

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



Restricted discretionary activity for a residential activity

Application number(s): LUC60374224 (s9 land use consent)

Applicant: Amy Xiong

Site address: 58 Te Kawa Road, Greenlane

Legal description: Lot 77 DP 37882

Proposal:

To demolish the existing dwelling and construct a new house with an internal double garaging.

Resource consent is required for the following reasons:

Land use consent (s9) – LUC60374224

Auckland Unitary Plan (Operative in part)

Residential – Single House Zone

- New buildings and additions to buildings has the same activity status as the land use activity and is therefore a **restricted discretionary** activity under rule H3.4.1(A36).
- The proposal involves use and development that fails to meet the following standards and is a **restricted discretionary** activity under rule C1.9(2):
 - The proposed dwelling will infringe the 2.5m + 45° Height in relation to boundary standard on the subject site over 60 Te Kawa Road by a maximum vertical height of 0.288m over a maximum horizontal length of 9.174m as it relates to the western boundary as required under H3.6.7.
 - The building coverage is 235.3m² or 36.5%, which exceeds the permitted 35% building coverage by 9.5m² or 1.5% as required under H3.6.10.

Special Character Areas Overlay – Residential and Business (Isthmus B)

- The proposal involves a new building in the Special Character Residential Isthmus B Overlay Area which are a **restricted discretionary** activity pursuant to D18.4.1(A5).
- The proposal involves use and development that fails to meet the following standards and is a **restricted discretionary** activity under rule C1.9(2):
 - The proposed dwelling has a front yard setback of 8.55m, which is an infringement to the 9.4m front yard setback applicable to this site as required under standard D18.6.1.3.

- The building coverage is 235.3m² or 36.5%, which exceeds the permitted 35% building coverage by 9.5m² or 1.5% as required under D18.6.1.4.
- The 1.8m high fence on the side and rear boundaries, which exceeds the permitted 1.2m high fence as required under D18.6.1.7.

District land use (proposed plan provisions)

Special Character Areas Overlay – Residential and Business (Isthmus B) under PC26

- The proposal involves use and development that fails to meet the following core Special Character Area development standards and is a restricted discretionary activity pursuant to rule C1.9(2):
 - The proposed dwelling has a front yard setback of 8.55m, which is an infringement to the 9.4m front yard setback applicable to this site as required under standard D18.6.1.3.
 - The building coverage is 235.3m² or 36.5%, which exceeds the permitted 35% building coverage by 9.5m² or 1.5% as required under D18.6.1.4.

The reasons for consent are considered together as a restricted discretionary activity overall.

Decision

I have read the application, supporting documents, and the report and recommendations on the application for resource consent. I am satisfied that I have adequate information to consider the matters required by the Resource Management Act 1991 (RMA) and make a decision under delegated authority on the application.

Acting under delegated authority, under sections 104, 104C and Part 2 of the RMA, the resource consent is **GRANTED**.

Reasons

The reasons for this decision are:

1. The application is for restricted discretionary resource consent, and as such under s104C only those matters over which council has restricted its discretion have been considered. Those matters are:
 - Clause H3.8.1(2) for buildings that do not comply with Standard H3.6.7 Height in relation to boundary and H3.6.10 Building coverage:
 - (a) any policy which is relevant to the standard;
 - (b) the purpose of the standard;
 - (c) the effects of the infringement of the standard;
 - (d) the effects on the rural and coastal character of the zone;
 - (e) the effects on the amenity of neighbouring sites;

- (f) the effects of any special or unusual characteristic of the site which is relevant to the standard;
- (g) the characteristics of the development;
- (h) any other matters specifically listed for the standard; and
- (i) where more than one standard will be infringed, the effects of all infringements.

