

**BEFORE THE ENVIRONMENT COURT**

Decision No: [2016] NZEnvC 139  
ENV-2009-AKL-000434

**IN THE MATTER**

of an appeal under s120 of the  
Resource Management Act 1991

**BETWEEN**

NORTH EASTERN  
INVESTMENTS LIMITED  
Appellant

**AND**

THE AUCKLAND COUNCIL  
Respondent

Court: Environment Judge C J Thompson  
Environment Commissioner K A Edmonds  
Environment Commissioner D Bunting  
Hearing: at Auckland: 25, 26 & 28 July 2016  
Counsel: M E Casey QC and J W Maassen for North Eastern Investments Ltd  
G C Lanning and W M Bangma for the Auckland Council

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**DECISION ON APPEAL**

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Decision issued: **29 JUL 2016**

The appeal is allowed – see para [24]

Costs are reserved



### *Introduction*

[1] The appeal to be dealt with is against a decision of September 2009 made by Commissioners appointed by the then North Shore City Council to decline land use resource consents sought by North Eastern Investments Limited (NEIL) to construct and establish an intensive residential (IRD) and mixed use development (MUD) on land of a total area of 7.83ha, with frontages to Oteha Valley Road and Fairview Avenue, Albany. The development as a whole is to be known as *Fairview Heights*. The application, as now modified, is for related, but distinct, pieces of the development. The first is an intensive residential development of 419 residential units in 19 apartment blocks; the second, a mixed use commercial/residential development of 3,100m<sup>2</sup> of commercial space and 49 residential apartments.

[2] In a decision given in late 2012 ([2012] NZEnvC 266) the Court, in dealing with an appeal about an earlier iteration of the same overall proposal, noted that two parts of the proposal were not involved in the hearing. The decision recorded that:

Issues about them have been resolved between the parties since the Council's decision, and Consent Orders disposing of those parts of the appeal are to be presented in due course.

[3] Alas, that was not to be. Before Consent Orders could be presented for the Court's consideration, the apparent resolution between the parties dissolved and we are back, 3 1/2 years later, attempting to finally bring all issues to a conclusion.

[4] Contemporaneously with the land use applications, applications were made to the then Auckland Regional Council for resource consents to authorise various works in and around the Waikahikatea Stream and its tributary, which flow through or alongside the Fairview Heights land. Those consents did not feature in the hearing of these appeals and they need not be separately discussed.

### *The proposal*

[5] The commercial/residential, mixed-use, portion of the development is on the southern-most piece of the overall site which is an irregular triangle in shape, two sides of which are bordered by streams. The main stream, the Waikahikatea, which shortly joins Lucas Creek, demarcates the southeastern boundary, and a tributary the western boundary. They feature in a good deal of the discussion. There will be communal facilities with landscaping and riparian planting around the waterways.



Immediately to the southeast of the site, Oteha Valley Road runs approximately northeast-southwest, and it has an intersection with the existing Medallion Drive. A Notice of Requirement has been issued by Auckland Transport for the extension of Medallion Drive across the property, and that has been the subject of other proceedings in the Court.

*What now is in dispute*

[6] The Council now expresses concern that, while there is no present application to subdivide the site, there is nothing to say that such a step might be taken in the future. If that should happen, there would be no opportunity for the Council to require a 20m esplanade reserve along both sides of Waikahikitea Stream (Lucas Creek) because there will be buildings within that space. It proposes that a prohibition on subdivision of any of the site should be a condition of any consent. We shall return to that.

[7] There is a concern, recently arisen and not current during the extensive expert witness conferencing over the course of 2011 – 2015, that the reduction of amenity along the banks of the Waikahikitea Stream adjacent to the MDU development, will not be sufficiently or appropriately mitigated by off-site, off-set, mitigation. We shall return to that also.

*Neil's position*

[8] NEIL takes the view that the adverse effects of the whole of the development (which it acknowledges as having *non-complying* activity status) on the receiving environment will, overall not be more than minor, and those effects that are unavoidable can be mitigated to the point of acceptability by off-site work. It submits too that on an overall view the development is not contrary to the Objectives and Policies of the District Plan. On either test then, it argues that it can pass the s104D threshold and be considered under s104 and Part 2.

*The Council's position*

[9] As noted, a view that has recently emerged within the Council is that the offered off-site mitigation was inappropriate and insufficient to balance the loss of amenity values of the Stream area for future residents and visitors to the development and its surrounds. Notwithstanding the opinions to the contrary expressed by the Council's other witnesses, this view lead to the ultimate Council position that the



consent to the intensive residential portion of the proposal be granted, subject to conditions, and that the Court should, as Mr Lanning put in his opening submissions:

... refuse consent to the MUD proposal, unless the Court is satisfied that the Appellant is able to provide appropriate off-set mitigation to address effects on the amenity values of the stream corridor caused by the proximity of the Appellant's proposed buildings.

*The Proposed Auckland Unitary Plan (PAUP)*

[10] We should mention the PAUP, if only to acknowledge the currency of its process at the time of the hearing. The planner witnesses agreed that under the draft PAUP no additional consents would be required and that the planning status of *non-complying* would remain. The Council is required to make its decisions on the PAUP not later than 19 August 2016, and at this point, of course, the end result of that process in terms of Objectives, Policies and Rules is unknown. However, we are issuing this decision before 19 August 2016, so, as is agreed by the parties, the PAUP provisions, whatever they may ultimately be, have no present legal effect.

*Section 290A – the first instance decision*

[11] Section 290A requires the Court on appeal to ... *have regard to...* the first instance decision. Because the Council now agrees with a substantial portion of the proposal, which has in any event morphed into something significantly different from that considered in 2009, the original decision of 14 September 2009 has, at best, only faint relevance. In any event, the section does not create a presumption that the first instance decision is correct. Given both the changes made to the proposed development, and the views of the numerous expert witnesses expressed in the Joint Witness Statements we have referred to, and with which we see no reason to substantively disagree, we have had regard to the first-instance decision, but have arrived at a different conclusion.

*The hearing and its outcome*

[12] Rather than recite the now well-known and repeatedly traversed facts and issues in this decision, we believe it will be sufficient to summarily record what occurred leading up to and at the hearing on 25 and 26 July 2016.

[13] First, we can first put aside traffic and transport engineering issues – on which there are now no outstanding points and on which there were no less than 15 Joint Witness Statements produced between 27 April 2011 and 16 December 2015; and



the issue of ecology, which occupied two Joint Witness Statements of August 2012 and March 2013. We see no reason to demur from any of the final conclusions reached on either topic.

[14] The issue which caused the problem in resolution arises from the amenity values of the stream at the eastern point of the development adjoining Oteha Valley Road. This is incorporated in what was described as the issue of *Master Planning, Urban Design and Landscape Architecture*, on which nine joint witness statements have been produced by the expert consultants engaged by the parties between 14 April 2011 and 23 October 2015. On a subset of *Planning*, a further three joint witness statements were produced between February 2012 and August 2015.

[15] At this hearing, the view expressed by Ms Nicola Terry, who has qualifications in psychology and is a Parks and Open Space Specialist for the Auckland Council, was, in brief, that the proposed off-site mitigation agreed to by the witnesses and parties previously is not sufficient, and not of high enough quality, to make up for what would be lost in amenity values through the proposed development around the stream. She considered that the proposed treatment of the stream would be inconsistent with what had been required in other developments both upstream and downstream of the site. She also had the view that there are other options for off-site mitigation – such as a greenway link under the Northern Motorway – which would offer greater public access benefit. It was this evidence which led to the qualified submission of the Council on the MUD part of the proposal – see para [9].

