



Sections 95, 95A – 95F Resource Management Act 1991

Report determining whether an application for Resource Consent should be processed as publicly notified, limited notified or non-notified

Consent number:	LUC23/0035
Applicant's Name:	Kainga Ora Homes and Communities
Street Address:	43 Allens Road ASHBURTON
Legal Description of Site:	Lot 10 DP 12797 Lot 3 DP 21833 Lot 4 DP 21833
Zone:	Residential C
Application summary:	Land use consent at 43, 45 and 47 Allens Road to address the non-compliances associated with the construction of nine residential units on three allotments, zoned Residential C.

1.0 DESCRIPTION OF THE PROPOSAL

The Applicant seeks to construct one standalone two-storey residential unit and a duplex residential unit (two semi-detached dwellings) on each of three adjacent titles resulting in a nine-unit social housing complex on Allens Road.

Resource consent is required as a Restricted Discretionary Activity given the following District Plan non-compliances:

- **Standard 4.9.1 Residential Density**
 - a) Minimum net area for each residential unit contained within a Residential C site with accessible reticulated sewer shall be 360 m².
 - c) There shall be only one residential unit on any land comprised in a separate site / Computer Freehold Register (Certificate of Title).
- **Site Standard 4.9.4 – (Recession Lines)**- this rule specifies that no building shall project beyond a building envelope constructed by recession lines from points 2.3m above internal boundaries.
- **Standard 4.9.7 Outdoor Living Space**
 - a) For each residential unit in the Residential C zone, there shall be a minimum of 70m² of outdoor living space with a minimum dimension of 5m.
- **Standard 10.9.5 –Maximum number of Vehicle Crossings**
 - a) The maximum number of vehicle crossings to a site per road frontage shall be in accordance with Table 10-7: Two vehicle crossings for a Collector Road frontage length between 21-60m.



[illegible]

3

1.1 DESCRIPTION OF THE EXISTING ENVIRONMENT

The Application Sites (LOT 10 DP 12797, LOT 3 DP 21833 & LOT 4 DP 21833) are located on the western side of Allens Road, in close proximity to the Business A zone and Designation D64 (Allenton Primary School). Surrounded by other medium-density Residential C zoned properties, Allens Road is a listed Collector Road in the District Plan. There are no Heritage Buildings or Protected Trees associated with these properties, nor are they listed in an identified flood risk area. The sites are not listed on ECan's Listed Land Use Register.



Figure 4. Aerial View of Application Site

2.0 PLANNING FRAMEWORK

2.1 RELEVANT RULES

Section 4: Residential Zone

4.8.3 Restricted Discretionary Activities

a) Any Activity which is listed as a Permitted Activity and which complies with all of the

relevant Site and Zone Standards, shall where the Site Standards specify be a Restricted Discretionary Activity with the exercise of the Council's discretion being restricted to the matter(s) specified under 4.11 Assessment Matters.

Relevant Rule	Compliance
<p>Site Standard 4.9.1a – (Residential Density)- this rule specifies that the minimum net area for each residential unit in the Residential C zone is 360m²</p>	<p>Non-Compliant</p> <p>The Applicant intends to build three residential units on each of three adjacent records of title:</p> <p>Lot 10 DP 12797 (#43 Allens Rd): 746m² (~249m² gross per unit)</p> <p>Lot 3 DP 21833 (#45 Allens Rd): 713m² (~238m² gross per unit)</p> <p>Lot 4 DP 21833 (#47 Allens Rd): 711m² (~237m² gross per unit)</p> <p>The three titles would be held together by s75 certificates.</p> <p>It is noted that these figures do not factor in the central shared right of way and that the net area per unit will be less following imminent subdivision.</p>
<p>Site Standard 4.9.1c – (Residential Density)- this rule specifies that the minimum net area for any site in the Residential C Zone must be able to accommodate the shape factor of 15m by 13m</p>	<p>Complies</p> <p>The dimensions of all three lots is at least 15m x 44m.</p>
<p>Site Standard 4.9.2 – (Building coverage)- this rule specifies that the maximum building coverage in the Residential C Zone is 35%</p>	<p>Complies</p> <p>(#43) Units 1, 4 & 5: $(90.4 + 48.4 + 48.4)/746 = 25.1\%$</p> <p>(#45) Units 2, 6 & 7: $(67.3 + 48.4 + 48.4)/713 = 23\%$</p> <p>(#47) Units 3, 8 & 9: $(78.4 + 48.4 + 48.4)/711 = 24.6\%$</p> <p>Across the three Records of Title (held together by s75 Certificates under the Building Act) the combined site coverage for the development is 24.2%.</p> <p>It is noted that these figures do not factor in the central shared right of way and that the net area per unit will be less following imminent subdivision.</p>
<p>Site Standard 4.9.3 – (Height of Buildings)- this rule specifies that the maximum building height in the Residential C Zone shall be 8m</p>	<p>Complies</p>

