

**IN THE MATTER**

of the Resource Management Act  
1991

**A N D**

**IN THE MATTER**

of a resource consent application  
by Bupa care services for a  
retirement village and care home  
complex at 25 and 35 Ulyatt Road  
Napier.

---

**STATEMENT OF EVIDENCE BY GREG KNELL**

---

**1.0 INTRODUCTION**

---

- 1.1 My name is Greg Knell. I am a director of Wasley Knell Consultants Limited, a Tauranga based company specialising in resource management. I hold a Bachelor of Town Planning from Auckland University, am a full member of the New Zealand Planning Institute and a member of the Resource Management Law Association. I have thirty years experience in planning and resource management including nine years planning experience in local authorities prior to commencing as a planning consultant. My work as a planning consultant includes acting for private sector clients over a wide range of resource consent applications, representing local authorities in assessing land use and subdivision applications and in the review and preparation of district plan policy and requirements.
- 1.2 I have visited and am familiar with the application site and the wider locality.
- 1.3 I was engaged by the applicant, Bupa Care Services NZ Limited ('Bupa'), to prepare a planning assessment of the proposal and to co-ordinate the various assessments from the specialist consultants required in the preparation of the application.
- 1.4 I confirm that I have read and will act in accordance with the New Zealand Code of Conduct for Expert Witnesses contained in the Environment Court's practice note. I have complied with the Code of Conduct in preparing this evidence and I agree to comply with it while giving evidence at the hearing.

Except where I state that I am relying on the evidence of another person, this written evidence is within my area of expertise. I have not omitted to consider material facts known to me that might alter or detract from the opinions expressed in this evidence.

- 1.5 My evidence will cover the following matters:
  - Executive Summary;
  - Description of Proposal;
  - Background;
  - Pre-application Meetings;
  - Submissions;
  - District Plan Framework;
  - District Plan Policy;
  - Matters Arising;
  - Recommended Conditions of Consent; and
  - Conclusion.
- 1.6 In preparing this evidence I have tried not to restate the conclusions of the Assessment of Environmental Effects (AEE) and the Council Officer's report. I have considered the effects of the proposal and the relevant planning framework and in my opinion (based on the conclusions of the other experts and the AEE) the proposal will have minor effects and is in accordance with the planning framework.
- 1.7 I confirm that I have read and am familiar with the submissions made to the application, the Council Officer's report, evidence provided in support of the application and the proposed consent conditions.

## **2.0 EXECUTIVE SUMMARY**

---

- 2.1 The proposal has been the subject of a well considered design process that in my opinion has produced a built form and site development in accordance with the character and amenity of the surrounding area. The potential adverse effects are mitigated by a range of landscape and architectural techniques.
- 2.2 The proposal provides for a response to the increasing community requirements for the provision of aged care enabling the retention of this type of complex within the local community. The comparatively large area

- of the site provides for a proportionately large development area and in my opinion is not out of scale with the location or the needs of the community.
- 2.3 The proposal has been the subject of detailed specialist assessments including the effect on the landscape and visual character and the traffic environment.
- 2.4 The location of the development has been the subject of assessment against the regional urban development strategy, Heretaunga Plains Urban Development Strategy, (HPUDS).
- 2.5 Following the receipt of submission from the Hawkes Bay Regional Council, enhancement of the adjoining cross country drain area (Purimu Connection) was agreed with the applicant, broadening the community benefit from the development.
- 2.6 In my opinion the activity is in accordance with the relevant policy framework identified under the District Plan and the potential for adverse effects are mitigated to result in minor effects on the environment.

---

### **3.0 DESCRIPTION OF PROPOSAL**

- 3.1 The proposal has been set out within the AEE in the Application and seeks to construct a retirement village comprising 99 retirement villas, a 49 bed care home and 19 retirement apartments on a site zoned Main Rural under the Napier City District Plan.
- 3.2 The reasons that consent is required are set out in the application and in the Council Officer's report. In summary the reasons for the application are:
- Retirement Complexes as defined by the District Plan are a discretionary activity within the Main Rural Zone; and
  - The proposed design does not comply with the permitted activity conditions of the District Plan for; dwelling density, boundary setbacks, height, site coverage and for the volume of earthworks.

## **4.0**

## **BACKGROUND**

---

4.1 When I considered the District Plan issues together with the concept for the proposed development, I determined that I would be able to support the proposal and proceed with a planning assessment for the following reasons:

- The proposed expansion will provide for local residents to remain within the neighbourhood familiar to them as they age and their living requirements change.
- The express desire of Bupa from an early stage to provide a high quality design development. This commitment was reflected in the pre-application engagement with Council during the concept phase of design preparation including the engagement of a landscape architect at this time. I became involved with the proposal prior to the pre-application meetings with Council.
- It is necessary to take a comprehensive design approach for this scale of proposal under the resource management process to assess the effects on the environment. This results in a certainty of design outcome that is absent from alternative forms of permitted residential development. Such alternative developments allow individual preference for building development without an overall cohesiveness of design between sites.
- Management of the aged care and retirement living complex provides for central on-site responsibility. Any potential nuisance or issue arising would not be in the interests of the complex as it is likely to impact upon their residents. It further allows for a referral point for contact by neighbours.
- I examined at an early stage in the process the Heretaunga Plains Urban Development Strategy (HPUDS). At this time the Strategy was undergoing a review process which included a review of the specific provisions for the retirement sector. This review recognised the large area of land required to provide for a comprehensive approach to retirement village design to achieve the continuum of care to meet the various needs of the elderly. In my opinion the proposal could be distinguished from other forms of general residential development both in terms of the discretionary activity status in the Main Rural Zone

and the specific recognition given for this form of development in HPUDS. This distinction is important in my view for maintaining the integrity of both the District Plan and HPUDS for managing urban growth and the allocation of resources.

