

# Decision on application(s) for resource consent under the Resource Management Act 1991



## Restricted discretionary activity

**Application number(s):** LAN-67652  
**Applicant:** WFH Properties Ltd  
**Site address:** Millwater Precinct 2 Stage 2B, Silverdale North  
**Legal description:** Lots 211-215, 227-231, 234, 235, 241-243, 279, 280, 305-310, 312-315, 317-320, 322, 323 DP 496928

### Proposal:

Blanket dispensation to allow building elements to encroach into all yards (excluding the 1m side yard) by up to 600mm on all lots sized between 450-649.9m<sup>2</sup>; to reduce the rear yard to 6m on lots sized between 450-649.9m<sup>2</sup>; and to redefine the yard setbacks on rear sites to allow one rear yard of 6m, one side yard of 1m and two side yards of 3m with the rear yard to be located opposite the access lot.

The resource consents required are:

## Land use consents (s9) – LAN-67652

### Auckland Council District Plan (Rodney section)

- Rule 12.8.19.11.8.3 (a) and (c) – to reduce the depth of the rear yard to 6m on all identified front lots sized between 400-649.9m<sup>2</sup>, where the plan requires a minimum rear yard of 10m for lots orientated between NW (315°) and NE (45°) and a minimum rear yard of 8m on lots orientated between NE (45°) and SE (135°) and between NW (315°) and SW (225°). This is considered a restricted discretionary activity.
- Rule 12.8.19.11.8.3 (a), (b) and (c) – to enable rear lots to provide one rear yard of 6m, one side yard of 1m and two side yards of 3m, where the plan requires all yards on rear lots sized between 450-649.9m<sup>2</sup> to be between 6-10m depending on orientation. This is considered a restricted discretionary activity.
- Rule 12.8.19.11.8.5(b) – to enable the encroachment of building elements into all yards (excluding the 1m side yard) of up to 600mm for all identified lots between 400-649.9m<sup>2</sup>, where the plan allows encroachment of up to 300mm. This is considered a restricted discretionary activity.

## Decision

I have read the application, supporting documents, and the report and recommendations on the consent application. I am satisfied that I have sufficient information to consider the matters required by the Resource Management Act 1991 (RMA) and make a decision under delegated authority on the application.

Acting under delegated authority, under sections 104 & 104C the application is **GRANTED**.

## 1. Reasons

The reasons for this decision are:

1. The application is for restricted discretionary activity resource consent, as such under s104C only those matters over which council has reserved its control or restricted its discretion have been considered. Those matters are listed under Rule 12.8.19.14.8 of the ACDP:RS. In addition, conditions have only been recommended in relation to those matters.
2. In accordance with an assessment under s104(1)(a) of the RMA the actual and potential effects from the proposal will be acceptable as:
  - o The proposed yard reductions will allow for development of a shape and form consistent with existing development in the area.
  - o The proposed yard reductions are not anticipated to result in development which will adversely affect sunlight access, shading, visual and/or aural privacy for surrounding properties.
3. In accordance with an assessment under s104(1)(b) of the RMA the proposal is consistent with the relevant statutory documents. In particular:

*Chapter 19 Silverdale North zone*

Objectives: 12.8.19.4.24, 12.8.19.4.25, 12.8.19.4.26, 12.8.19.4.29

Policies: 12.8.19.5.3, 12.8.19.5.5, 12.8.19.5.20

These objectives and policies seek to ensure that residential development creates good urban design outcomes, provides for a high level of on-site amenity, creates spacious environs and provides for natural surveillance of the street. Although no buildings are being proposed at this time, the blanket dispensation proposed will allow for development consistent with the objectives and policies of the Special 19 zone.

4. As a restricted discretionary activity no other matters can be considered under s104(1)(c).

## 2. Conditions

Under section 108 of the RMA, this consent is subject to the following conditions:

1. The activity shall be carried out in accordance with the plans and all information submitted with the application, detailed below, and all referenced by the council as consent number LAN-67652.
  - Application Form, and Assessment of Environmental Effects prepared by Woods, dated June 2016.

