

Decision following the hearing of an application for resource consent

SUBJECT: Application for resource consent under section 88 of the Resource Management Act 1991 by Auckland Council Property Limited to establish a Comprehensive Development Plan over land identified as Hobsonville Marine Industry Special Area at Buckley Avenue, Hobsonville held on 26 May and 27 May 2011.

**CONSENT, PURSUANT TO SECTIONS 104B AND 104D
OF THE RESOURCE MANAGEMENT ACT, IS GRANTED
SUBJECT TO CONDITIONS.
THE FULL DECISION IS SET OUT BELOW.**

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| Hearing Panel: | The Application(s) was heard by Hearings Commissioners consisting of: | |
| | Mr David Kirkpatrick | (Chairman) |
| | Mr Alan Bradbourne | |
| | Mr Alan Dormer | |

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| Council Officers: | Mr Matthew Wright | Team Leader Resource Consents |
| | Mr James Dowding | Reporting Planner |
| | Mr Sam Shumane | Traffic Engineer |
| | Mr Sri Pulla | Development Engineer |
| | Mr Matthew Riley | Urban Designer |
| | Mr Jon Styles | Noise Consultant |
| | Mr Nick Robinson | Landscape Architect |
| | Ms Huia Kingi | Parks & Recreation Advisor |
| | Ms Maea Petherick | Committee Secretary - Hearings |

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| APPEARANCES: | |
| For the Applicant: | Auckland Council Property Limited represented by: Legal - Mr Greg Milner-White Marine Precinct Overview – Mr Brett Archer Urban Design – Mr Henry Crothers Landscape - Ms Rachel de Lambert Engineering – Mr Kevin Wyborn |

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| | Transport – Ms Angie Crafar Noise – Mr Rhys Hegley Planning - Mr Peter Reaburn |
| Submitter: | Hudson Bay Holdings Limited represented by: Legal – Mr Kitt Littlejohn |

APPLICATION DESCRIPTION

Application and Property Details

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| Application Number (s): | LUC: 2009 -1555 |
| Site Address: | Buckley Avenue, Hobsonville |
| Applicant's Name: | Auckland Council Property Limited |
| Lodgement Date: | 11 December 2009 |
| Hearing Commencement: | 9.30am Thursday, 26 May 2011 |
| Hearing Panel's Site Visit: | Wednesday, 25 May 2011 |
| Hearing Closed: | Friday, 27 May 2011 |

The application identified as LUC 2009 1555 in respect of a Comprehensive Development Plan ("CDP") over an area of 25.15 ha incorporating a Marine Industry Precinct ("MIP") of 19.88 ha on land in and around an area identified as Hobsonville Marine Industry Special Area ("HMISA") in the Hobsonville Base Village Special Area (Precinct A: Sunderland Head and Precinct D: Hudson Bay) and Hobsonville Landing Special Area as outlined in the Hobsonville Peninsula Urban Concept Plan (Plan Change 13) at Buckley Avenue on the former Hobsonville Airbase site is **granted**, subject to the particular conditions attached to this decision, for the reasons set out below.

Chairperson



Date:

14 June 2011

AUCKLAND COUNCIL

**APPLICATION BY
AUCKLAND COUNCIL PROPERTY LIMITED**

**COMPREHENSIVE DEVELOPMENT PLAN
FOR MARINE INDUSTRY SPECIAL AREA AT HOBSONVILLE**

Reference No: LUC 2009 1555

DECISION ON APPLICATION FOR RESOURCE CONSENT

Commissioners

David Kirkpatrick (Chair)

Alan Bradbourne

Alan Dormer

Summary

The application identified as LUC 2009 1555 in respect of a Comprehensive Development Plan (“CDP”) over an area of 25.15 ha incorporating a Marine Industry Precinct (“MIP”) of 19.88 ha on land in and around an area identified as Hobsonville Marine Industry Special Area (“HMISA”) in the Hobsonville Base Village Special Area (Precinct A: Sunderland Head and Precinct D: Hudson Bay) and Hobsonville Landing Special Area as outlined in the Hobsonville Peninsula Urban Concept Plan (Plan Change 13) at Buckley Avenue on the former Hobsonville Airbase site is **granted**, subject to the particular conditions attached to this decision, for the reasons set out below.

Introduction

1. We have been asked by the Auckland Council and given delegated authority to make a decision whether this application should be granted resource consent pursuant to the Resource Management Act 1991 (“RMA”).
2. The application is made by Auckland Council Property Limited, the council controlled organisation of the Auckland Council responsible for the management and development of certain land owned by the Council.
3. The purpose of this application is to provide a necessary intermediate step between the rezoning of the land (now brought within the Metropolitan Urban Limits (“MUL”) by Change 7 to the Auckland Regional Policy Statement) from rural (or more particularly in the context of the Waitakere section of the Plan, from Countryside Human Environment and General Natural Area) to urban (as a Special Area) by way of Plan Change 13 to the operative district plan (“PC 13” or “proposed plan”). The establishment of actual urban activity on the land will, in time, replace the former Hobsonville Airbase activities. In this way a CDP does not itself allow any actual development or other activity: rather, it is somewhat akin to a structure plan, albeit one

undertaken through the resource consent process rather than the plan change process or as a non-statutory document.

4. PC 13 itself includes an Urban Concept Plan (“UCP”) for the Hobsonville Peninsula which is also a form of structure plan. One of the principal matters for assessment of a CDP is whether it is consistent with the UCP (in which case it is to be considered as a limited discretionary activity) or whether it departs from the UCP (in which case it is assessed as a non-complying activity). PC13 is not yet fully operative, but we are advised that the part of it which provides for the urbanisation of the Hobsonville peninsula is beyond challenge. No-one challenged this advice or raised any other reason why we should not proceed to consider this application on the basis of this premise.
5. Once a CDP has been granted, applications may then be made for land use resource consents within the scope of that CDP, which will be assessed as limited discretionary activity (where they are within scope) or as a non-complying activity (where they are not). Where it is proposed to amend the CDP, applications will be assessed as a full discretionary activity.
6. Thus, our consideration is not of the general planning process for transforming the area from rural to urban, nor to determine what actual development will occur in the area. We are required to assess the proposed CDP as an intermediate step between those two stages.
7. We note that pursuant to a decision dated 9 August 2010 of the Council by Commissioner Harry Bhana, the application was not publicly notified pursuant to section 95A – 95F of the RMA, but notice of it were served on the persons listed Table 7 of the Notification Report attached as Appendix 6 to the section 42A report, being:
 - (i) Hudson Bay Holdings Ltd, being the owner of land in and adjoining the precinct;
 - (ii) New Zealand Transport Agency in respect of potential effects on the state highway network;
 - (iii) Tangata whenua, represented by Te Kawerau a Maki, Ngati Whatua o Orakei and Ngati Whatua o Kaipara;
 - (iv) The Minister of Defence as the requiring authority in respect of a designation for defence purposes of land in and adjoining the precinct; and
 - (v) The RNZAF Base Auckland Yacht Club and the Hobsonville Yacht Club in respect of the effects of closing Launch Access Way.
8. Having considered the application and section 42A report and heard the Applicant and submitter, we are satisfied that this application did not need to be publicly notified and that appropriate persons were served with notice of it. We accordingly are satisfied that the requirement of section 104(3)(d) is met.

Background information

9. We have received and perused a great deal of information contained in and attached to the notice of hearing and agenda including a Section 42A report prepared by Mr James Dowding, an officer of the Council, together with the appendices listed in the table of

contents for that agenda and including the consolidated application documents which were supplied to us in separate volumes..

10. Having read and considered both the Assessment of Environmental Effects lodged with the application and the report prepared under section 42A of the RMA in respect of the application, we cross-refer to those pursuant to section 113(3) rather than repeating them in this decision.

Pre-hearing

11. We undertook a site visit on Wednesday 25 May 2011. We circumnavigated the area of the site as closely as possible on public roads, stopping at various vantage points to gain some appreciation of its context and in two locations driving onto sealed areas of the site where we could see across the site. Particularly obvious were the large expanse of level ground which had once been an airfield, the heritage of past and some continuing use by the NZ Defence Force, the existence of surrounding residential development which has been recently developed and which continues to occur, and the connection of the site with the upper Waitemata Harbour. We are satisfied that this inspection was adequate to assist us in understanding the nature of the environment for the purposes of deciding on the application.

Hearing

12. The application was heard on Thursday 26 and Friday 27 May 2011. The hearing venue was the Council Chamber on level 2 of the Henderson Service Centre at 6 Henderson Valley Road, Henderson. The participants in the hearing were representing the applicant, the Council and the one submitter, Hudson Bay Holdings Ltd. The persons heard and a summary of the evidence are listed on the cover sheet to this decision.

Relevant statutory provisions

13. It was common ground among all parties that the proposal falls to be considered as non-complying activity under the relevant provisions of the District Plan, because the extent of the CDP does not coincide with the boundaries of the Hobsonville Marine Industry Special Area ("HMISA") as shown on the UCP. The differences largely arise from the adoption of a different and more rectangular roading pattern for the CDP than that shown indicatively on the planning map made operative by PC13 for the HMISA (which generally follows existing cadastral boundaries). We were told that changes to the underlying land ownership pattern had been or were to be effected by various land swaps with adjoining landowners, including the Hobsonville Land Company and Hudson Bay Holdings Ltd (the latter arrangements being subject to litigation) and then recorded by boundary adjustments or other consequential subdivision.
14. This also means that parts of the MIP must be considered in terms of the Plan provisions affecting the underlying land where that land is within:
 - (i) the Hobsonville Base Village Special Area;
 - (ii) the Hobsonville Future Development Special Area; or
 - (iii) the launch road into the Hobsonville Landing Special Area.

