high level assessment of trees within the roads and public open space within the works area and sets out a standard methodology for works within proximity of any of these trees. The assessment by Peers, Brown, Miller Ltd provides a set of Tree Methodology conditions that will ensure adverse effects on the protected trees will be minimised and/or avoided. The applicant has also offered additional and more detailed consent conditions to ensure the protection of the roots and the trees, in particular installation of protective fencing and a procedure for root disturbance.

The application does not propose removal of any of the subject trees nor pruning of any tree beyond the permitted activity standards of the AUP(OP). If this was required it would be undertaken by way of a separate resource consent. The assessment also identifies there are three Notable Trees on residentially zoned land (at 42 Oranga Ave, 67 Oranga Ave, 69 Waitangi Ave). The section 92 response from the applicant dated 30 September 2019 confirms that no works are proposed within the protected root zones of these Notable Trees. If under any circumstance works were required, then a separate resource consent will be required to be obtained.

Given the overhanging nature of many of the street trees and trees in open space and the proposed site scrape works lowering the land by up to 500mm there will be some works within the protected root zone of these trees. In the majority of cases it is anticipated that the works in these protected root zones will meet the permitted activity standards of the AUP(OP), however in some cases due to the size and proximity of the trees this may not be achievable. The applicant has confirmed that in all cases no root over 80mm in diameter will be removed and a works arborist will be supervising works around protected trees. In some cases, the works will disturb more than 20 per cent of the protected root zone, and the diggers may not be able to operate in accordance with the required standards.

Council's Senior Arborist, Gavin Donaldson, has reviewed the application (latest email dated 1 October 2019), and considers that it is imperative a works arborist is appointed to assess individual trees and works proposed to those trees. This is to ensure that the works are undertaken in accordance with best arboriculture practice and do not adversely affect the health and amenity of the trees. In addition, Mr Donaldson confirms that protective fencing needs to be installed around any trees to be retained in proximity of the works area to ensure their protection. Mr Donaldson has also recommended a consent condition requiring asset owner approval to be obtained for any works to any protected tree. Otherwise Mr Donaldson is generally accepting of the proposed works.

As noted above the applicant has agreed to the appointment of a works arborist, and the installation of protective fencing, these matters are reflected as conditions of consent. With regard the asset owner approval Peers, Brown, Miller Ltd have confirmed that this approval will be obtained for any works to protected trees. While I recognise this is required prior to works starting, it is not a specific resource management requirement, rather an ownership matter and as such I consider this is more appropriately specified as an advice note rather than a condition.

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Overall, taking into account the applicant's proposed methodology and consent conditions, together with the comments of Council's specialists I consider that the proposed works in the protected root zone of street trees and trees in public open space can be undertaken appropriately ensuring adverse effects on the health and amenity values of the trees will be less than minor.

Effects of disturbance of contaminated soils

The application has been supported with a preliminary site investigation (PSI), and a draft site management plan (SMP) and draft asbestos removal control plan for the Oranga area. These are all prepared by Focus Environmental Services Ltd, dated August 2019. The PSI identifies that due to the age of the housing stock in the area, there is a high likelihood of contaminants within the topsoil layers. The contaminants most likely to be found are those from the use of lead-based paints, potential asbestos materials from previous demolition, potentially uncertified fill, potential former horticulture activities and burning of refuse. From the detailed site investigations (DSIs) of Stages 1 and 2 it has been confirmed that there are soil contaminants above natural background levels and above the residential land use criteria of the NESCS. As such the site area is identified as HAIL and likely to exceed the permitted activity standards for contaminated land discharge rules.

The PSI and SMP confirm that intrusive site investigations and site walkovers will be undertaken on each specific site prior to physical works commencing. This will confirm the level of contaminants within the soils on each site to determine the level of management and mitigation required for soil disturbance works to occur. The SMP sets out procedures for managing the effects of contaminated soils, dust, sediment and water to ensure that adverse effects on both the receiving environment and human health are appropriately managed so they are avoided, remedied or mitigated. Following completion of the works, due to the depth of soil to be removed, all sites will be left in a 'clean' state such that they can be developed for future residential use. Contaminated soil will be disposed of at a facility certified to receive such contaminated soil.

The proposal has been assessed by Marija Jukic, Senior Specialist – Contamination, Air & Noise, in a memo dated 19 November 2019. Ms Jukic considers that the relevant reports have been appropriately prepared in accordance with relevant statutory requirements. Ms Jukic concurs with the proffered conditions of consent, however considers that amendments are necessary to ensure that the reporting requirements, in particular that the DSI and Remediation Action Plan (RAP) (if required), timings and triggers are clearly understood. The applicant has accepted the modifications to the conditions to address this. Due to the likely presence of asbestos in the ground as a result of the building materials Ms Jukic has recommended a range of conditions (accepted by the applicant) to ensure the asbestos removal is undertaken in accordance with a finalised Asbestos Removal Control Plan. This will ensure that the full range of potential adverse effects on human health resulting from the disturbance of contaminated soil are avoided.

Overall Ms Jukic comments *"I agree with the applicant's assessment and I consider that the proposed measures provided in the SMP and the recommended conditions of consent shall adequately avoid, remedy and mitigate potential adverse effects to human health and the environment"*.

Based on the specialist reviews by the applicant and Council, together with the proposed conditions of consent, I consider that due to the management regime imposed the proposed disturbance of contaminated soils will have no more than minor adverse effects on both the environment and human health.

Construction noise and vibration effects

The applicant has provided a Construction Noise and Vibration Assessment (CNVA) and a draft Construction Noise and Vibration Management Plan (CNVMP), both prepared by Piritahi and dated 23 August 2019. The CNVA sets out the likely noise levels associated with the various machinery that will be utilised during the works, as well as tables of separation distances for the types of works and the noise levels at various separation distances. No rock breaking is proposed as part of this consent, and the works will comply with the vibration standards of the AUP(OP). The applicant has confirmed that the development sites will be broken into small and large sites. Small sites are those that will contain up to 5 existing dwellings, while large sites contain six or more existing dwellings. As noted above it is not known at this stage the specific site sizes or locations. Where sites contain 1-2 existing dwellings works will take up to 2 weeks, for sites with up to 5 dwellings works will be 3 – 4 weeks, while sites containing over 6 existing dwellings will have 4 – 6 weeks of site works.

The CNVA states that the most noisy works will be during site setup which is for a very short duration, a maximum of a few days, and will not result in continuous noise – likely noise would be from equipment arrival and installing protective fencing, which at 5m away will be 83dBA. The other noisy period will be during surface scraping and reinstatement. This will be the longest work period using excavators, graders, dozers, rollers and trucks. Due to the nature of equipment the noise will be more prolonged. It is anticipated that the noise levels will be 83dBA for small sites and 84dBA for large sites during this period of works. In all cases noise levels will be under 75dBA when works are occurring more than 15m from occupied dwellings. It is predicted that individual occupied dwellings (receivers) will hear noise over 80dBA for 1 – 2 days where only one site is operating or 3 – 4 days when two works sites/superlots adjoining the receiver are operating.

The applicant's CNVMP sets out a range of measures that will be utilised to reduce noise to the lowest possible and, as such, reduce adverse effects on the aural amenity of persons. In particular, the least noisy machinery practicable for a job will be utilised and ongoing consultation with the community will occur, as well as individual targeted consultation where appropriate. Work hours will be restricted to 7.30am – 6.00pm Monday to Saturday only, with no works allowed on Sundays. Where works are within 10m of occupied dwellings or predicted to exceed 80dBA, additional measures will be utilised in particular temporary noise barriers or further limiting work hours, and in some cases the use of shopping vouchers or similar to encourage people to leave their houses for a period of time.

Daniel Winter of Styles Group Ltd has reviewed the proposal on behalf of Council in a memo dated 29 November 2019. Mr Winter notes that given the length of the project the construction noise limits of 70dBA should apply (as works are over 20 weeks). However as noted in Section 3, the applicant has agreed to a condition ensuring each individual receiver will be exposed to noise in close proximity for a duration of no more than 20 weeks of work. It is therefore considered the 75dBA limit is reasonable to use. The applicant has accepted various conditions of consent proposed by Mr Winter, particularly to not allow more than 20 weeks of work to occur

under this consent within 140m of any individual occupied dwelling, without a 10 week stand-down period in-between. The 140m distance is considered appropriate as beyond that distance noise would be heard at 55dBA which is considered sufficiently low and generally in accordance with the permitted day-to-day noise levels within residential zones. The applicant's Quarterly Works Plan (which will be supplied to council at the start of each quarter) will identify which sites have been and are being worked on, which will enable both the applicant and council to clearly understand whether the 20 week limit is in danger of being exceeded. In addition, any works near a sensitive receiver, for example a school or childcare (eg Oranga Kindergarten at 48A Waitangi Road) will be carefully managed. While Mr Winter expresses concern that the applicant is unwilling to specify an upper noise limit that it will not exceed, he does recognise that the measures proposed by way of the CNVMP and the conditions of consent will ensure that noise is appropriately managed and adverse effects minimised.

Overall, from the assessments undertaken by the applicant's and Council's experts, together with the CNVMP and conditions of consent, I consider that the applicant will suitably control adverse effects from noise, such that, particularly on the wider environment they will be less than minor.

Effects of earthworks

The applicant has provided an Earthworks and Infrastructure assessment prepared by Candor³ for the project area (dated 15 August 2019), as well as concept sediment and erosion plans (ESCP) and general earthworks methodology for various sized development sites in their section 92 response of 30 September 2019. The proposed stripping and removal of topsoil will consist of earthworks up to 186,500m³ over an area of 373,000m² to a maximum depth of 0.5m (generally 300mm). At this stage the size of individual sites and their layouts are not known as this will be determined for each stage of development depending on available sites. As such the applicant confirms they will submit individual ESCPs for each site prior to works commencing. The works will be undertaken in accordance with Auckland Council Guidance Document 05 (GD05) and controlled by various means such as (but not limited to):

- The installation of stabilised construction entrances to individual lots where earthworks are proposed;
- The establishment of clean water diversions on the upslope side of each lot where earthworks are proposed;
- The installation of silt fences along the down slope boundary of development lots less than 1,000m² or for lots up to 2,000m², to limit exposed surfaces to less than 1,000m²;
- The establishment of chemically treated decanting earth bunds (DEBs) for catchments larger than 2,000m²;
- Ensuring that appropriate erosion and sediment controls are established ahead of any earthworks commencing;
- Establishing appropriately controlled stockpiling areas; and
- Progressive and rapid stabilisation of completed earthworks areas.

The proposal has been reviewed by Matt Byrne, Specialist Advisor, Earth, Streams and Trees in a memo dated 16 October 2019. Mr Byrne notes that while unusual for earthworks of this scale to be granted without specific details, the use of the proposed flow charts and conditions of

consent proposed by the applicant will suitably control the works. In particular, the council will be advised of which sites are to be worked on each quarter, individual ESCPs will be certified prior to works commencing and pre-start meetings will occur for each site. Mr Byrne confirms that the proposed measures, identified above and in the example ESCPs, are in accordance with GD05, and providing (as confirmed by the applicant) the measures will remain in place until the sites are sufficiently stabilised to minimise adverse effects on the receiving environment. Mr Byrne notes that while the applicant identifies chemical treatment will be utilised on large sites there are no details as to how this will be implemented. As such, a condition of consent, accepted by the applicant, will require the submission of a chemical treatment management plan for each development site to be implemented where such a plan is required, with certification required by council prior to works commencing.

Given the scale of the overall project area, Mr Byrne agrees that the ten year period for the consent is acceptable. Typically, on large scale projects, due to the risk of potentially significant effects on receiving environments earthworks are subject to a seasonal restriction of no works during the winter months unless the Council agrees otherwise. The applicant has adopted this as a condition of consent.

Overall, Mr Byrne comments *“Based on the above, it is considered that, subject to Council being made aware of earthworks commencing on any given site, and the provision of a site specific ESCP for any lot within the Oranga Comprehensive Earthworks Area where earthworks are proposed, the effects associated with erosion and potential sediment discharges, will be appropriately managed”*. I accept Mr Byrne’s comments in this regard.

During the works contractors vehicles and earthworks trucks have the potential of causing adverse effects on the operation of the surrounding roading network including on the safety of pedestrians and occupiers of dwellings. The applicant has proposed as a condition the implementation of a traffic management plan for each site that will suitably control such disruption so that adverse effects in regard to this matter will be avoided, remedied or mitigated.

