



# Whitby Lakes Retirement Village “Stage 5 Apartments” Reconfiguration

S127 RMA Application to Porirua City Council for a Change of Conditions of RC6590 – LU0131/13

41 Newhaven Way, (via Discovery Drive) Whitby, Porirua  
(Lot 1 DP 86926)

Prepared for:



In association with:



1 November 2016  
Ref: 20160503

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## 1. Introduction

This report has been prepared (*pursuant to Section 88 and 127 of the Resource Management Act 1991, the Act*) by Down to Earth Planning on behalf of **Whitby Village (2009) Limited** (the applicant). It describes a proposal to Change Condition 1 of Resource Consent RC6590 - LU0131/13 and enabling modification of Building “C” at Whitby Lakes Retirement Village, referred to as the “Stage 5 Apartments Reconfiguration”.

The proposed reconfiguration of the Apartment Building C involves the relocation of the internal walkway areas from the eastern side of the building to a central position, orienting apartments either side to maximise daylight entry and allowing three more apartments to be added. The redesign moves the upper storeys of the building out to align with the approved basement footprint. Balconies have been added to the Discovery Drive frontage (east) so the building will face the street, and these extend slightly beyond the approved footprint. Extensions to the west (facing the retirement complex) are included to relocate internal circulation (stairs and lift) to match the internal reconfiguration and levels. The maximum approved height is not exceeded and the majority of the new roofline is below the original approved levels. The main access from Discovery Drive will be realigned slightly further to the southwest to allow for more planting either side, and a replacement comprehensive landscape plan has been submitted for the Discovery Drive frontage. For more details of the proposal, refer to Section 3.0, the plans attached at Appendix A, and landscape plans attached at Appendix C.

The proposal has been assessed as a Discretionary Activity Resource Consent as required by Section 127(3)(a). Section 4.0 sets out the District Plan Assessment of the proposal in terms of the Suburban Zone Rules and Permitted Activity Standards for:

- Co-joined residential units;
- Car Parking (more spaces provided);
- Earthworks (similar extent but moved south);
- Height (lower than approved height);
- Height Recession Plane (complies);
- Outdoor Living Areas (not applicable);
- Private Ways and Driveways (no change); and
- Yards (complies).

Sections 5, 7, and 8 set out and respond to the requirements of Sections 104, 95A-E, 127, and Part 2 of the Act, and Section 6 assess the effects of the proposal.

The proposal has been discussed with the owners of the Whitby Village Shopping Centre, who expressed no interest. Preliminary discussions have been held with Council officers in developing the proposal with a view to it being assessed as a non-notified application.

This report describes the potential environmental effects of the proposed change of conditions, confirming any adverse effects will be less than minor, there are no adversely affected persons, and the overall effects of the approved development can continue to be mitigated so as to be acceptable. The revised proposal will have positive effects for the Whitby Lakes Retirement Village residents and in the local Whitby community.

## 2. Site Description

### 2.1 Address & Location

The application site at 41 Newhaven Way, Whitby is part of a land holding owned by Whitby Village (2009) Limited, comprising four land parcels occupied by the Whitby Lakes Retirement Village. The overall site has road frontage and physical access available from Discovery Drive at the southern end and Starboard Lane at the northern end.

The applicant’s land is shown outlined in yellow, with the land parcel associated with the proposal (Lot 1 DP 86926) that is the subject of this application shaded in yellow. The area where Building C and changes to the driveway and landscape planting are proposed is marked with a red dotted outline. The building C location is shown approximately in white.



Annotated Aerial Photograph of Application Site (Source: PCC Online GIS Mapping System) – North is at top of page

## 2.2 Legal Description & Ownership

The applicant (Whitby Village (2009) Limited) is the registered owner of the application site and the surrounding land parcels that make up the Whitby Lakes Retirement Village (total area 3.9864 hectares). The land is held in four separate Computer Freehold Registers, as follows:

- LOT 1 DP 86926 (WN52C/749 – 2.3482 ha) – The Application Site;
- LOT 2 DP 89372 (WN56D/405 – 3309m<sup>2</sup>);
- LOT 3 DP 89372 (WN56D/406 -9410m<sup>2</sup>); and
- LOT 5 DP 89372 (WN56D/408 – 3663m<sup>2</sup>).

### 2.2.1 Registrations on Titles

The following registrations are recorded on the title for Lot 1 DP 86926:

Item	Registration Reference	Comment
1	Easement Certificate 311436.4	Right of Way easement, noting subject to Section 37(1)(a) Counties Amendment Act 1961, affects several adjoining titles and has been carried through to subsequent titles as land has been progressively subdivided to ensure access is maintained over the south west corner of the shopping centre car park.
2	Consent Notice CONO B697136.2	Issued by Porirua City Council pursuant to Section 221 of the Resource Management Act 17 September 1998, to prevent the landowner from holding the Council liable for the cost of any fencing construction or maintenance on the boundary with Council reserve.
3	Memorandum of Encumbrance ENC B775633.1	Memorandum between Covenant Trustee Company and Whitby Village Limited – covering a period of 999 years to protect the interests of the residents of the retirement village.
4	Notice of Registration NRV 7603895.1	This identifies Whitby Village Estate as a Retirement Village, subject to Section 2 of the Retirement Villages Act 2003 (which provides priority for the rights of residents ahead of the rights of the holders of security interests).
5	Section 77 Certificate C77 8638211.1	Pursuant to Section 77 of the Building Act 2004 - the CFR is subject to the condition imposed under Section 75(2) enabling building consent to be granted for a building across a boundary subject to the specified allotments being held together (also affects WN56D/406).

None of the above registrations impact on or are impacted by the proposed reconfiguration of the previously approved Stage C/Stage 5 Apartment Building. Copies of the title documents and plans are attached at [Appendix B](#).

## 2.3 Existing Environment

The Whitby Lakes Retirement Village site is generally flat and is divided between an upper level area at the southern end, and a lower level to the north. The land is elevated above Discovery Drive and slopes gently towards the lake edge adjacent to its western boundary.

The majority of the existing site contours were originally formed when Whitby was first developed as a suburb. Further earthworks approved for previous completed stages of the development Earthworks on the site have been undertaken at the northern end of the site. These created access and building platforms for the Stage F, G, and H villas in place at the northern end of the site.

The retirement village currently comprises 61 villas, a Main Amenities Building and adjoining apartment buildings A and D, the latter being under construction expected to be completed and ready for occupation in October 2016. The larger buildings are grouped at the southern end of the site, and incorporate covered parking on two levels. Access to the northern end of the retirement village is available from Starboard Lane off Discovery Drive. The main entrance from Discovery Drive is at the southern end of the site. The site is fully landscaped, creating private and shared outdoor living areas and walkways throughout the development complex.

A band of mature trees within the site grow along the Discovery Drive frontage. Some of the larger ones, mostly pines and gums and acacias, are being progressively removed for safety reasons. This area is where the revised landscape plan, that is the subject of this application, is to be applied.

The Whitby Village Shopping Centre adjacent to the southern boundary of the site includes a small mall with several retail and commercial activities including a New World supermarket, a medical centre, vet clinic, cafés, and bars. The service lane for shopping centre provides access to other non-residential development clustered further south of the main mall building, including Whitby Plunket, Whitby Library, churches, community police station, real estate agent, and other retail/commercial activities.

Samuel Marsden Whitby Collegiate School is located to the north-east of the application site, with access from Starboard Lane. Residential properties at Solander Place are adjacent to the eastern end of the northern boundary of the site, near the Stage H Villas. The Whitby Tennis Courts, owned by Porirua City Council and within the Recreation Zone, are adjacent to the western end of the site's northern boundary and overlooked by the Stage F Villas.

To the west, is the Whitby Lower Lake Reserve, with walkways round the lake accessing residential properties to the west and north of the lake, and the adjacent shopping centre area to the east. Adventure Park, to the east of the site on the opposite side of Discovery Drive, includes a bowling club and facilities for community groups, Scouts, and sports clubs. These activities are within the Recreation Zone. “The Banks - Whitby” Residential Subdivision is being established on either side of Duck Creek further to the east.

## 3. The Proposal

### 3.1 Overview

The applicant seeks to amend Condition 1 of RC6590 to enable a reconfiguration of the approved:

- Apartment Building C/Stage 5 Apartment building design;
- Comprehensive landscape planting for the Discovery Drive frontage; and
- The main entrance and driveway alignment.

This section lists the plans that illustrate the proposal, sets out the existing condition 1 and proposed amended condition 1, and then describes the details of the revised development for which approval is sought in this s127 application, noting the key differences between the approved and proposed developments.

### 3.2 Application Plans

The proposed reconfigured Apartment Building C/Stage 5 Apartment, access and landscape planting are shown on the plans attached at [Appendix A](#), with details set out in the tables below.

[Plans by Architects Pacific Environments New Zealand Limited, Reference 16050 dated 1/11/2016](#)

Plan Ref	Plan Title
RC001	Development Plan
RC002	Site Plan
RC003	Site Entrance and Basement
RC004	Building Entrance and North Retaining
RC110	Basement Plan
RC111	Level 0 Plan
RC112	Level 1 Plan
RC113	Level 2 Plan
RC114	Level 3 Plan
RC115	Upper Roof Plan
RC200, 201	Elevations
RC300, 301	Sections
RC800	View 3 Proposed
RC801	View 3 Consented

Plan Ref	Plan Title
RC802	View 6 Proposed
RC803	View 6 Consented
RC804	View 9 Proposed
RC805	View 9 Consented
RC806	View 12 Proposed
RC807	View 12 Consented
RC811	Photomontage location plan

Other Appended Supporting Information

Supporting Document	Appendix
Computer Freehold Registers and Related Documents	B
Architect Statement from Pacific Environment Architects	C
Landscape & Visual Assessment Report & Plans by Thresher Urban Design Landscape Architecture	D

**Note:** The Plans by Architects Pacific Environments New Zealand Limited (PENZL) refer to the different building levels as follows:

	<u>Plan Reference</u>
Basement	Basement
Ground Floor	Level 0 (Apartments 001 to 008)
First Floor	Level 1 (Apartments 101 to 108)
Second Floor	Level 2 (Apartments 201 to 207)
Third Floor	Level 3 (Apartments 301 and 302).

### 3.3 Existing and Proposed Condition 1

Existing Condition 1 is:

*The development shall be in general accordance with the information and plans submitted at the hearing and held on Council file RC6590 and stamped ‘Approved Plans for Resource Consent RC6590’ being plans entitled:*

- ‘Master Plan A001’A’, A002, A003, A004’A’ and A005’A’
- Aerial View A006-A011
- View from Lakeside Villas A012-A016

- *Maximum Height Plane 3D View A017‘B’, A018‘A’, A019‘A’, A020‘C’, A021 ‘B’ and A022‘A’*
- *Photomontage A023-A029*
- *Visual Images A030-A035*
- *Building A/D A036*
- *Lift Shaft Heights 131106 SK05*
- *Building Plans A110-A113, A120, A200-A203, A300-A301, C001-C002, C110-C114, C200, C300 Drawn by Pacific Environments NZ Ltd.*
- *Cuttriss Civil 21000RC-1 to RC-5 Topographical Survey 20727 TPO 4, Survey Plans 99074-102A, 102B and 103ADrawn by Cuttriss Consultants Ltd.*
- *Landscape Concept Plans NZ011215 C800-C804 (1-5) revision 5, Discovery Drive Landscape Concept Plans C810-C814 (1-5) revision 1, Drawn by Cardno*

Proposed Amended Condition 1 is set out below (using underlining for new text and strikeout for deleted text), with the proposed change being the addition of new plans that show the proposed reconfigured proposed Building C, driveway and concept planting:

*The development shall be in general accordance with the information and plans submitted at the hearing and held on Council file RC6590 and stamped ‘Approved Plans for Resource Consent RC6590’ being plans entitled:*

- *‘Master Plan A001‘A’, A002, A003, A004‘A’ and A005‘A’*
- *Aerial View A006-A011*
- *View from Lakeside Villas A012-A016*
- *Maximum Height Plane 3D View A017‘B’, A018‘A’, A019‘A’,~~A020‘C’, A021 ‘B’ and A022‘A’~~*
- *Photomontage A023-A029*
- *Visual Images A030-A035*
- *Building A/D A036*
- *Lift Shaft Heights 131106 SK05*
- *Building Plans A110-A113, A120, A200-A203, A300-A301, ~~C001-C002, C110-C114, C200, C300~~ Drawn by Pacific Environments NZ Ltd.*
- *Cuttriss Civil 21000RC-1 to RC-5 Topographical Survey 20727 TPO 4, Survey Plans 99074-102A, 102B and 103ADrawn by Cuttriss Consultants Ltd.*
- *Landscape Concept Plans NZ011215 C800-C804 (1-5) revision 5, Discovery Drive Landscape Concept Plans C810-C814 (1-5) revision 1, Drawn by Cardno,*

**except where those plans are amended or superseded by the plans specified below for Stage 5 Apartments / Building C which are held on Council file RC6590 –**

LU0\*\*\*\*/16 and stamped ‘Approved Plans for Resource Consent RC6590’, being the following plans prepared by Pacific Environments NZ Ltd:

- Development Plan RC001-D
- Site Plan RC002-D
- Site Entrance and Basement RC003-D
- Building Entrance and North Retaining RC004-D
- Building Plans RC110-D to RC115-D
- Elevations RC200-D – 201-D
- Sections RC300-D – 301-D
- Views 3, 6, 9 and 12 RC80-D – 807-D
- Photomontage location plan;

and the following Landscape Concept and Species plans drawn by Thresher Urban Design and Landscape Architecture:

- Overall Plan P853/LC01 (28/10/16)
- Staging Plan P853/LC02 (28/10/16)
- Detail Area P853/LC03 (28/10/16)
- Detail Area P853/LC04 (28/10/16)
- Cross Sections P853/LC04 (28/10/16)
- Cross Sections P853/LC06 (28/10/16)
- Plant Selections LC07 (28/10/16)
- Plant Selections LC08 (28/10/16).

