



7 December 2020

Sara Clarke, Manager, Fast-Track Consenting Team
Rebecca Perrett – Senior Policy Analyst
Ministry for the Environment
PO Box 10362
Wellington 6143

Email: fasttrackconsenting@mfe.govt.nz

Dear Sara and Rebecca

FAST TRACK APPLICATION ON BEHALF OF CPM 2019 LIMITED

1. As you know, we act for CMP 2019 Limited.
2. Auckland Council has sent CPM a copy of the feedback that it provided to the Minister on its application for fast-track. This letter is written in response to that feedback.
3. In summary:
 - (a) The Auckland Council summary report fails to acknowledge the positive Councillor feedback. For example Linda Cooper, Chair of the Regulatory Committee confirms that the housing supply is needed, the provision of open space, a commercial centre and a community centre is “good” and that the site is walkable or a short bus ride to Sunnyvale and Glen Eden train stations.
 - (b) Much of the other feedback received from Auckland Council is not new, and has been identified in the material already provided to the Ministry, for example disagreement about the activity status of the proposal (which in any event would not preclude the project from being fast-tracked).
 - (c) The summary concerns about infrastructure provision seem somewhat overstated, given the specific responses from Healthy Waters (stormwater) and Watercare (wastewater and water supply). Of course, there will need to be local upgrades to the network to cater for this development, but neither Watercare or Healthy Water’s indicated that this was anything other than business as usual. Auckland Transport rightly notes that the intersection to West Coast Road needs to be carefully

managed, but equally Todd Langwell has provided initial advice which confirms the effects are acceptable.¹

- (d) The technical reports from Auckland Council only identify a limited range of environmental effects primarily neighbourhood character and landscape. Neither of those reports have referred to the permitted baseline or considered the character / landscape effects of the alternative design proposal and thus appear to significantly overstate the relevant actual effects. The Council summary statement does not identify that both Council's urban designer and landscape architect appear to accept that the site can cater for height and density above what the zoning anticipates, albeit with reconfigured development around the edges. Development Version 15 provided in our letter of 27 November 2020 shows that much of the Urban Design Forum feedback can be achieved without losing density.
- (e) The Council's feedback includes a preliminary view that the application will be publicly notified² and that they intend on insisting on having all infrastructure and detailed design issues resolved at the beginning, meaning that this project under an ordinary timeline would take in the order of 18 months – 2 years.³
4. As a result, Auckland Council seems to either agree with, or does not dispute that the project will have significant benefits for employment and increasing housing supply in an area that needs it, thus satisfying the public benefit test in s19(d) of the Act.
5. We note that the Minister of Housing and Urban Development would have provided feedback by 27 November, as you requested. Since then, the Minister (through Joanna Johnson Acting Manager, KiwiBuild Underwrite) has requested and CPM has agreed to enable an additional 10 x 4 bedroom houses to be included (subject to Cabinet approval). This was a direct result of CPM being advised that the "Minister is very keen to see how these additional four bed homes can be delivered to families in need of larger homes at the discounted price points" in an email dated 1 December 2020.
6. This responsiveness to achieving the outcomes sought by the Minister of Housing and Urban Development assists to highlight that this project will have a positive effect on the social well-being of future generations and increase housing supply in a way which responds to the needs of the local community, see section 19(b) and 19(d)(ii) of the Act.
7. Auckland Council's confirmation that this project will be publicly notified (and the risk of appeals) means that it is clear that this project will proceed faster through the Act than through the RMA 1991, addressing s19(c) of the Act.
8. The allegedly potentially significant effects which the Council has raised concern with relate to design and intensity of the project and the relevant Council staff have identified that they are capable of being resolved through detailed design.

¹ Our letter to Ministry for the Environment dated 27 November 2020, Annexure C. Mr Langwell is currently completing his full traffic report which is expected to be finalised in the new year.

² Page 1 of the Auckland Council response to MfE dated 27 November 2020.