In each case the proposal must be assessed as a non-complying activity.

15. The position is most readily understood by reference to a plan included at page 13 in the AEE (prepared by Mr Peter Reaburn of Cato Bolam Consultants Ltd and updated as at February 2011), which is attached as page 946 in Volume 2 of the documentation included in our agenda. In broad terms it is a re-arrangement of the precise pattern set forth by PC13, but we are clear in our view that this re-arrangement is to enable better provision for all activities on the peninsula and does not amount to the removal or under-mining of the basis for any of the identified Special Areas. We find that there is no aspect of the existing boundaries which warrants preservation for its own sake, the cadastral pattern being more a product of history than any forward planning.
16. A further aspect requiring resource consent is the proposal that the noise control rules for the HMISA (being the Working Environment Rule 8.2) should not apply to internal site boundaries within the MIP, which is to be assessed as a discretionary activity. However, it was accepted by everyone before us that the whole proposal should be assessed on a bundled basis so that the thresholds of s104D of the Act apply.
17. Accordingly, the relevant statutory provisions which we have considered are:
 - (i) Section 104 – consideration of application;
 - (ii) Section 104B – determination of applications for discretionary or non-complying activities;
 - (iii) Section 104D – particular restrictions for non-complying activities; and
 - (iv) Section 108 – conditions of resource consents.
18. As a matter of course under section 104(1), we had regard to the provisions of Part 2 of the RMA to which section 104(1) is subject. Of particular relevance in this case were the following provisions:
 - (i) Section 5 – purpose;
 - (ii) Section 6 – matters of national importance, and in particular section 6(a) in relation to the protection of the coastal environment from inappropriate use and development and section 6(d) in relation to the maintenance and enhancement of public access to and along the coastal marine area; and
 - (iii) Section 7 – other matters, and in particular section 7(b): the efficient use and development of natural and physical resources; section 7(c): the maintenance and enhancement of amenity values; and section 7(f): maintenance and enhancement of the quality of the environment.
19. Also relevant are the following statutory documents:
 - (i) New Zealand Coastal Policy Statement;
 - (ii) Hauraki Gulf Marine Park Act 2000;
 - (iii) Auckland Regional Policy Statement (as amended by Changes 6 and 7).

20. We also have regard to the following other documents:
- (i) Auckland Regional Growth Strategy;
 - (ii) Auckland Regional Land Transport Strategy; and
 - (iii) Auckland Regional Business Land Strategy.
21. It appears to us that the various matters contained in those documents are all identified as relevant considerations in PC 13. There did not appear to be any argument among the parties as to the nature and extent of the relevant considerations which might require resolution by resorting to those higher order planning documents and we accordingly do not propose to examine them in this decision.

Non-complying status – threshold considerations

22. Pursuant to section 104D(1):

Despite any decision made for the purpose of section 95A(2)(a) in relation to adverse effects, a consent authority may grant a resource consent for a non-complying activity only if it is satisfied that either—

(a) the adverse effects of the activity on the environment (other than any effect to which section 104(3)(a)(ii) applies) will be minor; or

(b) the application is for an activity that will not be contrary to the objectives and policies of—

(i) the relevant plan, if there is a plan but no proposed plan in respect of the activity; or

(ii) the relevant proposed plan, if there is a proposed plan but no relevant plan in respect of the activity; or

(iii) both the relevant plan and the relevant proposed plan, if there is both a plan and a proposed plan in respect of the activity.

23. We address these threshold issues in the following two sections of this decision.

Effects on the environment

24. A written approval was provided by Hobsonville Land Company Ltd, a property developer which, as we saw from our site visit, is busy undertaking residential development generally to the south and west of the HMISA. We may therefore disregard effects on that person pursuant to section 104(3)(a)(ii).
25. The likely change in the character of the landscape and the visual amenity of this site from its existing state as an airfield with associated buildings to an industrial area with a focus on marine industry and related activities will be significant. We heard evidence from Mr Crothers, Ms de Lambert and Mr Reaburn about the future and potential effects of likely activities within the MIP. This will include:

- (i) Substantial buildings, with many of them being bulky and tall in order to provide adequate indoor space for marine industries;
 - (ii) High levels of activity associated with industry and with services likely to associate with and locate close to such industries; and
 - (iii) Consequential traffic and noise effects on surrounding roads and neighbouring land.
26. However, this type and degree of change is precisely what is intended by PC13. It is a natural consequence of the change in use of the Hobsonville area from its defence focus (which by its nature included some large scale development and higher levels of activity than might be expected in a rural environment) to urban development consistent with its proximity to existing urban development and the strategic importance of managing growth in the region. Also construction of new housing and roading improvements within the former Hobsonville Airbase are an indication of anticipated land use changes envisaged through PC13. The MIP land and future urban activities are clearly shown on the Context Plan (page 121 of our Agenda). This Context Plan illustrates that the interrelationship between various urban activities has already been accepted, and that the direct and indirect effects associated with different urban activities will be able to be avoided, remedied or mitigated.
27. The “environment” is not limited to the existing physical environment but includes, in terms of the statutory definition in section 2 of the RMA, both amenity values and the social, economic, aesthetic and cultural conditions which affect or which are affected by the other matters stated in that statutory definition. A number of Court decisions support the proposition that “environment” is not necessarily to be equated with the existing situation but may include (because the statutory definition itself is inclusive) at least what may be permitted on that land or nearby land (see *Stalker v Queenstown Lakes DC*, Decision C40/04). Further, planning instruments can be treated as changing the character of the neighbourhood by which the standard of reasonable user falls to be judged (per Fogarty J in *Wilson v Selwyn DC* [2005] NZRMA 76, which was the subject of an appeal but on other points: See *Queenstown Lakes DC v Hawthorn Estate Ltd* [2006] NZRMA 424).
28. As well, the nature of Hobsonville as a peninsula provides a degree of separation from existing areas of development which assists in reducing the degree of the effects likely to be created. Ms de Lambert’s evidence assisted us by demonstrating the potential visual and landscape effects through the use of photomontages and by her analysis based on her inspection of the area. While her statement referred to an absence of submissions from the wider visual catchment as being significant, we had to inform her that the application had not been publicly notified and had only been served on a limited number of people. We asked her whether that affected her assessment and in particular whether removing the assumed significance of the absence of submissions altered her conclusions. After some reflection she advised it did not given that her assessment had included a consideration of the visual and landscape effects at the viewpoints identified in Rule 24.3 a(vii)(b) and its associated sub-rules (page 323 of the Agenda) of the Plan as being key to this assessment. We are satisfied that her evidence is reliable notwithstanding the misunderstanding in relation to the extent of notification.
29. On that basis, we are satisfied that this application is in respect of activities which will not cause adverse effects that will be more than minor on the environment both as it

exists and as it is identified in the relevant planning documents. This is because in broad terms the CDP application provides a framework for the future consideration of individual resource consent applications and the effects arising from specific activities that will eventually enable the MIP to occur.

30. In relation to effects on particular persons, the applicant does not own all of the land which is the subject of this application: a portion of the land is owned by Hudson Bay Holdings Ltd, which was a submitter. We address the specific concerns of the submitter below. We are satisfied that these are appropriately addressed by the terms and conditions of the CDP.
31. We conclude that any adverse effects on the environment of the activity of the CDP, as governed by proposed conditions of consent, will be no more than minor. The application accordingly passes the first threshold.

Objectives and policies

32. In relation to the objectives and policies, we received advice from the officers in the Section 42A report and evidence from Mr Reaburn, the planning consultant for the applicant that satisfied us that the applications were consistent with PC 13's objectives and policies.
33. The main issue arising from the application and addressed by the parties before us was associated with whether the change in the boundaries of the area of the CDP and MIP was contrary to these objectives and policies and we discuss that further below. For the purposes of this threshold assessment we are satisfied that the nature of the proposal is not contrary to these objectives and policies in the sense of being opposed in nature or repugnant to them.
34. We conclude that the proposals are consistent with the objectives and policies of PC 13.
35. In terms of sections 104(1)(b)(vi) and 104D(1)(b)(iii), we therefore do not think that the proposal is contrary to the objectives and policies of the relevant plan.
36. That is sufficient to pass the second threshold.

Discretionary consideration

37. As the application passes both thresholds of section 104D, we are able to move on and consider it in broad terms pursuant to section 104B.

Discussion of Issues

38. The principal issue raised by the application is the appropriateness of granting a consent for a CDP which does not follow the boundaries already set by the UCP in PC13. Both the s42A report and the case presented by the applicant went into this issue in some detail. We acknowledge that this issue could, in certain circumstances, raise potential problems for the future use and development of newly developed land as it might be considered opposed in nature or repugnant to the planning that has already been undertaken. That however is not a situation which arises here.

