

Notification Report

Sections 95, 95A-95G, of the Resource Management Act 1991

Reporting Planner:	Michelle Carmine	App Number:	LUC 0188/24 (Eastern) LUC0189/24 (Southern) LUC0597/21.04 VAR0002/24
Property Ref:	1008529	Site Visit on:	4 th September 2024

Applicant:	Sanderson Group Limited
Property Address:	56 Tamahere Drive Tamahere 70 Tamahere Drive Tamahere 82 Tamahere Drive Tamahere 92 Tamahere Drive Tamahere
Legal Description and Site Areas:	<p><u>Land Use Consent for new Eastern Extension LUC0188/24</u> Lot 1 DPS 59441 Comprised in Record of Title SA51C/860 - 1.1ha (56 Tamahere Drive) Lot 1 DPS80372 comprised in Record of Title SA64C/250 - 8000m² (70 Tamahere Drive)</p> <p><u>Cancellation of Consent Notice VAR0002/24</u> Lot 1 DPS80372 comprised in Record of Title SA64C/250 8000m² (70 Tamahere Drive)</p> <p><u>Land Use Consent for new Southern Extension LUC0189/24</u> PT LOT 11 DP 9747 Comprised in Record of Title SA1443/27 Comprised in Record of Title SA1443/27 - 3.54ha. (92 Tamahere Drive) Lot 1 DP 535970 comprised in Record of Title 565970 - 1.71ha (82 Tamahere Drive)</p> <p><u>Existing Village - Section 127 of LUC0597/21.03</u> Lot 2 DP565970 and Part Lot 2 DPA7512 Comprised in Record of Title 1011954 – 16.5ha</p>
District Plan:	Proposed Waikato District Plan - Appeals Version 2022 AND Operative Waikato District Plan (Waikato Section) 2013
Activity Status:	Proposed District Plan – Appeals Version: Non-Complying Operative District Plan: Discretionary
	Section 127 to an existing consent: Discretionary
	Cancellation of a Consent Notice: Discretionary
	NES Contaminated Land: Controlled
Zoning:	Proposed District Plan - Appeals Version: General Rural Operative District Plan: Rural

Policy Area:	<p>Proposed District Plan - Appeals Version: Waikato River Catchment, Designation- WRAL-1 (Obstacle Limitation Designation)</p> <p>Operative District Plan: Waikato River Catchment, Airport Obstacle Limitation Surface Overlay</p>
Proposal:	<p>Extend a retirement village to the east and south of the existing village, along with associated applications:</p> <p><u>Eastern Extension Applications:</u> Part A: is a land use consent, under both district plans to extend the retirement village across 56 and 70 Tamahere Drive to the east to provide for a further 25 villas and an arts and crafts facility. Part B: is a s221(3) cancellation of consent notice (B513181.3) registered on the title for 70 Tamahere Drive. This application goes hand in hand with Part A.</p> <p><u>Southern Extension Applications:</u> Part C: is a land use consent, under both district plans to extend the retirement village across 82 and 92 Tamahere Drive to the south to provide for a further 42 villas and a new health spa. Part D: is a s127 application to change the conditions (Condition 1 of LUC0597/21.03) and approved plans of an existing TCC consent for a previous southern extension at 70 Tamahere Drive to provide for two additional villas. These villas are proposed to be located on the existing southern boundary, within the current 25m setback. This application goes hand in hand with Part C. Part E: is a land use consent, under the National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health ('NESC'), for land within 92 Tamahere Drive. This application goes hand in hand with Part C.</p>

1.0 INTRODUCTION

1.1 Proposal

Part A - Eastern Extension – LUC0188/24

The eastern extension is proposed to consist of:

- 25 stand-alone villas;
- An arts and crafts building;
- Pedestrian paths and an informal walkway throughout the site connecting to the existing Tamahere Country Club (TCC) development, Tamahere Drive; and
- The site will be fully landscaped including street trees, park like trees or native planting along boundaries, and specific mitigation treatment such as a planted bund or fencing where requested by adjacent neighbour(s).

From a density perspective the building coverage and site coverage has been calculated to be as follows:

- Total building area, including 25 villas and the arts and crafts building, is 5,575m² or 29.2%.
- Impermeable surfaces make up 2,687m² or 14.11% of the extension.
- Total coverage (coverage and permeable) is 43% of the site.

The site layout has been specifically designed to comply with the 12m setback from the road boundary.



Figure 1: Eastern Extension

Eastern Extension - Site Layout and Dwellings

The standalone villas will include a mix of sizes and layouts, generally ranging between 180m² and 330m² in area and includes 10 different typologies, with two and three bedroom options, left and right options, as well as single and double car garage options.

The architectural drawings in **Appendix C** of the application include floor plans and elevations of the three types of villas proposed and generally provide for the following:

- Typology A: Three-bedroom single storey villa comprising approximately 254m²;
- Typology B: Three-bedroom single storey villa comprising approximately 192m²; and
- Typology C: Two-bedroom single storey villa of comprising approximately 212m².

The materials utilised in development of the standalone villas, have been chosen for their aesthetic appeal, longevity and appropriateness for the site's climate and weather conditions. Materials consist of rusticated brick, vertical shiplap timber, half euro tray roofing and accent cladding board and batten or colour steel.

Eastern Extension - The Art and Crafts Building

A 75m² arts and craft building is proposed. The building is to be located in the north-eastern most corner of the eastern extension. This building will be used for arts and crafts

and is secondary to the hobby shed that is already provided for on the wider TCC site. Access to this building is via the pedestrian network.