	<p>All units shown to comply with the 8m maximum height limit.</p> <p>The rear Units 4-9 appear to be 8m in height. Units 1-3 along the Allens Road frontage appear to be ~7m.</p>
<p>Site Standard 4.9.4 – (Recession Lines)- this rule specifies that no building shall project beyond a building envelope constructed by recession lines from points 2.3m above internal boundaries.</p>	<p>Non-Compliant</p> <p>Units 2, 6 & 8 are shown to infringe recession plane angles internal to the site (owned by the Applicant). Affected Party Approval forms have not been provided to address this technical non-compliance on the basis that the three sites will be tied together by way of s75 certificates.</p> <p>Units 1, 3, 4, 5, 7 & 9 will require a Surveyor's Certificate to demonstrate compliance where structures are within 300mm of a recession plane.</p>
<p>Site Standard 4.9.5 – (Setback from Streets)</p> <p>a) Minimum building setback from road boundaries shall be: 3m</p> <p>b) In the Residential A, B and C zones, where the garage door faces the street or a shared access, the garage door shall be setback 5 metres from the road boundary or shared access way.</p>	<p>Complies</p> <p>All units are setback at least 3m from the Allens Road boundary.</p>
<p>Site Standard 4.9.6a – (Setback from the neighbours) - this rule specifies that all buildings shall be setback at least 1.8 metres from all internal boundaries, except where an internal boundary of a site immediately adjoins an access or part of an access which is partly owned by the site shall have a minimum building setback from that internal boundary of 1 metre.</p>	<p>Complies</p> <p>All units are located more than 1.8m from internal boundaries.</p>
<p>Site Standard 4.9.7 – (Outdoor Living Space) - this rule specifies that all residential units in the Residential C zone shall have a minimum of 70m² of outdoor living space with a minimum dimension of 5 metres.</p>	<p>Non-Compliant</p> <p>Seven units will have less than 70m² of compliant outdoor living space.</p> <p>Unit 1: 60m²</p> <p>Unit 2 & 3: 94m²</p> <p>Unit 4: 59m²</p> <p>Units 5-9: 51m²</p>
<p>Zone Standard 4.10.4 – (Lighting)</p>	<p>Complies</p>

<p>a) All exterior lighting shall be directed away from adjacent properties, roads, and railways and shall not be projected above a horizontal line from the light source.</p> <p>b) No activity shall result in a greater than 3 lux spill (horizontal and vertical) of light onto any adjoining property, measured at any point more than 2m inside the boundary of the adjoining property.</p>	<p>The Applicant has stated that all lighting will be directed downwards and that spill onto adjacent properties will be less than 3 lux.</p>
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Section 10: Transport

Relevant Site Standards	Compliance
Site Standard 10.8.3 Size of Parking Spaces	N/A for residential units
Site Standard 10.8.4 Residential Parking Spaces	N/A no parking within garages is being provided
<p>Site Standard 10.8.6 (On-site Manoeuvring) – the manoeuvring area from the road transport network boundary to any parking space shall be designed to accommodate a 90 percentile car (refer Appendix 10-4).</p> <p>Onsite manoeuvring for a 90 percentile car refer Appendix 10-4 shall be provided to ensure that no vehicle is required to reverse either onto or off a site where: three or more residential units share a common access... Any activity that provides 4 or more parking spaces having vehicle access and/or vehicle crossings onto a principal or collector road;</p>	<p>Complies</p> <p>The Applicant has stated that 11 carparking spaces will be provided and that each carparking space provided is at least 2.3 in width and between 4.4-4.9m in length.</p> <p>Vehicles from units 2, & 4-9 are provided with onsite manoeuvring designed to a B99 percentile vehicle (which complies with the 90percentile design motor car specified in Appendix 10-4) to exit the site in a forward gear.</p> <p>Vehicles from Units 1 & 3 are required to reverse onto Allens Road (Collector Road). Noting that these VCs only cater to a single residential unit.</p>
Site Standard 10.8.11 Queuing Length	<p>Complies</p> <p>With less than 20 carparks being provided, a queueing length of 6m is required for vehicles entering each site.</p>
Site Standard 10.9.2 Vehicular Access	<p>Complies</p> <p>Vehicle accesses to the 6 rear units will be 4.5m wide.</p> <p>The vehicle crossings servicing Unit 1 and Unit 3 would be 3m wide with a visibility splay. Noting</p>