[16] Although she has been with the Council for some 5 years, Ms Terry had not been involved in any of the expert witness conferencing – it may well have made for a smoother process if she had. We have considered her views, both in their own right and measured against the evidence of the urban designers, landscape architects, and other experts who have expressed their views about the same issues. In the sense that it is always possible to think of something *better*, and in the knowledge that different sets of specialist knowledge may produce different options and priorities, Ms Terry's views are worthy of respect. But we cannot say that they bring us to a point where we think that what has been agreed, after much debate, among the other specialists is inadequate or fails to achieve the purposes of the Act. We see what has been otherwise agreed as being a realistic and sufficient



counter-balance to the nature and extent of amenity loss around that portion of the stream, and we approve it accordingly.

[17] Against that background, we heard the other witnesses the parties wish to call to expand on their briefs of evidence, and to cross-examine. We had, as usual, pre-read the lodged and circulated briefs of evidence of all of the witnesses; the background documents to which they each referred; the Joint Witness Statements; the previous related decisions (ie *North Eastern Investments Ltd v Auckland Council* [2012] NZEnvC 266 and *North Eastern Investments Ltd v Auckland Transport* [2016] NZEnvC 73). We should add also that the members of the Court are familiar with the site and the general issues relating to the proposals. Judge Thompson was a member of the Court in the 2012 proceeding, and Commissioners Edmonds and Bunting were members of the Court who heard the NOR matter earlier this year.

[18] We should add also that the Joint Witness Statements were notable for their eventual working through of the issues to the points where the agreement of highly qualified experts (including those called by the Council) was possible on all significant issues. The Council's current position on the MUD part of the proposal arose from the more recently emerged views of Ms Terry, and we have discussed that.

#### *Conclusions*

[19] At the conclusion of the evidence on 26 July, and having heard Mr Casey and Mr Maassen close for NEIL, we conferred and were quite satisfied, from all of the available material, that the following conclusions were not just available but indeed were all but inevitable on an informed review (ie under s104D, s104, and Part 2 of the Act) of the issues and the evidence relating to them.

[20] First, that the Intensive Residential Development (IRD) as now presented should be approved – and this was not in dispute.

[21] Second, that the Mixed Use Development (MUD) as now presented should be approved on the bases that:

- (a) The so-called North-South link between Fairview Avenue and Oteha Valley Road should be permanently retained, regardless of whether Medallion Drive is built as proposed.



- (b) That the development as a whole needs to be *staged* and the implementation of the public benefit works, including the stream realignment and planting should be appropriately co-ordinated with each stage of the development.
- (c) That there should be no advance prohibition on future subdivision of the site. Any issue of subdivision should be left to the future and a decision made on any application for it in the light of the then prevailing circumstances and then available knowledge. Quite apart from this being what we see as a more sound and principled planning process, there are doubts about the lawfulness of attempting to prohibit an activity other than through legislation (whether primary or secondary) – see eg *Far North DC v Te Runanga-A-Iwi O Ngati Kahu & Ors* [2013] NZCA 221.
- (d) That the off-site mitigation proposed by way of the boardwalk to connect property at 97 Oteha Valley Road with 56 Fairview Avenue, and the contribution of \$7,500 towards replanting of the land at 131 Oteha Valley Road, is a reasonable and appropriate proposal to offset the narrowing and diminishing of amenity values of the stream riparian areas close to the Commercial 3 building. This involves Council-owned land and it agrees with that off-site mitigation.
- (e) That a bond supplied by the developer to the Council should be confirmed and held by the Council against the completion of the public benefit works as approved.
- (f) That the proposal that any future issues between the parties as to the interpretation and implementation of development conditions should be referred to some form of alternate dispute resolution is not the appropriate way of dealing with such a possibility. If differences and issues do arise, then they can and should be dealt with through RMA processes by way of Enforcement or Declaration proceedings as appropriate.

[22] Having advised the parties of those views in the afternoon of Tuesday, 26 July, we adjourned the hearing to 11.00 am on Thursday 28 July to give the parties and their expert advisers, principally the planners, the opportunity to confer and to produce for our consideration a draft of the terms and conditions of the resource consents, to give effect to the views we had expressed.

[23] We are pleased to record that as scheduled on 28 July an agreed set of conditions for consents for the Intensive Residential Development (to include,



specifically, a café, child care centre and associated management office and community facilities), and the Mixed Use residential and commercial development were presented to us. We have considered them, and approve them as being accordance with, and implementing, the views we earlier expressed – see paras [20] and [21]. In terms of the practical management of implementation, and the oversight of conditions, we note that the conditions refer to several external documents, or parts of documents, that are to be complied with. These should be assembled by the Council into a consolidated dossier with a copy to be retained by it, and a copy provided to the consent holder, so that there is no confusion about what is required, and the consent is clear on its face. We ask that the Council confirm that this has been done within 15 working days from the issuing of this decision.

#### *Result*

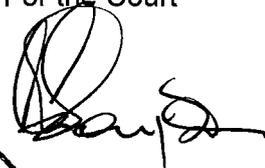
[24] For the reasons we have set out, as a matter of formality the appeal is allowed and the resource consents should issue for the development as a whole, as now sought by NEIL, on the conditions as appended to this decision.

#### *Costs*

[25] Costs are reserved. Any application should be lodged and served within 15 working days of the issuing of this decision, and any response lodged and served within a further 10 working days.

Dated at Auckland this 29 th day of July 2016

For the Court



C.J Thompson  
Environment Judge



## APPENDIX – Conditions of Consent

### AUCKLAND COUNCIL – RESOURCE CONSENTS LT 2011881 and LT 2072891

Under sections 104, 104B and 104D of the Resource Management Act 1991 (RMA) resource consents are **GRANTED** to North Eastern Investments Limited for two non-complying activity district land use consents (under section 9 of the Resource Management Act (RMA)) authorising:

- 419 residential units within an integrated housing development, café and child care centre and associated management office and community facilities (Auckland Council LT 2011881) (Intensive Residential Development (**IRD**)); and
- a mixed-use residential and commercial development containing 49 residential units and 3,100m<sup>2</sup> of commercial floor area (Auckland Council LT 2072891) (Mixed Use Development (**MUD**)).

at 56 Fairview Avenue and 129 Oteha Valley Road, Fairview Heights, Auckland 0632 on land described as Pt Lot 1 DP 208793 and Lot 3 DP 208793.