39. In this case the Council and the applicant presented evidence demonstrating how the proposed CDP will better achieve the purpose of the Act and promote the objectives and policies for Hobsonville and more generally for this part of the City than requiring strict adherence to the boundaries as set out in PC13. We had before us the written approval of the Hobsonville Land Company Limited (“HLC”), an affected landowner. We were given evidence of the arrangements which have been entered into between the applicant and HLC on which we understand the written approval is based. For the purposes of assessing this application in terms of the Act and the plan, we are satisfied that these arrangements are appropriate.
40. We are fully satisfied that the realignment of the boundaries of the MIP for the purposes of better providing for the development of the MIP and the consequential effect on the boundaries of the neighbouring future development zones are completely consistent with the relevant objectives and policies for the redevelopment of the Hobsonville area as a whole.
41. As between the applicant and the reporting officers, the other issues arising and requiring a decision from us are:
- (i) Ensuring that the proposed urban design rules are appropriate, especially having regard to the concerns expressed in submission on behalf of a directly affected landowner Hudson Bay Holdings Ltd;
 - (ii) The degree of control of building height in relation to boundary along the southern edge of the CDP area;
 - (iii) The nature of the noise control within the MIP which as suggested would set two levels of control, with the relevant level depending on membership of an owners’ association;
 - (iv) The appropriate vibration standard to be applied to activities within the MIP;
 - (v) The appropriateness of the activity status within that part of the MIP where the underlying notation is still Future Development;
 - (vi) The treatment of additions or alterations to any existing buildings within the MIP which are retained and re-used;
 - (vii) The appropriateness of the proposed advice notes to recommended conditions 4 and 24; and
 - (viii) The accuracy of the marine shed frontage notation in the Urban Design Guidelines.
42. In relation to the proposed urban design rules, we are satisfied that they are appropriate. They are extensive and detailed. There are some specific issues that we address below, and we anticipate that, as with any best laid Plan, the consent process in relation to actual activities on the land will enable any quirks in their application to be resolved.
43. The particular concern arising in relation to the degree of control of building height in relation to boundary along the southern edge of the CDP area was the extent to which the larger MIP buildings would cast shade to the south, across the proposed public road and onto land owned by the HLC. The s42A report recommended that the standard recession plane of 35 degrees from 2 metres above the boundary be set as the appropriate development control. The applicant resisted this, seeking no control other than the maximum height of 15m and the minimum setback of 10m already proposed.

44. After some general evidence as to the effects of shading of future buildings from the applicant's urban designer, Mr Crothers, we asked for and received indicative shading diagrams which gave some indication of what shade effects might be caused by buildings on the MIP land. The diagrams indicated a range of effects from very little in mid-summer to noticeable intrusion into the HLC land in mid-winter. The degree of the latter effect was, however, substantially offset by several considerations, including:
- (i) The written approval from HLC;
 - (ii) The fact that the Waitakere section of the district plan does not impose a height to boundary restriction where the boundary is with a public road; and
 - (iii) The indicative drawing provided by Mr Reaburn, the applicant's planner, showing that the extent of the effects was likely to be minor and no worse than the normal interface control between the working and residential environments in the Waitakere section of the Plan;
 - (iv) The fact that other design controls on building form and design will result in a variety of built form and articulation of development rather than a "canyon" or (if only on one side) "cliff" effect, and
 - (v) The requirement for a landscape buffer which will assist in ameliorating the effects of built development along this boundary.

We are satisfied that the effects of buildings complying with the height, setback and design controls are appropriate in all the circumstances and that a recession plane control along this boundary is therefore not necessary.

45. The absence of noise controls as between occupiers of the MIP requires resource consent in its own right. In general, noise controls at site boundaries are an essential element of land use rules in district plans. In the particular circumstances of the MIP, however, being a focus for specialised industrial activity within a limited area and specially designed buildings, we accept that applying general rules may be cumbersome and impractical. Self-management within the MIP is therefore appropriate, allowing potential owners and occupiers to make their own choices about the acceptability of the amenity values that will result. There will still be a noise condition to protect land and occupiers outside the MIP and this control is set at appropriate levels.
46. We did express concern about the nature of the initially proposed noise control within the MIP which would set two levels of control, with the relevant level depending on membership of an owners' association. This was acknowledged to be problematic and has been removed.
47. The appropriate vibration standard to be applied to activities within the MIP is a matter of technical importance but was not the subject of debate. Mr Styles advised us that the reference in the section 42A report and draft conditions to an ISO standard (which apparently is of most use in the design of structures) should be replaced by reference to a DIN standard (which apparently better serves in the assessment of effects of activities) and we are happy to accept that advice.
48. The appropriateness of the activity status within that part of the MIP where the underlying notation zoning is still Future Development is the result of designing a CDP area which does not follow the boundaries of zones laid out in PC 13. It necessarily results from the rules in those Future Development zones in any MIP activity in those portions of the site being non-complying. There appears to be no way of avoiding that

through any decision that can be made on this application, as an application under s88 of the RMA cannot change the provisions of the Plan. This is an issue that will also need to be confronted when a CDP is prepared for land outside the adjusted MIP, but within the MIP shown on the UCP. That is land that will in the future not be required for marine industry activities but will still be shown as MIP in PC13.

49. The applicant and the Council officers were of the shared view that any such application for consent should not be seriously troubled by the threshold tests of s104D if properly based on the CDP. In support of this we were referred to Policy 11.37A (pages 292-3 of our agenda) and Rule 24.0(b) (page 321 of our agenda). They also shared the view that in due course, and perhaps as part of the process of creating a single district plan for Auckland, this issue could be addressed and resolved.
50. We do not see anything in this issue which counts against the grant of consent to this application, given our view that the re-alignment of the boundaries of the MIP is appropriate. We are hopeful that the optimism around the prospects for a non-complying application on the periphery of the MIP will be borne out.
51. The treatment of additions or alterations to any existing buildings within the MIP which are retained and re-used was a particular concern of the submitter Hudson Bay Holdings Ltd and we deal with that issue in detail below.
52. The appropriateness of the proposed advice notes to recommended conditions 4 and 24 is also a matter which principally concerns the unique circumstances of the submitter; and is also dealt with below.
53. The accuracy of the marine shed frontage notation in the Urban Design Guidelines relates to a discrepancy between Drawing 2.2 of the Development Plans (page 137 of our agenda) showing the “MS Marine Shed” frontage applying to the facades of buildings on either side of the 60m wide entrance to the MIP on Launch Road (which would include the existing building owned by the submitter) and the absence of reference to that frontage in the small location plan for Frontage Rule 4.3 – MS Marine Shed Rules (page 153 of our agenda).
54. The latter appeared to us to be an error in the plan. Given the width of the large entrance and the degree to which those facades will be visible to people outside the MIP (unlike most of the rest of the area within the MIP) it seems appropriate to us that the location plan in Frontage Rule 4.3 should be amended to be consistent with Drawing 2 of the Development Plans. In relation to the submitter’s concerns about the effect of this control on its building, we have addressed this by amending condition 3(b) to afford a discretion in the application of these controls in respect of modifications or extensions to existing buildings.
55. Further to those matters, we also heard from the single submitter, Hudson Bay Holdings Ltd (“HBHL”), by its counsel Mr Littlejohn. Mr Littlejohn advised us at the outset that his client’s position had changed from opposition generally to support subject to satisfaction with the proposed conditions. He noted that the submitter is in a unique position as the only private landowner within the CDP area, and drew our attention to the existing large purpose built yacht-building facilities on the site. HBHL owns approximately 4 ha which it acquired from the Crown when it was offered back in 2000 by the Minister of Defence under s40 of the Public Works Act 1980. It has been used

by a business, Sovereign Yachts, which constructed a large and, we are told, valuable construction facility but which unfortunately is now in liquidation. Obviously, however, that activity is completely consistent with the purpose of PC13 and with the focus of this application for a CDP to establish the MIP.

56. Mr Littlejohn told us that there was an agreement between the applicant and the submitter in relation to the sale and purchase of some of the land which was integral to the layout of the MIP, including the re-alignment of Launch Road. He noted that this agreement had not settled and was the subject of litigation. It is not appropriate for us to comment further on *sub judice* matters in this decision. It is sufficient to note that we accept Mr Littlejohn's submission (which was not contested) that in the circumstances his client is to be treated as the owner of some of the land within the CDP area.
57. The issue requiring a decision from us is the appropriateness of the proposed CDP provisions in circumstances where some of the land within the MIP is not owned by the consent holder and which may be developed otherwise than as part of the consent holder's programme. Mr Littlejohn acknowledged that an applicant for resource consent did not need not be the owner of the relevant land and that a consent authority could grant consent to one person in respect of another person's land. The issue for the consent authority is whether any inability of the grantee of consent to gain access to the land amounts to a reason why consent should not be granted or is a matter that ought to be addressed in conditions. No-one suggested that there was any reason why we were precluded from granting consent to the applicant in relation to land which included the submitter's property, but Mr Littlejohn did raise certain issues concerning conditions with us, including:
- (i) The appropriateness of the proposed controls in condition 3 on height, frontage and facades in relation to the submitter's existing building and the degree to which any decision of the proposed Design Review Panel would limit the rights of a building owner;
 - (ii) The appropriateness of condition 4 requiring future landowners to become members of a MIP society;
 - (iii) The appropriateness of condition 6 relating to noise insofar as the draft in the agenda purported to provide a relaxed degree of control only for occupiers of the MIP who were members of the MIP society; and
 - (iv) Recognition in condition 20 relating to Launch Road that the submitter has existing property rights in relation to the land over which the proposed re-alignment of Launch Road is intended to run.
58. These issues were responded to positively by both the applicant and the reporting officers, and amendments to conditions were offered and discussed in a constructive way during the hearing. The outcome, in our decision, is:
- (i) Condition 3(b) should be amended to provide that in respect of applications to modify or extend an existing building, the Design Rules are not performance standards but are to be treated as guidance in the form of assessment criteria to which regard must be had. This amendment recognises the issue of efficiency in the use or adaptive re-use of existing physical resources and the beneficial effects of ensuring that the design of any additions or extensions is responsive to the existing building. We see no reason to alter the provisions relating to the Design Review Panel: it is clear from condition 5 that its role in the consent

process is only to go as far as making recommendations to the consent authority and it is axiomatic that the consent authority will not be bound by any such recommendation.