David van Echten, Council’s Development Engineer has reviewed the proposed extent of earthworks (memo dated 13 November 2019). Mr Echten notes that due to the thorough checking process of the flowcharts and conditions of consent there will be suitable controls in terms of noise, vibration, dust, lighting and traffic effects that will avoid adverse effects in this regard. In addition, the works will be undertaken in general accordance with GD05. Due to the limited extent of works proposed in terms of earthworks depth, he notes it is highly unlikely that instability will be a factor, however there are appropriate measures to address this prior to works starting if required.

The works area is not adjacent the coast or any watercourses, and the proposed ESCPs will ensure that runoff from the sites are suitably controlled to not enter the stormwater system. As such adverse effects on the receiving environment are considered to be less than minor. In addition, there are no known natural, physical or historic heritage features within the vicinity of the works area.

Overall, taking into account the applicant’s assessment and Council’s specialist peer review, the proposed earthworks methodology and erosion and sediment control measures that will be implemented, the proposal will result in adverse effects on the receiving environment that are no more than minor.

Effects on archaeology

There are no identified sites of significance to mana whenua or archaeological sites within the development area. However, 42 Arapuni Avenue directly to the west of the area is identified on the Cultural Heritage Inventory (CHI) as being a site containing evidence of a shell midden area. The applicant has submitted an archaeological assessment undertaken for Stages 1 and 2 of the Oranga development, prepared by Archaeology Solutions Ltd dated October 2018. This review while concentrating on Stages 1 and 2 does encompass a high level review of the wider area. This notes that while there are no identified archaeological sites in the area, it is likely that some unidentified sites will be disturbed given the area was cultivated by Maori prior to European settlement and there has been minimal disturbance of the subsoil since. As such, the applicant has confirmed in their AEE, that they will be applying for an Authority to Modify from Heritage New Zealand to appropriately address any disturbance or destruction of archaeological sites. The applicant has also accepted conditions of consent regarding recording of archaeological evidence if uncovered and confirmed that they will follow the permitted activity standards regarding Accidental Discovery Protocol of the E11 and E12 land disturbance chapters of the AUP(OP). Taking into account that there are no identified sites, the accepted conditions of consent, and an Authority to Modify will be obtained, I consider that there will be less than minor adverse effects from the potential disturbance of unidentified archaeological sites.

Effect on natural hazards

The Oranga area contains a number of overland flow paths that traverse through properties, as well as some identified flood plains – in particular between Waitangi Road and Hull Place and near the intersection of Mt Smart Road and Rockfield Road. Candor³ have addressed in their Infrastructure Report dated 15 August 2015 that the proposed works, being minor earthworks and installation of silt and sediment control devices may influence flooding and flowpaths. They confirm that for each site the effects on these will be considered to ensure that the *“impacts on existing flooding and overland flows on upstream and downstream properties outside the neighbourhood will be less than minor”*. Candor³ confirm that the erosion and sediment control measures will be designed to maintain the capacity of existing overland flows up to and including the 20 year ARI return event, whilst diverting flows around working areas to prevent mobilising sediments. In addition during peak rainfall events up to and including the 100 year ARI emergency spillways and overland flow routes will be installed.

However, as the size and layout of the proposed development sites has not been determined, and due to the inaccuracies with Council's online data, the extent of potential flooding or where the exact overland flow path entry and exit points may be are all uncertain. Given the size of the project area, and the uncertainty of the development site locations and sizes it is not practicable to undertake a detailed flooding analysis at this stage, in addition further changes will result as part of the future housing on the developments for each site. As such the applicant has provided further information in a methodology is set out in the memo titled “Draft Management Plan” provided by the agent on 12 November 2019. They confirm that prior to works commencing on each site an appropriately detailed assessment will be undertaken to determine the location of and size of overland flow paths to ensure their entry and exit points nor capacity are affected. If they are, then a separate resource consent will be obtained.

Mr van Echten has reviewed the proposed works and information provided specifically with regard to the effect on these overland flow paths and potential flooding. He states *“it is considered that there are appropriate checks to ensure the within scope works including earthworks and changes to ground levels will not adversely affect overland flow paths or increase potential volume or frequency of flooding within the site or surrounding sites.”* Mr van Echten does note that flood displacement effects may not be fully captured by the applicant’s recommended approach and has recommended a change to the In-Scope, Overland Flow path and Flood Plain Flow Charts to ensure that any filling above existing surface levels will be taken into account and the effects of this considered. He also notes that the stockpiling of material or areas used for drying and mixing will also need to be factored in to ensure that flood capacity is not decreased. The applicant has subsequently updated the Flow Charts to reflect this requirement.

Based on the methodology proposed and the specialist input provided, I consider that the proposed works will not result in adverse effects in terms of overland flow paths, flood capacity or upstream or downstream flooding effects for the surrounding environment.

Effects on residential amenity

Due to the overall scale of the works, across 35 hectares, and the length of consent, ten years, there is the potential for adverse effects on residential amenity to arise, particularly for those people who reside in the surrounding area. It is recognised that the proposal is not to undertake works across the entire area all at the same time, this would be impracticable for a number of reasons, not least the number of workers required and that tenants of the properties need to be rehoused during the works. As seen from Stages 1 and 2, and indicated in the Masterplan for Stages 3 to 7, the development are generally spread out across the suburb. In addition, to ensure adverse aural amenity effects do not result works will be managed so they are no longer than 20 weeks consecutively within a local area. Following the completion of site preparatory works, the sites will be suitably covered and protected to ensure ongoing adverse runoff does not occur prior to the construction of houses on the land.

In my opinion while the proposed works will result in a change in visual character to the area, with many worksites open, and extensive construction activity, due to the measures proposed to be put in place as controlled by the conditions of consent, overall adverse effects on amenity are considered to be no more than minor.

Effects on cultural values

The applicant has advised, in Section 7.2.2 of the AEE, that they have consulted with mana whenua who have an interest in the Oranga area and that this engagement will continue throughout the development period. Kāinga Ora advise that mana whenua are overall supportive of the proposal, as set out in the Background above Te Ākitai Waiohū have also withdrawn any opposition to the resource consent. As addressed in the assessment above the works will be undertaken in accordance with specific conditions of consent and management plans to ensure that adverse effects on the receiving environment are avoided. In particular, the ESCPs and SMPs will ensure that sediment and contaminants are not discharged from the site such that they will affect the freshwater aquifers below Oranga. Accidental discovery protocols will be in place during works, which will require further mana whenua engagement should any archaeological remains be found. Overall, taking into account the nature of the proposed works and its location, together with the consultation that has been and will continue to be undertaken

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with mana whenua, it is considered that effects on cultural values will be appropriately managed so they are less than minor.

Adverse effects conclusions

Overall, from the assessments provided by the applicant together with Council's specialists, the offered management plans and conditions of consent I consider that the proposal will have no more than minor adverse effects on the wider environment.

Step 4: public notification in special circumstances

If an application has not been publicly notified as a result of any of the previous steps, then the council is required to determine whether special circumstances exist that warrant it being publicly notified (s95A(9)).

Special circumstances are those that are:

- Exceptional, abnormal or unusual, but something less than extraordinary or unique;
- outside of the common run of applications of this nature; or
- circumstances which make notification desirable, notwithstanding the conclusion that the adverse effects will be no more than minor.

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 run of things to suggest that public notification should occur. While the project area is large scale and it is not known at this stage which sites will be incorporated into which development site, nor the timing of the development of any site, the works themselves are the same as is occurring within Oranga currently and other neighbourhoods across Auckland to facilitate the regeneration of these urban areas. As a discretionary activity all relevant matters and their effects have been able to be fully considered, with assessments by a set of qualified professionals. As such it is not considered that the proposal warrants special circumstances.

Public notification conclusion

Having undertaken the s95A public notification tests, the following conclusions are reached:

- Under step 1, public notification is not mandatory.
- Under step 2, there is no rule or NES that specifically precludes public notification of the activities, and the application is for activities other than those specified in s95A(5)(b).
- Under step 3, public notification is not required as the application is for activities that are not subject to a rule that specifically requires it, and it is considered that the activities will not have adverse effects on the environment that are more than minor.
- Under step 4, there are no special circumstances that warrant the application being publicly notified.

It is therefore recommended that this application be processed without public notification.

8. Limited notification assessment (sections 95B, 95E-95G)

If the application is not publicly notified under s95A, the council must follow the steps set out in s95B to determine whether to limited notify the application. These steps are addressed in the statutory order below.

Step 1: certain affected protected customary rights groups must be notified

There are no protected customary rights groups or customary marine title groups affected by the proposed activities (s95B(2)).

In addition, the council must determine whether the proposed activities are on or adjacent to, or may affect, land that is subject of a statutory acknowledgement under schedule 11, and whether the person to whom the statutory acknowledgement is made is an affected person (s95B(3)). Within the Auckland region the following statutory acknowledgements are relevant:

- Te Uri o Hau Claims Settlement Act 2002
- Ngāti Manuhiri Claims Settlement Act 2012
- Ngāti Whātua Ōrākei Claims Settlement Act 2012
- Ngāti Whātua o Kaipara Claims Settlement Act 2013
- Te Kawerau ā Maki Claims Settlement Act 2015
- Ngāti Tamaoho Claims Settlement Act 2018
- Ngāi Tai Ki Tāmaki Claims Settlement Act 2018

In this instance, the proposal is not on or adjacent to and will not affect land that is subject to a statutory acknowledgement, and will not result in adversely affected persons in this regard.

Step 2: if not required by step 1, limited notification precluded in certain circumstances

The application is not precluded from limited notification as:

- the application is not for one or more activities that are exclusively subject to a rule or NES which preclude limited notification (s95B(6)(a)); and
- the application is not exclusively for one or both of the following: a controlled activity, other than a subdivision, that requires consent under a district plan; or a prescribed activity (s95B(6)(b)).

Step 3: if not precluded by step 2, certain other affected persons must be notified

As this application is not for a boundary activity or a prescribed activity, there are no affected persons related to those types of activities (s95B(7)).

The following assessment addresses whether there are any affected persons that the application is required to be limited notified to (s95B(8)).

In determining whether a person is an affected person:

- a person is affected if adverse effects on that person are minor or more than minor (but not less than minor);
- adverse effects permitted by a rule in a plan or NES (the permitted baseline) may be disregarded; and
- the adverse effects on those persons who have provided their written approval must be disregarded.

Adversely affected persons assessment (sections 95B(8) and 95E)

No persons are considered to be adversely affected by the proposal for the reasons set out in Section 7 above which given the nature of the application has taken into account any adverse effects that may arise from the proposal on the environment, and therefore people, as a whole. In particular:

- The proposed works to the protected root zones of the trees will be undertaken in accordance with specific methodologies and under the supervision of a works arborist. This will ensure that the health, and therefore visual amenity, of the trees will not be adversely affected and therefore there will be no adverse effects on the amenity values of any specific person.
- The land disturbance will be controlled through various management plans including traffic management and erosion and sediment control. This will ensure that the adverse effects from sediment runoff or dust on to surrounding properties will be minimised, and construction traffic will be suitably controlled, so that adverse effects on any specific person's amenity values will be less than minor.
- The applicant proposes suitable measures including a DSI for each site, works in accordance with specific SMPs, and the provision of a RAP (if required) that will ensure potential adverse effects on human health, including occupants of adjacent sites, from the disturbance of contaminated soils are avoided.
- The applicant has proposed acceptable methods to ensure that the overland flow paths and flood capacity of the area, and how these affect individual sites do not alter, such that there will be less than minor adverse effects on upstream or downstream properties and therefore on any particular person.
- The applicant and Council's noise specialist have confirmed that the proposed works will comply with the vibration standards of the AUP(OP), in particular no rock breaking is proposed, as such there will be negligible effects on any person due to vibration.
- As individual development sites are not known, including their size, timing or location, it is difficult to consider adverse effects from construction noise on any specific person. However, as addressed above the applicant proposes to operate in accordance with a CNVMP and conditions of consent that will ensure adverse effects in regard to noise and vibration are suitably managed and mitigated. In addition, the applicant advises that it will be a maximum of 1 – 2 days that an individual receiver will receive noise over 80dBA from a specific works site, and up to 4 days when two adjacent work sites/superlots are being worked on at the same time. The proposed mitigation measures such as temporary noise barriers will reduce noise levels as well as the short term and temporary duration in noise. Overall, while the proposed works will result in a temporary disturbance to amenity and enjoyment, particularly

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for the owners and occupiers of properties directly adjacent to work sites, the proposed measures of the CNVMP will ensure that noise from the works is actively managed, with mitigation measures implemented and therefore adverse effects on persons will be temporary and less than minor.