- 4.2 In addition to the above matters I also am familiar with the role of aged care and accommodation complexes within the community.

## **5.0 PRE-APPLICATION MEETINGS**

---

- 5.1 Meetings were held on a pre-application basis with Council staff including planners and engineers early in the site selection process and subsequently as part of information gathering for assessments.
- 5.2 The preparation of the architectural and landscape design was the subject of a pre-application design process with Council. This process included both the applicant's landscape architect and architect meeting with council staff to present their initial considerations for feedback.

## **6.0 SUBMISSIONS**

---

- 6.1 I have read and considered the submissions made to the application.
- 6.2 Subsequent to the close of submissions I met with submitters; Mr Robert Arrell, The Hawkes Bay Fruitgrowers Association (Dianne Vesty) and the Hawkes Bay Regional Council (HBRC) and I made contact with the New Zealand Transport Authority, (NZTA).
- 6.3 As a result of the meeting with Mr Arrell, further communication was arranged directly with a Bupa representative to further discuss matters of interest.
- 6.4 Meetings were held with HBRC representatives which resulted in further information being provided, including a legal opinion prepared by Holland Beckett Law considering the proposal against HPUDS and the RPS. The further information also addressed matters arising from the submission including;

- The demand for this form of development within the Napier City area;
  - Consideration of the National Policy Statement Urban Development Capacity (NPSUDC);
  - Providing an evacuation plan;
  - Responding to queries arising from the PSI/ DSi soil contamination report; and
  - The commencement of a negotiated design outcome for the adjoining Purimu Connection area (cross country drain).
- 6.5 I provided further acoustic assessment to NZTA in response to their submission including a proposed condition of consent specific to acoustic design. This condition has been included in the draft set of conditions appended to my evidence.
- 6.6 I am satisfied that the potential adverse effects from the proposed development have been identified and assessed as part of the application process and subsequently in Council Officer's report and evidence provided by the applicant's consultants.

## **7.0 DISTRICT PLAN FRAMEWORK**

---

- 7.1 The application sets out the framework of the Napier City District Plan relevant to the consideration of the application and the resulting discretionary activity status.
- 7.2 I have considered the matters of assessment together with the relevant objectives and policies of the District Plan in the framework of my planning assessment within the application as follows:
- The Main Rural Zone provides for Retirement Complexes as a discretionary activity. Rule 39.3.1 identifies the matters for Council to have regard to in addition to the relevant objectives and policies of the District Plan.
  - A baseline of effects resulting from permitted rural activities occurring on the site has been identified in the application. This effects baseline has relevance in considering the effect of restricting views and outlook across the site from adjacent viewpoints in comparison to the proposed development. Aside from this, little reliance has been placed on an effects baseline.

## **8.0 DISTRICT PLAN POLICY**

---

### *District Plan Objectives and Policies*

- 8.1 The relevant objectives and policies of the District Plan are set out both in the application and the Council Officer's report and I do not intend to restate those conclusions. In my opinion the proposal is in accordance with the planning framework.
- 8.2 I note the following objectives and policies that, in my opinion highlight the key matters in considering a residential form of development of land within the Main Rural zone. In referencing these objectives and policies, I then consider the matters that have arisen following the receipt of submissions and in particular the submission of the Regional Council and the Fruitgrowers Association.

### *Objective 33.2 – Inappropriate Subdivision, Use and Development*

*To protect the City's outstanding natural features, significant landscapes, and its rural land from the adverse effects of inappropriate subdivision, use and development of land.*

#### *Policies*

*To achieve this objective, the Council will:*

- 33.2.1 *Ensure that on rural land; potential is maintained for a range of current and future productive land uses to occur.*
- 33.2.8 *Establish defined urban limits to retain and protect the versatile and productive soils from ad hoc urban subdivision and development in accordance with the recommendations of the adopted Heretaunga Plains Urban Development Strategy (HPUDS).*

### *Objective 33.3 – Rural Character and Amenity*

*To maintain and enhance the character and amenity values of the rural environment.*

#### *Policies*

*To achieve this objective, the Council will:*

- 33.3.1 *Control the scale and intensity of land use and development (including subdivision) in the rural areas to maintain rural character and amenity, and a sense of openness and privacy.*

*Objective 33.4 – Residential and Rural Residential Development*

*To enable residential and rural residential development in a manner that avoids, remedies or mitigates adverse effects on the environment and the rural character of the environment.*

*Policies*

*To achieve this objective, the Council will:*

- 33.4.1 *Ensure that residential, lifestyle character and rural residential development avoids, remedies or mitigates any adverse effects on the capacity of existing infrastructure or on the receiving environment.*
- 33.4.9 *Within the Rural Zone, avoid residential or rural residential subdivision and development outside of the residential greenfield growth areas identified in Appendix 35.*

*Regional Plan and National Policy Standards*

The relevant policies contained within the Regional Plan and the NPSUDC have been considered both in the application and subsequent correspondence (as appended to the Council officer's report) and in the Officer's report also.