- (ii) Condition 4(b) explicitly requires only future owners to be members of the MIP society, and therefore does not apply to any existing owner such as HBHL. An existing owner will therefore be free to choose whether to join or not, but a requirement that new owners join will reflect the importance of ensuring that new owners acknowledge and accept the basis on which the CDP for the MIP has been designed.
- (iii) Condition 6 is amended to remove the two-tier approach to the control of noise within the MIP, so that the same rules apply across the whole precinct. We do not see any basis in the assessment of the effects of noise or the potential for the generation of noise effects to differentiate occupiers according to membership of the MIP society.
- (iv) Condition 20 (which through other changes during the course of the hearing is now condition 24) explicitly provides for Launch Road to be a private road, only controls public access and does not purport to alter the rights on any owner of that road.

Conclusion and Decision

59. In respect of the application for resource consent for a CDP as set out in the summary at the beginning of this decision, for the reasons set out above we decide that consent should be granted subject to the conditions **attached**.

Dated at Auckland this 14th day of June 2011.



David Kirkpatrick



Alan Bradbourne



Alan Dormer

APPENDIX 1 CONDITIONS OF CONSENT

Conditions

Pursuant to section 108 of the RMA, this consent is subject to the following conditions:

Commencement When All Charges Paid

Pursuant to section 116 of the RMA, this consent (or any part thereof) shall not commence until such time as all charges pursuant to section 36 of the RMA owing at the time the Council's decision is notified are paid in full to the Council.

1. General

Development of the MIP Precinct shall proceed:

(a) generally in accordance with the following Comprehensive Development Plan Application documentation lodged 11 December 2009 and all subsequent amendments.

- **Planner's Report / AEE**

"VOLUME 0 – HOBSONVILLE MARINE INDUSTRY PRECINCT COMPREHENSIVE DEVELOPMENT PLAN. WAITAKERE PROPERTIES LIMITED. November 2009 (updated February 2011)", prepared by Peter Reaburn of Cato Bolam Consultants Limited.

- **Design Interfaces**

"Volume 3 – Design Interfaces", prepared by Cato Bolam Consultants Limited and Architectus Auckland.

"Marine Industrial Precinct: CDP dated: 25 May 2011 Signed: Sean Bignell, Chief Executive of Hobsonville Land Company.

- **Infrastructure Assessment and Stormwater Management Report**

"Volume 4 – INFRASTRUCTURE ASSESSMENT HOBSONVILLE MARINE PRECINCT COMPREHENSIVE DEVELOPMENT PLAN FOR WAITAKERE PROPERTIES LIMITED. MSC REF: 28166. Revision 1: November 2009", prepared by Kevin Wyborn of MSC Consulting Group Limited.

Including:

"WAITAKERE PROPERTIES LTD. MARINE INDUSTRY PRECINCT STORMWATER MANAGEMENT CONCEPT REPORT. Description of proposed stormwater management for MIP. 24th November 2009", prepared by Stormwater Solutions.

Infrastructure and Stormwater Addendum

"Marine Industry Precinct Stormwater Management Concept Report. CDP application: additional information with respect to proposed stormwater management for MIP. 16th March 2010", prepared by Stormwater Solutions Consulting Limited, including plans:

- Plan SK04 – "Hobsonville Yard 37. 100yr ARI Overland Flow Paths. Dwg No: 1099/V14/SK04. Date: 10 March 2010", prepared by Stormwater Solutions Consulting Limited.

- Concept Water Supply Plans: Option 1 and Option 2 (including: Dwg No: 127291-300 Rev C).

Other related infrastructure and stormwater documentation

Additional plan titled: "Project: Hobsonville Company LTD. Hobsonville Peninsula. Title: Preliminary Wastewater Reticulation Layout Overall. Drawing No: 127291-400. Rev: B. 16/12/08", prepared by Harrison Grierson.

Letter titled: "Hobsonville Marine Industry Precinct. CDP S92 Request for Additional Information. 30320C. 28 May 2010", prepared by Kevin Wyborn of MSC Consulting Group Limited.

Untitled email outlining LID and screen planting associated with Roads B and D, prepared by Peter Reaburn of Cato Bolam Consultants Limited.

Letter titled: "Hobsonville Land Company Approval: Yard 37 ARC Consent Applications. HD 06 06 01 : A108091. 30 June 2010", signed by Sean Bignell of Hobsonville Land Company.

- **Transport Management Plan**

"Volume 5 – Hobsonville Marine Industry Precinct Transport Management Plan. 25 November 2009. Status: F. Reference: R1F091125", prepared by Qing Li and Angie Crafer of FLOW Transportation Specialists.

Other related transport documentation:

"Hobsonville Marine Industry Precinct – Section 92 Responses. 18 March 2010", prepared by Angie Crafer of FLOW Transportation Specialists.

"ACCESS TO MIP WITH ADDITIONAL 10,000m² DEVELOPMENT. 6 July 2010", prepared by Angie Crafer of FLOW Transportation Specialists.

"Marine Industry Precinct – Response to 1 June 2010 Workshop. 4 June 2010", prepared by Angie Crafer of FLOW Transportation Specialists.

Letter titled: "Re: HOBSONVILLE MARINE INDUSTRY PRECINCT CDP. Our Ref: 26922. 9 July 2010", prepared by Peter Reaburn of Cato Bolam Consultants Limited.

Letter titled: "Hobsonville Marine Industry Precinct – Launch Road – General Parameters. Date 29 June 2010", prepared by Brett Archer.

- **Heritage Management Plan**

"Volume 6 – No 4 (WASP) HANGAR. FORMER HOBSONVILLE AIRBASE, HOBSONVILLE. A HERITAGE MANAGEMENT PLAN. October 2009", prepared by Dave Pearson Architects Limited.

"FORMER No 1 HANGAR (GYMNASIUM). FORMER HOBSONVILLE AIRBASE, HOBSONVILLE. HISTORICAL RECORD. October 2009", prepared by Dave Pearson Architects Limited.

"FORMER No 3 HANGAR. FORMER HOBSONVILLE AIRBASE, HOBSONVILLE. HISTORICAL RECORD. October 2009", prepared by Dave Pearson Architects Limited.

- **Assessment of Landscape and Visual Effects**
“Volume 7 – Proposed Hobsonville Marine Industry Precinct. COMPREHENSIVE DEVELOPMENT PLAN. ASSESSMENT OF LANDSCAPE AND VISUAL EFFECTS. Prepared for Waitakere Properties Ltd. 25 November 2009. Status: FINAL. Reference: A08299_005_20091125”, prepared by Rachel de Lambert of Boffa Miskell Limited.
- **Additional Landscape and Visual plans:**
“Hobsonville MIP. Figure B – Zone of Visual Influence Plan. Date: 21/04/2010”, prepared by Boffa Miskell Limited.

“Hobsonville MIP. Figure A – Large Context Plan. Date: 21/04/2010”, prepared by Boffa Miskell Limited.
- **Archaeological Assessment**
“Volume 8 – HOBSONVILLE AIRBASE MARINE INDUSTRY PRECINCT: ARCHAEOLOGICAL ASSESSMENT. Report prepared for Cato Bolam Consultants Ltd and The Hobsonville Land Company. October 2009”, prepared by Rod Clough and Sarah Macready of Clough & Associates Limited.
- **Acoustic Assessment**
“Volume 9 – ACOUSTIC ASSESSMENT for the COMPREHENSIVE DEVELOPMENT PLAN of HOBSONVILLE MARINE INDUSTRY SPECIAL AREA. Report No: 850v1. November 2009”, prepared by Rhys Hegley of Hegley Acoustic Consultants.

Acoustic addendum
“Summary of Acoustic Design for the Hobsonville CDP. 16 June 2010”, prepared by Rhys Hegley of Hegley Acoustic Consultants.
- **Assessment of Ecological Effects**
“Volume 10 – Hobsonville Marine Industry Precinct. Preliminary Assessment of Ecological Effects. Construction and Operation of Stormwater Ponds. Widening of Launch Road. Prepared for Waitakere Properties Ltd. October 2009. Status: FINAL. Reference: T09024”, Dr Sharon De Luca Abbott and Dr Leigh Bull of Boffa Miskell Limited.
- **Environmental Management Plan and Air Discharge Management Plan**
“Volume 11 – REPORT: WAITAKERE PROPERTIES. Hobsonville Marine Industry Special Area. Environmental Management Plan. May 2009. T&T Ref: 25607”, prepared by Rob Van de Munckhof of Tonkin and Taylor Limited.

