

# Decision on notification of an application for resource consent under the Resource Management Act 1991



Discretionary activity for a residential activity

**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

**NZTM map reference:** 1763960 mE, 5918658mN

**Proposal:**

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 resource consents required are:

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 10.4m<sup>1</sup>.

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

- 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 setback<sup>2</sup>.
  - 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 31,221m<sup>2</sup> and 58,624m<sup>3</sup>, being earthworks greater than 2,500 m<sup>2</sup> and 2,500m<sup>3</sup> 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.

#### *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 properties<sup>3</sup>.

#### *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)

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

<sup>3</sup> 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.

- 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).

#### *Land Disturbance – Regional*

- To undertake earthworks greater than 2,500m<sup>2</sup> 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 2,500m<sup>2</sup> 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 E3.6.1.24 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 12,090m<sup>3</sup> 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).

## 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).

## Decision

I have read the application, supporting documents, and the report and recommendations on the application for resource consents. I have carried out a site visit. I have also had regard to correspondence received from the Orakei Local Board (dated 17 August and 3 September 2020). I also note for the sake of completeness that in making this determination I have considered the correspondence (dated 7 July 2020, 21 July 2020 and 4 September 2020) from the applicant's lawyers.

I am satisfied that I have sufficient information to consider the matters required by the Resource Management Act 1991 (RMA) and make a decision under delegated authority on notification.

### Public notification

Under section 95A of the RMA this application shall proceed without public notification because:

1. Under step 1, public notification is not mandatory as:
  - a. the applicant has not requested it

- b. there are no outstanding or refused requests for further information, and
  - c. the application does not involve any exchange of recreation reserve land under s15AA of the Reserves Act 1977.
2. Under step 2, public notification is precluded as the application exclusively involves a residential activity which requires consent as a discretionary activity. The proposal qualifies as a residential activity as:
    - a. the land is zoned Residential – Mixed Housing Urban, being a zone that is intended to be used principally for residential purposes; and
    - b. 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.
  3. Consideration of step 3 is not required given the finding of step 2.
  4. Under step 4, there are no special circumstances that warrant the application being publicly notified because there is nothing exceptional or unusual about the application, and the proposal has nothing out of the ordinary run of things to suggest that public notification should occur. While the proposal incorporates various infringements to the applicable development standards that in itself does not constitute a special circumstance.

### Limited notification

Under section 95B of the RMA this application shall proceed with limited notification because:

1. Under step 1, limited notification is not mandatory as:
  - a. there are no protected customary rights groups or customary marine title groups affected by this proposal, and
  - b. no persons to whom a statutory acknowledgement is made is adversely affected by this proposal.
2. Under step 2, limited notification is not precluded as:
  - a. there is no rule or NES that specifically precludes limited notification of the activities, and
  - b. the application is for an activity other than those specified in s95B(6)(b).
3. Under step 3, limited notification is required as:
  - a. While this application is not for a boundary activity;
  - b. I have read the Council's reporting planner's recommendation on notification and having visited the site and surrounds, and noting I was not able to visit individual surrounding properties, based on all of the information in front of me, agree with the reporting planner that persons who own or occupy the properties listed below will be adversely affected by the proposal to a minor or more than minor degree for the

reasons set out in the planner's report, being the individual and/or combined adverse effects relating to residential amenity (including effects related to height and building dominance/shading and visual effects) and construction activities (noting the implementation duration of the proposed development). I also note that the reporting planner addressed shading effects on 247 and 247a Kohimarama Road at page 21 of her report but clearly omitted to include reference to those affected persons who own or occupy those properties in her recommended list of affected persons at her Appendix A.

I have added to that list those affected persons who own or occupy those properties at 247 and 247a Kohimarama Road based on her findings which I concur with.