Special Character Areas Overlay - Residential

- Clause D18.8.1.1(2) – for the construction of a new building or the relocation of a building to a site:
 - (a) The effects on the streetscape and special character context as outlined in the Special Character Area Statement;
 - (b) The building and its contribution to streetscape character; including its design, quality, purpose and amenities including matters of scale, form, massing, materials, setbacks and the relationship to the street; and
 - (c) The effects on landscape and vegetation.
 - D18.8.1.1 (3) – for an infringement to any of the standards listed in D18.6.1 for buildings in the Special Character Areas Overlay – Residential:
 - (a) The effects on the infringement of the standard on the streetscape and special character context as outlined in the specialist character area statement; and
 - (b) The matters for external alterations or additions to buildings or for the construction of a new building listed above.
 - Clause C1.9(3) – In addition to those matters of discretion listed above, when considering an application for a resource consent for a restricted discretionary activity for an infringement of a standard under Rule C1.9(2), the Council will restrict its discretion to all of the following relevant matters:
 - (a) any objective or policy which is relevant to the standard;
 - (b) the purpose (if stated) of the standard and whether that purpose will still be achieved if consent is granted;
 - (c) any specific matter identified in the relevant rule or any relevant matter of discretion or assessment criterion associated with that rule;
 - (d) any special or unusual characteristic of the site which is relevant to the standard;
 - (e) the effects of the infringement of the standard; and
 - (f) where more than one standard will be infringed, the effects of all infringements considered together.
2. In accordance with an assessment under ss104(1)(a) and (ab) of the RMA, the actual and potential effects from the proposal will be acceptable as:
- a. The proposed dwelling has been designed in a functional manner that provides the amenities necessary to meet the day-to-day needs of residents. The proposal will have the positive effect of increasing the social wellbeing for occupants of the subject site,

whilst ensuring the adverse effects on the environment and any persons are acceptable.

- b. In terms of special character and streetscape effects, the proposal responds positively to the scale, setback and massing of the existing development and maintains the existing relationship between houses, the landform and existing street planting. The proposal retains a front yard similar in depth to other properties in the area. The scale of identified infringements is minor and the proposal is generally supported by Council's Heritage Specialist. Given that the local special character is created by the scale and positioning of houses within a tree-lined streetscape with verdant front garden, the use of non-traditional materials is less harmful in this particular part of the Isthmus B area.
 - c. The height, bulk, form and appearance of development maintains a suburban built character that minimises visual dominance effects to adjoining sites. The dwelling is of an appropriate size and scale for the area. Impacts to persons on adjoining sites from shading, loss of daylight, privacy and over-looking and visual dominance are negligible. The amenity of the neighbouring sites is also maintained as the dwelling will substantially comply with the zone requirements and is visually appropriate in size and scale for the area with the landscaped area.
 - d. In terms of positive effects, the proposal will enhance the liveability of the subject site for the residents and will provide quality on-site residential amenity.
 - e. With reference to s104(1)(ab), there are no specific offsetting or environmental compensation measures proposed or agreed to by the applicant to ensure positive effects on the environment and/or within the relevant matters of discretion.
3. In accordance with an assessment under s104(1)(b) of the RMA the proposal is consistent with the relevant statutory documents, insofar as they relate to the matters over which discretion is restricted. In particular,
- With regards to the SCA-R, the proposal is consistent with the objectives and policies of Special Character Areas Overlay – Isthmus B and has been assessed against the relevant matters of the plan. The additions and alterations to the existing dwelling are appropriate in the special character context.
 - The proposal is consistent with the relevant objectives H3.2(1)-(3) and policies H3.3(1)-(6) of the Residential - Single House Zone as the proposal is in keeping with the existing suburban built character and will provide for quality on-site amenity for the residents of the site and will maintain the amenity of neighbouring properties.
 - The development maintains the existing suburban built character with the height, bulk and form that is in keeping with the character and amenity values of the established residential neighbourhood.
4. As a restricted discretionary activity, no other matters can be considered under s104(1)(c) of the RMA.
5. In the context of this restricted discretionary activity application for land use, where the relevant objectives and policies and other relevant provisions in the relevant statutory documents were prepared having regard to Part 2 of the RMA, they capture all relevant planning considerations and contain a coherent set of policies designed to achieve clear

environmental outcomes. They also provide a clear framework for assessing all relevant potential effects, there is no need to go beyond these provisions and look to Part 2 in making this decision as an assessment against Part 2 would not add anything to the evaluative exercise.