Including:

“REPORT: WAITAKERE PROPERTIES. Hobsonville Marine Industry Special Area. Air Discharge Management Plan. November 2008. T&T Ref: 25607”, prepared by Rob Van de Munckhof of Tonkin and Taylor Limited.
- **Contamination Assessment**
“Volume 12 – REPORT: WAITAKERE PROPERTIES LTD. Hobsonville Marine Industry Precinct. Soil contamination assessment. October 2009. T&T Ref: 25607.004”, prepared by Lean Phuah of Tonkin and Taylor Limited.

- **Geotechnical Assessment**

“Volume 13 - REPORT: WAITAKERE PROPERTIES LTD. Geotechnical Investigations Proposed Hobsonville Marine Industry Precinct, Former Hobsonville Airbase, Hobsonville. May 2009. T&T Ref: 25607.001”, prepared by Cliff Edwards of Tonkin and Taylor Limited.
- **Arboricultural Assessment**

“Subject: Arboricultural Assessment – Marine Precinct Hobsonville. Ref: 15086. Date: 30 October 2009. Revised: 5th March 2010”, prepared by Karl Burgisser of Arbolab.
- **Cultural Impact Assessment**

“Volume 15 – CULTURAL HERITAGE REPORT. HOBSONVILLE PENINSULA IN ASSOCIATION WITH HOBSONVILLE LAND COMPANY LTD. TE KAWERAU A MAKI. February 2008”, prepared by Te Kawerau a Maki.
- **Retail**

Letter titled: “HOBSONVILLE MIP CDP APPLICATION – LUC2009-1555. Our Ref: 26922. 8th July 2010”, prepared by Peter Reaburn of Cato Bolam Consultants Limited.
- **Sustainable Development Framework**

“Volume 16 – Sustainable Development Framework for Hobsonville: Summary Document. Version 1a. December 2008”, prepared by Hobsonville Land Company Limited.
- **Submitted Drawings**
 - “AERIAL PLAN. C.100. Rev: A. 19/11/09”. (11 December 2009)
 - “GENERAL ARRANGEMENT PLAN. RC.107. Rev: A. 16.11.09”.
 - “CURRENT LAND OWNERSHIP. C.112. Rev: E. 05.07.10”.
 - “PROPOSED LAND OWNERSHIP. C.113. Rev: E. 05.07.10”.
 - “STORMWATER CATCHMENTS STAGE 1. C.114. Rev: F. 05.07.10”.
 - “STORMWATER CATCHMENTS BEYOND STAGE 1. C.115. Rev: E. 05.07.10”.
 - “INDICATIVE STAGING PLAN. RC.120. Rev: A. 23.11.09”.
 - “PROPOSED FINISHED CONTOURS PLAN. RC.205. Rev: A. 19.11.09”.
 - “PROPOSED EARTHWORKS STAGING PLAN. RC.211. Rev: A. 23.11.09”.
 - “SITE CROSS SECTION KEY PLAN. RC.217. Rev: A. 23.11.09”.
 - “SITE CROSS SECTIONS SHEET 1 OF 2. RC.218. Rev: A. 23.11.09”.
 - “SITE CROSS SECTIONS SHEET 2 OF 2. RC.219. Rev: A. 23.11.09”.
 - “EROSION & SEDIMENT CONTROL PLAN STAGE 1. RC.220. Rev: A. 23.11.09”.
 - “EROSION & SEDIMENT CONTROL PLAN STAGE 2A. RC.221. Rev: A. 23.11.09”.
 - “EROSION & SEDIMENT CONTROL PLAN STAGE 2B. RC.222. Rev: A. 23.11.09”.
 - “EROSION & SEDIMENT CONTROL PLAN STAGE 3. RC.223. Rev: A. 23.11.09”.
 - “EROSION & SEDIMENT CONTROL STANDARD DETAILS – SHEET 1 OF 2. RC.224. Rev: A. 23.11.09”.
 - “EROSION & SEDIMENT CONTROL STANDARD DETAILS – SHEET 2 OF 2. RC.225. Rev: A. 23.11.09”.
 - “PROPOSED ROADING LAYOUT. C.300. Rev: B. 29.06.10”.
 - “ALIGNMENT KEY PLAN. C.301. Rev: B. 29.06.10”.

- "GENERAL NOTES. C.302. Rev: B. 29.06.10".
- "HOBSONVILLE POINT ROAD PLAN AND LONG SECTION SHEET 1 OF 5. C.303. Rev: A. 29.06.10".
- "HOBSONVILLE POINT ROAD PLAN AND LONGSECTION SHEET 2 OF 5. C.304. Rev: A. 29.06.10".
- "HOBSONVILLE POINT ROAD PLAN AND LONG SECTION SHEET 3 OF 5. RC.305. Rev: B. 29.06.10".
- "HOBSONVILLE POINT ROAD PLAN AND LONG SECTION SHEET 4 OF 5. RC.306. Rev: B. 29.06.10".
- "HOBSONVILLE POINT ROAD PLAN AND LONG SECTION SHEET 5 OF 5. RC.307. Rev: B. 29.06.10".
- "LAUNCH ACCESS WAY PLAN AND LONG SECTION SHEET 1 OF 3. RC.308. Rev: B. 29.06.10".
- "LAUNCH ACCESS WAY PLAN AND LONG SECTION SHEET 2 OF 3. RC.309A. Rev: B. 29.06.10".
- "LAUNCH ACCESS WAY PLAN AND LONG SECTION SHEET 3 OF 3. RC.309B. Rev: A. 29.06.10".
- "ROAD B PLAN AND LONG SECTION SHEET 1 OF 3. C.310. Rev: B. 29.06.10".
- "ROAD B PLAN AND LONG SECTION SHEET 2 OF 3. C.311. Rev: B. 29.06.10".
- "ROAD B PLAN AND LONG SECTION SHEET 3 OF 3. C.312. Rev: B. 29.06.10".
- "ROAD C PLAN AND LONG SECTION SHEET 1 OF 3. C.313. Rev: B. 30.06.10".
- "ROAD C PLAN AND LONG SECTION SHEET 2 OF 3. C.314. Rev: B. 30.06.10".
- "ROAD C PLAN AND LONG SECTION SHEET 3 OF 3. C.315. Rev: B. 30.06.10".
- "ROAD D PLAN AND LONG SECTION SHEET 1 OF 3. C.316. Rev: B. 30.06.10".
- "ROAD D PLAN AND LONG SECTION SHEET 2 OF 3. C.317. Rev: B. 30.06.10".
- "ROAD D PLAN AND LONG SECTION SHEET 3 OF 3. C.318. Rev: B. 30.06.10".
- "HOBSONVILLE POINT ROAD CROSS SECTIONS SHEET 2 OF 5. RC.322. Rev: A. 19.11.09".
- "HOBSONVILLE POINT ROAD CROSS SECTIONS SHEET 3 OF 5. RC.323. Rev: A. 19.11.09".
- "HOBSONVILLE POINT ROAD CROSS SECTIONS SHEET 4 OF 5. RC.324. Rev: A. 19.11.09".
- "HOBSONVILLE POINT ROAD CROSS SECTIONS SHEET 5 OF 5. RC.325. Rev: A. 19.11.09".
- "LAUNCH ACCESS WAY CROSS SECTIONS SHEET 1 OF 3. RC.326. Rev: A. 19.11.09".
- "LAUNCH ACCESS WAY CROSS SECTIONS SHEET 2 OF 3. RC.327. Rev: A. 19.11.09".
- "LAUNCH ACCESS WAY CROSS SECTIONS SHEET 3 OF 3. RC.328. Rev: A. 19.11.09".
- "ROAD B CROSS SECTIONS SHEET 1 OF 3. C.329. Rev: B. 30.06.10".
- "ROAD B CROSS SECTIONS SHEET 2 OF 3. C.330. Rev: B. 30.06.10".
- "ROAD B CROSS SECTIONS SHEET 3 OF 3. C.331. Rev: B. 30.06.10".
- "ROAD C CROSS SECTIONS SHEET 1 OF 2. C.332. Rev: B. 30.06.10".
- "ROAD C CROSS SECTIONS SHEET 2 OF 2. C.333. Rev: B. 30.06.10".
- "ROAD D CROSS SECTIONS SHEET 1 OF 3. C.334. Rev: C. 30.06.10".