	that the 3.5m minimum width does not apply to VCs directly onto individual sites.
Site Standard 10.9.3 Distance of Vehicle Crossings from Intersections (20m)	Complies The Allens Road (Collector) and Harrison Street (Principal) intersection is located at least 70m away.
Site Standard 10.9.4 Spacing between Vehicle Crossings	N/A Allens Road is a Collector Road
Site Standard 10.9.5 Maximum Number of Vehicle Crossings	Non-Compliant The Applicant is proposing three vehicle crossings within a 48.77m section of Collector Road frontage. Noted that there are three records of title involved, these are held together by s75 certification under the Building Code. Council's Assets Team have raised no safety concerns with the proposal.
Site Standard 10.9.6 Sight Distances from Vehicle Crossings	Complies 45m unobstructed sight distance possible from all VCs

Overall, the application falls to be assessed as a Restricted Discretionary Activity.

3.0 NOTIFICATION ASSESSMENT (SECTIONS 95A, 95C-95D)

3.1 PUBLIC NOTIFICATION ASSESSMENT

3.1.1 Request for public notification (Section 95A(2)(b))

The applicant has not requested that the application be publicly notified.

3.1.2 National Environmental Standard or District Plan rule requiring or precluding notification (Section 95A(2)(c) and Section 95A(3)(a))

In terms of s95A(2)(c) and 95A(3)(a) there are no rules in the relevant District Plan, Regional Plan or NES which require or preclude public notification of the application.

3.1.3 Effects on the Environment to be disregarded (Section 95D Assessment)

3.1.3.1 Effects that must be disregarded for public notification purposes

A) Effects on persons who own and occupy the land in, on or over which the application relates, or land adjacent to that land

In this case, it is considered that adjacent land includes the following, properties because they either directly adjoin the site or are located immediately opposite the subject site. The effects on these properties have been disregarded for the purposes of public notification assessment.

Table 1	
Address	Legal Description
49 Allens Road	LOT 7 DP 12797
50 Clark Street	LOT 2 D P 12797
48 Clark Street	LOT 1 DP 28839
46 Clark Street	LOT 2 DP 28839
44 Clark Street	LOT 3 DP 28839
41 Allens Road	LOT 11 D P 12797
46 Allens Road	LOT 16 D P 430
48 Allens Road	Lot 17 DP 430, Lot 19 DP 430 and Lot 18 DP 430