Note: The proposal seeks to amend the landscape planting to be undertaken on the Discovery Drive Frontage. This does not require any amendments to the existing consent conditions 13 to 18 of Resource Consent RC6580, as they require the consent holder to submit detailed Landscape Plans and Landscape Specification Plans to the General Manager, Environment & Regulatory Services for each stage of the approved development. Therefore changes are able to be made and, provided the new concept plans by Thresher Urban Design and Landscape Architecture are referenced in revised Condition 1, any changes can be based on the latest approved information for planting on the Discovery Drive frontage.

It is also noted that several conditions of RC6590 refer to the former name of the Council division now referred to as Policy, Planning and Regulatory Services. These references could be updated if the Council wanted to take the opportunity to do so, as part of the assessment of this application. However, it is not considered necessary.

### 3.4 Background – RC6570 Approved Building C

Apartment Building C was approved under Resource Consent RC6590 as a four-storey apartment building with 22 units in total (seven on both the ground floor and Level 1, six at Level 2, and two at Level 3). Six of the residential units will have floor areas greater than 75m<sup>2</sup>. The approved basement level parking below the four storeys provides 20 spaces.

Building C is one of three taller buildings approved for construction close to the Whitby Shopping Centre, comprising apartments and the main amenities and administration services for the retirement village. The grouped arrangement of the buildings provides a focal point for and a buffer between the commercial area and the retirement villas to the north.

Most of the bulk of the RC6590 approved building is at or below eight metres height, and nearly all of it is below 10 metres, apart from where the site drops away towards Discovery Drive. The maximum approved height of the building, occurring along part of the eastern side and for part of the top floor, is 11.7 metres above original ground. The top floor occupies 30% (approx.) of the building footprint. The top of the lift shaft is 11.7 metres above ground.

The design and appearance of RC6590 approved Building C was based on original recommendations made by the applicant’s landscape architect in 2005 for the resource consent RC4169 that approved an earlier version of the apartment building. Key design controls carried through to the subsequent version included:

- Reflectivity level < 50%.
- Roof colour to be coordinated with that of the adjacent shopping centre complex, and
- Dark colours used to visually anchor the building to the ground.
- Building materials and colour schemes to blend and contrast subtly with the background (mainly vegetated hillsides).

Design choices were made to complement the colour and cladding materials used for other elements of the overall Retirement Village Complex. A mixture of cladding materials were selected to contribute textures and colours and add interest and vibrancy to the overall site development, including:

- Vertical metal or weatherboard cladding;
- Flat sheet panels with expressed joints;
- Horizontal weatherboards;
- Profiled metal roofing;
- Aluminium louver screens;
- Pre-cast concrete panels.

### 3.5 Proposed “Stage 5 Apartments” (Building C)

#### 3.5.1 *Reasons for Proposed Changes to Building C*

The average area of the apartments in Building A is 78m<sup>2</sup>. Feedback from the buyers of apartments at the retirement village has indicated that the larger apartments available

within the completed buildings at the retirement village are extremely popular. This has prompted the owner’s decision to alter the design of Apartment Building C to include a higher number of large 3-bedroom apartments enabling this demand to be better met by the retirement village.

The proposed Building C design incorporates 25 apartments with an average area of 91m<sup>2</sup>.

The design changes proposed for Building C have been made so that it will continue to provide resident enjoyment and maintain public amenity when viewed from beyond the site boundary, in accordance with the high standards set by the existing development of Whitby Lakes Retirement Village.

### 3.5.2 Summary of Proposed Changes

The proposed reconfiguration of the Apartment Building C involves the relocation of the internal walkway areas from the eastern side of the building to a central position, orienting apartments either side to maximise daylight entry. To maximise useable internal space, the upper storeys of the approved building will be moved outwards to align with the approved basement footprint, with balconies extending slightly beyond the main footprint on the Discovery Drive façade (east). This design change has created east-facing apartments, overlooking Discovery Drive, as well as the west facing apartments that will overlook the retirement village itself, and allowed three more apartments to be added.

The drawings by Pacific Environments NZ Limited (PENZL) include red and blue outlines of the approved building footprint, and the building extent at the different levels above ground to show comparison between the approved and proposed structures.

The maximum building height is 11.7 metres above original ground, being the eastern eaves of the stairwell. This is the same as the originally approved maximum height. As shown on the Sections prepared by PENZL, moving the building envelope to the east, where the original ground falls away steeply below it, has meant some parts of the building are higher than the corresponding part of the approved building, in particular the stairwell. In most other cases, the roofline is lower than originally approved.

A summary of the key changes is set out for comparison in the table below:

Consented Building	Proposed Building
22 Apartments, basement and four storeys.	25 Apartments, basement and four storeys.
Apartments facing west only, with the glazed corridor on each level along the eastern side.	Apartments face east and west, with central corridor. The eastern façade will be articulated and enlivened.
Eastern wall of basement follows Gridline C-F. Levels above basement are set back mid-way between gridlines C-E and C-F (Refer PENZL Drawings at <a href="#">Appendix A</a> ).	East elevation, apart from balconies, is continuous on Gridline F.

Consented Building	Proposed Building
N/A	Basement floor has been lowered approximately 1.1 metres to help reduce overall building height above original ground.
The highest part of the approved building is the top of lift shaft, consented at 11.7 metres above original ground level.	By moving it to the west, the top of the lift shaft is now 11.2 metres above original ground (0.5 metres lower than consented).  The new stairwell area on the eastern side of the building is now the highest part of the building, being between 11.67 metres and 11.7 metres above original ground level.
2.8 metre floor-to-floor height (FFH) for Basement and Levels 1 to 4.	3.1 metre FFH for ground floor and Levels 1 to 3 and 2.7 metre FFH for Basement. This will allow easier accommodation of the structure and services in the apartment ceilings. Floor to ceiling heights will be 2.4 metres on all four levels above the basement.

### 3.5.3 Lower Building Heights

The entire building has been lowered so that the majority of its roofline is below the approved maximum roof height. There are small increases in height in some locations, as shown on the Sections prepared by PENZL attached at [Appendix A](#). These do not show the maximum heights of other parts of the building.

The following table compares the maximum heights of the proposed and approved building using relative “points in space” provided by PENZL architects, as follows:

Reference Point	Approved Height	Proposed Height	Reference Point	Approved Height	Proposed Height
Top of Lift Shaft – North western corner	11.7m	11.2m	Eaves – Level 1 at south eastern corner of Apartment 108.	9.68m	9.3m
Eaves - South eastern corner at top of Stairwell	11.2m	11.67m	Mid-level ridge - above Apartments 205 and 205 on Level 3.	8.4m	10.2m
Eastern eaves of Apartments on uppermost floor (Level 3) adjacent to stairwell	11.7m	11.7m	Eaves – north western corner of Level 3 (Apartment 301).	10m	9.3m

Reference Point	Approved Height	Proposed Height	Reference Point	Approved Height	Proposed Height
Eaves – Level 3 at south eastern corner of Apartment 207	11.1m	11.7m			

#### 3.5.4 *New Eastern Facade*

The proposed design change will present an articulated facade to the Whitby community, one that will be enlivened by the occupation of the apartments, in contrast to the previously consented design where the corridor side of the building was presented to the public (the Discovery Drive frontage).

The stepped roofline echoes the natural slope of Newhaven Way and guides the visitor towards the heart of the retirement village complex.

The existing planted area between Building C and Discovery Drive will be improved through the felling of some of the older exotic trees to make way for newer native species to be planted. The new planting layout will reflect the articulation of the eastern façade leaving gaps for view shafts from windows and balconies and screening the more solid features of the building (refer comments at section 3.8).

#### 3.5.5 *Cladding Materials and Colours – Consistency with Consent Conditions*

The proposal has been developed by the applicant’s architects Pacific Environments (PENZL) in close consultation with Will Thresher of Thresher Urban Design and Landscape Architecture. The architects have prepared a statement (attached at [Appendix C](#)). Mr Thresher has prepared a report (attached at [Appendix D](#)) that explain the reasons for the development changes and how these are to be managed together with comprehensive landscape planting and the overall effects.

Key comments from these statements have been incorporated into this application report to assist with describing the proposal and its effects on the environment. However, these reports are stand-alone documents and should be read together with this report.

The colours of the building materials and proposed planting have been selected for existing apartment buildings A and D and proposed building C to help the structures blend in with the surroundings when viewed from beyond the site boundaries.

A common materials palette has been used to tie the apartment buildings together on the site while also allowing each structure to have its own unique form based on its own site specific responses. The materials palette established for building A will be continued through to building C, with weatherboards lending a residential flavour to the buildings. These will be offset with flat sheet panels emphasizing the texture of this material, as well as tying the buildings to the neighbouring weatherboard and brick-clad villas. Similar detailing through the use of window facings and eaves overhang will further emphasise this connection

The final colour scheme will be a neutral palette selected from the Resene Whites and Neutrals range to subtly blend with the mix of natural and developed surroundings, with the roof colour being chosen from the darker end of the spectrum. The chosen colours will all have a reflectance value below 50. This approach is consistent with the requirements of the RC4169 consent conditions and the subsequent RC6590 conditions.

### 3.5.6 Photomontages

The applicant’s architects have prepared photomontages to demonstrate the visual appearance of the Consented and Proposed versions of Building C from four viewing points and showing mitigation planting at different growth stages. These are attached with the plans at Appendix A.

An example of this is shown in the extracts below from Plans 800 and 801, View Three from the Whitby Village Shopping Centre car park (consented is the top image, proposed is the lower image).

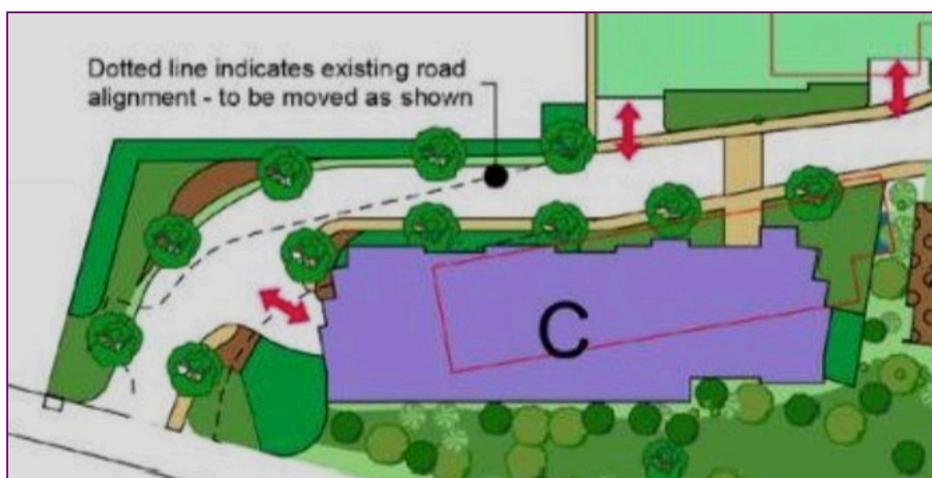


## 3.6 Proposed Driveway Realignment

The main access from Discovery Drive will be realigned slightly further to the southwest to allow for more planting either side.

The information covered in Earthworks section 3.7 provides more detail, confirming the scale of works is similar to the approved driveway but allows for the new Apartment Building C access requirements and for more planting areas either side of the driveway.

### 3.7 Earthworks



Extract from RC6590 Approved Pacific Environments Limited Masterplan A001 showing area of driveway approved for realignment.

The nature and extent of earthworks for the reconfiguration of Building C and the driveway area nearby are very similar to the work and areas of disturbance approved under RC6590, and prior to that RC4169.

The majority of the earthworks are for the site preparation work under the building footprint and the 2-metre wide earthworks exclusion area beyond the building footprint, and a further 100m<sup>2</sup> in area, all of which are permitted activities. As with the RC6590 approved realignment, the proposed reconfiguration work involves moving the driveway to the south and west of its current location.