Overall, it is recognised that the proposed works will be undertaken over a long period of time, ten years, in an existing urban area. As such there will be potential for ongoing disturbance and disruption for residents in the community of persons. However, the works area is distributed over 35 hectares and to ensure aural amenity is maintained works will be for a maximum 20-week duration within 140 meters of any occupied property. The proposed management plans, in particular traffic management, CNVMP, various contamination management plans, overland flow path and flooding review and the ESCPs, will minimise and control adverse effects so they are avoided, remedied or mitigated. These plans together with the ongoing engagement and consultation with the community will ensure that adverse effects on any particular person will be temporary and less than minor.

Step 4: further notification in special circumstances

In addition to the findings of the previous steps, the council is also required to determine whether special circumstances exist in relation to the application that warrants it being notified to any other persons not already determined as eligible for limited notification (excluding persons assessed under section 95E as not being affected persons).

Special circumstances are those that are:

- Exceptional, abnormal or unusual, but something less than extraordinary or unique;
- outside of the common run of applications of this nature; or
- circumstances which make limited notification to any other person desirable, notwithstanding the conclusion that no other person has been considered eligible.

In this instance I have turned my mind specifically to the existence of any special circumstances under s95B(10) and conclude that there is nothing exceptional or unusual about the application, and that the proposal has nothing out of the ordinary run of things to suggest that notification to any other persons should occur. In this case, effects on all persons were able to be considered in Step 3 above.

Limited notification conclusion

Having undertaken the s95B limited notification tests, the following conclusions are reached:

- Under step 1, limited notification is not mandatory.
- Under step 2, there is no rule or NES that specifically precludes limited notification of the activities, and the application is for activities other than those specified in s95B(6)(b).
- Under step 3, limited notification is not required as it is considered that the activities will not result in any adversely affected persons.
- Under step 4, there are no special circumstances that warrant the application being limited notified to any other persons.

It is therefore recommended that this application be processed without limited notification.

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9. Notification recommendation

Non-notification

For the above reasons under section 95A this application may be processed without public notification.

In addition, under section 95B, limited notification is not required.

Accordingly, I recommend that this application is processed non-notified.



Jennifer Valentine
Principal Planning and Policy Consultant
4Sight Consulting Ltd

Date: 19 December 2019

Internal peer review



Matthew Thode
Senior Planning and Policy Consultant
4Sight Consulting Ltd

10. Notification determination

Acting under delegated authority, and for the reasons set out in the above assessment and recommendation, under sections 95A and 95C to 95D, and 95B and 95E to 95G of the RMA this application shall be processed non-notified.



Jeremy Wyatt
Premium Project Lead
Resource Consents

Date: 20 December 2019

Consideration of the application

11. Statutory considerations

Under s104B the council may grant or refuse consent for a discretionary or non-complying activity. If it grants the application, it may impose conditions under ss108 and 108AA of the RMA.

The council must have regard to Part 2 of the RMA (“Purposes and Principles” – ss5 to 8), ss104, 104B, and as relevant ss105, 107 of the RMA. The weighing up under s104 is subject to Part 2.

12. Actual and potential effects on the environment

Sections 104(1)(a) and 104(1)(ab) of the RMA requires the council to have regard to:

- any actual and potential effects on the environment of allowing the activities (including both the positive and the adverse effects); and
- any measure proposed to or agreed to by the applicant for the purpose of ensuring positive effects on the environment to offset or compensate for any adverse effects on the environment that will or may result from allowing the activity.

Positive effects

The agent has provided an assessment of the positive effects that are considered to result from the proposal at Section 7.1.6 of the AEE, which I concur with. In particular the proposal will have the following positive effects:

- enabling the future redevelopment and intensification of housing, particularly social housing, in a central Auckland area; and
- removing potentially contaminated soils from land that is currently used and will be used in the future for residential purposes.

Adverse effects

In considering the adverse effects, the council:

- may disregard those effects where the plan permits an adverse effect of the activity on the environment if a national environmental standard or the plan permits an activity with that effect;
- must disregard trade competition or the effects of trade competition; and
- must disregard those effects on a person who has provided written approval to the application.

The assessment and conclusion of the “permitted baseline” for the s95D adverse effects assessment is applicable to s104(2), and so is not repeated here.

No persons have provided their written approval.

The assessment of adverse effects done for notification identified and evaluated adverse effects only, and these are adopted for the purposes of s104(1)(a). In particular that assessment identified that there would be no more than minor adverse effects on the environment, and that these effects can be avoided, remedied or mitigated by the management plans, controls and conditions of consent that are proposed.

Measures proposed to compensate or offset adverse effects

There are no specific offsetting or environmental compensation measures proposed or agreed to by the applicant to ensure positive effects on the environment.

Summary

Actual and potential effects

Overall from the assessment undertaken it is considered that the actual and potential effects of the activities are acceptable and in particular that adverse effects can be avoided, remedied or mitigated through the mitigation proposed in the application and the recommended conditions of consent.

13. Relevant statutory instruments

National Environmental Standard – s104(1)(b)(i)

NES – Assessing and Managing Contaminants in Soil to Protect Human Health

The National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health (NES) has been considered as part of the foregoing assessment. The NES provides a nationally consistent set of planning controls and soil contaminant values and ensures that land affected by contaminants in soil is appropriately identified and assessed before it is developed – and if necessary the land is remediated, or the contaminants contained, to make the land safe for human use.

The proposal has been assessed by Ms Jukic who has advised suitable conditions of consent to ensure that adverse effects to human health will be appropriately avoided or mitigated, including in relation to asbestos and lead-based paints. A detailed site investigation will be undertaken for each development site and works will be undertaken in accordance with a site management plan, as well as a remediation action plan, where required, to ensure that potential effects from contamination can be appropriately controlled. As such, it is considered the proposed works will be consistent with the purpose of the NES.

National Policy Statement – s104(1)(b)(iii)

National Policy Statement for Freshwater Management 2014

The National Policy Statement for Freshwater Management 2014 (Freshwater NPS) sets out the objectives and policies for freshwater management. The subject land is situated above an identified High-Use Aquifer and Quality-Sensitive Aquifer, and the nature of the works being soil
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disturbance of contaminated land have the potential to affect the quality of these aquifers. Due to the proposed erosion and sediment control measures proposed, as well as the procedures and protocols that will be in place during the works, adverse effects on the aquifer will be avoided. As such the proposal is considered to be consistent with the NPS Freshwater.

New Zealand Coastal Policy Statement 2010 (NZCPS) – s104(1)(b)(iv)

The purpose of the NZCPS is to state policies in order to achieve the purpose of the RMA in relation to the coastal environment of New Zealand. Given the separation of the proposed development from the coast and the proposed sediment control measures to be utilised the NZCPS is not considered relevant to this application.

Auckland Unitary Plan (Operative in part): Chapter B Regional Policy Statement – s104(1)(b)(v)

Chapter B of the AUP(OP) sets out the strategic framework for the identified issues of significance, and resultant priorities and outcomes sought. These align with the direction contained in the Auckland Plan. The chapters that are considered most relevant to this application are B2 Urban Form and Growth; B4 Natural Heritage; B6 Mana Whenua; Chapter B7 Natural Resources; and B10 Environmental Risk. The proposal is considered to be consistent with the outcomes that are sought as:

- It is enabling increased intensification of centrally located urban land for residential activity (Chapter B2);
- The proposal does not affect the One Tree Hill volcanic viewshaft overlay nor any notable tree (Chapter B4);
- Mana whenua are being engaged with by Kāinga Ora in relation to this project area on an ongoing basis and have received confirmation from Kāinga Ora that their concerns in regard to cultural monitoring will be addressed outside the regulatory process. All works will be appropriately managed to ensure that adverse effects on receiving waters are avoided. While no known archaeological sites are recorded in the area of works, accidental discovery protocols will apply (Chapter B6);
- Appropriate sediment and erosion controls will be in place to avoid adverse effects from sediment runoff in particular on the water quality of the underground freshwater aquifer, and the location is sufficiently separated from the coast to avoid adverse effects in this regard (Chapter B7);
- Upstream and downstream flood capacity will not be altered as a result of the works. Appropriate processes and procedures will be in place during works to avoid adverse effects on the environment and remediate the land for future residential use (Chapter B10).

Plan or Proposed Plan – section 104(1)(b)(vi)

Auckland Unitary Plan (Operative in part)

The agent at Section 7.2.3 of the AEE has provided an assessment regarding the relevant objectives and policies. I generally agree with this assessment, however for completeness I also provide the following assessment. I note that as the proposal is a discretionary activity overall, it

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is only the objectives and policies that are necessary to be assessed. However given that a number of the reasons for consent are restricted discretionary activities, reference has been made to the relevant assessment criteria for the purposes of guiding assessment against the overarching objectives and policies.

E11 Land disturbance – regional and E12 Land disturbance - district

The proposal is consistent with the objectives and policies of E11.2, E11.3, E12.2 and E12.3 and the assessment criteria of E11.8.2(1) and E12.8.2(1) for the following reasons:

- Erosion and sediment control measures will be in place on all development sites during all works to ensure that sediment runoff is suitably controlled and adverse effects on the receiving environment avoided, including the control of dust;
- Accidental discovery protocol will be followed during works in the event that some unknown archaeological remains are discovered. This will ensure that appropriate protocols are followed to avoid adverse effects on cultural values in this regard;
- Construction traffic management plans will be in place for each site;
- Only specific development sites will be worked on at any one time and on completion of works on that lot they will be suitably covered and protected prior to the construction of houses;
- While the overall works period will be ten years, this is across the entire 35 hectares and various sites will be worked at different times, and therefore the duration is considered acceptable;
- Site management plans will be in place to appropriately manage the disturbance of potentially contaminated soils;
- Given the depth of soil scrape proposed (maximum 500mm) and setback from site boundaries (500mm) adverse stability effects are not anticipated;
- Any stockpiling of materials will not exacerbate flooding as the works are removing buildings and soil from the sites;
- The works area does not include any identified natural or physical resources (apart from three notable trees that will be avoided during works), nor historic heritage sites or sites of significance to mana whenua.
- The level of earthworks are necessary to enable the remediation of the land for future, more intensive residential development.

E16 Trees in open space and E17 Trees in roads

The proposal is consistent with the objectives and policies of E16.2, E16.3, E17.2 and E17.3 and the assessment criteria of E16.8.2(1) and E17.8.2(1) for the following reasons:

- The proposal does not involve the removal of any protected tree, nor pruning of any tree beyond the permitted standards;
- All works to protected trees will be supervised by a works arborist and in accordance with best arboricultural practice that will ensure the health of the tree is not adversely affected;

- The amenity values, particularly visual, will be remain due to the limited extent of the tree works proposed; and
- No works are proposed to the three Notable trees, and the values of the protected trees will be retained. As a matter of precaution, an advice note has been included to advise separate consent is required for works in relation to these trees.

E25 Noise and vibration

The proposal is consistent with the objectives and policies of E25.2 and E25.3 and the assessment criteria of E25.8.2(1) for the following reasons:

- Construction noise and vibration management plans will be in place throughout the works to ensure best practicable options are utilised so that noise and vibration is minimised;
- Works will only be undertaken between 7.30am and 6pm, Monday to Saturday, and managed so that individual receivers do not have more than 20 weeks consecutive of works occurring; and
- Measures will be put in place to reduce noise as much as practicable but due to the nature of works and the type of machinery required exceedance of noise levels, particularly in close proximity to property boundaries is unavoidable.
- No rock-breaking is anticipated nor has it been proposed, with separate consent being required if this is required to occur.

E30 Contaminated Land

The proposal is consistent with the objectives and policies of E30.2 and E30.3 for the following reasons:

- Best practice land management procedures will be in place including detailed site investigations will be undertaken for each development site prior to works commencing, and works will be undertaken in accordance with SMPs and RAPs;
- These measures will ensure that adverse effects on potable water, water quality, human health, amenity values and ecological values are avoided; and
- The removal of contaminated soils from the sites will be appropriately managed and disposed of at certified facilities.

E36 Natural hazards and flooding

The proposal is consistent with the objectives and policies of E12.2 and E12.3 for the following reasons:

- The proposed works will not alter the entry and exit points of overland flowpaths from individual development sites, nor alter the capacity of these flow paths; and
- The works will be undertaken to ensure that upstream and downstream flood capacity is not adversely affected and potential or increased flooding on surrounding properties does not result.

Conclusion

In accordance with an assessment under s104(1)(b) of the RMA the proposal is consistent with the relevant statutory documents, in particular the NESCS, the Auckland RPS and the relevant objectives and policies of the AUP(OP).

14. Any other matter – section 104(1)(c)

No other matters are considered relevant or reasonably necessary to consider to determine this application.

