

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



Discretionary activity

Application numbers: BUN60449555 (Council Reference)
LUC60449557 (s9 land use consent)
DIS60449556 (s15 stormwater permit)
DIS60451824 (Industrial or trade activity permit)

Applicant: Taha Auto Limited

Site address: 395 Fitzgerald Road, Drury

Legal description: Lot 3 DP 194356 (NA 123C/912)

Proposal:

To establish a vehicle dismantling activity within two new warehouse buildings, and to undertake enabling earthworks within a Sediment Protection Control Area, retaining walls that are up to 2.5m in height within required minimum yard setback requirements, and establish stormwater management devices.

Resource consents are required for the following reasons:

Land use consent (s9) – LUC60449557

Auckland Unitary Plan (Operative in part)

District land use (operative plan provisions)

E12 – Land disturbance – District

- To undertake general earthworks of 26,255m² and 23,248 m³, as the earthworks are greater than 2,500 m² and 2,500m³ in a Future Urban zone, is a restricted discretionary activity under rules E.12.4.1(A6) and (A10) respectively.
- Earthworks that do not comply with the following standards require resource consent for a restricted discretionary activity under rule C1.9(2):
 - The proposed earthworks involve land disturbance within the riparian yard which infringes Standard E12.6.2(1) as they exceed the required area and volume limits set out in Standard E12.6.2(1)(b). Within the Future Urban Zone, the riparian yard requires a 20m setback from the edge of permanent and intermittent streams. The proposed earthworks to create the landscape batter are, in some locations, within 1m of the edge of the stream on site.
 - The proposed earthworks include works within a 100-year AEP floodplain that infringe Standard E12.6.2(11) as it will raise ground levels more than 300mm and include a total fill volume that exceeds 10m³.

E27 – Transport

- The proposal involves establishing parking and vehicle access that does not meet the following standard and requires resource consent for a restricted discretionary activity under rule E27.4.1(A2) as follows:
 - Parking and manoeuvring areas are not formed, drained, or provided with an all-weather surface as required by Standard E27.6.3.6.

E31 – Hazardous substances

- The proposal involves an aggregate quantity of hazardous substances (diesel, petrol, oil, coolants) classified 6.3-6.9 that exceeds the permitted threshold specified in E31.4.3(A101), which requires resource consent for a discretionary activity under rule E31.4.1(A7).

E36 – Natural hazards

- The proposal involves establishing retaining walls that are defined as a building under Part J of the AUP(OP) because they are greater than 1.5m in height. These retaining walls require resource consent for a restricted discretionary activity under rule C1.9(2):
 - The retaining walls do not meet Standard E36.6.1.9 on the eastern and western side boundary because they will be located where flood waters are expected to exceed 300mm above ground level.

H17 – Business – Light Industry zone

- The proposal involves establishing retaining walls that are defined as a building under Part J of the AUP(OP), which are located within 1.5m of the road / front boundary and infringe the minimum yard setback of 2m that applies under standard H17.6.4. This requires resource consent for a restricted discretionary activity under rule C1.9(2).

H18 – Future Urban zone

- To establish a vehicle dismantling facility which is not provided for under rule H18.4.1 requires resource consent for a discretionary activity under rule C1.7(1).
- The proposal involves establishing two buildings and retaining walls that are defined as “buildings” under Part J of the AUP(OP). This requires resource consent for a discretionary activity because under rule H18.4.1(A2) the same activity status applies to the new building that applies to the land use activity.
- The proposal involves establishing retaining walls that are more than 1.5m in height and retaining walls with security fencing on top that have a combined height of more than 2.5m, which are defined as a building under Part J of the AUP(OP), which infringe the minimum yard setback of 12m that applies under Standard H18.6.3. This requires resource consent for a restricted discretionary activity under rule C1.9(2).

Regional land use (operative plan provisions)

E11 – Land disturbance - Regional

- To undertake general earthworks of 26,255m² require resource consent for a restricted discretionary activity under rules E.11.4.1(A9) because earthworks will be undertaken over a contiguous land area that exceeds 2,500m², and these works will be undertaken within a Sediment Control Protection Area.