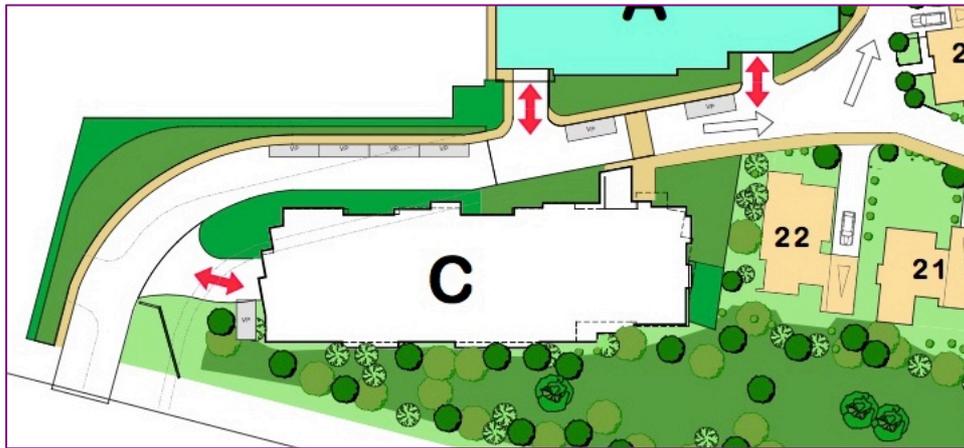
The current proposal moves the approved excavation area slightly to the south-west to construct the proposed retaining wall. The cut will be a similar height to that approved under RC6590 but be located closer to the boundaries with the shopping centre. This arrangement will enable more land to be used for landscape planting either side of the access and further enhance its street and on-site amenity.

As previously approved, the excavation work to realign the driveway is expected to involve very earth disturbance over approximately 470m<sup>2</sup>, and most of this relatively shallow.

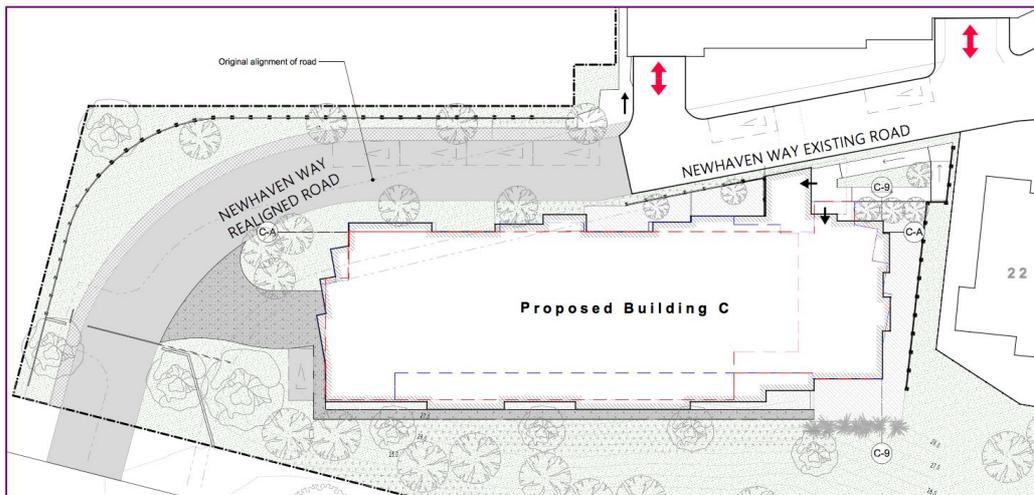
The cut for the retaining wall will have a maximum height of approximately 4 metres, and will curve around the perimeter of the site instead of following the lines of the boundaries as originally approved.

The difference between the approved driveway realignment and the proposed driveway realignment earthworks will be difficult to discern. It will, however, enable more landscape planting and softening effects to be achieved in the entrance area.

The proposed works location is shown on the following plan extracts from the PENZL Development Plan RC001 Revision D and Site Plan RC002 Revision D. For full details refer to [Appendix A](#).



Proposed driveway realignment is shown in the plan extracts from the PENZL Development Plan RC001 Revision D and Site Plan RC002 Revision D.



### 3.8 New Landscape Planting Plan

The proposal includes a replacement comprehensive landscape planting plan for the area around Building C and in particular the adjacent embankment on the site’s Discovery Drive frontage.

The previously approved landscape concepts carried through recommendations from the earlier assessment by Isthmus of landscape and visual effects, and sought to address necessary removal of potentially dangerous, large trees and replanting the bank in a staged manner. The staged approach was intended to achieve a balance between the loss of tree cover and retaining some vegetative cover and soil stability before the new landscape planting could occur.

As outlined in the report by Thresher Urban Design and Landscape Architecture (at [Appendix D](#)), the approach for tree removal and replanting the bank has been revisited. The report discourages staged removal of the vegetation and replanting on the basis that this is unlikely to be successful due to intermingled tree roots, the edge effect of removing trees, and the poor aesthetic form of the remnant plants grouped between the removed tree sites. It is also difficult to remove the trees from the top of the bank without causing damage to vegetation on the lower parts of the slope.

It is therefore proposed that a “wholesale removal and replanting” is required, and that “it would be most efficient to carry it out in one phase”.

An alternative proposal is attached with the Thresher report. In summary this relies on a framework of tall native shrubs to provide essential cover, interspersed with groups of exotic and native trees for punctuation, and taller screening at the south end of the site close to the apartments.

The proposed new planting concept has been designed to mitigate views of the site development/Building C by “grounding” Building C, softening its impact and upgrading a declining and degraded area along the Discovery Drive Frontage. The combination of mass native planting combined with taller trees is recommended to provide effective integration and amenity.

### **3.9 Environmental Management**

#### *3.9.1 Erosion and Sediment Control*

The earthworks will continue to be managed on site in accordance with the earthworks management plan prepared and approved as part of the on-going development on the site, and in compliance with existing consent conditions. The proposal does not require any changes to this regime.

### **3.10 Construction Management & Construction Traffic Management**

Construction effects and hours of operation and construction traffic will continue to be managed on site in accordance with the approved procedures already in place on the site for the on-going development, and in compliance with existing consent conditions. The proposal does not require any changes to this regime.

### **3.11 Access & Parking**

Access to the site, and parking arrangements on the site will continue to occur on the site as approved under RC6590, and the management plans referenced in the previous sections. The proposal does not require any changes to this regime.

### **3.12 Servicing**

The new apartment building C will be serviced as originally approved, and detailed plans of servicing for the building will be provided as required as part of the Building Consent Application process. The proposal does not require any changes to this regime.

### **3.13 Development Levies.**

#### *3.13.1 Policy On Development and Financial Contributions (2015)*

Although not a matter for consideration under s104, it is noted that Development Contributions previously administered under the District Plan are now administered in accordance with Local Government Act 2002, are payable under the Porirua City Council Policy On Development and Financial Contributions, dated 1 July 2015. The Policy states:

*“From 1 July 2015, growth related costs for roading and recreation and civic developments listed in the Long Term Plan (LTP), that were previously collected from new developments as financial contributions through the District Plan, will be collected as development contributions through the Council’s Development Contributions Policy (DCP)”*

The consent holder has already been deemed to have paid the previously required Recreation and Civic Development Contribution for the overall retirement village development, and therefore no further payment can be taken for Reserves and Parks and landscape matters under the new Policy.

The Bulk Services Levy that applied prior to the 2015 Development Contributions Policy has been repealed. This application is for a change of conditions of a resource consent that refers to that Levy in condition 12:

*“Prior to the commencement of any work authorised by this consent, the consent holder shall pay a total Bulk Services Levy equivalent to the rate that applies at the time of payment multiplied by 68 units. As at the date of this decision, the payable levy amounts to \$20,604.00 (being \$303.00 including GST for each unit). The levy shall be paid, on a pro rata basis, prior to the construction of each stage of the apartment buildings”.*

It is understood that the Council is not able to take a Development Contribution under the new Policy when the earlier one has been applied, or still referenced in conditions.

The applicant seeks that the rates applicable under the existing consent RC6590 continue to apply to the proposal. This is permitted under the Council’s Policy on Development and Financial Contributions. The circumstances when a development contribution is not required are set out at section 1.5 of the Policy as follows:

*Council will not require a development contribution if:*

- under s108(2)(a) of the RMA, it has imposed a condition on a resource consent in relation to the same development for the same purpose; or*
- the developer will fund or otherwise provide for the same reserve network infrastructure, or community infrastructure; or*
- it has received, or will receive, full funding from a third party.*

*Council will at its sole discretion determine when development contributions are not applicable.*

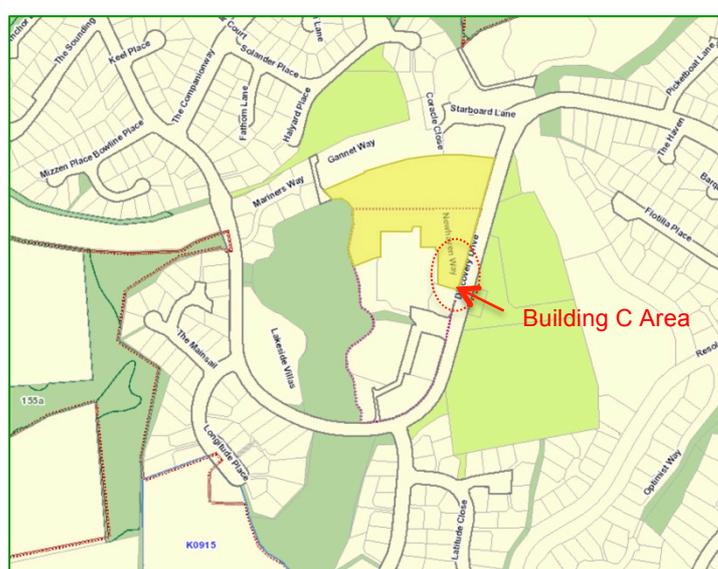
The first two bullet points above are met by existing resource consents and the signed agreement. The three additional apartment buildings in the current proposal may trigger another payment for one or two of them at the time of building consent application.

## 4. Relevant Planning Provisions

### 4.1 Operative District Plan

The application site is within the Suburban Zone of the Operative Porirua City District Plan (which became operative on 1 November 1999). Parts of the Retirement Village site within Lot 1 DP 86926 are within a District Plan Suburban Shopping Centre Area.

Lot 1 DP 86926 is shown highlighted in yellow in the centre of the District Plan extract below. The location of Building C/Stage 5 Apartments is to the right of the label for Newhaven Way. This part of Lot 1 DP 86926 is within the pink dotted outline of the Suburban Shopping Centre Area (SSCA). The landscape planting area that is the subject of this application extends to the north beyond the SSCA boundary.



Annotated Extract from Porirua City Council's Online GIS Mapping Information 2012 showing zoning and overlays.

The effects of activities and buildings within the Suburban Zone are managed through the use of rules and standards. Where a proposal is unable to comply with one of these, a resource consent is required. It is noted that once the need for a resource consent is triggered, rules and activity standards act as guidelines only.

### 4.2 Reasons Revised Stage 5 Development needs Resource Consent

Under Suburban Zone Rule D3.1.1 a Retirement Village can potentially be established as a Permitted Activity both within the Suburban Zone and a Suburban Shopping Centre Area, subject to complying with the relevant Permitted Activity Standard, and subject to all parts of the application complying with the Permitted Activity Rules.

#### 4.2.1 Relevant District Plan Rules

The previous consents issued for the retirement village have consistently assessed applications for the staged development as part residential and part non-residential activity, with the apartments and villas being treated as “residential” activities and the common areas and administration/commercial areas of the main amenities building being treated as “non-residential” activities. The apartments at the retirement village, including Building C/Stage 5 have consistently been treated as residential activities in the Council’s planning reports because (quoted from paragraph 3.6 of the Commissioner Decision on RC6580) the:

*“activity is overall a residential activity because it provides primarily for dwellings for long-term residential accommodation for people living in their own homes. The other services and facilities are ancillary to, or in support of, this primary purpose. The village is not a ‘care’ facility and does not include a hospital. By contrast, the existing villas and the proposed apartments will provide individual domestic residential living spaces supported by additional services and facilities that are intended to enhance the residential living experience for residents. My view is that attempting to define the village as a non-residential activity is an artifice that is neither helpful nor necessary. Under either approach, the proposal requires consent as a discretionary activity and the permitted activity standards are not strictly applicable anyway. The question is not determinative of the application’s overall (agreed) consent status”.*

The relevant rules are:

- Rule D3.1.1(ii), which permits *“a second or any subsequent detached dwelling or dwellings on an allotment where each dwelling meets all permitted activity standards”*; and
- Rule D3.1.1(iii), which permits:
  - “two dwellings on a lot where:*
  - (a) those dwellings share a party wall; and*
  - (b) each dwelling meets all permitted activity standards”.*
- Rule D3.1.1(vi), which permits
  - “non-residential activities in a Suburban Shopping Centre ... provided that no activity ...*
  - (a) exceeds any permitted activity for ..., height, earthworks, native vegetation clearance, noise, loading, screening, waste water, water supply or hazardous substances on any site,*
  - (b) exceeds any permitted activity standards for height recession plane or yards at any boundary with any site outside the Suburban Shopping Centre Area, ...”.*

Rule D3.1.1(vi) above for non-residential activities has been included for comparison with the standards applicable to the proposal, given that Building C/Stage 5 is proposed within the Suburban Shopping Centre Area. As noted in the Commissioner Decision on RC6590 the breaches of Permitted Activity Standards. It is also noted that the apartments within the retirement village were originally approved prior to the introduction of the Permitted Activity Standards for Outdoor Living Areas.