15. Other relevant RMA sections

Monitoring

The main components of the resource consents which will require monitoring are ensuring that the works are carried out in accordance with the approved plans and relevant conditions. It is therefore anticipated that a monitoring deposit of \$5000 (inclusive of GST) will be appropriate in this case, with further fees payable through the lifecycle of the consent. A condition requiring payment of this fee is recommended.

Matters relevant to discharge and coastal permits – s105

The proposal requires a consent to discharge contaminants under s15. Under section 105, the council must have regard to additional matters for any application for a discharge permit or a coastal permit that would contravene s15 or s15B of the RMA.

The provisions of s105 have been met subject to appropriate conditions of consent to ensure there is no significant adverse effect on the receiving environment. The applicant's reasons for the proposed choice are considered appropriate in the circumstances and there are no alternative methods of discharge applicable in this case.

Restrictions on discharge permits – s107

The adverse effects of the discharge of contaminants have been assessed above. The assessment found that the discharge is not likely to result in any of the effects identified in s107(c)-(g).

Conditions of resource consents – ss108 and 108AA

The recommended conditions of consent are contained as part of the following recommendation section of the report. These are conditions offered by the applicant or inherent in the application proposal, and identified in the s104 assessment, to ensure that the adverse effects of the proposal are avoided, remedied or mitigated.

Duration of resource consents – s123

In regard the discharge permit it is appropriate to set a term of ten years in line with the lapse date of the resource consent as discussed below. This will ensure that the disturbance of contaminated soils will be undertaken on a short term basis only in line with the time period of the consent.

In regard the land use consent, particularly in regard to earthworks, it is also considered appropriate to set a term of ten years. Given the scale of the proposal it is considered appropriate to limit the works to the ten year period so that effects are appropriately managed rather than allow for a longer period of work.

Lapsing of resource consents – s125

Under s125, if a resource consent is not given effect to within five years of the date of the commencement (or any other time as specified) it lapses automatically unless the council has granted an extension. In this case, five years is not considered appropriate because the applicant has applied for a ten year consenting period due to the scale of the proposed works across multiple pieces of land (35 hectares). The timing of works needs to take into account the ability to rehouse tenants in alternative accommodation during works, and to have sufficient resourcing of contractors to undertake the works.

Accordingly, ten years is considered an appropriate period for the consent holder to implement the consent due to the nature and scale of the proposal.

16. Part 2 (Purpose and Principles)

Purpose

Section 5 identifies the purpose of the RMA as the sustainable management of natural and physical resources. This means managing the use of natural and physical resources in a way that enables people and communities to provide for their social, cultural and economic well-being while sustaining those resources for future generations, protecting the life supporting capacity of ecosystems, and avoiding, remedying or mitigating adverse effects on the environment.

Principles

Section 6 sets out a number of matters of national importance which need to be recognised and provided for. These include the protection of outstanding natural features and landscapes, the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna, and the protection of historic heritage.

Section 7 identifies a number of “other matters” to be given particular regard by the council in considering an application for resource consent. These include the efficient use of natural and physical resources, and the maintenance and enhancement of amenity values.

Section 8 requires the council to take into account the principles of the Treaty of Waitangi.

Assessment

Any consideration of an application under s104(1) of the RMA is subject to Part 2. The Court of Appeal in *R J Davidson Family Trust v Marlborough District Council* [2018] NZCA 316 has held that, in considering a resource consent application, the statutory language in section 104 plainly contemplates direct consideration of Part 2 matters, when it is appropriate to do so. Further, the Court considered that where a plan has been competently prepared under the RMA it may be that in many cases there will be no need for the Council to refer to Part 2. However, if there is doubt that a plan has been “competently prepared” under the RMA, then it will be appropriate and necessary to have regard to Part 2. That is the implication of the words “subject to Part 2” in s104(1) of the RMA.

In the context of this discretionary activity application for land use consent and discharge permit, where the objectives and policies of the relevant statutory documents were prepared having regard to Part 2 of the RMA, they capture all relevant planning considerations and contain a coherent set of policies designed to achieve clear environmental outcomes. They also provide a clear framework for assessing all relevant potential effects, and I find that there is no need to go beyond these provisions and look to Part 2 in making this decision as an assessment against Part 2 would not add anything to the evaluative exercise.

17. Conclusion

Overall, it is concluded that the proposed development has actual and potential effects that are acceptable, with adverse effects that are able to be suitably avoided, remedied or mitigated through the mitigation inherent in the application and the recommended conditions of consent. The proposal is consistent with the NESCS, the direction sought by the RPS and the relevant objectives and policies of the AUP(OP).

18. Recommendation

Under sections 104, 104B, 105, 107 and Part 2 of the RMA, I recommend that this non-notified discretionary activity application is granted, subject to the following conditions.

The reasons for this decision are detailed in the attached draft decision and recommended conditions.

This report and recommendation prepared by:

Name: Jennifer Valentine

Title: Principal Planning and Policy Consultant, 4Sight Consulting

Signed:



Date: 19 December 2019

Internal peer review:

Name: Matthew Thode

Title: Senior Planning and Policy Consultant, 4Sight Consulting

Signed:

A handwritten signature in black ink, appearing to read 'Matthew Thode', with a long horizontal stroke extending to the right.

Decision on an application for resource consents under the Resource Management Act 1991



Discretionary activity

Application numbers: BUN60344444 (Council Reference)
LUC60344358 (s9 land use consent)
DIS60344445 (s15 discharge permit)

Applicant: HLC (2017) Ltd

Site address: Various sites in the suburb of Oranga

Proposal:

To allow for site preparatory works including the removal of buildings, remediation of land, to a depth of 500mm, and works above the permitted standards in the protected rootzone of protected trees on roads and open space zoned land for a period of ten years, within a defined area of residentially zoned sites within the suburban Oranga area.

Resource consents are required for the following reasons:

Land use consent (s9) – LUC60344358

Auckland Unitary Plan (Operative in part)

District land use (operative plan provisions)

E12 Land Disturbance - District

- To undertake general earthworks of up to 373,000m² and 186,500m³, as the earthworks are greater than 2,500m² and 2,500m³ in a residential zone, is a **restricted discretionary** activity under rules E.12.4.1(A6) and (A10) respectively.
- To undertake earthworks which infringe the standards is a **restricted discretionary** activity under rule C1.9(2). The proposal will not comply with the following standards:
 - E12.6.2(13): Temporary land disturbance and stockpiling of soil and other materials within the one per cent annual exceedance probability (AEP) flood plain and/or overland flow path for up to a maximum of 28 days in any calendar year.

E16 Trees in open spaces

- To undertake works in the protected rootzone of trees in Open Space Zones not meeting Standard E16.6.2 is a **restricted discretionary** activity under Rule E16.4.1(A8).

E17 Trees in roads

- To undertake works in the protected rootzone of trees within the road not meeting Standard E17.6.3 is a **restricted discretionary** activity under Rule E17.4.1(A8).

BUN60344444, LUC60344358, DIS60344445

E25 Noise and vibration

- To exceed the construction noise standards in Rule E25.6.27 is a **restricted discretionary** activity under rule E25.4.1(A2).

Regional land use (operative plan provisions)

E11 Land Disturbance – Regional

- To undertake earthworks of greater than 50,000m² (up to 35 hectares) on land with a slope of less than 10 degrees and outside of the sediment control protection area, is a restricted **discretionary** activity under rule E11.4.1(A5).

National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health (“NES:CS”)

- Pursuant to Regulation 11 of the NES, resource consent as a **discretionary** activity is required as the proposed soil disturbance does not meet the requirements for a permitted activity under Regulation 8 of the NES, and a detailed site investigation has not been undertaken.

Discharge permit (s15)- DIS60332066

Auckland Unitary Plan (Operative in part)

- To undertake soil disturbance with soils containing concentrations of contaminants above environmental discharge criteria that does not meet controlled activity standard E30.6.2.1 as no detailed site investigation has been undertaken is a discretionary activity under rule E30.4.1(A7).

Decision

I have read the application, supporting documents, and the report and recommendations on the application for resource consents. I am satisfied that I have adequate 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, 104B, 105, 107 and Part 2 of the RMA, the resource consents is **GRANTED**.

Reasons

The reasons for this decision are:

1. In accordance with an assessment under ss104(1)(a) and (ab) of the RMA, the actual and potential effects from the proposal are found to be acceptable, because:
 - Works within the protected root zone of protected trees located within the roads and open space zones will be supervised by a works arborist, best practice arboriculture methods will be utilised throughout works, and protective fencing will ensure no

unintended damage to trees. As such the health and amenity of these trees will be maintained throughout the works;

- Detailed site investigations will be undertaken on each development site prior to works commencing, and all works will be undertaken in accordance with a site management plan and a remediation action plan (if required) as well as an asbestos control management plan if required. The sites will be remediated as a result of the site scraping works, and soils will be disposed of at a licensed facility. This will ensure that adverse effects on the receiving environment and human health from contamination are avoided;
 - Individual erosion and sediment control plans will be prepared for each development site, together with chemical treatment management plans and appropriate methodology to control sediment runoff. Sites will be stabilised during works and appropriately covered following completion. Dust and traffic will also be appropriately controlled;
 - The works area does not contain any identified natural or physical resources that will be affected, and accidental discovery protocol will be in place throughout works.
 - consultation has occurred and is ongoing with mana whenua who have an interest in the area;
 - Overland flow path entry and exit points for each development site will not be altered and the flood capacity not decreased, therefore not resulting in adverse upstream or downstream flooding effects;
 - A construction noise and vibration management plan will be in place during all works that will ensure noise is minimised as much as possible. Work will be limited to 7.30am to 6pm Monday to Saturday, and individual receivers will experience a maximum consecutive length of 20 weeks of noise.
2. In accordance with an assessment under s104(1)(b) of the RMA, the proposal is found to be consistent with the relevant statutory documents, including:
- The National Environmental Standard for Assessing Contaminants in Soil to Protect Human Health as appropriate management plans and protocols will be in place throughout works;
 - The Auckland Regional Policy Statement as the proposal will facilitate the intensification of urban housing supply and adverse effects on the receiving environment will be suitably avoided, remedied or mitigated;
 - The objectives and policies of the Auckland Unitary Plan (Operative in part), and in particular Chapter E11 Land disturbance – regional, Chapter E12 Land disturbance – district, Chapter E16 Trees in open space zones, Chapter E17 Trees in roads, Chapter E25 Noise and vibration and Chapter E30 Contaminated land. All works will be undertaken in accordance with the conditions of consent including various management plans that will avoid, remedy or mitigate adverse effects. Sediment and erosion control plans will be in place throughout works as well as various other measures to control runoff, dust and effects on the receiving environment. Construction traffic management plans will also be in place. A works arborist will supervise works in the protected root zone of all protected trees to ensure their health and amenity is maintained. Best practicable options to minimise noise will be utilised throughout works. Appropriate site management plans and protocols will be in place

during soil disturbance and remediation to avoid adverse effects on the receiving environment.

3. In accordance with an assessment under s104(1)(c) of the RMA no other matters were considered relevant or reasonably necessary to determine the application.
4. The discharge of contaminants satisfies the requirements of ss 105 and 107 with no significant adverse effects anticipated.
5. A ten year lapse date and duration, in accordance with s125 and s123 respectively, is considered to be appropriate due to the scale of the project works area and that works cannot all occur at the same time.
6. There is no need to look to Part 2 of the RMA in making this decision, as the objectives and policies of the relevant statutory documents were prepared having regard to Part 2 of the RMA and they have captured all relevant planning considerations. They also contain a coherent set of policies designed to achieve clear environmental outcomes and provide a clear framework for assessing all relevant actual and potential effects. An assessment against Part 2 would not add anything to the evaluative exercise.
7. Overall it is considered that the proposal will have actual and potential effects that are acceptable and is consistent with the relevant statutory documents, such that it is appropriate to grant consent subject to conditions.

Conditions

Under sections 108 and 108AA of the RMA, these consents are subject to the following conditions:

General conditions

These conditions apply to all resource consents.