Stormwater discharge consent (s15) –DIS60449556

E8 – Stormwater- Discharge and Diversion

- The proposed development will result in stormwater runoff from an impervious area greater than 5,000m² which is diversion and discharge of stormwater runoff from impervious areas not otherwise provided for (actual area of proposal impervious surfaces, being 2,3150m²). Therefore, it is a discretionary activity under rule E8.4.1(A10).

Industrial trade activity (s15) – DIS60451824

E33 – Industrial and Trade Activities

- Automotive dismantling activities of any size is classified as a high-risk activity under Table E33.4.3 and therefore resource consent is required for the following reasons:
 - Any new industrial trade activity that is listed as 'high risk' under Table E33.4.3 requires resource consent for a controlled activity under rule E33.4.1(A8).
 - The discharge of contaminants from a new industrial trade activity area listed as high risk in Table E33.4.3 is a discretionary activity under rule E33.4.2(A24).

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

- Resource consent is required for a restricted discretionary activity under Regulation 10(2) of the NEC:SC to disturb soil that may contain elevated levels of contaminants, over a land area of 2.7679ha, when a Detail Site Investigation (DSI) has been prepared.

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

Decision

I have read the application, supporting documents, and the report and recommendations on the application for resource consent. While I have made my own assessment of the proposal I rely on the evidence provided by the applicant and the expert advice from Council specialists. 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 not precluded as:
 - a. there is no plan rule or regulation in an NES that specifically precludes public notification of the application; and
 - b. the application is for activities other than those specified in s95A(5)(b).
3. Under step 3, public notification is not required as:
 - a. the application is for activities that are not subject to a plan rule or regulation in an NES that specifically requires it; and
 - b. the activities will have or are likely to have adverse effects on the environment that are no more than minor because:
 - While the site is part of a narrow strip of land that is zoned Future Urban and is identified in the Auckland Future Development Strategy 2023 (FDS) as being “development ready” in 2035, the site is located at the periphery of an urban area that is in transition from a rural environment to an urban environment. This transition has influenced the character of the locality, and it is a character that has been informed by bulk earthworks are being undertaken on the adjacent 411 Fitzgerald Road and large-scale industrial development in Drury South that is visible from parts of the site and the immediate environment. Land on the opposite side of Fitzgerald Road is zoned for residential purposes, and accordingly it is expected that the character of the locality will change to have more of an urban character.

The character of the locality is also informed by large buildings present on nearby landholdings that are zoned for Future Urban and are currently used for productive rural purposes. This includes 305 Fitzgerald Road west to the east of the application site, and 431 and 445 Fitzgerald Road to the east of the application site.

Noise, traffic, and air discharge related effects are consistent with the general mix of activities anticipated within both a productive rural and industrial environment.

Given this context, it is considered that the proposal will not detract further, or cumulatively, from the general urban periphery / transitional character that is present in the wider area.

- The proposal can be undertaken in a manner that will have less than minor cultural effects.

It was found that the site does not contain recorded archaeological sites or sites of significance to mana whenua.

Mana whenua were engaged during the application process, with Ngāti Tamaoho, Ngāti Te Ata Waiohua and Ngāti Whanaunga confirming that they have an interest in the area. Ngāti Tamaoho and Ngāti Te Ata Waiohua provided feedback on the application which has been incorporated into the proposal.

It is considered that the applicant has provided sufficient evidence to demonstrate that they have made reasonable attempts to obtain feedback from Ngāti Whanaunga. In the absence of feedback, the applicant has assessed the application proposal against the objectives of the Environmental Management Plan prepared by Ngāti Whanaunga that is publicly available and concludes that the proposal can be undertaken in a manner that is consistent with those objectives.

- Traffic movements generated by the activity can be accommodated without affecting the safe and efficient performance of the road network. The site will be gated and will not be open to members of the public for casual visits, which will limit the number of trips generated. The proposed vehicle crossing will facilitate safe turning movements to and from Fitzgerald Road.
- The applicant has demonstrated that the proposed activity can be serviced onsite without requiring extensions or upgrades to public infrastructure.
- Increased run-off from the proposed impervious surface areas can be managed through the proposed detention basins. Potential adverse effects on the downstream environment (e.g. erosion) will be managed by throttling the slow-release detained water.
- Potential adverse effects relating to the storage of hazardous substances on the application site will be avoided and mitigated, because the substances will be stored in appropriate containers within the proposed warehouse buildings, outside of the identified 1%AEP floodplain.