#### 4.2.2 Assessment of Compliance with Rules and Standards

The proposal requires a resource consent because parts of the proposed Stage 5 building (and/or the overall retirement village development most recently approved under RC6590) are unable to comply with:

- Rules D3.1.1(ii) and (iii), and

- The relevant Permitted Activity Standards for the Suburban Zone in Rule D3.2.1 for car parks, earthworks, height, height recession plane, outdoor living area, private ways and driveways, and yards.

More than two of the existing villas and apartments (dwellings) on the site share party walls, and the proposed apartments in Building C include apartments are connected and share party walls.

The following section comments on the Permitted Activity Standards that the originally approved Building C was unable to comply with, and the extent of compliance or otherwise of the proposed, reconfigured Stage 5 Apartment Building:

#### Parking & On-Site Manoeuvring

##### (ii) Car parks

*The number of car parks on a site shall be:*

##### *(a) Residential Activities*

*No less than one car park per dwelling of up to 75m<sup>2</sup> gross floor area, excluding car parks, and two car parks per dwelling of greater than 75m<sup>2</sup> gross floor area.*

...

*All car parks to be located within the site. Where the assessment of the number of car parks results in a fractional space being involved, the fraction shall be rounded to the nearest whole number. Every car park shall comply with the technical standards in Part H of this plan.*

The RC6950 approved Apartments A, C and D include 45 residential units less than or equal to 75m<sup>2</sup> in area and 23 residential units of more than 75m<sup>2</sup> in area. This configuration requires 91 spaces under the District Plan Standard.

Apartments A, C and D approved under RC6590 provide a combined total of 58 car parking spaces, which is 33 spaces less than required by the District Plan standard.

The RC6590 approved shortfall of 33 parking spaces was considered to be acceptable based on evidence presented by Flow Transportation Consultants. Flow calculated the demand for parking based on 0.67 spaces per apartment (or 2 parks per 3 apartments) plus 1 park per 5 apartments for visitors. This ratio requires 45 + 14 (= 59) spaces. The number approved to be provided (58) under RC6590 is a shortfall of one space using the Flow calculated demand.

*Note: The shortfall of 1 space for apartments A, C and D was previously approved under resource consent RC6580 for the separate Stage 1A non-notified part of the Stage A development, based on evidence provided by Flow for that application.*

Separating Apartment Building C out from the other apartments approved by RC6590, the approved Building C includes 22 apartment units, and 20 covered parking spaces, configured as:

- Seven (7) apartments on the Ground Floor (Level 0);
- Seven (7) apartments on Level 1;
- Six (6) apartments at Level 2; and
- Two (2) apartments at Level 3.

Of these, six (6) apartments approved by RC6590 have floor areas greater than 75m<sup>2</sup>, and 16 apartments are under 75m<sup>2</sup>. The total parking spaces required by the District Plan for the Building C is 12 plus 6 (= 28) spaces. RC6590 approved the provision of only 20 parking spaces within Building C, using the Flow calculated demand for the overall development. This is an approved shortfall of eight (8) spaces from the number required under the District Plan. Taking the building in isolation from the A and D and using the Flow calculated demand  $[(22 \times 0.67) + (22/4 \times 1) = 14.74 + 4.4 = 19.14 (=19 \text{ spaces})]$  the RC6590 approved building C offers one more space than is required.

The proposed change to Building C enables a further 3 residential units to be added (total 25 apartments), with the following configuration:

- Eight (8) apartments on the Ground Floor (Level 0);
- Eight (8) apartments on Level 1;
- Seven (7) apartments at Level 2; and
- Two (2) apartments at Level 3.

The proposed new configuration for Building C includes 19 apartments with floor areas greater than 75m<sup>2</sup>, which triggers 2 parking spaces per apartment (38 spaces required). The other 6 apartments only trigger one each. The total parking spaces required by the District Plan for the proposed reconfigured Building C is 44 spaces, resulting in an overall “District Plan” shortfall of 24 spaces for Building C.

Applying the demand recommended by Flow to Apartments A, D and the revised Building C, the total parks to be provided on site for the three apartment buildings is 71, based on 35 residential units with floor areas less than or equal to 75m<sup>2</sup> and 36 residential units with more than 75m<sup>2</sup> in area.

Taking Building C in isolation, and using the Flow recommended demand, the number of parking spaces triggered is  $[(25 \times 0.67) + (25/5 \times 1) = 16.75 + 5 = 21.75 = 22]$ .

The proposed reconfiguration of Building C does not alter the basement parking area and continues to provide 20 spaces in the same layout as originally approved as acceptable under RC6590. This is a short fall of 2 spaces from the Flow recommended total.

However, the on-going site development has enabled 15 additional spaces on the road network within the retirement village to be provided. The extra parks on Newhaven Way are shown on the Development Plan RC001 attached at [Appendix A](#). There are five near Building D, four to the north of Building A, two the east of Building A and four to the south of Building A, the latter six spaces are opposite Building C.

The provision of parks on site more than meets the Flow calculated demand for both Building C in isolation or in combination with Buildings A and D

It is also noted, as commented on in the Planning Report for RC6590 at paragraph 6.1.57:

*“This parking ratio is also recommended in the Guide to Traffic Generating Developments published by the RTA New South Wales and applies to self-contained retirement units”.*

#### On-Site Manoeuvring

Table 2 of Part H requires 90-degree angle car parks to have the following dimensions:

- (a) Stall Width 2.5 metres;
- (b) Stall Depth from wall 5.0 metres;
- (c) Aisle Width 7.5 metres;
- (d) Total Depth 12.5 metres.

While, these dimensions can be complied with, the parking layout in the RC6590 approved Building C does not comply with the minimum manoeuvring standards (vehicle turning circles in Figure 5a of Part H), which are specified for a 99-percentile design motorcar. The proposal can meet the lesser standard for an 85-percentile vehicle in all RC6590 Apartment Buildings A, C and D. This was considered acceptable when the three buildings were approved under RC6590.

The layout of the basement parking area within RC6590 approved Building C will not be altered by the current proposal so it remains an acceptable arrangement as originally approved. Therefore there is also no increase in non-compliance with the technical standards of Part H of the District Plan.

#### Earthworks

##### (iii) Earthworks

*The following shall apply to earthworks on a site, except for:*

- *earthworks (cut and fill) under a proposed building and building platform which do not extend further than 2 metres beyond the exterior walls of any proposed building when measured in plan view; and*
  - *earthworks (cut) for a swimming pool which do not extend further than 2 metres from the edge of the swimming pool:*
- (a) *Earthworks, in a 12 month period, shall not exceed: ...*
    - (ii) *100m<sup>2</sup> in area elsewhere in the Suburban Zone, or*
    - (iii) *... 1.5 metres in height or depth ....*

The planning report for C6590 noted the approximately 3800m<sup>2</sup> of cut required to construct the building platforms beneath apartment buildings A and C is permitted. The consent approved the earthworks beyond the earthworks exclusion area, being approximately 470m<sup>2</sup> of cut to a maximum height of 4 metres. This excavation was required to realign the driveway from Discovery Drive past Building C, and was to be supported by a retaining wall.

The current proposal moves the approved excavation area for the driveway slightly to the south-west to construct the proposed retaining wall. As previously approved, the excavation work to realign the driveway is expected to involve very earth disturbance over approximately 470m<sup>2</sup>, and most of this relatively shallow. The cut will be a similar height to that approved under RC6590, maximum 4 metres, but be located closer to the boundaries with the shopping centre. The retaining wall will curve around the perimeter of the site instead of following the lines of the site boundary as previously approved.

The proposed cut exceeds the maximum height by 2.5 metres, and the proposed area of disturbance exceeds the maximum area beyond the earthworks exclusion area by approximately 370m<sup>2</sup>.

### Height

#### *(vii) Height*

*The maximum height of any building or part of a building (including any sign) on a site shall be: 8m.*

RC6590 approved a maximum height of 11.0 metres for Apartment Buildings A and D. Apartment Building C was approved by RC6590 to have a maximum height of 11.7 metres (approximately 30% of the top floor of Building C including the lift shaft is 11.7 metres).

The proposed reconfiguration of Building C involves moving the lift shaft away from Discovery Drive, but does not alter the maximum approved height of the building. The highest part of the building is the stairwell, at 11.7 metres.

### Height Recession Plane

*All buildings must be within a building envelope of 3m height and a vertical angle of 45° into the site, measured from any point along the boundary of the site with any other site in the Zone. Where there are two or more detached dwellings on a site there shall be an additional height recession plane measured at a distance not less than 1.5m from any other dwelling(s) on the sit*

RC6590 approved Apartment Buildings A and D to exceed the height recession plane standard at the boundaries shared with the Whitby Village Shopping Centre (Lot 1 DP 90831). The approved Building C did not exceed the height recession plane.

The current proposal to reconfigure Building C ensures the building envelope continues to comply with the Height Recession Plane Standard.

### Outdoor Living Area

#### *(xii) Outdoor Living Area*

*Except for existing dwellings constructed before 29th September 2009 where no additional dwellings are proposed to be added to the site, each dwelling shall have a contiguous outdoor living area that:*

- (i) is contained within the site; and*

- (ii) *is at least 50m<sup>2</sup> in size; and*
- (iii) *can accommodate a 4 metre diameter circle with a maximum gradient of 1:20; and*
- (iv) *is located directly adjacent to and can be accessed directly from the dwelling; and*
- (v) *is oriented to the north, west and/or east side of the dwelling; and*
- (vi) *has at least 25m<sup>2</sup> of its outdoor living area provided in permeable surfaces. The remainder may include paved surfaces, open pergolas and decks of less than 1 metre in height; and*

*(vii) does not form part of vehicle accessways, parking or manoeuvring area; and*

*Except as provided above, no other buildings, except for eaves up to a maximum of 600mm in width and external gutters or downpipes (including their brackets) up to an additional width of 150mm, shall be located within the required outdoor living area.*

The Outdoor Living Area Standard has not been considered at any time for the Whitby Lakes Retirement Village. At the time of original approvals being issued for the retirement village development, the standard did not form part of the District Plan. For later approvals, it was omitted from any discussion in the planning reports for the development. It is considered that the development meets the intentions of the standard. The applicant has oriented all development on the site to maximise outlooks and sunlight entry to indoor and outdoor areas within the overall complex. Large areas of open space, including gardens and grassed areas are provided within the complex for residents to enjoy, and these will also meet the low impact stormwater management requirements of the standard.

#### Financial Contributions.

The approved development was enabled by RC6590 to pay a lesser amount of financial contribution than required by Part E of the District Plan, in a manner consistent with historical consents for the development, and on a pro-rata basis as the development proceeds.

At the time of RC6590, Council’s Landscape Architect confirmed that no further payment is required as it has already been paid, in accordance with a transfer of land by the applicant to the Council, and a sale and purchase agreement between the two parties (reference Lot 2 DP 90831 under Resource Consent RC4169).

The proposed Change to Condition 1 adds three apartments. The approved layout under RC6590 was for one residential unit less than originally approved (i.e. 129 instead of 130).

The amount due can still be paid on a pro-rata basis as the apartments are completed as commented on at Section 3.13.

(xiii) Private ways and driveways

- (a) *The access to any dwelling on any site shall meet the technical standards for private ways and driveways in Part H of the Plan (including the requirements of Table 4 of Part H).*
- (b) *The access to any building containing a non-residential activity on any site shall meet the technical standards for private ways and driveways in Part H of the Plan (including the requirements of Table 4 of Part H) as if the building for a non-residential activity was a dwelling.*

As approved by RC6590 and the consents for the overall development that preceded it, the number of residential units (dwellings) served by the internal private way within the retirement village exceeds the maximum number of six (6) anticipated by the District Plan for the width of the formed carriageway. The formed private way is comprised of 5.3 metres vehicle area and 1.4 metres footpath area, and has a legal width of seven (7) metres.

The proposed change to the building (by adding three more apartments) does not alter the extent of non-compliance approved by RC6590.