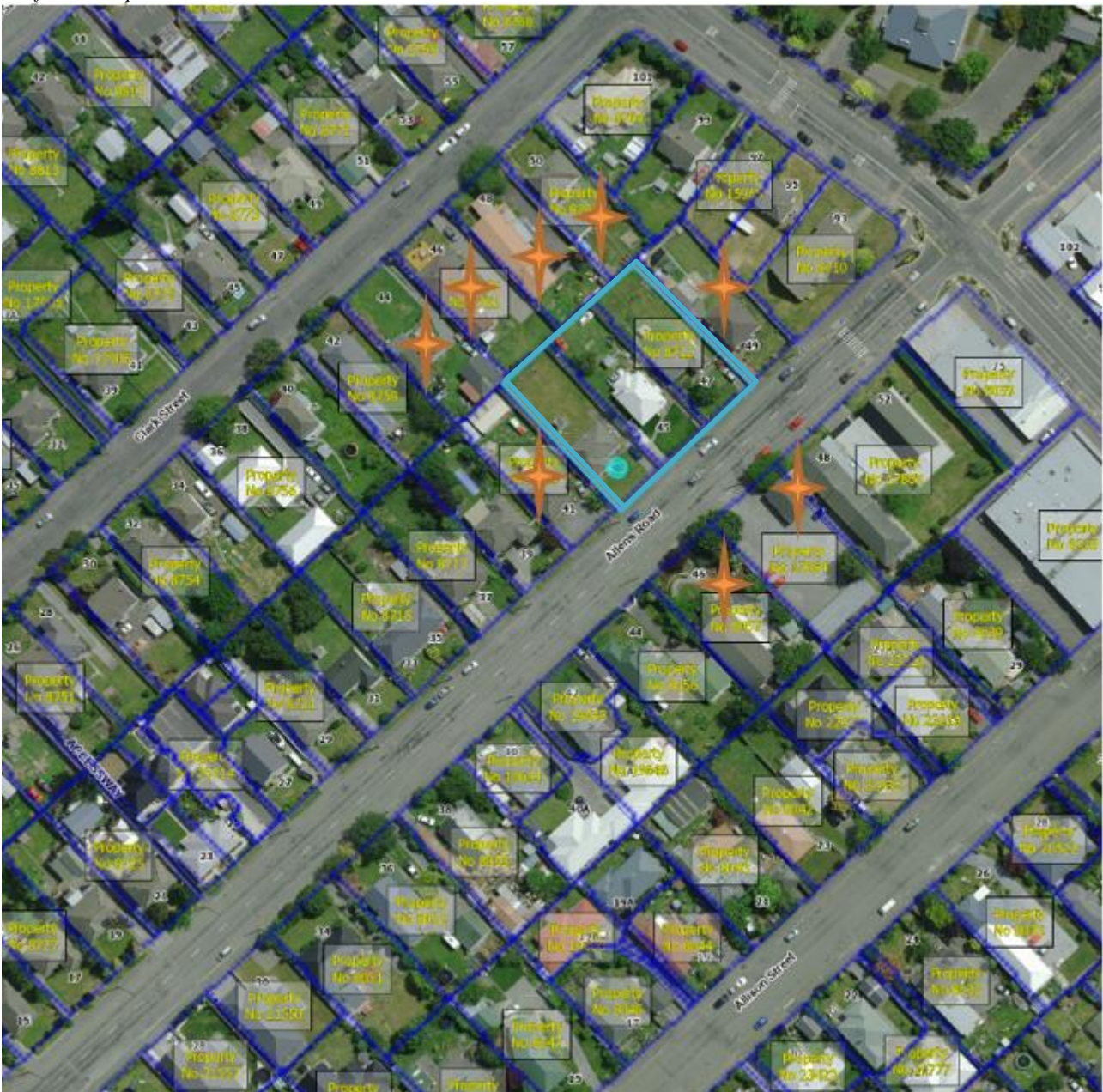


Figure 5. Application Site and Adjacent Properties

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

No written approvals from the parties listed in Table 2 have been provided.

The Applicant has not supplied affected party approval of their own to address the internal non-compliances between the three records of title making up the Application Site on the basis that the three sites will be tied together by way of s75 certificates.

3.1.3.2 Effects that may be disregarded – Permitted Baseline Assessment

The permitted refers to permitted activities on the subject site. In this case the following constitutes the permitted baseline:

Retaining a single residential unit on each record of title would be considered a permitted activity under the Ashburton District Plan. Given the high-density nature of this social housing development, it is considered that the permitted baseline is not practicable.

3.1.4 Adverse Effects Assessment (Section 95A(2))?

Having regard to the above and after an analysis of the application, the following assessment addresses the adverse effects of the activity on the environment for public notification purposes.

As a restricted discretionary activity those matters listed under Assessment Criteria 4.11 can be considered.

Residential Density and Building Coverage

- a) In Residential C and D zones, the extent to which the character of the site will remain dominated by open space and garden plantings, rather than buildings.*

It is accepted that the Residential Zones provide for residential activities which, by definition, includes the use of land and buildings by people for the purpose of permanent living accommodation which this proposal would provide.

The existing Application Site features three single-storey dwellings accounting for approximately 16% site coverage based on their combined floor area (circa. 341m²) across the 2,140m² Site. The construction of nine two-storey dwellings would significantly alter the general appearance of the Site and result in the Site being dominated by buildings, rather than open space and garden plantings as the District Plan intended.

- b) The ability to provide adequate opportunity for garden and tree planting around buildings.*

It is noted that the proposed distribution of units is such that the planting of some gardens/trees will be possible onsite. The writer notes that the maximum space available for planting around each unit is to the rear of each unit, within the designated outdoor living areas which are comprised of predominately lawn and footpath surfacing treatments (Landscape Design Package, Kamo Marsh).

