

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



Restricted discretionary activity under the operative plans

Restricted discretionary activity under the PAUP

**Application number(s):** L63605  
**Applicant's name:** WFH Properties Ltd  
**Site address:** Precinct 3 Stage 2A (Pioneer Rise, Gruet Greens and Millers Rise)  
**Legal description:** Lots 25 and 35-52 DP 474345  
**Proposal:**

The applicant is requesting blanket dispensation to infringe permitted yard controls on certain identified lots in Precinct 3 Stage 2A, Millwater, Silverdale North. This includes blanket infringements for the following rules:

- Building elements protruding into all yards (other than 1m side yard) by 0.6m rather than the permitted 0.3m for all lots sized between 450-649.99m<sup>2</sup>
- Rear yards for lots oriented between NW & NE and NE & SE & NW & SW being reduced from 10m/8m as permitted to 6m (for all lots sized between 450-649.99m<sup>2</sup>)
- All rear sites may apply side yards of 1m & 3m, contrary to the definition of yards as applied to rear lots, where all yards are required to be viewed as rear yards. The rear boundary is to be the boundary located opposite the lot access.

The resource consents are:

Land use consents (s9) – LUC L63605

## Auckland Council District Plan (Rodney section)

- Rule 12.8.19.10.2 Any Permitted or Controlled Activity not complying with the Development Controls that meet the circumstances set out in Rule 12.8.19.14 - **Restricted Discretionary Activity**
- Rule 18.8.19.11.8.3(a) & (c) -The proposed rear yard/open space reduction from 10m to 6m for lots orientated between NW (315°) and NE (45°) and 8m to 6m for lots orientated between NE (45°) and SE (135°) - **Restricted Discretionary Activity**
- Rule 12.8.11.7.2(b)/Rule 12.8.19.11.8.5(b) - 600mm encroachments of ancillary building elements into all yards except the 1m side yard and the proposal to allow only one rear yard with all other yards being side yards **Restricted Discretionary Activity**

- Rule 12.8.19.11.7.1/Rule 12.8.19.11.8.3 - The definitions of 'rear site' and 'rear yard' in Chapter 3 of the District Plan mean that all sites gaining access off the jointly owned access lot are rear sites. The proposed reclassification of rear lots to have a 1m and 3m side yard along with a singular rear yard instead of all yards being classified as a rear yard. **Restricted Discretionary Activity**

#### Proposed Auckland Unitary Plan (PAUP)

- Rule H.4.14.2.1 (Table 2.1) "Impervious areas (other than for a public road) greater than 25m<sup>2</sup> in a SMAF 1 or 2 – **Restricted Discretionary Activity**."

I have read the application(s), supporting documents, and the report and recommendations on the consent application(s). 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(s).

Acting under delegated authority, under sections 104 and s104C the application(s) are **GRANTED**.

## 1. Reasons

Under section 113 of the RMA the reasons for this decision are:

- In terms of section 104(1)(a) of the RMA, the infringements will not significantly reduce the level of daylight on neighbouring properties and normal household activities on neighbouring properties can be undertaken without the need to utilise artificial lighting during daylight hours. The existing character of the area will not be adversely impacted by the proposal and will not appear overbearing and out of character with the surrounding environment. In addition, the permitted baseline carries substantial weight in making this decision. There are no potentially adversely affected parties to the proposal.
- In terms of section 104(1)(b) of the RMA, the proposal is not contrary to the relevant objectives, policies and assessment criteria of the Auckland Council District Plan (Rodney Section) 2011 or the PAUP.
- In terms of section 104(1)(c) of the RMA, other relevant matters, including monitoring have been considered in the determination of the application.
- The proposal is consistent with the purpose and principles of Part II of the Resource Management Act 1991.

## 2. Conditions

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

### **General Conditions**

These conditions apply to all resource consents.