- “ROAD D CROSS SECTIONS SHEET 2 OF 3. C.335. Rev: C. 30.06.10”.
- “ROAD D CROSS SECTIONS SHEET 3 OF 3. C.336. Rev: B. 30.06.10”.
- “TYPICAL ROAD CROSS SECTIONS HOBSONVILLE POINT ROAD. C.365. Rev: B. 30.06.10”.
- “TYPICAL ROAD CROSS SECTIONS LAUNCH ACCESS WAY. C.366. Rev: B. 30.06.10”.
- “TYPICAL ROAD CROSS SECTIONS ROAD B. C.367. Rev: B. 30.06.10”.
- “TYPICAL ROAD CROSS SECTIONS ROAD C. C.368. Rev: B. 30.06.10”.
- “TYPICAL ROAD CROSS SECTIONS ROAD D. C.369. Rev: B. 30.06.10”.
- “OVERALL DRAINAGE RETICULATION LAYOUT. RC.400. Rev: D. 16.06.10”.
- “DRAINAGE PLAN SHEET 3 OF 6. C.404. Rev: B. 16.06.10”.
- “OVERALL DRAINAGE RETICULATION LAYOUT. SHEET 1 OF 2. Dwg No: C.410. Revision A. 28.05.10”.
- “PROPOSED OVERALL WATER SUPPLY PLAN. SHEET 1 OF 2. Dwg No: C.606. Revision A. May 2010”.
- “PROPOSED OVERALL WATER SUPPLY PLAN. SHEET 2 OF 2. Dwg No: C.607. Revision A. May 2010”.
- “HOBSONVILLE – MARINE INDUSTRY PRECINCT. Catalina Pond Typical Cross Section. Dwg No: 1088/LR/SK05/A. Date: 15 Mar 2010”, prepared by “T.G.” of Stormwater Solutions.

(b) in accordance with the following conditions of consent.

In the event of any conflict between the CDP application and the following conditions (including the condition requiring compliance with the “Urban Design Rules & Design Guidelines – Final Version” document referred to in Condition 3), the following conditions prevail.

2. Consent Staging

- (a) The first subsequent resource consent application for the development shall, as a minimum, include details of the construction of Launch Road and adjoining revegetation.
- (b) There shall be no further development within the MIP area that requires a wastewater connection until a wastewater system is provided to the satisfaction of the Manager, Resource Consents.
- (c) There shall be no further development within the MIP area that requires a stormwater connection until a stormwater system is provided to the satisfaction of the Manager, Resource Consents.
- (d) There shall be no further development within the MIP area that requires a water connection for drinking and/or fire fighting purposes until a water supply system including for fire fighting is provided to the satisfaction of the Manager, Resource Consents.
- (e) There shall be no further development within the MIP area beyond a limit of 10,000m² GFA until Hobsonville Point Road is fully constructed.

3. Urban Design Rules and Design Guidelines

- (a) The “Urban Design Rules & Guidelines – March 2011 | Version T.3” document shall be updated to include the following changes:

- (i) Separate Rule BD9 into two separate rules as follows:-

BD.9a The finished ground level of buildings at street frontages shall be no higher or lower than 500mm from adjacent finished ground level.

BD.9b The main pedestrian entrance to the building shall be directly accessible and level entry shall be provided to the building.

- (ii) Delete Rules BD 7, MU8, MSMU5, LS8, and MP8.

- (iii) Amend Section 4.8 as follows:-

CO Colours Colour refers to all external facade colours and materials. Recessive non-reflective colours are desirable to reduce the visual impact of the MIP sheds in accordance with figures **4.8.A** and **4.8.B**. The existing WASP Hangar identified on Development Plan DP 1 shall comply with the design guidance with regard to colour that is provided by the ICOMOS charter principles.

- (iv) Add the following to the end of BD6 – “including consideration of acoustic effects”.

- (v) An updated “Consent Conditions” section that incorporates the decision version of all MIP CDP conditions.

- (vi) any further minor corrections as may be necessary

- (b) All development shall proceed, as relevant, in accordance with the revised document to be titled “Hobsonville Marine Industry Precinct Urban Design Rules & Design Guidelines – Consent Version”. All parts of that document referred to as being “Design Rules” (in Part B of that document) shall be regarded as being matters to be met as a condition of this consent, except where an application involves modifications and extensions to buildings existing within the MIP as at 26 May 2011. All parts of that document referred to as being “Design Guidance” (in Part C of that document) shall be regarded as assessment criteria to be considered in the preparation of resource consent applications.

In the case of modifications or extensions to existing buildings regard shall be had to the Urban Design Rules & Design Guidelines, particularly with regard to street frontages.

4. Legal Entities

- (a) The consent holder shall form an incorporated society, the Marine Precinct Society (MPS) which shall be responsible for managing the common facilities and for all of the ‘global’ requirements for the MIP.

The MPS rules shall provide for:

- controlling access, parking and traffic management.
 - promotion of sustainable transport.
 - maintenance of all shared infrastructure and common areas.
 - applications for and administration of any resource consents required under regional plans for stormwater discharges.
 - Adherence to the Operational Noise Management Plan (as required by Condition (27)).
 - pre-approval of all noise and air components of resource consent applications (that approval to be submitted to Auckland Council with the application).
 - HSNO plans.
- (b) All future owners of the individual boat yards shall be required to be a member of the MPS and covenant to perform the obligations of members as set out in the constitution and society rules.
- (c) The MPS shall appoint a professional manager with respect to ongoing management, maintenance, landscaping of common areas and any other services the MPS considers desirable.

5. Design Review Panel

- (a) The consent holder shall form a Design Review Panel (DRP).
- (b) Membership of the DRP shall be constituted from a single representative each of:
- The Marine Precinct Society
 - The Auckland Council being a person with appropriate qualifications and experience in architecture, urban design or commercial development).
 - an independent architect/urban designer (approved by the Auckland Council).
- (c) The functions of the DRP shall be to:
- Brief Applicants and interested other parties on the intent of the “Hobsonville Marine Industry Precinct: Urban Design Rules & Design Guidelines – Final Version” and design related CDP Consent Conditions and, where required, to provide clarification on intent;
 - Prepare and agree upon a pro-forma for written recommendations on the application of and alignment of a proposed design with the intent of the Hobsonville Marine Industry Precinct: Urban Design Rules & Design Guidelines – Consent Version”
 - Review the content and scope of the Hobsonville Marine Industry Precinct: Urban Design Rules & Design Guidelines – Consent Version” from time to time validate the contents and where identified as advisable make recommendations on amendments to the Developer;
 - Review Land Use applications relating to land in the MIP, including (but not necessarily restricted to) recommendations and commentary in relation to any relevant matter contained within the Hobsonville Marine Industry Precinct: Urban Design Rules & Design Guidelines – Consent Version”
 - Respond to any requests for clarification from the Developer and/or the consent holder relating to the written recommendations and commentary issued by the Design Review Panel;
 - Prepare and issue to the consent holder written recommendations and commentary on the submitted design information in accordance with the review

process;

- (d) A copy of the final recommendations and commentary of the DRP must be lodged by the consent holder with any resource consent applications relating to land in the MIP.

6. Noise

Operational noise associated with marine activities within the MIP are required to meet the noise limits set out in the following table as measured at any part of the receiving site:

| Area | 7:00am to 7:00pm Monday to Saturday | 7:00pm to 10:00pm Monday to Saturday 7:00am to 10:00pm Sunday and Public Holidays | 10:00pm to 7:00am Monday to Sunday |
|--|--|---|---|
| Hobsonville Landing Special Area and boundary between the MIP and Eastern Interface —see Note 2) | 65dBA L ₁₀ at all times | | |
| Hobsonville Base Village Special Area | 55dBA L ₁₀ | 50dBA L ₁₀ | 45dBA L ₁₀ & 70dBA L _{max} |
| Future Urban Development Special Area | 55dBA L ₁₀ | 50dBA L ₁₀ | 45dBA L ₁₀ & 70dBA L _{max} |

Noise shall be measured in accordance with NZS6801:1991 Acoustics - Measurement of Sound and assessed in accordance with NZS 6802:1991 Acoustics - Assessment of Environmental Sound.

Note 1: The noise standards applying to the Launch Road shall be those applying to the Transport Environment.

Note 2: "Eastern Interface" is defined as areas 3A and 3B on the land ownership plan, page 11 of the Assessment of Environmental Effects (Cato Bolam February 2011).

Note 3: Note that the noise levels in this condition apply to the whole of the MIP and include the cumulative noise levels from all individual sites within the MIP.

7. CPTED and IPTED

CPTED and IPTED statements including demonstration of compliance with the relevant aspects of the 'National Guidelines for Crime Prevention through Environmental Design' shall be submitted with all resource consent applications for new development that involve an interface with the public domain (e.g.: roads, access, reserves).

8. Roads

All road network and ancillary facilities shall be designed in accordance with the latest

Austrroads, NZTA and Auckland Council design standards and guidelines (including Code of Practice and where applicable Auckland Transport guidelines) as well as NZS 4121:2001, NZS 4121:1985 and RTS 14 Guidelines for Facilities for Blind and Vision Impaired Pedestrians. Where there is a conflict between standards or there are no clear guidelines, written approval shall be sought from the Manager, Resource Consents.

9. Bus stops and cycle storage

- (a) Prior to the construction of roads, a plan of the proposed location and dimensions of kerbside bus stops shall be submitted for the approval of the Manager, Resource Consents.
- (b) At each resource consent application proposals are to be submitted making suitable provision for cycle storage.

Note: Separate approval may be required from Auckland Transport.

10. Footpaths

Road B (also referred to as Southern Boundary Road – SB1) shall have two footpaths; one located along the northern edge of the carriageway and one along the southern edge of the carriageway.