Eastern Extension - Transportation and Three Waters Provisions

Access to the villas within the eastern extension is via extensions of three existing secondary roads (Nikau Crescent, Titoki Crescent, Matipo Street). These roads connect with the central spine Road (Pohutukawa Boulevard or Kowhai Avenue) and then to Tamahere Drive. Water, wastewater and stormwater reticulation will be extended along the internal roading network to connect with the existing infrastructure with the TCC village. Plans 1011.04.40.SW.401, 1011.04.50.WW.501, 1011.04.60.PW.601 & 1011.04.60.PW.602 within the Infrastructure Report (**Appendix E** of the application) provide the preliminary design for this reticulation.

Eastern Extension - Earthworks

Earthworks across the eastern extension consist of 3,000m³ of cut and 10,000m³ of fill. Depths of this cut and fill and its location is shown on Plan 1011.04.10.EA.111 within the Infrastructure Report (**Appendix E** of the application). As per the engineering plans, some recontouring work is also proposed within the existing TCC site to tie the two sites together.

Part B - Consent Notice Cancellation

The title for 70 Tamahere Drive is subject to a consent notice that is a building restriction covenant. That consent notice (B513181.3) states that there shall be no building(s), as defined by the Building Act 1991, erected on the part of the title identified as "A" on DPS 80372. There is already a substantial building within Area A.

The retention of this consent notice has the potential to unreasonably frustrate future buildings consent applications for TCC, as such it is sought that the consent notice is cancelled under s221(3) of the RMA.

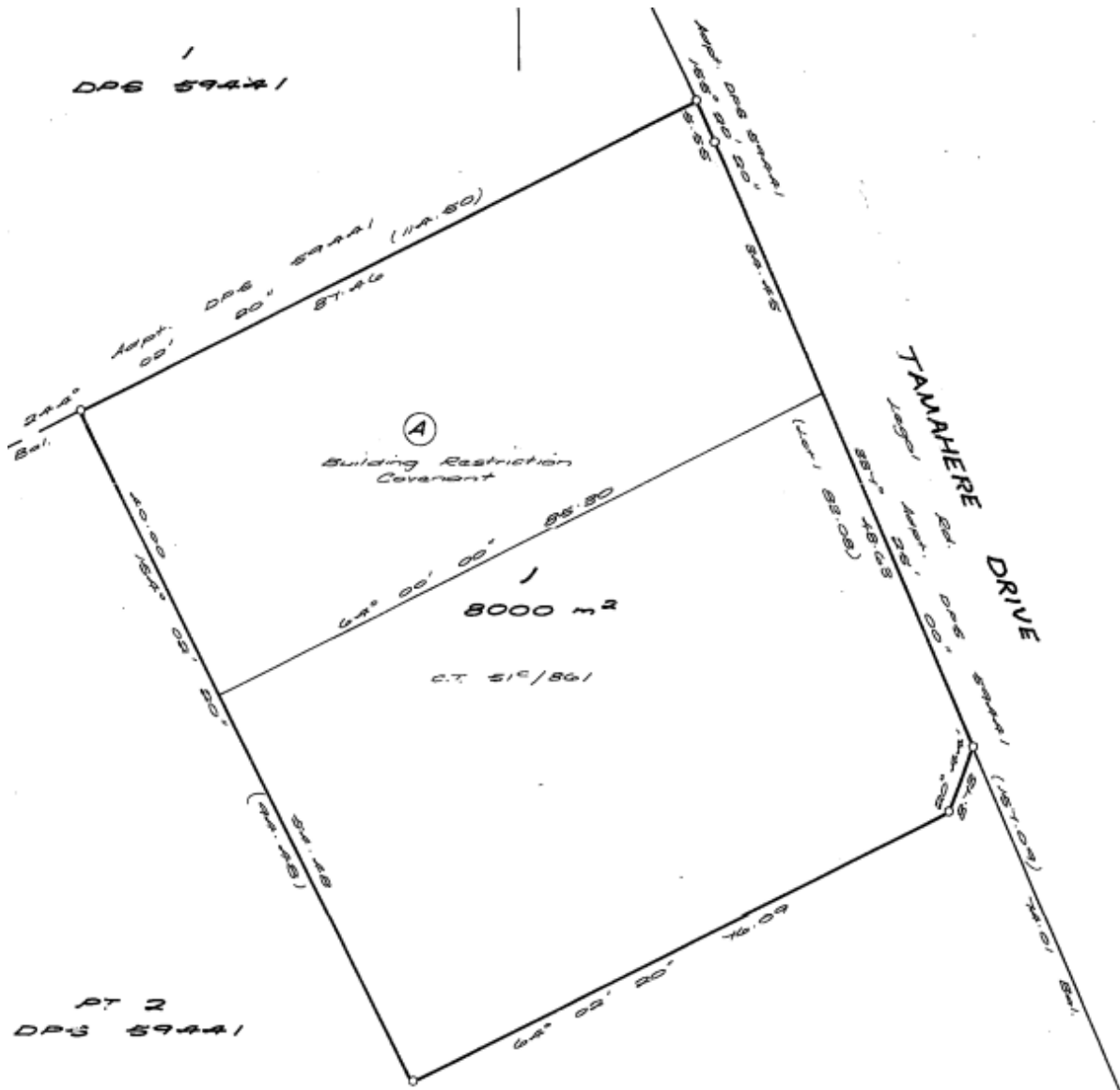


Figure 2: Plan from Consent Notice of area "A" Building Restriction Covenant.