1. The land-use 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 L63605
  - Application Form, and Assessment of Effects prepared by Woods, dated 1<sup>st</sup> December 2014

Ref number	Title	Author	Dated
33302-P3-2A-DBP	Building Dispensation Plan	Woods	Oct 2014
31701-01	Yards to Remain Unobstructed by Buildings	Woods	July 09
31701-02	6m Rear Yard for lots 450m <sup>2</sup> -649.9m <sup>2</sup>	Woods	July 09
31701-03	Side & Rear Yards	Woods	July 09

2. This consent (or any part thereof) shall not commence until such time as the following charges, which are owing at the time the council's decision is notified, have been paid in full:
  - All fixed charges relating to the receiving, processing and granting of this resource consent under section 36(1) of the Resource Management Act 1991 (RMA); and
  - All additional charges imposed under section 36(3) of the RMA to enable the council to recover its actual and reasonable costs in respect of this application, which are beyond challenge.
3. The consent holder shall pay any subsequent further charges imposed under section 36 of the RMA relating to the receiving, processing and granting of this resource consent within 20 days of receipt of notification of a requirement to pay the same, provided that, in the case of any additional charges under section 36(3) of the RMA that are subject to challenge, the consent holder shall pay such amount as is determined by that process to be due and owing, within 20 days of receipt of the relevant decision.
4. Under section 125 of the RMA, this consent lapses five years after the date it is granted unless:
  - The consent is given effect to; or
  - The council extends the period after which the consent lapses.
5. The consent holder shall pay the council an initial consent compliance monitoring charge of \$270 (inclusive of GST), plus any further monitoring charge or charges to recover the actual and reasonable costs that have been incurred to ensure compliance with the conditions attached to this consent.

### **Specific conditions – land use consent LUC L63605**

6. For the avoidance of doubt, the ancillary building elements authorised to encroach all yards by a maximum of 600mm (with the exception of the 1m side yard which must encroach no more than 300mm) of approved Lots 35, 37-39, 41-44 and 49-51 Precinct 3

Stage 2A 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.

7. For the avoidance of doubt, the application of side and rear yards in rear lots on approved Lots 35, 38-40 and 43-46. (Precinct 3 Stage 2A) shall consist of one 6m rear yard, one side yard of 1m with the remaining yards being 3m. The rear yard will be applied to the boundary located opposite the lot access.
8. For the avoidance of doubt, the application of rear yards on approved Lots 35, 37-39, 41-44 and 49-51. (Precinct 3 Stage 2A) shall consist of a 6m minimum rear yard.

## **Covenant Advice Notes**

1. *The consent holder should place a covenant on any certificate of title issued for approved Lots 35, 37-39, 41-44 and 49-51 (Precinct 3 Stage 2A) 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 LAN63605.*
2. *The consent holder should place a covenant on any certificate of title issued for approved Lots 35, 38-40 and 43-46 (Precinct 3 Stage 2A) to inform prospective owners of the application of side and rear yards as authorised by Land Use Consent LAN63605*
3. *The consent holder should place a covenant on any certificate of title issued for approved Lots 35, 37-39, 41-44 and 49-51 (Precinct 3 Stage 2A) 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 LAN63605.*

## **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. *This resource consent will lapse five years after the date of Council's decision unless:*
  - (a) *it is given effect to before the end of that period. To give effect to this consent, the activity allowed by this consent must be established and the conditions contained in the consent complied with. Please note that there must be compliance with all of the consent conditions once the land use has been established, or*
  - (b) *an application is made and granted prior to the expiry of that period for a time extension. The statutory considerations that apply to extensions are set out in section 125 of the RMA. (Delete and re-number accordingly if lapse date is specified in clause 10 under Conditions section above)*

*N.B – all charges owing at the time council's decision is notified must be paid before a consent can commence.*

3. *The consent holder shall obtain all other necessary consents and permits, including those under the Building Act 2004, and Heritage New Zealand Pouhere Taonga Act 2014 (the Act). 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.*
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. *Compliance with the consent conditions will be monitored by Council in accordance with section 35(d) of the Resource Management Act. This will typically include site visits to verify compliance (or non-compliance) and documentation (site notes and photographs) of the activity established under the Resource Consent. In order to recover actual and reasonable costs, inspections, in excess of those covered by the base fee paid, shall be charged at the relevant hourly rate applicable at the time. Only after all conditions of the Resource Consent have been met, will Council issue a letter on request of the consent holder.*
6. *The initial monitoring charge 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, inspections, in excess of those covered by the base fee paid, shall be charged at the relevant hourly rate applicable at the time. The consent holder will be advised of the further monitoring charge or charges as they fall due. Such further charges are to be paid within one month of the date of invoice. Only after all conditions of the resource consent have been met, will Council issue a letter confirming compliance on request of the consent holder.*

**Delegated decision maker:**

Name:

 Staci Scott

Title:

Team Leader, Resource Consents

Signed:



Date:

8/1/15