

Report for an application for resource consents under the Resource Management Act 1991



Discretionary activity for a residential activity

1. Application description

Application numbers:	BUN60353138 (Council Reference) LUC60353160 (s9 land use consent) DIS60353139 (s14 and s15 stormwater permit) LUS60353161 (s13 and s14 streamworks consent) WAT60353162 (s14 groundwater permit) WAT60362770 (s14 water permit)
Applicant:	Ryman Healthcare Limited
Site address:	223 Kohimarama Road and 7 John Rymer Place, Kohimarama
Legal description:	Lot 1 Deposited Plan 332284 & Lot 51 Deposited Plan 163242
Site area:	30,770m ² & 451m ² (total of 31,221m ²)
NZTM map reference (proposed bored):	1763960 mE, 5918658mN
Auckland Unitary Plan (Operative in part)	
Zoning and precinct:	Residential - Mixed Housing Urban Zone
Overlays, controls, special features, designations, etc:	Control: Macroinvertebrate Community Index – Urban Control: Arterial Roads (Kohimarama Road)
Non-statutory features:	Overland flow path Stream

2. Locality Plan

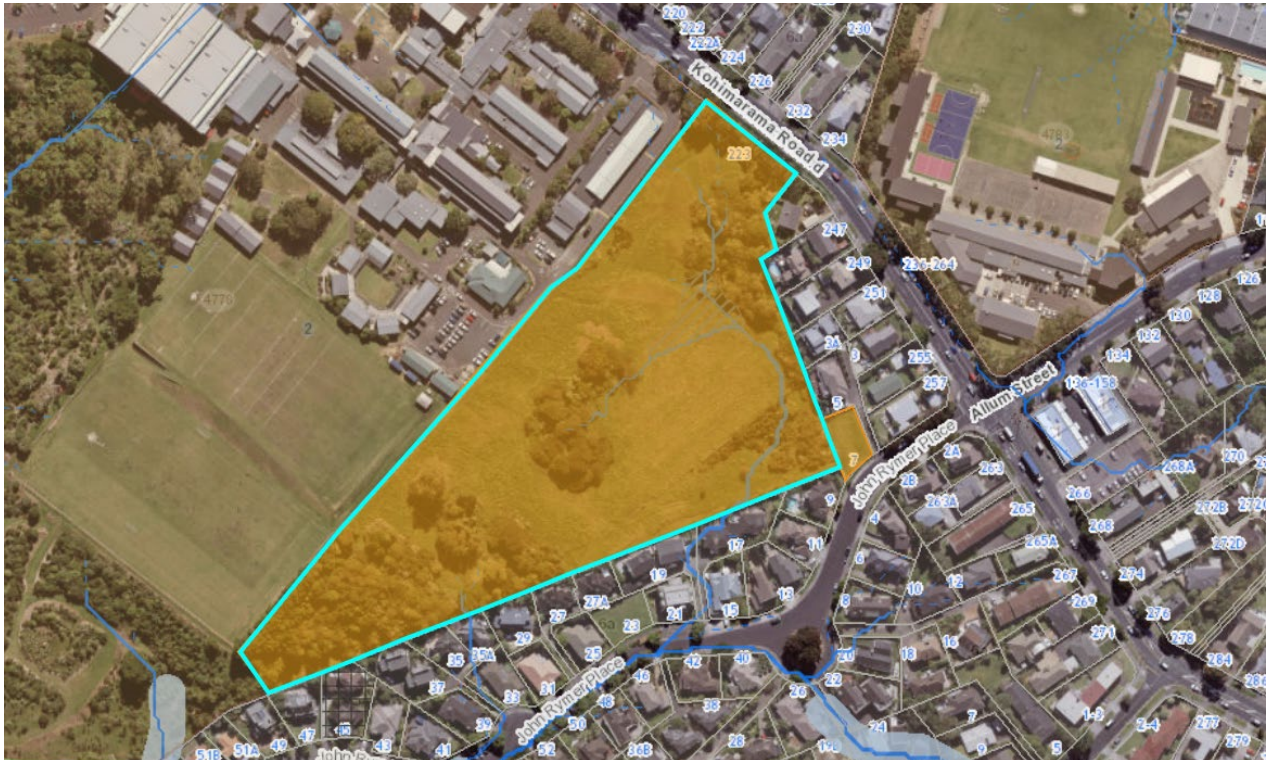


Figure 1. Locality Plan with subject Site highlighted in orange. Source: Auckland Council GIS



Figure 2. Bird's-eye view of the subject site looking south, provided on page 6 of Urban Design Report prepared by Clinton Bird.

3. The proposal, site and locality description

On behalf of Ryman Healthcare Limited (the applicant), Karen Joubert (the Consultant) and Phil Mitchell of Mitchell Daysh Limited have provided a comprehensive description of the proposal and subject site on pages 20-51 of the Assessment of Environmental Effects (AEE) titled: *Proposed Comprehensive Care Retirement Village 223 Kohimarama Road and 7 John Rymer*

Place Kohimarama, Auckland, dated April 2020. A detailed site and wider context analysis are also provided in the Urban Design Review report prepared by Clinton Bird on behalf of the applicant, dated 14 February 2020.

Having undertaken a site visit on 26/02/2020, I concur with that description of the proposal and the site and have no further comment, except that the reasons for consent have been further discussed with the Consultant and are subsequently amended. A summary is provided below.

Proposal

It is proposed to establish a comprehensive care retirement village, which will comprise of a main building (Building B1), and five separate apartment building blocks (Buildings B02 to B06) grouped around a podium (Building B07). The podium provides access (internally and externally) to basement parking and Building B01 via a tunnel. Due to the varied contours of the site, the buildings are designed to generally follow the natural contours in a 'stepped' fashion, with varied above-ground and below-ground basement levels. The graduating heights of the buildings across the site range from about six to three above-ground levels.

Building B01 will be located at the north eastern end of the site, closest to Kohimarama Road. It will house the village centre and a range of living options, including assisted living, hospital and dementia care facilities. Building B01 steps down the site from the north west to south east.

The Village will include the following:

- 98 care rooms, all of which will be in Building B01;
- 75 assisted living suites, all of which will be in Building B01;
- 123 apartments, comprising:
 - 12 one-bedroom apartments;
 - 69 two-bedroom apartments; and
 - 42 three-bedroom apartments;
- 192 car parks; and
- 15 bicycle parks.

Access to the Village will be provided by a primary access from John Rymer Place and a secondary access from Kohimarama Road. The internal accessway (private road) separates Building B01 from Buildings B02 to B07, and provides access to the main entrance of Building B01 and the car parking areas.

The existing watercourse within the site will be realigned to the east of Building B01 and adjacent to the boundary with those properties along Kohimarama Road. The realigned watercourse will convey stormwater from the upstream catchment, as well as the stormwater from the proposed Village. A stormwater storage tank is proposed to be construction under the floor of Building B01.

The construction period for the Village is expected to be approximately 36 to 42 months and is likely to be undertaken in four stages. Earthworks will comprise excavation of approximately 52,874m³ of cut and approximately 5,750m³ of fill over the entire site with the exception of the north-western vegetated area. The proposed significant excavations for the construction of the basements requires groundwater diversion and dewatering.

Site and surrounding environment description

The subject 'site' comprises of two adjoining properties, with a total area of approximately 3.12ha in the suburb of Kohimarama. The site is owned by Ngati Whatua o Orakei Maori Trust Board, and Ryman holds a 150-year lease over the site via a holding company.

Selwyn College adjoins the site to the north-west, and St Thomas Primary School is located on the opposite side of Kohimarama Road. The rest of the immediate surrounding environment primarily consists of two-storey residential dwellings. There is a signalised intersection and small local shops at the intersection of Kohimarama Road, John Rymer Place and Allum Street. Kohimarama Road is an arterial road, while John Rymer Place is a residential cul-de-sac.

The site has ephemeral, intermittent and artificial watercourses running through it, and is densely vegetated at the south-western and north-eastern margins.

The site has been subject to historical HAIL (Hazardous Activities and Industries List) activities.

4. Background

Specialist Input

The proposal has been reviewed and assessed by the following specialists:

- Sheerin Samsudeen – Urban Design Specialist, Auckland Council
- Ainsley Verstraeten – Landscape Architect, Auckland Council
- Marcus Hermann – Consultant Contamination Specialist, Riley Consultants Ltd
- Andrew Gordon – Noise Specialist, Auckland Council
- Richard Simonds – Consultant Geotechnical Engineer, Fraser Thomas
- Jin Lee – Development Engineer, Auckland Council
- Sarishka Gandhi – Traffic Engineer, Auckland Council
- Celeste Cupido – Development Planner, Auckland Transport
- Arsini Hanna – Stormwater Specialist, Auckland Council
- Christina Bloom – Streamworks and Sediment Specialist, Auckland Council
- Nicola Jones – Water Allocation Specialist, Auckland Council
- Vaughan Turner – Air Discharge Specialist, Auckland Council
- Carol Bergquist – Ecologist, Auckland Council

Local Board Comments

Orakei Local Board member, David Wong, provided the following comments on the proposal in an email dated 22/03/2020:

Our initial review of the AEE highlights several areas of concern:

- 1) The Board is most concerned about significant height infringements in the application and the negative affect of these on community well-being. The community has reason to expect a built environment of no more than three stories in this MHU Zone area.*
- 2) The Board has encountered similar developments (most recently Summerset on St Johns Road) where infringements of this materiality and bulk were contested through the Independent Hearing commissioner.*

- 3) *The traffic plan and assessment during and post construction – will need further review should the Glen Innes – Tamaki Drive link access be pathed through a John Rymer ingress. The culmination of Selwyn College traffic and additional 749 vehicle trips from the proposed village may be conservatively assessed.*
- 4) *It is noted that limited notification is recommended in the AEE for the 12 properties. However there are many more stakeholders in John Rymer Place, Kohimarama Road and the neighbouring schools/other residents - who would request public notification to voice their views.*

Local Board provided formal feedback in a letter dated 17 August 2020, which expands on the matters of concern previously raised.