Having examined and provided assessment on the relevant policy framework, in my opinion there are no matters that present such an inconsistency as to prevent the grant of consent.

---

## **9.0 MATTERS ARISING**

*Location Selection*

- 9.1 Further information provided to Council (29 June 2018, as appended to the Council Officer's report) clarified the basis for the applicant seeking to establish a retirement village in this location with reference to the increase in the ageing population of the area and the alternative locations considered. This further information included a legal opinion from Vanessa Hamm (Holland Beckett Law) specifically evaluating the consistency of the proposal with HPUDS and the RPS.

- 9.2 As noted in the further information within the Hawkes Bay District Health Board area, the proportion of population aged 75 and over will increase from a 2016 percentage of 7.7% of the total population to 13.6% by 2031, or from 12,430 to 22,810 persons over this period.<sup>1</sup>
- 9.3 The location options considered are set out in the evidence of Mr Richard Stephenson.
- 9.4 To provide for a progressive and continuum form of aged care to meet the various living requirements of the elderly tends to a development of substantial scale. This is also recognised in HPUDS, where based on survey results, an average land area of approximately 6.25 hectares is identified.
- 9.5 The availability of such areas of land within established residential areas is difficult and limits the ability to provide a range of choices in close proximity to existing neighbourhoods.
- 9.6 The subject location, although not zoned for residential development, does not present a challenge to the urban growth pattern and management of the land resource. This being a result of the recognition given to the demand and land requirements for retirement complexes and the ‘reserve greenfield’ status of the land under HPUDS and in the discretionary activity status under the Main Rural Zone. These factors distinguish the proposal from general forms of residential development. In addition, being situated adjoining the corner of the existing residential area I consider that the proposal will form a logical extension of that urban form rather than a dislocated site further into the rural area.
- 9.7 Care and accommodation for the elderly is a necessary part of the fabric of the community and in my opinion, there is a responsibility on the community to make such provision. Aged care complexes represent such a response for the residential and care requirements of the elderly in a supportive and secure environment.
- 9.8 It is beneficial to both residents and concerned family members that provision can be made for aged care within a neighbourhood that is familiar to the resident. Catering for ageing members of the community in the local

---

<sup>1</sup> Referenced in the Bupa research for the area and consistent with figures sourced from Statistics NZ

context allows those members to remain close to the area within which they have either recently lived or have resided for most of their lives.

- 9.9 The NPSUDC has been considered and the findings set out in my additional information response letter of 29 June 2018. In my opinion the proposal is consistent with the relevant objectives and policies of the NPS UDC for Napier as a Medium Growth Area.

*Soils Resource*

- 9.10 The report prepared by John Wilton of Agfirst and is appended to the Council Officer's report. The findings of this report have been set out in the Council Officer's report concluding that having identified the characteristics of the site soils, there will be a minimal impact on the life supporting capacity of the soil resource as a result of urban development.

*Reverse Sensitivity*

- 9.11 In addition to a no complaints covenant offered by the applicant, an additional covenant is offered as a condition of consent that provides for a separation of 6 metres from the proposed retirement villas to land used for any agricultural or fruit growing purposes other than turf growing. The precise wording of these conditions has been agreed to with the Council Officer and included in the proposed draft conditions appended to my evidence. Both conditions are noted as being offered as 'Augier' type conditions.
- 9.12 The 6 metre separation is consistent with the boundary setback distance for dwellings within the Main Rural zone.

*Natural Hazards*

- 9.13 I concur with the Council officer's comments regarding the potential tsunami risk. Specifically that the potential risk is no greater than other residential areas of Napier, and that the evacuation process will be managed as part of a wider civil defence action in the region.

*Acoustic Design*

- 9.14 Further to the submission from New Zealand Transport Agency, (NZTA) the applicant's acoustic consultant confirmed the ability for the design to meet the District Plan Standards specific to the proximity of the adjacent

Expressway. As a result of this confirmation and Condition 32 contained within the appended draft set of conditions, NZTA confirmed the submission was resolved.

*Purimu Connection (Cross Country Drain)*

- 9.15 In addressing the matters raised by HBRC in submission, the potential for the upgrading of the adjoining cross country drainage land was negotiated with the applicant.
- 9.16 Rather than provide for any specific mitigation of effects arising from the development, contributing to the improved design of this area presents an opportunity to provide for a wider community benefit through the land development process.
- 9.17 As a consequence of negotiations there is a sharing of actions between Bupa and HBRC. This includes the preparation of a landscape concept (Purimu Connection as part of the wider cross country drain network) by HBRC and the engineering design, landscape planting and construction by Bupa. Both parties will work together in producing the final design with final approval resting with the Napier City Council as landowner and stormwater infrastructure manager.
- 9.18 Inclusion of conditions within the resource consent as to the design and construction of this area has been offered on an *Augier* basis to allow for a co-ordinated design and construction approach for the retirement village development.
- 9.19 The attached set of draft conditions specifically Conditions 25 and 26 represent the outcome of discussions with the applicant and the city and regional councils.