The 1m wide designated landscaping strips along the property boundaries are considered narrow and likely to limit the types of plants that would grow here. The smaller plant species will be physically less-able to soften the appearance of the built environment given the scale of the 1.8m timber paling perimeter fencing, and two-storey residential units being proposed.

- i) The extent to which any proposed buildings will be compatible with the scale of other buildings in the surrounding area and will not result in visual domination as a result of building density and coverage which is out of character with the local environment.*
- k) The extent to which decreased site size or increased building coverage would have any adverse effects on adjoining properties in terms of dominance by buildings, loss of privacy, access to sunlight and day light and loss of opportunities for views.*

It is accepted that the Applicant has considered the potential privacy concerns of adjacent properties by nominating the use of obscure glass on high windows. Despite this, it is considered that an element of

overshadowing/ sense of being dominated is likely to occur on the adjacent properties to the north-west in particular, given that the development spans three records of title and all 6 rear units are two-storeys (8m) high and of identical design (Hierarchy Group, Axonometric View & Elevations).

- l) The ability to provide adequate outdoor space on the site for all outdoor activities associated with residential and other activities permitted on the site.*

The writer acknowledges that the Applicant considers proposed building coverage to be 24%. The writer considers this figure to be misrepresentative of the proposal given that a significant portion of the Site has been set aside for the purpose of vehicle access and carparking and the District Plan defines “Net Area” (the area used in the formula to calculate site coverage) as “the total area of a site, less any area subject to a designation for any purpose and/or any area provided access to one or more site...”.

While accepting that the Applicant has identified their preference to defer the formal subdivision of the Site (*Inovo Projects* email, May 22nd, 2022), the writer notes that the Site will effectively operate as nine separate “Sites” from the time of construction given the provision of independent utilities/amenities for each of the nine units. It is expected that an agreement among the occupants, however informal, would be required to utilise the sealed vehicle accessway to the six rear units and that this land is therefore unavailable for the purpose of outdoor living/garden plantings and arguably should not be included in the site coverage nor net area calculations.

The Applicant has provided some private outdoor space for each residential unit however it is noted that seven of the nine units will not receive the 70m² with a 5m minimum dimension set out in the District Plan for this zone. It is appreciated that the outdoor space needs of residents in the housing development will be varied.

- n) The ability to mitigate any adverse effects of increased coverage or site density.*

While the writer acknowledges the reduced building footprint of a single two-storey unit, the Applicant’s decision to build nine two-storey units significantly reduces their ability to mitigate any adverse effects through screening (discussed above) or by providing greater separation distances between the buildings.

Building Height and Recession Lines

The Applicant has stated that all units will comply with the 8m maximum height restriction in accordance with the District Plan. A Surveyors Certificate will be required where a structure is within 300mm of this elevation.

It is noted that the Applicant has not provided themselves with Affected Party Approval for the recession plane infringements on Units 2, 6 and 8 despite the three Records of Title not being amalgamated as part of this development due to s75 certification under the Building Act being required for the construction of the buildings.

Outdoor Living Space

- a) The extent to which the reduction in outdoor living space and/or its location will adversely affect the ability of the site to provide for the outdoor living needs of likely future residents of the site.*

The mixed surfacing (concrete patios/grassed lawn) is an efficient use of the undersized outdoor living space available to Units 1, 4-9 in terms of providing options to residents about how they interact with the limited space available.

- b) Any alternative provision on, or in close proximity to the site for outdoor living space to meet the needs of likely future residents of the site.*

The Application Site is located approximately 900m (~12minutes walk) from Argyle Park and 300m (~4minute walk) from the Clark Street Reserve. These alternative spaces may appeal to some residents.

- c) *The extent to which the reduction in outdoor living space or the lack of its access to sunlight is compensated for by alternative space within buildings with access to ample sunlight and fresh air.*

The outdoor living space that has been allocated to each unit is located to the north-west of the unit, maximising access to sunlight during the afternoon/evenings. While floor plans have not been submitted as part of this application, glazing is visible on all building facades (Hierarchy Group, Axonometric View & Elevations) indicating that access to light within the units has been prioritised.

- d) *Whether the residential units are to be used for elderly persons housing and the extent to which a reduced area of outdoor living space will adequately provide for the outdoor living needs of the likely residents of the site including future residents.*

The Applicant has stated that the units are not intended to be specifically to provide for elderly persons housing.