11. Access and carparking

Prior to the construction of any buildings (under subsequent resource consent applications), details of the proposed access driveway and car parking surface treatment shall be submitted to the Manager, Resource Consents for approval.

Note: Separate approval may be required from Auckland Transport.

12. Infrastructure and Earthworks

An updated Infrastructure Assessment (November 2009, MSC REF: 28166. Revision 1) prepared by MSC Consulting Group Ltd is to be submitted for the approval of Council's Development Engineer and shall include but not be limited to the following changes:

- A conventional system with minimum diameter of pipes change to achieve CoP standards).
- Self cleansing velocity changed from 0.65m/s to 0.75m/s.
- Minimum diameter of the pipes changed from 160mm OD PE pipe to 180mm OD to the standards outlined in the Code of Practice for City Infrastructure and Land Development.

Subsequent resource consent applications for development of any activities shall be required to submit design details in accordance with the approved Infrastructure Assessment report. The necessary water supply including for fire fighting purposes, wastewater, electricity and telecommunications infrastructures are to be in place prior

to the occupation of each stage of building development.

All earthworks activities shall adhere to the recommendations of the Geotechnical Assessment (May 2009. T&T Ref: 25607.001) prepared by Tonkin & Taylor Ltd.

Note: In respect of the sewer pump station in "The Landing" area Council notes that the details of this sewer pump station, including final location and design, are to be determined at the first stage of any subsequent resource consent application requiring a new sewer to be constructed.

13. Integrated Catchment Management Plan and Network Discharge Consent

Either prior or at the time of the resource consent application for Launch Road (noting Condition 2(a)) evidence needs to be provided of the Network Consents, Team Manager – Special Projects (Auckland Council) approval of changes to the NDC and/or ICMP.

14. Stormwater

Prior to the establishment of impermeable surfaces at each stage of development, the stormwater infrastructure required to serve that development shall be constructed and connected in general accordance with the Infrastructure Assessment (November 2009, MSC REF: 28166. Revision 1: November 2009) prepared by MSC Consulting Group Ltd and provide the final layout plans for drainage and water supply for approval by Council's Development Engineer.

15. Impermeable Surfaces

Impermeable surfaces shall be limited to 90% of the CDP area. As part of the information required on all resource consent applications for development of any activities confirmation of compliance with the approved Plan shall be provided.

16. Environmental Management

As part of the information required on a resource consent application all proposed activities shall undertake an assessment of the potential for the activity to result in discharges of contaminants into land/water. This assessment shall have regard to the Environmental Management Plan (May 2009. T&T Ref: 25607) prepared by Tonkin & Taylor Ltd and shall include the following:

- Identification of activities that may discharge contaminants onto land and/or into water that are specific to the activity;
- Identification of how the activities identified above will be managed to minimise the potential for discharges onto land and/or into water.
- Preparation of a site specific Environmental Management Plan prepared by a suitably qualified person to include the items above as well as the requirements of Section 5 of the Environmental Management Plan (May 2009. T&T Ref: 25607) prepared by Tonkin & Taylor Ltd.
- Confirmation that the requirements of this plan will be met by the proposed activity.

17. Air Management

- (a) The provisions of the Air Discharge Management Plan [ADMP] are designed to be consistent with the provisions of the Auckland Regional Plan Air Land Water Plan [ARP:ALW]. Any changes to that Plan will require an update to the Air Discharge Management Plan (November 2008. T&T Ref: 25607) prepared by Tonkin & Taylor Ltd.
- (b) As part of the information required on a resource consent application all proposed activities shall undertake an assessment of the potential for the activity to result in discharges of contaminants into air. This assessment shall have regard to the Air Discharge Management Plan (November 2008. T&T Ref: 25607) prepared by Tonkin & Taylor Ltd and shall include the following:
- Identification of activities that may discharge contaminants onto air, including dust, solvents and odour.
 - An assessment of activities against the rules in the ARP:ALW to determine if an Air Discharge Consent is required. If an Air Discharge Consent is required, the Auckland Council should be contacted to determine the requirements for the consent application.
 - An assessment of the proposed location of all discharge points that have the potential to create a nuisance or other adverse effect associated with the activity to ensure maximum separation distances are adopted. All discharge points should be located the maximum possible distance from any adjacent residential or sensitive properties.
 - An assessment of the methods chosen to minimise the potential discharges to air, including consideration of methods outlined in Section 4 of the Air Discharge Management Plan. If the activity as minimum standards outlined in Section 4, evidence that the minimum standards have been met is required.
 - Confirmation that no activities that have the potential to generate dust, solvents or odour will be undertaken outside an enclosed building.
 - Confirmation that no discharge point that has the potential to create a nuisance or other adverse effect is located within 20m of the boundary with Areas dd, Hobsonville Base Village Special Area, Hobsonville Future Development Special Area, Hobsonville Landing Special Area, or any residential property.

18. Vegetation Management

The four revegetation areas listed below are to be developed in accordance with a Vegetation Management Plan (VMP) submitted for approval by the Manager, Resource Consents with the first stage resource consent application for the Launch Road. The VMP should identify areas of vegetation to be removed, areas to receive mitigation effort, details around weed control and pest control, species and density of revegetation species, ongoing plant maintenance and monitoring, and avian and herpetological issues (including but not limited to: bird and lizard surveys, relocation, habitat effects and mitigation).

The VMP shall:-

- (a) Be consistent with planting proposals as shown on "DP 4 – Vegetation & Open Space Plan" of the "Hobsonville Marine Industry Precinct: Urban Design Rules &

Design Guidelines – Consent Version”.

- (b) Identify the removal of inappropriate exotic species, including weeds, staggered over a number of years to allow the coastal revegetation planting to continue to provide screening to the MIP.
- (c) How mitigation planting is to be integrated with existing vegetation along the estuary edge and forest areas, to increase the overall area vegetated and ensure consistency of vegetation community.
- (d) How mitigation planting is to enhance terrestrial, riparian and estuarine habitats and strengthen ecological linkages between these ecosystems, thereby mitigating the overall effects of the proposed works.
- (e) Identify specific species for revegetation.
- (f) A layout and design for open spaces providing for ecological values as well as recreational and amenity functions of open space.
- (g) The Stormwater ponds designed with enough space so that fencing is not required in relation to the ponds.
- (h) Identify the staging for completion of all works in accordance with condition 19(a).
- (i) Provide details of agreement with the Hobsonville Land Company for any works proposed outside the CDP area.
- (j) All details must comply with the Council's code of practice specifications.

The four revegetation areas are:

1. Between the proposed Launch Road and the Landing
2. Between the proposed Launch Road and Harrier Point (south)
3. Area DD3
4. Area DD2

19. Street, Buffer and Temporary Planting

- (a) The southern and south-western rows of temporary tree planting and coastal revegetation shall be carried out no later than the 2012 planting season (that is, May – September 2012) and shall be as shown on the Landscape Staging Diagram in “Section 5.7” and in general accordance with “DP4 – Vegetation & Open Space Plan” of the “Hobsonville Marine Industry Precinct: Urban Design Rules & Design Guidelines – Consent Version”.
- (b) Populus species shall be the trees used for the southern and south-western rows of temporary tree planting shown on “DP4 – Vegetation & Open Space Plan” of the Hobsonville Marine Industry Precinct: Urban Design Rules & Design Guidelines – Consent Version” and Quercus species are to be omitted.
- (c) All street planting in the southern buffer planting (BB1) and the western buffer planting (BB2) shown on pages 29 and 30 of the “Hobsonville Marine

Industry Precinct: Urban Design Rules & Design Guidelines – Consent Version”, shall be implemented within one season after completion of any buildings on their respective road frontages.

- (d) The minimum stock size for street tree planting is to be PB95 and/ or equivalent and the height range to be between 2.0m and 4.0m.
- (e) All planting details and maintenance must comply with the Council’s Code of Practice.
- (f) All details including species and layout must be provided for approval by the Parks and Recreation Adviser.

20. Heritage Management

Development of the Marine Plaza and restoration works associated with the WASP Hanger, adjoining shed and surrounding paved/landscaped area shall proceed in accordance with the recommendations made within the Number 4 (WASP) Hanger, Heritage Management Plan (October 2009) prepared by Dave Pearson Architects Limited.

21. Archaeology

- (a) If sub-surface pre-1900 archaeological evidence should be unearthed during construction (e.g. intact shell midden, hangi, storage pits relating to Maori occupations, or cobbled floors, brick or stone foundation, and rubbish pits relating to the 19th century European occupation) work must cease in the immediate vicinity of the remains and the project archaeologist and/or Historic Places Trust contacted.
- (b) If modification of a pre-1900 archaeological site does become necessary, an Authority to modify an archaeological site must be applied for under Section 11 of the Historic Places Act 1993 and granted prior to any further work being carried out that will affect the site.
- (c) In the event of koiwi (human remains) being uncovered, work should cease in the immediate vicinity and the tangata whenua, Historic Places Trust and the NZ Police should be contacted so that appropriate arrangements can be made.

22. Contaminated Areas

Resource consent applications for development of any activities or any earthwork activities will be required to adhere to the recommendations of the Soil Contamination Assessment (October 2009. T&T Ref: 25607.004) prepared by Tonkin & Taylor Ltd. A site management plan, (prepared in accordance with Contaminated Land Management Guidelines 1: Guideline for Reporting on Contaminated Sites in New Zealand, Ministry for the Environment, 2001) is required to be submitted prior to commencing any excavation and/or redevelopment works in potentially contaminated areas, and can be staged to cover one or a number of redevelopment zones.

