

19 February 2018

Bupa New Zealand  
C/- Greg Knell, Wasley Knell Consultants Ltd  
PO Box 381  
Tauranga 3140

Dear Greg

**Resource Consent Application RM170155 – 25 and 35 Ulyatt Road, Napier**

Following the close of submissions, further consideration has been given to the Bupa New Zealand application for resource consent for a retirement and care complex at 25 and 35 Ulyatt Road.

The following information is required pursuant to Section 92(1) of Resource Management Act 1991. This information is needed by NCC to better understand the proposed activity, its effect on the environment and the ways any adverse effects on the environment may be mitigated:

1. Reverse Sensitivity – State Highway Noise and NZTA Conditions sought:

The submission made by NZTA, that you will have received, seeks that if consent were to be granted that certain conditions of consent be imposed (or conditions to the same effect), these are attached as Appendix A.

A. Please confirm whether Bupa New Zealand would accept these conditions (or conditions to the same effect) as a suitable approach to managing reverse sensitivity and noise from the nearby State Highway network?

2. Reverse Sensitivity – rural productive uses

The HBRC submission has sought further assessment on this matter:

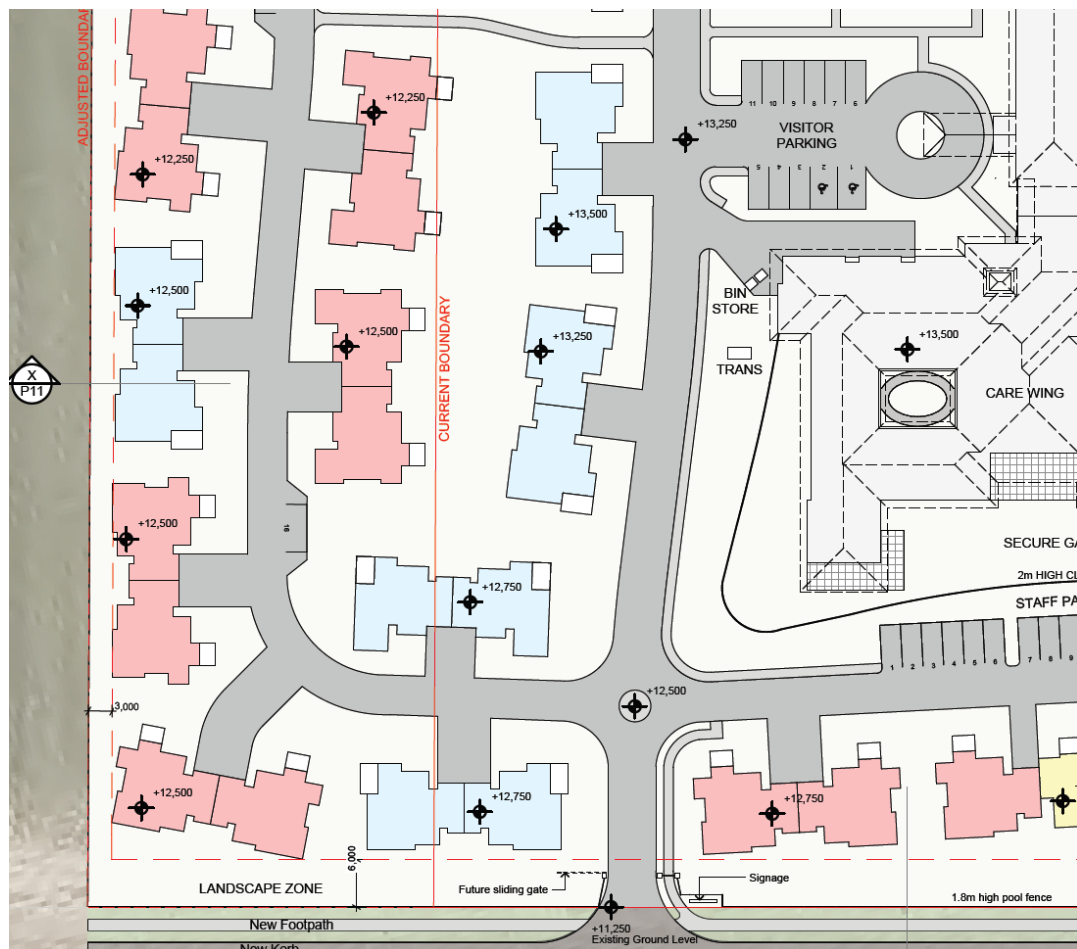
Reverse Sensitivity

Objective UD1 of the Regional Policy Statement states that Urban Form should be established so that it is compact and strongly connected, and that also avoids remedies or mitigates reverse sensitivity effects. The application references Objective UD1 (page 25), but there appears to be a lack of analysis or assessment around how this particular objective is being met by the proposal. The site is located near existing non-residential uses which have the potential for reverse sensitivity issues to arise e.g. spray drift, dust, odour. We would suggest further assessment is required prior to the Regional Council holding a view either way as to whether there is a reverse sensitivity issue.