(xxii) Yards

*The minimum yard requirements for any site shall be:*

- (a) *Front yard Minimum front yard - 5m. ...*
- (c) *Other yards Minimum other yard - 1.5m.*
  - (i) *Where there are two or more detached dwellings on a site, there shall be a minimum separation of 3m between those dwellings.*
  - (ii) *Where there is any building containing a non-residential activity on a site, standard (i) above shall apply as if any building containing a non-residential activity were a dwelling.*
  - (iii) *Where a party wall is proposed between two proposed dwellings on adjacent sites, then the other yard standard will not apply along the length of that party wall.*

*For the purpose of this standard and notwithstanding any other provision in the plan eaves, up to a maximum of 600mm in width and external gutters and downpipes (including their brackets) up to an additional 150mm, may extend into any yard.*

Resource Consent RC6590 approved construction of the eastern wing of Apartment Building A into the 1.5 metre “other yard” setback by a maximum of 0.55 metres, being located 0.95 metres from the boundary shared with the Whitby Shopping Centre site. The Consent also approved the Amenities part of Building A to encroach into the “other yard” setback by 0.4 metres, being 1.1 metres from the southern site boundary shared with the Shopping Centre.

The RC6590 approved version of Building C did not encroach into any of the yard setback areas prescribed by the District Plan. The proposed reconfigured version of Building C complies in all respects with the District Plan permitted activity standards for yards.

### 4.3 Activity Status

The proposed reconfiguration of Building C (as with the RC6590 approved version of the apartment building) includes more than one co-joined residential unit, and breaches the permitted activity standards for car parking (number of spaces), earthworks, and height. As part of the overall development approved under RC6590, the overall development also continues to breach the permitted activity standards for private on-site manoeuvring, private ways, height recession planes, financial contributions, and yards. However the reconfiguration of Building C does not alter these or increase the approved level of non-compliance.

The proposal is not specifically listed in any other activity category for the Suburban Zone.

Section 127(3) specifies that the proposal must be assessed as a Discretionary Activity.

The proposal can comply with the Discretionary Activity Standards for the Suburban Zone.

Based on the above assessment the proposal is therefore a Discretionary Activity under Suburban Rule D3.1.4(i), as follows:

*D3.1.4 Discretionary Activities*

*Any one or more of the following are discretionary activities:*

- (i) **All activities which are not a permitted, controlled, restricted discretionary, or prohibited activity, and are not specified in D3.1.5 (ii), (iii) or (iv) as a non-complying activity and do not contravene any discretionary activity standard.***

## 5. Statutory Assessments

### 5.1 Section 104 Requirements

Section 104 of the Resource Management Act (the Act) sets out the matters that must be had regard to when assessing the merits of a consent application. The relevant parts of Section 104 in respect of the proposal are set out below:

- (1) *When considering an application for a resource consent and any submissions received, the consent authority must, subject to Part 2, have regard to—*
- (a) *any actual and potential effects on the environment of allowing the activity; and*
  - (b) *any relevant provisions of—*
    - (i) *a national environmental standard;*
    - (ii) *other regulations;*
    - (iii) *a national policy statement;*
    - (iv) *a New Zealand coastal policy statement;*
    - (v) *a regional policy statement or proposed regional policy statement;*
    - (vi) *a plan or proposed plan; and*
  - (c) *any other matter the consent authority considers relevant and reasonably necessary to determine the application.*
- (2) *When forming an opinion for the purposes of subsection (1)(a), a consent authority may disregard an adverse effect of the activity on the environment if a national environmental standard or the plan permits an activity with that effect. ...*
- (3) *A consent authority must not,—*
- (a) *when considering an application, have regard to—*
    - (i) *trade competition or the effects of trade competition; or*
    - (ii) *any effect on a person who has given written approval to the application: ....*

The assessments required to be made under Sections 104(1)(a) and (b) are included in Sections 4, 6, 7 and 8 of this report.

In respect of Sections 104(1)(c), 104(2) and (3) respectively, there are no “other matters” considered relevant, an assessment of the Permitted Baseline is covered at Section 6, there are no trade competition matters, and no written approvals have been provided with this application.

### 5.2 Determination of Applications

Sections 104A-104D of the Act set out particular restrictions on determining applications for controlled, restricted discretionary, discretionary, or non-complying activities. The relevant provision in respect of the proposal is **Section 104B**, which provides that:

- Determination of applications for discretionary or non-complying activities*** *After considering an application for a resource consent for a discretionary activity or non-complying activity, a consent authority –*
- (a) *may grant or refuse application; and*
  - (b) *if it grants the application, may impose conditions under section 108.*

## 5.3 Notification Assessment

### 5.3.1 Sections 95A to 95E

Section 95A sets an assessment framework for the decision maker, and provides that any decision to publicly notify an application is at Council’s discretion. However, Council must not publicly notify an application if a relevant rule precludes public notification, or if the adverse effects are no more than minor and the applicant does not seek public notification.

Section 95A(4) allows the consent authority to notify an application if it decides that special circumstances exist in relation to the application.

In making these decisions, a consent authority may disregard adverse effects that are within the “permitted baseline”. The authority must also disregard any effects on those persons who have given written approval to the proposal.

As part of the notification decision making process, under Section 95B, a consent authority must decide under Sections 95E and 95F if there are any persons affected by an application, based on a decision as to whether the adverse effects of the proposal are minor or more than minor (but not less than minor).

Under Section 95E, to avoid any form of notification, an applicant must demonstrate that the effects of the proposal are less than minor.

### 5.3.2 Consultation

Section 36A of the Act confirms that an applicant for a resource consent does not have a duty to consult in respect of any resource consent application. This is confirmed again at Clause 1A of the Fourth Schedule to the Act. However Clause 1(h) of the Fourth Schedule requires the following information to be included in an AEE:

*Identification of the persons affected by the proposal, the consultation undertaken, if any, and any response to the views of any person consulted:*

No consultation with other parties has been undertaken.

It is considered that the adverse effects of the proposal are consistent with the permitted environment previously approved under resource consent RC6590, and therefore there are no parties likely to be adversely affected by the proposal.

### 5.3.3 Determination of Affected Parties under Section 127(4)

An assessment is made under Section 127 at Section 5.4.3 as to the parties who may be affected by the proposed change of Condition 1 of RC6590, and it is concluded that there are no persons likely to be adversely affected.

### 5.3.4 Notification Conclusion

It is considered unnecessary to publicly notify this proposal or serve notice of the application on any party/person because:

- (a) The relevant effects of the proposal are assessed in Section 6.0 and it is concluded that the overall effects of the proposal on the environment will no more than minor, as previously approved under RC6590, because:
- (i) The effects of the proposed changes to Building C, as assessed at Section 5.4.3, are less than minor, and there are no new environmental effects not previously considered acceptable under RC6590. Therefore no persons have been identified as being potentially affected by the proposed changes;
  - (ii) The mitigation measures incorporated into the overall approved development continue to ensure an acceptable level of effects overall, and the proposed changes will not increase the effects previously approved under RC6590;
  - (iii) The existing consent conditions can be relied on to further avoid, remedy or mitigate any potential adverse effects of the overall development to an acceptable level as previously approved under RC6590. The proposed changes will be controlled by these conditions and will not increase the effects as previously approved;
- (b) The wider public will not be disadvantaged in any way by non-notification of the proposal;

Therefore, it can be concluded that this proposal can be assessed via a non-notified process and written approval is not required to be obtained from any party/person.

## 5.4 Section 127

The relevant parts of Section 127 of the Act are set out as follows:

- 127 Change or cancellation of consent condition on application by consent holder**
- (1) *The holder of a resource consent may apply to a consent authority for a change or cancellation of a condition of the consent, subject to the following:*
    - (a) *the holder of a subdivision consent must apply under this section for a change or cancellation of the consent before the deposit of the survey plan (and must apply under section 221 for a variation or cancellation of a consent notice after the deposit of the survey plan); and*
    - (b) *no holder of any consent may apply for a change or cancellation of a condition on the duration of the consent.*
  - (2) *[Repealed]*
  - (3) *Sections 88 to 121 apply, with all necessary modifications, as if—*
    - (a) *the application were an application for a resource consent for a discretionary activity; and*
    - (b) *the references to a resource consent and to the activity were references only to the change or cancellation of a condition and the effects of the change or cancellation respectively. ....*
  - (4) *For the purposes of determining who is adversely affected by the change or cancellation, the consent authority must consider, in particular, every person who—*
    - (a) *made a submission on the original application; and*
    - (b) *may be affected by the change or cancellation.*

#### 5.4.1 Assessment under S127(1)(a) and (b) – Nature and Duration of Consent

The application is not a proposed change to a subdivision condition or a condition relating to the duration of a resource consent.

#### 5.4.2 Assessment under s127(3) – Assessment Matters

The application has been prepared as if the proposal were for a Discretionary Activity and the assessment of the proposal in this report is limited to the effects of the proposed change of Condition 1.

The proposed changes to Condition 1 will facilitate amendments to the approved Apartment Building C/Stage 5 Apartments, the main entry driveway realignment within the site, associated landscape planting beside the driveway, and the landscape planting on Discovery Drive. The effects of these changes to the approved development are almost solely limited to visual effects, and are discussed in detail at Section 6.

#### 5.4.3 Assessment under s127(4) – Identification of Affected Parties

Resource Consent RC6590 approved the reconfiguration of previously approved Apartment Blocks A, C and D, subject to conditions, following public notification and hearing processes. Fifteen submissions were received in response to a public notice placed in the local Kapi Mana newspaper on 10 December 2013, and/or notification sent to the owners and occupiers of residences and businesses in the vicinity, to tangata whenua and Greater Wellington Regional Council. All 15 submissions were in opposition.

In order to determine whether any of the submitters may be adversely affected by the proposed change of Condition 1 of RC6590, the following assessment:

- Takes into account the relevant matters raised and the findings of Commissioner Foster in her decision to approve Resource Consent Application RC6590;
- The appeal of the RC6590 decision;
- Which matters remain relevant to Apartment Building C, and landscape planting on the Discovery Drive frontage;
- Which submitters may be affected by changes to approved work on the Discovery Drive side of the site; and
- How and the extent to which they may be affected.

The relevant resource management matters raised in all submissions were addressed in the Commissioner Decision on Application RC6590 under the following headings:

- (a) *Potential Visual and Amenity Effects of Proposed Buildings;*
- (b) *Effect on the Character of Whitby;*
- (c) *Construction Access Effects;*
- (d) *Adverse Traffic Impacts on Discovery Drive;*
- (e) *Car Parking Demand and Potential Overspill Parking;*
- (f) *Night Lighting Effects;*
- (g) *Property Values;*
- (h) *Precedent;*

- (i) Alignment with Relevant Plan Policy;*
- (j) Part 2 Considerations, Overall Conclusion and Reasons; and*
- (k) Replacement of Historical Consents.*

The Commissioner Decision concluded with positive comments about the proposal at paragraphs 17.2 and 17.3, that the few potentially adverse effects of the proposal can be addressed by mitigation measures enforced through conditions of consent such that the potential adverse effects of the development are managed at an acceptable level within this suburban residential environment, as follows:

*“The proposed development will enhance the facilities and quality of the environment of this part of the site for the reasons described by Ms Grimmett – by:*

- (a) Ensuring sheltered and level pedestrian circulation between all parts of the site for residents;*
- (b) Access between the building ‘A’ and ‘D’ common amenities patio area and the lake-front gardens will activate the Lake frontage which is currently under-utilised and has as its backdrop the blank concrete wall of the Shopping Mall;*
- (c) The apartments facing the Lake will benefit the community by providing an additional element of security through the presence of residents overlooking the area which accords with good urban design and crime prevention through environmental design principles;*
- (d) Consolidating all apartments at the southern end of the site creates more space for establishing green space and landscape planted areas and will reinforce the attractive setting of the retirement village and echo the green and open spaces found throughout the wider Whitby suburb*

*I am satisfied that the few potentially adverse effects of the proposal can be addressed by mitigation measures enforced through conditions of consent. On that basis, my conclusion is that consent should be granted, subject to conditions, because:*

- (a) The outcome will be a development that promotes the sustainable management purpose of the RMA;*
- (b) The proposal will give effect to the relevant District Plan policies for the Suburban Zone;*
- (c) The development of this part of the Whitby Lakes retirement village and will positively complement the existing development at Whitby Village Centre;*
- (d) The development can be absorbed into this environment without causing adverse effects for the safety or convenience of the local roading network or the nearby Shopping Centre car parking area; and*

*(e) I am satisfied that the conditions I propose are necessary and appropriate to ensure that the potential adverse effects of the development are managed at an acceptable level within this suburban residential environment”.*

An appeal on the decision by the owners of the Whitby Village Shopping Centre Mall was subsequently withdrawn following an agreement being reached between the consent holder and the appellants about the use of the construction access along the western side of the mall.

This agreement with the owners of the mall also addressed and removed many of the concerns raised by the following submitters, who are:

- Tenants of the shopping centre mall (i.e., Whitby Doctors Limited, Co-Op Kitchen and Bar, Rappaw Veterinary Care);
- Others concerned about the construction access (i.e. Whitby Residents Association, North City Baptist Church); and
- Residents across the western side of Whitby Lake (Mr Hitchen and the Lakeside Villas Body Corporate, Mr Dick, Ms Cuthbert, Ms Eager, Mr Just and Ms Muller – all being residents of Lakeside Villas, Mr Thomas (5 The Mainsail), and Ms Robb (15 Longitude Place)).