Iwi Consultation

Ryman has contacted the 15 iwi groups who may have interest in the application.

Nga Maunga Whakahii o Kaipara, Ngai Tai ki Tamaki and Te Runanga o Ngāti Whātua all provided a response to the consultation approach made by Ryman. These iwi groups advised that they either deferred to Ngāti Whātua o Ōrākei or did not have an interest in the proposal.

Ryman has consulted with Ngāti Whātua Ōrākei through its ownership of the site. Whai Rawa Property Holding Ltd (the commercial arm of the Ngati Whatua Orakei Group) has given written approval to the application.

5. Reasons for the application

The relevant operative plan and proposed plan provisions

In assessing an application, the relevant provisions requiring consideration are:

- those provisions of the AUP(OP) that are not subject to appeal and are operative;
- those provisions of the AUP(OP) that are identified as subject to appeal and therefore remain proposed plan provisions; and
- the relevant provisions of any relevant plan that remain operative as a consequence of the appeals against certain provisions of the AUP(OP).

The task of identifying the relevant provisions as described above requires individual analysis of the provisions of the AUP(OP) and the relevant appeals, within the context of the specific resource consent application.

In this instance, the rules of the AUP(OP) that the proposal relates are not subject to appeal and are operative.

Resource consents are required for the following reasons:

Land use consent (s9) – LUC60353160

Auckland Unitary Plan (Operative in part)

District land use (operative plan provisions)

Residential – Mixed Housing Urban Zone

- The establishment and use of an integrated residential development on the site is a **restricted discretionary** activity under rule H5.4.1(A8).
- To develop new buildings has the same activity status as the land use activity, and is a **restricted discretionary** activity under rule H4.4.1(A34).
- The proposal involves use and development under rules H4.4.1(A8) and H4.4.1(A34) that fails to meet the following core standards and is a **restricted discretionary** activity under rule C.1.9(2):
 - H5.6.4 Building height: The proposed buildings infringe the permitted height of 11m by between 6.1m and 10.4m¹.
 - H5.6.5 Height in relation to boundary: Building B02 will infringe the HIRB recession to the north-west boundary by a maximum vertical extent of 2.5m along 31.5m, and Building B04 will infringe the HIRB recession to the north-west boundary by a maximum vertical extent of 2.2m along 31.5m.
 - H5.6.8 Yard:
 - The pedestrian sky bridge attached to Building B01 will be located within 2.5 m of Kohimarama Road (front yard).
 - Retaining wall number 12 constitutes as a building infringing the 2.5m front yard setback².
 - Building B01, the pedestrian sky bridge and retaining walls will be located within the 10m riparian yard of the new (diverted) stream channel on the site.

Land Disturbance - District

- To undertake general earthworks of approximately 31,221m² and 58,624m³, being earthworks greater than 2,500 m² and 2,500m³ in a residential zone, is a **restricted discretionary** activity under rules E12.4.1(A6) and (A10) respectively.
- The proposed earthworks under rules E12.4.1(A6) and (A10) does not meet the following standard and is a **restricted discretionary** activity under rule C.1.9(2):
 - E12.6.2(12): Earthworks within overland flow paths must maintain the same entry and exit point at the boundaries of a site. The proposal will alter the exit point of an overland flow path.

1 Refer to Table 9 of the AEE and sheet 044.ASM-S01-A0-005 for details.

2 See retaining walls schedule on drawing no. 044-ASM-S01-A0-020 for details.

Signage

- The proposed signage on John Rymer Place and Kohimarama Road is associated with a comprehensive development and is a **restricted discretionary** activity under rule E23.4(A53).

Noise and Vibration

- Activities that do not comply with the permitted noise standards is a **restricted discretionary** activity under rule E25.4.1(A2). The proposal will result in construction noise infringements to several properties³.

Transport

- To construct a new vehicle crossing where a Vehicle Access Restriction applies under Standard E27.6.4.1(2) and E27.6.4.1(3) is a **restricted discretionary** activity under rule E27.4.1(A5).

Natural hazards and flooding

- To divert the entry or exit point, piping or reducing the capacity of any part of an overland flow path is a **restricted discretionary** activity under rule E36.4.1(A41)
- To construct a building or structure (there will be structures such as scruffy domes) located within an overland flow path is a **restricted discretionary** activity under rule E36.4.1(A42).

Temporary activities

- Temporary activities associated with building or construction, (including structures and buildings that are accessory activities such as noise barriers), for the duration of the project exceeding 24 months is a **restricted discretionary** activity under rule E40.4.1(A24). The total project is estimated to take 36 to 42 months to complete.

Regional land use (proposed plan provisions)

Take, Use and Diversion of Water

- The construction of a bore for the abstraction of groundwater is considered to be “a purpose not otherwise specified for” in the AUP and is a **controlled** activity under rule E7.4(A41).

Vegetation Management and Biodiversity

- All of the existing vegetation on the site within 10m of the existing alignment of the intermittent stream will be removed. This is a **restricted discretionary** activity under rule E15.4.1(A19).

³ See Appendix C of the Construction Noise and Vibration Management Plan (CNVMP) prepared by Marshall Day Acoustics dated 11 June 2020 for details of these infringements.

Land Disturbance – Regional

- To undertake earthworks greater than 2,500m² where the land has a slope greater than 10 degrees is a **restricted discretionary** activity under rule E11.4.1(A8).
- To undertake earthworks greater than 2,500m² within the Sediment Control Protection Area is a **restricted discretionary** activity under rule E11.4.1(A9).

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

- The proposed soil disturbance and subdivision activities will occur on a site that has been subject to possible HAIL (Hazardous Activities and Industries List) activities. The site investigation reports provided are considered equivalent to a DSI and concentrations of contaminants were determined to comply with the relevant SCS criteria for the protection of human health. The proposal is therefore a **controlled** activity under Regulations 9(1) of the NES:CS.

Streamworks consent (s13 & s14) – LUS60353161

Auckland Unitary Plan (Operative in part)

Streams

- The diversion of the intermittent watercourse (including associated disturbance activities and the discharge of sediment) is a **discretionary** activity under rule E3.4.1(A19).
- The installation of temporary diversion structure which does not meet the activity standards in E3.6.1.14 to E3.6.1.23, specifically standard E3.6.1.15(3) as the structure will be in place for longer than 14 days within any 6 month period and E3.6.1.14(1) as the diversion structure will be longer than 30 metres, is a **discretionary** activity under rule E3.4.1(A44).
- The removal of an existing reclamation not complying with the standards in E3.6.1.24⁴ is a **restricted discretionary** activity under rule E3.4.1(A46).

Water permit (s14) – WAT60362770

Take, Use and Diversion of Water

- The take and use of 12,090m³ of groundwater per annum for amenity irrigation purposes will not meet the daily or annual permitted activity volumes for the abstraction of groundwater in the AUP and is a **discretionary** activity under rule E7.4(A26).

⁴ There is a section of piped stream between stream A and stream C which is being removed, and that central portion is effectively being daylighted. There is no record of the reclamation and it may not be lawfully existing, and the profile will inhibit the passage of fish.

Groundwater permit (s14) – WAT60353162

Take, Use and Diversion of Water

- To undertake diversion of groundwater caused by excavation which does not meet the permitted standards under, and E7.6.1.10(3) as the natural groundwater level will be reduced by more than 2m on the site boundaries, is a **restricted discretionary** activity under rule E7.4.1(A28).
- To undertake dewatering associated with a groundwater diversion authorised as a restricted discretionary activity under the Unitary Plan, is a **restricted discretionary** activity under rule E7.4.1(A20).

Stormwater permit (s14 & 15) - DIS60353139

Stormwater – Discharge and Diversion

- Diversion and discharge of stormwater runoff from impervious areas to the intermittent watercourse and overland flow paths is a **discretionary** activity under rule E8.4.1(A10).

6. Status of the resource consents

Where a proposal:

- consists of more than one activity specified in the plan(s); and
- involves more than one type of resource consent or requires more than one resource consent; and
- the effects of the activities overlap;

the activities may be considered together.

Where different activities within a proposal have effects which do not overlap, the activities will be considered separately.

In the instance, the effects of the proposed resource consents will overlap and thus they are considered together as a **discretionary** activity overall.

