



**S42A HEARING REPORT FOR A NOTIFIED RESOURCE
CONSENT UNDER THE RESOURCE MANAGEMENT ACT 1991**

Hearing Date:	Tuesday 21 and Wednesday 22 August 2018
To:	Hearings Commissioner van Voorthuysen, appointed by Napier City Council
Reporting Officer:	Shane Lambert, Senior Resource Consents Planner, Napier City Council
Applicant:	Bupa New Zealand
Site Address/ Legal Descriptions:	25 Ulyatt Road, Napier being Lot 1 DP 423183 and part of 35 Ulyatt Road, being Lot 2 DP 423183
Zoning:	Main Rural Zone (Operative Napier District Plan)
Proposal:	Establish a retirement complex
District Plan Rule:	Rule 34.14 (g) of the Napier District Plan
Assessment Status:	Discretionary Activity

Date consent application received: 26 October 2017

Date notified: 13 December 2017 (Submissions closed
1 February 2018)

Fourteen (14) submissions received

NOTE: This report sets out the advice and opinions of the reporting planning officer. This report is part of the considerations of the Hearings Commissioner appointed to decide the application. The Hearings Commissioner will make a decision after considering the applicants case, the submissions made, this assessment, and any evidence/information presented as part of the hearing.

APPENDICES

A	Land use resource consent application and assessment of effects on the environment by Wasley Knell, including: Appendix 1: Architectural Plans and Design Statement (Jerram Tocker Barron Architects Ltd) Appendix 2: Landscape Design (Shafer Design Ltd) Appendix 3: Traffic Impact Assessment (Traffic Solutions Ltd) Appendix 4: Infrastructure and Civil Report (Bonisch Consultants) Appendix 5: Preliminary Geotechnical Report (RDCL) Appendix 6: Acoustic Assessment (Hegley Acoustic) Appendix 7: NES Soils (Hail Environmental)
B	NCC commissioned soil assessment (Agfirst)
C	Section 92 Request
D	Section 92 Responses
E	Officers Notification Assessment (s95)
F	Submissions Received
G	NCC Infrastructure comments
H	NCC Transport comments
I	Hazards Report
J	NZTA agreement to conditions

QUALIFICATIONS AND EXPERIENCE OF REPORTING PLANNER

1. My name is Shane Richard Lambert. I am a Senior Resource Consents Planner employed by Napier City Council ('NCC').
2. I hold a Bachelor of Arts, Town and Country Planning degree (with Honours), and a Master of Town Planning degree, both gained at Bristol, University of the West of England, in 2002 and 2003 respectively.
3. I have been employed as a Senior Resource Consents Planner at NCC since May 2017. This role primarily includes assessing resource consent applications. My previous role was at the Hawkes Bay Regional Council ('HBRC') as a Senior Policy Planner, my role there involved resource management policy evaluation and plan preparation, and appearing at the Environment Court. Prior to that, I worked at Cardno NZ as a consultant planner for a year and a half, and before that at Hastings District Council for over 10 years in various planning roles (including 3 and half years in Consents, and 5 years in Policy roles). I have over fifteen years' experience in assessing and preparing resource consent applications, policy analysis, plan evaluation, plan writing, strategic development, plan compliance and monitoring.
4. Please note I have read the Code of Conduct for Expert Witnesses in the Environment Court Consolidated Practice Note (2014) and I shall comply with this Code of Conduct.
5. This report and the evidence included is within my area of expertise, and I have not omitted to consider material facts known to me that might alter or detract from the opinions that I express. The opinions expressed in this report are of my own impartial professional judgement based on the information known to me.
6. It is my role as the reporting consents planner to assess this application against the Operative City of Napier District Plan (the 'District Plan') the Resource Management Act 1991 (the 'RMA') and associated Legislation and Plans (including the RPS, NPS, NES), and to make recommendations to the Hearings Commissioner.

PROPOSAL/APPLICANTS AEE

7. A land use resource consent application and Assessment of Environmental Effects (AEE) has been prepared by Greg Knell, director of Wasley Knell Consultants Ltd, on behalf of Bupa New Zealand. This is to establish a Bupa retirement village and care home complex within the Main Rural Zone at 25 and 35 Ulyatt Road, comprising of:
- 99 (single storey), single and double room Retirement villas with integral garages,
 - 19 (three level) retirement apartments,
 - 19 Separate garages for the apartments in 3 blocks (one of 7 garages, two blocks of 6 garages)
 - 49 (over two levels) of care home rooms,
 - Associated care facilities including kitchen, nursing stations, communal dining and lounge areas, cafe and visitor, service, reception and administration areas.
 - Approximately 80,000m³ of earthworks to develop the site.
 - A central green with integrated walkways
 - Visitor and staff car parking
 - Landscape plantings
 - Two road access points to Ulyatt Road
 - New road frontage including a footpath, kerb and channel along Ulyatt Road.
8. The application documents, including the assessment of environmental effects ('AEE') and proposed plans and elevations are attached as **Appendix A**. The proposed site plan is shown below in **Figure 1** for ease of reference:



Figure 1 – Proposed Layout

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9. In addition a report assessing the effects of the proposal on the Main Rural Zone soil resource was commissioned by NCC on 18 December 2017, this assessment by Agfirst (dated 19 January 2018) is attached in **Appendix B**.
10. Further information was requested by Napier City Council on 19 February 2018, as shown attached as **Appendix C**, following a number of matters raised in submissions. The applicants response is attached as **Appendix D**, this includes the offer of various conditions of consent.
11. The applicants AEE by Mr Knell, concludes that the effects of the proposal on the environment will be no more than minor and the proposal is not contrary to the environmental outcomes of the relevant Objectives and Policies of the District Plan, and is consistent with Part 2 matters.
12. I am aware that the applicant has undertaken consultation with the following parties (during or after public notification), and some of those discussions I was invited to attend (except where noted):
 - NZTA (I did not attend any discussions, but was provided email updates)
 - HB Fruitgrowers – Diane Vesty
 - R Arrell
 - HBRC
13. Notes were taken by the applicant in terms of some of the meetings with HBRC, and/or were followed up by email. I did not record notes from the meetings that I attended that Mr Knell had with Mr Arrell or Mrs Vesty (HB Fruitgrowers).

SITE AND SURROUNDING ENVIRONMENT

14. A description of the site is contained within the application (Appendix A, refer to page 3 of the AEE, and a full site/context description at pages 5-8 of the Landscape and Visual assessment by Shafer Design). The site is shown below (**Figure 2**) from 2018 NCC aerial photography:



Figure 2. 2018 Aerial imagery (NCC GIS/website)

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15. I have visited the site, and the subject site is primarily located at 25 Ulyatt Road. The proposal also includes part of the land title for 35 Ulyatt Road. This is intended to be included within the site subject to a boundary adjustment subdivision that is not included in this application, and would be the subject of a further subdivision consent (as it is indicatively shown, this would be a Controlled Activity subdivision as each resultant site would meet the 4ha minimum site size).
16. The application site is wholly within the Main Rural Zone of the Napier District Plan. Part of the site is within the Expressway Noise boundary as shown by the purple dashed line below (**Figure 3**):



Figure 3. Zoning Layers (NCC GIS/website)

17. The existing use of the site is for the commercial production of turf (Instant Green: <http://www.instantgreen.co.nz/>). There are no existing buildings on 25 Ulyatt Road, other than signage structures. On 35 Ulyatt there is an existing dwelling and a number of accessory buildings related to the Instant Green business, the existing buildings are clear of the proposed boundary shown on the plans provided.
18. The surrounding area is characterised by rural and lifestyle residential uses to the east and south. A substantial designated storm water drain known as the Cross Country Drain (D143) runs along the western and northern boundaries of the site. The designation does not extend onto the site itself. Just beyond the drain to the west is State Highway 50 (the Expressway). Just beyond the drain to the north is a thin reserve with an approximate width of 12m wide (Harold Holt Avenue Reserve) and beyond this the back of residential sections from Clarence Cox Crescent, part of the suburb of Pirimai, a well established residential area and zone.

RESOURCE CONSENT ACTIVITY STATUS

Operative Plan Status

19. The site is zoned Main Rural in terms of the Operative City of Napier District Plan. It is also within the Expressway Noise Boundary.
20. Resource Consent is required for a retirement complex under District Plan Rule 34.14 (g) specifically. The District plan includes specific assessment matters for this type of activity in chapter 39.3 1 a)-y) (link here: <https://www.napier.govt.nz/assets/Document-Library/District-Plan/Part-5-Rural-Environments/ch39.pdf>) These matters are assessed later in this report.
21. The proposal has been assessed against the conditions/performance standards for the Main Rural Zone in Chapter 34 of the District Plan (as shown in the table included in the s95 assessment in **Appendix E**). It is noted that in terms of plan rule structure that these conditions apply to 'Permitted' and 'Controlled' activities, and that this Retirement Complex proposal is the higher order 'Discretionary' status. The standards otherwise are relevant for consideration and of all the Plan conditions, the proposal does not meet the following (**Figure 4**):

Condition/Performance Standard (For Permitted and Controlled Activities)	Requirement	Proposal
34.21 Density	One dwelling per site	Does not comply. <ul style="list-style-type: none"> • 99 single and double room Retirement villas with integral garages, • 19 retirement apartments, with 19 separate garages • 49 care home rooms
34.22 Yards	7.5m Front yard setback 6m side and rear yard setback	Does not comply. The siting of the proposed buildings are located: <ul style="list-style-type: none"> • 6 metres from the front boundary with Ulyatt Road in lieu of the 7.5m required, • 3 metres from the southern boundary with Instant Green (proposed subject to a boundary adjustment), in lieu of the 6m required • 4 metres from the northern side boundary with the drain, in lieu of the 6m required <p>Compliance with the 6m yard requirement on the western boundary with the drain on the State Highway side is met with the villas located no closer</p>

		than 7 metres from the western boundary.
34.23 Height	9m maximum	Does not comply. The proposed central complex building exceeds the maximum height by up to 1.415 metres for the two level care home building and by up to 4.905 metres (13.905m max) for the 3 level retirement apartment building.
34.24 Site coverage	Site coverage must not exceed 10% or 2,500m ² of the net site area, whichever is the lesser. 2,500m ² limit applies.	Does not comply. Proposed site coverage is approximately 26% of 5ha. This is approximately 13,000m ² of building coverage, an exceedance of 10,500m ² .
34.33 Earthworks	100m ³ per ha of site (per year) = 500m ³ is permitted under the plan across the 5ha site proposed per year	Does not comply. Approximately 80,000m ³ of earthworks, design and re-contouring are estimated to make the site development ready (in the Civil and Services assessment, Bonisch Consultants, page 3)

Figure 4. District Plan conditions not otherwise met

22. The above infringements would otherwise require a restricted discretionary activity status.
23. It is noted that rule 34.15 1. b) specifies that “Any land use that does not comply with Condition 34.21 – Density” is a Non-Complying activity, this being the one dwelling and supplementary unit density control within the zone. As noted above the conditions apply to ‘permitted’ and ‘controlled’ activities. This rule doesn’t otherwise specify that it applies to retirement complex dwellings or just residential uses. It would not however be logical for this to apply to retirement complex’s given the Discretionary status recognised specific to the activity, and that no retirement complex would comply with a one dwelling and one supplementary unit density. I interpret that the Discretionary Status rule applies to this proposal being rule 34.14 1 g).

Proposed Plan Status

24. The site and proposal is not subject to any relevant proposed Plan Changes (noting the Parklands and Mission Plan Changes elsewhere). Plan Change 10 to the Napier District Plan is fully Operative.

National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health (NESCS)

25. The National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health 2011 (NES) requires consideration, as the proposal involves a change in land use. The site has had potential for contaminating activities on it.

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26. A combined PSI (Preliminary Site Investigation) and DSI (Detailed Site Investigation) assessment of the site and testing of levels of contaminants has been provided by Hail Environmental (see Appendix 7 included with the Application documents attached in **Appendix A**).
27. As a DSI has been provided by a Suitably Qualified and Experienced Practitioner (SQEP) that concludes that the presence of agrichemicals are at concentrations below the criteria for residential activity, the NESCS provisions do not apply under clause 5(9). It is noted in the DSI that development earthworks are subject to permitted activity rule 48 of the Hawkes Bay Regional Resource Management Plan ('RRMP').
28. Some of the details of the DSI were subject to a further information request (RMA s92), see **Appendix C**. This information was provided and satisfied those questions (included in **Appendix D**).

Overall Status

29. Given that the activities are mutually inclusive the overall status must be assessed as a **Discretionary Activity**.

ADEQUACY OF THE APPLICATION/REQUIREMENT FOR OTHER CONSENTS

30. Under the provisions of section 88 of the Resource Management Act 1991 (RMA), an application for a resource consent must be made in the prescribed form and manner and include an assessment of environmental effects in such detail as corresponds with the scale and significance of the effects that the activity will have on the environment.
31. The application, including the section 92 further information material submitted, has been assessed and it has been determined that the application is complete and contains sufficient information to allow an assessment of effects.
32. Section 91 of the RMA allows the council to decide not to proceed with the notification or hearing of an application if it considers on reasonable grounds that other resource consents under this Act will also be required for the proposal and it is appropriate that such consent be applied for before proceeding further. It has been determined that Resource Consent may not be required from the Hawkes Bay Regional Council for the storm water discharge or the land development. The proposal can be considered a permitted activity or a subsequent resource consent (if required) under the Hawkes Bay Regional Council plan and no further information is required in this respect. Therefore it is considered under Section 91 of the RMA that the hearing of the application may reasonably proceed.