Figure 3: Extent of area A as it relates to current built form. (Ref: BBO)

Part C - Southern Extension

Part C is a land use consent, under both district plans, to establish and operate an extension of the Tamahere Country Club (TCC) retirement village on the properties located at 82 and 92 Tamahere Drive to the south. The proposed extension is on the land directly adjoining the existing TCC development.

The southern extension is proposed to consist of:

- 42 stand-alone villas
- A health spa and associated car parking;
- Pedestrian paths and an informal walkway throughout the site connecting to the existing TCC development, Tamahere Drive; and
- The site will be fully landscaped including street trees, park like trees or native planting along boundaries, and specific mitigation treatment such as a planted bund or fencing where requested by adjacent neighbour(s).

From a density perspective the building coverage and site coverage has been calculated to be as follows:

- Total building area, including 42 villas and the health spa, is 9,990m² or 19%.
- Impermeable surfaces make up 8,730m² or 16.6% of the extension.
- Total coverage (coverage and permeable) is 35.6% of the site.

The site layout has been specifically designed to comply with the 25m building setback from external property boundaries (in both district plans) to establish and provide for open space and mitigation planting between the adjoining rural/rural residential properties and the proposed built form on the site. The setback from the road boundary is also compliant at 12m.

Southern Extension - Site Layout and Dwellings

As with the eastern extension the standalone villas will include a mix of sizes and layouts, generally ranging between 180m² and 330m² in area and includes 10 different typologies, with two and three bedroom options, left and right options, as well as single and double car garage options. See the commentary above for further information.

Southern Extension - The Health Spa

A secondary health spa is proposed in the southern extension area. This building is an approximately 750m² triangular shaped building, located adjacent to Tamahere Drive. The building is proposed to incorporate an indoor pool, spa, sauna, studio rooms for classes, treatment rooms and changing rooms. Parking adjacent to the health spa is proposed, sitting directly between the building and Tamahere Drive. This parking connects to the internal roading network. Refer to the Architectural Package in **Appendix C** of the application for the design of the health spa.

Southern Extension - Transportation and Three Waters Provisions

Access to the villas within the southern extension is via an extension of the central spine Road (Pohutukawa Boulevard) and one of the secondary roads (Kauri Lane). Water and wastewater will be extended along the internal roading network to connect with the existing infrastructure with the TCC village. For stormwater a new swale is also proposed along the southern boundary, along with a new stormwater soakage system adjacent to Tamahere Drive. The stormwater from the southern extension will either be directed to this reticulation, or to the existing network. Plans 1011.03.40.SW.401, 1011.03.50.WW.501, 1011.03.60.PW.601 within the Infrastructure Report (**Appendix E of the application**) provide the preliminary design for this reticulation.

Southern Extension - Earthworks

Earthworks across the southern extension consist of 600m³ or cut and 39,900m³ of fill. Depths of this cut and fill and its location is shown on Plan 1011.03.10.EA.111 within the Infrastructure Report (**Appendix E of the application**). The filling includes the provision for a bund along the western boundary of the site which has already been constructed and therefore this is a retrospective component to the consent application.

Part D: Section 127 Application

Two additional villas are proposed in the southern corner of the existing Tamahere Country Club (TCC) site. The s127 seeks to authorise these new villas.

These villas were not proposed within the plans lodged in the original resource consent application, or subsequent s127 applications, and therefore are not in accordance with Condition 1 of LUC0597/21.03.

Both of these villas are located within the 25m setback to the existing southern boundary. Hence, this application seeks to alter Condition 1 of LUC0597/21.03 to take account of the additional villas and specifically reflect the fact that the 25m setback would no longer be required if the southern extension is approved.

This s127 application requires a change to Condition 1. To give effect to the above, the following changes to the consent conditions are proposed. New wording underlined and old wording ~~strikethrough~~.

1 The development shall be undertaken in general accordance with the information and plans submitted by the Consent Holder in support of application number LUC0597/21

and officially received by Council on June 2021 and the further s127 applications officially received by Council on the 31st March 2022, 12th September 2022 ~~and the 22nd December 2022~~, and the xxx November 2023 except as amended by the conditions below. Copies of the approved plans are attached. In the case of inconsistency between the application and the conditions of this consent, the conditions of consent shall prevail.

PART E: NESCS – Land Use Consent

The DSI undertaken by HD Geo has confirmed that the majority of 92 Tamahere Drive is a 'piece of land' and the NESCS is applicable for consideration. Where soil disturbance or a land use change is proposed on a piece of land, the regulations of the NESCS apply to the site. The regulations of NESCS provide for soil disturbance as a permitted activity on a piece of land if the volume of the disturbance does not exceed 25m³ per 500m² of site area, pursuant to Regulation 8(3) of the NESCS.

92 Tamahere Drive is a 3.5ha title, and therefore the permitted volume of soil disturbance on this site is 2516m². The actual portion of the site that is a 'piece of land' is less than the 3.5ha size, so technically the volume will be lower. Either way, the proposed earthworks will exceed the permitted volume. The proposal is therefore unable to be undertaken as a permitted activity under the NESCS.

Soil disturbance is a controlled activity on a piece of land if a detailed site investigation (DSI) of the piece of land exists and the DSI states that the soil contamination does not exceed the applicable standard in regulation 7. The HD Geo DSI has confirmed that the contamination is above background levels but is below human health guidelines. As such, the earthworks on 92 Tamahere Drive require a consent as a controlled activity under the NESCS.