I note that the proposal includes a 3m setback for the proposed villa units on the southern boundary with what would be the balance of the title with the property numbered 35 Ulyatt Road (being the Instant Green turf production activity).

As previously passed on to you, as part of the soil assessment provided by AgFirst I sought their feedback on the following question:

*“1. The proposed retirement village includes residential villa units that are proposed to be 3m from the southern boundary (as part of an adjusted boundary). Do you consider that this represents a suitable separation from the instant green business/or if the use is changed to say summer cropping or something else productive? The Napier Plan otherwise recognises a 6m setback in the Main Rural Zone (though being based on a low density rural area with something like 1 dwelling per 4ha if going by the plan rules). Would a 3m setback as proposed be suitable in the context? or should it be say 6m in line with the Napier District Plan – or something greater? Please advise. See the site plan shown here with the 3m setback shown on the left hand side:”*



To which John Wilton of AgFirst responded:

*“I do not really have an opinion on whether there should be a 3m or 6m setback for summer cropping. Boundary issues are likely to be irrigation encroachment where large gun nozzles are being used, such as the one already being used by the instant green business. Perhaps harvesting and cultivation noise from machinery.*

*Summer cropping generally will not need much in the way of spraying and if required is likely to be boom spraying with nozzles close to ground or crop so spray drift is likely to be*

*minimal compared to say orchard spraying. In the case of spray drift from crop land a 2-3m high evergreen hedge would remove 98.5% of the drift.”*

In relation to the points above and potential for reverse sensitivity between the proposed use and productive use on the southern boundary (and the wider area generally), does the applicants planning expert consider:

- A. Is a 3m setback appropriate in the circumstances for both the proposed retirement villas and the continued productive use on the southern boundary (and why), or would a greater setback be considered suitable to impose/offer?
- B. Is the proposal consistent with Objective UD1 of the RPS, as raised by HBRC above (and in Appendix B), and if so, how?
- C. Would the applicant consider the use of and offer a ‘no complaints’ covenant to also help proactively manage expectation of the retirement complex and the potential for effects between the proposed retirement villas and continued productive use of the Main Rural zone land on the proposed southern boundary and the wider area? The wording of such a covenant could be worded in such a manner as shown attached in Appendix C.

### 3. HBRC, HPUDS, HB RPS, NPS Urban Development

The submission made by HBRC, that you will have received, provides comments on the proposal in relation to the Regional Councils functions, HPUDS, and the Regional Policy Statement. This is attached for reference in Appendix B.

The following are key objectives and policies in the RPS that relate to the Napier District Plan, and the effects that it seeks to manage:

- OBJ UD1 Urban Form
- OBJ UD4 Planned provision of Urban Development
- POL UD1 Provision for Urban Activities (refers to HPUDS2010)
- POL UD4.1 Establishing Urban Limits (refers to Napier District Plan – cross relates to urban limit in Appendix 35 in NDP – not updated to reflect HPUDS review)
- POL UD4.2 New Residential Greenfield Growth Area Criteria
- POL UD4.3 Appropriate Residential Greenfield growth areas (not in Schedule XIVA)
- POL UD4.4 Inappropriate Residential Greenfield Growth Areas (not listed in an inappropriate area)
- POL UD5 Containing Urban Activities within Urban Limits – ref to POL UD4.1

The proposal is in an area recognised as a reserve area for urban growth (South Pirimai) as part of HPUDS 2017 Review. The 2017 Review is not reflected in the RPS or Napier District Plan yet (though of course the policy direction recognises HPUDS). The following is a key part of the framing of HPUDS with regards to reserve areas:

### 2.1.7 Reserve Greenfield Growth Areas

A 'reserve' growth area approach was deemed an appropriate way of ensuring the necessary flexibility is secured to ensure adequate supply of new sites, while still avoiding difficulties associated with oversupply and ad hoc development contrary to HPUDS.

Reserve areas will act as replacements if any greenfield growth areas identified in HPUDS are deemed unviable for residential development, or in circumstances where the area is not able to be progressed in a timely fashion when required, or when other issues become insurmountable. These reserve areas may also be advanced if there is a rapid and significant change in growth demand.

It is not deemed necessary to have 'reserve growth areas' for every identified greenfield growth location in HPUDS, but is it prudent to have them available for the main urban areas of Napier City and Hastings District.

Areas evaluated and recommended as appropriate 'reserve' growth areas are as follows<sup>12</sup>.



#### **Napier:**

- South Pirimai

Please consider and provide assessment on all the matters identified by HBRC in their submission and the information they consider that is required, as this relates to the Napier District Plan and the effects it seeks to manage (including but not limited to):