NOTIFICATION

33. The application was publicly notified following the determination on notification in accordance with Section 95A of the RMA (**Appendix E**). It was concluded that the application should be publicly notified pursuant to s95A(8)(b), s95D (effects on the environment) and s95A(9) (Special circumstances). The main reasons for this are excerpted below for relevance and ease of reference:

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Special Circumstances (RMA s95A(9)):

“Special circumstances are likely to exist in relation to the application that would warrant notification in this instance.

This is because the proposal is for a 5ha retirement complex within the Main Rural Zone (near to the Main Residential Zone – but not strictly adjoining because of the SH50, drain, and Harold Holt Avenue Reserve), which would introduce a substantial retirement complex type intensity of development to a low density rural zone (with a permitted baseline density of 1 dwelling and supplementary unit per site, with a 4ha minimum site size).

Whilst the site is identified in the latest review and update of HPUDS as a potential reserve area for development, this is indicative only as a possibility up until 2045, and no plan change process or investigation of the suitability of the site for any type and density of retirement development has been undertaken (except by the applicant). Whilst recognising that Retirement complex’s are recognised as a Discretionary activity, it is considered ‘out of the ordinary’ of what might be expected by the greater public.

It is noted that the applicant has not consulted (and there is no legal requirement that they do so) the organisations involved in HPUDS (beyond pre-application discussion with NCC), including HBRC, NZTA or Iwi.

The site is beyond the Urban limit and Greenfield Growth Areas shown in Appendix 35 of the Napier District Plan, which integrate the direction of the Napier District Plan and public expectation of urban expansion and growth that give effect to the Regional Policy Statement and HBRRMP. The 2017 HPUDS review includes the site as a reserve area, and this has not been translated into Appendix 35, this could possibly occur in the scheduled District Plan review 2020.

The site is beyond existing physical barriers or boundaries that form part of and define the Urban Limit currently recognised in the Appendix 35 – being the State Highway, and the substantial open storm water drain (the Cross-country drain) on the southern side of Pirimai. This proposal would effectively extend urban development in the form of a retirement complex beyond this point.”

Effects on the environment (RMA s95D):

“In assessing the application and AEE, it is considered that the main effects that require greater scrutiny in terms of whether they will have or are likely to have adverse effects on the environment that are more than minor are effects on rural character and amenity, and effects on the soil resource, these are outlined in turn:

- *Rural Character and Amenity*

It is considered that the proposal will specifically change 5ha of undeveloped Main Rural Zone land currently used for turf production into a 5ha retirement complex type urban expansion of Napier. The introduction of 99 homes, 19 apartments and a 49 unit care home complex on site with associated facilities will change the site from having rural character and amenity to a retirement complex character and amenity. The development of the site including up to 80,000m³ of temporary earthworks will also form part of this change. This will be visible to much of the local Napier community.

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It is considered that this goes beyond the one dwelling and one 80m² supplementary unit limit on the site otherwise permitted by the Napier District Plan, and the maximum of 2,500m² of building site coverage.

It is considered that whether this is an adverse environmental effect is subjective. It is likely that to some (whether they live nearby or pass the site regularly) it will represent a more than minor adverse effect on the existing open rural character and amenity of the site and the zone. It would be extending urban use across from the current urban boundaries of Pirimai and Greenmeadows, and confined by the State Highway, Stormwater Drain, and the Harold Holt Avenue Reserve.

To others such a retirement development and extension of the nearby urban area may not represent a more than minor effect.

Taking some caution it is likely that it will represent a more than minor adverse effect on the existing rural character and amenity of the site and surrounding area, to a reasonable amount of people within the wider community.

Whilst recognising the Discretionary resource consent status of the proposal, it also goes beyond what is signalled (as a potential reserve residential area) in HPUDS without first going through a public plan change process, or the other greenfield land identified in HPUDS being developed first.

- *Rural Soil resource*

The 5ha development would effectively remove 5ha of productive land from the finite rural soil resource in Napier. The application does not provide a robust assessment of the effects on the soil resource, or the quality of the soils on site for productive purposes (other than for turf production). The Land Use Capability of the site is LUC2 and LUC3.

Potentially there could be an adverse effect on the soil resource. Further assessment of the soil resource of the site and context will be required to determine this matter, this can be commissioned subject to s92(2), and the applicant can be notified of this decision, or this information can be sought through s92(1)."

34. As part of public notification, individual notification letters were sent to a number of properties located along Ulyatt Road, Clarence Cox Crescent, Bill Hercock Street and Harold Holt Avenue.

SUBMISSIONS

35. The application was therefore publicly notified pursuant to the Act, on 13 December 2017. Submissions closed 1 February 2018.

36. Fourteen (14) submissions were received in total, within the time frames (see the submissions received attached **Appendix F**).

37. It is noted that an email was also received by NCC from a person named Becky Clare outside of the time frame (on 2 February 2018). This email recognised they were outside the submissions timeframe, and did not seek to be considered as a formal submission or late submission, and just wished to note their support of the proposal.

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38. The following summary gives a brief overview of the various issues raised in the submissions. Please note that these matters listed below are only a summary of the issues raised in submissions. Please refer to the full set of submissions as required. During the assessment in this report various parts of the submissions are considered specifically. Please note that some matters raised are beyond the consideration of this resource consent, such as requesting re-zoning of land, care requirements under the Retirement Villages Act 2003 and illegal driving behaviour. The submissions are attached to this report in **Appendix F**.
39. Discretionary Status of proposal
- How retirement complex proposals are considered in this area as opposed to residential proposals ahead of the reserve growth area being applied or not.
 - Residential zoning should be considered for the surrounding area. Noting that this cannot be contemplated within the scope of this resource consent
40. Effects on productive rural land
- Loss of productive land and soils
 - Displacement of existing productive use affecting land resource
41. Reverse sensitivity
- Retirement units being sensitive to state highway noise, and proximity to the highway
 - Retirement units being sensitive to rural production activities and effects
42. Traffic & Parking
- Adding more traffic to the road, concerns about traffic and pedestrian safety, speed environment
43. Effects on outlook and rural amenity
- Building construction and noise disturbance work to be completed. Suggestion to stage Ulyatt Road frontage first.
 - Related noise, dust and dirt along with the increased heavy vehicle traffic resulting from the building work.
44. Servicing
- Water supply concerns for Napier
 - Storm water connections and design
45. HPUDS and the Hawkes Bay RPS
- Has suitable consideration been given to these provisions and whether the proposal is contrary to the RPS
46. Natural hazards
- Consideration of Tsunami

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47. Bupa staffing levels and care

- Questions on suitable staffing levels for care. Note this is under the requirements of the Retirement Act 2003 and not able to be addressed through the RMA.

48. The issues raised will be addressed in this report either directly or in combination with the Section 104 Assessment of Environmental Effects on the Environment.

ASSESSMENT OF THE APPLICATION

Statutory Considerations

49. The application was received on 26 October 2018 (following the 18 October 2017 amendments to the Resource Management Act).

50. Subject to Part 2 of the Resource Management Act 1991, Section 104 sets out those matters that Council must have regard to as a Discretionary activity. See RMA s104 and 104B links here:

- <http://www.legislation.govt.nz/act/public/1991/0069/211.0/DLM234355.html>,

and

- <http://www.legislation.govt.nz/act/public/1991/0069/211.0/DLM234366.html>

51. As a Discretionary Activity, RMA Section 104 requires that subject to Part 2 of the Act, the Council must have regard to the actual and potential effects on the environment, and the objectives, policies, and other provisions of the District Plan, the Hawkes Bay Regional Policy Statement, National Policy Statements, NZ Coastal Policy Statement, National Environmental Standards and/or the Regional Resource Management Plan (including proposed and operative).

52. Weighing up under Section 104 is subject to Part 2 which sets out the purpose and principles that guide this legislation. This means the matters in Part 2 prevail over other provisions of the RMA or provisions in the planning instruments (e.g. regional plans) in the event of a conflict. Section 5 states the purpose of the RMA and sections 6, 7 and 8 are principles intended to provide additional guidance as to the way in which the purpose is to be achieved.

53. Section 104B states that after considering an application for a resource consent for a discretionary activity or non-complying activity, a consent authority—

- (a) may grant or refuse the application; and
- (b) if it grants the application, may impose conditions.

54. There are a number of relevant assessment criteria in the Plan that reflect the direction of the Plans objectives and policies framework in regard to the Main Rural Zone, and matters that should be specifically assessed.

55. The following assessment of the application has been carried out in accordance with these s104 and s104B of the Act.

ASSESSMENT OF ENVIRONMENTAL EFFECTS

Services and Infrastructure

Wastewater

56. The site currently has no wastewater connection. Wastewater is proposed to be connected into the main NCC services at Clarence Cox Crescent. This will require a pump station due to the size of the proposal site and lack of available fall (refer Appendix 4 within **Appendix A**).
57. NCC 3 Waters Team Leader Santha Agas has confirmed that the system design will require discharge at off peak hours:

“Wastewater – Our high level modelling shows that wastewater from Bupa can be discharged into main at Clarence Cox Cres. Developer has to design the system to ensure that discharge is only during off peak hours.”

58. I am advised by NCC infrastructure (see attached **Appendix G**) that subject to such a design being implemented and controlled by conditions, then the site can be suitably serviced for wastewater, if the Commissioner were to decide to grant consent.
59. This would suitably control and manage waste water disposal from the site, reliant upon the City network system.

Stormwater Disposal

60. The application includes a proposed stormwater disposal system based on primary and secondary treatment, and the reticulation of stormwater to three discharge points to the adjacent Cross Country Drain (Appendix 4 within **Appendix A**, and see **Appendix D**).
61. The primary stormwater system is proposed to be designed to convey flows of a 10 year return event and a secondary overflow system will accommodate a 50 year event.
62. The applicant has provided stormwater runoff calculations, and concluded in the civil servicing assessment that the impact of an additional 195 l/sec in the 1 in 10 year rainfall event is expected to be negligible compared to the catchment of the Cross Country Drain.
63. Through its submission, Hawkes Bay Regional Council (HBRC) raised a number of questions in relation to the discharges to this drain, and that NCC Infrastructure were satisfied to accept them. Through discussions held by the applicant with HBRC and with NCC officers present, these matters appear to have now been satisfied. HBRC Acting Group Manager Asset Management Gary Clode, recognises that NCC infrastructure accept the proposed discharges into its drainage network (subject to design). HBRC agreement to this is subject to an agreement made on stormwater discharge quality improvements with NCC infrastructure and the Applicant.
64. As a result of the submission made by HBRC, their agreement with NCC infrastructure and the applicant, and the further information request issued, the applicant has proposed conditions of consent, based on a concept plan provided (copy attached in **Appendix D**) and

including inert roofing materials. An excerpt of the concept plan is shown below in **figure 5** for ease of reference:

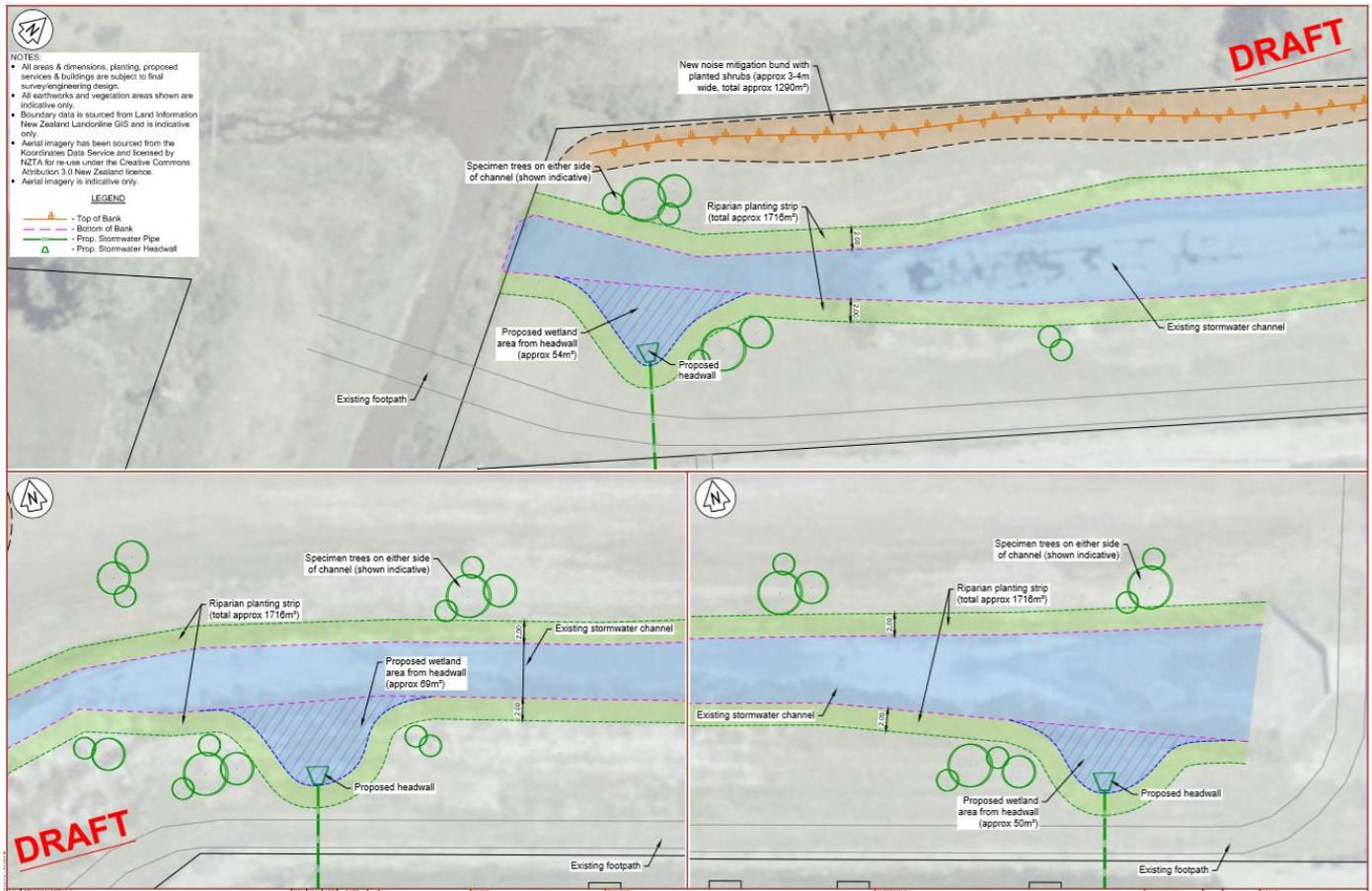


Figure 5. Draft stormwater connections/planting concept

65. This considers an early draft document prepared by HBRC (also shown in **Appendix D**). The proposal is to help improve the quality of stormwater discharges to the drain, and provides ecological benefits to the drain (through wetland plantings and shade). This can also provide aesthetic benefits, including to users of the footpath that follows alongside the drain.
66. NCC 3 Waters Team Leader Santha Agas, and HBRC Acting Group Manager Asset Management Gary Clode, have agreed to the following conditions offered by the applicant:

“1. That concurrent with the earthworks for the development of the land, the construction and landscaping planting of the adjoining land 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 prior to occupation of the proposed village.