³ In 2018/2019 Auckland Council's ability to process consents within statutory timeframes sat at fifth worst in the country, processing just over 60% of resource consents within the statutory timeframe. Source: [Ministry for the Environment, Trends in RMA implementation 2014/15 to 2018/19 \(April 2020\)](#) at p 12.

9. Accordingly, similarly to the approach which the Minister has taken for a number of other projects, any potential adverse effects arising from the application and mitigation measures could be tested through the expert consenting panel having regard to Part 2 of the RMA and the purpose of the Act, thus addressing s19(e) of the Act.

Transport effects

10. The applicant has completed its traffic modelling but is yet to complete its full technical work and reporting. A summary of transport effects was included with the RFI response.⁴
11. The work undertaken to date has confirmed that Glengarry Road can accommodate an intersection and has confirmed the optimal location for that intersection.⁵ The report concludes that the new intersection *"will have only a minor effect on flows on West Coast Road."*⁶ Further, the report concludes that the development will not have an adverse effect on surrounding intersections and they will continue to operate efficiently.⁷
12. The applicant's traffic expert has confirmed that he does not *"consider that the proposed café and commercial activities will have an adverse traffic effect."*⁸
13. At this stage, none of the traffic technical work completed to date has identified a problem with the proposal.
14. The applicant's traffic reporting will be completed in the new year, ahead of the application to the expert consenting panel (should the applicant receive Ministerial referral).

Servicing component

15. The applicant does not yet have detailed infrastructure plans for the servicing component of the development. At this stage in the development this is not required, nor was it required to be provided to the Ministry which required high-level detail only.
16. A letter dated 21 August 2020 from Mr Symons, a civil engineer at Civix, was included with the fast-track application to the Ministry. This letter confirms that some local asset upgrades may be required and that the site can be servicing without major network upgrades downstream:⁹

Stormwater, Wastewater and Water Supply servicing for the site are available via the existing public networks adjacent to the site. We are currently working through capacity assessment for the surrounding networks. Our initial results indicate some local asset upgrades being required but no significant downstream network upgrades have been identified. In our opinion the site can be servicing without major network upgrades downstream.

⁴ Letter from Traffic Planning Consultants Limited dated 26 November 2020, attached to the RFI response dated 27 November 2020.

⁵ Ibid at pages 2–3..

⁶ Ibid, page 1.

⁷ Ibid, page 2.

⁸ Ibid, page 1.

⁹ Page 422 of the appendices provided with the application for fast-track.

17. The specific feedback from Watercare and Healthy Waters is consistent with this assessment. Please see:
- (a) Auckland Council's Enclosure B, page 3 where M Iszard says that *"generally, the site is well serviced to stormwater (SW) with a large public network located at the low point (western boundary) of the site"*; and
 - (b) Auckland Council's Enclosure B, page 5 where A Karimi says:
 - (i) *"Based on the information available, there are minor capacity constraints in the downstream local wastewater network."*
 - (ii) *"The local water network also needs to be upgraded to ensure a resilient supply to the proposed development."* In essence this is to ensure adequate flow for eventualities such as firefighting which require significant flow rates over short periods of time.
18. Given the size and density of the development, the applicant anticipates that upgrades to the downstream network will be required. To that end, any upgrades CPM is required to deliver will provide a benefit to the wider community, in that additional capacity will allow other development to connect to the infrastructure, when previously the cost of the upgrades may have been prohibitively expensive.
19. An earthworks consent has been submitted to Auckland Council¹⁰ and the next stage of the civil engineering design is to work through full servicing plans.