1. These consents shall be carried out in accordance with the documents and drawings and all supporting additional information submitted with the application, or any updates to these plans which have been submitted to and approved by the Team Leader, Compliance Monitoring Central, detailed below, and all referenced by the council as resource consent number LUC60344358 and DIS60344445
 - Application Form and Assessment of Environmental Effects prepared by Rachelle Hui of Planning Focus Ltd titled “Land Use and Discharge Consent Application, Assessment of Environmental Effects & Statutory Assessment, HLC (2017) Ltd, Neighbourhood-Wide Preparatory Site Works” dated September 2019.
 - Letter titled “Oranga Global Earthworks Consent Application (BUN60344444) – Response to Further Information Request”, prepared by Paul Arnesen of Planning Focus Ltd, dated 30 September 2019
 - Flow Charts titled – In Scope Flow Chart; Earthworks Flow Chart; Overland Flow Path Flow Chart; Flood Plain Flow Chart; Contamination Flow Chart, received on 18 December 2019

- Memorandum titled “Draft Management Plan” from Rachelle Hui, Planning Focus, received on 12 November 2019

Report title and reference	Author	Rev	Dated
Arboricultural Assessment	Peers Brown Miller		2 August 2019
Global Preliminary Site Investigation Oranga Development Onehunga, Penrose & Te Papapa Auckland	Focus Environmental Ltd	001	August 2019
Site Management Plan Oranga Development Onehunga, Penrose & Te Papapa Auckland	Focus Environmental Ltd	002	September 2019
Proposed Global Earthworks infrastructure Report	Candor3		15 August 2019
Oranga Area – Enabling Works Construction Noise and Vibration Assessment	Piritahi	1	23 August 2019
Oranga Area – Enabling Works Construction Noise and Vibration Management Plan	Piritahi	1	23 August 2019
Other additional information	Author	Rev	Dated
Archaeological Survey and Assessment of Effects: Oranga Redevelopment Project Stage I and Stage II Unrecorded sites	Archaeology Solutions Ltd		October 2018
Plan titled “Oranga Stage 2 Earthworks Sediment Control GM19” 2-311	Candor3		December 2018
Plan titled “Oranga Stage 2 Earthworks Sediment Control WT50” 2-302	Candor3		December 2018
Plan titled “Oranga Stage 2 Earthworks Desiment Control RC149” 2-313	Candor3		December 2018
RE: Geotechnical Investigation Report for Stage 1 of proposed HLC Residential Redevelopment in Oranga	CMW Geosciences	0	19 October 2018
RE: Geotechnical Investigation Report for Stage 2 of proposed HLC Residential Redevelopment in Oranga	CMW Geosciences	1	29 May 2019
Drawing titled “1.X Context Plan”	Urbanism +, HLC, Isthmus	N4	31 May 2019

Drawing titled "2.4 Masterplan."	Urbanism +, HLC, Isthmus	N4	31 May 2019
Drawing titled "2.5.1. Staging – Stage 1 Plan"	Urbanism +, HLC, Isthmus	N4	31 May 2019
Drawing titled "2.5.2. Staging – Stage 2 Plan"	Urbanism +, HLC, Isthmus	N4	31 May 2019
Drawing titled "2.5.2 Staging – Stage 3 Plan"	Urbanism +, HLC, Isthmus	N4	31 May 2019
Drawing titled "2.5.2 Staging – Stage 4 Plan"	Urbanism +, HLC, Isthmus	N4	31 May 2019
Drawing titled "2.5.2 Staging – Stage 5 Plan"	Urbanism +, HLC, Isthmus	N4	31 May 2019
Drawing titled "2.5.2 Staging – Stage 6 Plan"	Urbanism +, HLC, Isthmus	N4	31 May 2019
Drawing titled "2.5.2 Staging – Stage 7 Plan"	Urbanism +, HLC, Isthmus	N4	31 May 2019
Drawing titled "Oranga" Page 1 of 2	Urbanism +, HLC, Isthmus	N4	31 May 2019
Drawing titled "Oranga" Page 2 of 2	Urbanism +, HLC, Isthmus	N4	31 May 2019
Drawing titled "2.6 HNZN Distribution Plan"	Urbanism +, HLC, Isthmus	N4	31 May 2019
Drawing titled "2.8 Building Heights Plan"	Urbanism +, HLC, Isthmus	N4	31 May 2019
Drawing titled "2.9 Bedroom Mix Plan"	Urbanism +, HLC, Isthmus	N4	31 May 2019

2. Under section 125 of the RMA, these consents lapse ten years after the date they are granted unless:
 - The consents are given effect to; or
 - The council extends the period after which the consents lapse.
3. The consent holder shall pay the council an initial consent compliance monitoring charge of \$5000 (inclusive of GST), plus any further monitoring charge or charges to recover the actual and reasonable costs incurred to ensure compliance with the conditions attached to these consents.

Advice note:

The initial monitoring deposit 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 consents. In order to recover actual and reasonable costs, monitoring of conditions, in excess of those covered by the deposit, shall be charged at the relevant hourly rate applicable at the time. The consent holder will be advised of the further monitoring charge. Only after all conditions of the resource consents have been met, will the council issue a letter confirming compliance on request of the consent holder.

4. Consents LUC60344358 and DIS60344445 shall expire ten years from the date of commencement unless they have been surrendered or been cancelled at an earlier date pursuant to the RMA.

Pre-commencement conditions

For the avoidance of doubt, the following conditions apply to each individual site or group of sites and can be implemented per site or collectively, providing all works comply with the requirements.

Quarterly Works Plan

5. At the start of each quarter (January, April, July, and October) of each year (or at other times to be agreed with the Team Leader Compliance Monitoring Central), a Quarterly Works Plan (QWP) shall be provided to the Team Leader Compliance Monitoring Central, for certification.

As a minimum, the QWP shall contain the following information:

- a. Those sites that are scheduled to be earthworked and/or or remediated within the next quarter, including clear and consistent referencing of the sites (e.g. by address or site code);
- b. Those sites on which works are completed, specifically noting those that were completed in the previous Quarter, and those sites on which works are ongoing;
- c. Site specific zoning and overlays as denoted on the most up-to-date version of the Auckland Unitary Plan (Operative in part) maps;
- d. The presence of any overland flow paths, flood plains or other natural hazard on the site or adjacent to the site;
- e. Information confirming ongoing compliance with Condition 46 in regard to duration of construction noise;
- f. Monitoring requirements (if any);
- g. Confirmation of the suitability of the relevant approved management plans referenced in Condition 1 for the proposed works; and
- h. Whether the proposed works on the site do or do not fall within the scope of this consent and/or whether any additional resource consents are required.

The QWP shall be provided to Auckland Council a minimum of 10 working days prior to any works commencing on the site(s). Additional properties may be added to the schedule of sites to be earthworked and/or remediated during the quarter. Advice of any property additions must be provided in writing to the Team Leader, Compliance Monitoring Central, a minimum of 10 working days prior to any works commencing on the subject site(s).

Advice Note:

The consent holder is reminded to refer to the 'Flow Charts' referenced in Condition 1 to determine if works are enabled by this consent.

It is recognised that at the QWP stage the consent holder may not have sufficient information to categorically determine whether the entry and exit points of an overland flow path will change or flood displacement effects will be created. If this information is not known, the consent holder should provide the best information that they have. Final confirmation of the extent of overland flow shall be provided prior to works commencing, as required by Condition 18.

Site Management Plan

6. At least 10 working days prior to any works commencing on any site or group of sites that is the subject of this consent, the Site Management Plan submitted with this application and titled “*Site Management Plan Oranga Development, Onehunga, Penrose & Te Papapa Auckland*”, dated September 2019 and prepared by Focus Environmental Services Ltd (SMP) referenced in Condition 1, shall be updated to reflect the conditions of this consent, if necessary. The revised SMP and any subsequent updates shall be prepared by a Suitably Qualified and Experienced Practitioner (SQEP) in accordance with the Contaminated Land Management Guidelines, No. 1 Reporting on Contaminated Sites in New Zealand, Ministry for the Environment (revised 2011). This revised SMP (and subsequent updates) shall be provided to the Team Leader Compliance Monitoring Central for written certification.

Advice Note:

For the avoidance of doubt, the Site Management Plan that encompasses the area of works subject to this consent should be updated prior to any works commencing on any site. The SMP is a living document and can be updated to reflect best practice and regulatory requirements.

Detailed Site Investigation

7. Prior to the commencement of soil disturbance works within a site or group of sites, a detailed site investigation, as detailed in the certified SMP referenced in Condition 6, shall be undertaken across that site. The investigation shall be carried out by a suitably qualified and experienced contaminated land practitioner (SQEP) and shall be undertaken in accordance with the Contaminated Land Management Guidelines, No. 5 Site Investigation and Analysis of Soils (Ministry for the Environment, revised 2016).

Contamination Investigation Summary

8. At least ten (10) working days prior to the commencement of any soil disturbance works at a site or group of sites, a Contamination Investigation Summary report (CISR) shall be provided to the Team Leader for certification. The CISR shall include:
 - a) A summary of the investigation (or investigations) undertaken at the site or group of sites, including any tabulated analytical results, a figure showing any sampling locations, an interpretation of the results against or any updates to these documents;
 - b) Details of any remedial works that are proposed to ensure that the site is safe for the intended future land use;

- c) Confirmation of the adequacy of the SMP referenced in Condition 6 to cover the management of the effects on the environment and human health during the proposed remedial works, or the provision of a site-specific Remediation Action Plan (RAP) including addressing asbestos management if required.

The DSI and the site-specific RAP shall be prepared by a SQEP, in accordance with the Ministry for the Environment's Contaminated Land Management Guidelines, No. 1 Reporting on Contaminated Sites in New Zealand (revised 2011), and shall be provided to the Team Leader for approval.

During construction conditions

9. Earthworks on each site or group of sites shall be undertaken in accordance with the certified Site Management Plan, required by Condition 6 and the site specific RAP (if applicable) referenced in Condition 8. Any variations to the certified SMP or the site specific RAP shall be submitted to the Team Leader Compliance Monitoring Central for further written certification.

Advice Note:

The Council acknowledges that the certified Site Management Plan is intended to provide flexibility of the management of the works and contaminant discharges. Accordingly, the plan may need to be updated. Any updates should be limited to the scope of this consent and be consistent with the conditions of this consent. If you would like to confirm that any proposed updates are within scope, please contact the Team Leader Compliance Monitoring Central.

10. All sampling and testing of contamination on the site shall be overseen by a SQEP. All sampling shall be undertaken in accordance with the *Contaminated Land Management Guidelines No.5: Site Investigation and Analysis of Soils* (Ministry for the Environment, 2011).

Advice Note:

In order to comply with the Contaminated Land Management Guidelines No.5: Site Investigation and Analysis of Soils (Ministry for the Environment, revised 2011), all testing and analysis should be undertaken in a laboratory with suitable experience and ability to carry out the analysis. For more details on how to confirm the suitability of the laboratory please refer to Part 4: Laboratory Analysis of Contaminated Land Management Guidelines No. 5.

11. To protect the health of workers on the site and people off-site, excavation works shall be managed to minimise the generation of dust on the site and be carried out in accordance with the certified SMP referenced in Condition 6, and in accordance with the *Good Practice Guide for Assessing and Managing Dust* (Ministry for the Environment, 2016).
12. Where contaminants are identified that have not been anticipated by the application, works in the immediate area shall cease until the contingency measures outlined in the certified SMP referenced in Condition 6 have been implemented, including notifying the Team Leader Compliance Monitoring Central.

Advice Note:

BUN60344444, LUC60344358, DIS60344445

Should significant soil contamination be identified during the works, the consent holder should engage a SQEP to assess the situation, oversee any sampling or testing required and determine the best option for managing the material.

13. Excess soil or waste materials removed from the subject site shall be deposited at a disposal site that holds consent to accept waste with the relevant level of contamination. The soils and/or fill material identified for off-site disposal shall primarily be loaded directly into trucks and shall be covered during transportation off site.
14. Where it can be demonstrated that excess cut soils generated during development activities meet the lesser of the NES:CS SCSs for the future intended land use of the site or group of sites, and the AUP (OP) permitted activity criteria, the removal to a consented disposal site is not required and soils may be reused on any lot, including between development areas, covered by this consent.
15. The contamination levels of any soil/fill imported from any location not covered by this consent shall be certified by a SQEP as meeting the definition of 'Cleanfill material' as defined by the AUP (OP).

In such cases, any soil imported to site shall originate from:

- a) A site which has been determined by a Suitably Qualified Contaminated Land Professional to have had no known history of potentially contaminating activities, as detailed on the Ministry for the Environment's Hazardous Activities and Industries List (HAIL);

or

- b) A site which has been adequately investigated by a Suitably Qualified Contaminated Land Professional, in accordance with Contaminated Land Management Guidelines No.5 Site Investigation and Analysis of Soils, (Ministry for the Environment, revised 2011) to meet the 'Cleanfill material' definition as prescribed in the Auckland Unitary Plan (Operative in Part).

Verification testing on the subject site, or group of sites shall be undertaken at a rate of no less than 1 sample per 1,000m³ of imported fill material for analytes, including metals, polycyclic aromatic hydrocarbons, organochlorine pesticides and asbestos content. Dockets confirming that imported hardfill has been sourced from a commercial quarry will be sufficient in lieu of laboratory results.