2. A detailed design of engineering and landscaping planting referred to in condition 1 above shall be submitted for the approval of the Napier City Council prior to work commencing. 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.

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NOTE:

- A. *At this stage NCC does not have any budget for a contribution to the plantings and is unlikely to contribute to the planting, and;*
- B. *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.*
- C. *Its noted that in regard to stormwater, all primary treatment is required to be within the development site and not within the drain corridor.*
- D. *Access for maintenance of the headwall and wetland shall be provided.”*

67. Having regard to the technical stormwater report and the comments received from NCC Infrastructure, and the agreement reached between the applicant, HBRC and NCC, I am satisfied that any adverse effects arising from stormwater disposal can be mitigated through design conditions. This is subject to incorporating the above offered conditions and conditions that can control the design of infrastructure on site. The environmental benefits of the proposed ecological plantings are also noted. It is noted that NCC has an existing stormwater discharge consent in relation to the Cross Country Drain, which bounds the site to the north and the west.

Water supply

68. The site currently has no water connections. The applicant proposes to connect to the existing 200mm main on Bill Hercok Street, 50m to the north of the site.
69. NCC infrastructure advise that the proposed connection is suitable subject to conditions requiring conformity with the NCC engineering Code of Practice. It is noted that Irrigation water can also be provided from sources other than the NCC potable water supply.
70. The submission of R Arrell (refer Appendix F) specifically raised concerns in terms of the existing NCC water supply and capacity to service the proposal. Mr Arrell submitted that:

“The water resources of Napier City are barely adequate to sustain the present population and this problem is exacerbated by allowing this development to proceed. (Water Crisis reported in HB Today 30/11/17)”

And:

“Concern the water infrastructure of Napier City is not adequate for allowing any further large scale housing developments. Paragraph 6, page 16 in the Site Selection, there was no regard for adequate water availability. If 'service infrastructure' was meant to include 'water' then the events of late November have shown how illusory this assumption is.”

71. These concerns were raised in the context of a water supply issue Napier faced in November 2017 when it required reduced usage of sprinklers and conservation of water across Napier. NCC infrastructure have provided specific comment on this, stating that:

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“The event publicised in the Hawkes Bay Today was a one off event and not a true reflection of the capacity of water infrastructure. Briefly, it was caused by unexpectedly high demand, which coincided with existing maintenance works on the network.

Water restrictions are part of the water conservation/efficiency requirements under Napier City Council’s water take consent. They are also used to assist for water demand within the capacity of the network to avoid excessive capital works to provide peak day demand and maintain low rates.

Napier City Council has benchmarked its water use nationally. This indicated that the City’s water use is high. There is significant capacity to be available when per capita consumption is reduced. A small reduction in per capita use is described in the 2018 Water Activity Management Plan.

Napier City Council is working with HBRC through the TANK planning process to ensure that our current consent for water is maintained to allow for growth until 2048. There is currently sufficient head room in the Napier City Council consent to allow for growth for the next 30 years.

Napier City Council has a new model of the water network, which has not indicated any significant issues.

In terms of Water efficiency / conservation, Hawkes Bay Regional Council has confirmed that the Heretaunga aquifer is at or close to its allocation. New water takes are capped. Napier City Council is working with Hastings District Council and Hawkes Bay Regional Council to promote a consistent regional message around water conservation. Napier City Council is expecting to implement water restrictions in the future over summer. Residents have rarely had water restrictions placed on them in the past, which may lead to the incorrect perceptions of the network.”

72. I note the concerns of Mr Arrell and that they have been raised in regard to this proposal. I consider that reliant on the advice of NCC infrastructure, that the proposal can be provided with an adequate water supply in accordance with conditions and the Code.

Transport

73. A Traffic Impact Assessment (TIA) was provided as Appendix 3 of the Application (in **Appendix A**).
74. The proposal includes 167 on site car parks (being more than the 126 required by the District Plan).
75. Vehicle access to the site is proposed to be direct from Ulyatt Road. Two access points are located towards the northern and southern ends of the road frontage. Ulyatt Road carries approximately 5,000 vehicles per day and is classed as a ‘collector’ road in the District Plan roading hierarchy.
76. The site fronts the part of the road that transitions from a rural speed limit (100km/h) to the residential speed limit (50km/h)
77. The TIA provided finds that the level of additional traffic generated will be relatively low (approx. 500 trips per day) and that this is within the capacity of Ulyatt road.
78. It is proposed that the Ulyatt Road frontage of the site is upgraded to an urban standard, which includes kerb and channel, a footpath to link with Bill Hercocock Street, and a sealed shoulder for cyclists. The details of this are shown below in **Figure 6**:

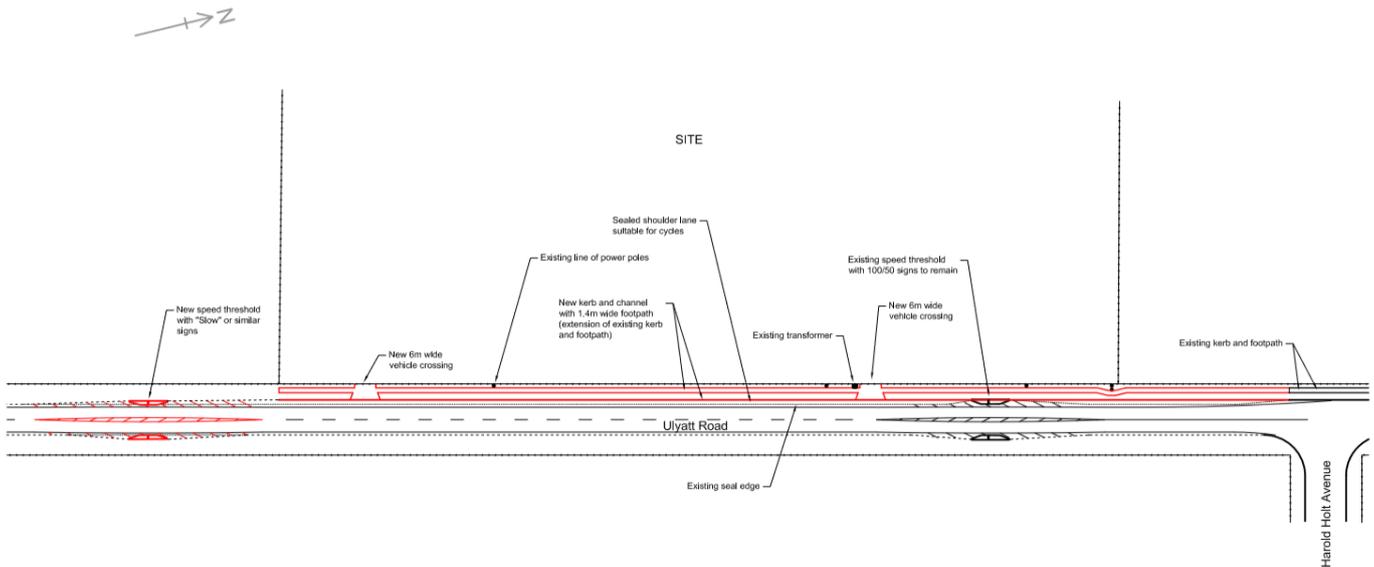


Figure 6. Proposed Ulyatt Road frontage treatment

79. The TIA recognises that the site fronts the existing transition from 100km/h to 50km/h and proposes the use of ‘slow’ signs and road design (visual/environmental change) at the position indicated.

80. The Submission of C Newman, a local resident raises concerns in terms of safety including:
“I don’t believe the current roading/footpath infrastructure will be fit for purpose with another 150+ people using it”

And

“There is a high level of traffic along Harold Holt Ave considering it is a residential area. Vehicles regularly travel in excess of 50km/hr along the end of Harold Holt Ave where it meets Ulyatt Rd. They then speed in excess of the 100km/hr speed limit on Ulyatt/Tannery Road. This area is victim to high levels of anti-social behavior with cars speeding, burning out tyres and skidding through bends and junctions. Adding more vehicles travelling through this area will not slow people down, simply cause more aggressive driving and obstacles in their line of fire. I feel there is already significant risk to residents, especially families with young children, which will not decrease with increased volumes of traffic.

There are no pathways along Ulyatt/Tannery and the iway alongside the highway only goes part of the distance to Meeanee. The proposal for a pathway only covers the length of the development area, what about the rest of the road? Are the older generations going to be walking along the berms with cars flying pass them?

Street lighting in the area is currently very poor and I can only assume that residents out in the evenings will be a walking target.

I live very close to the roadside and don't want to be witness to someone being harmed in a motor vehicle related incident.”

And seeks that consent be approved on the following basis:

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“Approve - However, I want to see the areas roads made safer. I don't feel that the current infrastructure can accommodate safely the current residents, never mind 150+ pensioners on the roads and footpaths!”

81. The submission of A Currie of 45 Ulyatt Road supports the proposal and makes the following comment:

“Living on Ulyatt Rd as a family with young children we have always had a fear of the cars going past at 100km/h. I am assuming that with a new footpath, and kerb the speed limit will drop also which will greatly increase safety for our young.”

82. The submission of M and A Turner also mentions in their submission, in relief sought that:

“Speed limit on Ulyatt Road will have to be decreased together with SPEED BUMPS due to the high volume of law breakers and speed racers that use Harold Holt, Ulyatt Road and Tannery Road as racing tracks.”

83. NCC Transport Engineers have reviewed the TIA provided, which they agree with, and also the submission of C Newman specifically as it covers transport safety and speed. Their advice is attached in **Appendix H**. They have provided the following comments, which are related to the upcoming review of the transport network speed environment:

*“Ulyatt Road has been identified as a section of NCCs road network that requires a review of the existing 100 km/h speed limit between its intersection with Tannery Road / Waverley Road and the 50 km/h section to the south of Harold Holt Avenue. The proposal (*I NOTE NOT YET MADE) is to change the speed limit to 80 km/h between the intersection of Tannery Road / Waverley Road and the Southern extent of the BUPA development. Additionally, to extend the existing 50 km/h southwards to the new 80 km/h section. This is expected to assist with controlling the speed environment of the road, particularly in the vicinity of the rural / urban boundary which will be reinforced by BUPAs offer to install a threshold treatment at the 50 km/h / 80 km/h boundary.*

•Upgrades to all of the street lights along pedestrian routes within Napier are planned for completion over the next two financial years.

Harold Holt Avenue and Ulyatt Road both have the capacity and infrastructure in place to easily accommodate current demands and the anticipated increase in demand likely to be generated by the proposed development. The illegal driver behaviour is an issue that the Police are aware of and needs their intervention to resolve.

BUPA have proposed to construct the footway along their frontage with Ulyatt Road through to the existing footway network at Harold Holt Avenue. This will then provide a continuous link between Harold Holt Avenue and Burness Road in Jervoistown via the pathway alongside The Expressway. This pathway is being considered for extension to Meeanee Road. The anticipated minimal demand for a footway further south alongside Ulyatt Road and Tannery Road does not justify construction at this stage. It is expected that there will be additional pedestrians on the footpath network in the area, generated by the development, particularly to the north alongside Ulyatt Road. However, the number is very unlikely to be 150+ at any one time with the other travel mode choices BUPA residents will have available.”

84. The traffic concerns raised in the submissions are matters that Council can consider in terms of the design of the road network. Though any actions of drivers acting outside of the law is

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a matter for the police, the Council seeks to enable or provide a roading network that discourages such behaviour through design when possible.

85. The upgrade of the frontage of the subject site will help encourage safer driving (as opposed to encouraging more dangerous driving), and from a transport safety perspective NCC Transport Engineers agree with the TIA provided and support the design put forward.
86. On this basis I rely upon the expertise of the Councils and the applicants transport engineers, to come to the conclusion that the proposed design will ensure a suitably safe driving environment for those that abide by the Road code.
87. Outside of the scope of this consent (because it's a separate public process) is that Council is currently reviewing its speed limit controls, and can take a closer look at this area and any changes to the speed limits required as part of that process.