*Minimum Floor Level and Design Amendment*

- 9.20 The minimum floor level identified in Council reporting has been considered in the evidence of Mr Boyd Wilson. In subsequent discussion with Council, there is the potential for the level to be set at a lower level subject to the findings of further engineering investigation. This potential is reflected in the revised draft of condition 4f) appended.
- 9.21 As a result of this revised level, a revised design has been prepared and appended to the evidence of Mr Marc Barron and Mr Paul Murphy. The

effect of the revised level is to raise the proposed floor level of a number of villas including those located immediately adjoining the Ulyatt Road frontage and the northern site boundary. Mr Murphy has assessed the visual effect of raising these villas and his findings are set out in his evidence. I have examined Mr Murphy's assessment and concur that the raised level of the proposed villas will result in no discernible change in off-site visual effect.

9.22 I have considered the effect that these design changes may have upon the application process undertaken to date. In my opinion the design amendments are within scope of the original proposal and can be accepted without re-notification. In this regard I applied the tests set down by the Environment Court case *Coull v. Christchurch City Council* (C077/06). Specifically, these tests are;

- *Does it increase the scale of the activity?*
- *Does it exacerbate or mitigate adverse effects from the activity?*
- *Would other people have submitted if they were aware of the changes?*

9.23 Regarding these tests;

- The revised design does not increase the scale of the activity;
- The potential for any adverse visual effect arising from the raised floor level, particularly with reference to those villas at the external edge of the development will not be readily discernible form the original design; and
- The limited potential for off-site adverse visual effect will not in my opinion have caused other persons to have submitted as a consequence of the change.

#### *Earthworks*

9.24 Mr Boyd Wilson has examined the Regional Plan and is satisfied that the standards apply under Rule 48 of the Regional Plan, and the permitted activity standards can be met. Where these standards cannot be met a separate resource consent from the Regional Council will be required.

#### *Draft Conditions*

9.25 A revised set of draft conditions are appended to my evidence. These have been updated as discussed and agreed with the Council Officer of the City Council. HBRC's comment on the revised set will be sought and advised either prior to or at the Hearing.

- 9.26 The draft conditions include conditions that arise from the Regional Council submission and additional information matters from the City Council. In addition to those matters identified above conditions were offered for;
- Natural hazard evacuation; and
  - Use of inert roofing materials.

## **10.0 CONCLUSION**

---

- 10.1 In my opinion the proposal achieves the environmental outcomes sought by the relevant policy framework and the assessment criteria set out by the Napier City District Plan.
- 10.2 In my opinion having assessed the proposal against the assessment criteria and the environmental outcomes set down by the relevant policies of the District Plan, and subject to the recommended conditions, potential adverse effects on the environment are acceptable and consent can be granted.

**Greg Knell  
BTP MNZPI**

## GENERAL

1. That the development proceeds within 5 years of approval (s125 RMA), and substantially in accordance with the approved plans and information submitted in the application Resource Consent RM170155, application received 26 October 2017, and the further information provided dated 29 June 2018 and 11 July 2018, being:
  - Resource Consent Application, AEE and appendices received 26 October 2017, including:
    - a) Resource Consent Application, Wasley Knell Consultants Limited October 2017
    - b) Appendix 1a – Plans – by Jerram Tocker and Barron architects Ltd Issued 19 October 2017, sheets P01-P17 Rev RC1
    - c) Appendix 1b – Architectural Statement – by Jerram Tocker and Barron architects Ltd dated 16 October 2017, Ref: 1763
    - d) Appendix 2a – Landscape and Visual Assessment – by Shafer Design Ltd 20 October 2017
    - e) Appendix 2b – Visual Assessment – by Shafer Design Ltd 20-24 October 2017, Landscape Context sheets 1 to 5, Visual catchment sheet 6, viewpoints 1-5 sheets 7-11, planting intention sheet 1, landscape concept sheet 1, landscape examples sheet 1, north boundary section sheet 1, west boundary section sheet 2, south boundary section sheet 3, Ulyatt Road boundary section sheet 4, apartment elevation sheet 5, internal street section sheets 6-7, walkway seating sheet 8, landscape montage VP1 – VP2 sheets 1-2.
    - f) Appendix 3 – Traffic Impact Assessment, by Traffic Solutions Ltd, 20 October 2017
    - g) Appendix 4 – Civil and Services Assessment, by Bonisch Consultants Ltd, dated 24 October 2017
    - h) Appendix 5 – Geotechnical Report – by RDCL, dated 19 October 2017
    - i) Appendix 6 – Acoustic Report, by Hegley Acoustic Consultants, Report No. 17198
    - j) Appendix 7 – NESCS report, by HAIL Environmental Ltd, dated 17 October 2017
  - Stormwater Ditch Concept plan, by Bonisch Consultants, issued 4 July 2018, Revision B
  - S92 response by Wasley Knell Consultants Ltd, Ref: 1939, dated 29 June 2018
  - Further NESCS information by HAIL Environmental Ltd, dated and provided 11 July 2018

## ENGINEERING (ALL SERVICES/TRANSPORT/EARTHWORKS/CONSTRUCTION)

### SERVICES/TRANSPORT

2. That each unit shall be connected to Council's reticulated water and wastewater network to the satisfaction of the Director, NCC Infrastructure.