Post-construction conditions

Site Validation Report

16. For sites where remedial works were required to be undertaken in accordance with Condition 8, within three months of completion of earthworks a Site Validation Report (SVR) shall be submitted to the Team Leader Compliance Monitoring Central for certification. The SVR shall be prepared by a SQEP in accordance with the *Contaminated Land Management Guidelines No. 1: Reporting on Contaminated Sites in New Zealand* (Ministry for the Environment, revised 2011) or any updates to this document and contain sufficient detail to address the following matters:

- a) A summary of the works undertaken, including the location and dimensions of the remediation excavations carried out and the volume of soil excavated;
- b) Details and results of any testing, including validation testing, undertaken and interpretation of the results in the context of the site assessment criteria detailed in the certified SMP referenced in Condition 6;
- c) Records/evidence of the appropriate disposal for any material removed from the site, including the removal of any ACM by a licensed asbestos removalist;
- d) Records of any unexpected contamination encountered during the works and response actions, if applicable;
- e) Conditions of the final site ground surface and details of any validation activities undertaken to confirm the suitability of on materials re-used on site or imported to site;
- f) Reports of any complaints, health and safety incidents related to contamination, and/or contingency events during the earthworks; and
- g) A statement certifying that all works have been carried out in accordance with the requirements of the consent, the certified SMP and the approved site specific RAP of Condition 8, otherwise providing details of relevant breaches, if applicable; and
- h) Assessment of the requirement for any ongoing mitigation or monitoring measures to protect human health and/or the environment.

Advice Note:

The SVRs shall enable the Team Leader to update the property file information relating to soil contamination, including the files of any newly created lots. Until an SVR is submitted and certified by the Team Leader Compliance Monitoring Central, the Land Information Memorandum for the properties shall not be updated to reflect any soil contamination remediation work undertaken.

Site Closure Report

17. For sites where no remedial works were required in accordance with Condition 8, a Site Closure Report (SCR) shall be submitted to the Team Leader Compliance Monitoring Central for certification within two months of the completion of earthworks on the site(s). The SCR shall be prepared by a SQEP in accordance with the *Contaminated Land Management Guidelines No. 1: Reporting on Contaminated Sites in New Zealand* (Ministry for the Environment, 2011) or any subsequent updates and contain sufficient detail to address the following matters:
 - a) A summary of the works undertaken, including the location and dimensions of the excavations carried out and the volume of soil excavated;
 - b) Records/evidence of the appropriate disposal for any material removed from the site;
 - c) Records of any unexpected contamination encountered during the works and response actions, if applicable;
 - d) Conditions of the final site ground surface and details of any validation sampling undertaken on materials re-used on site or imported to site;

- e) Details regarding any complaints and/or breaches of the procedures set out in the Site Management Plan, and the conditions of this consent.

Specific conditions – land use consent (LUC60344358)

Pre-commencement conditions

Overland flow paths and flood plains

18. Prior to the commencement of earthworks on any site or group of sites, the consent holder shall engage a suitably qualified engineer to determine the extent of overland flow paths and flood plains potentially affected by the works on the site. The review shall consist of (but not be limited to):

- Review of the Council Geomaps information;
- Undertaking additional flood risk assessment;
- Site surveys; and
- Site visits.

The consent holder shall submit a written statement to the Team Leader Compliance Monitoring Central that the works on the site will not change the entry or exit points of overland flow paths or result in flood displacement effects.

Advice Note:

This consent does not enable the alteration of overland flow path entry and exit points, or an increase in potential frequency of flooding within the site or surrounding sites. An application for a separate resource consent will be required in these situations.

Erosion and Sediment Control Plan

19. Prior to the commencement of earthworks on any given site or group of sites, a finalised Erosion and Sediment Control Plan (ESCP), specific to that particular site, shall be prepared in general accordance with the application documents referred to under Condition 1, and in accordance with guidance outlined in Auckland Council Guidance Document, Erosion and Sediment Control Guide for Land Disturbing Activities in the Auckland Region, June 2016, Guideline Document 2016/005, incorporating Amendment 1 (Auckland Council's Guidance Document 05) or any updates to this document, and shall include, but is not limited to:
- a) Specific erosion and sediment control works for the earthworks (location and dimensions, capacity) in general accordance with Auckland Council's Guidance Document 05;
 - a) details on any specific earthworks methodologies proposed including: staging details, de-watering and trenching works. All earthwork methodologies shall be in accordance with Auckland Council's Guidance Document 05;
 - b) confirmation that any impoundment devices shall be chemically treated in accordance with the approved Chemical Treatment Management Plan as referenced under Condition 20 below;

- c) supporting calculations and design drawings as necessary;
- d) details of construction methods;
- e) monitoring and maintenance requirements;
- f) catchment boundaries and contour information; and,
- g) details relating to the management of exposed areas (e.g. grassing, mulching).

These site specific and finalised ESCPs shall be submitted to the Team Leader Compliance Monitoring Central, on monitoring@aucklandcouncil.govt.nz. No earthworks activity on the subject site shall commence until written confirmation from the Team Leader is provided that the ESCP is satisfactory.

Advice Note:

In the event that minor amendments to a given site specific ESCP are required, any such amendments should be limited to the scope of this consent. Any amendments which affect the performance of the ESCP may require an application to be made in accordance with section 127 of the RMA. Any minor amendments should be provided to the Team Leader Compliance Monitoring Central, prior to implementation to confirm that they are within the scope of this consent.

For the avoidance of doubt, chemical treatment is required for any impoundment device except for silt fences.

Chemical Treatment Management Plan

20. Prior to the commencement of earthworks within the Oranga Comprehensive Earthworks Area to which this consent applies, a Chemical Treatment Management Plan shall be submitted for the written approval of the Team Leader Compliance Monitoring Central. The plan shall include as a minimum:

- Specific design details of the chemical treatment system based on a rainfall activated methodology for any of the sites' impoundment devices (i.e., decanting earth bunds);
- Monitoring, maintenance (including post storm) and contingency programme (including a record sheet);
- Details of optimum dosage (including assumptions);
- Results of initial chemical treatment trial;
- A spill contingency plan; and
- Details of the person or bodies that will hold responsibility for long term operation and maintenance of the chemical treatment system and the organisational structure which will support this system.

Advice Note:

In the event that minor amendments to the CTMP are required, any such amendments should be limited to the scope of this consent. Any amendments which affect the performance of the CTMP may require an application to be made in accordance with

section 127 of the RMA. Any minor amendments should be provided to the Team Leader Compliance Monitoring Central prior to implementation to confirm that they are within the scope of this consent.

Traffic Management Plan

21. Prior to the commencement of the construction activity on each site or group of sites, a Traffic Management Plan (TMP) shall be prepared and shall address the control of the movement of earthmoving vehicles to and from the site. The TMP shall be submitted to the Team Leader Compliance Monitoring Southern for certification. No earthworks on the site(s) shall commence until certification is provided from the council that the TMP is in accordance with CoPTTM: Part 8 of the Traffic Control Devices manual (TCD Manual) and any required measures referred to in that plan have been put in place.

The certified TMP shall be implemented for the duration of the entire works period.

Advice Note:

The Traffic Management Plan should contain sufficient detail to address the following matters:

- *measures to ensure the safe and efficient movement of the travelling public (pedestrians, vehicle occupants, local residents etc.),*
- *restrict hours of vehicle movements to protect amenity of surrounding environment during earthworks phase etc.*

Construction noise and vibration management plan

22. A minimum of 10 working days prior to commencement of the first earthworks within Oranga on a site or group of sites authorised by this consent, the consent holder shall submit a final version of the report titled 'Oranga Area – Enabling Works Construction Noise and Vibration Management Plan', prepared by the Piritahi Alliance referenced in Condition 1 to the Team Leader Compliance Monitoring Central, for written certification.

The objective of the CNVMP is to determine, and require the adoption of, the Best Practicable Option for the management of all construction noise and vibration effects from the enabling earthworks to ensure, as far as reasonably practicable, that construction work will comply with the project standard of 75 dB LAeq at any occupied building. The CNVMP shall address the requirements of Annex E of NZS6803:1999 as a minimum.

Advice Note:

This consent does not authorise noise or vibration infringements related to rock breaking.

Pre-start meetings

23. Prior to the commencement of earthworks on each site, or group of sites, the consent holder shall hold a pre-start meeting that:
- is located at the site(s) unless an alternative location is agreed with the Team Leader Compliance Monitoring Central;
 - is scheduled not less than five days before the anticipated commencement of earthworks;

- includes Team Leader Compliance Monitoring Central representatives;
- includes representation from contractors who will undertake earthworks and suitably qualified professionals, including the appointed arborist; and

The following information shall be made available at the pre-start meeting:

- Evidence that the site(s) is within the Quarterly Works Plan and the scope of this consent (Condition 5);
- Details of existing overland flow paths and flood plains (Condition 18);
- Resource consent conditions (of LUC60344358 and DIS60344445);
- Erosion and Sediment Control Plan (as required by Condition 19 of this consent);
- Chemical Treatment Management Plan (as required by Condition 20 of this consent).
- Traffic Management Plan (as required by Condition 21 of this consent);
- Construction Noise and Vibration Management Plan (CNVMP) (as required by Condition 22 of this consent); and
- Information regarding any potentially affected protected tree within the open space zone or road (as required by Condition 26 of this consent).

The consent holder shall give all persons attending the meeting, including Team Leader Compliance Monitoring Central representatives and Council's Community Facilities Arborist (if relevant) at least ten working days prior notice of the intended date of the meeting,

Advice Note:

To arrange a pre-start meeting, please contact the Team Leader Compliance Monitoring Central. The conditions of consent should be discussed at this meeting. All additional information required by the Council should be provided a minimum of two days prior to the meeting.

Earthworks Certification

24. Prior to the commencement of earthworks on each site or group of sites within the Oranga Comprehensive Earthworks Area to which this consent applies, a certificate ("As-built") signed by a suitably qualified person shall be submitted to the Team Leader Compliance Monitoring Central, to certify that the erosion and sediment control measures for that site have been constructed in accordance with the finalised erosion and sediment control plan as required by Condition 19.

Certified controls shall include all decanting earth bunds, silt fences, super silt fences, clean water diversions, dirty water diversions, and stabilised construction entrances. The certification for these measures shall be supplied immediately upon completion of construction of those measures. Information supplied if applicable, shall include:

- a) Contributing catchment area and/or flow path lengths;
- b) Volume of the structure (measured to the crest of the primary spillway);
- c) Shape of structure (dimensions of structure);
- d) Position of inlets/outlets; and
- e) Stabilisation of the structure.

Advice Note:

Suitable documentation for certification of erosion and sediment control devices, can be obtained in Appendix C of Auckland Council's Guidance Document 05 construction quality checklists.

25. Notwithstanding the requirements outlined in Condition 19, prior to earthworks commencing within each site(s), the erosion and sediment control measures shall be constructed and maintained in accordance with Auckland Council's Guidance Document 05 and any amendments to this document, except where a higher standard is detail in the approved ESCP, in which case this higher standard shall apply.

Arboriculture

26. Prior to earthworks commencing on each site or group of sites, the consent holder shall engage the services of a suitably qualified arborist (the appointed arborist) to identify all potentially affected protected trees within the road reserve and public open space zoned land. The consent holder shall provide written information to the Team Leader Compliance Monitoring Central of the location and species of these trees, prior to any earthworks starting on the subject site.

Advice Note:

It is recommended the appointed arborist consult with the Community Facilities Arborist as part of the identification of the trees.

This consent only provides for works in the protected rootzone of trees in roads and open space zones that infringe the permitted activity standards of the Auckland Unitary Plan (Operative in part). Should any other works be proposed to protected trees that does not meet the permitted activity standards a separate resource consent will be required.

27. The appointed arborist shall provide feedback and guidance to all work site contractors in respect to construction methodologies and machinery requirements in relation to all works within the protected root zone of the trees.
28. Prior to works commencing within the protected rootzone of any trees identified in Condition 26 above, the consent holder shall hold a meeting with the main contractor, the relevant Council arborist and the appointed arborist to discuss the tree protection methodologies outlined as conditions of this consent. All aspects of the works that may affect the canopy or protected root zone of trees to be protected shall be discussed and recorded and methodologies agreed with the appointed arborist. The consent holder shall give all parties notice of at least ten working days of the intended meeting location, time and date.
29. Prior to works commencing within the protected rootzone of any trees identified in Condition 26 above, the appointed arborist shall determine the placement and nature of protective fencing, to the extent of the protected root zone, or within proximity of the excavation face of the trees. The protective fencing shall consist of a minimum of 1.5 metre high temporary mesh fence panels, and must be installed at the protected root zone (dripline) edge of any protected tree overhanging sites proposed for development or within proximity of the excavation face of the trees. The protective fencing shall be implemented and remain in place for the duration of the works and shall not be moved

without the prior written approval of the appointed arborist. The appointed arborist shall monitor the condition of the protective fencing for the duration of the works.