6. Overall, the proposal will have acceptable effects, and accords with the relevant provisions to which council has restricted its discretion.

Conditions

Under sections 108 and 108AA of the RMA, this consent is subject to the following conditions:

1. This consent must be carried out in accordance with the documents and drawings and all supporting additional information submitted with the application, detailed below, and all referenced by the council as resource consent number, LUC60374224.
 - Application Form and Assessment of Environmental Effects titled '58 Te Kawa Road Greenlane Auckland 1061. Resource Consent Application & Assessment of Environmental Effects. One new dwelling in the Special Character Overlay' prepared by Civix, dated 10 March 2021.

Report title and reference	Author	Rev	Dated
Proposed New Dwelling. 58 Te Kawa Road, Greenlane, Special Character Matters	Richard Knott Limited	-	10/12/2020
Site Infrastructure Report, Job 2011051	CSE Consultants Ltd		January 2021
Geotechnical Investigation Report, Ref: GM1557	Geoconsult		14/12/2020

Drawing title and reference	Author	Rev	Dated
Artistic Impression, RC001	PTG	2	22/10/2020
Design Statement, RC002	PTG	3	23/02/2021
Proposed Site Plan, RC101	PTG	6	08/03/2021
Driveway & Landscape Plan, RC102	PTG	6	08/03/2021
Site Plan Showing HIRB, RC104	PTG	6	08/03/2021
Ground Floor Plan, RC201	PTG	6	08/03/2021
First Floor Plan, RC202	PTG	3	23/02/2021
Roof Plan, RC203	PTG	6	08/03/2021
Elevations, RC301	PTG	5	03/03/2021
Elevations, RC302	PTG	5	08/03/2021

Other additional information	Author	Rev	Dated
An email titled 'RE: LUC60374224 – 58 Te Kawa Road Greenlane'	Delilah McIntyre		16 April 2021

2. Under section 125 of the RMA, this consent lapses five years after the date it is granted unless:
 - a. The consent is given effect to; or
 - b. The council extends the period after which the consent lapses.
3. The consent holder must pay the council an initial consent compliance monitoring charge of \$340 (inclusive of GST), plus any further monitoring charge or charges to recover the actual and reasonable costs incurred to ensure compliance with the conditions attached to this / these consent/s.

Advice note:

The initial monitoring deposit is to cover the cost of inspecting the site, carrying out tests, reviewing conditions, updating files, etc., all being work to ensure compliance with the resource consent(s). In order to recover actual and reasonable costs, monitoring of conditions, in excess of those covered by the deposit, shall be charged at the relevant hourly rate applicable at the time. The consent holder will be advised of the further monitoring charge. Only after all conditions of the resource consent have been met, will the council issue a letter confirming compliance on request of the consent holder.

Surveyor Certificate: Height in relation to boundary

4. No building works for the dwelling must proceed beyond the roof framing stage until a registered surveyor or licensed cadastral surveyor, engaged by the consent holder, has provided written certification to the Council that the works have been completed:
 - have been completed in accordance with the approved plans as referred to in condition 1 of this consent, or
 - do not exceed the vertical or horizontal extent of any breach, infringement, or non-compliance approved under this consent.

Advice Note:

The purposes of certification at the roof framing stage of construction are to:

- provide assurance that the building works, to that point, have been undertaken in accordance with the consent
 - reduce the risk of non-compliance as the works are completed.
 - Written certification should include the following:
 - the finished ground level is clearly marked on the subject site
 - the relevant consent reference number and site address
 - levels, calculations, plans and drawings of the structure(s) that are the subject of certification
 - the quantification of the extent of any breach, infringement or non-compliance identified at the time of survey, where this has occurred.
 - Written certification is to be provided directly to the officer specified in this condition.
5. The works approved under this resource consent do not include any rock breaking activity that may exceed the construction noise and vibration standards of the AUP OP. If any

solid rock (such as basalt) is encountered that requires removal by rock breaking and/or blasting methods, the consent holder must immediately cease works onsite.