- A. The assessment of the proposal with HPUDS 2017 Review and the RPS Objectives and Policies framework outlined above (and in turn the RPS relationship with the operative Napier District Plan). Please note that the latest 2017 HPUDS review has not yet been specifically integrated with the RPS and the Napier District Plan, which you may wish to also provide assessment of. Note there is an upcoming scheduled review of both plans commencing 2020.
- B. Any evidence you can provide on the circumstances set out in sections 4.3.2 and 2.1.7 of HPUDS 2017 (2.1.7 shown above), and whether there is a rapid and significant change in growth demand, and whether retirement village needs cannot be met within the preferred HPUDS greenfield areas, and the applicants site selection/needs assessment/business case approach to the identification of the subject site, would be useful to provide and assess.
- C. Please provide a corresponding assessment of the proposal with the Urban Development Capacity National Policy Statement, given that Napier is identified as a 'medium growth' urban area.
- D. All the matters raised in the HBRC submission in conjunction with Stormwater. Please note that I am also awaiting a response from NCC Infrastructure on this and will forward this to you when I have it. Please comment specifically on:
  - HBRC consideration of a neutral stormwater solution, and any on site attenuation options available (or not)
  - The conditions expected (and proposed) with regard to stormwater runoff treatment,
  - Any resource consent required (or not) from HBRC in regard to stormwater discharge Rule 42 (HBRRMP), and any expected outfall structures within 6m of the cross country drain Rule 71
- E. The matters raised in the HBRC submission regarding natural hazards, in particular with regard to Tsunami and evacuation of vulnerable occupants. Does the applicant have an evacuation procedure it would apply to the proposed facility, and can this be documented specifically (and potentially be relied upon as a condition if consent was to be granted),
- F. Please answer the two points where further clarification is sought on Soil Contamination and the NESCS within the HBRC submission.

In accordance with section 92A of the Act you must within 15 working days of the date of this request (being by Monday 12 March 2018), take one of the following options:

1. Provide the information,  
  
Or;
2. Inform the Council in a written notice that you agree to provide the information; or specify a reasonable timeframe for providing the information for agreement of Council,  
  
Or;
3. Inform the Council in a written notice that you refuse to provide the information.

Setting a hearing date to make a decision on your application has therefore been placed on hold awaiting your response to this request, in accordance with Section 88B of the Act. Where possible however, the application will continue to be processed as allowed by the information already supplied.

Please feel free to contact me if you have any questions regarding the above information request or the further processing of the application. I am more than happy to meet with you and any of the submitters on the proposal if that if of assistance.

Regards

A handwritten signature in blue ink, appearing to be 'SL' or similar initials, written in a cursive style.

Shane Lambert  
**Senior Resource Consents Planner**  
**Napier City Council**

## Appendix A

### Conditions of consent sought by NZTA:

- 1) *New buildings containing noise sensitive activities, in or partly within 80 metres from the state highway edgeline must be designed, constructed and maintained to achieve road-traffic vibration levels complying with class C of NS 8176E:2005.*
- 2) *Within 80 metres of the edge of the nearest traffic lane of any state highway or within 80 metres of any state highway designation that does not contain an existing state highway, any new protected premises and facilities (PPFs) or any alteration to a PPF beyond 10% of the existing gross floor area, shall be designed and constructed to comply with the following design sound levels:*
  - a) *Road-traffic noise inside all habitable spaces: 40 dB L<sub>Aeq(24h)</sub>*
  - b) *Road-traffic noise in all other PPFs: No greater than the recommended maximum design guidelines in AS/NZS 2107:2000*
- 3) *If windows to habitable spaces are required to be closed to achieve the design sound levels in rule 2, the building shall be designed and constructed with a ventilation system to achieve the following:*
  - a) *A quantity of air shall be provided to achieve the requirements of Clause G4 of the New Zealand Building Code. At the same time as meeting this requirement, the sound of the system shall not exceed 30 dB L<sub>Aeq(30s)</sub> when measured 1 m away from any grille or diffuser.*
  - b) *Either: air conditioning shall be provided; or a high air flow rate setting shall provide at least 15 air changes per hour (ACH) in the principal living space and at least 5 ACH in all other habitable spaces.*
  - c) *At the same time as meeting the above requirement in b), the sound of the system shall not exceed 40 dB L<sub>Aeq(30s)</sub> in the principal living space and 35 dB L<sub>Aeq(30s)</sub> in all other habitable spaces, when measured 1m away from any grille or diffuser.*

- d) The internal air pressure shall be no more than 10 Pa above ambient air pressure due to the mechanical ventilation.*
  - e) Where a high air flow rate setting is provided, the system shall be controllable by the occupants to be able to alter the ventilation rate with at least three equal stages up to the high setting.*
- 4) A design report prepared by an acoustics specialist shall be submitted to the [manager/officer], City Council, demonstrating compliance with Rules 2 and 3, prior to construction of any PPF or alteration to a PPF beyond 10% of the existing gross floor area, within 80 metres of the edge of the nearest traffic lane of any state highway or within 80 metres of any state highway designation that does not contain an existing state highway. The design shall take into account future permitted use of the state highway; for existing roads by the addition of 3 dB to existing measured or predicted levels.*

*[PPF to be in defined in plan as per NZS 6806]*

### **Appendix C: Draft example of a 'No Complaints' covenant condition**

*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 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 scares 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;  
Any application, proceeding or appeal (either pursuant to the Resource Management Act 1991 or otherwise) designed or intended to limit, prohibit or restrict the continuation of rural operations on surrounding land, including without limitation any action to require the surrounding landowners/occupiers to modify rural operations carried out on their land.*