Matters pertaining to the entire proposal

Transportation and Rooding network

An ITA has been prepared for the proposed overall development:

The trip generation for the combined extensions has been calculated by Stantec as being 179 vpd per day, of which 21 will occur within the peak hour. This translates to 65vpd for the eastern extension, 109vpd for the southern extension and a further 5vpd for the s127 application.

When combined with the existing TCC village movements, the trip generation across the whole TCC village will be in the order of 896 vpd or 114 in the peak hour. The ITA also looks at the distribution of trips from the village extension in relation to the two main access points to Tamahere Drive. That assessment identifies that the main access is expected to accommodate an additional 69 vpd, whereas the southern access will increase by 111 vpd based on its proximity to the extensions. Both of these entrances have already been designed as high-volume driveways, so no additional mitigation is required to facilitate the increased movements.

Internally within the village, a central boulevard or spine road runs north to south through the middle of the existing site. This road is proposed to be extended south into the southern extension to provide the main road corridor. This road contains two 3m wide lanes, separated by a central planted median.

The site design and layout provide a comprehensive network of internal walking and cycling paths, as an extension of and tying into the existing walking and cycling paths in

the TCC land to the north. A series of pedestrian pathways will be provided on site to allow connections between the standalone villas and communal facilities on the site. In summary, pedestrian and cycling access is provided around the perimeter of the site, within the internal road network, on the footpaths and shared paths which provide connections to the communal facilities on the site and along Tamahere Drive

Parking

Parking is provided across the site adjacent to the proposed communal facilities (i.e. health spa) and within garages or driveway areas for each standalone retirement villa. A total 33 additional parking spaces are provided for in the vicinity of the health spa. Additionally, at least two parking spaces are provided for each villa on the site. A recommendation of the ITA is that a further 7 bicycle parking spaces should be provided across the site.

Servicing

Wastewater

Wastewater will be conveyed within a gravity reticulation network to the existing wastewater pump station, via connections that were future proofed in the previous civil works. The wastewater treatment plant has the capacity and contingency in both the design and WRC consents, for the additional flows generated from the extension sites. However, should additional capacity be required the pump station is a modular design and can be upgraded to cater for this additional capacity. Following treatment, the wastewater will be dispersed to the primary wastewater disposal field located in the south-west of the existing TCC site.

Stormwater

The overall stormwater strategy for the extension sites is for the reticulation network to channel stormwater runoff from the road, access network, buildings and hardstand areas to the existing attenuation systems (lake/swale etc) for treatment and soakage. Roadside swales will also convey secondary overland stormwater flows to the reticulation network.

Localised attenuation and soakage will also be implemented, as required, either for individual units or larger catchments areas inclusive of roading where required to increase stormwater capacity. For example, the parking area adjacent to the health spa is proposed to incorporate a soakage system.

Water

Water supply will be drawn from the seven bores on the wider site. Water will be pumped from the bore(s) to the water treatment plant and fed into a dual reticulation network. There is contingency in the water treatment plant and consented water take volumes to cater for the increased demand arising. The water concept thereafter utilises interconnected networks of water, principal, and rider mains to ensure suitable supply, pressure, and resilience, and valves will be located to ensure convenience of isolation and maintenance. A separate irrigation and firefighting network will draw water from a lake feature, within the existing TCC site, that captures stormwater and has a backup supply from the bore where required.

Landscaping

Boffa Miskell have prepared a masterplan and landscape design for the proposed extensions. The landscape design generally includes treatment of the proposed internal road corridors, boundary treatment and treatment of the entry to the site. Additionally, common spaces have been designed at a high level and a street tree and planting strategy has been developed for the site.

Earthworks and Construction Timeframes

Earthworks will be required on both extension sites to reshape the site contour, construct the road network, infrastructure and buildings platforms. Total earthworks volumes for the southern and eastern extensions, as a collective, includes approximately 3,600m³ of cut and 50,000m³ of fill. The fill ranges from 0.1m to 1.6m apart from the southern boundary where the filling will provide for the construction of a 3m high bund.

It is likely that earthworks and development will occur in the southern extension first (Stage 6), which the eastern extension been the last stage. A full build out of both sites is expected to take 5-7 years to complete.

1.2 Legal Interests in the Property

Lot 1 DPS80372 comprised in Record of Title SA64C/250

Consent Notice B513181.3 Requiring that no buildings are to be erected within area A identified on the LT plan.

This consent notice would restrict the proposal from proceeding and application has included an application to remove this Consent notice as part of the proposal.

Lot 1 DP535970 comprised in Record of Title 565970 - 1.71ha

Consent Notice requiring any building consent application to adhere to specific reporting unless an approved alternative is provided.

1.3 History

The history of the consenting for the Retirement Village is set out in Section 3.0 of the application.

LUC0023/19

The first consent was granted November 2018 to establish 108 Stand Alone Villas and a 61-bed care facility offering a range of apartment units, care suites and dementia care units across 10.49ha.



3. Concept Masterplan

Figure 4: Original Master Plan and Consented layout under LUC0023/19.

LUC0156/20

One year later in November 2019 a replacement consent was granted to extend the retirement village by including three additional lots in the proposal as well as undertaking some design changes. Rather than seek a variation or an additional consent the applicant sought to re-consent the entire proposal for simpler administration of the consent. This application added an additional 16 units to the application and an additional 8000m² of land area.

In summary, the site was then consented for the following development outcomes:

- 124 villas (including 12 townhouses);
- A care facility containing 61 rooms;
- A club house; and
- A health spa.



Extension into three allotments 8000m²

Figure 5: First extension under LUC0156/20.