The above-mentioned submitters will not be adversely affected by the proposed changes to Condition 1 of RC6590 because the proposed changes to the building and landscape planting are limited to visual effects on the eastern side of the site. Views from the identified submitter properties of the planting areas and the revised building envelope will be largely screened by the approved Stage A and D Apartment Buildings in the foreground. The proposed reconfigured Building C will essentially be the same height as originally approved, or lower, and does not increase any of the originally approved non-compliances with the District Plan’s Permitted Activity Standards or their resultant effects on the environment when viewed from all directions.

The proposed changes to the approved building’s appearance will be difficult to discern from the approved building, when observed from the viewing points of all of the above-mentioned submitters’ properties.

There will be no changes to other effects previously approved, such as traffic generation, parking demand, noise, and construction duration. While three more apartments are proposed, five more parking spaces are available, and this more than meets the likely demand based on the approved ratios used for the originally approved development.

It is therefore considered that any adverse effects of the proposed Change to Condition 1 of RC6590 on the above-mentioned submitters will be less than minor.

The remaining submitters not affected by the proposed amendment are:

- Ms Elizabeth McKee, a resident of 18 Semaphore Lane, Whitby; and
- Mr David Pimblott, a business owner with premises on the eastern side of Whitby Village Shopping Centre south of the boundary on the application site near proposed Building C (NSG House, 69b Discovery Drive).

Ms McKee opposed all parts of the proposed buildings above 10 metres height (this being the height approved in RC4169, the previous consent for the retirement village) and the removal of any healthy trees from the bank above Discovery Drive (partly because this would provide some visual screening of any development on the site). Ms McKee's submission raised a concern that the proposal would create new and adverse lighting effects, and the view that Whitby is, and was intended to be, a low-rise and generally two storey urban environment and that the proposed three and four storey apartment buildings will contrast with and be inconsistent with that suburban character.

The Commissioner Decision on RC6590 observed at paragraph 7.35 - 7.37 addressed the concerns raised by Ms McKee (and others) about visual and shading effects, advising that:

*“it is relevant that, apart from views from Discovery Drive, views of proposed building ‘C’ from residential areas are substantially distance from the site (including Ms McKee’s Semaphore Lane property located on the south-eastern side of the Duck Creek valley and residences located on the western side of the Lower Lake and in the Mainsail). I am satisfied that the proposed buildings will not give rise to unacceptable shading effects for any adjoining residential or sensitive outdoor areas.*

*I found the criticism levelled by some submitters at the architectural style of the proposed buildings to be overly harsh. Particularly so, in light of the permissive provisions of the District Plan in relation to built form”.*

The Commissioner Decision addressed landscape and character effects of the proposal raised by Ms McKee (and others) at paragraphs 8.7 and 12.2 respectively, finding that:

*8.7: “The proposed development is not inconsistent with the residential character or scale of the surrounding residential area or with the adjoining Shopping Centre. The proposed medium density accommodation is well-placed in relation to the services and facilities of the central Whitby Shopping Centre, community facilities, recreational facilities and transport routes. Far from conflicting with the character and visual significance of the Lower Lake and Shopping Centre, I expect that the proposed buildings will consolidate and contribute positively to defining this area as a focal point – the heart – of Whitby”.*

*12.2: “The District Plan permits built development, with attendant night lighting, on this site. I do not consider the proposed development will have adverse effects greater than might ordinarily be expected on this site. As earlier noted, the site is not part of a public park – it is zoned for development for residential and non-residential activities. It is unreasonable to expect it to remain vegetated and under-developed in perpetuity”.*

Ms McKee did not appeal the decision on RC6590.

It is considered that Ms McKee is not affected by the proposed change to the configuration of Apartment Building C and landscape planting. This is because the altered features of the development are not likely to be discernible from her property due to the separation distance involved. Therefore any adverse visual and landscape effects of the

proposal will be as originally approved – being no more than minor or able to be sufficiently mitigated through the imposition of consent conditions on building colouring and reflectivity and landscape planting.

Mr Pimblott’s concerns were commented on in the Commissioner Decision at paragraphs 7.8, 8.2, and 10.1 respectively, as follows:

*7.8: “Mr David Pimblott, a resident of Exploration Way and owner of a commercial building and business within the Whitby Shopping Centre, opposes the height and mass of the proposed development. It was his view that the proposed buildings would intrude adversely on the predominantly single storey low rise development of the Shopping Centre. Mr Pimblott requested that the height of the buildings be limited to two storeys. Mr Pimblott also suggested that the buildings may have adverse effects on wind flows in the vicinity of the Centre (although I note that Mr Pimblott offered no technical evidence in support of this suggestion).”*

*8.2: “It was Mr Pimblott’s submission that the large scale of the proposed buildings would adversely affect the high quality amenity values of the Centre and of the surrounding residential area”.*

*10.1: “Mr Pimblott suggested that the large scale of the apartment buildings would overburden community traffic flows on Discovery Drive and elsewhere in Whitby”.*

In response to the issues raised by Mr Pimblott (and others), the Commissioner found, at paragraph 8.7 (quoted above), and paragraphs 7.30 to 7.37, and 10.4 respectively that:

*7.30: “it must be accepted that some large buildings up to 8 metres height could conceivably be built near the boundaries, as a permitted activity, on this site. For example, it is conceivable that some form of 8-metre-high commercial building, built close to the boundary with the Mall, would be developed on the site even closer to the Lake than the current proposal. The evaluation of visual and amenity impacts should reasonably, in my view, consider the impact of the marginal difference between this permitted baseline and what is proposed”.*

*7.31: “the height and bulk of the proposed buildings above the 8-metre permitted activity standard will not, itself, create unacceptable visual or amenity effects. I acknowledge that the proposed merging of buildings ‘A’ and ‘D’ will create a relatively large building in comparison with the Mall buildings and with surrounding residential buildings. I do not, however, consider the impact will be inappropriate on this site or inconsistent with the relevant District Plan objectives and policies. For example, Policy C3.2.1 is ‘To protect and enhance the amenity and character of the residential resource by defining standards for the bulk and location of buildings, the provision of open space, and the nature and scale of activities’. This policy pertains explicitly to the setting of standards in the District Plan rules. The proposal does not challenge the rules. Buildings up to 12 metres in height are contemplated. The proposal complies with the standard for discretionary activities and is, in my opinion, appropriate on this particular site. My conclusion is that the proposal is consistent with Policy C3.2.2 because it will not detract from the amenity values of the Suburban Zone”.*

7.32: *“The proposed buildings include design features that will denote the buildings as residential as opposed to commercial and will allow the buildings to relate to the surrounding residential built environment. I do not consider that the proposed buildings will protrude in an adverse manner above the background built and green hillsides or on the skyline compared with buildings that could be permitted on this site”.*

7.33: *“I agree that the (necessary) removal of mature trees from the Discovery Drive bank will diminish the vegetated screen for views of the buildings from beyond the site and will diminish the vegetated backdrop available for buildings ‘A’ and ‘D’. However, again compared with the scope of permitted effects, I am satisfied that the extent of proposed mitigation planting will assist to moderate any adverse visual effects”.*

7.34: *“Central Whitby is a built urban environment. It is not a public park. The District Plan is quite permissive in terms of the extent and bulk of buildings that could establish as permitted activities. For example, a building or buildings immediately adjacent to and even wrapping around the supermarket end of the Mall could reasonably be expected. The District Plan provisions contemplate quite large buildings and do not prescribe architectural design requirements or demand any particular style of building. The District Plan provisions do not, either, seek to protect views of any distant hills or skylines. It is relevant, in my view, that the parts of the Mall nearest to proposed buildings ‘A’ and ‘D’ are blank walls and service areas separated by high fences”.*

7.35-7.37: – Quoted above.

10.4: *“I am satisfied that the proposal can proceed without causing any safety or congestion or inconvenience to users of the surrounding road network”.*

In summary, the Commissioner’s comments supported the height and scale of the development, and assessed it as appropriate for the site and the local context based on the intentions of the District Plan, and that sufficient mitigation was available in terms of landscape planting and other measures and building design features offered by the applicant.

Mr Pimblott did not appeal the decision on RC6590, and has since relocated to Auckland. He can no longer be considered as potentially affected by the development, or the proposed changes to Apartment Building C.

As commented on in respect of submitter McKee, the effects of the proposed changes to Condition 1 are limited to Building C and landscape treatment on the Discovery Drive site frontage. These changes do not alter the scale and nature of the effects of the development as originally assessed by Commissioner Foster for Resource Consent RC6590. Therefore there are no new parties likely to be affected by the proposal.

On the basis of the above assessment, it is considered that there are no parties likely to be affected by the proposed Change of Condition 1 of RC6590.

#### 5.4.4 *Assessment of Change of Conditions of RC6590*

The current proposal seeks to amend one of the three apartment buildings approved by RC6590, the driveway alignment, and the landscaping on the Discovery Drive frontage. It increases the number of residential units in the apartment Building by three. The parking provided on the site is considered to be acceptable, noting five additional parking spaces have been made available near Building C since the approval of RC6590. These will more than meet the estimated demand.

The increase of three apartments will not noticeably alter the traffic and parking effects as originally assessed for the building or the overall retirement village complex.

The revised building design will alter the approved building envelope to enable improved internal layout and amenity for the future residents of the retirement apartments. There will be apartments facing Discovery Drive and into the retirement village with a central access area along the length of the building instead of the rear of the building close to Discovery Drive. The lift shaft, which extends above the building, is to be relocated to the west as a result, and there will be balconies facing Discovery Drive instead of the glazed walkway areas.

The driveway alignment and associated landscape planting are to be improved, as is the planting along the site’s Discovery Drive frontage. The effects of these changes are limited to visual matters.

The proposal is of a similar scale and design to the Stage C Building approved under RC6590 as being acceptable. The visual effects of the proposed change are considered to be consistent with the approved visual effects for the reasons outlined in Section 6.

It is considered that the proposed changes will not have any adverse visual or other effects on the wider area above that already permitted under Resource Consent RC6590.

The environmental effects, adverse or otherwise, beyond the subject land or adjacent land of allowing the activity to proceed will continue to be no more than minor and acceptable as originally approved, and there will be not be an increase in effects above those approved.

The overall effect of the proposed change of conditions will be less than minor and therefore there are no parties likely to be adversely affected.

## 6. Assessment of Effects on the Environment

This Assessment of Effects on the Environment (AEE) has been prepared in a detail that corresponds with the scale and significance of the effects that the proposal may have on the environment, and is in accordance with Section 88(2)(b) of the Resource Management Act 1991 (the Act) and Clause 1(d) of Schedule 4 to the Act.

The AEE below takes into account the mitigation measures offered in the application and makes a comparison with relevant aspects of the existing environment. The assessment is limited to the effects of the proposed change of conditions as provided for in Section 127(3)(b) of the Act. To avoid repetition, reference is also made to the assessments of effects on adjoining neighbours/submitters at Section 5.4.3.

### 6.1 Permitted Baseline

Case law and the provisions of Section 104(2) of the Resource Management Act have established the “Permitted Baseline”. When assessing effects and identifying affected parties the Consent Authority has the discretion to disregard adverse effects on the environment of activities that are permitted by a National Environmental Standard or a rule in a plan, or that have been granted a resource consent.

The Permitted Baseline includes:

- Activities in lawful existence on the site;
- Non-fanciful activities that could be conducted on the site as of right (i.e. without requiring a resource consent); and
- Activities which could be carried out under a granted, but as yet unexercised, resource consent.

Buildings A and D represent the existing environment and are buildings with heights in excess of the permitted height of 8 metres.

The following is a summary of the approved development on the site in the vicinity of Building C:

- Stage 1A Approved by RC 6850 for 10 residential apartments above main administration building, up to 9.45m roofline height with lift shaft up to 10m.
- The Stage A roofline ranges between 8.9m and 10m above original ground, where the highest part is the top of the lift shaft.
- Stage D is has level connections with Stage A to avoid internal steps for residents. Its maximum height above original ground is 10.45m with a lift shaft at 11m.

Building C has previously been approved with a maximum height of 11.7 metres but cannot be considered as permitted environment as it is proposed to be replaced by the current proposal. However, for comparison, the maximum approved height of the approved Stage C building, occurring along part of the eastern side and for part of the top floor, is 11.7 metres above original ground. The top floor occupies 30% (approx.) of the building footprint. The lift shaft is 11.7m above ground.

The proposed reconfiguration keeps several parts of Building C lower than the approved rooflines. The highest part of the building is 11.7 metres, the same as the approved maximum height.

## 6.2 Relevant Assessment Criteria

Although this proposal is assessed as a Discretionary Activity, only the effects of the proposed change of Condition 1 of Resource Consent 6590 can be considered. These are the effects of the changes to approved Building C, the associated driveway area, and the new landscape planting on Discovery Drive.