Impact on "character" of the neighbourhood (Emily Ip / Michael Kibblewhite)

20. Ms Ip is concerned with the scale and intensity of the development, with *"potentially significant adverse effects on the existing suburban character of the neighbourhood."*
21. As already noted in our letter to the Ministry on 27 November 2020 ("the RFI response"), the applicant has amended the bulk, density and mass of the houses along the external boundaries and road interfaces to better complement the relationship with the surrounding Single House Zone. We provided the Minister with revision 15 of the scheme plan with the RFI response, which reflects the latest amendments. Residential effects typically of greater concern, such as shading and dominance have been addressed through the development complying with the relevant permitted activity standards at the interface with other residentially zoned properties, which is why there is no mention of these effects in the Council's report.
22. Ian Munro, urban designer has confirmed that the design provides a convincing urban design solution to the zone policy matters:¹¹

"the concept offers a convincing urban design solution to the zone policy matters of achieving a compatible intensity and suburban built form (H3.3(1) and (2)); attractive and safe streets and open spaces (H3.3(3)); maintaining amenity on neighbouring sites (H3.3(4)); appropriate nonresidential activity that supports the social and economic well-being of the community (H3.3(7)); and

¹⁰ LUC60367935, accepted by Auckland Council on 4 December 2020. Attached as **Annexure A**.

¹¹ Our letter to Ministry for the Environment dated 27 November 2020, Annexure F at paragraph 5.

providing for integrated residential development on larger sites (H3.3(8))."

23. The matter of whether there is, or is not, a potentially significant adverse effect on the existing suburban character of the neighbourhood can appropriately be addressed before the expert consenting panel.

Landscape character effects (Ainsley Verstraeten, Principal Landscape Architect, Auckland Council)

24. Ms Verstraeten considers that *"both options of the proposed development would result in significant landscape character effects in terms of not being consistent with the anticipated character of the Residential – Single House Zone."*
25. Ms Verstraeten's comments are difficult to reconcile in the context of the site, which is not located within a landscape character overlay and on a busy arterial road.
26. Again, the applicant in revision 15 of its scheme plan has amended the bulk, density and mass of the houses along the external boundaries to better integrate with the character of the surrounding Single House Zone.
27. We note that there is a balancing exercise to be conducted; the ability to provide affordable housing by way of a higher density of development, which is needed in the zone as demonstrated by the Economic Report included with the application, against the maintenance of the character of the zone (being the least intensive, single house zone).
28. Whether there are any potential landscape character effects is a matter which can appropriately be addressed before the expert consenting panel.

Other potential effects

29. Enclosure A of Auckland Council's feedback identifies in a somewhat off-hand manner potential concerns with construction effects, noise effects, contamination remediation effects, ecological effects and geotechnical considerations but there is no suggestion that these effects are likely to be significant and/or cannot be appropriately mitigated through design and conditions of consent.
30. Accordingly, we anticipate that these unspecific concerns can be appropriately considered and addressed by the expert consenting panel.

Abatement notice ABT21507726

31. The application to the Ministry was submitted on 21 August 2020. The abatement notice ABT21507726 was issued to Bruce McLaren Road Limited on 3 September 2020.
32. We confirm that when we filed the application and completed the statutory declaration there were no enforcement orders against the applicant or its associated companies. The statutory declaration was correct at the time of filing.
33. It is accepted that a development project of a related party has recently received an abatement notice (its first). A report on why this abatement notice was issued and the response to it is attached as **Annexure B**. In summary:

- (a) The main contractor had just completed the laying of a new public watermain along the edge of the footpath within the grass verge. As a result, the stabilized temp crossing had been removed. Backfilling of the trench had been completed, but the full reinstatement of the crossing and topsoiling was yet to be completed. As you can see from the photos, the weather was particularly inclement at the time of the inspection, resulting in ponding water within the crossing location and grass verge.
- (b) NFK received the letter and notice from Auckland Council on 3 September 2020 and had already rectified the issues raised and provided photographic evidence of rectification by 4 September 2020. Since providing this information to Auckland Council, NFK have not received any further feedback or advice.

Conclusion

- 34. I trust that you find this letter helpful in completing your report to the Minister.
- 35. Please contact us if you have any questions.