The resource consents authorise the following activities under the Operative Auckland Council District Plan – North Shore Section:

Activity	Rule	Status	IRD/MUD
Non compliance with structure plan	2.9.2	Non-complying	Both
Residential units on a site with a 'net site area' of at least 1500m <sup>2</sup> and a 'minimum net site area per residential unit' of between 150m <sup>2</sup> and 249m <sup>2</sup> .	Table 17A.1 Structure Plans Zone Activities	Discretionary	Both
Childcare centre		Discretionary	IRD
Dairies and cafes not exceeding 100m <sup>2</sup>		Discretionary	MUD
Site works within the riparian margin	9.4.1.3 (c)	Limited Discretionary	Both
Development, and/or the disturbance of soil, natural ground cover or vegetation, or the deposition of fill or any material affecting a riparian margin, or involving the diversion	8.4.2.3	Limited Discretionary	Both



of watercourses			
Buildings and structures within the 1% AEP flood plain	8.4.9.2A	Limited Discretionary	Both
No more than ten (10) units shall have their vehicular access from a private driveway, private way, access lot, or similar common accessway	Rule 17A.5.1.10 (d)(ii)	Discretionary	Both
Any activity having access to more than one road frontage where one or both frontages face arterial or collector roads	12.4.1.1	Controlled	Both
Any Permitted or Controlled activity which generates a turnover of vehicles which exceeds 100 vehicles per day	12.4.1.2	Limited discretionary	Both
Control Flexibility: General reductions in the number of parking spaces required under Table 12.1	12.4.2.5	Limited discretionary	Both
Control Flexibility An alternative arrangement to the requirement of Rule 12.4.2.6(a) to (e) and (g) Design of Parking and Loading spaces	12.4.2.6	Limited discretionary	Both
Control Flexibility An alternative arrangement to the requirements of Rule 12.4.2.7 Access to Parking and Loading Spaces	12.4.2.7	Limited discretionary	Both
Vehicle Crossing Standards (Table 12.3)	12.4.2.8(a)	Limited discretionary	Both

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

### GENERAL CONDITIONS

#### Activity in accordance with plans

1. The IRD and MUD activities shall be carried out in accordance with the following plans and drawings and all information in support of the application (**application documents**) referenced in these conditions, and all referenced by the council as consent numbers LT 2011881 and LT 2072891. If there is any conflict between the following plans and drawings or other reports referenced in these conditions and the specific conditions which follow, the specific conditions are to prevail.



### Intensive Residential Development

**1.Mastersite**

<i>Drawing Ref#.</i>	<i>Drawing Name</i>	<i>Author</i>	<i>Rev.</i>	<i>Dated.</i>
5140-SK101-H	Lower Basement Plan	PCL	H	24/11/2015
5140-SK102-H	Upper Basement	PCL	H	24/11/2015
5140-SK637-F	Reference plan - Amendments as per JWS 23 Oct 2015	PCL	F	25/11/2015
5140-SK640-D	Stream realignment as per JWS 23 Oct 2015 MXD clause 13	PCL	D	14/12/2015
5140-SK100-Z	Reference Plan / Master Plan and Public Pathway Plan	PCL	Z	24/05/2016

**2.Landscape**

<i>Drawing Ref#.</i>	<i>Drawing Name</i>	<i>Author</i>	<i>Rev.</i>	<i>Rev. Date</i>
Bluemarble-L1.0 (Rev D)	Landscape Site Plan	BM	D	June 2015
Bluemarble-L2.0 (Rev D)	Specimen Trees	BM	D	June 2015
Bluemarble-L2.1 (Rev D)	Footpath Environment	BM	D	June 2015
Bluemarble-L2.2 (Rev D)	Private Outdoor Room Environment	BM	D	June 2015
Bluemarble-L2.3 (Rev D)	Riparian Environment	BM	D	June 2015
Bluemarble-L2.4 (Rev D)	Common & Private Roof Gardens	BM	D	June 2015

**3.Building A**

<i>Drawing Ref#.</i>	<i>Drawing Name</i>	<i>Author</i>	<i>Rev.</i>	<i>Rev. Date</i>
5141-SK200-D	Proposed Basement & Ground Floor Plans	PCL	D	19/11/2015
5141-SK301-E	Proposed Building A Elevations	PCL	E	12/11/2015
5141-SK302-E	Proposed Building A Elevations	PCL	E	12/11/2015
5141-SK303-E	Proposed Fairview Avenue Elevation	PCL	E	12/11/2015

**4.Building B**

<i>Drawing Ref#.</i>	<i>Drawing Name</i>	<i>Author</i>	<i>Rev.</i>	<i>Rev. Date</i>
5142-SK200-D	Proposed Basement & Ground Floor Plans	PCL	D	19/11/2015
5142-SK201-B	Proposed First & Second Floor Plans	PCL	B	13/11/2015
5142-SK300-E	Proposed Elevations	PCL	E	13/11/2015

**5.Building C-D**

<i>Drawing Ref#.</i>	<i>Drawing Name</i>	<i>Author</i>	<i>Rev.</i>	<i>Rev. Date</i>
5143-SK200-D	Proposed Lower Basement Plan	PCL	D	23/11/2015
5143-SK201-D	Proposed Upper Basement & Ground Floor Plan	PCL	D	23/11/2015
5143-SK300-F	Proposed CD-South, D-East & CD- North Elevations	PCL	F	23/11/2015



5143-SK301-F	Proposed C-West, C-East, D-West Elevations	PCL	F	23/11/2015
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**6. Building E-F**

<i>Drawing Ref#.</i>	<i>Drawing Name</i>	<i>Author</i>	<i>Rev.</i>	<i>Rev. Date</i>
5144-SK200-C	Proposed Basement Plan	PCL	C	23/07/2015
5144-SK201-C	Proposed Ground Floor Plan	PCL	C	23/07/2015
5144-SK202-C	Proposed 2nd Floor Plan	PCL	C	23/07/2015
5144-SK300-E	Proposed FE-East & E-South & E-North Elevations	PCL	E	13/05/2015
5144-SK301-E	Proposed EF-West, F-South & F North Elevations	PCL	E	13/05/2015

**7. Building G-H**

<i>Drawing Ref#.</i>	<i>Drawing Name</i>	<i>Author</i>	<i>Rev.</i>	<i>Rev. Date</i>
5145-SK200-D	Proposed Lower & Upper Basement	PCL	D	28/10/2015
5145-SK201-C	Proposed 1st & 2nd Floor Plans	PCL	C	23/07/2015
5145-SK300-D	Proposed GH East & GH South Elevations	PCL	D	14/05/2015
5145-SK301-D	Proposed GH West & G-North Elevations	PCL	D	14/05/2015
5145-SK302-D	Proposed G South & H North Elevations	PCL	D	14/05/2015

**8. Building J-K**

<i>Drawing Ref#.</i>	<i>Drawing Name</i>	<i>Author</i>	<i>Rev.</i>	<i>Rev. Date</i>
5146-SK200-C	Proposed Lower Basement Plan	PCL	C	23/07/2015
5146-SK201-D	Proposed Upper Basement Plan	PCL	D	28/10/2015
5146-SK202-D	Proposed First Floor Plan	PCL	D	28/10/2015
5146-SK300-D	Proposed Building JK Elevations	PCL	D	25/11/2015
5146-SK301-D	Proposed Building JK Elevations	PCL	D	25/11/2015

**9. Building L**

<i>Drawing Ref#.</i>	<i>Drawing Name</i>	<i>Author</i>	<i>Rev.</i>	<i>Rev. Date</i>
5147-SK200-C	Proposed Lower Basement & Upper Basement Plan	PCL	C	23/07/2015
5147-SK201-C	Proposed Ground Floor Plan	PCL	C	23/07/2015
5147-SK300-D	Proposed Building L Elevations	PCL	D	30/06/2015
5147-SK301-D	Proposed Building L Elevations	PCL	D	30/06/2015