Plan title and reference	Author	Rev	Dated
Millwater – Precinct 2 – Stage 2B Building Dispensation Plan – Drawing No. 33405-P2-S2B-BDP	Woods	-	June 2016
Proposed Changes to Rules	Woods	-	July 2009

12.8.19.11.7.2(b) And 12.8.19.11.8.5(b)  
Yards to Remain Unobstructed By  
Buildings – Drawing No. 01

Rule 12.8.19.11.8.3 (A) and (C) 6m Rear Yard for Lots 450m <sup>2</sup> – 649.9m <sup>2</sup> – Drawing No. 02	Woods	-	July 2009
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Proposed Change to Rule 12.8.19.11.7.1 – Side and Rear Yards – Drawing No. 03	Woods	-	July 2009
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2. Under section 125 of the RMA, this consent lapses five years after the date it is granted unless:
  - a. The consent is given effect to; or
  - b. The council extends the period after which the consent lapses.
3. The consent holder shall pay the council an initial consent compliance monitoring charge of \$280 (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 consent. 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.*

4. For the avoidance of doubt, the application of side and rear yards on rear lots on approved Lots 317-319 (inclusive), 230, 231, 234 and 235 (Precinct 2 Stage 2B) shall consist of one 6m rear yard, one side yard of 1m, with the remaining yards being 3m. The rear yard shall be applied to the boundary located opposite the lot access.
5. For the avoidance of doubt, the application of rear yards on approved Lots 211-215 (inclusive), 227-229 (inclusive), 241-243 (inclusive), 279, 280, 305-310 (inclusive), 313-315 (inclusive), 320, 322 and 323 (Precinct 2 Stage 2B) shall consist of a 6m minimum rear yard.
6. For the avoidance of doubt, the ancillary building elements authorised to encroach all yards (with the exception of the 1m side yard) of approved Lots 211-215 (inclusive), 227-229 (inclusive), 241-243 (inclusive), 279, 280, 305-310 (inclusive), 312-315 (inclusive), 319, 320, 322 and 323 (Precinct 2 Stage 2B) shall consist of the following: fascia, gutters, downpipes and eaves, masonry chimney backs, flues, pipes, domestic fuel tanks, cooling and heating appliances or other services, light fittings, electricity or gas meters, aerials or antennae, pergolas or sun blinds.

### 3. Advice notes

1. *Please read the conditions of this resource consent carefully and make sure that you understand all the conditions that have been imposed before commencing the development.*

2. *The consent holder shall obtain all other necessary consents and permits, including those under the Building Act 2004, and the Heritage New Zealand Pouhere Taonga Act 2014 (HNZPTA). This consent does not remove the need to comply with all other applicable Acts (including the Property Law Act 2007), regulations, relevant Bylaws, and rules of law. This consent does not constitute building consent approval. Please check whether a building consent is required under the Building Act 2004. Please note that the approval of this resource consent, including consent conditions specified above, may affect a previously issued building consent for the same project, in which case a new building consent may be required.*
3. *A copy of this consent should be held on site at all times during the establishment and construction phase of the activity.*
4. *If you disagree with any of the above conditions, or disagree with the additional charges relating to the processing of the application you have a right of objection pursuant to sections 357A or 357B of the RMA. Any objection must be made in writing to Council within 15 working days of notification of the decision.*
5. *The granting of this resource consent does not in any way allow the applicant to enter and construct drainage within neighbouring property, without first obtaining the agreement of all owners and occupiers of said land to undertake the proposed works. Any negotiation or agreement is the full responsibility of the applicant, and is a private agreement that does not involve Council. Should any disputes arise between the private parties, these are civil matters which can be taken to independent mediation or disputes tribunal for resolution. It is recommended that the private agreement be legally documented to avoid disputes arising. To obtain sign-off for the resource consent, the services described by the conditions above are required to be in place to the satisfaction of Council.*
6. *The consent holder shall place a covenant on any certificate of title issued for approved Lots 317-319 (inclusive), 230, 231, 234 and 235 (Precinct 2 Stage 2B) to inform prospective owners of the application of side and rear yards as authorised by Land Use Consent LAN-67652.*
7. *The consent holder shall place a covenant on any certificate of title issued for approved Lots 211-215 (inclusive), 227-229 (inclusive), 241-243 (inclusive), 279, 280, 305-310 (inclusive), 313-315 (inclusive), 320, 322 and 323 (Precinct 2 Stage 2B) to inform prospective owners of the encroachment of buildings into the rear yard to allow for a 6m minimum rear yard as authorised by Land Use Consent LAN-67652.*
8. *The consent holder shall place a covenant on any certificate of title issued for approved Lots 211-215 (inclusive), 227-229 (inclusive), 241-243 (inclusive), 279, 280, 305-310 (inclusive), 312-315 (inclusive), 319, 320, 322 and 323 (Precinct 2 Stage 2B) to inform prospective owners of the encroachment of ancillary building elements into all yards excluding the 1m side yard, by up to 600mm as authorised by Land Use Consent LAN-67652.*

Delegated decision maker:

Name: Steve Seager

Title: Team Leader, Resource Consents

Signed:

Date:

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Page 5 of 5



**LAN 67652**

Approved by Delegated Officer

21/06/2016