Since the granting of that application, two variations have been applied for in relation to this consent.

LUC0156/20.01 was withdrawn before it was determined.

LUC0156/20.02 was granted on 10 November 2022, this removed 6 townhouses south of the care facility giving a total of 118 units and increased the number of rooms in the care facility from 61 to 80. The design and built form of the care facility was also amended.



Townhouses removed and replaced with parking. Care Facility redesigned

Figure 6: Approved Plan LUC0156/20.02

LUC0597/21

In 2021 the applicant sought a further resource consent to extend the TCC onto a property directly south of their existing village, being 70 Tamahere Drive. The southern extension covered 12.58ha of Rural Zoned land and was granted on 6 October 2021 under the Operative District Plan. It provided for:

- An additional 81 stand-alone villas;
- A club house (including café) and visitor car parking;
- A lake (with a dual purpose of amenity/recreation and stormwater treatment);
- An adjoining lake house and wellness pavilion overlooking the proposed lake and adjacent outdoor seating/garden party area;

Three variations have since occurred the latest of which LUC0597/21.03 granted on the 26 May 2022 and included an additional three villas within the current footprint.



Figure 7: Current extent of the consented village including the Southern Extension granted in 2021.

In summary the existing retirement village now contains 202 units and a care home to house 80 residents with various supporting activities throughout the village.

2.0 REASON FOR THE APPLICATION

2.1 Proposed Waikato District Plan - Appeals Version 2022

The Appeals Version of the Proposed Waikato District Plan was released on 8th of August 2022. The Appeals Version is updated periodically and will be considered at time of decision for this consent. At this point of time, all rules under the Appeals Version of the PDP have either legal effect (pursuant to s86B) or are treated as operative (pursuant to s86F).

An assessment of this proposal against the rules in the Proposed District Plan – Appeals Version that have legal effect or operative has been completed (see electronic file) and has identified the following rules which are relevant to this proposal:

LUC0188/24 – Eastern

Rule #	Rule Name	Status of Activity	Deemed Operative (Y/N)	Comment
GRUZ – S1	Number of Residential Units within a lot	NC	N Appeals 000049 000043 000078 000086 000047 000055 000051	The extension sites will have 25 residential units when 1 is permitted on a lot up to 40ha. The proposal does not comply with GRUZ-S1(1)(a).
GRUZ – S9	Building Coverage	RDIS	N Appeals 000049 000043 000078 000086 000047 000055	29.2% for the eastern extension when 2% is required.
GRUZ – R61	Any activity not specifically listed	NC	N Appeals 000049 000078 000086 000047	A retirement village is not specifically listed.
TRPT-R4	Traffic Generation	PER	N Appeals	The trip generation is 358 movements in total across the two extension areas when the rule allows 200 vehicle

			000086 and 000087	movements. The eastern extension produces a total of 130 daily movements and therefore complies in isolation. However, will be assessed cumulatively with the southern extension and variation
EW - R21	Earthworks General	RDIS	N Appeal 000078	The proposal exceeds the standards for earthworks in relation to the area, location, volume. Earthworks proposed for the eastern extension area are 600m ³ or cut and 39,900m ³ of fill, no bunds are proposed in the eastern section and therefore there is no infringement of depth of fill standard. Earthworks are proposed within 1.5m of the property boundaries.
EW- R22	Earthworks General Cleanfilling	RDIS	N Appeal 000078	The amount of cleanfill proposed to be brought to site exceeds the permitted volume of 500m ³ . The material is proposed to be located within 1.5m from the boundary. Infringing the rule.

As outlined in the assessment above, the Eastern Extension application is a Non-Complying Activity under the Proposed District Plan – Appeals Version, being the highest status indicated by the above rules and Council’s discretion is not restricted to any matters.

LUC0189/24- Southern

Rule #	Rule Name	Status of Activity	Deemed Operative (Y/N)	Comment
GRUZ – S1	Number of Residential Units within a lot	NC	N Appeals - 000049 000043 000078 000086 000047 000055 000051	The extension sites will have more than one residential unit on a Record of Title less than 40ha. The proposal does not comply with GRUZ-S1(1)(a).
GRUZ – S9	Building Coverage	RDIS	N 000049 000043 000078 000086	Southern Extension is 19% when 2% is required

			000047 000055	
GRUZ – R61	Any activity not specifically listed	NC	N Appeals 000049 000078 000086 000047	A retirement village is not specifically listed.
TRPT- R4	Traffic Generation	RDIS	N Appeals 000086 and 000087	The trip generation is 358 movements in total across the two extension areas when the rule allows 200 vehicle movements. The southern extension produces a total of 218 daily movements and therefore does not comply on its own without inclusion of the southern extension and variation.
EW R21	Earthworks General	RDIS	N Appeal 000078	The proposal exceeds the standards for earthworks in relation to the area, location, volume and depth of fill. Earthworks proposed are 3600m ³ of cut and 50,000m ³ of fill with a bund shown at 3.2m in height. Earthworks are proposed up to the property boundaries and are therefore within the 1.5m setback required by the rules. Works have already been undertaken within 82 Tamahere Drive including construction of the 3.2m high bund, retrospective consent is, therefore, sought for this work.
EW- R22	Earthworks General Cleanfilling	RDIS	N Appeal 000078	The rule allows cleanfill to have a maximum volume of 500m ³ and 1m in height and cannot be located with 1.5 from the boundary as a permitted activity. The proposal infringes the volume, height and location standards for cleanfill.

