

04 June 2021

Official Information Request No.8140008629
(Please quote this in any correspondence)

By email - s 9(2)(a)

Tēnā koe Olivia

Local Government Official Information and Meetings Act 1987 (LGOIMA)

Compliance and Enforcement Records

Thank you for your request for information for compliance and enforcement records about the properties listed below which we received on 20 May. The specific details of your request and our response are set out below.

Compliance and enforcement records for the below properties please be made for Yuntao Cai, Precise Homes Limited and Precise Homes North Shore Limited?

12 & 14 Kelwyn Rd, Kelston
27 Sunnyside Rd, Sunnyvale
153 Penrose Rd, Mt. Wellington
49A Northboro Rd, Belmont
72 & 74 Alfriston, Manurewa East
96, 100 & 102 Walmsley Rd, Favona
24 Nikau St, New Lynn
45 Kawerau Avenue, Devonport
35 Salamanca Rd, Sunnynook
17 Heathcote Rd, Castor Bay
15 Highbury St, Avondale
24 Tomo St, New Lynn
247 Beach Road, Campbells Bay
24 Lincoln Park Ave, Massey

Our Licensing and Regulatory Compliance department have provided the following information which you will find in Attachment 1 :

- Abatement Notice – 24 Tomo Street, New Lynn
- Infringement Notice - 35 Salamanca Road, Sunnynook
- Inspection Letter – 24 Nikau Street, New Lynn

Some of this information has been redacted to protect the privacy of individuals - s(7)(2)(a) LGOIMA.

Decisions relating to the information that is being released to you were made by James Hassall General Manager Licensing & Regulatory Compliance.

You have the right to seek an investigation and review of this response by the Ombudsman. Information about how to make a complaint is available at www.ombudsman.parliament.nz or freephone 0800 802 602.

If you have any questions, please contact me at s 9(2)(a) or Ph s 9(2)(a).

Ngā mihi



Joanne Kearney
Privacy & Official Information Business Partner
Governance Services

Released under the provision of
the Official Information Act 1982

14/05/2021

PRECISE HOMES NORTH SHORE LIMITED
c/o Jimmy Sun
117 Newton Road
Eden Terrace
Auckland 1010

Dear PRECISE HOMES NORTH SHORE LIMITED

Re: Abatement Notice for 24 Tomo Street, New Lynn

Please find enclosed **one abatement notice**, which is issued to you under section 322 of the Resource Management Act 1991 (RMA). **This notice instructs you to install erosion and sediment control measures** in accordance with the Auckland Unitary Plan (Operative in Part) and Guidance for Erosion and Sediment Control (GD05), and section 9(2) of the RMA.

While visiting your site on 14/05/2021 we found (marked with 'X'):

- ☐ No erosion and sediment controls were present.
- ☒ Some erosion and sediment controls were present, but they were insufficient.
- ☒ Erosion and sediment controls were present, but not installed and/or maintained correctly.
- ☐ Concrete work being carried out on or near the footpath.
- ☐ Uncovered stockpile(s) onsite.
- ☒ Unsatisfactory site entrance.

The consequences of this are (marked with 'X'):

- ☒ **Damage to rain garden** - *Clean up by collecting the sediment and debris – DO NOT wash further into the rain garden, or into any gutters or drains.*
- ☐ **Roadside gutter(s) and/or drain(s) blocked with your debris** - *Clean up by sweeping and collecting - DO NOT wash down gutters or drains.*
- ☐ **Sediment on footpath and/or road** - *Clean up immediately by sweeping and collecting - DO NOT wash down gutters or drains.*
- ☒ **Potential for sediment to leave the site and enter the public stormwater network**

Failure to comply with the enclosed notice may result in escalated enforcement action being taken against you. Auckland Council will re-check your property in the near future to ensure it complies.

If you have a builder or building company working for you, please pass copies of this letter and the attached notice to them as soon as possible.

Should you wish to discuss any of the above matters with me further my contact details are below.