For guidance in identifying the relevant effects of these changes, it is helpful to refer to the relevant objectives and policies of the District Plan for Suburban Zone, Transportation, and Landscape and Ecology. An assessment of these provisions is provided at Section 7.3.5. Collectively, these place emphasis on residential amenity values (visual, privacy and shading effects), suburban character, transport, and parking adequacy.

## 6.3 Amenity

The Resource Management Act 1991 definition treats amenity values as a number of interrelated factors, namely:

*“those natural and physical qualities and characteristics of an area that contribute to people’s appreciation of its pleasantness, aesthetic coherence, and cultural and recreational attributes*

Land form, structures, vegetation cover, access to sunlight, shading, lighting levels, background noise, traffic movements, and the experience of seeing and hearing people and activities on a site are all components of amenity. Combined, these features contribute to the character and amenity values experienced within a neighbourhood and the enjoyment of a site and its surroundings.

The relevant component effects of amenity in respect of the application site and the proposal are addressed in the following sections 6.4 to 6.6. These primarily relate to visual and landscape amenity and character effects of site works, structures, planting, and future uses of the site. Comments are also made on shading, noise, vibration, lighting, glare and traffic effects, and construction effects for completeness.

## 6.4 Visual and Landscape Amenity & Character Effects

The visual effects of buildings that would exceed the maximum permitted height of 8 metres was raised as a concern by submitters on the application for resource consent RC6590, as discussed at Sections 5.4.3 and 5.4.4, and concerns were raised about the effectiveness of the proposed mitigation planting on the Discovery Drive site frontage.

The Commissioner Decision at paragraphs 7.30 to 7.37 (quoted at 5.4.4) commented on the visual and amenity effects of Buildings A, C and D, noting that *“buildings up to 12 metres in height are contemplated”* by the District Plan, the *“proposal complies with the standard for discretionary activities”*, is *“appropriate on this particular site”* and *“will not detract from the amenity values of the Suburban Zone”*.

The Commissioner Decision found, in respect of Building C, following the “*necessary removal of mature trees from the Discovery Drive bank*” that “*compared with the scope of permitted effects, I am satisfied that the extent of proposed mitigation planting will assist to moderate any adverse visual effects*” (paragraph 7.33).

The Commissioner also found that “*it is relevant that, apart from views from Discovery Drive, views of proposed building ‘C’ from residential areas are substantially distant from the site (including Ms McKee’s Semaphore Lane property located on the south-eastern side of the Duck Creek valley and residences located on the western side of the Lower Lake and in the Mainsail*” (Paragraph 7.35).

At Paragraph 8.7 the Commissioner found that “*the proposed development is not inconsistent with the residential character or scale of the surrounding residential area or with the adjoining Shopping Centre. The proposed medium density accommodation is well-placed in relation to the services and facilities of the central Whitby Shopping Centre, community facilities, recreational facilities and transport routes. Far from conflicting with the character and visual significance of the Lower Lake and Shopping Centre, I expect that the proposed buildings will consolidate and contribute positively to defining this area as a focal point – the heart – of Whitby*”.

It is considered that the proposed changes to Building C that are the subject of this application will not alter the Commissioner’s conclusions on visual and landscape amenity and character effects of the approved apartment buildings A, C and D. This is in part because the proposed reconfigured building is no higher than the originally approved Building C, and it is largely confined to its originally approved building footprint. The changes to the exterior of the building that take it outside the approved building envelope are either limited to the areas likely to only affect the retirement village, or areas where views of the structure are distant. The new landscape planting proposed will still ensure that any visual effects can be moderated as originally approved.

The proposed changes to the approved Building C have been covered in more detail in the Landscape And Visual Assessment Report by Thresher Urban Design and Landscape Architecture attached at [Appendix D](#). The report reviews and assesses the revised proposal and recommends a revised planting plan that combines parts of the previously approved Landscape Management Plan and Landscape Concept Plan to ensure a consistent and single-phase approach to vegetation removal and replanting.

Paraphrased, the report concludes there would be little change and low visual amenity effects arising from the proposed variations to the building. The most noticeable change will be the removal of vegetation on the Discovery Drive embankment adjacent to the building as a single phase, meaning the building will have greater visual impacts than if the vegetation removal was staged. It considers that there will not be major visual amenity effects due to the context within which the building is viewed. The proposed new planting will mitigate views of the building by grounding it, softening its impact and upgrading a declining and degraded area. The use of mass planting with taller trees as recommended will provide effective integration and amenity.

Overall it can be concluded that any potential adverse visual, or landscape amenity and character effects of the proposal will be consistent with those approved under resource consent RC6590.

## 6.5 Shading

The Commissioner Decision at paragraph 7.36 (quoted at 5.4.4) in respect of the Approved Buildings A, C and D found that “*the proposed buildings will not give rise to unacceptable shading effects for any adjoining residential or sensitive outdoor areas*”.

The proposed reconfigured Building C is to be moved closer to the eastern boundary of the site closer to the road. This change is not considered likely to alter the potential shading effects of the development as originally approved as Building C is no higher than that originally approved, and complies with all height recession planes applicable to the site.

## 6.6 Noise and Vibration

No noise or vibration from the use of the proposed apartment buildings is anticipated. The addition of three more apartments will not alter the extent of noise or vibration that could be expected with the construction and use of the originally approved Building C. No concerns about noise or vibration were raised at the time of assessing the originally approved apartments under resource consent RC4169, or in respect of building C when approving the more recent consent RC6590. Consent conditions covering construction activities approved under RC6590 address concerns raised about the use of a construction access for the construction of Buildings A and D.

These existing conditions will continue to address Construction Noise for all development on the site, as will, the Duty to Avoid Unreasonable Noise under Section 16 of the Act, and Rule D3.2.1(xi) of the District Plan.

It is anticipated, as with previous stages of development at the site that noise levels (and any vibration) will be maintained within the limits allowed under the District Plan, and therefore any adverse effects will be less than minor. The proposed changes to Building C and the Discovery Drive Landscaping and Driveway realignment will not alter this.

## 6.7 Lighting and Glare

All lighting for the revised Building C, as previously approved, will be limited to typical standards and designs suitable for a retirement village development. This includes outdoor lighting for security and to assist with safe access around the site, and internal lighting.

The apartment building is to be grouped close to the existing Stage A and D Buildings just north of the Whitby Village shopping centre, and well isolated from residential properties across the lake or beyond the site to the north. Recreation areas nearby provide further separation between the buildings and residential properties beyond. Lighting from existing facilities creates a baseline against which future apartment lighting will be difficult to discern.

It is noted that there were no concerns raised at the time of assessing the originally approved apartments under resource consent RC4169 or the more recent RC6590, and no consent conditions covering this matter. Adverse lighting and glare effects are therefore not anticipated with the proposed reconfiguration of proposed apartment building C.

## **6.8 Traffic & Parking**

Discovery Drive is classified as a Principal Street in the District Plan, and is constructed to a high standard to provide for a significant number of users on a daily basis. The road provides access to the southern end of the Retirement Village (the main entrance) and the northern end of the site (via Starboard Lane).

Under RC6590, Whitby Lakes Retirement Village has approval for 129 residential units, made up from 61 villas and 68 apartments within three apartment blocks (A, C, and D). All consents issued for the staged development to date have assessed it as being acceptable in terms of traffic, access, and parking effects. This includes internal access road formation widths, the position of stacked parks for the villas, as well as on-site visitor parks and parks provided specifically for the apartments.

Parking is provided for the apartment A and D in the eastern end of the Stage A building, at basement. Additional parking will be provided in the basement of the Stage C building additional roadside spaces available. The total number of spaces that can be provided on site is consistent with actual demand calculated for retirement villages (based on a lower rate of 0.67 per residential unit).

The access from Discovery Drive is to be realigned as part of the proposal to fit the footprint of the Stage C building and access to and from the parking areas.

The proposed changes to Building C (with the addition of three more apartments) are addressed by the proposed modification of the approved driveway to be constructed for the approved version of Building C, and additional 15 on-site parking spaces.

Overall, it can therefore be concluded that there will be no adverse traffic, access or parking related effects likely to result from approving the proposal.

## **6.9 Construction Effects**

Construction works have the potential to generate a range of effects including: noise, vibration, dust, sedimentation, and vehicle movements.

These matters are addressed in the existing consent conditions and a Construction Traffic Management Plan required by those conditions. The proposed changes to Building C and the driveway alignment, and any potential environmental effects, will be managed under these existing controls.

There are no new effects to be considered as part of this application.

## **6.10 Summary of Effects including Positive Effects**

Every care has been taken in the redesign of Building C to continue to present a lively frontage with a residential scale and feel to the neighbours across the lake. The landscaping to the west of the building creates a green zone helping to provide privacy for the residents of the apartments in the Stage A and D Buildings and the Lakeside Villas.

Revision to the building design and landscaping on the eastern side of Building C will activate and enhance the streetscape amenity along the site’s Discovery Drive frontage. The apartments facing Discovery Drive will benefit the community by providing an additional element of security which accords with good urban design and crime prevention through environmental design principles.

The addition of three more apartments within Building C is a good use of available building space, while still retaining the maximum remaining area for landscape planting and amenity areas to reinforce the attractive setting of the retirement village and echo the green and open spaces found throughout the wider Whitby suburb.

The existing consent conditions of RC6590 will ensure that any potential adverse effects of Building C and its use, and effects of its construction, are managed as part of the overall development, to ensure on-going safety and convenience associated with the local roading network and the nearby Shopping Centre car parking area.

On the basis of the above assessment, it is concluded that any adverse effects of the proposed change of conditions on the environment will be less than minor.

## 7. Other Section 104 Assessments

This section sets out the remaining assessments required under Section 104(1)(a) and (b) of the Act.

### 7.1 National Environmental Standards

There are National Environmental Standards (NES) in place for Air Quality, Sources of Drinking Water, Telecommunication Facilities, Electricity Transmission Activities and Assessing and Managing Contaminants in Soil to Protect Human Health.

The site is not identified as a Potentially Contaminated Site on the District Council’s online GIS Mapping System.

None of the NES are applicable to the proposal and the application site.

### 7.2 National Policy Statements

In addition to the New Zealand Coastal Policy Statement, there are National Policy Statements (NPS) in place for Freshwater Management, Renewable Electricity Generation, and Electricity Transmission.

None of these NPS are applicable to the proposal and the application.

### 7.3 Regional Policy Statements and Plans

#### 7.3.1 Regional Policy Statement

The most relevant part of Greater Wellington Regional Council’s Regional Policy Statement (Operative 24 April 2013, (Regional Policy Statement) in respect of the proposal are the objectives and policy that relate to urban design and amenity and water quality. The relevant provisions are commented on in the following paragraphs.

#### Policy 41 – Minimising the effects of earthworks and vegetation disturbance

This policy seeks to minimise the effects of silt and sediment runoff onto land that may run off into water to sustain healthy aquatic ecosystems. Site preparation works proposed as part of the proposed Stage 5 Apartment development can be managed by good practice to ensure any potential adverse effects on the environment will be less than minor.

The proposal involves limited earthworks, the effects of which can be managed by an Earthworks Management Plan as previously required in conditions of RC6590. The landscape planting will protect the soil resource on the embankment and avoid run-off.

#### Policy 42 – Minimising contamination in stormwater from development

This policy lists a range of measures that can be undertaken to assist in the reduction of adverse stormwater effects. One measure is to avoid or mitigate the effects of

contamination from zinc or copper roofing materials. The proposed apartment construction does not use such roofing and cladding materials.

The stormwater effects of the proposal do not differ from the approved development, and can be managed so as to be acceptable.

Policy 57 – Integrating land use and transportation

This policy seeks to achieve a comprehensive set of transportation outcomes within the Wellington Regional Land Transport Strategy. Traffic likely to be generated by proposed development is consistent with the level of development expected on Discovery Drive near the Retirement Village and Whitby Village Shopping Centre and can be accommodated within the existing transport network without adverse impacts on its safe and efficient operation. The proposal continues to meet the intentions of this provision.

Policy 58 – Co-ordinating land use with development and operation of infrastructure

This policy seeks to make efficient and safe use of existing infrastructure and is co-ordinated with new infrastructure. The existing infrastructure network can accommodate the additional demand associated with the approved apartment development. The proposal continues to be consistent with this provision.

7.3.2 *Regional Plans*

The proposal has been assessed against the Operative Regional Plans for the Greater Wellington Region and the proposed Natural Resources Plan and there are no triggers for resource consents required to be obtained under these Regional Council plans.

**7.4 District Plan Objectives and Policies**

As with the overall development approved under RC590 the District Plan provisions relating to residential amenity values, suburban character, transport and parking adequacy are relevant to the proposal to amend Condition 1 and in doing so reconfigure Apartment Building C and the landscape planting on the Discovery Drive frontage.