7. Public notification assessment (sections 95A, 95C-95D)

Section 95A specifies the steps the council is to follow to determine whether an application is to be publicly notified. These steps are addressed in the statutory order below.

Step 1: mandatory public notification in certain circumstances

No mandatory notification is required as:

- the applicant has not requested that the application is publicly notified (s95A(3)(a));
- there are no outstanding or refused requests for further information (s95C and s95A(3)(b));
- and

- the application does not involve any exchange of recreation reserve land under s15AA of the Reserves Act 1977 (s95A(3)(c)).

Step 2: if not required by step 1, public notification precluded in certain circumstances

Public notification of a resource consent application exclusively involving a residential activity (as defined by s95A(6)) is precluded where the activity status for the application is restricted discretionary or discretionary (ss95A(4) and 95A(5)(b)(ii)).

In this case, the proposal is a residential activity as:

- the land is zoned Residential – Mixed Housing Urban, being a zone that is intended to be used principally for residential purposes; and
- the activities requiring resource consent are associated with the construction and use of an integrated residential development (which as defined by the AUP, includes retirement villages). The activities include earthworks, vegetation clearance and streamworks required for the creation of a building platform, access, etc.; construction of the buildings and access; and infrastructure connections required to service the development.

The application is therefore precluded from being publicly notified unless special circumstances addressed in step 4 below warrant otherwise.

Step 3: if not precluded by step 2, public notification required in certain circumstances

As the application is precluded from public notification by step 2, this step is not applicable.

Step 4: public notification in special circumstances

If an application has not been publicly notified as a result of any of the previous steps, then the council is required to determine whether special circumstances exist that warrant it being publicly notified (s95A(9)).

Special circumstances are those that are:

- exceptional, abnormal or unusual, but something less than extraordinary or unique;
- outside of the common run of applications of this nature; or
- circumstances which make notification desirable.

In this instance I have turned my mind specifically to the existence of any special circumstances and conclude that public notification is not warranted, for the following reasons:

- Whilst the scale (particularly height) of the development is greater than that anticipated in the Mixed Housing Urban zone, a retirement village use is provided for in the zone, subject to compliance with the relevant standards. The height, height in relation to boundary and yard standards are not being complied with in this instance. The matter to consider is whether the proposed built form and scale of the development creates a 'special circumstance'. I have not identified any other aspect of the proposal that could be unusual or unique to the site

and/or application of this nature.

- In terms of case law on the application of special circumstances, *Far North DC v Te Runanga-a-iwi o Ngati Kahu* [2013] NZCA 221 provides:

[36]...A “special circumstance” is something, as White J accepted, outside the common run of things which is exceptional, abnormal or unusual but less than extraordinary or unique. A special circumstance would be one which makes notification desirable despite the general provisions excluding the need for notification. As Elias J noted in Murray v Whakatane District Council: ... the policy evident in those subsections seems to be based upon an assumption that the consent authority does not require the additional information which notification may provide because the principles to be applied in the decision are clear and non-contentious (as they will generally be if settled by district plan) or the adverse effects are minor. Where a consent does not fit within that general policy, it may be seen to be unusual.

[37] In order to invoke s 94C(2), the special circumstance must relate to the subject application. The local authority has to be satisfied that public notification, as opposed to limited notification to a party or parties, may elicit additional information bearing upon the non-complying aspects of the application.

[Emphasis added]

- In terms of the proposed built form, Council’s urban design and landscape specialists both consider the proposal to be designed in a way where adverse amenity and character effects are generally localised, particularly to properties along John Rymer Place which is a residential cul-de-sac. These views are shared by the applicant’s urban design and landscape specialists. There is however disagreement as to the extent of affected persons. Of particular note, due to the nature of the site topography, the perceived height of buildings is significantly reduced when viewed from Kohimarama Road. Therefore, although the proposed building heights exceed the expected built character of “predominantly three storeys”, associated effects in this instance will be confined to a defined catchment where it is possible to identify those persons who may be specifically affected by the proposal (and the RMA provides for this assessment under s95B).
- Local Board expressed that “*the community has reason to expect a built environment of no more than three stories in this MHU Zone area*” and that “*there are many more stakeholders in John Rymer Place, Kohimarama Road and the neighbouring schools/ other residents – who would request public notification to voice their view*”. The concern regarding height and whether this is a matter that warrants public notification, has been discussed above. I am not aware of any public/ community interest in the application. The site is not publicly owned, and Ngāti Whātua Ōrākei being the owner of the site, has given written approval to the application. There is nothing to suggest a legitimate expectation of public consultation for this consent application.

- Public notification, as opposed to limited notification to specific parties in a localised area to the site, is unlikely to elicit additional information bearing upon aspects of this application that would better inform the substantive decision-making in respect of this application.
- Overall, I consider that even if the proposed height of the buildings is deemed “unusual” for an application in the Mixed Housing Urban zone, this does not create a special circumstance that warrants public notification in this instance, given the localised environment where urban design and landscape character effects will be confined to, and there being no other aspects of the proposal that are unusual or which makes notification desirable.

Public notification conclusion

Having undertaken the s95A public notification tests, the following conclusions are reached:

- Under step 1, public notification is not mandatory.
- Under step 2, public notification is precluded as the application(s) is / are exclusively for a residential activity.
- Step 3 of the notification tests is not applicable due to the finding of step 2.
- Under step 4, there are no special circumstances that warrant the application being publicly notified.

It is therefore recommended that this application be processed without public notification.

8. Limited notification assessment (sections 95B, 95E-95G)

If the application is not publicly notified under s95A, the council must follow the steps set out in s95B to determine whether to limited notify the application. These steps are addressed in the statutory order below.

Step 1: certain affected protected customary rights groups must be notified

There are no protected customary rights groups or customary marine title groups affected by the proposed activities (s95B(2)).

In addition, the council must determine whether the proposed activities are on or adjacent to, or may affect, land that is subject of a statutory acknowledgement under schedule 11, and whether the person to whom the statutory acknowledgement is made is an affected person (s95B(3)).

Within the Auckland region the following statutory acknowledgements are relevant:

- Te Uri o Hau Claims Settlement Act 2002
- Ngāti Manuhiri Claims Settlement Act 2012
- Ngāti Whātua Ōrākei Claims Settlement Act 2012
- Ngāti Whātua o Kaipara Claims Settlement Act 2013
- Te Kawerau ā Maki Claims Settlement Act 2015
- Ngāti Tamaoho Claims Settlement Act 2018

- Ngāi Tai Ki Tāmaki Claims Settlement Act 2018

In this instance, the proposal is not on or adjacent to and will not affect land that is subject to a statutory acknowledgement, and will not result in adversely affected persons in this regard.

Step 2: if not required by step 1, limited notification precluded in certain circumstances

The application is not precluded from limited notification as:

- the application is not for one or more activities that are exclusively subject to a rule or NES which preclude limited notification (s95B(6)(a)); and
- the application is not exclusively for a controlled activity, other than a subdivision, that requires consent under a district plan.

Step 3: if not precluded by step 2, certain other affected persons must be notified

As this application is not for a boundary activity or a prescribed activity, there are no affected persons related to those types of activities (s95B(7)).

The following assessment addresses whether there are any affected persons that the application is required to be limited notified to (s95B(8)).

In determining whether a person is an affected person:

- a person is affected if adverse effects on that person are minor or more than minor (but not less than minor);
- adverse effects permitted by a rule in a plan or NES (the permitted baseline) may be disregarded; and
- the adverse effects on those persons who have provided their written approval must be disregarded.

Adversely affected persons assessment (sections 95B(8) and 95E)

The Consultant has provided in accordance with schedule 4 of the RMA, an assessment of adversely affected persons in such detail as corresponds with the scale and significance of the effects that the activities may have on persons in the surrounding environment on pages 90-92 of the AEE.

The AEE concludes that the following persons are to be notified, and that no other persons are considered to be adversely affected to a minor or more than minor extent in relation to any other potential environmental effects, in light of the conclusions reached in the technical assessments within the AEE.

- Owner / occupier of 249A Kohimarama Road – visual effects;
- Owner / occupier of 3A John Rymer Place – visual effects;
- Owner / occupier of 5 John Rymer Place – visual effects;
- Owner / occupier of 9 John Rymer Place – visual effects;

- Owner / occupier of 17 John Rymer Place – visual effects;
- Owner / occupier of 17A John Rymer Place – visual effects;
- Owner / occupier of 19 John Rymer Place – visual effects;
- Owner / occupier of 19A John Rymer Place – visual effects;
- Owner / occupier of 27 John Rymer Place⁵ – visual and shading effects;
- Owner / occupier of 27A John Rymer Place – visual and shading effects;
- Owner / occupier of 29 John Rymer Place – shading effects;
- Owner / occupier of 35 John Rymer Place – shading effects; and
- Owner / occupier of 35A John Rymer Place – shading effects.

The above-mentioned properties are identified with a red dot on the below map:



Figure 3: Map showing properties where written approval from the owner/occupant has been obtained from, and properties where affected persons have been identified by the Consultant.

The site with the address 203-245 Kohimarama Road (identified with a yellow dot) is occupied by Selwyn College, and written approval has been obtained from Ministry of Education on behalf of the School.