In relation to boundary setbacks, I have not included infringements of any internal setbacks between the record of titles held separately by the applicant. This is because the titles will meet the definition of one site under the PDP being:

(b) An area of land which comprises two or more adjoining legally defined allotments in such a way that the allotments cannot be dealt with separately without the prior consent of the Council;

Whilst not currently held together, dwellings are located across the boundaries of the lots which will require the titles to be held together via the building consent process. Conditions of consent (should consent be granted) can also require the extensions to be operated in conjunction with the other existing consents, meaning to be dealt with separately would require a variation to the consents (and therefore prior consent of the Council).

2.2 Operative Waikato District Plan

The Waikato District Plan: Waikato Section was made operative on 5th April 2013.

An assessment of the proposal's compliance with the relevant rules of the Operative District Plan has been completed by the Agent and submitted as part of the Application (refer to section 6.1 of the application). I generally concur with this assessment and note the differences below:

The applicant considers in section 6.1 of the application that the Residential Activity is a permitted activity under 21.10 and that the health spa and arts and craft facility are ancillary to the retirement village. Ms Drew notes:

“This approach is consistent with how the club house and other communal facilities have been assessed in the previous TCC consenting.”

However, it is noted that there was a difference of interpretation taken in the processing of past consents with the Reporting Planner for Council considering that under the ODP, the lake house and club house were best defined as Commercial Activities (which include Community Activities), as they were not providing “necessary” support for the retirement village they were not considered by the Planner to meet the definition of ancillary activity.

The supporting activities were processed in the previous extension consent LUC0597/21 as separate Commercial Activities to the Residential Activities proposed. In this case I agree with the previous Council processing officer and my view is that the health spa and art and craft facility are Commercial Activities under the ODP definition. It is also noted that whilst the rule provides for Residential Activities as a permitted activity this is caveated that they must comply with the effects and building rules. In this case as more than 1 dwelling is permitted on the site the ODP does not provide for this type of Residential Activity as a permitted activity.

In summary, the proposal triggers consent (unless no longer deemed operative) under the following rules:

Eastern Extension LUC0188/24

Rule #	Rule Name	Status of Activity	Still Operative* (Y/N)	Comment
25.10	Type of Activity	Discretionary	Y	<p>Whilst the Retirement Village is a Residential Activity, it is not provided for as all effects and building rules cannot be met (e.g. number of dwellings).</p> <p>The arts and crafts facility is a Commercial Activity as discussed above and is therefore</p>

				Discretionary.
25.15	Access, vehicle entrance, parking loading and maneuvering	Restricted Discretionary	Y	The proposal does not comply with the rules for additional vehicle movements under A14.A
25.25	Earthworks	Discretionary	Y	The volumes and area of earthworks do not comply.
25.46	Number of Dwellings	Discretionary	Y	There are 25 dwellings in the eastern area one dwelling is allowed as a permitted activity for sites under 40ha.
25.51	Building Coverage	Discretionary	Y	Eastern Extension is proposed to be 29.2% building coverage when 2% is the permitted standard.

As outlined in the assessment above, the Eastern extension application is a **Discretionary Activity** under the Operative District Plan, being the highest status indicated by the above rules and Council's discretion is not restricted to any matters.

Southern Extension LUC0189/24

Rule #	Rule Name	Status of Activity	Still Operative* (Y/N)	Comment
25.10	Type of Activity	Discretionary	Y	Whilst the Retirement Village is a Residential Activity, it is not provided for, as all effects and building rules cannot be met (e.g. number of dwellings). The health spa facility is Commercial Activity as discussed above and is therefore Discretionary.
25.15	Access, vehicle entrance, parking loading and maneuvering	Restricted Discretionary	Y	The proposal does not comply with the rules for additional vehicle movements under A14.A
25.16	Vehicle Movements	Discretionary	Y	The proposal will, as discussed in the PDP assessment (which has the same vehicle movement trigger) result in an infringement for the southern section
25.25	Earthworks	Discretionary	Y	The volumes and area of earthworks do not comply.
25.30	Contaminated Land	Controlled	Y there is no equivalent rule in the	The DSI identifies a controlled activity is necessary and therefore does not meet this rule

			PDP as the NES now deals with this	
25.46	Number of Dwellings	Discretionary	Y	There are 42 in the southern (2 in the variation)
25.51	Building Coverage	Discretionary	Y	Southern Extension is proposed to be 19% building coverage when 2% is the permitted standard.
25.52	Non Residential Building	Discretionary	Y	Only the southern extension (LUC0189/24) requires consent under this rule as the health spa is over 500m ² .

As outlined in the assessment above, the Southern extension application is a **Discretionary Activity** under the Operative District Plan, being the highest status indicated by the above rules and Council's discretion is not restricted to any matters.

*It is noted that there have been appeals submitted against the rules in the Proposed Waikato District Plan - Decisions Version 2022 as shown previously. As a result of these appeals the equivalent rules under the Operative District Plan are still deemed to be operative. As such an assessment under the Operative District Plan is still relevant and has been included throughout this report where relevant.

2.3 National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011 (NES)

The National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health Regulations 2011 (NES) lists removing or replacing a fuel storage system, sampling soil, soil disturbance, subdivision, or changing use as activities to which the NES applies where an activity that can be found on the Ministry for the Environment Hazardous Activities and Industries List (HAIL) has occurred.

The applicant has provided a Detailed Site Investigation (DSI) report prepared by HD Geo. The DSI reveals that 92 Tamahere Drive is identified as a A10 HAIL activity, (associated with the persistent use of pesticides across the historic orchards/market garden). The levels of contamination are such that the proposal is a **controlled activity** under the NES.