Yours faithfully
BERRY SIMONS



Andrew Braggins | Tamsin Gorman
Partner | Solicitor

DDI: [Redacted]
Mobile: [Redacted]
Email: [Redacted]

yours faithfully
CIVIX



Nick Mattison
Director

Mobile: [Redacted]
Email: [Redacted]

Released under the provisions of the Official Information Act 1982

4 December 2020

Attention:

Lance Hessell (via email)

Civix Limited

s 9(2)(a)

Dear Lance

Resource consent application – acceptance

Application number(s):	LUC60367935
Applicant:	CPM 2019 Ltd
Address:	460 – 478 West Coast Road and 317 – 345 Glengarry Road, Glen Eden
Proposed activity(s):	The undertake of bulk earthworks of 43,977m ³ over 4.5234ha and soil remediation for the establishment of a proposed integrated residential development, and retaining walls located in the front yard setback.

Thank you for your resource consent application. We have made an initial check of the documents you provided and decided the application is complete.

Next steps

My next step will be to make a more detailed assessment of your application. Sometimes we will need additional information or details to be clarified, even where applications are broadly complete when they are lodged. I will call or write to you as soon as possible if this is the case.

I will also be visiting the site in the next few days. If it has any locked gates or other obstacles that I should be aware of, please contact me to arrange access or to discuss a suitable time for me to visit.

The RMA requires us to decide whether or not applications should be notified. Notification is usually mandatory when specific people and the wider environment are affected by your proposal. If this is the case I will call you to discuss what this means, how notification works and how to proceed with your application.

If your application is not notified, you should receive our decision within 20 working days of the date we received it, although this can take longer if further information is needed, or if there are any special circumstances that exist, including by reason of the scale of complexity of your application.

Further information on “The process from application to decision” can be found on our website www.aucklandcouncil.govt.nz (select “Consents, building and renovation projects” and then “Resource consent process 10-step guide”).

Fees

Please note that the fee you have paid is a deposit towards the cost of our work on your application. We recover all actual and reasonable costs of processing from applicants. If your deposit does not cover the total cost, we will advise you of this and provide a separate invoice.

If your application triggers the requirement for development contributions which are governed by the Local Government Act 2002, you will be advised by separate letter.

Please note that Watercare Services Ltd are responsible for determining Infrastructure Growth Charges associated with connecting a site to either the water or wastewater reticulation. For more detail on these charges you are advised to visit their website at www.watercare.co.nz or contact them for advice on (09) 442 2222.

If you have any queries, please contact me and quote the application number above.

Yours sincerely,



Kailas Moral
Intermediate Planner

Released under the Provision of
the Official Information Act 1982

MEMO

Oxcon Ltd

To: Nathan Treloar (NT) NFK
From: Greg Dewe (GD) Oxcon Ltd
CC: Nick Denham (ND) Oxcon, Kieran Doe (KD) NFK, Dave Seymour (DS) NFK, Francois Beziac (FB) NFK, Lorenzo Canal (LC) Urban Solutions
Date: 4th December 2020
Re: Abatement Notice for 119 Brice McLaren Road Henderson

This memo serves to provide a summary of the circumstances and actions taking on receipt of Abatement Notice ABT21507726, dated 20th August 2020 in respect of the development at 119 Bruce McLaren Road, Henderson.

Summary of events

Auckland Council a site inspection at 119 Bruce McLaren Road Henderson on the 20th August 2020. The registered owners of this property were apparently sent a letter and abatement notice, dated 20/08/2020, requiring action to be taken regarding erosion and sediment control. This letter was addressed to Bruce McLaren Road Limited, c/- Lockhart O'Shea.

A copy of the letter and abatement notice was received by Kieran Doe of NFK via email on 3rd September stating records showed Kieran Doe was the contact person for the building consent, and attached a copy of the abatement notice and accompanying letter for information. The abatement notice required rectification of the required actions by the 8th September 2020.