Note: If the development is staged, proposed servicing infrastructure shall be constructed such that design, capacity and performance is not compromised within the development or downstream of the development, as would be the case at full development.

3. That a secondary storm water flow path designed to cater for at least 50 year (ARI) storm events shall be provided through the development in perpetuity, in accordance with the NCC Code of Practice. This shall allow for any water entering the site and for all over-land flow from primary storm water infrastructure within the development.
4. That the applicant shall submit to Council a final detailed engineering design, including construction drawings, detailing the water, storm water, sewer and roading services required to service the development for engineering approval (certification by NCC infrastructure), prior to construction. This shall be undertaken by a Chartered Professional Engineer experienced in water, sewer, storm water and roading services design and construction. The design shall be generally in accordance with the application and the Code of Practice for Subdivision and Land Development, except where a specific dispensation has been granted through the Engineering Approval (certification by NCC Infrastructure) process. The design shall show and confirm:

- a) That storm water from the development shall be generally conveyed, treated and discharged in accordance with the approved concept plan (Bonisch Consultants: Stormwater Ditch Concept Plan, issued 4, July 2018, Revision B). Stormwater shall be treated prior to discharge from the site, including prior to discharge to the Purimu (Cross Country Drain) Connection.
- b) Calculations will be required to determine connection sizes for stormwater (diameter of stormwater discharge pipes).
- c) All stormwater is to be controlled in terms of the Code of Practice for Subdivision and Land Development and E1 of the Building Code.
- d) The approved point of connection for stormwater is the Purimu Drain (Cross Country Drain), and connections will be limited to the three points as approved with the concept plan (Bonisch Consultants: Stormwater Ditch Concept Plan, issued 4, July 2018, Revision B)
- e) The design of the stormwater system needs to demonstrate secondary flow paths with levels and floor levels that will protect dwellings from flooding in a 50 year return period event.
- f) The minimum floor level for all buildings shall be RL12.20 (Napier City Datum) except where a lower level is proven and accepted by NCC Infrastructure.
- g) The sewer design requires a pumped solution with an off-peak discharge into the NCC waste water system. The size of the pump, and the off-

- peak hours of discharge shall be confirmed with NCC Infrastructure at the time of design certification.
- h) That the Bill Hercock Street water mains shall be extended to service the proposed development for fire fighting and domestic supply. It is supported that Irrigation supply can be provided from sources other than the NCC potable water supply.
  - i) Separate water connections will be required for each unit or complex.
  - j) The water connection to the property is to be sized to meet the needs of the development (including fire fighting requirements) and it is to be fitted with a water meter and backflow preventer.
  - k) Fire hydrants are to be installed in accordance with the Code and the Fire Fighting Water Supplies Code of Practice SNZ PAS 4509:2008.
  - l) The proposed modifications to Ulyatt road shall be formed as shown in Appendix A of the TIA (Traffic Solutions Ltd 20 October 2017) and to, NCCs Code of Practice including: Kerb and channel as shown; Sealed shoulder in accordance with the Code; Pedestrian footpath extending the whole length shown; Placement of a 'slow' speed sign and road treatments as shown to signal the change from rural to an urban type interface;
  - m) The two 6m wide vehicular access points shall be formed, permanently surfaced and drained in accordance with the TIA (Traffic Solutions Ltd 20 October 2017), and the requirements of the Code of Practice.
  - n) Easements are to be created in accordance with the Code of Practice for Subdivision and Land Development. Any water, sewer, or storm water assets located on private land within the development that have been accepted by the Director, NCC Infrastructure, for vesting in council, shall be secured by suitable easements in gross in favour of the Napier City Council.
5. That any water, sewer, and storm water assets located on private land within the development that have NOT been accepted by the Director, NCC Infrastructure (or nominee), for vesting in council, shall be clearly marked as PRIVATE on the engineering design.
  6. That the consent holder shall provide Napier City Council with the "Construction" producer statements issued by their contractor for the services constructed.
  7. That all works within the boundaries of the public road shall be undertaken by a contractor who is approved to work within the road reserve.
  8. That as-built plans and data, in accordance with the requirements of the Code, (and any approved amendments) shall be submitted to Council once construction is completed by the consent holder. The consent holder shall obtain certification of a complete and correct record by a registered and professionally qualified engineer. Data on public roading, water and sewer assets will be required to be presented to Council in accordance with the Code.
  9. That the consent holder shall provide certification from a Chartered Professional Engineer, that the works have been constructed in accordance with the approved design.

## GEOTECHNICAL

10. The consent holder must engage a Chartered Professional Engineer (CPEng) with specialist geotechnical skills and experience to certify the engineered fill used and provide a copy of that certification to the Council at the time of application for building consent.