2.4 Variation – Section 127

The variation seeks to establish two additional dwellings and change condition 1 of the application as set out in the proposal section. This is a Discretionary Activity and as this variation would only be necessary if the Southern extension is successful, it has been bundled with the applications to provide for best practice holistic decision making.

2.5 Cancellation of Consent Notice

The cancellation of the consent notice is only necessary provided the eastern extension is successful. As an innominate activity a Discretionary Activity status is adopted.

2.6 Bundling of the Applications

For administration purposes and to ensure holistic consideration of the proposal in line with best practice resource management, all applications will be processed, reported on and heard together, however at decision stage the eastern and southern Land Use Consents can be unbundled if considered necessary at that time by the commissioner.

The two extension areas (southern and eastern) are not inextricably linked to each other. However, the section 127 Variation is inextricably linked to the Southern extension, and the Cancellation of consent notice is inextricably linked to the Eastern extension.

NOTIFICATION REPORT

3.0 SECTION 95A ASSESSMENT FOR THE PURPOSE OF PUBLIC NOTIFICATION

A consent authority must follow the steps set out below in the order given to determine whether to publicly notify the application:

3.1 Step 1: Mandatory Public Notification – s95A(2) and (3)

Criteria	Yes/No
(a) Public Notification at Applicant's request - s95A(3)(a)	YES
(b) Public Notification is required under section 95C (s95A(3)(b))	NO
(c) Public Notification is required as the application is a joint application with an application under section 15AA of the Reserves Act 1977, to exchange recreation reserve land (s95A(3)(c))	No

3.2 Conclusion on Public Notification

It is concluded under s95A of the RMA that the application does need to be publicly notified as the applicant has requested this.

Resource Management Regulations 2003

Regulation 10 - Service of applications for resource consents or for review of conditions

Under Regulation 10 of the RMA - *The consent authority must serve that notice on —*

- (a) every person who the consent authority decides is an affected person under section 95B of the Act in relation to the activity that is the subject of the application or review:**

4.0 SECTION 95B ASSESSMENT FOR THE PURPOSE OF IDENTIFYING PARTIES TO SERVICE NOTICE

4.1 Step 1: Certain Affected Groups and Affected Persons must be notified - s95B(2)-(4)

Criteria	Yes/No
(a) Are there any affected protected customary rights groups – s95B(2)(a)	No
(b) Is the activity on or adjacent to or may affect land that is the subject of a statutory acknowledgement made in accordance with an Act specified in Schedule 11 – s95B(3)(a)	No

4.2 Effects that may be disregarded - s95E(2)(a)

Pursuant to section 95E(2)(a), the consent authority may disregard an adverse effect of the activity on persons if a rule or NES permits an activity with that effect.

The permitted baseline has not been applied as there is no comparable permitted baseline.

4.3 Effects that must be disregarded – s95E(2)(b)

There are no effects that must be disregarded under this section as the proposal is a non-complying activity under the PDP and a Discretionary Activity under the ODP.

4.3.1 Assessment of adversely affected persons under Section 95E



Figure 8: Directly adjoining neighbours, (ref: BBO AEE Nov 2023)

The following parties have given written approval to the proposal and therefore will not be served notice. Effects on these parties have been disregarded.

Table 1: Written Approvals Received.

Map ref	Owner	Address	Legal Description	Owner and Occupier
1	Karin and Lyndon McFetridge	63 Tamahere Drive	Lot 1 DP 390217	Yes
2	Katherine Jones & Bryce Kendrick	67 Tamahere Drive	Lot 2 DP 390217	Yes
3	Peter Stockley & Stephen Williams	85 Tamahere Drive	Lot 3 DP 390217	Yes
4	Liu Wenjing	101 Tamahere Drive	Lot 1 DPS 88069	Owner, no dwelling
5	Brendon & Helen Russo	104 Tamahere Drive	Lot 2 DP 407103	Yes
6	Simon Henshaw	98 Tamahere Drive	Lot 1 DP 407103	Yes
7	Pacific Tiger Ltd	47B Pencarrow Road	Lot 2 DP 347835	Yes
9	Paul and Donna White	21 Pencarrow Road	Lot 3 DP 330380	Yes

There is only one party who have not provided written approval of which partially share a boundary with the proposal Map ref 8 above. I consider this person to be adversely affected due to the proximity of their dwelling and property to the proposal and the proposed change in rural to residential character will likely be at least minor.

Gavin and Vicki Wallace - 25 Pencarrow Road Tamahere (owners and occupiers)

There are no other surrounding parties that I consider are affected in at least a minor way as a result of the proposal due to distances between the properties that have not provided written approval and the subject site area proposed for expansion of the village.

(b) every person, other than the applicant, who the consent authority knows is an owner or occupier of land to which the application or review relates:

According to Councils Property Records the following parties, who are not the applicant, are recorded as the owners of the land in which the application relates to:

- John Hilton Clarke, Robin Elizabeth Clarke - Lot 1 DPS 59441 Comprised in Record of Title SA51C/860 - 1.1ha (56 Tamahere Drive)
- Grant Maxwell Wilson, Stephen Paul Wilson - Lot 1 DPS80372 comprised in Record of Title SA64C/250 (70 Tamahere Drive)
- Tina Louise Karl, William Philip Karl - PT LOT 11 DP 9747 Comprised in Record of Title SA1443/27 - 3.54ha. (92 Tamahere Drive)

(c) the regional council or territorial authority for the region or district to which the application or review relates:

Waikato Regional Council - strategicandspatialplanning@waikatoregion.govt.nz

Waikato District Council - StrategicPlanning@waidc.govt.nz and ResourceManagementPolicy@waidc.govt.nz

(d) any other iwi authorities, local authorities, persons with a relevant statutory acknowledgement, persons, or bodies that the consent authority considers should have notice of the application or review:

The applicant has provided a CVA with the application from Ngati Haua, the CVA records that Ngāti Hauā wish to have an active input in the decision making of issues involved with the project and facilitates an ongoing partnership as the development progresses. Provided that is the case they do not have opposition to the proposal.