**10. Building M**

<i>Drawing Ref#.</i>	<i>Drawing Name</i>	<i>Author</i>	<i>Rev.</i>	<i>Rev. Date</i>
5138-SK200-C	Proposed Basement Plan	PCL	C	30/06/2015
5138-SK201-C	Proposed Ground Floor Plan	PCL	C	30/06/2015



5138-SK202-C	Proposed First Floor and Roof Plan	PCL	C	30/06/2015
5138-SK300-D	Proposed Building M Elevations	PCL	D	12/10/2015
5138-SK301-D	Proposed Building M Elevations	PCL	D	12/10/2015

**11. Building N-P**

<i>Drawing Ref#.</i>	<i>Drawing Name</i>	<i>Author</i>	<i>Rev.</i>	<i>Rev. Date</i>
5148-SK200-C	Proposed Lower Basement	PCL	C	23/07/2015
5148-SK201-C	Proposed Upper Basement	PCL	C	23/07/2015
5148-SK202-C	Proposed First Floor Plan	PCL	C	23/07/2015
5148-SK300-D	Proposed Building NP Elevations	PCL	D	30/06/2015
5148-SK301-D	Proposed Building NP Elevations	PCL	D	30/06/2015

**12. Building Q-R-S**

<i>Drawing Ref#.</i>	<i>Drawing Name</i>	<i>Author</i>	<i>Rev.</i>	<i>Rev. Date</i>
5149-SK200-D	Proposed QRS Basement	PCL	D	19/11/2015
5149-SK201-D	Proposed QRS Ground Floor	PCL	D	16/11/2015
5149-SK300-D	Proposed Building Q Elevations	PCL	D	30/06/2015
5149-SK301-D	Proposed Building R Elevations	PCL	D	30/06/2015
5149-SK302-E	Proposed Building S Elevations	PCL	E	16/11/2015
5149-SK303-E	Medallion Drive Link Elevation	PCL	E	23/11/2015

**13. Building T**

<i>Drawing Ref#.</i>	<i>Drawing Name</i>	<i>Author</i>	<i>Rev.</i>	<i>Rev. Date</i>
5150-SK200-D	Proposed Ground & 1st Plans	PCL	D	17/11/2015
5150-SK300-F	Proposed Building T Elevations	PCL	F	17/11/2015

**14. Building V**

<i>Drawing Ref#.</i>	<i>Drawing Name</i>	<i>Author</i>	<i>Rev.</i>	<i>Rev. Date</i>
5151-SK200-D	Proposed Ground, 1st & 2nd Floor Plans	PCL	D	18/11/2015
5151-SK300-D	Proposed Building V Elevations	PCL	D	18/11/2015
5151-SK301-D	Proposed Building V Elevations	PCL	D	18/11/2015

**Mixed Use Development****15. Mastersite**

<i>Drawing Ref#.</i>	<i>Drawing Name</i>	<i>Author</i>	<i>Rev.</i>	<i>Dated.</i>
5140-SK100-Z	Reference Plan / Master Plan	PCL	Z	24/11/2015
5140-SK101-H	Lower Basement Plan	PCL	H	24/11/2015
5140-SK102-H	Upper Basement	PCL	H	24/11/2015
5140-SK637-F	Reference plan - Amendments as per JWS 23 Oct 2015	PCL	F	25/11/2015
5140-SK640-D	Stream realignment as per JWS 23 Oct 2015 MXD clause 13	PCL	D	14/12/2015



**16.Landscape**

<i>Drawing Ref#.</i>	<i>Drawing Name</i>	<i>Author</i>	<i>Rev.</i>	<i>Rev. Date</i>
Bluemarble-L1.0	Landscape Site Plan	BM	D	June 2015
Bluemarble-L2.0	Specimen Trees	BM	D	June 2015
Bluemarble-L2.1	Footpath Environment	BM	D	June 2015
Bluemarble-L2.2	Private Outdoor Room Environment	BM	D	June 2015
Bluemarble-L2.3	Riparian Environment	BM	D	June 2015
Bluemarble-L2.4	Common & Private Roof Gardens	BM	D	June 2015
RBLA      ARC	Riparian Planting Plan Sheet 1	RBLA	-	Sept 2007
Consent				

**Building Comm 1, Comm 2, and Comm 3****17. & 18. Site Plans**

<i>Drawing Ref#.</i>	<i>Drawing Name</i>	<i>Author</i>	<i>Rev.</i>	<i>Rev. Date</i>
5139-SK0.00-J	Cover Sheet	PCL	J	24/11/2015
3997-SK0.05-E	Existing Road Reserve	PCL	E	14/07/2014
5139-SK1.01-Q	Site Plan	PCL	Q	24/11/2015
5139-SK1.02-S	Basement and Ground Plan	PCL	S	24/11/2015
5139-SK1.03-L	First and Second Plan	PCL	L	24/11/2015
5139-SK1.04-G	Site Plan – Detailed	PCL	G	24/11/2015
5139-SK1.05-G	Site Plan – Detailed	PCL	G	24/11/2015
5139-SK2.01-I	Building 1 - Basement Plan	PCL	I	30/06/2015
5139-SK2.02-G	Building 1 - Ground Plan	PCL	G	30/06/2015
5139-SK2.03-H	Building 1 - First Plan	PCL	H	30/06/2015
5139-SK2.04-H	Building 1 - Second Plan	PCL	H	30/06/2015
5139-SK3.01-I	Building 2 - Basement Plan	PCL	I	30/06/2015
5139-SK3.02-G	Building 2 - Ground Plan	PCL	G	30/06/2015
5139-SK3.03-G	Building 2 - First Plan	PCL	G	30/06/2015
5139-SK3.04-G	Building 2 - Second Plan	PCL	G	30/06/2015
5139-SK3.05-G	Building 2 - Third Plan	PCL	G	30/06/2015
5139-SK4.01-L	Building 3 - Basement Plan - Part 1	PCL	L	24/11/2015
5139-SK4.02-L	Building 3 - Basement Plan - Part 2	PCL	L	24/11/2015
5139-SK4.03-M	Building 3 - Ground Plan - Part 1	PCL	M	24/11/2015
5139-SK4.04-M	Building 3 - Ground Plan - Part 2	PCL	M	24/11/2015
5139-SK4.05-J	Building 3 - First Plan - Part 1	PCL	J	24/11/2015
5139-SK4.06-K	Building 3 - First Plan - Part 2	PCL	K	24/11/2015
5139-SK4.07-J	Building 3 - Second Plan - Part 1	PCL	J	24/11/2015
5139-SK4.08-K	Building 3 - Second Plan - Part 2	PCL	K	24/11/2015
5139-SK4.09-J	Building 3 - Third Plan	PCL	J	24/11/2015
<b>19. Sections</b>		PCL		
5139-SK5.01-J	Site Sections	PCL	J	22/10/2015
5139-SK5.02-K	Site Sections	PCL	K	30/06/2015
5139-SK5.03-M	Site Sections	PCL	M	24/11/2015



5139-SK5.04-M	Site Section	PCL	M	24/11/2015
5139-SK5.05-E	Site Sections	PCL	E	22/10/2015
<b>20. Elevations</b>		PCL		
5139-SK6.01-K	Proposed Elevations	PCL	K	24/11/2015
5139-SK6.02-H	Proposed Elevations (Comm 1 & Comm 2)	PCL	H	30/06/2015
5139-SK6.03-H	Proposed Elevations (Comm 1 & Comm 2)	PCL	H	30/06/2015
5139-SK6.04-J	Proposed Elevations (Comm 3)	PCL	J	24/11/2015
5139-SK6.05-J	Proposed Elevations (Comm 3)	PCL	J	24/11/2015

PCL = Proarch Consultants Limited BM = Bluemarble RBLA = Richard Bain Landscape Architect

### Monitoring charges

2. The consent holder shall pay the council a consent compliance monitoring charge of \$3000 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 this consent.