## CONSTRUCTION/EARTHWORKS

11. That prior to the commencement of construction works the applicant shall submit a Construction Management Plan (CMP), for certification by Napier City Council, detailing the ways in which the proposed construction works will occur under specified requirements in accordance with the following objectives:

### Construction management plan (CMP)

The objectives of the CMP are to:

- a) Avoid and/or minimise the magnitude of the adverse effects generated during the construction activities and / or works authorised by this resource consent; and
- b) Provide clarity as to how the proposal (as relevant to the activities authorised by this consent) is to be constructed by setting out the:
  - i) Construction methodology that is to be employed to construct the proposal; and
  - ii) Staging, timing, duration and monitoring of construction works; and
  - iii) Measures that are to be applied, and when they are to be applied, to minimise the effects of the construction activities and / or works authorised by this resource consent. These measures are to be consistent with the geotechnical report by RDCL dated 19 October 2017 and the certified approved sediment control plan  
\* The means by which stakeholders are to be kept informed of the construction works / activities being undertaken by the consent holder and/or its contractor(s).

The CMP shall contain, but shall not be limited to, the following sections:

- a) Purpose and Scope
- b) Personnel, Team Structure, Contact Details and Responsibilities. This will include the 24-hour contact details for the following personnel:
  - i) The administrator of the complaints register; and
  - ii) The Liaison Officer (if required by conditions of this consent);
- c) Environmental Policy and Environmental Management System;
- d) Resource Consent and Building Consent Requirements;
- e) Construction Methodology;
- f) Training and Induction of Contractors and their Staff;
- g) Subcontractor Management;
- h) Monitoring and Site Inspections;
- i) Conformance and Corrective / Preventative Actions;
- j) Meetings Frequency and Purpose; and

k) Environmental Systems Reviews.

Works authorised by this consent shall not occur until the CMP has been certified by the Team Leader Resource Consents at the Napier City Council as meeting conditions x-x of this consent.

12. That the applicant shall meet all the costs associated with the provision of infrastructure. This also includes the transport network, footpaths, kerb and channel, forming the hard shoulder, road signage, road marking, lighting or other necessary modifications required to the existing transportation network to support the development.
13. That the applicant shall submit to Council a final design, detailing the earthworks to be carried out, overland flow paths and proposed finished ground levels within the development, for certification by the Director NCC Infrastructure (or nominee), prior to construction. This earthworks plan shall not include any changes in the existing ground level of the external boundaries that affect overland flow paths.
14. That the applicant shall submit a sediment control plan by an appropriately qualified person to Council, for certification by the Director, NCC Infrastructure, prior to the commencement of any work on the site. The plan shall detail how sediment and erosion controls will be carried out at the site. The plan shall be in accordance with the Hawkes Bay Waterway Guidelines Erosion and Sediment Control April 2009. A statement shall be included with the plan stating the author's qualifications and experience in this area.
15. That all construction and earthworks operations shall be so conducted as to comply with the provisions of New Zealand Standard NZS 6803: 1999 Acoustics – Construction Noise
16. Noise levels will be measured in accordance with the New Zealand Standards NZS 6803: 1999 Acoustics – Construction Noise.
17. That earthworks shall be limited to the hours of 7.00 am - 5.00 pm Monday – Friday, and 8.00 am – 5.00 pm Saturday.
18. That all areas of earthworks shall be re-grassed within 6 months to the satisfaction of the Director, NCC Infrastructure (or nominee).
19. That while earthworks are being undertaken and prior to re-vegetation, areas of exposed earth shall be regularly dampened with water to ensure that no wind born dust is deposited outside the property boundaries.
20. That the applicant shall install sediment and erosion controls in accordance with the certified plan (as per condition 14) prior to the commencement of the earthworks and that these controls shall be maintained throughout the period of the works, to the satisfaction of the Director, NCC Infrastructure (or nominee).
21. That the consent holder shall provide certification from a registered and professionally qualified engineer, that the sedimentation works have been

designed and constructed in accordance with the certified plan (as per condition 14) prior to commencement of works on site.

22. That the applicant shall provide confirmation in writing that their contractor has only imported 'clean fill' onsite (i.e. no rubbish, no stumps, no concrete, bricks any no other substance containing; combustible, putrescible, degradable or leachable components, hazardous substances, products or materials derived from hazardous waste treatment, hazardous waste stabilisation or hazardous waste disposal practices, medical and veterinary waste, asbestos or radioactive substances or liquid waste).
23. That the location and dimensions and depth of any area of fill shall be identified on an As-built plan of the development and provided to the Director, NCC Infrastructure (or nominee). The final earthworks plan shall confirm the new overland flow paths and shall confirm that there are no changes to ground levels at neighbouring boundaries that affect overland flow paths (except where certified by Council in relation to the Cross Country Drain/Purimu drain).
24. That any damage caused to Transportation assets as a result of the development work shall be rectified at the Developers sole expense as agreed with the Director, NCC Infrastructure (or nominee).