30. Additional tree protection measures shall be implemented where necessary at the direction of the appointed arborist, including where the protective fencing is impractical or the protected rootzone extends past perimeter fencing. These measures may include ground protection measures, such as geotextile fabric, mulch, track-mats or similar materials to the satisfaction of the appointed arborist. Provision shall be made to protect the trunk and low branches from mechanical damage, including stem and branch wraps.

During construction conditions

Earthworks

31. No land disturbing activities on any site or group of sites shall be undertaken between 1 May and 30 September in any year, without the prior written approval of the Team Leader Compliance Monitoring Central. Should approval not be obtained, revegetation/stabilisation is to be completed by 30 April in accordance with measures detailed in Auckland Council's Guidance Document 05 and any amendments to this document.
32. Any impoundment devices used on any given site or group of sites, shall be chemically treated throughout the duration of earthworks activities in accordance with the approved Chemical Treatment Management Plan referred to under Condition 20 above.
33. The operational effectiveness and efficiency of all erosion and sediment control measures specifically required under Condition 19 of this consent, shall be maintained in accordance with Auckland Council's Guidance Document 05, and shall be inspected on a regular basis and within 24 hours of each rainstorm event that generates runoff and is likely to impair the function or performance of the controls throughout the duration of earthworks activity, or until the site is permanently stabilised against erosion. A record shall be maintained of the date, time and any maintenance undertaken in association with this condition which shall be forwarded to the Council on request.
34. There shall be no deposition of earth, mud, dirt or other debris on any public road or footpath resulting from earthworks activity on any site or group of sites. In the event that such deposition does occur, it shall immediately be removed. Under no circumstances shall roads or footpaths be washed down with water without appropriate erosion and sediment control measures in place to prevent contamination of the stormwater drainage system, watercourses or receiving waters.

Advice Note:

In order to prevent sediment laden water entering waterways from the road, the following methods may be adopted to prevent or address discharges should they occur:

- *provision of a stabilised entry and exit(s) point for vehicles*
- *provision of wheel wash facilities*
- *ceasing of vehicle movement until materials are removed*
- *cleaning of road surfaces using street-sweepers*

In no circumstances should the washing of deposited materials into drains be advised or otherwise condoned.

35. All machinery associated with the earthworks activity shall be operated in a way, which ensures that spillages of hazardous substances such as fuel, oil, grout, concrete products and any other contaminants are prevented.
36. All ground disturbances shall be managed to ensure that they do not lead to any uncontrolled collapse or instability affecting either the subject site or adversely affecting any neighbouring sites. In the event that instability or collapse does occur, it shall immediately be rectified.
37. There shall be no obstruction of access to public footpaths, berms, private properties, public services/utilities, or public reserves resulting from the demolition and/or earthworks activity unless the appropriate permits have been obtained. All materials and equipment shall be stored within the site(s) boundaries.
38. There shall be no damage to public roads, footpaths, berms, kerbs, drains, reserves or other public asset as a result of the earthworks, demolition activity. In the event that such damage does occur, the Team Leader Compliance Monitoring Central, will be notified within 24 hours of its discovery. The costs of rectifying such damage and restoring the asset to its original condition will be met by the consent holder.
39. Each site or group of sites shall be progressively stabilised against erosion in accordance with Auckland Council's Guidance Document 05 at all stages of the earthwork activity and shall be sequenced to minimise the discharge of sediment to surface water.

Advice Note:

In accordance with this condition earthworks shall be progressively stabilised against erosion during all stages of the earthwork activity. Interim stabilisation measures may include:

- *the use of waterproof covers, geotextiles, or mulching*
- *top-soiling and grassing and mulching of otherwise bare areas of earth*
- *aggregate or vegetative cover that has obtained a density of more than 80% of a normal pasture sward*

Overland flow paths

40. The consent holder shall provide the Team Leader Compliance Monitoring Central with a written statement from a suitably qualified engineer certifying that the installation the erosion and sediment control measures, have not altered the entry and exit points of overland flow paths at the boundaries of each site or group of sites, and will not adversely affect overland flow paths or increase potential volume or frequency of flooding within the site or surrounding sites. This statement shall be provided within 20 working days from the installation of the erosion and sediment control measures (in particular, the proposed earth bunds) for each site.

Asbestos Removal

41. Unless prior sampling and testing of contamination undertaken on the site in accordance with Conditions 7, 8 and 10 identifies that asbestos is not present, then remediation works shall be managed in a manner that is commensurate with the type and level of asbestos contamination as set out in the NZ Guidelines for Assessing and Managing Asbestos in Soil (BRANZ, 2017) or any updates to the document. Where required, and in accordance with the document titled Draft Asbestos Removal Control Plan Oranga Development Onehunga, Penrose & Te Papapa, Auckland, prepared by Focus Environmental Services Ltd and dated August 2019 referenced in Condition 1, a licenced asbestos removalist shall carry out the soil removal works, and active asbestos fibre monitoring shall be undertaken prior to and during the soil disturbance/ remedial works.
42. The consent holder shall engage a suitably qualified and experienced practitioner to carry out both visual inspection and semi-quantitative soil testing following the completion of any remedial works. If test results exceed the remediation criteria specified in the certified SMP, referenced in Condition 6, further remediation and validation shall be carried out according to the procedures detailed in the SMP, in line with the Health and Safety at Work (Asbestos) Regulations (2016) and the Approved Code of Practice for the Management, Removal of Asbestos (Worksafe NZ, 2016).

Advice Note:

If you are demolishing any building that may have asbestos containing materials (ACM) in it:

- *You have obligations under the relevant regulations for the management and removal of asbestos, including the need to engage a Competent Asbestos Surveyor to confirm the presence or absence of any ACM.*
- *Work may have to be carried out under the control of person holding a WorkSafe NZ Certificate of Competence (CoC) for restricted works.*
- *If any ACM is found, removal or demolition will have to meet the Health and Safety at Work (Asbestos) Regulations 2016.*
- *Information on asbestos containing materials and your obligations can be found at www.worksafe.govt.nz.*
- *If ACM is found on site following the demolition or removal of the existing buildings, you may be required to further remediate the site and carry out validation sampling. Dependent on the amount of soil disturbance, a further consent application may be required.*

Construction noise and vibration

43. The construction work shall be restricted to between 7.30am and 6.00pm from Monday to Saturday. There shall be no works on Sundays or public holidays.

Advice Note:

The restriction on hours of work shall not apply to low noise creating activities such as site set up or staff meetings, which may occur on site outside of these hours Monday to Saturday only.

44. Noise from the construction work shall comply with the noise limits stated in Rule E25.6.27 without any adjustment for duration as in E25.6.27(3). Except that between the hours of 7.30am and 6.00pm from Monday to Saturday there is no noise limit applying to the works.
45. The consent holder shall ensure that no occupied residential dwelling receives more than 20 consecutive weeks of construction noise from any works associated with this resource consent. This time period must take into account any construction works, associated with this resource consent, occurring on any other site within 140m of an occupied dwelling. Where construction works do not occur on any site within 140m of an occupied dwelling for a stand-down period of at least 10 consecutive weeks, the construction duration period can re-start and a further 20 weeks of construction noise is permitted. The consent holder must, on request, provide the Council Team Leader Central Monitoring written confirmation that this condition is being met for any individual dwelling.

Advice note:

A noise level of 55 dB LAeq has been determined as an appropriate level that represents no construction noise in a residential area. This takes into account the AUP general noise limit within a residential zone as being 50 dB LAeq with the provision of averaging for intermittent daytime noise. Based on the predicted construction noise provided in the assessment being 78 dB LAeq at 10m, a distance of at least 140m should result in noise levels below 55 dB LAeq. A distance requirement has been used rather than a noise limit to make it easier for the condition to be implemented and enforced.

46. Where it is anticipated that noise emissions from construction noise will exceed a level of 55 dB LAeq(15min) within an outdoor play area of any school or child care centre, one of the following options must be carried out:
- Physical mitigation such as acoustic screening installed to reduce the construction noise within the outdoor play area to be no more than 55 dB LAeq(15min); or
 - Where the noise cannot practicably be reduced to 55 dB LAeq(15min) the project manager must liaise with an appropriate representative of the school or childcare centre to organise undertaking the site works at times when children will not be within the outdoor play area; or
 - The site works are only undertaken when the school or childcare centre is closed.
47. Where works are:
- within 10m of any occupied building; or
 - where construction noise is predicted to exceed 80 dB LAeq at any occupied building;

one of the following options shall be implemented:

- a) Where practicable, install an effective temporary noise barrier as detailed in the CNVMP; or
- b) Offer mitigation to the affected receiver such as limiting the hours of the noisiest works to 9.00am – 5.00pm.

This and any other mitigation offered shall be detailed in the CNVMP.

Advice Note:

The specific nature of the mitigation options shall be decided on a case-by-case basis depending on the effectiveness of temporary barriers and following consultation with the affected occupiers.

48. The works shall be carried out in accordance with the certified CNVMP. This CNVMP shall be kept on site at all times. Amendments to the CNVMP are permitted, but do not become effective until the Council has certified the revised CNVMP. Any amendments shall be clearly identified before submitting to the Council for recertification.

Advice Note:

The CNVMP is a live document and may need to be updated through the course of works, for example (but not limited to) if the following occurs:

- *a change in the receiving environment*
- *a change in construction methodology*
- *unforeseen issues*
- *complaint management*
- *change in monitoring procedures*
- *change in contact details*

Any updates to the CNVMP should be limited to the scope of this consent and be consistent with the conditions of the consent. If you would like to confirm that any proposed updates are within scope, please contact the Team Leader, Compliance Monitoring Central.

Arboriculture

49. The consent holder shall ensure that all contractors, sub-contractors and work site supervisory staff who are carrying out any works within the root zone of any protected trees identified in Condition 26 to be retained are advised of the conditions of consent and act in accordance with the conditions. A copy of the conditions of consent shall be available at all times on the work site.
50. Within the protected rootzone of any protected trees, the following provisions shall apply:
- a) No site huts or other temporary structures;
 - b) No machinery shall be stored or operated within the protected root zone of any tree and no materials, spoil, fill soil or equipment will be stored or temporarily placed within the drip line of any tree unless it can be kept wholly within the bounds of an existing load bearing surface such as concrete or asphalt;
 - c) No fuel or any other substance detrimental to tree health shall be stored within seepage range of any protected root zone, including the refuelling of equipment;
 - d) No access within any areas fenced off for tree protection without the prior approval of the appointed work site arborist; and
 - e) No adjustments to the tree protection fencing without prior consultation and agreement from the appointed work site arborist.

Advice Note:

All references to the "Protected Root Zone" in the conditions of consent refers to the "circular area of ground around the trunk of a protected tree, the radius of which is the greatest distance between the trunk and the outer edge of the canopy. For columnar crown species the protected root zone is half the height of the tree.

51. No roots over 80mm in diameter shall be removed.
52. Any earthworks or remediation within the protected root zone of any tree to be retained shall be undertaken in the following manner:
 - All roots must be retained where possible, however, where root retention is unfeasible, approval for the removal of roots must be obtained from the appointed work site arborist prior to removal and shall only be authorized, if the appointed arborist is satisfied that the removal will not damage the health or stability of the subject tree;
 - Root pruning shall only occur once the full extent of the roots within the excavation area has been ascertained to the best extent possible and severance of the root/s will have no adverse effect on the health and or stability of the subject tree;
 - All root pruning on site, for the duration of the works, shall be undertaken either by the appointed arborist or under the direction of the appointed arborist at all times;
 - Where the proposed works necessitate the removal of all roots encountered during open trenching within a protected root zone, and this can be done without destabilizing the tree or causing damage to its health, the face of the excavation nearest any adjacent tree shall be hand dug or exposed with an air spade to 600mm (or the finished depth - whichever is the lesser depth);
 - All roots encountered shall be cleanly cut back to the face of the excavation using a sharp implement such as a handsaw or secateurs. The excavation may then be completed by a machine excavator fitted with a straight-bladed bucket. The root containing face must be covered and kept damp for the duration of works or until soil is replaced;
 - Where the proposed works necessitate open trenching within a protected root zone, but retention of roots is considered feasible, the first 600mm (or the finished depth - whichever is the lesser depth) of the face of the excavation nearest any adjacent tree shall be hand dug or exposed with an air spade;
 - All roots encountered that are less than 35mm in diameter may be cleanly cut back to the face of the excavation using a sharp implement such as a handsaw or secateurs;
 - Where practical, all roots that measure over 35mm in diameter shall be retained; and
 - Where roots in the line of works have been identified and either pruned or worked around and protected, excavations may be completed by a machine excavator fitted with a straight bladed bucket under the guidance of the appointed arborist.