Effects on Cultural and Heritage Values

88. The site contains no known features of Cultural or Heritage value. There are no sites of significance to Māori noted on this site, and there are no known heritage items or archaeological sites. It is also noted that local iwi authorities were directly notified of the proposal, and no submissions were received (being Te Taiwhenua o Te Whanganui-a-Orotū, and Ngāti Pārau hapū)
89. No adverse effects are anticipated in relation to Cultural or Heritage values.

Natural Hazards

90. A Natural Hazard Property Report has been produced via the shared Council Online Hazards Portal (Copy provided as **Appendix I**). This confirms in association with the application documents that the site is within an area of High liquefaction vulnerability and is subject to earthquake amplification. The site is located within a flooding area. The site is also in a Tsunami inundation hazard area. These matters are considered in turn:

Geotechnical stability

91. In terms of the geotechnical stability of the site, a preliminary geotechnical report has been provided with the application (refer Appendix 5 within **Appendix A**). The site if developed will require substantial earth and structural design works to ensure a suitable design.
92. Relying upon the geotechnical expertise of RDCL, and subject to the design requirements outlined in the geotechnical report, the site can be safely developed under expert geotechnical supervision, at the cost of the developer.

Flooding

93. It is proposed that the site will undergo significant ground development work to enable safe building and infrastructure design and to also manage stormwater discharging from the site into the Council drain. In terms of flooding risk, it is anticipated that a minimum floor level can be required at the time of design if required. This can be achieved by a condition of consent if necessary. It is noted that NCC infrastructure would otherwise recommend a level of RL12.2 under the current site circumstances (without the site design controls).

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94. For example the site levels are proposed to be raised across the site as indicated on the below elevation **Figure 7** below.



Figure 7. Existing and proposed site levels in relation to central buildings

Tsunami risk

95. As outlined in the attached hazard report, Tsunami are a relevant risk to the east coast of New Zealand. They are a low probability but high impact risk that poses a major issue to most of Napier.
96. That said, the tsunami risk at the subject site is no greater than many other parts of urban and rural Napier. Most of the Napier area is at risk of tsunami, including the as yet undeveloped residential zone areas in Te Awa, as well as the other identified greenfield growth areas identified in HPUDS and in turn in the HB RPS.
97. This an issue for all of Napier, and there are associated difficulties with providing for development in areas less at risk of tsunami in higher elevated areas.
98. It is recognised that the safety of residents in the proposed lifestyle villas, apartments and care facilities should be promoted as far is practical with this low probability type of event. Bupa New Zealand of course also have duty of care under the Retirement Villages Act 2003.
99. The matter of tsunami risk was put forward to the applicant as part of the further information requested. Their response was practical in that they propose to provide an evacuation plan as a condition of consent. I note from the plans provided that they are proposing to design earthquake resistant buildings and there may also be opportunities to utilise the upper storey of the proposed complex as an evacuation point potentially. This detail can be provided with a condition of consent if necessary.
100. It is noted that a tsunami warning is provided through the mechanisms of the Civil Defence Network (Tsunami warning alert systems).

Reverse Sensitivity

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101. With this proposal there are two main potential areas of reverse sensitivity (where the proposed use is sensitive to uses already legitimately established or allowed for by zoning e.g. orchard spraying). These are in terms of noise from traffic on the nearby state highway, and the surrounding rural zone where a variety of rural and horticultural activities take place.

Acoustic

102. The matter of acoustic effects from traffic noise was considered in the applicants AEE. This was further considered in the submission from NZTA seeking the imposition of conditions ensuring noise from the state highway can be managed through the acoustic design of the proposed buildings within a certain distance of the highway.

103. I have been advised by the applicant and NZTA that conditions have been agreed between the parties to ensure suitable control of this potential effect. This agreement and the conditions are included in **Appendix J**.

Retirement complex within a productive area

104. The site is located within a working rural environment that supports a range of land based primary production activities at varying intensities and on landholdings of varying sizes.

105. The applicant has proposed a no-complaints covenant condition to ensure inhabitants are informed of the potential effects they may encounter when residing in the rural environment. This can be a useful tool to raise awareness of what to expect from surrounding rural uses.

106. In terms of the southern boundary of the site (which would have to be determined by a subsequent subdivision consent), a 3m setback is proposed along this boundary, this is the closest point of the site directly adjoining an existing productive use.

107. The submission of S Rogerson has specifically raised reverse sensitivity as a concern, and I have specifically sought feedback on this aspect from the applicant (in the s92 request), and from soils expert, John Wilton, Agfirst (Agfirst report Appendix B). Mr Wilton has commented via email that:

“1. 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.

2. I do not see a reverse sensitivity issue arising from spraying on orchard some 300m distant. Established retirement villages in the Hastings/Havelock North area such as Summerset in the Orchard, have orchards adjacent to their boundary and Mary Doyle has established orchards within less than a 100m from their boundaries.”

108. The applicants planning expert Mr Knell considers that the no-complaints covenant proposed and the 3m setback is sufficient to mitigate any reverse sensitivity effects. In conjunction with this it is recognised that Bupa New Zealand need the agreement of the current land owner

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(being Leighton and Lisa Curry), of which they could presumably gain affected persons consent from, who currently use the balance of the site for turf production activities. If the current owner was concerned about effects on their business (if they are staying) they would not have to agree to selling their land/site layout proposed.

109. In terms of the future use of this adjoining rural land on the southern boundary this could change and a different rural use could establish (such as summer cropping), or the current use could continue under a the same or a different operator. This area could also at some point go through a seperate plan change for an urban zoning (being within a reserve greenfield area in HPU DS). However, no certainty is available from trying to crystal ball gaze, and it is my opinion that the management of a suitable setback could be pro-actively managed in this case whatever happens with the current use or future use.
110. The Napier District Plan recognises a residential setback of 6m in its Main Rural Zone (being based on 1 house per site, with a site size of 4ha recognised by the Plan rules). Other District plans use a range of setbacks such as 15m and 30m (Hastings District Plan for example Rural Residential interface with the Rural Zone) to provide sufficient separation distances.
111. In my opinion a 6m separation (recognising the Napier Plan context for the Main Rural Zone) on the southern boundary of the site would as a minimum provide a more sustainable pro-active separation between the proposed used and continued rural uses of the balance site. 15m or 30m could be more sustainable still but there is always a balance in terms of land use efficiency and the effects of rural uses.
112. As the proposal is subject to a subsequent subdivision, I consider that a minimum setback for retirement villas from this boundary could be set by a condition of consent as 6m, if consent were to be granted.
113. I acknowledge that I understand from Mr Knell that the applicant may seek to apply more restrictive private land covenants within proximity of the southern boundary. These could potentially achieve the same or a better management result as a 6m setback, and I would be open to considering this if provided.
114. In terms of the surrounding area, given the width of Ulyatt Road, the building setbacks from the road and the volume of traffic carried, less than minor adverse reverse sensitivity effects are anticipated between the proposed site and the sites opposite, which is a mix of residential/rural uses.

Effects on Rural Character and Amenity

115. The application includes a Landscape and Visual Assessment prepared by Shafer Design. It is useful to refer directly to the findings of the visual assessment summary and conclusion in 5.1 and 5.2 of that report respectively (Appendix 2 within attached Appendix A).
116. It should be considered that as part of this the proposal otherwise includes infringements on the Plans height condition (with the highest point of the apartment building at 13.905m in lieu of the 9m required from existing ground level) and on the setbacks otherwise required by the zone:
 - On the proposed southern boundary (3m setback in lieu of the 6m setback)
 - On the northern boundary (4m setback in lieu of the 6m setback)

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- On the front boundary with Ulyatt road some (but not all) of the villas are 6m from the front boundary setback in lieu of the 7.5m setback.
117. The Shafer Design assessment includes a full set of visual plans including landscape context, visual catchment, various viewpoints, planting and landscape concept plans, landscape examples, north, west, south and east boundary cross sections (including permeable fencing and landscaping on all boundaries), street cross sections, apartment elevations, internal walkway seating concepts, and landscape montages. These help provide a fuller understanding of how the proposal is designed in terms of how it can sit within the context of the area.
118. The resource consent was of course publicly notified, and directly notified to all the property owners along this area of Ulyatt Road, the back of Clarence Cox Crescent, and the nearest section on Harold Holt Avenue (if it assists the commissioner the direct notification excel spreadsheet can be provided which includes owner details).
119. As part of the decision to publicly notify this resource consent, part of that decision was in regard to taking a precautionary approach on the potential effects on rural character and amenity (refer to notification section above and the extracts taken from the s95 notification assessment).
120. This was essentially because the proposal will specifically change 5ha of open Main Rural Zone land currently used for turf production into a 5ha retirement complex type urban expansion of Napier. The introduction of 99 homes, 19 apartments and a 49 unit care home complex on site with associated facilities will change the site from having rural character and amenity to a retirement complex character and amenity. The development of the site including up to 80,000m³ of earthworks adding elevation to the site will also form part of this change. Whether this is an adverse environmental effect is subjective in context. Notification to all nearby residents was part of testing this and seeking to work this matter through.
121. After going through the submissions process there were only two submissions made that raise points in terms of visual effects, or effects on rural character and amenity. These being from K Lane in support and M and A Turner in opposition (note they seek that consent be approved subject to a number of matters) – the relevant excerpts from these are shown as follows for reference:

K Lane:

“Overall scheme fills a growing gap for the city and will enhance and amenity value of Pirimai South”

M and A Turner:

“We have potential loss of business (guest accommodation) as a result of the construction process (noise, traffic, view) in addition to permanent loss of views as a direct consequence of the multi-story towers”

“We appreciate the road upgrade, footpath etc. is a good outcome of the project however this is no reason for us to suffer in terms of outlook, business or future investment potential. “

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“There's no sense in arguing a complex that could potentially house 285 persons (the villa's and apartments are not single person builds) retains a rural environment. It changes the whole community, population, foot traffic, road traffic and environmental outlook.”

122. As the submission of M and A Turner (22 Ulyatt Road) points out there will of course be a change of outlook in this location from an open rural view across the existing turf business to an urbanised extension of Napier. Whether this is a more than minor adverse effect remains subjective and depends on perspective. I note that from a direct outlook perspective this submitters property is positioned as shown (Figure 8):

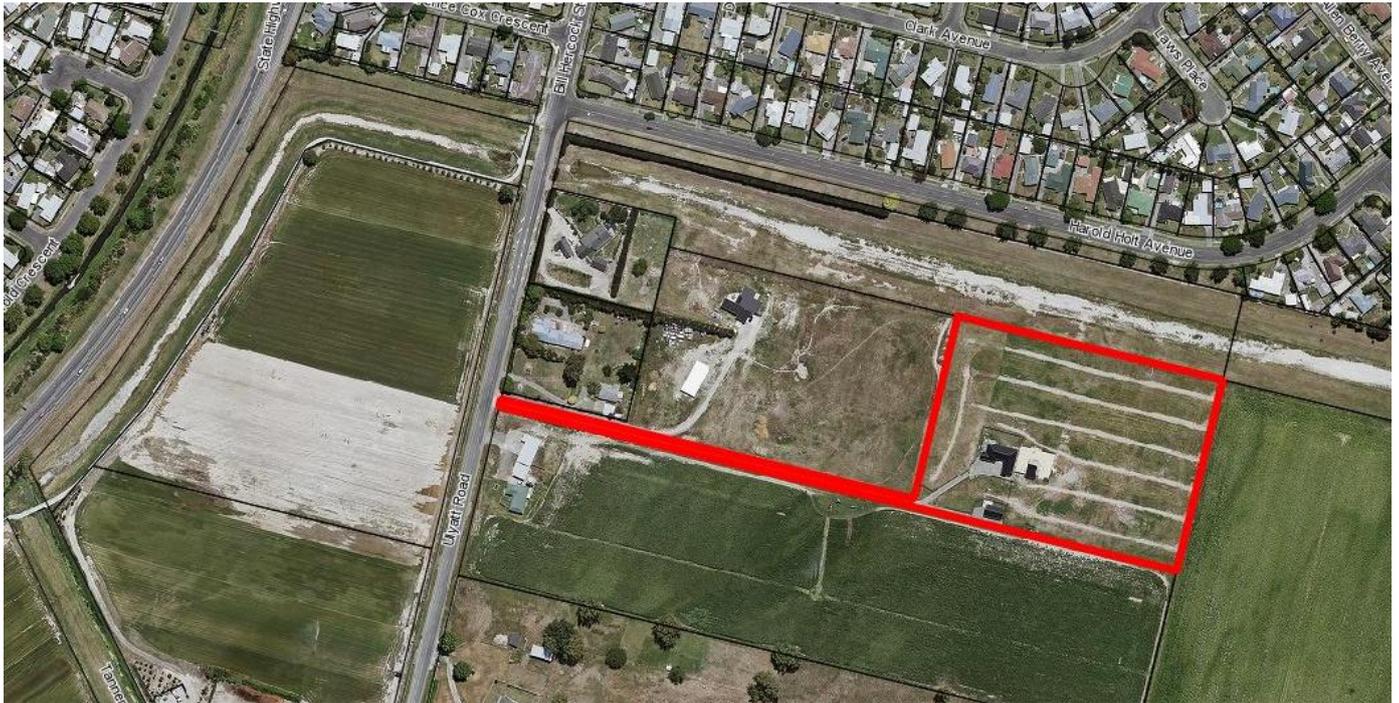


Figure 8. 22 Ulyatt Road.