#### PURIMU CONNECTION (CROSS COUNTRY DRAIN)

25. That concurrent with the earthworks for the development of the land, the construction and landscaping planting of the adjoining land (NCC owned Cross Country Drain) for stormwater management purposes shall be carried out in accordance with the Bonisch Consultants Plans 4505 dated 28 June 2018 and Regional Council Concept Landscape Plan Sheet 8 (Purimu Connection) prior to occupation of the proposed retirement complex.
26. A detailed design of engineering and landscaping planting referred to in condition 26 above shall be submitted for certification by Napier City Council prior to work commencing.
  - i) Preparation of the design shall include confirmation of consultation with the Hawkes Bay Regional Council with specific regard to the inclusion of ecological features.
  - ii) The consent holder's contribution of landscape planting shall be to a maximum of \$30,000.00 (incl. GST), unless the consent holder, or any other party of their own voluntary accord, wishes to contribute more.

#### NOTE:

- A. This condition has been offered by the applicant and is imposed on an Augier basis (derived from the case Augier v Secretary of State for the Environment (1978) 38 P & CR 219) which provides that, if an otherwise ultra vires condition is volunteered by a resource consent applicant and a consent is granted with that condition, then that condition is enforceable. For

- completeness, it is also recorded that the applicant for the resource consent agrees to the condition under s 108AA(1)(a) of the RMA);
- B. At this stage NCC does not have any budget for a contribution to the plantings and is unlikely to contribute to the planting, and;
  - C. The planting plan will otherwise need to be designed in accordance with the amount specified in this condition, unless the consent holder determines they need to spend more (of their own accord). The Hawkes Bay Regional Council have signalled that they may contribute to the plantings for ecological benefit, which would need to be agreed with the consent holder.
  - D. Access for maintenance of the headwall and wetland shall be provided.

## WHOLE OF SITE LANDSCAPE DESIGN

- 27. That prior to works commencing on site, the applicant shall submit a finalized landscape plan based on the concept landscaping plans provided with the application prepared by a suitably qualified and experienced person for certification by the NCC Team Leader Resource Consents (or nominee). The landscaping plan shall include (but not be limited to):
  - a) Planting specifications detailing the specific planting species to achieve a mix of ground cover and specimen trees
  - b) The number of plants provided, locations, heights/PB sizes, and
  - c) Confirm that the location (distance from the boundary) of the species at planting is appropriate for the species type and leaves sufficient space for ongoing maintenance/trimming from within the site, at the height specified, and
  - d) Provision for irrigation of landscaping.
  - e) Details of proposed boundary fencing utilizing the permeable design proposed
- 28. Within the first planting season after completion of construction of each stage, the landscaping for that respective stage shall be planted and irrigation installed in accordance with the approved landscape plan required by Condition 27.
- 29. That in regard to Conditions 27 and 28 the required landscaping shall be maintained for the duration of this consent to the satisfaction of the NCC Team Leader Resource Consents (or nominee).

## RURAL REVERSE SENSITIVITY

- 30. The proposed southern boundary of the site title with 35 Ulyatt Road (subject to a separate subdivision consent/boundary adjustment), shall provide a minimum 6 metre separation as measured from the eave (including spouting) of any retirement villa as shown on PLAN REFERENCE XXX. A covenant shall be registered over the 6 metre separation area that restricts the carrying out of any agricultural or fruit growing purposes other than for the purpose of growing turf grass for sale. The Covenant shall read as follows:

*The Grantor covenants with the Grantee that the Grantor will not use, lease or permit to be used or leased any portion of the Land or any buildings now or to be*

*erected on the Land for the purpose of agricultural or fruit growing purposes, other than for the purpose of growing turf grass for sale.*

NOTE:

This condition has been offered by the applicant and is imposed on an Augier basis (derived from the case Augier v Secretary of State for the Environment (1978) 38 P & CR 219) which provides that, if an otherwise ultra vires condition is volunteered by a resource consent applicant and a consent is granted with that condition, then that condition is enforceable. For completeness, it is also recorded that the applicant for the resource consent agrees to the condition under s 108AA(1)(a) of the RMA).

31. Prior to the retirement complex becoming operative, a covenant pursuant to Section 108(2)(d) of the Resource Management Act 1991 shall be entered into by the consent holder and registered and retained against the Certificate of Title(s) of the application site. The covenants shall be prepared by a lawyer (the Consent Holders, or Councils) at the cost of the consent holder. The covenant shall read as follows:

*No Complaints Covenant*

*This property is located in the Main Rural Zone, near a number of rural uses including turf production, where agricultural management practices can occur that may include spraying, use of machinery, the operation of bird scarers and other effects associated with a range of permitted rural activities.*

*Where rural land use activities in this area are carried out in accordance with the relevant District Plan requirements or existing use rights, the property owner, or their successor in title shall not:*

*Bring any proceedings for damages, negligence, nuisance, trespass or interference arising from the use of that land; or*

- I. *Make nor lodge; nor*
- II. *Be party to; nor*
- III. *Finance nor contribute to the cost of;*
  - a. *Any complaint regarding the carrying out of any land based primary production activity on the surrounding land.*
  - b. *Any application to the Environment Court for a declaration or enforcement order regarding the carrying out of any land based primary production activity on the surrounding land.*
  - c. *Any application to the High Court for an injunction, declaration or other order concerning the carrying out of any land based primary production activity on the surrounding land.”*