- c. The affected persons are those who own or occupy the properties listed below
  - i. 249A Kohimarama Road
  - ii. 3A John Rymer Place
  - iii. 5 John Rymer Place
  - iv. 9 John Rymer Place
  - v. 17 John Rymer Place
  - vi. 17A John Rymer Place
  - vii. 19 John Rymer Place
  - viii. 19A John Rymer Place
  - ix. 27 John Rymer Place
  - x. 27A John Rymer Place
  - xi. 29 John Rymer Place
  - xii. 35 John Rymer Place
  - xiii. 35A John Rymer Place
  - xiv. 11 John Rymer Place
  - xv. 1/37 John Rymer Place
  - xvi. 2/37 John Rymer Place
  - xvii. 45 John Rymer Place
  - xviii. 45A John Rymer Place
  - xix. 47 John Rymer Place
  - xx. 49 John Rymer Place
  - xxi. 247 Kohimarama Road
  - xxii. 247A Kohimarama Road
  - xxiii. 257 Kohimarama Road

- xxiv. 255 Kohimarama Road
- xxv. 251 Kohimarama Road
- xxvi. 249 Kohimarama Road
- xxvii. 3 John Rymer Place
- xxviii. 1/28 John Rymer Place
- xxix. 26 John Rymer Place
- xxx. 20 John Rymer Place
- xxxi. 43 John Rymer Place
- xxxii. 34A John Rymer Place
- xxxiii. 1/3 Harvey Place
- xxxiv. 41 John Rymer Place
- xxxv. 15 Whytehead Crescent
- xxxvi. 11 Whytehead Crescent
- xxxvii. 4/3 Harvey Place
- xxxviii. 7A Harvey Place
- xxxix. 2B John Rymer Place
- xl. 58 John Rymer Place
- xli. 2/37 John Rymer Place
- xl. 25 John Rymer Place
- xl. 1/1 Harvey Place
- xl. 38A John Rymer Place
- xl. 46 John Rymer Place
- xl. 3/1 Harvey Place
- xl. 4 John Rymer Place
- xl. 27 Whytehead Crescent
- xl. 33 John Rymer Place
- l. 40 John Rymer Place
- li. 42 John Rymer Place
- lii. 16 John Rymer Place
- liii. 22A John Rymer Place
- liv. 25 Whytehead Crescent

- iv. 52 John Rymer Place
- lvi. 23 John Rymer Place
- lvii. 48 John Rymer Place
- lviii. 22B John Rymer Place
- lix. 17 Whytehead Crescent
- lx. 34B John Rymer Place
- lxi. 13A John Rymer Place
- lxii. 19 Whytehead Crescent
- lxiii. 21 John Rymer Place
- lxiv. 7 Whytehead Crescent
- lxv. 21 Whytehead Crescent
- lxvi. 31 John Rymer Place
- lxvii. 50 John Rymer Place
- lxviii. 32B John Rymer Place
- lxix. 5 Harvey Place
- lxx. 8 John Rymer Place
- lxxi. 19A Whytehead Crescent
- lxxii. 24C John Rymer Place
- lxxiii. 6 John Rymer Place
- lxxiv. 2/1 Harvey Place
- lxxv. 26A John Rymer Place
- lxxvi. 15 John Rymer Place
- lxxvii. 10 John Rymer Place
- lxxviii. 39 John Rymer Place
- lxxix. 1/37 John Rymer Place
- lxxx. 4/1 Harvey Place
- lxxxi. 24A John Rymer Place
- lxxxii. 54 John Rymer Place
- lxxxiii. 2/23 Whytehead Crescent
- lxxxiv. 18B John Rymer Place
- lxxxv. 2/28 John Rymer Place



- lxxxvi. 7 Harvey Place
- lxxxvii. 1/23 Whytehead Crescent
- lxxxviii. 2/3 Harvey Place
- lxxxix. 38B John Rymer Place
  - xc. 32A John Rymer Place
  - xc. 3/3 Harvey Place
  - xcii. 9 Whytehead Crescent
  - xciii. 19B Whytehead Crescent
  - xciv. 36A John Rymer Place
  - xcv. 18A John Rymer Place
  - xcvi. 5 Whytehead Crescent
  - xcvii. 56 John Rymer Place
  - xcviii. 36B John Rymer Place
  - xcix. 24B John Rymer Place
  - c. 13B John Rymer Place

- d. No other persons are adversely affected to a minor or more than minor degree, for the reasons set out in the Council's reporting planner's notification recommendation report.
4. Under step 4, there are no special circumstances that warrant the application being limited notified to any persons because there is nothing exceptional or unusual about the application, and the proposal has nothing out of the ordinary run of things to suggest that notification to any other persons should occur. While the proposal incorporates various infringements to the applicable development standards that in itself does not constitute a special circumstance.

Accordingly, this application shall proceed with **LIMITED NOTIFICATION**. Notice of this application shall be served on the affected persons listed above, unless their written approval is otherwise obtained.



**Barry Kaye**

**Duty Commissioner**

10 September 2020