Yours sincerely



Shanya Chand
Compliance Officer
s 9(2)(a)

Enclosed Abatement Notice: ABT21550874

We also noticed the following during our visit (marked with 'X'):

- ☐ **Accumulation of rubbish on your site** - *clean up immediately to prevent it from blocking drains and polluting our waterways.*
- ☐ **Building materials and/or rubbish in neighbouring vacant site** - *please remove immediately.*
- ☒ **Building materials and/or rubbish on the footpath and/or berms** - *please clean up immediately.*
- ☐ **Leaking water tap** - *repair or report to Watercare as soon as possible.*
- ☐ **Port-a-Loo stored on the footpath or berm** - *please remove immediately.*
- ☐ **Uncontrolled polystyrene onsite** - *store offcuts and scraps in bags to prevent them from blocking drains and polluting our waterways.*

For more information on running an efficient and compliant work site, including how to correctly install silt fences, please visit aucklandcouncil.govt.nz and search "small building sites" to view the *Building on small sites* brochure (available in English or Mandarin).

ABATEMENT NOTICE



(Issued under the authority of section 322 of the Resource Management Act 1991)

Notice No.: ABT21550874

Issue Date: 14/05/2021

TO: PRECISE HOMES NORTH SHORE LIMITED

c/o Jimmy Sun
117 Newton Road
Eden Terrace
Auckland 1010

Undertake The Following Action:

By Date:

The Auckland Council gives notice that you must undertake the following action:

Install and maintain appropriate sediment and erosion controls in accordance with the Auckland Unitary Plan (Operative in Part) and Guidance for Erosion & Sediment Control (GD05).

21/05/2021

Location

The location to which this abatement notice applies:

24 Tomo Street, New Lynn
LOT 11 DP 45117

Auckland Council enforcement officers will from time to time undertake inspections to check whether you are complying with section 9(2) of the Resource Management Act 1991 (RMA), the Auckland Unitary Plan (Operative in Part)(AUP(OP)) and this abatement notice.

Further Conditions

No further conditions.

Notice Issued Under

This notice is issued under section 322(1)(b)i) of the Resource Management Act 1991.

Reasons For Notice

On 14/05/2021 I visited 24 Tomo Street, New Lynn and saw that earthworks had been carried out with no erosion or sediment controls in place to prevent the discharge of sediment from the Property.

This abatement notice is issued because in my opinion the lack of controls is a contravention of section 9(2) of the RMA and a rule in the AUP(OP).

Section 9(2) states no person may use land in a manner that contravenes a regional rule unless the use is expressly allowed by a resource consent. The regional rule that has been breached is:

Standard E11.6.2(2) provides that best practice erosion and sediment measures must be implemented for the duration of land disturbance. Those measures must be installed prior to the commencement of land disturbance and maintained until the site is stabilised against erosion.

This Abatement Notice is issued because in my opinion the required action is necessary to ensure compliance by you with the RMA and AUP(OP) and is also necessary to avoid, remedy or mitigate any actual or likely adverse effect on the environment caused by you.

Sediment has a direct impact on waterways and organisms living in these environments. It physically smothers aquatic life, damages fish gills and mouthparts, increases temperature and turbidity (cloudiness of the water) and prevents light penetrating the water, all of which significantly alter fish habitats. Sediment also transports other pollutants such as lead, hydrocarbons, agricultural nutrients and toxic substances into streams.

Authority To Issue

Enforcement Authority: Auckland Council, 135 Albert Street, Auckland

Enforcement Officer Identification: Warrant No.6441

Enforcement Officer Name: Shanya Chand

The Enforcement Officer is acting under a warrant of authority issued by the Auckland Council, pursuant to Section 38 of the Resource Management Act 1991, authorising the Officer to carry out all of the functions and powers as an Enforcement Officer under the Resource Management Act 1991.

Signature of Enforcement Officer:

Date: 14/05/2021



IMPORTANT: PLEASE READ IMPORTANT NOTES ATTACHED

Important Notes

Note: If you do not understand these notes, you should consult a lawyer immediately.

Failure to Comply

If you do not comply with this abatement notice you may be issued with an infringement notice for each occurrence (day) of non-compliance with this notice under Section 343C, or prosecution under Section 338, or the Resource Management Act 1991. (Unless you appeal the abatement notice and the notice is stayed as explained below).

Right to Appeal

You have the right to appeal to the Environment Court against the whole or any part of this abatement notice. If you wish to appeal, you must lodge a notice of appeal in Form 49 with the Environment Court within 15 working days of being served with this abatement notice.