The email was forwarded to Dave Seymour of NFK on the 4th September 2020, to address with the contractor, in his capacity as NFK Operations Manager. Dave immediately passed it onto Aardvark Contractors in their capacity as main contractor for the development works, to advise when the required actions had been completed.

Aithagoni Balavardhan of Aardvark, in his capacity as Project Manager for Aardvark Contractors, responded to Dave Seymour on the 4th September, within 5 hours of receipt of the email, with photographic evidence of the actions being completed.

Aithagoni Balavardhan of Aardvark, in his capacity as Project Manager for Aardvark Contractors, responded to Marie Meredith of Auckland Council on the 9th September, with the photographic evidence of the actions being completed by the 4th September.

No further correspondence was received by NFK to date in regards to the Abatement Notice ABT21507726.

Details of the Abatement Notice

The letter (issued along with the Abatement Notice) dated 20/08/20 states “Some erosion and sediment controls were present, but they were insufficient”. Photos included in the letter show the grass verge outside of the site immediately following installation of watermain works being exposed topsoil, and some minor tracking of sediment in the road corridor (see below).



The abatement notice includes the following action.

Undertake The Following Action:	By Date:
<p>The Auckland Council gives notice that you must undertake the following action:</p> <p>Install appropriate sediment and erosion controls in accordance with the Auckland Unitary Plan (Operative in Part) and Guidance for Erosion & Sediment Control (GD05).</p>	<p>08/09/2020</p>

We understand that the inspection was taken from the road side, without the inspector making contact with the Site Manager. We understand this was due to the Covid-19 protocols in place at the time. As a result, neither the Main Contractor, or Developer was aware of the inspection or actions required until receipt of the letter and notice until received via email on 3rd September 2020.

Circumstance of the site at time of inspection

The main contractor had just completed the laying of a new public watermain along the edge of the footpath within the grass verge. As a result, the stabilized temp crossing had been removed. Backfilling of the trench had been completed, but the full reinstatement of the crossing and topsoiling was yet to be completed. As you can see from the photos, the weather was particularly inclement at the time of the inspection, resulting in ponding water within the crossing location and grass verge.

Actions taken prior to receipt of the Abatement Notice (via email) on 3rd September 2020

As part of the planned works following on from the water main installation, the Main Contractor proceeded as per the development plans to replace the footpath and install the permanent vehicle crossing. This work was completed during the week commencing 24th August 2020. As you can see from the following photos (which were provided to NFK on the 4th September 2020 – 1 day after received the letter and notice until received via email on 3rd September 2020.



In support of our claim that this situation identified by the inspection on the 20th August 2020 was of a very temporary nature, we provide the following extract from the subsequent full inspection by Auckland Council on the 26th August 2020 (3 working days after the inspection which lead to the abatement notice), whereby the project received a Fully Compliant rating.

Site Observation Record
Compliance Monitoring



Consent details			
Officer	Sunal Jamnadas	Visit Date	26/08/2020
Street Address	119 Burce McLaren Road	Time	3:35 p.m.
Consent Number	LUC60342970		
Consent Holder (or relevant person contacted)	-		

Rating Key:		Overall Rating:
1 =	Fully compliant	1
2 =	Evidence of minor effect(s) or potential for minor effect(s), including missing information. Enforcement action will be considered for on-going level 2 non-compliance.	
3 =	Evidence of moderate effect(s) or potential for moderate effect(s). Enforcement action will be considered for level 3 non-compliance	
4 =	Evidence of major effect(s). Enforcement action likely.	

Summary

We trust the above provides adequate response to the query raised by Auckland Council, as to the background of the abatement notice, and the prompt and appropriate response shown by NFK and the main contractor Aardvark Contractors. NFK received the letter and notice from Auckland Council on the 3rd September 2020 and had already rectified the issues raised and provided photographic evidence of rectification by the 4th September. Since providing this information to Auckland Council, NFK have not received any further feedback or advice.