The proposal will also be sent to Waikato Tainui under the Joint Management Agreement Schedule for Resource Consents.

In this case the application is for an out of zone activity outside the areas identified in the wider strategic planning framework and RPS. The future proof areas adopted into the RPS are set via work initiated and undertaken by the Future Proof Partners which is made up of a Local Government Committee of various parties with the vested interest in achieving wider spatial strategic growth patterns for the region. The application is also within close proximity to the boundaries of the Waipa and Hamilton City Territorial Authorities, it is considered these are relevant statutory bodies that should have notice of the application:

Future Proof Committee - futureproofcoordinator@waikatoregion.govt.nz

Hamilton City Council – Urban and Spatial Planning Unit - Chris Dillon, Chris.Dillon@hcc.govt.nz, CC Mark Davey Mark.Davey@hcc.govt.nz

Waipa District Council – Manager District Plan and Growth Tony Quickfall tony.quickfall@waipadc.govt.nz

The proposal involves infringements that relate to traffic generation within the vicinity of the State Highway network, and therefore it is considered appropriate to send notice to Waka Kotahi. HamiltonPlanning@nzta.govt.nz

(e) the Minister of Conservation, if the application or review relates to an activity in a coastal marine area or on land that adjoins a coastal marine area:

N/A

(f) the Minister of Fisheries, the Minister of Conservation, and the relevant Fish and Game Council, if an application relates to fish farming (as defined in the Fisheries Act 1996) other than in the coastal marine area:

N/A

(g) Heritage New Zealand Pouhere Taonga, if the application or review—

(i) relates to land that is subject to a heritage order or a requirement for a heritage order or that is otherwise identified in the plan or proposed plan as having heritage value; or

N/A

(ii) affects any historic place, historic area, wāhi tūpuna, wahi tapu, or wahi tapu area entered on the New Zealand Heritage List/Rārangi Kōrero under the Heritage New Zealand Pouhere Taonga Act 2014:

The south—eastern part of 56 Tamahere Drive and potentially 70 Tamahere Drive contains an archaeological feature, being Māori-made soils, that is part of a wider feature (S14/504).

(h) a protected customary rights group that, in the opinion of the consent authority, may be adversely affected by the grant of a resource consent or the review of consent conditions:

N/A

(ha) a customary marine title group that, in the opinion of the consent authority, may be adversely affected by the grant of a resource consent for an accommodated activity:

N/A

(i) Transpower New Zealand, if the application or review may affect the national grid.

N/A

5.0 SECTION 95 NOTIFICATION RECOMMENDATION AND DECISION UNDER DELEGATED AUTHORITY

Pursuant to section 95 A & B the applications LUC0188/24, LUC0189/24, LUC0597/21.04 and VAR002/24 for a Discretionary Activity under the Operative District Plan and a Non-Complying Activity under the Proposed District Plan – Appeals Version shall proceed on a PUBLICLY NOTIFIED basis, at the applicant's request.

With the following parties/bodies served direct notice under Regulation 10:

- 1 Gavin and Vicki Wallace - 25 Pencarrow Road, Tamahere
- 2 John Hilton Clarke, Robin Elizabeth Clarke - Lot 1 DPS 59441 Comprised in Record of Title SA51C/860 (56 Tamahere Drive, Tamahere)
- 3 Grant Maxwell Wilson, Stephen Paul Wilson - Lot 1 DPS80372 comprised in Record of Title SA64C/250 (70 Tamahere Drive, Tamahere)
- 4 Tina Louise Karl, William Philip Karl_- PT Lot 11 DP 9747 Comprised in Record of Title SA1443/27 (92 Tamahere Drive, Tamahere)
- 5 Waikato Regional Council - strategicandspatialplanning@waikatoregion.govt.nz
- 6 Waikato District Council - StrategicPlanning@waidc.govt.nz, ResourceManagementPolicy@waidc.govt.nz
- 7 Future Proof Committee - futureproofcoordinator@waikatoregion.govt.nz
- 8 Hamilton City Council – Urban and Spatial Planning Unit - Chris Dillon, Chris.Dillon@hcc.govt.nz, cc Mark Davey Mark.Davey@hcc.govt.nz
- 9 Waipa District Council – Manager District Plan and Growth Tony Quickfall tony.quickfall@waipadc.govt.nz
- 10 Heritage NZ Pouhere Taonga – Carolyn McAlley CMcAlley@heritage.org.nz cc rdarmody@heritage.org.nz
- 11 Waka Kotahi - HamiltonPlanning@nzta.govt.nz
- 12 Ngati Haua Iwi Trust
- 13 Waikato Tainui

Reporting Planner:



Michelle Carmine
Consultant Planner

Dated: 12 December 2023

Peer Reviewed By:



Nicola Laurenson
Consultant Planner

Dated: 13 December 2023

Approved By:



Deborah McIntosh
Consents Team Leader

Dated: 14 December 2023