#### **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 consent have been met, will the council issue a letter confirming compliance on request of the consent holder.*

### When the consent lapses

3. Under section 125 of the RMA, this consent lapses ten years after the date it commences unless:
  - a. The consent is given effect to; or
  - b. The Council grants an extension of the lapse period.

### Staged implementation of the development

4. In the event that the consent holder proposes to implement the development in stages, it shall provide a Staging Plan to the council (Team Leader Northern Monitoring) for its approval. The Staging Plan shall identify:
  - a. The stages for all of the development;
  - b. How the conditions are complied with in stages matching the stages of development proposed in a. above;
  - c. How the proposed staging achieves the integrated and comprehensive development of the site in accordance with Condition



- 1, and mitigates any adverse effects on the environment that are consequent on each stage; and
- d. The scope and detail of information for each stage that is sufficient for that stage of the development.
5. Notwithstanding Condition 4 above, the mixed use residential and commercial development, consisting of buildings COMM1, COMM2 and COMM3, shall be constructed as a single stage and shall include, the bridging of the stream at building M, the streamworks, riparian planting and sections of pathway adjacent to those buildings, and the offset mitigation required by Conditions 20 and 21. The riparian planting shall leave a practicable construction margin where adjacent buildings P, N, L, K, or J have not been constructed.

#### Review

6. Under section 128 of the RMA the conditions of these consents may be reviewed by council (Team Leader Northern Monitoring) at the consent holder's cost on an annual basis following commencement of consent(s) to address any adverse effect on the environment not anticipated at the time this consent was issued or which are inadequately addressed by the consent conditions.

#### **PRE-DEVELOPMENT CONDITIONS - BEFORE SITE WORKS OR CONSTRUCTION**

7. Conditions 8 - 27 must be complied with before any site works or construction activity authorised by this consent occurs on the site.

#### Detailed design drawings

8. Prior to the implementation of each stage of the development, the consent holder shall provide complete detailed engineering drawings, accompanied by a design certificate in the form of Schedule 1A of NZS 4404:2010, and other drawings, detailing all:
- a. bulk earthworks (including details of proposed silt and sediment control measures);
  - b. updated stream diversion/restoration engineering drawings
  - c. private accessways;
  - d. proposed new or altered public assets including wastewater, water supply services and any works affecting the public carriageway or berm; and
  - e. landscaping.

These drawings shall be submitted to the council's Development Engineering Team for Engineering Approval. Design of the works shall achieve the relevant outcomes identified in the legacy NSCC Infrastructure Design Standards Manual: Issue 10 January 2009 and the



Auckland Council Code of Practice for Land Development and  
Subdivision 28 May 2015.

Construction Management Plan

9. No less than 20 working days prior to commencement of construction activities for each stage of this consent, the consent holder shall provide a Construction Management Plan (CMP) prepared by a suitably qualified and experienced person(s) to the council (Team Leader Northern Monitoring) for approval. The CMP shall be prepared and certified as follows:
- a. The CMP shall ensure that Conditions 35 - 39 in relation to site access, noise, vibration, dust and preventing damage to public assets and property, are achieved and more generally ensure that the effects on the environment of construction activities, including vehicle movements to and from the site, are adequately avoided, remedied, or mitigated.
  - b. The CMP shall include details of:
    - i. The management of truck movements during peak hours, including times around school drop off and pick up times;
    - ii. The management of construction worker parking to ensure that effects on surrounding roads and on-street parking are minimised; and
    - iii. Suitable measures to prevent depositing of earth on surrounding streets by trucks moving fill and other materials to and from the site.
  - c. The Consent holder shall not commence each stage of works authorised by this consent until the CMP has been certified in writing by council (Team Leader Northern Monitoring) acting in a technical certification capacity.
  - d. Should council refuse to certify the CMP for any stage of construction the consent holder shall submit a revised CMP to council for certification. The certification process shall follow the same procedure as outlined in this condition.
  - e. The consent holder must comply with the CMP for each stage of construction.

Street lighting

10. The vehicular accessways are to be lit over the entire length in accordance with AS/1158.3:1999, Lighting Category P5, Luminaire classification Type 4 with upward waste light ratio not exceeding 6%. Lighting proposals are to be incorporated in the engineering drawings submitted for Engineering approval.
11. Street lighting shall be provided with respect to the pedestrian thoroughfare which provides public linkage between Oteha Valley Road and Fairview Avenue. The design shall be certified by the Team Leader



Northern Monitoring that it meets the standards set out in the Infrastructure Design Standards Issue 10 January 2009, Section 3 to a category level not less than AS/1158.3:1999, Lighting Category P4.

#### Roading infrastructure

12. Prior to the start of each stage of construction the consent holder must provide complete engineering drawings as part of the engineering works application required by Condition 8 detailing all proposed construction works affecting or creating any road carriageway or berm and submit to the council (Team Leader Northern Monitoring) for certification that it is in accordance with the Auckland Transport Code of Practice.

#### Landscape (not riparian) design

13. The detailed landscape design drawings in Condition 8, must be prepared by a Registered NZILA (New Zealand Institute of Landscape Architects) Landscape Architect. Council certification is on the basis that the plans are in accordance with the approved planting plan(s) in Condition 1. The plans shall show:
- a. All proposed planting, including size at the time of planting, species, density and location of planting, details of drainage, soil preparation, tree pits, staking, and irrigation;
  - b. Design specification for all paving, including extent, materiality and finished levels;
  - c. Design and details of any planter boxes, seating, bins and other amenity infrastructure; and
  - d. A programme of establishment and post establishment protection and maintenance (fertilising, weed removal/spraying, replacement of dead/poorly performing plants, watering and length of maintenance of hard and soft landscaping).

#### Riparian planting landscape design

14. The consent holder shall engage a Registered NZILA Landscape Architect to prepare a detailed riparian planting plan, which shall be submitted to the council (Team Leader Northern Monitoring) for certification.
15. Council certification is to be on the basis that the detailed riparian planting plan:
- a. Gives effect to the Riparian Environment Plan referenced Bluemarble L2.3 Rev D June 2015;
  - b. Gives effect to the plans referenced in Condition 74 of Consent 36086 dated 11th May 2011 and Condition 89 of Consent 35005 dated 16th May 2011 for streamworks [see details in advice note following];
  - c. Gives effect to the Weed Management Plan July 2007 Richard Bain Landscape Architects



- d. Achieves the healthy ecological functioning of the riparian corridor within five years of each phase of development including:
- Greater than 90% canopy cover of indigenous planting,
  - Weed species reduced to a level that does not significantly adversely affect natural character, ecological function and amenity,
  - Provision of shade, filtering of contaminants and bank stability,
  - A native green corridor that reflects local character, enhances urban amenity and provides visual variety; and
- e. Includes adequate information on implementation methodology and maintenance.