The potential adverse effects on water quality relating to the transfer, storage and spillage of contaminants will be avoided and mitigated by limiting the quantity of hazardous substance stored on site, implementing the management procedures outlined in the Environmental Management Plan (EMP), and by treating stormwater via the swale and the detention pond.

- The proposed erosion and sediment control measures will mitigate the potential for waterborne sediment to contaminate downstream freshwater resources. This includes cut and cover methodology on land that is proximate to the watercourse that delineates the southern boundary of the site. This methodology is consistent with Council guidance (GD05).

- The applicant will implement the measures that have been recommended in the Detail Site Investigation (DSI) that will avoid and mitigate the potential adverse effects of disturbing soil containing elevated levels of contaminants on human health and on the environment.
 - The proposed earthworks will not undermine adjacent land. Best-practice dust suppression measures will be implemented to avoid and mitigate the potential adverse effects related to airborne dust particles.
4. Under step 4, there are no special circumstances that warrant the application being publicly notified because there is nothing exceptional, abnormal or unusual about the application, and the proposal has nothing out of the ordinary to suggest that public notification should occur. I am not aware of any public interest from the wider area and no additional information is required to inform this decision.

Limited notification

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

1. Limited notification is neither mandatory nor precluded under steps 1 and 2.

It is acknowledged that the application site is within a statutory acknowledgement area for Ngāti Tamaoho. The applicant has obtained feedback from Ngati Tamaoho and has adopted their recommendations as part of the proposal.

2. However, under step 3, the following persons are found to be adversely affected by the proposal:

- a) The owners and occupants of 334, 360 and 380 Fitzgerald Road.
- b) The owners and occupants of 335, 341, 359 and 377 Fitzgerald Road.
- c) The owners and occupants of Section 10 SO 543175 and 411 Fitzgerald Road.

The combined visual effects of the retaining walls, buildings and stacked vehicles will adversely affect the visual amenity of the owners and occupants of these properties, as follows:

- The proposal will have a minor adverse visual effect on the owners and occupants of 334, 335, 368, 380 and 411 Fitzgerald Road.
- The proposal will have a more than minor adverse visual effect on the owners and occupants of 359, 360 and 377 Fitzgerald Road.

The mitigation planting will be insufficient to mitigate the short-term visual effects on these persons. It is noted that the Council's Principal Landscape Specialist estimates that it may take 5+ years for the screen planting to establish to a height and volume that would screen the retaining walls, and potentially longer to screen the storage yard and storage yard on top of the retaining walls and in behind the wire mesh security fence.

The retaining walls, security fences, and stacked vehicles will all be within the minimum 12m yard setback that applies in the Future Urban zone, which are in part intended to maintain character and amenity values enjoyed by the occupants of adjacent land.

411 Fitzgerald Road and Section 10 SO 543175

- Visual amenity effects caused by the length of the retaining wall, security fences, and stacked vehicles along the eastern boundary of the subject site have the potential to affect the public open space outcomes that are sought by the Drury South – Precinct D. Accordingly, there is potential future effect on these owners who are currently developing a public open space network on this land.
3. Under step 4, there are no special circumstances that warrant the application being limited notified to any other persons besides those identified above. This is because there is nothing exceptional, abnormal or unusual about the application, and the proposal has nothing out of the ordinary to suggest that notification to any other persons should occur. I am not aware of any interest

Accordingly, this application shall proceed with **LIMITED NOTIFICATION**. Notice of this application shall be served on the affected persons being the owners and occupiers of the following properties;

- 334, 360 and 380 Fitzgerald Road
- 335, 341 and 359 377 Fitzgerald Road
- Section 10 SO 543175 and 411 Fitzgerald Road



David Wren

Duty Commissioner

31 October 2025