I accept the assessment provided by the Consultant within the AEE, in terms of identifying the above persons as being adversely affected by the proposal. The assessment that follows pertains to whether there are any other affected persons.

Effects that must be disregarded

Any effect on a person who has given written approval to the application

The following persons have provided their written approval and any adverse effects on them have been disregarded:

⁵ This was accidentally left out of the AEE, as subsequently confirmed by the Consultant.

Table 1

Address	Legal description	Owner / occupier
203-245 Kohimarama Road, Kohimarama	Lot 2 DP 332284 and Lot 3 DP 332284	Ministry of Education / Selwyn College
223 Kohimarama Road and 7 John Rymer Place, Kohimarama	Lot 1 Deposited Plan 332284 & Lot 51 Deposited Plan 163242	Whai Rawa Property Holdings Ltd

Effects that may be disregarded

Permitted baseline

The permitted baseline refers to the effects of permitted activities on the subject site. The permitted baseline may be taken into account and the council has the discretion to disregard those effects where an activity is not fanciful.

In this case, the permitted baseline is not considered to be useful for the purposes of disregarding adverse effects of the proposed built form and activity. This is because the scale of the proposal, being the construction and use of an integrated residential development (retirement village) comprising 6 buildings with heights of up to approximately 21m, far exceeds the permitted threshold for the construction and use of a supported residential care accommodating up to 10 people per site that complies with the applicable standards. Therefore, there is no useful permitted baseline when assessing the effects of the proposed retirement village, including associated traffic effects, and built form.

Considering the duration of works, extent of earthworks proposed, and the various construction noise infringements, the permitted construction noise standard and permitted earthworks threshold do not provide a useful permitted baseline in this instance. The proposal is however expected to comply with the vibration standard and therefore this could be considered as a relevant baseline for vibration effects.

Any removal of existing vegetation that is not within 10m of the existing intermittent stream is a permitted activity, and therefore vegetation removal outside of the 10m stream setback forms a relevant permitted baseline.

As confirmed by Council's air discharge specialist, the proposal is considered a permitted activity with regards to potential air discharges arising from earthworks or the emergency generators. As such, potential effects on air quality can be disregarded.

With regards to water take not associated with excavation, Rule E7.4 (A2) provides that, "The taking and use of no more than 5m³/day, when averaged over any consecutive 20 day period is a permitted activity, subject to conditions". The proposed 117 m³/day application maximum daily quantity is for more than 15 times the permitted activity. Therefore, the permitted baseline for water take does not provide a useful comparison for the purpose of discounting associated effects.

There is no permitted baseline for considering any other effects associated with the proposal, such as those relating to human health, groundwater take and diversion, stream diversion and

overland flow path/ flooding, as all of these activities require resource consent and are not permitted by rules in the plan.

Assessment

Receiving environment

The receiving environment beyond the subject site includes permitted activities under the relevant plans, lawfully established activities (via existing use rights or resource consent), and any unimplemented resource consents that are likely to be implemented. The effects of any unimplemented consents on the subject site that are likely to be implemented (and which are not being replaced by the current proposal) also form part of this reasonably foreseeable receiving environment. This is the environment within which the adverse effects of this application must be assessed.

The existing surrounding site and surrounding environment, including the roading/ traffic and ecological environment, is described under section 3 of the AEE.

The properties off John Rymer Place and those adjoining and adjacent to the site are zoned either Mixed Housing Suburban or Mixed Housing Urban, where medium density residential activities and development can occur as a permitted activity, in a built character of predominantly two to three storey buildings in a variety of forms surrounded by open space. Aside from residential activities, there are two schools and a neighbourhood centre within close proximity to the site.

Council's Landscape Architect advised that there are consents granted for a public path that connects St Johns Road through Crown owned land to the southern end of John Rymer Place (BUN60316922 granted 22 July 2019). This path is part of the Auckland Transport 'Glen Innes to Tamaki Drive Shared Path' project, and forms part of the reasonably foreseeable receiving environment and could be of relevance when considering the way John Rymer Place may be used by pedestrians in the future. Following a review of Council records, I have not identified any other unimplemented resource consents that should be considered in terms of the receiving environment for this application.

Adverse effects

Disregarding those persons who have provided their written approval, I do not agree that adverse effects to all other persons (persons not identified by the Consultant in the AEE) are less than minor, for the following reasons:

- a. In terms of landscape/ visual amenity effects, this is the largest area of disagreement between Council and the Applicant's specialists. Council's landscape architect, Ainsley Verstraeten, considers that there may be at least minor visual amenity effects on persons at all the properties identified in yellow (and orange) in the below figure:

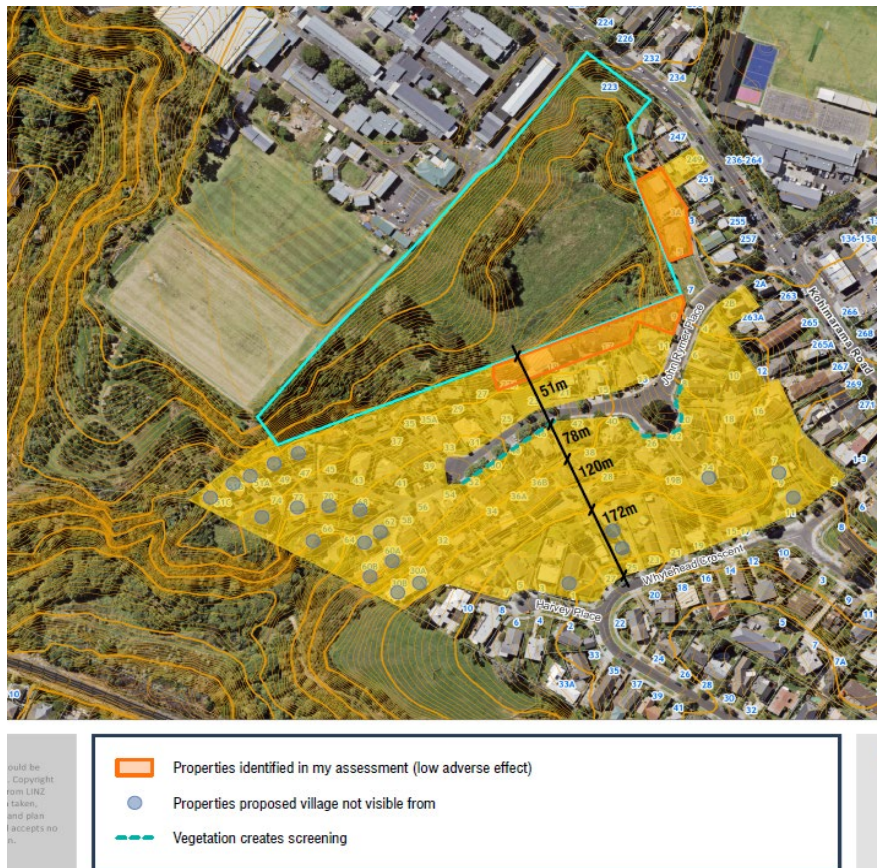


Figure 4: Map provided by Rebecca Skidmore dated 15/06/2020. The key for the orange and grey-dotted properties are provided above. Properties in yellow are identified by Ms Verstraeten as having persons who may be adversely affected to at least a minor degree.

Reasons being:

- Residents living on this cul-de-sac not only take their visual amenity from within their own properties but also as part of the experience of travelling to and from their place of residence. While they may not be directly adjoining the Ryman site, the distance these views will be experienced from are not significant enough to moderate the potential adverse visual effects of the development.
- Residents of John Rhymer Place will view the development as visually bulky and dominant due to the height of the proposed buildings and visually heavy roof forms. The sloping nature of the site exacerbates these effects on residents living and experiencing their street at a lower elevation.
- It is noted that existing vegetation on site is proposed to be retained as well as new planting (mixed native planting) to be established along the boundary with 19, 19A and 27A John Rymer Place. However, new planting would take some time to establish to a height that achieves any form of screening. In addition, although there is existing planting proposed to be retained there is no guarantee that this planting will remain as the application proposes to remove weed species overtime.
- Residents identified within properties along Whytehead Crescent also have the potential for the development to visually dominate their elevated outlook over the site.
- The conservative approach taken is due to a lack of detailed analysis from the applicant. The applicant could provide further information to demonstrate that the

properties will not be adversely affected by visiting these properties and providing photographs or perspectives etc.