Stay of Abatement Notice

An appeal does not automatically stay the abatement notice and so you must continue to comply with it unless you also apply for a stay from an Environment Judge under Section 325(3A) of the Resource Management Act 1991 (see Form 50). To obtain a stay, you must lodge both an appeal and a stay with the Environment Court.

Change or Cancel Abatement Notice

You also have the right to apply in writing to the Auckland Council to change or cancel this abatement notice in accordance with Section 325A of the Resource Management Act 1991.

Authorisation of Officer

Auckland Council authorises the Enforcement Officer who issued this notice.

Auckland Council's address is:
Private Bag 92300
Auckland 1142





Released under the provision of
the Official Information Act 1982

INFRINGEMENT NOTICE



(Issued under the authority of section 343C(3) of the Resource Management Act 1991)

Notice No: 61000293155

Issue Date: 18 January 2021

TO: Precise Homes North Shore Limited
117 Newton Road
Eden Terrace
Auckland 1010

Attn: S7(2)(a) Privacy

You are alleged to have committed an infringement offence against the Resource Management Act 1991, as follows:

Details Of Alleged Infringement

Section of Act contravened:

Section 338(1)(a) Section 15(1)(b)	Section 338(1)(a) Contravention of section 15(1)(b) (discharging of contaminant onto or into land in circumstances which may result in that contaminant (or any other contaminant emanating as a result of natural processes from that contaminant) entering water)
------------------------------------	---

Nature of infringement:

On 11 January 2021, I visited the site at 35 Salamanca Road, Sunnynook. While on site I observed evidence that concrete slurry had been allowed to be discharged from the subject site after the completion of the concrete pour for the driveway. Concrete slurry and a thick build-up of residue and dust had discharged onto the public footpath and onto the road channel, from where it could enter the public stormwater network by way of a roadway cesspit, which is in close proximity to your site.

You discharged a contaminant (concrete slurry) onto land in circumstances which may result in that contaminant entering water and receiving waterways. This is a contravention of section 15(1)(b) of the Resource Management Act 1991.

Location: 35 Salamanca Road, Sunnynook 0620

On: 11 January 2021

At: 14:00:00

The fee for this infringement is

\$ 750.00

**Payable within 28 days after 18 January 2021
being not later than**

15 February 2021

IMPORTANT: PLEASE READ SUMMARY OF RIGHTS ATTACHED

Authority To Issue

Enforcement Authority: Auckland Council, 135 Albert Street, Auckland

Enforcement Officer Identification: Warrant No. 6225

Enforcement Officer Name: Amy Atherstone (RMA)

The Enforcement Officer is acting under a warrant of authority issued by the Auckland Council, pursuant to Section 38 of the Resource Management Act 1991, authorising the Officer to carry out all of the functions and powers as an Enforcement Officer under the Resource Management Act 1991.

Signature of Enforcement Officer:

Date: 18 January 2021



REMITTANCE ADVICE

This remittance advice must accompany all payments. Part payments are not accepted.

From: Precise Homes North Shore Limited
117 Newton Road
Eden Terrace
Auckland, 1010

Notice no. 61000293155

Total fee payable: \$ 750.00

Enforcement Authority: Auckland Council, Private Bag 92300, Auckland 1142

Released under the provision of
the Official Information Act 1982

Summary Of Rights

Note: If you do not understand the summary of rights, you should consult a lawyer immediately.

Payment

1. If you pay the infringement fee within 28 days after the service of this notice, no further action will be taken against you in respect of this infringement offence. Payments should be made to the enforcement authority at the address shown on the front of this notice.

Note: If, under section 21(3A) or (3C)(a) of the Summary Proceedings Act 1957, you enter or have entered into a time to pay arrangement with an informant in respect of an infringement fee payable by you, paragraphs 3 and 4 below do not apply and you are not entitled either to request a hearing to deny liability or to ask the Court to consider any submissions (as to penalty or otherwise) in respect of the infringement.

Further Action

2. If you wish to raise any matter relating to circumstances of the alleged offence, you should do so by writing to the enforcement authority at the address shown on the front of this notice within 28 days after the service of this notice.
3. If you deny liability and wish to request a hearing in the District Court in respect of the alleged offence, you must, within 28 days after the service of this notice, write to the enforcement authority at the address shown on the front page of this notice requesting a Court hearing in respect of the offence. The enforcement authority will then, if it decides to commence court proceedings in respect of the offence, serve you with a notice of hearing setting out the place and time at which the matter will be heard by the Court.