**Advice note:**

*The wording of Condition 74 of 36086 and similarly Condition 89 of 35005 is as follows:*

*The consent holder shall provide a revised Riparian Planting & Maintenance Plan prepared in accordance with ARC Technical Publication TP148. The Plan shall be provided to the Manager for written approval prior to stream works commencing. The plan shall provide at a minimum, the following components:*

- i. *The extent and composition of the vegetation clearance proposed;*
- ii. *Specify the quantities, species size ("PB" grade), density and location of the proposed planting;*
- iii. *The instream stabilisation works such as retaining walls, rock boulders and geofabric rolls;*
- iv. *Maintenance schedules and timing of implementation;*
- v. *Alternative engineering solutions and maintenance of those structures to be provided under the two cantilevered decks in the event that the planting does not attain full coverage within two years following planting;*
- vi. *All planting or seeding comprised in the approved Plan shall be carried out during the first planting season (May to October) following the completion of channel works. Any trees or plants which die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Manager gives written consent to the variation.*
- vii. *The plan shall ensure the on-going replacement of plants which are dead or in poor health for a period of not less than 5 years. This plan shall also demonstrate how weeds and pests are to be eradicated or controlled on an on-going basis for a minimum of 5 years.*
- viii. *The planting shall be implemented and maintained in accordance with the approved plan and the approved implementation and maintenance program.*
- ix. *The planting shall be protected in perpetuity with the details supplied in the plan.*

16. Any specimen trees shall have a planter bag size of PB40 or PB60.

17. The design details and methodology for water misting devices and water retention treatment for the soil below the cantilevered portions of the Commercial 1, 2 and 3 buildings shall be submitted to the council (Team Leader Northern Monitoring) for their satisfaction. The water misting



devices shall be sufficient to ensure the establishment of the riparian plantings under the deck area of these buildings. The water misting system shall be allowed to be removed in stages five years after installation for each stage of the planting below the cantilevered portion of buildings Commercial 1, 2 and 3 inclusive, upon confirmation of a Registered NZILA Landscape Architect that the plants are self-sustaining and no longer reliant on the water misting system.

#### Public pathways

18. Prior to lodging an application for building consent, the consent holder shall prepare and submit a public pathway plan for certification by council (Team Leader Northern Monitoring) for their satisfaction. Council certification is on the basis that the Plan:
- a. Shows public pathways in general accordance with Drawing 5140-SK100-Z;
  - b. Provides a minimum pathway width of 2.5m while allowing for wider sections of the pathway where practicable; and
  - c. Includes a maintenance programme for the pathway.

#### Easements and covenants

19. The pathways confirmed under Condition 18 shall be available for use by the public and be maintained as a pathway to be available at all times by way of an easement registered on the title of the property in favour of Auckland Council. The consent holder shall prepare an easement plan and this shall be deposited with the easement registered on Computer Freehold Registers NA137A/24 over the pathway approved as part of Condition 18. The easement shall be an easement in gross with Auckland Council as the dominant tenement and shall be for pedestrian and cycle right of way only. The easement shall only apply to the finished ground surface level. The minimum width of the easement shall be 2.5m at all points. The riparian planting as detailed in the approved plan under Condition 14 shall be protected, and the planted area shall be kept clear of buildings in perpetuity by way of a covenant. The covenant documents are to be drafted by the council solicitors at the expense of the consent holder. The covenant shall be registered against the computer register of Pt Lot 1 DP 208793 and Lot 3 DP 208793 by the consent holder at their expense, and a copy of the registration documents shall be provided to the the council (Team Leader Northern Monitoring).

#### Offset Mitigation

20. The consent holder shall pay council a sum equivalent to the amount required to construct a pathway (minimum of 62m long) including a footbridge to connect the roadside footpath on Oteha Valley Road with the boundary of 56 Fairview Avenue (as shown on drawing 5140 SK637-G). The sum equivalent shall be determined by a registered Quantity Surveyor or other such qualified person and based on a plan to be prepared by the consent holder showing details and work that is of the same standard and specification as that consented within the site proper for riparian planting and public access.



21. That the consent holder shall pay council a sum of \$7500 towards riparian planting at 131 Oteha Valley Road (Lot 2 DP 199126).

Existing services

22. The consent holder shall locate all existing services (water, wastewater, stormwater, power gas and telecommunications) proposed to be retained on the development site that may be affected by the proposed construction work and notify the owners of the services of the construction work prior to the commencement of work on the site. Any work necessary for the protection or relocation of the existing services shall be undertaken at the consent holder's expense and in accordance with the requirements of Auckland Council (water and wastewater – Water & Wastewater Code of Practice for Land Development & Subdivision 28 May 2015, stormwater – Auckland Council Code of Practice for Land Development & Subdivision 1 October 2013 and the relevant utility operator responsible for the power, gas and telecommunication services.

Wastewater services

23. For each stage of the development Engineering Plans of the wastewater system shall be provided to Auckland Council for certification prior to works commencing. Council certification is on the basis that the plans are in accordance with Watercare Services Limited. Water and Wastewater Code of Practice Chapter 6 May 2015 or has been otherwise agreed with Watercare Services Ltd.
24. The Engineering Plans shall include details of any structural improvements required to the Trunk Sewer and shall ensure development is connected to the Trunk Sewer via the 225mm stubs that were installed for this purpose at each of the three existing manholes or such other connection that is approved in writing by Watercare Services Limited.

**Advice note:**

*This condition is in accordance with Council roading contract NSCC2001/539 and the agreement that was reached with the applicant at the time the Trunk Sewer was installed.*

Water reticulation

25. The consent holder shall install water reticulation for each stage of the development, the design of which shall be provided to council's Development Engineering Team, Takapuna for certification prior to the commencement of construction works.
26. Council certification under Condition 25 is on the basis that the reticulation system has been designed in accordance with the Watercare Services Limited Water and Wastewater Code of Practice Chapter 6 (including fire fighting) 28 May 2015, The Consent Holder shall carry out all tests required by the New Zealand Fire Service and the Council in



regard to water pressure and flow testing. This testing shall be done at the consent holder's expense.

#### Stormwater services

27. Prior to works commencing for each stage of the development, engineering drawings of the detailed design of the proposed stormwater system and devices for the management of both quantity and quality of the stormwater runoff from the contributing development upstream catchment shall be provided to Council's Development Engineering Team, Takapuna. Council certification is on the basis that the plans are in accordance with the Auckland Council Code of Practice for Land Development and Subdivision : Chapter 4 – Stormwater 1 October 2013. The stormwater system must be designed and implemented in conjunction with "regional" consent number 36087 for the development.

### CONSTRUCTION CONDITIONS

#### Pre-start meeting

28. Prior to the commencement of each stage of construction and / or earthworks activity, the consent holder shall hold a pre-start meeting that:
- a. is located on the subject site;
  - b. is scheduled not less than 5 days before the anticipated commencement of construction and/or earthworks;
  - c. includes a representative of the council (Team Leader Northern Monitoring or the Development Engineering team); and
  - d. includes representation from the contractors who will undertake the works and any suitably qualified professionals if required by other conditions.

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

- a. Timeframes for key stages of the works authorised under this consent;
- b. Resource consent conditions;
- c. Certified Construction Management Plan;
- d. Certified landscape drawings;
- e. Certified detailed riparian planting plan; and
- f. Certified public pathway plans.