The writer has considered that the provision of six undersized, outdoor living areas along the north-western boundary may result in a reduction in amenity both for occupants and the adjacent property owners due to noise and perceived lack of privacy given the proximity to each other's outdoor living/entertaining areas and the absence of any alternate location on site to retreat to. Where the District Plan anticipates one residential unit per 15m x13m area, the three duplexes proposed for along this 47m wide boundary would see six units occupying the space of three units.

Construction

While the underlying Residential C zoning would ensure that the surrounding property owners could have expected some residential development/ earthworks to be undertaken onsite, it is the writer's belief that a coordinated development across three adjacent titles and subsequent construction of nine two-storey residential units and their associated infrastructure, is unlikely to have been foreseen on a 2,170m² area of the Residential C zoned land.

Ongoing construction, monitoring and management plans would be necessary to ensure that construction related effects are less than minor.

Servicing

The Council Assets Team are aware of the Developers intention to subdivide the Site in due course and have raised no concerns about the capacity of the reticulated network to service the proposed units.

Roading, Access, Vehicle Crossings and Intersections

- e) *The extent to which the safety and efficiency of the frontage road would be affected by the creation of additional vehicle crossings.*
- f) *The potential for cumulative effects on the safety and efficiency of the frontage road resulting from new vehicle crossings in addition to existing crossings in the vicinity.*

The Applicant is proposing three vehicle crossings within a 48.77m section of Collector Road frontage. While there are currently three records of title involved, the Applicant has stated that these will be held together by s75 certification under the Building Code and it is appreciated that the shared vehicle crossing to the rear lots is partially located on Lot 10 DP 12797 which would also feature a separate vehicle crossing to service Unit 1.

The writer considers the Applicant's proposed visibility splays combined with the 50m+ setback from the nearest intersection to satisfy any safety concerns stemming from the creation of additional vehicle crossings. Council's Assets Team have raised no concerns with the proposed plan.

Summary

Overall, the writer considers the construction of nine, two-storey residential units on three adjacent records of title to be out of character with the Residential C Zone. As the Applicant has identified; "*The surrounding neighbourhood is made up of single storey dwellings from the 1950's*" and given the existing low-medium density residential activity occurring onsite, this proposal will ensure a significant change in the appearance and character of the Site, most noticeably felt by the immediately adjacent properties identified in Table 1 (Section 3.1.3.1) above.

In summary, having assessed the adverse effects of the activity on the environment, I consider that the activity will have no more than more than minor adverse effects on the adjacent properties listed in Table 1 (Section 3.1.3.1).

3.1.5 Do special circumstances exist (Section 95A(4))?

It is considered that no special circumstances exist in relation to the application.

LIMITED NOTIFICATION ASSESSMENT

4.1.1 Is there an NES or District Plan rule requiring limited notification?

There are no rules in the relevant District Plan/ Regional Plan/NES that would require or preclude limited notification of the application.

4.1.2 Are there holder(s) of customary rights order who may be adversely affected by the activity? (s 95(f))?

No

4.1.3 Are there affected persons who the activity will have a minor or more than minor adverse effects on (s 95 (e))?

Written approval has not been obtained from those persons who are considered to be adversely affected by the activity (identified in Table 1, Section 3.1.3.1).

4.1.4 Limited Notification Assessment Conclusion

It is considered that these applications should be processed with limited notification because adversely affected persons have been identified under s95E and s95F.

6.0 Conclusion

Limited Notification

- The applicant has not requested public notification.
- Pursuant to section 95B of the RMA, this application must be processed with limited notification because there are affected persons. Notice of the application shall be served on those persons who have been identified as being adversely affected (and who have not provided their written approval), as identified in Section 4.1.3.
- Special circumstances requiring public notification do not exist.

7.0 Recommendation

Limited Notification

That for the reasons set out below, this application be processed on a limited notification basis, pursuant to Sections 95A-95F of the Resource Management Act 1991.

- The applicant has not requested public notification [s.95A(2)(B)]; and
- The effects are no more than minor, being limited to the adjacent properties (s.95D)
- There are no special circumstances [s95a(4)]; and
- There are persons considered affected by this proposal (s95e & s95F)

Signed:

Lauren Wright
Reporting Planner

Date: 03/07/2023

Decision:

The above application LUC23/0035 has been considered under delegated authority and has been determined to be processed with service of notice pursuant to sections 95A-95F of the Resource Management Act 1991.

Signed:

Ian Hyde
District Planning Manager

Date:

04/07/2023

Signed:

Jane Donaldson
Group Manager Compliance & Development

Date:

04/07/2023