Within 10 working days, the consent holder must submit, a Construction Noise and Vibration Management Plan (CNVMP) to the Council for certification. The CNVMP must include the following information:

- a. a description of the rock breaking activities and removal methodology,
- b. a list of the potentially noisy machinery and their approximately location on the subject site,
- c. specific noise mitigation measures, which may include (but are not limited to): acoustic screening and/or alternative equipment, and
- d. estimated noise levels as part of a report prepared by a qualified acoustics engineer.

Following certification, the consent holder must complete any subsequent excavation works in accordance with the CNVMP and to the satisfaction of the Council.

Advice note:

Where the proposed method of rock breaking will result in exceeding the AUP OP construction noise and/or vibration standards (Chapter E25), the consent holder must obtain a new resource consent from Council before continuing with any rock breaking works

This condition has been proffered by the applicant due to the uncertainty and difficulty in determining whether any rock breaking will be required for the proposed excavation.

Advice notes

1. *Any reference to number of days within this decision refers to working days as defined in s2 of the RMA.*
2. *For the purpose of compliance with the conditions of consent, “the council” refers to the council’s monitoring officer unless otherwise specified. Please email monitoring@aucklandcouncil.govt.nz to identify your allocated officer.*
3. *For more information on the resource consent process with Auckland Council see the council’s website: www.aucklandcouncil.govt.nz. General information on resource consents, including making an application to vary or cancel consent conditions can be found on the Ministry for the Environment’s website: www.mfe.govt.nz.*
4. *If you disagree with any of the above conditions, and/or disagree with the additional charges relating to the processing of the application(s), you have a right of objection pursuant to sections 357A and/or 357B of the Resource Management Act 1991. Any objection must be made in writing to the council within 15 working days of your receipt of this decision (for s357A) or receipt of the council invoice (for s357B).*
5. *The consent holder is responsible for obtaining all other necessary consents, permits, and licences, including those under the Building Act 2004, and the Heritage*

New Zealand Pouhere Taonga Act 2014. This consent does not remove the need to comply with all other applicable Acts (including the Property Law Act 2007 and the Health and Safety at Work Act 2015), regulations, relevant Bylaws, and rules of law. This consent does not constitute building consent approval. Please check whether a building consent is required under the Building Act 2004.

Delegated decision maker:

Name: Angie Mason

Title: Intermediate Planner, Resource Consents

Signed:

A handwritten signature in blue ink, appearing to read 'A. Mason', written over a horizontal dotted line.

Date: 22 April 2021

Resource Consent Notice of Works Starting

Please email this form to monitoring@aucklandcouncil.govt.nz at least **5 days** prior to **work starting** on your development or post it to the address at the bottom of the page.

Site address:				
AREA (please tick the box)	Auckland CBD <input type="checkbox"/>	Auckland Isthmus <input type="checkbox"/>	Hauraki Gulf Islands <input type="checkbox"/>	Waitakere <input type="checkbox"/>
Manukau <input type="checkbox"/>	Rodney <input type="checkbox"/>	North Shore <input type="checkbox"/>	Papakura <input type="checkbox"/>	Franklin <input type="checkbox"/>
Resource consent number:			Associated building consent:	
Expected start date of work:			Expected duration of work:	

Primary contact	Name	Mobile / Landline	Address	Email address
Owner				
Project manager				
Builder				
Earthmover				
Arborist				
Other (specify)				

Signature: Owner / Project Manager (indicate which)	Date:
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Once you have been contacted by the Monitoring Officer, all correspondence should be sent directly to them.

SAVE \$\$\$ minimise monitoring costs!

The council will review your property for start of works every three months from the date of issue of the resource consent and charge for the time spent. You can contact your Resource Consent Monitoring Officer on 09 301 0101 or via monitoring@aucklandcouncil.govt.nz to discuss a likely timetable of works before the inspection is carried out and to avoid incurring this cost.