#### **Advice note:**

*To arrange the pre-start meeting please contact Council's Team Leader, Northern Monitoring to arrange this meeting. The conditions of consent should be discussed at this meeting. All information required by the Council should be provided 2 days prior to the meeting.*



29. Works shall be constructed in accordance with the approved/certified drawings, plans and other documentation.

Geotechnical report

30. The consent holder shall ensure that all earthworks are undertaken in accordance with the Babbage Consultants Geotechnical Assessment reference 42849 dated July 2006 and Babbage Consultants letter reference 42849 dated 16 July 2007, including the provision of the relevant certification at each stage of construction.
31. The consent holder must ensure that on completion of bulk earthworks and prior to the completion of each stage of the project, a Geotechnical Completion Report is provided compliant with the requirements of the Infrastructure Design Standards Manual Issue 10 (January 2009) from a suitably experienced Chartered Professional Engineer on the IPENZ Geotechnical Practice College and with suitable Professional Indemnity and Public Liability Insurance each with a minimum limit of indemnity of \$2,000,000. The report shall attest to the suitability of the completed bulk earthworks for their intended purpose and confirm geotechnical limitations in respect of development of the land. Two bound copies and one pdf copy of this report are to be submitted to council (Team Leader Northern Monitoring).

**Advice note:**

*The design standards are set out in the legacy NSCC Infrastructure Design Standards Issue 10 January 2009 (IDS) and the Auckland Council Code of Practice for Land Development and Subdivision (C of P), noting that documents in (i) to (iv) below supersede the IDS:*

- i. Section 2, C of P Earthworks and Geotechnical Requirements Version 1.6 September 2013
- ii. Section 3 Transportation - the Auckland Transport Code of Practice 2013\*
- iii. Section 4 C of P, Stormwater, version 1.00 dated 01 October 2013\*
- iv. Sections 5 & 6, Water & Wastewater Code of Practice for Land Development and Subdivision, 28 May 2015. (Superseding respectively IDS Sections 6 & 5).

*\* in the legacy NSCC area there may remain some gaps of guidance or details for the designer; in such circumstances the legacy IDS will have application. Examples would include, for Transportation, requirements for private carriageways, for Stormwater, limitations on kerb discharge flow rates. Where both the Code of Practice documents and IDS are silent, NZS4404:2010 may be referred to.*

Earthworks in accordance with approved design

32. Prior to the commencement of any earthworks, the council (Team Leader Northern Monitoring) shall be provided with written certification from a suitably qualified professional that all permanent earth bunds, retaining walls, and building foundations have been designed in accordance with the geotechnical report and detailed engineering plans in Condition 8. Written certification shall be in the form of a report, producer statement or any other form acceptable to the council.

Sediment and erosion control in accordance with approved plan



33. Prior to the commencement of earthworks activity, all required erosion and sediment control measures on the subject site shall be constructed and carried out in accordance with the approved Erosion and Sediment Control Management Plan, as required by Condition 22 of Auckland Council Permit 35004.

#### Earthworks season

34. No bulk earthworks on the subject site shall be undertaken between 30 April and 1 October in any year, without the written approval of the council (Team Leader Northern Monitoring).

#### Maintain access to site

35. There shall be no obstruction of access to public footpaths, berms, private properties, public services/utilities, or public reserves resulting from the construction or earthworks activity, except as approved by the council (Team Leader Northern Monitoring) in consultation with Auckland Transport for works within the road reserve for the purposes of upgrading the road/footpath in conjunction with the development of the site. All materials and equipment shall be stored within the subject site's boundaries.

#### Noise associated with construction activities

36. All earthworks and construction activity on the subject site shall comply with the New Zealand Standard 6803:1999 for Acoustics – Construction Noise at all times.

##### **Advice note**

Limits for average ( $L_{eq}$ ) and maximum sound levels ( $L_{max}$ ) (dBA units) are:

<u>Weekdays:</u>	$L_{eq}$	$L_{max}$
6.30am - 7.30am	60	75
7.30am - 6pm	75	90
6pm - 8pm	70	85

##### Saturdays:

7.30am - 6pm	75	90
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Sunday, Public Holidays and all other times:

No noise permitted on site above the normal background level, i.e. no heavy machinery or noise producing equipment.

#### Vibration control

37. Where works on the site are creating vibrations, that in the opinion of the council (Team Leader Northern Monitoring) constitute an unreasonable disturbance beyond the boundaries of the subject site, the consent holder shall engage a suitably qualified expert to undertake monitoring



and provide confirmation that peak particle velocities measured on any foundation or uppermost full storey of any building not located on the subject site, do not exceed the limits set out in Table 1 of German Standard DIN 4150 Part 3:1986 "Structural Vibration in Buildings – Effects on Structures."

#### Dust Nuisance

38. There shall be no airborne or deposited dust beyond the subject site as a result of the earthworks activity, that in the opinion of the council (Team Leader Northern Monitoring) is noxious, offensive or objectionable.

#### Prevent damage to public assets or property

39. There shall be no damage to public roads, footpaths, berms, kerbs, drains, reserves or other public asset as a result of the earthworks activity, unless otherwise approved by council (Team Leader Northern Monitoring) and the works are carried out by an authorised contractor. In the event that such damage does occur, the council (Team Leader Northern Monitoring) 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.

#### Height & height in relation to boundary conditions

#### **Surveyor foundation check**

40. No building works shall proceed beyond the foundation stage until a registered surveyor or licensed cadastral surveyor, engaged by the consent holder, has provided written certification to the council (Team Leader Northern Monitoring) that the works completed:

- a. have been completed in general accordance with the approved plans as referred to in Condition 1 of this consent; or
- b. do not exceed the vertical or horizontal extent of any breach, infringement, or non-compliance approved by the affected adjoining neighbours.

#### **Advice note:**

*The person providing the written certification should ensure that the finished floor level is clearly marked on the subject site before the foundations are put in place.*

*The purposes of certification at the foundation stage of construction are to:*

- *provide assurance that the building works, to that point, have been undertaken in accordance with the consent*
- *reduce the risk of non-compliance as the works continue.*
- *Written certification should include the following:*
  - *the finished ground level is clearly marked on the subject site*



- *the relevant consent reference number and site address*
- *levels, calculations, plans and drawings of the structure(s) that are the subject of certification*
- *the quantification of the extent of any breach, infringement or non-compliance identified at the time of survey, where this has occurred.*

*Written certification is to be provided directly to the officer specified in this condition.*

### **Surveyor roof framing check**

41. No building works shall proceed beyond the roof framing stage until a registered surveyor or licensed cadastral surveyor, engaged by the consent holder, has provided written certification to the council (Team Leader Northern Monitoring) that the works completed:

- have been completed in accordance with the approved plans as referred to in Condition 1 of this consent, or
- do not exceed the vertical or horizontal extent of any breach, infringement, or non-compliance approved under this consent.

#### **Advice note:**

*The purposes of certification at the roof framing stage of construction are to:*

- *provide assurance that the building works, to that point, have been undertaken in accordance with the consent*
- *reduce the risk of non-compliance as the works are completed.*
- *Written certification should include the following:*
  - *the finished ground level is clearly marked on the subject site*
  - *the relevant consent reference number and site address*
  - *levels, calculations, plans and drawings of the structure(s) that are the subject of certification*
  - *the quantification of the extent of any breach, infringement or non-compliance identified at the time of survey, where this has occurred.*

*Written certification is to be provided directly to the officer specified in this condition.*

### **Quality of fill material and site stability**

42. Any imported fill used shall:

- a. be solid material of a stable, inert nature and
- b. not contain contaminants and
- c. not be subject to biological breakdown

43. All earthworks shall be managed to ensure that they do not lead to any uncontrolled instability or collapse affecting either the site or adversely affecting any neighbouring properties. In the event that such collapse or instability does occur, it shall immediately be rectified by the consent holder at its cost.