123. I therefore consider that:

- The thorough landscape and visual assessment provided supports and concludes that there are likely to be no adverse effects on the amenity of the nearby residential properties;
- It also concludes that the building is of a high design standard and there is unlikely to be any effects caused by shading or overlooking, given the separation distance and the landscape treatments;
- If granted, conditions of consent can be imposed in relation to the landscape plans and treatments proposed to ensure softening and integration of the appearance of the development;
- A 6m setback with landscaping is proposed along the frontage of the site on Ulyatt Road, which will to some present an attractive landscaped urbanised street frontage (for example the submission of K Lane);
- The height infringements of the central facility has been effectively mitigated through design and being within the centre of the site;
- The effects of construction and earthworks will be relatively temporary in nature and can be subject to robust conditions;
- There has otherwise been a lack of submissions raising concerns of visual amenity or rural character;

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- Only 1 submission raises concern about the adverse effects on rural character and amenity. Whilst their concerns are recognised and are valid, from a direct outlook perspective this submitters property is setback from the other side of Ulyatt Road (number 22), on a back section.

124. Based on the above, and in part reliant on the expert visual assessment, I come to the opinion that the effects of the proposal in context are likely to be minor. There would certainly be a change in view/outlook and character but I consider that it is not a more than minor adverse effect in context.

Soil resource

125. The site is within a productive rural zone and proposes a non-productive use.
126. The submissions of HB Fruitgrowers Association, and S Rogerson specifically raise concerns over the effects of the proposal with the loss of productive land and soils. It is a concern that the site has a current productive use being turf production. It has in the past been used for pastoral farming. In the Agfirst soils assessment it is also recognised the site could be used for summer cropping (page 3 in **Appendix B**). The Soils assessment also raised concerns on viability (pugging and compaction in terms of stocking rates) of winter grazing.
127. Another concern is that the present use of the site may seek to relocate to another area of the Main Rural Zone, effectively transplanting the use and potentially reducing (relatively) the overall rural land resource. This would be difficult to ascertain or control but perhaps the applicant/current owner may be able to inform what is expected if the proposal were to go ahead.
128. In any case, a judgement of opinion is required from the relevant expertise provided by the soil assessment commissioned by NCC. Mr John Wilton of Agfirst has considerable experience with the productive soils of the Heretaunga Plains and the wider rural areas of Hawkes Bay. In his assessment of the site, the expertise of which I rely upon as read, he finds that:

“Among the Heretaunga Plains soils, the soil type on this site is one of the least versatile. Apart from its present use for turf harvest, it would be best suited to summer cropping. As the soil is very difficult to manage when wet and can suffer from pugging and compaction, trying to farm it through the wet winter period would present problems, even in regard to using it for winter grazing as it would not stand high stocking rates due to pugging and soil compaction.

To the best of my knowledge there are no vineyards or tree fruit orchards planted on soil type 27, Meeanee clay loam. Incidentally, there are a number of high performing orchards in Meeanee. These are planted on the Farndon soil series, not the Meeanee soil series.”

And

“In conclusion, it is my opinion that loss of this site to urban development will have minimal impact on the life supporting capacity of the wider plains soil resource.”

129. In considering the definition of effect (which includes positive and adverse effects, temporary or permanent effect, any past present or future effect regardless of scale, intensity, duration or frequency), it is clear that the proposed development of the site will permanently remove the sites soils from the limited opportunities available to it of being used for land-based

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production. However their value is such that *“Among the Heretaunga Plains soils, the soil type on this site is one of the least versatile”* and that *“loss of this site to urban development will have minimal impact on the life supporting capacity of the wider plains soil resource”*. As a result, and based on the soils expert advice, I am satisfied that in this case the effects of the proposal on the soil resource of the site and the wider area are relatively minor. I say this whilst recognising and respecting the principles of the HB Fruitgrowers Association in seeking to protect all productive land and soils within the region.

130. As noted in the HBRC submission: *“Subsequent to notification of the application, Mr Lambert forwarded a report from Agfirst which had been commissioned by the NCC. This report has assessed the effects of the proposal on the soil resource. It concludes that the loss of the site to urban development will have minimal impact on the life supporting capacity of the wider plains soil resource. This report would appear to align with the identification of the site within HPUDS as a reserve area broadly suitable for residential development in the future.”*

Earthworks

131. The earthworks as part of the proposal are required to establish the site and the new building platforms for the dwellings/buildings, along with the associated internal access roading to provide for ground levels that enable direct entry level access for the users of the units. Furthermore, earthworks will also be required for site-wide landscaping and stormwater management. Overall, it is expected that around 80,000 cubic metres of earthworks will be required across the 5ha area.
132. This is a large development and suitable management of earthworks, during the temporary time period that they are undertaken, are key if consent were to be approved. This includes the need for an erosion and sediment control plan for approval prior to works, and a suitably robust set of conditions controlling sediment and erosion control (especially in relation to the drain), dust, stockpiling, re-grassing and control of debris leaving site.
133. It is considered that such conditions are likely to be sufficient and suitable to manage and mitigate any actual or potential effects arising as a result of the proposed earthworks and are consistent with normal practices employed for such works. It is noted that the applicant also has to comply with the HB RRMP permitted rules (e.g. rule 48) in this regard also.
134. Noise during construction is subject to the NZ standard. Through management of the construction process this should be achieved. Appropriate conditions of consent can be implemented to ensure earthworks and construction are limited to the hours of 7.00 am - 5.00 pm Monday – Friday, and 8.00 am – 5.00 pm Saturday and that all earthworks operations shall be so conducted as to comply with the provisions of New Zealand Standard NZS 6803: 1999 Acoustics – Construction Noise.
135. Accordingly any adverse effects associated with earthworks construction will be both temporary and can be managed through conditions to be minor in relation to the wider environment.

Noise Effects

136. The anticipated noise likely to be generated by the proposed development will be residential in nature and would comprise noise from pedestrian and vehicle movements from occupiers, visitors, service vehicles and people activity. It is anticipated that noise from the proposed development would generally comply with the underlying plan standards.

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137. It is also important to recognize the existing noise levels given the proximity to the State Highway and rural activities in this area.
138. As mentioned above, if consent were to be granted the main potential for increased noise levels would be during construction. This would be required to be in accordance with the relevant NZ construction noise standards which could be controlled through conditions of consent.
139. Given the above, it is considered that any impacts of noise therefore would be relatively minor subject to these obligations being met.

Cumulative Effects

140. It is recognised that the extent of productive rural land resource is limited in Napier and cumulative effects are a relevant consideration. The District Plan provides some direction on this through the specific assessment criteria 39.3 1 y). In this regard the proposed use is unlikely to have an adverse cumulative impact, and appears to be suited to this area. It will be located next to the existing residential zone on a road and pathways that can accommodate the traffic likely to be generated by the activity. The effects will be relatively in keeping with the surrounding residential uses.
141. I agree with the opinion of the applicants planner Mr Knell, in particular the second paragraph, as set out on page 24 of his AEE which states that:

“The proposed activity has been assessed as to its effect on the existing environment. In this regard there are no cumulative adverse effects that have been identified in combination with either existing or activities granted consent, where that consent has not yet been given effect to.

As a discretionary activity, Council can manage the potential for cumulative effect to arise from any future discretionary or non-complying use of the rural land within the area.”

Summary

142. It is considered that the following environmental effects arising from the proposal will be no more than minor in terms of RMA section 104(1) as:
- While the site could continue to be used productively in terms of turf production, or that it could be used for summer grazing. Its soil value in terms versatility is particularly low in accordance with the expert assessment of Agfirst.
 - It is accepted the proposal will result in a change to the visual appearance of the site and how it fits in with the surrounding environment. This is to be expected with a proposal of this nature in this location given the existing open rural nature of the site. The proposal will therefore result in change and some impact on character and amenity, however these are considered to be at a scale and of a design that are appropriate for this site and local environment.
 - The proposed units will be designed to ensure that an adequate level of internal acoustic performance is achieved where the site is within vicinity of the Expressway.

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In combination with the proposed no-complaints covenant, and setbacks, this can alleviate potential reverse sensitivity effects.

- The anticipated noise likely to be generated by the proposed development will be residential in nature and is likely to comply with the Main Rural Zone standards. Given the occupancy and age of residents it is considered that any noise effects would be less than if the proposal was for a standard residential development where a cross section of ages and a higher level of 'living' noise would be expected.
- The proposal provides for more than the required number of parking spaces for the retirement complex and likely visitor needs.
- The vehicle accesses are of a width and location that will suitably cater for the proposed activity with no more than minor adverse effects on the wider environment.
- The site can be suitably designed and connected to the road network though the two vehicle accesses proposed on Ulyatt Road and will not result in more than minor adverse effects on traffic and pedestrian safety.
- No more than minor adverse effects have been identified with the proposed increase in traffic, subject to the design of the development, its access points and the road upgrade. With the advice of the expert Transport engineers, it is considered the wider roading network can cater for the likely increase as a result of the proposal. The nature of the proposed development means that peak traffic generated from the site is not likely to occur during commuter morning and afternoon/evening peaks but rather during the morning and afternoon periods and middle part of the day as well as on weekends. The road network can accommodate the anticipated traffic generation.
- NCC infrastructure have confirmed the proposed approach to water supply and wastewater disposal is appropriate and there is capacity in the wider network to cater for the demand produced by the development.
- The proposed development can connect to Council's reticulated services and storm water can be discharged from site to the Council drain network.
- Whilst the construction and earthwork process and effects for this development has the potential to result in temporary adverse effects on the wider environment, they can be addressed and managed through appropriate management and conditions.

POLICY AND PLAN FRAMEWORK CONSIDERATIONS

(Assessment Criteria, Objectives, Policies, NES, NPS, NZCPS, RPS and RRMP)

143. The following provides consideration firstly against the specific assessment criteria in section 39.3 1, and secondly against the relevant objectives and policies of the various planning documents required.

Napier District Plan Rural Environments Chapter 39 Assessment Criteria

39.3 ASSESSMENT CRITERIA FOR PARTICULAR LAND USES

Residential Care Facilities, Retirement Complexes, Travellers' Accommodation, Day Care Centres and Education Facilities.

The Council will have regard to the relevant objectives and Policies of this Plan and in addition will consider:

Intensity of Land use

- a) *Whether the land use will contribute to the efficient use and/or development of natural and physical resources within the City and whether any alternative sites, locations or zones have been considered.*

144. Mr Knell has provided an assessment of 'development pattern' and 'site selection' on pages 15 and 16 of the AEE (**Appendix A**) that are pertinent to this criteria. Point B on pages 1 and 2 of the section 92 response (**Appendix D**) adds further consideration of alternative sites and locations. I have considered all those points made, and without needing to repeat them all, I agree with the points made generally and they rely upon parts of HPUDES (Retirement Sector Housing Demand Forecasts 2016-2045). I consider Mr Knells assessment confirms that the retirement complex land use is likely to contribute to the efficient use of this site, and that alternative sites were considered by the applicant.

- b) *Whether the land use provides any positive effects to the surrounding environment and wider community, including the extent to which the land use may enhance amenity values of the area.*

145. The proposed retirement complex is likely to provide a number of positive effects to the surrounding environment and wider community including but not limited to (and points iv-vi may enhance amenity values):

- i. Additional housing options for older citizens in Napier and Hawkes Bay
- ii. Contributes to meeting the expected need for housing for our ageing population
- iii. Progressive on site care options for residents
- iv. Connections with the pedestrian footpath network with Pirimai and Iway path network
- v. Upgraded road frontage
- vi. Landscaped frontages and internal design with connected landscaped walkways, designed by a landscape architect
- vii. Ecological plantings along the Cross-Country Drain
- viii. Economic benefits from development

- c) *Whether the impact of the scale and intensity of the use is compatible with surrounding land uses.*

- d) *Whether the land use will have any adverse effects on outstanding natural features significant landscapes, rural character and amenity of the surrounding area.*

The Council will have particular regard to the potential for visual and noise impacts and may require the provision of landscaping and other mitigation measures over and above those required by the rules within the rural environments.

146. In terms of criteria c), and d), there will be some impact in terms of the scale and intensity of the retirement complex with surrounding land uses, given the site has an existing open feel, and sits on the edge of the Main Rural Zone adjoining Pirimai. It has however been designed to be compatible with the surrounding uses through landscaping, permeable fencing, and

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smaller scale single storey buildings around its edges. The larger complex and apartments are in the centre of the site which helps avoid domination of scale. The use will fit well with the established residential areas to the north and west, and will extend the urban edge of Napier.

147. The site is not near or within an area identified as an outstanding natural feature or significant landscape. It does have an open rural character with the current large lawn areas of the turf production business visible on each side of the site.

148. However, for the reasons set out in the assessment of effects on rural character and amenity previously, it is considered that there is not a more than minor adverse effect on local rural character and amenity. Part of this is that well designed visual mitigation through landscape design, permeable fencing and site set out, as well as design controls on noise (from the state highway), and the use of no-complaints covenants all help mitigate and integrate the proposed use with this location on the edge of the Main Rural Zone.

e) Whether there are any effects of a low probability, but high potential impact.