Note: If the Court finds you guilty of the offence, costs will be imposed in addition to any penalty.

4. If you admit liability in respect of the alleged offence but wish to have the Court consider submissions as to penalty or otherwise, you must, within 28 days after the service of this notice, write to the enforcement authority at the address shown on the front page of this notice requesting a hearing in respect of the offence AND in the same letter admit liability in respect of the offence AND set out the submissions that you would wish to be considered by the Court. The enforcement authority will then, if it decides to commence court proceedings in respect of the offence, file your letter with the Court. There is no provision for an oral hearing before the Court if you follow this course of action.

Note: Costs will be imposed in addition to any penalty.

Nonpayment of Fee

5. If you do not pay the infringement fee and do not request a hearing within 28 days after the issue of this notice, you will be served with a reminder notice (unless the enforcement authority decides otherwise).
6. If you do not pay the infringement fee and do not request a hearing in respect of the alleged infringement offence within 28 days after the

service of the reminder notice, you will become liable to pay COSTS IN ADDITION TO THE INFRINGEMENT FEE (unless the enforcement authority decides not to commence court proceedings against you).

Defence

7. You will have a complete defence against proceedings relating to the alleged offence if the infringement fee is paid to the enforcement authority at the address shown on the front page of this notice within 28 days after the date of service of this notice on you. Late payment or payment made to any other address will not constitute a defence to proceedings in respect of the alleged offence.

8. (1) This paragraph describes a defence additional to the one described in paragraph 7. This defence is available if you are charged with an infringement offence against any of sections 9, 11, 12, 13, 14, and 15 of the Resource Management Act 1991.

- (2) You must prove either of the following to have the defence:

- (a) that—
 - (i) the action or event to which the infringement notice relates was necessary for the purposes of saving or protecting life or health, or preventing serious damage to property, or avoiding an actual or likely adverse effect on the environment; and
 - (ii) your conduct was reasonable in the circumstances; and
 - (iii) you adequately mitigated or remedied the effects of the action or event after it occurred; or
- (b) that—
 - (i) the action or event to which the infringement notice relates was due to an event beyond your control, including natural disaster, mechanical failure, or sabotage; and
 - (ii) you could not reasonably have foreseen or provided against the action or event; and
 - (iii) you adequately mitigated or remedied the effects of the action or event after it occurred.

- (3) Subparagraph (2) does not apply unless—
 - (a) you deliver a written notice to the enforcement agency; and
 - (b) in the notice, you—
 - (i) state that you intend to rely on subparagraph (2)(a) or (b); and
 - (ii) specify the facts that support your reliance on subparagraph (2)(a) or (b); and
 - (c) you deliver the notice—
 - (i) within 7 days after you receive the infringement notice; or
 - (ii) within a longer period allowed by a District Court.

- (4) If you do not comply with subparagraph (3), you may ask the District Court to give you leave to rely on subparagraph (2)(a) or (b).

- 8A. (1) This paragraph describes a defence additional to those described in paragraphs 7 and

8. This defence is available if—

- (a) you are—
 - (i) a principal; or
 - (ii) an employer; or
 - (iii) the owner of a ship; and
- (b) you may be liable for an offence alleged to have been committed by—
 - (i) your agent; or
 - (ii) your employee; or
 - (iii) the person in charge of your ship.

- (2) If you are a natural person, including a partner in a firm, you must prove either of the following to have the defence:

- (a) that you—
 - (i) did not know, and could not reasonably be expected to have known, that the offence was to be, or was being, committed; and
 - (ii) took all reasonable steps to remedy any effects of the act or omission giving rise to the offence; or
- (b) that you took all reasonable steps to—
 - (i) prevent the commission of the offence; and
 - (ii) remedy any effects of the act or omission giving rise to the offence.

- (3) If you are a body corporate, you must prove either of the following to have the defence:

- (a) that—
 - (i) neither the directors nor any person concerned in the management of the body corporate knew, or could reasonably be expected to have known, that the offence was to be, or was being, committed; and
 - (ii) you took all reasonable steps to remedy any effects of the act or omission giving rise to the offence; or
- (b) that you took all reasonable steps to—
 - (i) prevent the commission of the offence; and
 - (ii) remedy any effects of the act or omission giving rise to the offence.