The applicant's landscape specialist, Rebecca Skidmore, had only identified persons at the properties in 'orange' in the above figure to be adversely affected (to a minor degree) for visual amenity effects. Reasons being:

- *The property at 257 Kohimarama Road is separated from the Site by the accessway to 5 John Rymer Place and the single-level dwelling has a primary orientation away from the Site. Building B01 will not be visually prominent when viewed from this property. Adverse visual effects will be very low to negligible.*
- *Proposed and existing vegetation will provide visual screening/ buffer to the development from the properties further down John Rymer Place including 27, 29 35A, 35, 45, 47, and 49 John Rymer Place.*
- *The visual change experienced by residents of other surrounding properties in the neighbourhood to the south and east of the Site will vary from moderate to very low and the resulting adverse visual effects will vary from very low to negligible. This is due to the building variations, spacing and stepping form of the buildings in relation to the landform, and the proposed extensive planting.*

Ms Skidmore considered that properties identified with grey dots in the above map would not have visibility of the Village from within their property, or would only have views from their driveway. Ms Verstraeten was asked to peer review this, and she advised that:

- *We cannot be certain that the development would not be visible from properties at the end of John Rymer given some are up to three stories high. The only way we could confirm this is by visiting every property. For example, 60A & 60B are both three stories high. It could be concluded that these properties would not be affected by visual dominance from within their properties, but could be affected by visual dominance when experiencing John Rymer Place. It is possible that 24 John Rymer will not see the site from within their dwellings however the site will be visible from their driveway.*
- *Given [25 Whytehead Cres] is the location of the visual simulation I would disagree that the site is not visible from the property. It may be that the site is not visible from within the two units closest to the road although they will get a clear and direct view from their driveway.*
- *It is possible that the development is not visible from [1 Harvey Place, 9 & 11 Whytehead Cres], although that would rely on vegetation within a neighbouring property remaining.*

In regard to determining persons that are adversely affected in the context of s95E, I do not consider that it is appropriate to consider visual effects experienced by persons travelling along a street. While I agree that these persons may experience a greater adverse effect when travelling along this street compared to the general public, effects experienced from within the street environment are typically considered as a potential adverse effect on the public rather than specific persons, given that the effect is

experienced from the public realm as opposed to private property. Based on the visual simulation provided from Viewpoint 06 and the comment provided by Ms Verstraeten above stating that “*It could be concluded that these properties would not be affected by visual dominance from within their properties*” in relation to the visual experience from properties at the end of John Rymer Place, even if the proposal could be viewed from some of these properties at the end of John Rymer Place, the degree of visual change will be very low. Therefore, I consider that adverse visual amenity effects on persons at the properties at the end of John Rymer Place, marked with grey dots by Ms Skidmore, to be less than minor.

In terms of adverse visual effects on persons at other properties identified in yellow (i.e. those not identified by grey dots at the end of John Rymer Place, and those not already identified as being affected by Ms Skidmore in orange), I consider that adverse visual effects are at least minor on these persons for the following reasons:

- At the time the buildings are established, the planting will not be at a height that will serve as effective visual screening. The vegetation will take years to grow to a height where it would mitigate adverse visual effects. Vegetation that is not located on the subject site also cannot be relied upon for mitigation purposes.
- I agree with Ms Verstraeten that without visiting individual properties nearby (which is impractical in this instance, and an exercise that the applicant has also not attempted to undertake), it is not possible to properly understand the level of visual effect from each property, as this would depend on where key outlooks are located, how high/ how many storeys the dwelling is in relation to the subject site, where the outdoor living spaces are etc. Given the proposed height of the buildings, the elevated position of sites and their distance to the subject site, this has the potential to have at least minor visual dominance effects on persons at those properties where there is likely to be clear views of the development/ at least moderate visual change experienced.
- I consider that visual effects experienced from driveway areas could also have an adverse impact on amenity values, as without an individual on-the-ground site analysis, it is not for us to determine where a person extracts their amenity from.
- It is not unusual for affected persons to be identified where there is not a definitive understanding of the implications on those persons based on evidence, such that it can be determined without doubt that adverse effects on those persons are less than minor.
- I note that Ms Skidmore makes reference to “*a hypothetical development that includes a collection of lower buildings in close proximity to the site boundary*” which I consider to be fanciful. Although the buildings are spaced out, they are well in exceedance of the permitted height control and therefore there is a greater effect on the skyline.

In conclusion, the persons I have found to be adversely affected due to effects on them not being less than minor, are those in the area outlined and shaded in blue below⁶:

⁶ Excluding 7 John Rymer, which forms part of the subject site.



Figure 5: Map showing properties in the blue area (excluding the subject site) where I consider there to be affected persons in terms of visual amenity.

In terms of adverse visual effects on persons further beyond, I accept the assessment provided by Ms Verstraeten and Ms Skidmore, that the separation distance to the site and topography would mean that persons further away would experience less than minor adverse visual amenity effects.

- b. Council’s urban design specialist, Sheerin Samsudeen, has assessed the application and whilst she recognises that the proposal will introduce a significant change to the existing character of the site, she considers that it is generally not inconsistent with the outcomes of the Mixed Housing Urban zone. However, Ms Samsudeen considers the height of building B06 as imposing and that it would present a bulky and dominant outlook for adjoining residents. Furthermore, mitigation of visual bulk and dominance is also reliant on proposed planting which would take some time to establish and is therefore not effective mitigation for adverse effects at the time of planting. Council’s landscape architect, Ainsley Verstraeten, has also advised that *“the detail of this planting is not provided as part of the application”* and *“the plant schedule of the typical mixed native planting detail indicates relatively small plant grades at the time of planting, which in my opinion would take some time to establish to a height that achieves any form of screening”*. Of the properties that Ms Samsudeen identified as having adversely affected residential outlooks, only 45A John Rymer Place was not identified by the Consultant as an affected persons property. This property has already been identified in the above assessment. Any persons in relation to this property are deemed to be affected persons.
- c. In terms of shading effects, shading study diagrams have been provided. A blue line representing shading cast from a development compliant with the height, HIRB and yard

setbacks are also shown. I do not find the blue line depicted to be particularly useful for comparison purposes because it is not reasonable to expect that the site would be developed with buildings located near all the boundaries of the site (rather than centrally), and it also does not take into account other site constraints such as the stream and flooding issues which presents development restrictions. A more helpful comparison would have been for the applicant to provide comparison shading for buildings located in the same proposed positions, but at a compliant height.

In the December summer solstice, shading will be largely contained within the subject site up until 5pm, but then extends north-eastward to properties along Kohimarama Road till sunset at 8:40pm. Shadows to the north-east generated by buildings in the same position but at a compliant height, would likely be similar, given that the blue line indicates much greater shading to the north-east if compliant buildings were built along the eastern boundary.

In the September equinox, shading is largely contained within the subject site up until 4pm. After 4pm, there will be shading to properties along John Rymer Place to varying degrees, and the Applicant's urban design specialist, Clinton Bird, identified persons at 27A, 29, 35 and 35A John Rymer Place to receive minor adverse shading effects. After 5pm, shading will extend eastward to properties along Kohimarama Road as well, until sunset at 6:17pm. I note that the difference in shading cast during March and September equinox is indiscernible.

In the June winter solstice, when shading is most severe, there would be large extents of shading to the south and east in the afternoon, till sunset at 5:11pm. However, a lot of shading to the south is existing shading caused by the steep existing slope of the vacant land. Mr Bird identified persons at 17, 17A, 27, 29, 37 and 45A John Rymer Place as being the receivers of minor adverse effects⁷. Persons at these properties were not identified as being adversely affected by shading in the AEE, and numbers 37 and 45A were not identified in the AEE as properties with affected persons. Mr Bird states that "*in mid-winter, which always creates the worst-case shading scenario, virtually none of the shading on these properties will extend beyond that which would result from a structure on the Site built up to the bulk and location limits prescribed by the AUP MHU zone rules*".

As stated above, I find it fanciful to make a shading comparison to a built form on the site built towards the site boundaries. This is not where the applicant has proposed to construct buildings. There is no relevant permitted baseline in this regard, particularly noting the building proximity to the stream. Based on the existing stream alignment on the site and the AUP expectation that buildings are set back at least 10m from streams, buildings would have been set back much further from the north-eastern boundary. In light of this and following an analysis of the September and June shading diagrams, I also find that persons who own/occupy 247A, 247, 249A, 249, 251, 255 and 257 Kohimarama Road, 3, 3A and 5 John Rymer Place, and some properties to the south

⁷ Paragraph 7.100 of Urban Design Report prepared by Clinton Bird, dated 14 February 2020.

and south-east, along John Rymer Place⁸, to experience shading effects that cannot be described as less than minor. I accept the assessment of Mr Bird in terms of all other persons located further from the site as not being affected persons.

- a. In terms of overlooking/ visual privacy effects, I accept the assessment provided by Mr Bird in paragraph 7.93 of his report, in that any potential overlooking from the proposed Village will have less than minor adverse privacy effects on persons. This is due to the substantial set-back of proposed buildings from the site's south-eastern boundary, the difference in topography and stepped nature of the building forms which achieves compliance with the HIRB standards to the south-east and west boundaries, and screening provided by the existing and proposed vegetation and fencing.