23. Eastern Interface Land

No later than the time of any subdivision (including boundary adjustments) relating to the MIP land, land covenants or equivalent legal mechanisms to the satisfaction of the Manager, Resource Consents are to be placed on the Eastern Interface land requiring:-

- Residential and/or mixed use buildings will be constructed that are of a scale and height to assist visual mitigation from North Shore viewpoints (Note: the consent notices shall not require any details of design, location or timing); and
- that the general bulk/height, location and density of development in the Eastern Interface will be such that development within this area clearly addresses the sensitive coastal edge; and
- that the general bulk/height, location and density of development in the Eastern Interface will be such that development achieves a foreground of built form and screening between the future marine sheds and the wider coastal landscape.

24. Launch Road

Launch Road is to be a private road in terms of section 315 Local Government Act 1974. It shall be subject to a consent notice at the stage of its creation by subdivision. The consent notice shall require the consent holder to :-

- (a) Provide details of appropriate on-going maintenance of Launch Road;
- (b) Allow public access in perpetuity, except that the private road may be closed for operational reasons from time to time as a result of boat movements. Closures shall:
 - (i) be on weekdays (excluding public holidays) between the hours of 7:00am – 7:00pm, unless for emergency purposes;
 - (ii) be for the minimum time necessary to transport a boat or vessel from the MIP to the water (or vice versa);
 - (iii) avoid undue disruption to public use of the private road to the extent possible;

25. Launch Road – Transport Management Plan

A Transport Management Plan shall be provided either prior or at the time of the resource consent application for Launch Road (noting Condition 2(a)) for the written approval of the Manager, Resource Consents. The Transport Management Plan shall include (but not limited to) the following:

- Details for three types of closures: (i) standard; (ii) larger vessels; and, (iii) emergencies.
- Management provisions for the timing, duration and frequency of closures of Launch Road under condition 24.
- Identify that a safety assessment has been completed and will be implemented to ensure that all road users are safe during the period of road closure, as part of the CPTED and IPTED assessments.
- Identify the existing uses at the Landing that would be affected by the Launch

Road closure and the adequacy of using Hudson Bay Road Extension during closure.

- Identify the extent of notification, e.g. notices to the general public and to specific parties, and the manner of notification, e.g. physical signs, newspapers, websites, etc.
- Identify the party who is responsible for implementing the TMP and the enforcement authority.
- Identify how legally parked vehicles within the Launch Road will be removed prior to closure, and the times at which parking is again permitted
- Identify any barriers or protection of pedestrians during launch / retrieval when pedestrians are allowed to use the footpath along the Launch Road
- Identify how pedestrians access will be prohibited from using the Launch Road (when large boats are transported) and at what points, e.g. the bottom or top of stairs to the Landing.
- Identify how traffic will safely turn around and at what point prior to the closed section of Launch Road, and the manner of which this activity will be managed.
- Identify how and where pedestrians will be directed to use alternative access routes or be permitted to cross when the transported boat is not at the point of where pedestrians wish to cross.
- Refer to the proposed pontoon at the recreational public boat ramp where boats could tie up and wait during a boat launch / retrieval.
- Outline the procedure when there is a delay or problem in a boat launch / retrieval and whether the hours of closure will extend or the operation is deferred to the next closure.
- Outline the procedure when there is an emergency or unscheduled launch / retrieval.
- Outline how emergency vehicles will access facilities at the Landing that would normally be accessed via the Launch Road.

Any reviews/ updates to the Transport Management Plan are required to be approved in writing by the Manager, Resource Consents.

The approved Transport Management Plan shall be implemented at the completion of Launch Road and comply at all times thereafter.

26. Construction Noise and Vibration Management Plan

A Construction Noise and Vibration Management Plan shall be submitted and approved in writing by the Manager Resource Consents at the time of each subsequent resource consent application for building or development and shall detail the following:

- Finalised methodology for foundation formation, including equipment to be used and expected noise levels
- Identification of any other noisy construction activities that may potentially approach or breach the appropriate noise levels
- For each noisy activity identified, mitigation methodologies should be identified, approximate noise levels predicted (using tables from NZS6803:1999 for instance) and noise monitoring procedures specified
- Identification of any activity that may potentially approach or breach the appropriate vibration levels as specified in DIN4150:1999
- Identification of any activity likely to generate vibration, mitigation methodologies should be identified

- Corrective action measures specified should non-compliances with the permitted noise or vibration levels be detected.
- For each activity likely to generate vibration, mitigation methodologies should be identified
- Vibration levels from construction activities shall comply with the requirements of DIN4150:1999
- All noise generated by construction works associated with this consent shall comply with, and be measured and assessed in accordance with NZS6803:1999 Acoustics – Construction Noise.

The approved Construction Noise and Vibration Management Plan shall be implemented at time of construction and comply at all times thereafter.

27. Operational Noise Management Plan

An Operational Noise Management Plan prepared by a suitably qualified person shall be submitted for the approval in writing of the Manager, Resource Consents with or prior to the lodgement of the first subsequent resource consent application for a marine industry building, and shall include the methods for the control of noise between sites within the MIP.

As part of the information required on all resource consent applications for development of any activities confirmation of compliance with the approved Plan shall be provided.

Note: Adherence will also be required under Condition (4).

28. Visual Amenity

- (a) All balance land not being the subject of development shall be maintained in a tidy condition, including regular mowing of grass.
- (b) Each subsequent resource consent application shall provide an assessment of how any vacant land within the development area is to be managed and screened to ensure that it will not cause detriment to amenity values on land outside of the MIP.

29. Lighting Management Plan

A Lighting Management Plan prepared by a suitable qualified person shall be submitted for the approval in writing of the Manager, Resource Consents with or prior to the lodgement of the first subsequent resource consent application for a marine industry building. An objective of the Lighting Management Plan shall be the maintenance of a consistent and safe character throughout the MIP.

As part of the information required on all resource consent applications for development of any activities confirmation of compliance with the approved Plan shall be provided.

30. Fencing

The screening "Type 2" fencing is to be implemented as shown in the partial tenancy plan in Section 5.6 of the "Hobsonville Marine Industry Precinct: Urban Design Rules & Design Guidelines – Consent Version" with the majority of fencing to be "Type 1" transparent fencing as also shown in this plan. The details for fencing must be provided for approval at subdivision stage and be approved by the Parks and Recreation Advisor.

31. Review Condition

Pursuant to Section 128 of the Resource Management Act 1991, the Council may review any of Conditions: (6) Noise, (16) Environmental Management, (17) Air Management, (18) Vegetation Management, (20) Heritage Management, (25) Launch Road – Transport Management Plan, (27) Operational Noise Management Plan and (29) Lighting Management Plan of this consent after three (3) years and at any time thereafter for the purposes of:

- (i) Dealing with any adverse effect on the environment that may arise from the exercise of this consent at a later stage;
- (ii) Dealing with any adverse effect on the environment resulting from the exercise of this consent, including the amendment or imposition of conditions.
- (iii) Requiring the adoption of the best practicable option to remove or reduce any adverse effect on the environment.

The actual and reasonable costs incurred by the Council in undertaking this review shall be paid by the consent holder within one month of being invoiced.

32. Consent Timeframe

Pursuant to Section 123(b) of the Resource Management Act, this consent shall expire ten (10) years from the date of commencement of the consent.

Advice notes

1. Please read the conditions of this resource consent carefully and make sure that you understand all the conditions that have been imposed before commencing the development.
2. The consent holder shall obtain all other necessary consents and permits, including those under the Building Act 2004, and the Historic Places Trust Act 1993. This consent does not remove the need to comply with all other applicable Acts (including the Property Law Act 2007), regulations, relevant Bylaws, and rules of law. This consent does not constitute building consent approval. Please check whether a building consent is required under the Building Act 2004. Please note that the approval of this resource consent, including consent conditions specified above, may affect a previously issued building consent for the same project, in which case a new building consent may be required.
3. The granting of this resource consent does not in any way allow the consent holder

applicant to enter and construct drainage within neighbouring properties, without first obtaining the agreement of all owners and occupiers of said land to undertake the proposed works. Any negotiation or agreement is the full responsibility of the applicant, and is a private agreement that does not involve Council. Should any disputes arise between the private parties, these are civil matters which can be taken to independent mediation or disputes tribunal for resolution. It is recommended that the private agreement be legally documented to avoid disputes arising. To obtain sign-off for the resource consent, the services described by the conditions above are required to be in place to the satisfaction of Council.

4. Compliance with the consent conditions will be monitored by Council in accordance with section 35(d) of the Resource Management Act in order to recover actual and reasonable costs, inspections, in excess of those covered by the base fee paid, shall be charged at the relevant hourly rate applicable at the time. Only after all conditions of the Resource Consent have been met, will Council on request of the consent holder issue a letter confirming this fact.
5. In addition to any other statutory provision on heritage, demolition of any heritage feature identified in the Clough & Associates or Pearson reports should be recorded by appropriately qualified specialists and copies deposited with Auckland Council and the NZ Historic Places Trust.