149. In accordance with the assessment of effects above, it is considered that the natural hazard risks to the site (geotechnical, flooding and tsunami) are all on different scales of low probability, but that can have high potential impacts. In terms of geotechnical effects and flooding impacts these are effectively managed through the design of the proposal. Tsunami risk can only be practically managed through evacuation planning, which the rest of most of Napier faces also.

f) Whether the establishment and operation of the land use would adversely effect the amenity of the rural or rural settlement or Jervoistown areas, or result in significant social or economic impacts.

150. In accordance with the assessment of effects above, it is considered that the proposed use is not likely to result in more than minor adverse effects. The proposal also won't directly impact the Rural Settlement or Jervoistown Zone areas. The proposal is consistent with this criteria.

g) Whether the establishment and operation of the land use would adversely effect the efficient use and/or development of natural and physical resources of any other zone or result in significant social or economic impacts.

151. The proposal could potentially be considered to be using rural land at the expense of greenfield residential areas that are serviced specifically for residential development or a retirement complex. In this case however the site is on the edge of the existing residential zone, and can be suitably serviced by Napier's existing infrastructure in this location. It also happens to be in a reserve growth area with one of the least versatile soils in the Heretaunga Plains. The proposal is not contrary to this criteria.

h) Whether the land use's hours of operation would adversely affect the amenity, health, safety and wellbeing of surrounding land uses and residents.

152. The proposed retirement complex is likely to fit in with the surrounding residents due to its very nature. There are unlikely to be adverse effects in terms of hours of operation as such. The proposal is not contrary to this criteria.

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- i) *Whether the volume of traffic likely to be attracted to the site is likely to cause an effect on the neighbouring people and environment including the road network and traffic safety and efficiency.*
153. The effects of traffic and safety have been considered by the applicants expert transport engineer and NCC transport engineers, and subject to the design proposed and conditions to ensure they are implemented that the effects will be no more than minor and can be mitigated. Specific comments have also been provided in terms of illegal road use and the separate process for Council to review the road speeds in this location.
- j) *Whether the site is a suitable size for the type and number of persons being catered or cared for.*
154. Bupa New Zealand are purchasing a specific land area to cater for its needs, and if consent is granted will follow this by adjusting the boundaries of the existing land titles to enable the 5ha area (give or take) that is required for this activity.
- k) *Whether the proposed land use will have an adverse effect on any cultural values or heritage values of the area.*
155. As considered in the assessment of effects, no adverse effects are anticipated in relation to Cultural or Heritage values.
- l) *Whether the land use will contribute to the social and economic well-being of the community, including for the purposes of diversifying land uses complementing primary production such as agricultural, horticultural and/or viticultural activities.*
156. The retirement complex will contribute to the social and economic well-being of the Napier Community. The use does not specifically complement primary production, but it has been designed to integrate into this particular location.

Design and External Appearance

- m) *Whether the design of buildings, structures and carparking areas maintains streetscape qualities, including whether paved areas associated with manoeuvring or parking dominate the streetscape.*
- n) *Whether parking and storage areas are adequately screened from adjacent sites, public places and roads by fencing and/or landscaping.*
157. In regards to criteria m), the design of the facility provides for a retirement community with internal shared space streetscapes, internal walkways and landscaping and enough parking and access areas without domination of these areas. The design integrates with its external faces with pedestrian linkages to Ulyatt Road and the Iway path network following the Cross Country Drain. The proposal also includes urbanizing the street frontage of Ulyatt Road with a suitable amount of setback, landscaping and permeable fencing.
158. In regards to n) parking and storage areas are generally internal and public places and roads are faced with landscaping and permeable fencing.

Site Layout

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- o) Whether buildings and structures including outdoor entertainment, recreation and play areas are sited in a way that minimises any adverse effects on the visual and aural privacy of adjacent land uses, public places and roads*

159. The site provides for internal gardens and walkways with the main building and facilities in the centre of the site. There is a garden area and 'bloke' shed proposed in the corner of the site with Ulyatt Road and the drain, but with the setbacks involved and this position it is unlikely to have adverse effects covered by this criteria.

Vehicle Parking and Access

- p) Whether provision is made for the safe and efficient circulation of vehicles through the site where necessary.*
- q) Whether the proposal will avoid on-road congestion, including vehicle parking, as a result of the ingress and egress of vehicles to and from the site.*
- r) Whether the land use will adversely effect vehicular and pedestrian safety and the efficiency of the road network where any access is directly onto a state highway or an arterial road.*
- s) Whether adequate sight distances are available for vehicular and pedestrian safety.*

The Council will pay particular attention to the adequacy of accessways when the facility is located on a rear site, as well as to the location of entry and exit points to the site, and their relationship with existing intersections, site constraints and adjacent dwelling units. The Council will require adverse effects to be avoided, remedied or mitigated by controlling access to the road or site, by redesign of the access or roadway, or by traffic signals and the like. Sites adjacent to local roads may be unsuitable for some land uses.

160. The effects of transport and safety have been considered by the applicants expert transport engineer and NCC transport engineers, and subject to the layout, parking provision, pedestrian linkages, design proposed and conditions to ensure they are implemented, the effects will be no more than minor and can be mitigated. There is no direct access from a state highway or arterial road, and sightlines are sufficient along this section of straight road.

Noise Mitigation Measures

- t) Whether noise arising from the land use, including the congregation of people or movement and parking of vehicles, will have an adverse effect on the amenity of the surrounding environment.*
- u) The Council will require noise mitigation measures to be undertaken to protect the aural amenity of adjacent land uses and residential areas.*

161. As considered in the assessment of effects previously it is considered unlikely that there will be adverse effects through noise and congregation of people on site on the surrounding environment. It is considered that noise proofing or buffering is unlikely to be required and is not recommended if consent is approved.

Odour and Dust Mitigation

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- v) *Whether the land use will create any dust or odour effects that will adversely impact upon the amenity of surrounding land uses.*

162. The proposal does not include any activities that are likely to create objectionable or adverse odour effects. In terms of dust it will be important during earthworks that this is managed properly to avoid windborn dust leaving the site. This can be controlled through conditions.

Infrastructure

- w) *Whether the land use can avoid, remedy or mitigate any adverse effects it may have on infrastructural services, as guided by the Essential Services Development Reports 2000.*

Where the existing infrastructure cannot sustain new development, the proposal must provide a satisfactory alternative or level of mitigation. This may be in the form of financial contributions.

163. As considered in the above assessment of effects and by NCC infrastructure, the proposal is considered able to connect to the Napier City sewer and water network subject to appropriate design and installation of infrastructure. The use can also connect to the drain network subject to conditions which also include the cost of installing ecological plantings. Any development contributions will be applied at Building Consent stage as advised by NCC infrastructure.

Air Traffic Safety

- x) *Whether the proposed land use will have an adverse actual or potential effect on safety, efficiency and operations, (including landings and take-offs) of the Hawke's Bay Airport.*

164. The proposal is not in the flight path of the Airport and won't have any effect on operations of the Airport.

Cumulative Effect

- y) *Whether the proposed land use will have an adverse cumulative effect on the surrounding area.*

In assessing the appropriateness of allowing a land use to be located in an area, or an increase in the scale and intensity of a land use, consideration will be given to the presence of land uses already located in the area and on the site, and their effect on the surrounding residential environment. Of particular concern is the cumulative adverse effect of locating a land use on a site adjacent to or already accommodating land uses that may currently generate traffic, noise and other adverse effects not in keeping with the surrounding residential area.

165. The proposed use is unlikely to have an adverse cumulative impact, and appears to be suited to this area. It will be located next to the existing residential zone on a road and pathways that can accommodate the traffic likely to be generated by the activity. The effects will be in keeping with the surrounding residential uses.

Napier District Plan Objectives and Policies

166. The objectives and policies relevant to this application are principally those relating to the rural environment in Chapter 33.1.

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167. It is noted that none of the objectives or policies refers directly to a 'retirement complex', though the District Plan has a specific rule in the Main Rural Zone rule structure and associated specific assessment criteria. I have assumed therefore that a 'retirement complex' is/was otherwise considered by the objectives and policies structure as more broadly a residential development type use at that level. Noting that the District Plan does otherwise define retirement and residential activities separately (as does the rule structure).
168. Weighing up the proposal's consistency with the objectives and policies requires that an overall assessment is made of how the proposal 'sits' within the policy framework of the District Plan, rather than whether each objective and policy is individually satisfied. As such, it is the overall direction/intent of the objectives and policies that requires an overall interpretation/judgement.
169. Mr Knell has included a list of the relevant objectives and policies on pages 9-12 of his AEE (Appendix A). I will refer here to the main objectives under which all the policies fall and provide assessment on each grouping:

Objective 33.2: Protecting the City's outstanding natural features, significant landscapes, and its productive and versatile soil resources from the adverse effects of inappropriate subdivision, use and development of land.

170. Under this objective, policies 33.2.1, 33.2.2, 33.2.3, 33.2.6, 33.2.8 are particularly relevant.
171. Objective 33.2 seeks to protect the cities rural land from the adverse effects of inappropriate development. The site is rural land, and whether or not a development is inappropriate or not is determined by the remaining objectives and policies and the specific assessment criteria of the Plan.
172. Policy 33.2.1 seeks to ensure that rural land is maintained for a range of current and future productive uses to occur. The proposal is not consistent with this as the soils of the site are currently being used productively, and could be used on an ongoing basis for turf production or summer cropping (based on the Agfirst assessment). The proposal would permanently remove any potential for the productive use of this land now or in the future. However I also consider that in the context of 'rural land' it is also relevant to consider the sites soil value is such that *"Among the Heretaunga Plains soils, the soil type on this site is one of the least versatile"* and that *"loss of this site to urban development will have minimal impact on the life supporting capacity of the wider plains soil resource"*. As a result, and based on the soils expert advice, I am satisfied that the effects of the proposal on the soil resource of the site and the wider area are relatively minor, and that it is not contrary to policy 33.2.1.
173. Policy 33.2.2 requires that rural character is maintained for future generations. For the reasons listed in the assessment of affects above it is considered that effects on rural character and amenity are relatively minor in context. This should also be considered in relation to the assessment criteria in 39.3 which I find the proposal is generally consistent with. The proposal is not contrary to this policy in my opinion.
174. Policy 33.2.6 requires consideration of 'reverse sensitivity' between rural and residential use. I consider that subject to the no-complaints covenant condition offered and the use of a 6m setback buffer on the southern boundary (or another mechanism that achieves this), this is likely to be achieved.

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175. Policy 33.2.8 requires the Council to define, and protect, urban limits to protect versatile, and productive soils from ad hoc subdivision and development, in accordance with the recommendations of HPU DS. This policy is reflected in the District Plan Appendix 35 'Urban Limits and Greenfield growth areas'. Appendix 35 does not include this part of Napier, it does include the greenfield growth areas previously recognized by HPU DS. I would presume that when the District Plan is reviewed this appendix would be updated to reflect that the 'Pirimai South' area would be added in some capacity as a reserve growth area. The proposal is not directly contrary to this policy because of the most recent 2017 changes to HPU DS and its low soil versatility.
176. Policy 33.2.11 seeks to restrict activities which cumulatively deplete the soil resource. As found in the specific assessment and assessment of effects I am satisfied that there is no cumulative adverse effect in relation to this proposal.

Objective 33.3: Maintaining and enhancing the character and amenity values of the rural environment

177. Under this objective, policy 33.3.1 is particularly relevant. This seeks to control the scale and intensity of land use and development in the rural areas to maintain rural character and amenity and a sense of openness and privacy. For the reasons listed in the assessment of effects above it is considered that effects on rural character and amenity are relatively minor in context. This should also be considered in relation to the assessment criteria in 39.3 which I find the proposal is generally consistent with. The proposal is not contrary to this policy and associated objective on the whole.

Objective 33.4: Enabling 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

178. Under this objective, policies 33.4.1, 33.4.2, 33.4.4, 33.4.5, 33.4.6, 33.4.9, and 33.4.10 are particularly relevant.
179. Policy 33.4.1 seeks to avoid/remedy or mitigate adverse effects on infrastructure and the receiving environment. As found in the assessment of effects and supported by NCC infrastructure, the proposed retirement complex can suitably connect to Council reticulation and the road network. It is expected that the development can integrate into the receiving environment subject to implementation of the design proposed and conditions.
180. Policies 33.4.4 and 33.4.6 are met by the use of the no-complaints covenants offered, the noise design requirements agreed between the applicant and NZTA, and the use of an appropriate setback on the southern boundary of the site.
181. Policy 33.4.5 is more broadly met at the sustainable management of natural and physical resources level. This is considered as part of the RMA Part 2 assessment below.
182. The urban containment approach considered against Policy 33.28 above is also endorsed by policies 33.4.7 and 33.4.9, and for the same reasons the proposal is not contrary to them.

Objective 33.5: Enabling the use and development of services and infrastructure in a manner which avoids, remedies or mitigates adverse effects on the environment

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183. Under this objective, policy 33.5.4 is particularly relevant. As with Policy 33.4.1 the proposal can be serviced and avoid/remedy or mitigate adverse effects on infrastructure. The Retirement Complex land development can be enabled by this policy.

Objective 33.6: Ensuring that the cumulative adverse effects of subdivision, use and development of land on rural resources are recognised, and avoided, remedied or mitigated

184. Under this objective, policies 33.6.1 and 33.6.2 are particularly relevant. As found with policy 33.2.11 and the assessment of cumulative effects and assessment on rural character and amenity, the proposal is not contrary to this objective or policies.