- d. The construction works will be undertaken in four stages, with stage two 'earthworks/ removal of existing building' being undertaken over three seasons (30 weeks each). The full construction period is estimated to take 36 to 42 months (at least three years). Marshall Day Acoustics have provided a noise and vibration effects assessment on behalf of the applicant and the following predictions were made:
 - i. Stage 1 initial site works (four weeks) are predicted to comply with the 70 dB LAeq noise limit and the cosmetic and amenity vibration limits in the AUP.
 - ii. Stage 2 works (earthworks/ remove of existing buildings) are predicted to comply with the cosmetic and amenity vibration limits with the use of static compaction only, within 38m of a receiver. Where earthworks are in close proximity to receivers, exceedances of the noise limits are possible, although these will be transient in nature.
 - iii. Stage 3 construction and fit-out works (staged over 156 weeks) are predicted to comply with the 70 dB LAeq noise limit and the cosmetic and amenity vibration limits if auger piling is used. If vibro piling is required, compliance with the noise limit can be achieved with mitigation in place. However, a noise exceedance is predicted for the northern most elevator shaft even with a 3m noise barrier in place. Vibro piling can comply with both the cosmetic and amenity vibration limits.
 - iv. Stage 4 vehicle crossing works (6 weeks) are predicted to comply with the noise and vibration limits. Noise barriers will be in place to ensure that exceedances do not occur.

Council's noise specialist, Andrew Gordon, has reviewed the Marshall Day report and is satisfied with the adequacy of the assessments provided. Mr Gordon suggested that at a minimum, those properties that would receive noise ≥ 80 dB LAeq discontinuously for 2 weeks would experience at least minor adverse construction noise effects. He also suggested that those properties that would receive noise ≥ 70 dB LAeq (i.e. above the permitted standard) may also experience at least minor adverse effects.

While permitted vibration limits will be achieved, and the permitted construction noise limit of 70dB will also be achieved for most of the construction period, the total

⁸ These properties are already identified as properties with affected persons in terms of adverse visual effects. For efficiency, I have not gone into listing each individual property here.

construction period exceeds the permitted 24-month period for temporary activities associated with construction to occur. Overall, given the length of construction period, and the level of construction noise that will occur particularly during Stage 2 works, I consider that the level of disruption caused during construction cannot be found to be less than minor in regard to persons who own or occupy the following properties:

- 5 John Rymer Place
- 9 John Rymer Place
- 11 John Rymer Place
- 17 and 17A John Rymer Place
- 19 and 19A John Rymer Place
- 27 and 27A John Rymer Place
- 29 John Rymer Place
- 35 and 35A John Rymer Place
- 1/37 and 2/37 John Rymer Place
- 45 and 45A John Rymer Place
- 47 John Rymer Place
- 49 John Rymer Place

Persons at sites other than those identified above will be further distanced from the works and experience lower noise levels, noting that a difference of 1-3dB (i.e. 73dB compared to the permitted 70dB) is generally imperceptible in terms of subjective response. Furthermore, the site is large and construction effects will vary depending on where specific works for each stage are being undertaken. As such, I am satisfied that the proposal will have less than minor adverse construction noise/ disruption effects to all other persons (irrespective of whether these have already been found to be affected persons for other reasons).

In terms of all other effects, these will be less than minor on persons/ groups for the following reasons:

- a. Traffic effects have been assessed by Council's traffic engineer (Sarishka Gandhi) and Auckland Transport (AT), including peer review of Transportation Assessment (TIA) prepared by Commute. Overall, AT and Council's traffic engineer accept the findings in the TIA insofar as it states that the additional traffic can be safely accommodated on the road network based on trip generation analysis. The trip generation analysis showed favourable Level of Service⁹ after the commencement of the development. However, AT are concerned that right-turning vehicles into John Rymer Place may pose safety risks due to the type of road user going into the retirement village and the heavy two-lane opposing through traffic, and has recommended that a right-turn signal be installed to mitigate such effects. The signal installation has not been proposed/ agreed to by the applicant at this stage. These potential traffic safety effects are however effects on the environment (public) and future occupants of the Village, rather than on any identifiable persons.

⁹ Level of service is typically defined on the basis of delays, on a graduated scale from A to F, with "A" meaning: uncongested operations; all queues clear in a single signal cycle of the signals, and "F" meaning: total breakdown, stop-and-go operation.

The development will be provided with adequate on-site loading and parking spaces, and the vehicle crossing and access are located and designed in accordance with the AUP(OP) width, gradient and separation standards. Vehicles can exit the site in a forward motion and adequate sight distance will be available from the proposed crossings.

Due to Kohimarama Road being an arterial road, right turn movements out of the site onto Kohimarama Road will be prohibited at all times. Appropriate signage is proposed to convey access restriction requirements. AT have however expressed concern regarding drivers not adhering to signs, however Mr Gandhi did not share the same concern and considers that drivers typically adhere to signs. I accept Mr Gandhi's views, given that if the traffic is busy and a safe manoeuvre appears difficult, this would also deter drivers from making a right turn. Automatic bollards are also proposed to restrict movements for vehicles exiting directly onto Kohimarama Road during peak school time. The TIA recommends the installation of permanent "No Stopping at All Times" ('NSAAT') markings restricting parking to the south of the proposed John Rymer Place access for 10m, in order to improve sight distance for the proposed access. Auckland Transport supports this, and given that the NSAAT parking restrictions are only proposed for 10m, the on-street parking loss is considered acceptable.

In terms of construction traffic, truck movements will predominantly occur outside of school drop off and pick up periods. Construction traffic is expected to be less intensive than that from the typical development operation. Trucks and other construction vehicles are not to turn left from the site onto John Rymer Place to minimise effects on the cul-de-sac. As discussed above, right turn movements out of the site onto Kohimarama Road will be prohibited at all times (this applies during and after construction). A Traffic Controller spotter will also assist in avoiding conflict between construction vehicles, pedestrians and vehicles at the access points, and temporary NSAAT marking is proposed to the north of the proposed John Rymer crossing to prevent trucks blocking eastbound vehicles. Site Access signs will be installed for pedestrian warning. A final detailed Construction Traffic Management Plan (CTMP) will be submitted for certification by Council prior to works commencing.

Overall, based on the expert assessments provided by the traffic engineers, I am satisfied that adverse traffic effects from the proposal can be managed to be less than minor on all persons, including St Thomas Primary School (noting also that Selwyn College has provided written approval to the application). In any case, I consider that potential traffic safety effects associated with the concerns raised by Auckland Transport would not be specific to any persons, but rather general road users.

- b. The applicant's geotechnical consultant, Tonkin and Taylor (T&T), identified the following properties as having the potential to be adversely affected by the proposed groundwater dewatering and diversion (in terms of potential ground settlement from excavation): Selwyn College site, 247A and 249A Kohimarama Road and 3A John Rymer Place. Selwyn College have provided written approval to the application and therefore any potential effects on them are disregarded. Persons at 249A Kohimarama Road and 3A John Rymer Place are already identified by the Consultant as affected parties for other

reasons, and I have already identified persons at 247A Kohimarama Road as being affected in terms of shading. Notwithstanding this, Fraser Thomas Limited (FTL) has reviewed the T&T report on behalf of Council, and concurs that the three identified private properties are the only properties that have the potential to be adversely affected by the proposed dewatering and groundwater diversion (noting that what is being spoken to here is the physical structures on these sites as having the potential to be affected at this point, not making a conclusion as to whether there are in fact affected persons). FTL also concurs with the assessment of effects undertaken by T&T for the three dwellings listed above, and advised that there are no public services which could be affected by settlement associated with the construction of the Eastern Retaining Wall for the proposed retirement village (and in turn, no affected network utility operators). At 247A Kohimarama Road, there is an elevated deck on the site boundary with a swimming pool located approximately 2m from the site boundary, and therefore weekly visual inspections of the deck structure and swimming pool are required during excavation and construction of the eastern retaining wall adjacent to 247A Kohimarama Road. Ryman have adopted the recommended monitoring conditions provided by FTL. Provided that the diversion and take of groundwater are undertaken in accordance with the proposed performance standards, monitoring and contingency actions and maintenance program, adverse effects from settlement risk on all persons (specifically owners/ occupiers of 247A and 249A Kohimarama Road and 3A John Rymer Place) will be less than minor.

- c. In terms of the proposed bore for irrigation of amenity gardens, Council's water allocation specialist, Nicola Jones, advised that, *"The location, depth and design of the bore, including the design of the head works is appropriate and will not lead to adverse effects on other groundwater users. Given the purpose of the bore and the distance to the closest neighbouring bores/takes, the use of this bore will not have any adverse effects on other groundwater users. ... the consent holder/bore owner/operator will need to periodically check that the headworks are not compromised overtime, so to ensure the bore doesn't become a vector for groundwater contamination. ... The above will be met by the bore being constructed and maintained and records kept in accordance with the application submitted, consent conditions and NZS 4411:2001, Environmental Standard for Drilling of Soil and Rock."*

It is not expected that ground settlement caused by pumping drawdowns will impact any buildings, structures or services within the vicinity of the bore. Ms Jones agreed with T&T's assessment in that the nature of the geology in the site location is such that it provides a rigid layering that restricts the effects of drawdown on ground movement and land stability. The depth, low vertical permeability and consolidated nature of the geology does not present a risk of subsidence or aquifer consolidation.