44. Within 10 working days following the completion of earthworks, the suitably qualified engineering professional responsible for supervising the works shall provide to the council (Team Leader Northern Monitoring) written evidence that all fill used on the subject site has the characteristics set out in Condition 42. Written evidence shall be in the form of a receipt, compaction certificate(s), producer statement or similar.

Paving of parking and access

45. All parking spaces, accessways and manoeuvring areas shall be formed, drained and finished with an all-weather dust-free surface, in general accordance with the legacy North Shore City Council Infrastructure Design Standards Issue 10 January 2009, and shall be completed prior to occupation of each building.

Planting (not riparian)

46. The implementation of the planting shall be monitored by a Registered Landscape Architect and shall be in accordance with the approved plan.
47. All planting required by the approved plan shall be carried out during the planting season (May to October). Any trees or plants which die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the council (Team Leader Northern Monitoring) gives written consent to a variation. All plantings shall be completed within 5 (five) years of the commencement of this consent.

**Advice note:**

Riparian Plantings are subject to Condition 74 of Consent 36086 and Condition 89 of Consent 35005 as per the advice note following Condition 17.

Planting (riparian restoration)

48. Implementation of the detailed riparian planting plan (Condition 8), shall:
- a. be implemented over a 3-year period for preparation and restoration plantings of named native species (together with any other additional suitable and locally resourced plants that may be required);
  - b. require all planting, seeding or the installation of watering devices required by the approved plan shall be carried out during the planting season (May to October) following the completion of each stage of the stream works. Any trees or plants which die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the council (Team Leader Northern Monitoring) gives written consent to a variation.
  - c. include a 5-year monitoring and maintenance programme for the staged removal (initial pruning in conjunction with poisoning) and management of willow trees and suppression of the regeneration of



willows until such time that native plantings can replicate current shade, leaf-fall, habitat and bank stability values; and

- d. require annual progress reports to be provided to the council (Team Leader Northern Monitoring and Team Leader Biodiversity) at the end of each of the 3-year restoration planting seasons and the 5-year willow control and monitoring period.

**Advice note:**

*Riparian plantings are subject to Conditions 74 of Consent 36086 and Condition 89 of Consent 35005 as per the advice note following Condition 18.*

**Bond**

49. Pursuant to section 108A of the RMA a planting and weed control bond shall be provided to ensure implementation of the detailed riparian planting plan (Condition 8). This bond may take the form of a cash bond or bank guarantee. The bond documents are to be drafted by the council solicitors at the expense of the consent holder. The bond shall be registered against the computer register of Pt Lot 1 DP 208793 and Lot 3 DP 208793 by the consent holder at their expense, and a copy of the registration documents shall be provided to the the council (Team Leader Northern Monitoring).
50. The bond amount is to be 150% of the cost of the completed riparian restoration plan. 75% of the bond may be released once the riparian restoration planting is implemented, with the remaining 25% of the bond released following the 5 year willow control and monitoring period, and the monitoring period for the riparian planting plan, having been completed to the satisfaction of the council (Team Leader Northern Monitoring and Team Leader Biodiversity).

**Advice note:**

*To establish the bond amount, two quotations shall be provided to the council encompassing the costs of the riparian restoration plan (including weed management) and also for the 5-year willow control and planting maintenance.*

**Mitigation of adverse construction effects within the riparian area**

51. Mitigation measures to prevent leachate of wet cement from entering the watercourses shall be provided to the council (Team Leader Northern Monitoring) for approval prior to the pouring of concrete required for infrastructure works, such as construction of the vehicular bridge, retaining walls and stormwater outfalls proposed within the inner 5m riparian margin

**Advice note:**

*Wet cement is very alkaline and corrosive and can cause serious harm to downstream biota.*

52. Freshly treated tanalised timber is to be dried for at least one month prior to installation in retaining walls or any other works proposed within the inner 5m riparian margin to prevent toxic metals leaching into the watercourse.



### Urban Design

53. The consent holder shall construct the proposed buildings and surrounding hard and soft landscape in accordance with the documents and plans referred to in Condition 1, including, but not limited to, the following:
- a. Pedestrian gates shall be provided that allow access between private outdoor spaces of ground floor units and adjacent communal open space.
  - b. Pedestrian gates may be provided that allow access between private outdoor spaces of units and adjacent footpath.
  - c. The consent holder shall ensure that the use of multiple individual antennas for each residential unit is minimised or avoided by the provision of communal antennas or aerials that enable the supply of free to air and pay television to individual residential units within the overall development.

### Inspections

54. The consent holder shall arrange for inspections in accordance with the Auckland Council's Development Engineering Quality Assurance Manual Version 1.0, April 2012 (QAM) to be carried out by a suitably qualified person during construction of all works on site. These inspections are to ensure that the works are constructed in accordance with the approved engineering drawings or any approved amendments to those drawings, the Council's standard requirements for the construction of land development projects, and sound engineering practice.
55. The consent holder must ensure that inspections undertaken in accordance with Condition 54 above are recorded in the QAM.

## **CONDITIONS FOLLOWING COMPLETION OF CONSTRUCTION**

### QAM Completion Documentation

56. QAM completion shall include a Statement of Certification: Engineering Approval and be forwarded with other QAM completion documentation to the council (Team Leader Northern Monitoring and the Development Engineering team responsible for Engineering Plan Approvals) at the completion of construction of all works.

### "As-Built" Drawings

57. Accurate as-built plans shall be submitted to the council (Team Leader Northern Monitoring) for all public services, including underground services, roading, street lighting and landscaping, in accordance with the Development Engineering As-Built requirements Version 1.2 September 2012. One set of A3 prints is required as part of the QAM documentation. These plans are to be exported in dxf or dwg format. A pdf file is also requested. RAMMS data shall be included with the completion documents. As-Builts must show all new or altered connections (termed "point of supply" for Watercare Services Limited assets)



**Advice note:**

*It is the responsibility of the consent holder to ensure that all necessary building consents have been obtained, and that these are consistent with the plans and information approved as part of this consent. Building consents are needed as required by the Building Act 2004, including for private wastewater and stormwater works and stormwater mitigation devices. Recovery of Watercare Services Limited costs or fees would be part of Council "Engineering Approval" invoicing except for any Infrastructure Growth Charges or works not related to alterations to or new public assets, which would be directly invoiced by Watercare Services Limited.*

**Acoustic Performance**

58. The consent holder shall provide to the council (Team Leader Northern Monitoring) written confirmation from a suitable qualified and experienced acoustic engineer that all habitable rooms have been designed and constructed so that internal noise levels do not exceed LAeq40dB when all windows required for ventilation purposes are open.

**Advice note:**

*Measures to mitigate the effects of noise are likely to include the use of insulation materials, and ventilation systems that enable habitable rooms to be occupied without the need to open windows or external doors.*

**Ongoing maintenance of planting**

59. The planting implemented under Conditions 48 - 50 shall be maintained by the consent holder in perpetuity in accordance with the approved maintenance schedule to the satisfaction of the council (Team Leader Northern Monitoring).