7.4.1 *Suburban Zone Objective and Policies*

<b>C3.1 Objective</b>	<b>TO ENCOURAGE SUBURBAN ACTIVITIES TO UTILISE LAND MOST SUITABLE FOR THAT PURPOSE.</b>
C3.1.1 Policy	<i>To define a Suburban Zone which provides for the present and future suburban development needs of Porirua City.</i>
C3.1.2 Policy	<i>To encourage the maximum utilisation of the existing infrastructure and resources by encouraging suburban activities in areas which are already serviced.</i>

Objective C3.1 and supporting policies C3.1.1 and C3.2.1 encourage suburban use of land suitable for urban development on the basis that it can be serviced with reticulated water and sewerage systems, provided with appropriate access and roading, and has no topographical or natural hazard constraints that could preclude suburban development (being a mix of residential and non-residential activities).

The suitability of the land in sustainable management terms is both its physical suitability for the intended purpose and the ability to maximise the efficient use of existing infrastructure.

Building C is part of an approved development within an existing site which has been a Retirement Village for many years and is subject to several Resource Consent Approvals. The proposed alteration is a replacement of a consented building to be used by the Retirement Village, as established through the previous applications.

The site is serviced to a level able to accommodate the anticipated demand on these services. The application site is close to amenities such as a Shopping Centre, flat public walkways, and Public Libraries, and is considered an area suitable for the aged.

The type of development proposed is most suitably located in the Suburban Zone and Suburban Shopping Centre Area as it will utilise existing resources rather than other greenfield sites that typically are characterised by single or two storey residential developments.

The proposal is therefore consistent with Suburban Zone Objective C3.1 and Supporting Policies C3.1.1, C3.1.2.

<b>C3.2 Objective</b>	<b><i>TO ENCOURAGE AN ENVIRONMENT WHICH CONTINUES TO SUSTAIN PORIRUA CITY'S SUBURBAN ZONE AS AN ATTRACTIVE, HEALTHY AND SAFE PLACE IN WHICH TO LIVE.</i></b>
C3.2.1 Policy	<i>To protect and enhance the amenity and character of the residential resource by defining standards for the bulk and location of buildings, the provision of open space, and the nature and scale of activities.</i>
C3.2.2 Policy	<i>To allow non-residential activities which do not detract from the amenity values of the Suburban Zone.</i>
C3.2.3 Policy	<i>To provide and maintain reserves and open spaces for the purposes of improving the amenity values of the Suburban Zone.</i>
C3.2.5 Policy	<i>To allow for the on-going use of existing non- residential buildings and facilities in the Suburban Zone in a manner which does not detract from the long term amenity or character of the Zone</i>

Suburban Zone Objective C3.2 and its relevant supporting policies seek to protect and enhance a high standard of amenity and character within the Suburban Zone so it continues to be an attractive, vibrant, safe and healthy place to live and work. The Zone is identified in the explanation to Objective C3.2 as a significant resource in the District – primarily as a place to live and “*it is therefore necessary to promote and continue to encourage the use of this area as a place for residing*”.

The explanation for Policy C3.2.1 advises that “It is the Suburban Zone’s function to provide a good environment for people to live in” and the “purpose of this policy is to protect the suburban resource from activities which result in significant adverse environmental effects”. It goes on to state that “The attractiveness of a residential area as a place in which to live can be defined according to ... “*pleasantness*” and “*character*” ...” and “*together these constitute amenity*”. Reference is also made to the definition of “*amenity*” in the Resource Management Act 1991.

To ensure the wellbeing of the community in this respect, the District Plan includes methods for managing adverse environmental effects on residential “amenity”, such as minimum acceptable standards for the bulk and location of buildings, parking and access, as well as upper limits for vehicle movements and noise, and hazardous substances. Where minimum standards cannot be met, the District Plan advises particular consideration will be given to the degree of non-compliance and any cumulative adverse effects of activities arising from multiple non-compliances with the standards, which may impact on amenity values.

The Suburban Zone is not exclusively residential and contains a range of building types and uses. Building C is located within the Suburban Shopping Centre Overlay, an area expected to be characterised by a mix of building profiles, often with open parking areas. The building is residential, as previously outlined and assessed in the reports for RC6590, but has a scale of a non-residential building, and is supported by the administration and amenities facilities in Apartment Building A.

Financial contributions have been paid by Whitby Village (2009) Ltd under RC4169 by the purchase of Lot 2 DP98031 by Council from the applicant. Lot 2 DP98031 is proposed to become reserve and will improve the amenity of the lakeside area & Whitby area. No further Recreation & Civic Development Contributions are required for the current proposal as previously discussed in this report.

The scale, design and location of Building C, although large and extended slightly further than that previously approved, will not affect the amenity and character of the Suburban Zone to such a degree that the environmental effects are considered inconsistent with this objective and policies.

Building C, together with the A and D apartment buildings will contribute to a range of residential development being provided in the Suburban Zone and will reflect community needs at different stages of life.

The proposal is therefore consistent with Suburban Zone Objective C3.2 and Supporting Policies.

#### 7.4.2 Transport Objective and Policies

<b>C7.1 Objective</b>	<b>TO ACHIEVE A SAFE AND EFFICIENT TRANSPORTATION NETWORK THAT ENABLES THE PEOPLE OF THE CITY AND THE WIDER COMMUNITY TO PROVIDE FOR THEIR SOCIAL AND ECONOMIC WELL-BEING WITHOUT CREATING SIGNIFICANT ADVERSE ENVIRONMENTAL EFFECTS.</b>
C7.1.2 Policy	<i>To ensure that the adverse effects of land use and development on the efficiency and safety of the transportation network are taken into account, and any intersection or frontage conflicts are avoided or minimised or remedied as appropriate.</i>
C7.1.9 Policy	<i>To ensure that all activities provide adequate on-site visitor parking.</i>

Transport Objective C7.1 and the relevant supporting Policies C7.1.2 and C7.1.9 seek to ensure that the effects of land use and development on the transportation network are

appropriately managed so that it continues to operate in a safe and efficient manner, and remain attractive with high amenity standards. This includes addressing the locations of activities and vehicle crossings to avoid conflicts and ensuring sufficient provision for on-site manoeuvring and parking, and adequate landscape planting.

As previously assessed under RC6590, the effects of the traffic generation on the surrounding road network will be of an acceptable level and the safe and efficient operation of the surrounding road network will be maintained subject to conditions of consent including a Construction Traffic Management Plan. Satisfactory on-site parking can also be provided.

The proposed reconfiguration of the driveway and Building C do not noticeably alter the approved on-site layout. On-site manoeuvring and parking will continue to be able to occur without adverse effects on the safe, efficient, and effective operation of the surrounding road network. The proposal incorporates on-site landscaping to maintain an attractive streetscape along Discovery Drive.

The proposal is therefore consistent with Transport Objective C7.1 and the relevant supporting Policies C7.1.2 and C7.1.9.

#### 7.4.3 Landscape and Ecology Objectives and Policies

<b>C9.1 Objective</b>	<b>TO MANAGE IN A SUSTAINABLE MANNER THE LANDSCAPE AND ECOLOGICAL SYSTEMS WITHIN PORIRUA CITY.</b>
C9.1.1 Policy	To prevent urban encroachment into sensitive ecological and landscape areas.
C9.1.12 Policy	To protect and enhance the spiritual, cultural, ecological and amenity values of rivers and the coast.
C9.1.14 Policy	To encourage the protection and enhancement of ecological integrity throughout Porirua City.

Objective C9.1 and supporting policies C9.1.1, C9.1.12, and C9.1.14 seek to protect, in a sustainable manner, the intrinsic values associated with the City’s sensitive landscape areas, ecological areas, coastal areas and areas of special significance to Māori, from inappropriate development.

The site is not a sensitive ecological or landscape area. The proposed altered version of Building C is a similar scale development on a site that has previously been approved for a four-storey apartment building together with two other apartment buildings grouped nearby. It is not noticeably larger than the approved version and together with the proposed landscape planting have acceptable effects on the local character. Earthworks on the site are relatively limited in scale and will be managed to prevent contamination by silt of any downstream waters and the coastal environment. The proposed development is therefore consistent with Landscape and Ecology Objective C9.1 and its relevant supporting policies C9.1.1, C9.1.12, and C9.1.14.

#### 7.4.4 Summary of Objective and Policies Assessment

The above assessment confirms that the proposed Stage 5 Apartment Reconfiguration project is consistent with the relevant Objectives and Policies of the Porirua City District Plan for the Suburban Zone, Subdivision, Transport, and Landscape and Ecology as follows:

- Suburban Zone Objective C3.1, and supporting policies C3.1.1 and C3.1.2
- Suburban Zone Objective C3.2, and supporting policy C3.2.1 to C3.2.5;
- Transport Objective C7.1 and supporting policies C7.1.2 and C7.1.9;
- Landscape and Ecology Objective C9.1 and supporting policies C9.1.1, C9.1.12, C9.1.14.

### 7.5 Part 2 Assessment

Part 2 sets out the Purpose and Principles of the Act. Section 5 sets out the Purpose of the Act, to “*promote the sustainable management of natural and physical resources*”.

*“managing the use, development, and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic, and cultural well-being and for their health and safety while—*

- (a) *sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations; and*
- (b) *safeguarding the life-supporting capacity of air, water, soil and ecosystems; and*
- (c) *avoiding, remedying, or mitigating any adverse effects of activities on the environment”.*

Paraphrased, the Act seeks to achieve an appropriate balance between enabling people and communities to provide for their wellbeing and their reasonable needs now and in the future and the adverse environmental effects of activities on natural and physical resources. The principles set out in Section 6, 7 and 8 at Part 2 of the Act are used to guide in determining whether the purpose of the Act (to achieve sustainable management) is being met. These provisions define the matters a consent authority shall consider when exercising their functions under the Act, as follows:

- *Recognise and provide for Matters of National Importance at Section 6;*
- *Have particular regard to Other Matters at Section 7; and*
- *Take into account the Principles of the Treaty of Waitangi at Section 8.*

There are no Section 6 “Matters of National Importance” applicable to the proposal.

The relevant “Other Matters” in Section 7 are:

- (b) *the efficient use and development of natural and physical resources;*
- (c) *the maintenance and enhancement of amenity values;*
- (f) *the maintenance and enhancement of the quality of the environment.*

The relevant matters referred to in Section 7 of the Act are covered as part of the assessment of effects (AEE) at Section 6, and it is concluded that the effects of the proposal on local amenity and character and the quality of the environment will be no more than minor and can be further mitigated by conditions so as to be acceptable.

Section 8 of the Act requires:

*In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall take into account the principles of the Treaty of Waitangi (Te Tiriti o Waitangi).*

The site is highly modified and there is are no known sites of cultural or spiritual significant to Māori where Building C will be located. The proposal is not inconsistent with any of the principles of the Treaty of Waitangi.

Overall, it can be concluded that that the proposal is consistent with the Purpose and Principles of the Act (i.e. Part 2).

## 8. Summary & Conclusions

This document describes the proposal by the “Applicant” (**Whitby Village (2009) Limited**) for reconfiguration of approved Building C of the Whitby Lakes Retirement Village – the “Stage 5 Apartments” Reconfiguration Project at Newhaven Way, Whitby, Porirua City.

It is presented as an application for a change of consent conditions and sets out the reasons why this is requested, the likely environmental effects of the proposal, and the mitigation offered, with further details provided in the plans, photographs and supporting documents that comprise this application.

Every care has been taken in the redesign of Building C to continue to present a lively frontage with a residential scale and feel. Revision to the Building C design and landscaping on the eastern side of Building C will activate and enhance the streetscape amenity along the site’s Discovery Drive frontage. The reconfigured Building C, with additional apartments, and associated driveway realignment, have sufficient on-site parking provided and will not affect the safety or convenience of the local roading network or the nearby Shopping Centre car parking area.

In summary, the proposed change of Consent Condition 1 of RC6590:

- Has been assessed as a Discretionary Activity;
- Continues to incorporate the same high standard of mitigation measures previously approved to ensure that actual and potential adverse effects on the environment will be appropriately avoided, remedied or mitigated so as to be less than minor; and
- Is consistent with (and not contrary to) the relevant Objectives and Policies of the Regional Policy Statement; the Operative District Plan, the Purpose and Principles of the Resource Management Act 1991; and the matters contained within Part II of the Act;

There are no parties that are likely to be adversely affected by the proposal.

It is therefore concluded that the Council’s processing planner can, following non-notified assessment of the proposal, be comfortable issuing a favourable recommendation.



Jenny Grimmatt for Down to Earth Planning Limited on behalf of the Applicant  
MRRP (Credit, 1991), MNZPI (1997), BSc (Zoology, 1986)

Dated: 1 November 2016

## 9. List of Appendices

Appendix A	Application Plans by Architects Pacific Environments (NZ) Ltd
Appendix B	Title Documents
Appendix C	Architect Statement
Appendix D	Landscape and Visual Assessment Report by Thresher Urban Design and Landscape Architecture