There is one recorded permitted water take activity in the vicinity of the proposed take site, at 30 Melanesia Road, Kohimarama (Kohimarama Bowling Club) approximately 1.2km away. T&T assessed the potential drawdown effects on this neighbouring bore and advised that, *"While this interference drawdown represents a reduction in the available drawdown in the bowling club bore of approximately 3%, we estimate that approximately 112 m of available drawdown remains in the Bowling Club bore after taking into account the assumed cumulative drawdown effects. This means that the Bowling Club will still be*

able to obtain its lawfully authorised supply providing it has a suitably constructed bore. After the first five years of irrigation at the Site, the groundwater take will be reduced to approximately 90 m³/day, which will reduce the drawdown effect on the Bowling Club bore.” Ms Jones concurred with T&T’s assessment and advised that the proposed water take will not cause adverse interference effects on neighbouring bores to the extent their owners are prevented from exercising their lawfully established water takes (E2.3(7)(e)). The reduction of the allocated water take after five years will also reduce the effects of drawdown.

Having relied on the specialist input provided by Council’s water take specialist (Ms Jones), there will be less than minor adverse effects on persons, notably the Kohimarama Bowling Club, due to the proposed bore for irrigation of amenity gardens.

- d. In terms of the contaminated soils on site, Council’s consultant contamination specialist agreed with T&T’s conclusion that the presence of asbestos in soils presents a potential health risk from disturbance of these soils. T&T recommends that the asbestos impacted soils either be disposed off-site or potentially encapsulated (sealed beneath surfaces) on site. A final SMP prepared in accordance with the recommendations set out by Council’s contamination specialist will be provided to Council prior to soil disturbance works commencing. Provided that a final SMP certified by Council is implemented, this would ensure less than minor adverse human health effects on any persons, including site workers, persons on neighbouring properties, and future occupants on site.
- e. In terms of infrastructure servicing, Council’s development engineer, Jin Lee, has advised that based on the Ryman Healthcare proposed Comprehensive Care Stormwater Management Plan, *“The resulting stormwater mitigation is considered favourable in terms of total site discharge relative to existing for the piped discharge as well as overland flows in a 1 in 10 year storm event.”* In terms of wastewater servicing, the proposal has been reviewed by Watercare Services Ltd who have concluded that the proposed wastewater network extension and capacity assessment for wastewater is generally acceptable. Watercare were also satisfied that the development can be adequately serviced in terms of water supply. On the basis of this input, I am satisfied that neither Healthy Waters (Auckland Council) nor Watercare will be adversely affected persons in terms of their specific role in the environmental management and operation of these assets.
- f. In terms of off-site flooding effects, while the entry locations of the overland flow paths to the site are unaltered, the exit locations are being altered. Ms Lee has advised that *“Based on the evidence provided, there is no anticipated effects on the upstream properties and downstream conditions are considered to be improved relative to existing as a result of the development”*. Healthy Waters have also considered the offsite flooding effects to be *“mitigated, subject to a long-term and committed maintenance regime”*. The applicant will be responsible for long-term maintenance of stormwater/ overland flow path devices. As such, having relied on the advice provided by Ms Lee and Healthy Waters, there will be less than minor flood hazard risks to all persons.

- g. In terms of potential land instability risks to neighbouring persons, Ms Lee has advised that *“the site can be safely developed from a geotechnical/ stability perspective, subject to conditions. If appropriately managed, no other properties are likely to be affected from soil instability issues arising from the earthworks”*. The applicant will provide an engineer’s work method prepared by a suitably qualified geotechnical engineer in accordance with the recommendations set out in the Tokin & Taylor Geotechnical Assessment for Council certification prior to earthworks commencing. All excavations, retaining and foundation construction will also be supervised by an engineer. The applicant proposes progressive stabilisation of slopes and dust suppression through watering during dry weather. Given that there is nothing to suggest that the land to be disturbed is odorous, the earthworks is not expected to give rise to any adverse odour effects. Accordingly, the proposed earthworks will have less than minor adverse effects relating to land instability, dust and odour on persons.
- h. There is no information to suggest that any iwi groups would be adversely affected by the proposal in terms of Mana Whenua values, which must be considered for the earthworks, groundwater diversion and dewatering, water take and bore construction, and stream activities, per the AUP(OP) objectives and policies. Accidental discovery protocols will be implemented, and the quality of freshwater will be protected by implementing the final approved streamworks and erosion and sediment control plan. The proposal is not within close proximity to any Site or Place of Significance to Mana Whenua, and catchment limits will not be exceeded (Policy E2.3(16)). The applicant has provided evidence of consultation with interested iwi groups, and no concerns were raised. It is also noted that written approval from Whai Rawa Property Holding Ltd (the commercial arm of the Ngati Whatua Orakei Group) has been obtained, and adverse effects on them have not been considered here.
- i. Effects on water quality and quantity, and ecology and biodiversity relate to the environment, and would not result in potential adverse effects on specific persons, except that Mana Whenua values need to be considered, and this has been discussed above. Nevertheless, Council’s earth and streamworks specialist and ecologist have reviewed the proposal, specifically the Erosion and Sediment Control Plan (ESCP), planting plan and streamworks methodology, and were satisfied that resulting effects from sediment discharges during earthworks will be appropriately managed, and ecological and water quality effects associated with the loss of freshwater habitat, existing riparian vegetation and sediment disturbance due to in-stream and riparian works can be appropriately managed. Council’s stormwater specialist was satisfied that the proposed stormwater management for the site is appropriate and any adverse effects on freshwater water quality/ quantity will be adequately avoided or suitably mitigated. Council’s water take specialist was satisfied that the potential adverse effects on shallow groundwater and surface water and potential for saltwater intrusion, due to the proposed bore/ water take, will be negligible, provided that the bore is constructed to avoid a hydraulic connection between penetrated aquifers with different pressures, water quality or temperature.
- j. Having considered all the adverse effects of the proposal, I have turned by mind to whether the cumulative effects of the proposal would give rise to adverse effects that are

not less than minor on any other persons not otherwise identified as being adversely affected above. In this regard, I do not consider that any other persons are adversely affected because persons who will experience cumulative adverse effects from the proposal, namely residential amenity and construction effects, have already been identified as affected persons.

Conclusion

Based on the above assessments, I consider that adverse effects on persons who own or occupy the following properties listed below will not meet the test for less than minor, due to individual or combined effects relating to residential amenity and construction.

Note: The text in blue are the associated effects that I have identified on persons at that specific relative property (where this has not already been identified by the Consultant).

Properties with affected persons already identified by the Consultant in the AEE:

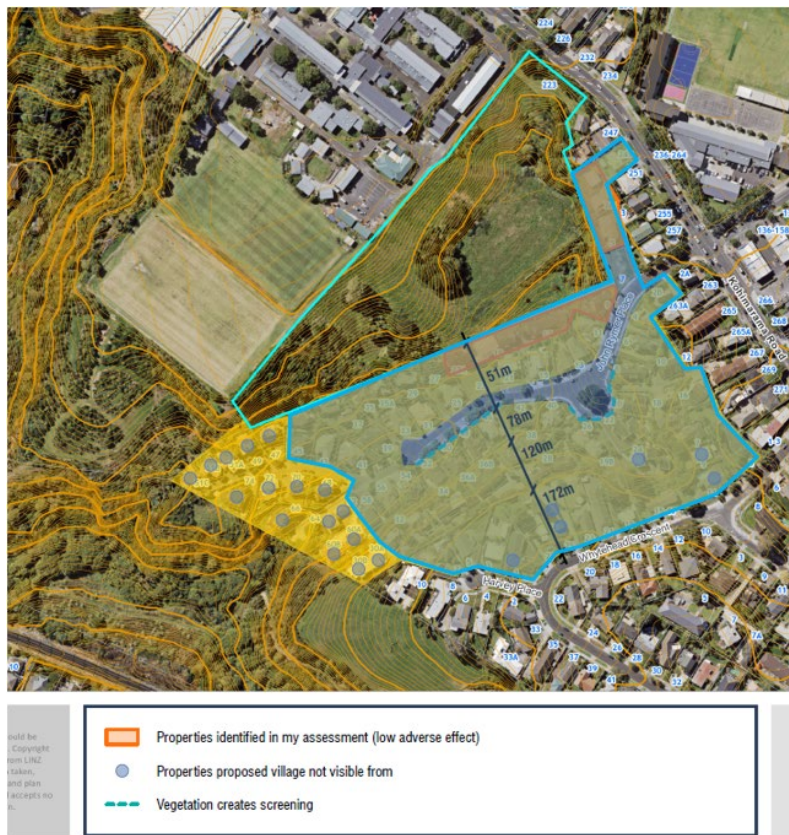
- 249A Kohimarama Road – visual effects *and shading*
- 3A John Rymer Place – visual effects *and shading*
- 5 John Rymer Place – visual effects, *construction noise and shading*
- 9 John Rymer Place – visual effects *and construction noise*
- 17 John Rymer Place – visual effects *and construction noise, shading*
- 17A John Rymer Place – visual effects *and construction noise, shading*
- 19 John Rymer Place – visual effects *and construction noise*
- 19A John Rymer Place – visual effects *and construction noise*
- 27 John Rymer Place – visual *and shading effects and construction noise*
- 27A John Rymer Place – visual *and shading effects and construction noise*
- 29 John Rymer Place – shading effects, *construction noise and visual*
- 35 John Rymer Place – shading effects, *construction noise and visual*
- 35A John Rymer Place – shading effects, *construction noise and visual*

Properties with affected persons in addition to those already identified by the Consultant:

- 11 John Rymer Place *construction noise and visual*
- 1/37 and 2/37 John Rymer Place *construction noise, shading*
- 45 John Rymer Place *construction noise and visual*
- 45A John Rymer Place *construction noise, bulk and visual, shading*
- 47 John Rymer Place *construction noise*
- 49 John Rymer Place *construction noise*

- 257 Kohimarama Road *shading*
- 255 Kohimarama Road *shading*
- 251 Kohimarama Road *shading*
- 249 Kohimarama Road *shading*
- 3 John Rymer Place *shading*

The properties listed below are those shown within the blue area in the below map (excluding the subject site and those already identified above).