53. The appointed arborist shall maintain records of all root pruning, including the size of roots removed and photographs of all protected trees identified in Condition 26 and, upon request, supply these to the Team Leader Compliance Monitoring Central.
54. At the completion of earthworks for each site (or group of sites), the appointed arborist shall provide a report to the Team Leader Compliance Monitoring Central which includes dates and time of the appointed arborists attendance on site and records of any works to trees which the appointed arborist considers problematic to the health and or stability of the tree.
55. All exposed roots and root ends exposed through excavation activity shall be protected from drying out. This shall be done by covering the excavated roots and root ends immediately with hessian (or similar), ensuring that the material is kept damp until backfilling occurs.
56. Where feasible, backfilling exposed roots must be undertaken by hand and limited to hand tamping for the first 200mm. Priority shall be given to utilising site spoil (preferably that removed from the protected root zone) unless it is deemed unsuitable.
57. Unless otherwise permitted by the appointed arborist, only hand-operated plate compacters shall be used for compaction of materials when operating within the root zone of trees to be retained and protected.
58. All excavations within the protected root zone of trees identified in Condition 26 to be retained and protected shall be lined with plastic prior to any concrete pour. The plastic is to remain in place as a permanent root barrier. Where concrete is to be placed above exposed tree roots, a 50mm layer of coarse sand or topsoil shall be used to cover the root before plastic is laid. In the case of asphalt, a geotextile fabric shall be used in place of plastic.

Kauri die back

59. As New Zealand kauri trees (*Agathis australis*) (and soil and material surrounding them) may contain the pathogen that causes kauri dieback (*Phytophthora agathidicida* (formerly PTA)) strict hygiene procedures are required when works occur on or around kauri trees so as to avoid the spread of kauri dieback. All vegetation, soil, and other material from within a “kauri contamination zone” (defined as 3 (three) x the radius of the canopy dripline of any kauri tree) must remain on site or be taken to an approved landfill facility. For further information please contact the Kauri Dieback Programme on 0800 NZ KAURI (69 52874) or visit the website www.kauridieback.co.nz.

Advice Note:

Guidance on the location of approved landfill facilities can be found in the Ministry for Primary Industries guidance titled: Landfill disposal of contaminated material at website: www.kauridieback.co.nz.

60. Any material (including soil) from within the “kauri contamination zone” which is to be removed to an approved landfill facility must then be buried within the ground. Where the material is to be loaded onto the back of an open top vehicle, the material must be covered with a tarpaulin (or similar) to prevent the material from leaving the vehicle whilst

it is in motion. After the material has been emptied from the truck, the areas of the truck which were previously exposed to the material and the tarpaulin must be thoroughly washed with Sterigene (or other suitable agent) prior to the truck or tarpaulin being used for the transportation of any other material.

61. All footwear, clothing, tools, vehicles and equipment used on site must be cleaned of all soil, vegetation, or other material that has, or may have, come from a kauri contamination zone and must be thoroughly washed with Sterigene (or other suitable agent) on entry and exit from the site, on every occasion, to avoid the spread of kauri dieback (*Phytophthora agathidicida* (formerly PTA)).

Advice Note:

Further advice can be found within the guidelines titled 'Hygiene Procedures for Kauri Dieback' and 'Procedures for Tree Removal and Pruning' published by the Ministry for Primary Industries Kauri Dieback Management Programme which can be found at www.kauridieback.co.nz or copies can be obtained from Auckland Council.

Archaeological - Information Recovery

62. A copy of any documentation resulting from archaeological or historic heritage investigation as part of the proposed works should be forwarded for to Auckland Council's Heritage Unit for inclusion within the Auckland Council Cultural Heritage Inventory. The consent holders project historic heritage expert shall prepare documentation suitable for inclusion in the Cultural Heritage Inventory and forward the information to the Team Leader (for the Manager: Heritage Unit, heritageconsents@aucklandcouncil.govt.nz) within one calendar month of the completion of work on the site.
63. In the event that any unrecorded historic heritage sites are exposed as a result of consented work on the site, then these sites shall be recorded by the consent holder for inclusion within the Auckland Council Cultural Heritage Inventory. The consent holders project historic heritage expert shall prepare documentation suitable for inclusion in the Cultural Heritage Inventory and forward the information to the Team Leader (for the Manager: Heritage Unit, heritageconsents@aucklandcouncil.govt.nz) within one calendar month of the completion of work on the site.

Advice Note:

Should earthworks on the site result in the identification of any previously unknown archaeological site, the land disturbance – Regional Accidental Discovery rule E12.6.1 set out in the Auckland Unitary Plan Operative in part (2019) shall be applied.

Post Construction Conditions

64. Upon completion or abandonment of earthworks on each site or group of sites, all areas of bare earth shall be permanently stabilised against erosion in accordance with Auckland Council's Guidance Document 05 to the satisfaction of the Team Leader Compliance Monitoring Central.

Advice Note:

Should the earthworks be completed or abandoned, bare areas of earth shall be permanently stabilised against erosion. Measures may include:

- *the use of mulching*
- *top-soiling, grassing and mulching of otherwise bare areas of earth*
- *aggregate or vegetative cover that has obtained a density of more than 80% of a normal pasture sward*

The on-going monitoring of these measures is the responsibility of the consent holder.

Specific conditions – discharge permit DIS60344445

65. All excavation in the work areas shall be managed to minimise any discharge of debris, soil, silt, sediment or sediment-laden water from the subject site to either land, stormwater drainage systems, watercourses or receiving waters.

Erosion and sediment controls shall be installed along the boundaries of the disturbance areas in accordance with the Site Management Plan, referenced in Condition 6 and Auckland Council's Guidance Document 05. The excavation areas shall be dampened during the day to suppress the generation of dust during the works. Filter cloths or cover mats shall be installed over the stormwater cesspits in the vicinity of the excavation areas. Vehicles shall be inspected prior to leaving the works area and wheels brushed/cleaned as required to avoid the potential for sediment to leave the site on vehicle tyres and enter the existing stormwater system.

Advice Note:

Discharge from the site includes the disposal of water (eg. perched groundwater or collected surface water) from the land-disturbance area.

66. Stockpiling of the excavated material shall be avoided. If required, temporary stockpiles of soils containing elevated levels of contaminants shall be located on an impermeable surface within an area protected by erosion and sediment controls and be covered with tarpaulins anchored at the edges outside working hours and/or during periods of heavy rain. Stockpiling of material containing separate phase hydrocarbons or odorous petroleum hydrocarbons shall not take place.

Advice note:

Soils containing elevated levels of contaminants mean soils with contaminant concentrations exceeding the AUP (OP) discharge criteria.

67. Any perched groundwater, or surface run-off water encountered during remediation works (as set out in the certified site specific RAP) requiring removal shall be considered potentially contaminated, and shall either be:
- Disposed of by a licenced liquid waste contractor; or
 - Pumped to sewer, providing the relevant permits are obtained; or

- Discharged to the stormwater system or surface waters provided testing demonstrates compliance with the Australian and New Zealand Environment Conservation Council (ANZECC) Guidelines for Fresh and Marine Water Quality (2000) for the protection of 80 percent of freshwater species, with the exception of benzene where the 95 percent protection level shall apply, and that it is free from petroleum hydrocarbons.

Advice notes

1. *Any reference to number of days within this decision refers to working days as defined in s2 of the RMA.*
2. *For the purpose of compliance with the conditions of consent, “the council” refers to the council’s monitoring inspector unless otherwise specified. Please email monitoring@aucklandcouncil.govt.nz to identify your allocated officer.*
3. *For more information on the resource consent process with Auckland Council see the council’s website: www.aucklandcouncil.govt.nz. General information on resource consents, including making an application to vary or cancel consent conditions can be found on the Ministry for the Environment’s website: www.mfe.govt.nz.*
4. *If you disagree with any of the above conditions, and/or disagree with the additional charges relating to the processing of the application(s), you have a right of objection pursuant to sections 357A and/or 357B of the Resource Management Act 1991. Any objection must be made in writing to the council within 15 working days of your receipt of this decision (for s357A) or receipt of the council invoice (for s357B).*
5. *The consent holder is responsible for obtaining all other necessary consents, permits, and licences, including those under the Building Act 2004, and the Heritage New Zealand Pouhere Taonga Act 2014. This consent does not remove the need to comply with all other applicable Acts (including the Property Law Act 2007 and the Health and Safety at Work Act 2015), 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.*
6. *The consent holder is advised that prior to any crown pruning or works commencing within the root zone of protected trees growing in the Council Reserve or Road Reserve, the written tree asset owner approval is required from the Council’s Community Facilities Arboricultural & Eco Specialist Advisor (the Community Facilities Arborist). This approval is necessary whether the works meet the permitted activity standards of the Auckland Unitary Plan (Operative in part) or not.*
7. *If any contamination exceeding the Permitted Activity soil acceptance criteria, set out in Chapter E30 of the AUP (OP), is retained within the site upon the completion of the proposed land-disturbance activity, a long-term contaminant discharge consent under Chapter E30 of the AUP (OP) may be required for the site.*
8. *Heritage New Zealand Pouhere Taonga Act 2014*

The Heritage New Zealand Pouhere Taonga Act 2014 (hereafter referred to as the Act) provides for the identification, protection, preservation and conservation of the historic and

BUN60344444, LUC60344358, DIS60344445

cultural heritage of New Zealand. All archaeological sites are protected by the provisions of the Act (section 42). It is unlawful to modify, damage or destroy an archaeological site without prior authority from Heritage New Zealand Pouhere Taonga. An Authority is required whether or not the land on which an archaeological site may be present is designated, a resource or building consent has been granted, or the activity is permitted under the Auckland Unitary Plan Operative in part (November 2016).

According to the Act (section 6) archaeological site means, subject to section 42(3) –

- a) any place in New Zealand, including any building or structure (or part of a building or structure), that –*
 - i. was associated with human activity that occurred before 1900 or is the site of the wreck of any vessel where the wreck occurred before 1900; and*
 - ii. provides or may provide, through investigation by archaeological methods, evidence relating to the history of New Zealand; and*
- b) includes a site for which a declaration is made under section 43(1)*

It is the responsibility of the consent holder to consult with Heritage New Zealand Pouhere Taonga about the requirements of the Act and to obtain the necessary Authorities under the Act should these become necessary, as a result of any activity associated with the consented proposals. For information please contact the Heritage New Zealand Pouhere Taonga Northern Regional Archaeologist – 09 307 0413 / archaeologistMN@historic.org.nz.

9. Protected Objects Act 1975

Māori artefacts such as carvings, stone adzes, and greenstone objects are considered to be tāonga (treasures). These are taonga tūturu within the meaning of the Protected Objects Act 1975 (hereafter referred to as the Act).

According to the Act (section 2) taonga tūturu means an object that –

- a) relates to Māori culture, history, or society; and*
- b) was, or appears to have been –*
 - i. manufactured or modified in New Zealand by Māori; or*
 - ii. brought into New Zealand by Māori; or*
 - iii. used by Māori; and*
- c) is more than 50 years old*

The Act is administered by the Ministry of Culture and Heritage. Tāonga may be discovered in isolated contexts but are generally found within archaeological sites. The provisions of the Heritage New Zealand Pouhere Taonga Act 2014 in relation to the modification of an archaeological site should to be considered by the consent holder if tāonga are found within an archaeological site, as defined by the Heritage New Zealand Pouhere Taonga Act 2014.

It is the responsibility of the consent holder to notify either the chief executive of the Ministry of Culture and Heritage or the nearest public museum (for Auckland this is the

Auckland War Memorial Museum), which shall notify the chief executive, of the finding of the taonga tūturu, within 28 days of finding the taonga tūturu; alternatively provided that in the case of any taonga tūturu found during the course of any archaeological investigation authorised by Heritage New Zealand Pouhere Taonga under section 48 of the Heritage New Zealand Pouhere Taonga Act 2014, the notification shall be made within 28 days of the completion of the field work undertaken in connection with the investigation.

Under section 11 of the Act, newly found taonga tūturu are in the first instance Crown owned until a determination on ownership is made by the Māori Land Court.

For information please contact the Ministry of Culture and Heritage –04 499 4229 / protected-objects@mch.govt.nz

Delegated decision maker:

Name: Jeremy Wyatt

Title: Premium Project Lead, Resource Consents

Signed:



Date: 20 December 2019