

Decision on an application to vary/cancel a consent notice under section 221 of the Resource Management Act 1991



Application under section 221(3)

Application number: VCN70025543 (Variation of consent notice in part)
Consent notice number: D372034.2
Original subdivision consent number(s): SUB60209801
Applicant: Taha Auto Limited
Site address: 395 Fitzgerald Road, Drury
Legal description: Lot 3 DP 194356

Proposal:

To vary consent notice D372034.2 so that it no longer applies to 395 Fitzgerald Road (Lot 3 DP 194356). The consent notice requires the greenhouse to be retained and maintained in good working order, and for the application site to be used for intensive horticultural activities on a continuing basis.

Note: For the avoidance of doubt, unless the context requires otherwise, any reference in this decision to 'application' shall be taken to mean an application to vary or cancel a consent notice under s221 of the RMA.

This activity under s221(3) of the Resource Management Act 1991 (RMA) is for the variation of consent notice D372034.2 involving the following amendments (with strikethrough for deletion, underline for insertions):

Variation to consent notice # D372034.2

THE PAPAKURA DISTRICT COUNCIL the Territorial Authority having jurisdiction with respect to the above land hereby gives notice that subdivision consent is granted subject to the following conditions being complied with as to Lots 1 and 2 ~~1-3~~ on Deposited Plan 194356:

- That Lots 1 and 2 ~~1-3~~ are created for intensive/covered horticulture and shall be used for intensive/covered horticultural purposes on a continuing basis.
- That the greenhouses on Lots 1 and 2 ~~1-3~~ be maintained in good working condition.
- That a horticultural management plan as detailed in Condition 7 of the conditions of subdivision consent be submitted to Joyce Group TA Services Limited as agents for Papakura District Council for any change to the present cropping regime (intensive vegetable production for Lots 1 and 2 ~~1-3~~).
- That a horticultural management plan as detailed in Condition 7 of the conditions of subdivision consent be submitted to Joyce Group TA Services Limited as agents for

Papakura District Council within 2 months from the date of receiving any such written request.”

Decision

I have read the application, supporting documents, and the report and recommendations on the application for variation/cancellation of a consent notice. I am satisfied that I have sufficient information to consider the matters required by the RMA and make a decision under delegated authority on the application.

Acting under delegated authority, under sections 221, 104 and Part 2 of the RMA, the application is **GRANTED**.

Reasons

The reasons for this decision are:

1. In accordance with an assessment under s104(1)(a)-(ab) as required by s221(3A) of the RMA, the actual and potential effects from the application will be avoided, remedied or mitigated as:
 - a. The application to vary consent notice D372034.2 from Lot 3 DP 194356 will not result in an adverse effect on any persons or adverse effects on the environment. This is because the consent notice was imposed under superseded District Plan provisions that required the land to be used for intensive horticultural use. The primary purpose of the was not to manage an adverse effect on the owners and occupants of adjacent land.
 - b. The site and adjacent landholdings have been identified as being suitable for urban purposes under the Auckland Unitary Plan 2016 – Operative in Part (AUP(OP). This means that potential adverse cumulative effects that the consent notice sought to manage when the subdivision was granted (such as the loss of rural character and productive rural capacity) are no longer relevant.
 - c. In terms of positive effects, the proposal will allow for the site to be used for other agricultural activities.
 - d. 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.
2. In accordance with an assessment under s104(1)(b) as required by s221(3A) of the RMA, the application is consistent with the relevant statutory documents. In particular, the site and adjacent land have been identified for urban land use and are no longer zoned for rural purposes under the Auckland Unitary Plan 2016 – Operative in Part. Furthermore, there are no longer any land use or subdivision provisions that would require the greenhouse to be maintained in good working order, and for the application site to be used for intensive horticultural activities on a continuing basis. The removal of the greenhouse, and the use of the land for residential and rural purposes, is entirely consistent with the outcomes sought by the objectives and policies of H18 – Future Urban zone and B9 – Rural Environment.

3. In accordance with an assessment under s104(1)(c) and s221(3A) of the RMA, no other matters are considered relevant.
4. In the context of this application, where the objectives and policies of 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 and 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.
5. Overall, the proposal is acceptable and consistent with operative RMA planning instruments.

Advice notes

1. *A copy of the revised consent notice as amended is included as attachment 1 to this section 221(3) decision.*
2. *This decision is to be read in conjunction with any other relevant approved resource consent(s) and does not negate the requirement to continue to comply with the conditions of any previously granted resource consent(s) that have been implemented, and any existing consent notices.*

Delegated decision maker:

Name: Lucia Tugaga
Title: Senior Planner, Resource Consents
Signed:



Date: 24 June 2025

Attachment 1: Consent notice as varied

IN THE MATTER of the Resource Management
Act 1991 ("the Act")

AND

IN THE MATTER of Consent Notice No. D372034.2

AND

IN THE MATTER of Record of Title Identifier NA123C/912

VARIATION OF CONSENT NOTICE D372034.2
(Pursuant to Section 221(3) of the Act)

That Council resolves pursuant to Section 221(3) of the Resource Management Act 1991 that, the Consent Notice D372034.2 registered against the record of title for Lot 3 Deposited Plan 194356, be varied involving the following amendments (with strikethrough for deletion, underline for insertions):

THE PAPAURA DISTRICT COUNCIL the Territorial Authority having jurisdiction with respect to the above land hereby gives notice that subdivision consent is granted subject to the following conditions being complied with as to Lots **1 and 2** ~~1-3~~ on Deposited Plan 194356:

- That Lots **1 and 2** ~~1-3~~ are created for intensive/covered horticulture and shall be used for intensive/covered horticultural purposes on a continuing basis.
- That the greenhouses on Lots **1 and 2** ~~1-3~~ be maintained in good working condition.
- That a horticultural management plan as detailed in Condition 7 of the conditions of subdivision consent be submitted to Joyce Group TA Services Limited as agents for Papakura District Council for any change to the present cropping regime (intensive vegetable production for Lots **1 and 2** ~~1-3~~).
- That a horticultural management plan as detailed in Condition 7 of the conditions of subdivision consent be submitted to Joyce Group TA Services Limited as agents for Papakura District Council within 2 months from the date of receiving any such written request."

DATED at Auckland this 24 day of June 2024.

AUTHENTICATED by the Council

by Lucia Tugaga)
Senior Planner)
on behalf of, and by)
authority of the AUCKLAND COUNCIL)



Principal Administrative Officer