**NOTE:**

*This condition has been offered by the applicant and is imposed on an Augier basis (derived from the case Augier v Secretary of State for the Environment (1978) 38 P & CR 219) which provides that, if an otherwise ultra vires condition is volunteered by a resource consent applicant and a consent is granted with that condition, then that condition is enforceable. For completeness, it is also recorded that the applicant for the resource consent agrees to the condition under s 108AA(1)(a) of the RMA).*

**NOISE**

32. That the activity shall at all times comply with the Napier District Plan permitted activity noise standards.

**STATE HIGHWAY NOISE**

33. The following acoustic insulation conditions shall apply to all new noise sensitive activities (i.e retirement villas/units) within the Expressway Noise Boundary:

- a) Where any building used for a noise sensitive activity is to be located within the Expressway Noise Boundary as shown on the planning maps:
  - i) The habitable room within the noise sensitive activity shall achieve a minimum External Sound Insulation Level of the building envelope of  $Dtr,2m,nTw + Ctr>30$  dB for outside walls of any habitable rooms.
  - ii) Where it is necessary to have windows closed to achieve the acoustic design requirements, an alternative ventilation system shall be provided. Any such ventilation system shall be designed to satisfy the requirements of the Building Code and achieve a level of no more than NC30 in any habitable room.
- b) The standard in (a) above does not apply to noise sensitive activities which can comply with the following:
  - i) The habitable room within the noise sensitive activity is greater than 80 metres from the edge of the road carriageway; or
  - ii) Noise screening (such as a noise barrier fence) is constructed so that noise levels measured at the location of the building housing the noise sensitive activity in accordance with NZS6801:2008, do not exceed 55 dB LAeq (24hour) outdoors.
- c) At the time of building consent the consent holder shall provide acoustic design certification, from a qualified and experienced acoustic expert, to NCC, to demonstrate that the requirements of (a) above will be met.

## NATURAL HAZARD EVACUATION PLANNING

34. Prior to the occupation of the retirement complex, an evacuation plan for residents shall be provided to Council and maintained as part of the operation of the retirement complex.

## INERT ROOFING MATERIALS

35. Prior to the issue of any building consent as part of this proposal, confirmation shall be provided that roofing is constructed of inert materials (specific to potential water contamination).

### NOTE:

This condition has been offered by the applicant and is imposed on an Augier basis (derived from the case Augier v Secretary of State for the Environment (1978) 38 P & CR 219) which provides that, if an otherwise ultra vires condition is volunteered by a resource consent applicant and a consent is granted with that condition, then that condition is enforceable. For completeness, it is also recorded that the applicant for the resource consent agrees to the condition under s 108AA(1)(a) of the RMA).

## MONITORING

36. That a monitoring deposit of \$150 (including GST) shall be payable to cover the reasonable costs of monitoring compliance with the above conditions in accordance with Council's schedule of charges.

In the event of non-compliance being detected by monitoring or justified complaint and/or the costs of monitoring consent exceeding the deposit, the costs to Council of any additional monitoring shall be paid by the consent holder in accordance with the Council's schedule of fees.

## NOTES FOR ADVICE PURPOSES:

- A. Development Contributions: This project will be subject to the payment of Development Contributions at Building Consent stage.
- B. Any signage beyond the permitted thresholds of the District plan, will need to go through a separate resource consent.
- C. As a commercial entity all refuse and mail will be the responsibility of the operator.
- D. The internal water supply infrastructure is subject to building consent and potable water quality standards.
- E. All enquiries regarding the costs of connections to the city services should be addressed to the NCC Infrastructure Department.
- F. The locations for the connections to the city services are to be confirmed with the Infrastructure Department prior to making application for connection.
- G. The costs of all services required for the development are to be met by the applicant.

- H. All references to “the Code” in this consent relate to the Napier City Council Code of Practice for Subdivision and Land Development.
- I. Except as otherwise allowed by this consent, the proposal must comply fully in all respects with the provisions of any relevant District Plan. That the proposal shall comply with, all relevant Council By-Laws, the Building Act 2004 and regulations and with the Code of Practice for Subdivision and Land Development. All necessary consents and permits shall be obtained.
- J. That connections to Napier City Council's water and sewer network will require an application to be made to NCC Infrastructure. All connections to the live sewer, water and stormwater networks shall be undertaken by NCC.
- K. In terms of condition 4(h) the exact off peak hours of discharge, and the size of the pump required, will need to be certified by NCC Infrastructure as part of the design. Off peak discharge hours will need to be confirmed by NCC.
- L. In terms of condition 4(i) the Bill Hercock Street water mains shall be extended to service the proposed development for fire fighting and domestic supply. In relation to this it is supported that Irrigation supply can be provided from sources other than the NCC potable water supply.
- M. In terms of condition 5 all private services for water, storm water and sewer will require Building Consent.
- N. That there should be no off-site deposit of sediment or detritus from the area of the works and no deposit of sediment or detritus into any watercourse or storm water drain (including but not limited to the Cross Country Drain)
- O. In terms of condition 27, note D, maintenance of the drain after installation is the responsibility of NCC.
- P. The HBRC published sediment and control guidelines 2009 can be found here:  
<https://www.herc.govt.nz/assets/Document-Library/Waterway-Design-guidelines/Erosion-and-Sediment-Control-20090406.pdf>