Objectives and Policies Conclusion

185. Weighing up of the proposal's overall consistency with the objectives and policies, I find that the proposal 'sits' generally consistent (and not contrary) within the policy framework of the District Plan because:

- The proposal is consistent with the District Plans specific assessment criteria
- Retirement complex provisions are specifically recognised as a Discretionary Activity as opposed to the stricter application of Non-complying status for Residential activities
- The site is within the Reserve Greenfield area identified by HPU DS 2017 (though is yet to be fully recognised by Appendix 35)
- The proposal can be serviced by utilising existing and extending NCC 3 waters services
- The proposal can be integrated into the transport network safely
- The soils of the site are productive but are one of the least versatile in the Heretaunga Plains, and the effects and impacts on the soil resource are minor in context,
- Rural character and amenity will be changed for this site, but in a manner that can likely integrate this site as part of the urban/rural edge – and not result in significant adverse visual or amenity effects.

Actual and potential effects on the environment

186. Section 104(1)(a) of the RMA requires Council to have regard to any actual and potential effects on the environment of allowing the activity. This includes both the positive and adverse effects.

Positive Effects

187. As noted under the specific assessment criteria the proposal will have the following positive effects:

- i. Additional housing options for older citizens in Napier and Hawkes Bay
- ii. Contributes to meeting the expected need for housing for our ageing population
- iii. Progressive on site care options for residents
- iv. Connections with the pedestrian footpath network with Pirimai and Iway path network
- v. Upgraded road frontage
- vi. Providing good amenity for residents through landscaped frontages and internal design with connected landscaped walkways, designed by a landscape architect
- vii. Ecological plantings along the Cross-Country Drain
- viii. Economic benefits from development

Adverse Effects

188. As noted in the above assessment of effects it has been determined that the adverse effects on the environment will be no more than minor in context.

Relevant Statutory Instruments

Section 104(1)(b)(i) and (ii) - Relevant Provisions of National Environmental Standard and Other Regulations

189. As noted earlier in this report the application has been assessed against the National Environmental standard for assessing and Managing Contaminants in Soil to Protect Human Health (NES). It was concluded under clause 5(9) through the results of the DSI that the proposal did not require consent under the NES.

Section 104(1)(b)(iii) – National Policy Statement

Relevant Provisions of the National Policy Statement on Urban Development Capacity 2016

190. This national policy statement covers development capacity for both housing and business, to recognise that mobility and connectivity between both are important to achieving well-functioning urban environments. A range of objectives and policies underpin strategy implementation and support achievement of the strategy vision and actions. The most relevant to the proposed development are outlined as follows:

Objective Group A – Outcomes for planning decisions

OA1: ***Effective and efficient urban environments that enable people and communities and future generations to provide for their social, economic, cultural and environmental wellbeing.***

OA2: ***Urban environments that have sufficient opportunities for the development of housing and business land to meet demand, and which provide choices that will meet the needs of people and communities and future generations for a range of dwelling types and locations, working environments and places to locate businesses.***

OA3: ***Urban environments that, over time, develop and change in response to the changing needs of people and communities and future generations.***

191. The proposal is considered generally consistent with these objectives. Despite being located in the Main Rural Zone, the subject site is on the edges of the defined urban zone, is recognized in HPUDS as a reserve growth area. It can provide for both the current and future social, economic, cultural and environmental wellbeing of an aging population through the creation of additional housing stock and care facilities specifically for the purpose of retirement housing.

192. The proposal responds to the changing needs of people and communities and future generations by providing dedicated retirement housing and care options for those who can take this option. Some people will not want to take this particular option, but for some this will

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be. Some may no longer wish to be in or be able to maintain their previous housing choice. This has the flow on effect of creating more housing stock options in the district/region.

193. In the further information request response (**Appendix D**), Mr Knell also provides an assessment of policies PA3, PA4, PB1, PB2, PC3, PD1 and PD2. I generally concur with Mr Knells assessment of these policies and how they relate to the above objectives OA1-3. In terms of policy PA4 the costs in terms of effects on the district are considered no more than minor in context (in particular in terms of the limited soil versatility of the site, and the integrated change to urban form from the current rural character amenity of the site).

Section 104(1)(b)(iv) – A New Zealand Coastal Policy Statement

194. The site is not located within the coastal environment (or within the Regional Coastal Environment Plan).

195. Policy 25 of the Coastal Policy Statement is in part relevant to this proposal (but not directly in terms of the defined 'Coastal Environment') in that it seeks that (coastal) development considers the potential effects of tsunami and how to avoid or mitigate them. Tsunami risk has been considered in the assessment of effects above.

196. The tsunami risk at the subject site is no less or greater than many other parts of urban and rural Napier. Most of the Napier area is at risk of tsunami, including the as yet undeveloped residential zone areas in Te Awa, as well as the other identified greenfield growth areas identified in HPUDES and in turn in the HB RPS. This an issue for all of Napier, and there are associated difficulties with providing for development in areas less at risk of tsunami in higher elevated areas. The matter of tsunami risk was put forward to the applicant as part of the further information requested. Their response was practical in that they propose to provide an evacuation plan as a condition of consent. For example there may be opportunities to utilise the upper storeys of the proposed complex as an evacuation point. This detail can be provided with a condition of consent if necessary.

Section 104(1)(b)(iv) – Regional Policy Statement

Relevant Provisions of the Heretaunga Plains Urban Development Strategy (HPUDES) as they apply through the RPS to the Napier District Plan

197. HBRC made a submission on this consent (refer Appendix F), I found this useful as it raised concerns over the assessment provided of the RPS and HPUDES and that further information and assessment was needed.

198. The applicant provided a further assessment of HPUDES and the RPS in more comprehensive detail as part of the s92 further information response, including the assessment provided by Holland Beckett Law dated 23 March 2018.

199. Having read through the additional assessments I generally concur with applicants findings. The proposal does appear on balance to be more consistent than in-consistent with HPUDES, with the assessment provided by the applicant.

200. Whilst being a non-statutory document of itself, HPUDES focuses on how the Heretaunga Plains should develop and encourage growth in the future. HPUDES is tied in to the RPS and the Napier District Plan (as well as the Hastings District Plan). A range of principles underpin

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the strategy implementation and support achievement of the strategy vision and actions, and the most relevant to the proposed development are outlined as follows:

Quality Living Environments with High Levels of Amenity and Thriving Communities

- *Ensure that the settlement pattern avoids sensitive natural environments, (streams, wetlands, lakes, and rivers) and significant landscapes, and versatile land for productive purposes.*
- *A range of densities in new residential development and more intensive redevelopment of existing urban areas that will continue to meet amenity values.*
- *Provide housing and lifestyle choice within defined locations with greater emphasis on good urban design outcomes as well as recognising an ageing population.*
- *Maintain the separation of defined urban areas by green and open space.*
- *Recognise and provide for the growth of towns and communities within agreed urban limits.*
- *Promote partnerships (government, local government and community) to assist in the delivery of a range of housing choices*
- *Ensure that collaborative implementation arrangements are in place for effective strategy governance and implementation.*
- *Encourage the community to have the opportunity to participate in key implementation actions and initiatives.*

A Growing and Resilient Economy which Promotes Opportunities to Live, Work, Invest and Play

- *Recognise opportunities to utilise the versatile land resource of the Heretaunga Plains for production while minimising the loss of versatile land for productive purposes to urban development.*

Mana Whenua Values and Aspirations are Recognised and Provided For

- *Recognise the unique relationship that mana whenua have with the land, waterways and other people (manaakitanga).*

Productive Value of its Soil and Water Resources are recognized and Provided for and Used Sustainably

- *Recognise versatile land for productive purposes through minimising the need for urban development on such land and providing for rural lifestyle development in other locations.*
- *Protect and enhance the water quality of streams, rivers, lakes and wetlands.*

Urban Centres of Napier and Hastings have Distinct Identities and Provide Complementary Working, Living and Learning Opportunities

- *Ensure there is choice in the supply and location of residential living, commercial and industrial opportunities.*

Community and Physical Infrastructure is Planned, Sustainable and Affordable

- *Recognise the development potential of existing settlements where it is possible to extend or provide infrastructure.*

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- *Protect existing and future infrastructure and transport corridors from development that could constrain or compromise the efficiency of infrastructure and transport corridor operation.*
- *Ensure development supports efficient transport infrastructure, including public transport provision and reduced dependence on motor vehicles.*
- *Avoid duplication of large scale community facilities and services.*
- *Promote communities with services and amenities to reduce reliance on transport.*
- *Promote the successful delivery of social infrastructure such as new schools and affordable housing.*
- *Ensure that infrastructure servicing development is integrated with existing networks.*

201. HPUDS was recently reviewed by the three partner Councils and HPUDS2017 has been adopted by all three. HPUDS 2017 refers to HPUDS2010 still being relevant and HPUDS2017 maintains substantially the 2010 policy direction to protect versatile soils and transition to a more compact city form.

202. HPUDS aims to manage urban growth on the Heretaunga Plains by taking a longer term view of land use and infrastructure to 2045. A key principle is to ensure that settlement avoids versatile soils, sensitive natural environments and significant landscapes. This requires a transition from largely greenfields development to intensification over time. HPUDS therefore seeks to promote a range of densities in new residential areas and more intensive redevelopment of existing areas.

203. As part of the transition over the 30 years of HPUDS, it identifies specific areas for greenfield development out to 2045 and seeks to limit such development largely to these areas. These growth areas were selected on the basis of exhibiting the following characteristics:

a) *Soils are of lesser versatility*

b) *Productive capacity is compromised by:*

- *Size and shape of land parcels that mitigates against productive use*
- *Surrounding landuses and reverse sensitivity*
- *Lack of water/poor drainage*

c) *Clear natural boundaries exist*

d) *Logical urban edge greenbelts could be created*

e) *Greenbelts could provide opportunities for walking and cycling connections,*

f) *Sites support compact urban form, can be serviced at reasonable cost and integrated with existing development.*

204. The subject site is within the 'South Pirimai Reserve Greenfield Growth Area' and is intended to potentially help meet the greenfield growth needs of the district over the life of the Strategy if required. HPUDS describes this area as follows:

"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."

205. I consider that HPUDS can appear to be interpreted to recognise that greenfield development for the retirement housing sector could occur in advance of sequencing of development for the district in the growth areas identified. But that developers would need to meet the full costs of servicing those sites. The proposed development could contribute towards the additional

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retirement housing demands for the district as the existing infrastructure capacity at this site is adequate to service the development, and can be implemented at the developers cost.

206. The retirement sector analysis undertaken for the HPUDS forecasts retirement sector housing demand based on existing uptake of retirement villages in the Strategy area. This points to the significant shift in age-profile over the next 30 years, and supports the need for retirement village housing. These are typically on larger sites (6.25ha average)
207. It is understood that the HPUDS Review 2017 introduced the concept of 'Reserve' areas to act as a stand-by/replacement for the Greenfield Growth Areas if a preferred development Greenfield Growth Area becomes unviable, or that perhaps it could be advanced if retirement village needs could not reasonably be met within the preferred greenfields areas.
208. It would appear that the proposal is generally consistent with respect to the intent and direction of HPUDS2017, with the main reservation being whether the need for retirement villages could not be reasonably met within the preferred greenfield areas.
209. It can be considered, with the information provided, that the proposal is generally more consistent (than in-consistent) with the direction of the Heretaunga Plains Urban Development Strategy. I consider that the key aspects in regards to the HPUD's principles and the proposed development are as follows:
- As assessed by Agfirst, the soils on site are some of the least versatile on the Heretaunga Plains (though they can still be used productively)
 - The site is not a significant landscape area
 - Servicing of the land is readily achievable subject to conditions as advised by NCC infrastructure.
 - In this case HPUDS appears to recognise that greenfield development for retirement housing could occur in advance in a reserve area in the circumstances. This is on the assumption that the developer will need to meet the full costs of servicing the site which is what is proposed to occur.
 - The proposed development can contribute towards the additional retirement housing demands for the district.
 - In this case the underlying zoning also gives some provision for a retirement complex in the right circumstances under the specific discretionary assessment criteria and in accordance with the objectives and policies of the Napier District Plan.

Hawkes Bay Regional Policy Statement

210. The Hawkes Bay Regional Policy Statement and the specific section on Managing the built Environment has been developed to implement the principles and purposes of HPUD's. Specific regard to the RPS is required. The following objectives have been adopted by Hawke's Bay Regional Council to set the overarching resource management framework for the Region's resources:

OBJ 1 *To achieve the integrated sustainable management of the natural and physical resources of the Hawke's Bay region, while recognising the importance of resource use activity in Hawke's Bay, and its contribution to the development and prosperity of the region.*

OBJ 2 *To maximise certainty by providing clear environmental direction.*

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OBJ 3 *To avoid the imposition of unnecessary costs of regulation on resource users and other people.*

211. To achieve these objectives the Plan details further Regional Policy Statement and Regional Plan objectives and policies.

212. The following objectives and policies are considered to be relevant to the proposed development.

OBJ UD1 *Establish compact, and strongly connected urban form throughout the Region, that:*

a) achieves quality built environments that:

- i. provide for a range of housing choices and affordability,*
- ii. have a sense of character and identity,*
- iii. retain heritage values and values important to tangata whenua,*
- iv. are healthy, environmentally sustainable, functionally efficient, and economically and socially resilient, and*
- v. demonstrates consideration of the principles of urban design;*

b) avoids, remedies or mitigates reverse sensitivity effects in accordance with objectives and policies in Chapter 3.5 of this plan;

c) avoids, remedies or mitigates reverse sensitivity effects on existing strategic and other physical infrastructure in accordance with objectives and policies in Chapter 3.5 and 3.13 of this plan;

d) avoids unnecessary encroachment of urban activities on the versatile land of the Heretaunga Plains; and

e) avoids or mitigates increasing the frequency or severity of risk to people and property from natural hazards.