Replicated Figure 5 for reference.

Note: Persons at some of the properties identified below will also be adversely affected by shading. For time efficiency, I have not individually identified/ annotated each of these properties with 'shading effects'.

- 1/28 John Rymer Place *visual effects*
- 26 John Rymer Place *visual effects*
- 20 John Rymer Place *visual effects*
- 43 John Rymer Place *visual effects*
- 34A John Rymer Place *visual effects*
- 1/3 Harvey Place *visual effects*
- 41 John Rymer Place *visual effects*
- 15 Whytehead Crescent *visual effects*
- 11 Whytehead Crescent *visual effects*
- 4/3 Harvey Place *visual effects*
- 7A Harvey Place *visual effects*
- 2B John Rymer Place *visual effects*
- 58 John Rymer Place *visual effects*
- 2/37 John Rymer Place *visual effects*
- 25 John Rymer Place *visual effects*
- 1/1 Harvey Place *visual effects*

- 38A John Rymer Place *visual effects*
- 46 John Rymer Place *visual effects*
- 3/1 Harvey Place *visual effects*
- 4 John Rymer Place *visual effects*
- 27 Whytehead Crescent *visual effects*
- 33 John Rymer Place *visual effects*
- 40 John Rymer Place *visual effects*
- 42 John Rymer Place *visual effects*
- 16 John Rymer Place *visual effects*
- 22A John Rymer Place *visual effects*
- 25 Whytehead Crescent *visual effects*
- 52 John Rymer Place *visual effects*
- 23 John Rymer Place *visual effects*
- 48 John Rymer Place *visual effects*
- 22B John Rymer Place *visual effects*
- 17 Whytehead Crescent *visual effects*
- 34B John Rymer Place *visual effects*
- 13A John Rymer Place *visual effects*
- 19 Whytehead Crescent *visual effects*
- 21 John Rymer Place *visual effects*
- 7 Whytehead Crescent *visual effects*
- 21 Whytehead Crescent *visual effects*
- 31 John Rymer Place *visual effects*
- 50 John Rymer Place *visual effects*
- 32B John Rymer Place *visual effects*
- 5 Harvey Place *visual effects*
- 8 John Rymer Place *visual effects*
- 19A Whytehead Crescent *visual effects*
- 24C John Rymer Place *visual effects*
- 6 John Rymer Place *visual effects*
- 2/1 Harvey Place *visual effects*
- 26A John Rymer Place *visual effects*
- 15 John Rymer Place *visual effects*
- 10 John Rymer Place *visual effects*
- 39 John Rymer Place *visual effects*
- 1/37 John Rymer Place *visual effects*
- 4/1 Harvey Place *visual effects*
- 24A John Rymer Place *visual effects*
- 54 John Rymer Place *visual effects*
- 2/23 Whytehead Crescent *visual effects*
- 18B John Rymer Place *visual effects*
- 2/28 John Rymer Place *visual effects*
- 7 Harvey Place *visual effects*
- 1/23 Whytehead Crescent *visual effects*

- 2/3 Harvey Place *visual effects*
- 38B John Rymer Place *visual effects*
- 32A John Rymer Place *visual effects*
- 3/3 Harvey Place *visual effects*
- 9 Whytehead Crescent *visual effects*
- 19B Whytehead Crescent *visual effects*
- 36A John Rymer Place *visual effects*
- 18A John Rymer Place *visual effects*
- 5 Whytehead Crescent *visual effects*
- 56 John Rymer Place *visual effects*
- 36B John Rymer Place *visual effects*
- 24B John Rymer Place *visual effects*
- 13B John Rymer Place *visual effects*

No other persons are considered to be adversely affected by the proposal, due to the adverse effects of the proposal on those persons being less than minor.

Step 4: further notification in special circumstances

In addition to the findings of the previous steps, the council is also required to determine whether special circumstances exist in relation to the application that warrant it being notified to any other persons not already determined as eligible for limited notification.

Special circumstances are those that are:

- Exceptional, abnormal or unusual, but something less than extraordinary or unique;
- outside of the common run of applications of this nature; or
- circumstances which make limited notification to any other person desirable, notwithstanding the conclusion that no other person has been considered eligible.

In this instance I have turned my mind specifically to the existence of any special circumstances under s95B(10) and conclude that there is nothing exceptional or unusual about the application, and that the proposal has nothing out of the ordinary run of things to suggest that notification to any other persons should occur.

Limited notification conclusion

Having undertaken the s95B limited notification tests, the following conclusions are reached:

- Under step 1, limited notification is not mandatory.
- Under step 2, there is no rule or NES that specifically precludes limited notification of the activities, and the application is for activities other than those specified in s95B(6)(b).
- Under step 3, limited notification is required as it is considered that the activities will result in several adversely affected persons.
- Under step 4, there are no special circumstances that warrant the application being limited notified to any other persons.

It is therefore recommended that this application be processed with limited notification.

9. Notification recommendation

Non-notification

For the above reasons under section 95A, this application may be processed without public notification.

However under section 95B, limited notification is required.

Accordingly, I recommend that this application is processed with **Limited Notification**. I recommend that notice of this application be served on those persons who own and/or occupy all the properties listed within Appendix A.



Sandy Hsiao
Senior Planner
Resource Consents

Date: 1 September 2020

Approved for release

Sections 95A and 95B recommendation approved for release to the duty commissioner for determination.



Russell Butchers
Principal Project Lead
Premium Resource Consents

Date: 2 September 2020

Appendix A:

List of properties with affected persons (owners and occupiers)

- 249A Kohimarama Road
- 3A John Rymer Place
- 5 John Rymer Place
- 9 John Rymer Place
- 17 John Rymer Place
- 17A John Rymer Place
- 19 John Rymer Place
- 19A John Rymer Place
- 27 John Rymer Place
- 27A John Rymer Place
- 29 John Rymer Place
- 35 John Rymer Place
- 35A John Rymer Place
- 11 John Rymer Place
- 1/37 John Rymer Place
- 2/37 John Rymer Place
- 45 John Rymer Place
- 45A John Rymer Place
- 47 John Rymer Place
- 49 John Rymer Place
- 257 Kohimarama Road
- 255 Kohimarama Road
- 251 Kohimarama Road
- 249 Kohimarama Road
- 3 John Rymer Place
- 1/28 John Rymer Place
- 26 John Rymer Place
- 20 John Rymer Place
- 43 John Rymer Place
- 34A John Rymer Place
- 1/3 Harvey Place
- 41 John Rymer Place
- 15 Whytehead Crescent
- 11 Whytehead Crescent
- 4/3 Harvey Place
- 7A Harvey Place
- 2B John Rymer Place
- 58 John Rymer Place
- 2/37 John Rymer Place
- 25 John Rymer Place
- 1/1 Harvey Place
- 38A John Rymer Place
- 46 John Rymer Place

- 3/1 Harvey Place
- 4 John Rymer Place
- 27 Whytehead Crescent
- 33 John Rymer Place
- 40 John Rymer Place
- 42 John Rymer Place
- 16 John Rymer Place
- 22A John Rymer Place
- 25 Whytehead Crescent
- 52 John Rymer Place
- 23 John Rymer Place
- 48 John Rymer Place
- 22B John Rymer Place
- 17 Whytehead Crescent
- 34B John Rymer Place
- 13A John Rymer Place
- 19 Whytehead Crescent
- 21 John Rymer Place
- 7 Whytehead Crescent
- 21 Whytehead Crescent
- 31 John Rymer Place
- 50 John Rymer Place
- 32B John Rymer Place
- 5 Harvey Place
- 8 John Rymer Place
- 19A Whytehead Crescent
- 24C John Rymer Place
- 6 John Rymer Place
- 2/1 Harvey Place
- 26A John Rymer Place
- 15 John Rymer Place
- 10 John Rymer Place
- 39 John Rymer Place
- 1/37 John Rymer Place
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- 24A John Rymer Place
- 54 John Rymer Place
- 2/23 Whytehead Crescent
- 18B John Rymer Place
- 2/28 John Rymer Place
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- 1/23 Whytehead Crescent
- 2/3 Harvey Place
- 38B John Rymer Place
- 32A John Rymer Place
- 3/3 Harvey Place
- 9 Whytehead Crescent

- 19B Whytehead Crescent
- 36A John Rymer Place
- 18A John Rymer Place
- 5 Whytehead Crescent
- 56 John Rymer Place
- 36B John Rymer Place
- 24B John Rymer Place
- 13B John Rymer Place