Queries/Correspondence

9. When writing or making payment of an infringement fee, please indicate—
 - (a) The date of the infringement offence; AND
 - (b) The infringement notice number; AND
 - (c) The identifying number of each alleged offence and the course of action you are taking in respect of it (if this notice sets out more than 1 offence and you are not paying all the infringement fees for all the alleged offences); AND
 - (d) Your full address for replies (if you are not paying all the infringement fees for all the alleged offences).

FULL DETAILS OF YOUR RIGHTS AND OBLIGATIONS ARE SET OUT IN SECTIONS 341 TO 343D OF THE RESOURCE MANAGEMENT ACT 1991 AND SECTION 21 OF THE SUMMARY PROCEEDINGS ACT 1957.

NOTE: ALL PAYMENTS, ALL QUERIES, AND ALL CORRESPONDENCE REGARDING THIS INFRINGEMENT MUST BE DIRECTED TO THE ENFORCEMENT AUTHORITY AT THE ADDRESS SHOWN

Payment Of Infringement Fee

The infringement fee may be paid to Auckland Council:

- by Cheque/Cash/Eftpos/Credit Card at Auckland Council Customer Service Centres (find locations at: www.aucklandcouncil.govt.nz or call (09) 3010101)
- Online at www.aucklandcouncil.govt.nz/environmentalfines
- By mailing a cheque to Auckland Council, Private Bag 92300, Auckland 1142.

Please present this notice with payment; payment cannot be accepted without it. Cheques must be made out to Auckland Council and crossed "Not Transferable".

Queries or other correspondence related to the offence must be directed to the Team Leader (see covering letter for name and address). Please include in all written correspondence the date of the alleged infringement offence, the infringement notice number, and your name and address for replies

17/12/2020

Precise Homes North Shore Limited

[REDACTED]

117 Newton Road

Eden Terrace

Auckland 1010

Dear Precise Homes North Shore Limited

Re: Sediment and erosion control at 24 Nikau Street New Lynn

Auckland Council is working to improve Auckland's water quality by reducing the volume of sediment entering the waterways in your area.

Sediment degrades our waterways by physically smothering aquatic life. It damages fish gills and mouthparts, and causes dramatic changes to aquatic habitats by increasing the water's temperature and turbidity (cloudiness), and by preventing light penetration. Sediment also transports other pollutants such as lead, hydrocarbons, agricultural nutrients, and toxic substances into streams, rivers, and harbours.

In light of the serious impact sediment has on Auckland's water quality, we are carrying out additional inspections to ensure small sites have fully compliant sediment and erosion controls in place

On 30/11/2020 an inspection was carried out at your property to assess the state of your sediment and erosion controls.

Whilst on site the issues in the attached inspection notice were noted. We do not feel at this stage it warrants enforcement but will continue to monitor the site to ensure ongoing compliance.

Unfortunately, some building sites in your area do not have adequate sediment and erosion controls. This means they are in breach of the Resource Management Act 1991 (RMA), which can result in infringements of \$1500 per day.

If you would like more information on running an efficient and compliant work site, including how to correctly install silt fences, please visit aucklandcouncil.govt.nz and search “small building sites” to view instructional videos and download the *Building on small sites* brochure (available in English or Mandarin).

Yours sincerely,



Jeneya Perez
Compliance Officer
s 9(2)(a)

Released under the provision of
the Official Information Act 1982

SMALL SITES INSPECTION

Site Address: 24 Nikau Street New Lynn

Inspection Date: 30/11/2020

Officer Name: Jeneya Perez

Phone & Email: s 9(2)(a)

Warrant Number: 6948

General Comments:

Site shows silt fence to the left of the property, please ensure that this is maintained throughout the duration of the build, just to the entrance suggestion for silt socks would minimize sediment erosion.

As a result of this inspection:

As a result re-inspection will be in 2 weeks.

The next inspection of your erosion and sediment control is on: 06/01/2021

Building on small sites guides:

<https://www.aucklandcouncil.govt.nz/building-and-consents/understanding-building-consents-process/starting-building-renovation-work/Pages/building-site-management.aspx>