213. The proposal is considered to be generally consistent with the above objective as it can contribute to a relatively compact and well connected urban form. It provides a residential choice for the elderly population, it is not considered to detract from the sense of character and identity of the surrounding area as it can integrate into context and is unlikely to erode the stock of lifestyle sites or the higher density residential environment. It can utilise the south Pirimai reserve growth area as a greenfield opportunity for the in demand retirement sector. The proposal is not considered to impact on heritage value and values important to tangata whenua.

214. The proposal demonstrates consideration of the principles of urban design in a number of ways such as the landscaping, buildings, footpaths, permeable fencing, roading and open space areas are integrated within a residential/rural context.

215. In terms of b) and c) above the proposal is not considered to result in more than minor reverse sensitivity effects subject to conditions as detailed earlier in this report.

216. In terms of d) above, the proposal generally works in with the defined urban limits (considering 2017 HPUDS reserve area) and is on the lesser versatile soils of the Plains (as assessed by Agfirst).

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217. In terms of e) above the proposal will not result in an increase in the frequency or severity of risk to people and property from natural hazards over and above the existing situation with much of Napier (including the other greenfield growth areas closer to the coast in terms of Tsunami).

OBJ UD2 Provide for residential growth in the Heretaunga Plains sub-region through higher density development in suitable locations.

218. The proposed development is to be constructed on a site within the Main Rural Zone located towards the edge of the existing urban area of Napier. The proposal is for a higher density development (being a mix of villas, apartments and care facilities). It is acknowledged that the soils of the site can be used productively but their value is such that “*Among the Heretaunga Plains soils, the soil type on this site is one of the least versatile*” and that “*loss of this site to urban development will have minimal impact on the life supporting capacity of the wider plains soil resource*”. As a result, and based on the soils expert advice, I am satisfied that in this case the effects of the proposal on the soil resource of the site and the wider area are relatively minor.

219. Servicing of the land has been confirmed as being achievable at the cost of the developer. Overall, the site is considered to be a suitable location for a relative higher density retirement development given the circumstances and that it passes a number of tests in regards to the District Plan assessment criteria, the effects, the lesser versatility of the soil, the objectives and policies and that it appears generally consistent with HPUDS.

OBJ UD4 Enable urban development in the Heretaunga Plains sub-region, in an integrated, planned and staged manner which: a) allows for the adequate and timely supply of land and associated infrastructure; and b) avoids inappropriate lifestyle development, ad hoc residential development and other inappropriate urban activities in rural parts of the Heretaunga Plains sub-region.

220. The proposal does not reflect an inappropriate lifestyle development or a purely residential expansion on rural land, but a retirement complex in a high demand retirement sector on a reserve greenfield area, that can be suitably serviced and integrated.

OBJ UD5 Ensure through long-term planning for land use change throughout the Region, that the rate and location of development is integrated with the provision of strategic and other infrastructure, the provision of services, and associated funding mechanisms.

221. The site can be serviced subject to conditions and design controls.

222. Overall I consider that the proposal in its circumstances, is not contrary to the RPS, HPUDS, and how they relate with the Napier District Plan.

Any Other Matters Considered Relevant and Reasonably Necessary to Determine the Application – section 104(1)(c)

Precedent Effects and Plan Integrity

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223. Precedent and district plan integrity are potentially relevant considerations, particularly in the circumstances with a large retirement complex proposed in the Main Rural Zone, and how the proposal interacts with HPUDS/the RPS.

224. The aspects which are considered to make this situation unique and sufficiently different to distinguish this proposal from any future application is that:

- The site is within the only HPUDS reserve growth site in Napier, and it is as close to the existing residential boundary as possible bar the drain and narrow reserve;
- There appears to be sufficient demand and justification for a retirement complex in this location based on the information provided, and that it understood to exist at a regional and national level;
- Whilst retirement villages are not provided for in the zone as a permitted activity, they are not considered to be an inappropriate form of land use as a Discretionary activity if they can satisfy a number of assessment tests including specific assessment criteria, the objectives and plans of the Napier District Plan, effects, and how the proposal does or doesn't integrate with HPUDS and the RPS;
- Whilst it is acknowledged that the soils of the site can be used productively, their value is such that *“Among the Heretaunga Plains soils, the soil type on this site is one of the least versatile”* and that *“loss of this site to urban development will have minimal impact on the life supporting capacity of the wider plains soil resource”*.
- The site can be serviced by existing City infrastructure;
- HPUDS appears to recognise to an applicable degree that greenfield development for retirement housing specifically could occur in advance of sequencing of the identified greenfield growth areas of the district. The existing infrastructure capacity is adequate to be extended to service the development at the developers cost and the proposed development could contribute towards the additional retirement housing demands for the district.

225. For the above reasons, the assessment of environmental effects and of the objectives and policies in this report, I am of the opinion that this application will not set an adverse precedent nor will it affect the integrity of the Plan.

CONSIDERATION OF PART 2 (PURPOSE AND PRINCIPLES) OF THE RMA

226. The purpose of the RMA under section 5 is the sustainable management of natural and physical resources. This means managing the use of natural and physical resources in a way that enables people and communities to provide for their social, cultural and economic well-being, while sustaining those resources for future generations, protecting the life supporting capacity of ecosystems and avoiding, remedying or mitigating adverse effects on the environment.

227. It is considered that the proposed development is generally consistent with Section 5 in that it will have social, cultural and economic benefits for the District by accommodating and providing care facilities for older residents. In this regard the population of the region is ageing as outlined in the 2017 Heretaunga Plains Urban Development Strategy which states that:

“forecasts for retirement sector housing demand based on existing uptake of retirement villages in the Strategy area points to the significant shift in age-profile over the next 30 years, and even further beyond, which sees the 65+, 75+ and 90+ age groups increasing by 94%, 172% and 286% respectively.

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and

“30-40% of all future new build housing in the Heretaunga Plains sub-region between now and 2045 (3,340 of the total 9,960), with half of these (1,770) likely in ‘traditional’ retirement villages”.

Any potential adverse effects on the environment can be avoided, remedied or mitigated as assessed. The proposed development can result in a development which can help address the needs of the regions ageing population.

228. It is important to note that in relation to Section 5(2)(b) it is accepted that the life-supporting capacity of the soils would not be safeguarded with the removal of the site from productive use. However, considering the soil assessment by Agfirst, any effects of the loss of these soils on the overall life-supporting capacity of soils on the wider environment are considered to be no more than minor in context.
229. Section 6 of the Act sets out a number of “matters of national importance” which need to be recognized and provided for. There are no section 6 matters of relevance to this application.
230. Section 7 identifies a number of “other matters” to be given particular regard by the Council in the consideration of any assessment for resource consent, and includes the efficient use of natural and physical resources and the maintenance and enhancement of amenity values.
231. The proposed activity can efficiently use a natural and physical resource by increasing the provision of accommodation and care for the elderly on a site with lesser soil versatility, in proximity to the existing urban edge of Napier, that can be serviced at the developers cost by existing infrastructure. It is considered that effects on amenity values of the surrounding environmental context can be avoided, remedied or mitigated through the design of the landscaping, buildings, setbacks, and through appropriate conditions of consent.
232. Section 8 requires Council to take into account the principles of the Treaty of Waitangi. In this case there are no known Treaty of Waitangi issues with the proposed development of the site, the relevant iwi authorities were notified of the consent and they made no submission.
233. Taking into account the assessment of effects and reports from various experts. The proposal to establish the retirement complex on this site is considered to satisfy the purpose of promoting the sustainable management of natural and physical resources because:
- The proposal will make efficient use of this specific area of land to be developed, which exhibits lesser versatile soils.
 - Reverse sensitivity can be suitably managed through conditions.
 - The proposal will provide for the demands of and residential choices for the elderly.
 - The proposal will not result in more than minor adverse effects on rural character and amenity.
 - The proposal will be able to accommodate the required roading access to and parking spaces within the subject site. The surrounding street network is considered to have capacity to accommodate the development subject to conditions.

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- The traffic generated by the proposed development is not expected to have a significant impact on the surrounding road network and is therefore considered within the capacity of the existing roading network (subject to conditions). The proposed development can be connected to the transport network in a manner that can enhance and does not compromise vehicle or pedestrian safety.
- The proposal is not anticipated to generate noise effects beyond zone standards or design standards.
- Earthworks and construction will require robust control through conditions to mitigate the potential for effects due to scale.

RECOMMENDATION

234. Having had regard to the matters set out in Section 104, and 104B, the actual and potential effects on the environment, the relevant objectives and policies of the District Plan, RPS, NPSUDC, mitigation measures proposed and other matters, it is considered overall that the retirement complex proposal is likely to promote sustainable management in terms of Part 2 of the Resource Management Act. Accordingly it is recommended that consent is granted subject to the attached draft conditions.

Report and recommendation prepared by:



Shane Lambert
Senior Resource Consents Planner
Napier City Council

Reviewed by:



Paul O'Shaughnessy
Team Leader Resource Consents
Napier City Council

25 July 2018

Recommended Draft Conditions

GENERAL

1. That the development proceeds 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.

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, 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 in accordance with the Code of Practice for Subdivision and Land Development, except where a specific dispensation has been granted as part of this Resource Consent or through the Engineering Approval 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)
 - b) Calculations will be required to determine connection sizes for stormwater.
 - 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 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) Minimum floor levels may apply for all buildings as and if required by the design, which could include an appropriate floor level as proven and accepted by NCC Infrastructure.

Note that the current property levels are below the 50 year flood level and unless all the ground levels are lifted/re-designed the property may need a section 73 notice

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- registered on the title. Note that the minimum floor levels using the existing situation would need to be set at RL 12.20 metres to the Napier City Council Datum.
- g) That connections to Napier City Councils 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.
 - h) The sewer design requires a pumped solution that with an off-peak discharge into the NCC waste water system.
 - i) That the 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.
 - j) Separate water connections will be required for each unit or complex.
 - k) 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.
 - l) Fire hydrants are to be installed in accordance with the Code and the Fire Fighting Water Supplies Code of Practice SNZ PAS 4509:2008.
 - m) 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;
 - n) 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 District Plan and the Code of Practice.
 - o) 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. That all private services for water, storm water and sewer will require Building Consent.
6. That the contractor(s) shall issue a "Construction" producer statement for the services constructed and the applicant shall supply this statement to Council.
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 and shall be certified as 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 a Chartered Professional Engineer shall certify that the works have been constructed in accordance with the approved design.

CONSTRUCTION/EARTHWORKS

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10. That prior to the commencement of construction works the applicant shall submit a construction management plan, for approval by Napier City Council, detailing the ways in which the proposed construction works will occur, and that work shall not commence until engineering design plan approval has been given.
11. 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.
12. 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 approval 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.
13. That the applicant shall submit a sediment control plan by an appropriately qualified person to Council, for approval 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 in accordance with current engineering best practice. A statement shall be included with the plan stating the author's qualifications and experience in this area.
14. 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
15. Noise levels will be measured in accordance with the New Zealand Standards NZS 6803: 1999 Acoustics – Construction Noise.
16. 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.
17. That all areas of earthworks shall be re-grassed within an agreed timeframe (by the next planting season) to the satisfaction of the Director, NCC Infrastructure (or nominee).
18. That there shall 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).
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 approved plan 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 a registered and professionally qualified engineer shall certify that the sedimentation works have been designed and constructed in accordance with the approved design prior to commencement of works on site.
22. That the applicant's contractor shall confirm in writing that only 'clean fill' shall be imported onsite (i.e. no rubbish, no stumps, no concrete, bricks any no other substance containing; combustible, putrescible, degradable or leachable components, hazardous substances,

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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 approved in relation to the Cross Country 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).

LANDSCAPING

CROSS COUNTRY DRAIN PLANTINGS/STORMWATER

25. That concurrent with the earthworks for the development of the land, the construction and landscaping planting of the adjoining land 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 prior to occupation of the proposed retirement complex.
26. A detailed design of engineering and landscaping planting referred to in condition 25 above shall be submitted for the approval of the Napier City Council prior to work commencing. 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. At this stage NCC does not have any budget for a contribution to the plantings and is unlikely to contribute to the planting, and;
- B. 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.
- C. Its noted that in regard to stormwater, all primary treatment is required to be within the development site and not within the drain corridor.
- 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 approval of 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

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- 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 6m setback measured from the eaves of each retirement villa along this boundary (particular boundary shown below):



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.

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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.”*

STATE HIGHWAY NOISE

32. 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 $D_{tr,2m,nTw} + C_{tr} > 30$ 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.

NATURAL HAZARD EVACUATION PLANNING

33. 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.

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INERT ROOFING MATERIALS

34. 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).

MONITORING

35. 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. The proposal will be subject to ongoing compliance with the noise provisions of the District Plan.
- C. Any signage will need to comply with the District plan or go through a separate resource consent.
- D. As a commercial entity all refuse and mail will be the responsibility of the operator.
- E. The internal water supply infrastructure is subject to building consent and potable water quality standards.
- F. All enquiries regarding the costs of connections to the city services should be addressed to the NCC Infrastructure Department.
- G. The locations for the connections to the city services are to be confirmed with the Infrastructure Department prior to making application for connection.
- H. The costs of all services required for the development are to be met by the applicant.
- I. All references to "the Code" in this consent relate to the Napier City Council Code of Practice for Subdivision and Land Development.
- J. 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.