



NOTICE OF MEETING

HEARING BY COMMISSIONER

I hereby give notice that a Hearing by Commissioner will be held on:-

DATE: **Tuesday, 4 March 2003** **TIME:** **9.00 am**

VENUE: **Civic Centre, 6 Waipareira Avenue, Lincoln, Waitakere City**

to consider the business as set out herein and to take any necessary action connected therewith.

25 February 2003

Owena Schuster
COMMITTEE SECRETARY

Telephone (09) 836 8000 extn 8864

MEMBERSHIP:

Commissioner Alan Watson

(The reports and recommendations contained in all agendas are reports and recommendations only and are not to be construed, in any way, as Council policy until adopted.)

**AGENDA FOR AN ORDINARY MEETING OF A HEARING BY COMMISSIONER TO BE HELD
IN THE CIVIC CENTRE, 6 WAIPAREIRA AVENUE, LINCOLN, WAITAKERE CITY,
ON TUESDAY, 4 MARCH 2003, COMMENCING AT 9.00 AM.**

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AT 15, 17/1, 17/2, 17/3, 17/4, 19, 19A/1, 19A/2, 21, 21A, 23, & 34 RIBBLESDALE ROAD, AND
58 - 68 MILLBROOK ROAD**

HENDERSON WARD

RMA 20020028

N.B. This report sets out the advice of Consent Services to an independent commissioner acting on behalf of the Hearings Committee, on the environmental issues raised by the application for resource consent. It is not the decision of the Council. The decision will be made after consideration of the application by the commissioner.

APPLICATION DETAILS

Planner: Rochelle Edwards

Site Address: 15, 17/1, 17/2, 17/3, 17/4, 19, 19a/1, 19a/2, 21, 21a, 23, & 34 Ribblesdale Road, and 58 - 68 Millbrook Road.

Applicant: EcoWater Solutions

Date Received: 11 January 2002

Building Consent No: N/a

Legal Description: Lot 4 DP 20042, Xlease DP 136877 & Xlease DP 112833), Lot 1 DP 79115, Lot 2 DP 79115, X Lease DP 120118, Lot 1 DP 48577, Lot 2 DP 48577, Lot 3 DP 48577, PT Sec 395041301, Lot 4 DP 8893, Pt Sec 33 Allot 905015260.

Address for Service: Attn: Adam Fraser
Opus International Consultants
Private Bag 5848
Auckland

Site Area: N/a

Unit Site Area(s): N/a

Transitional Plan:
Zoning: Residential, (Waitemata),
Residential & Recreation A (Henderson)
Section: Waitemata & Henderson
Hazards: No hazards were identified in the Transitional Plans

Proposed Plan:

Human Environment: Living, Open Space
Natural Area: General, 10 & 20m Riparian Margin
Landscape Elements: N/a
Hazards: Sites subject to hazard register notes pertaining to flood risk.
Roading Hierarchy: Local (Ribblesdale Road), District Arterial Road (Millbrook Road).

Further Information Required: Yes

Date Requested: 14 January 2002, 20 December 2002

Date Received: 19 November 2002, 31 January 2003

1.0 INTRODUCTION AND RECOMMENDATION

1.1 Nature of the Application

The applicant seeks Resource Consent for 77m³ of earthworks in a riparian margin associated with the improvement of inlet and outlet structures at each end of a public stormwater connection, and the construction of a new headwall around the inlet structure. Further consent is sought for the removal of exotic and native vegetation within a riparian margin. Works would also include the blocking of an underground pipe resulting in the diversion of stormwater via an above ground concrete channel, which is approximately 60m² in area. Overall, these activities would result in an infringement that is non-complying under the Proposed District Plan.

1.2 Resource Management Issues Raised

The Resource Management Act 1991 requires that, when considering an application for a resource consent, a consent authority shall have regard to the environmental effects of the proposed activity, together with any relevant objectives, policies and rules of the Transitional and the Proposed District Plan.

The proposal has the potential to create adverse effects on the quality of the watercourse arising from potential instability and uncontrolled sediment runoff. The vegetation removal has the potential to alter the existing fauna habitat within the riparian margin. At the same time it is considered that the proposal would have a positive effect on the greater public good in that it would assist in the alleviation of upstream flooding of established residential properties.

The proposal requires resource consent for earthworks in a riparian margin associated with infrastructure other than trenching, vegetation removal in a riparian margin, and for an activity involving infrastructure that does not meet the Proposed Plan's definition of *upgrading* and covers an above ground area of approximately 60m². A full description of the necessary consents is provided in Section 4 of the following report.

1.3 Planner's Recommendation

The planner who has prepared this report recommends that, subject to any contrary or additional evidence submitted at the Hearing, **consent be granted** to the application for earthworks, vegetation clearance, and an activity involving infrastructure associated with the upgrade of a stormwater drainage system. It is considered that the environmental effects that may be generated by the activity would be minor and could be adequately avoided, remedied or mitigated by the imposition of conditions, and that the relevant objectives and policies of both the Transitional and Proposed District Plans will be satisfied.

2.0 LOCATION PLANS

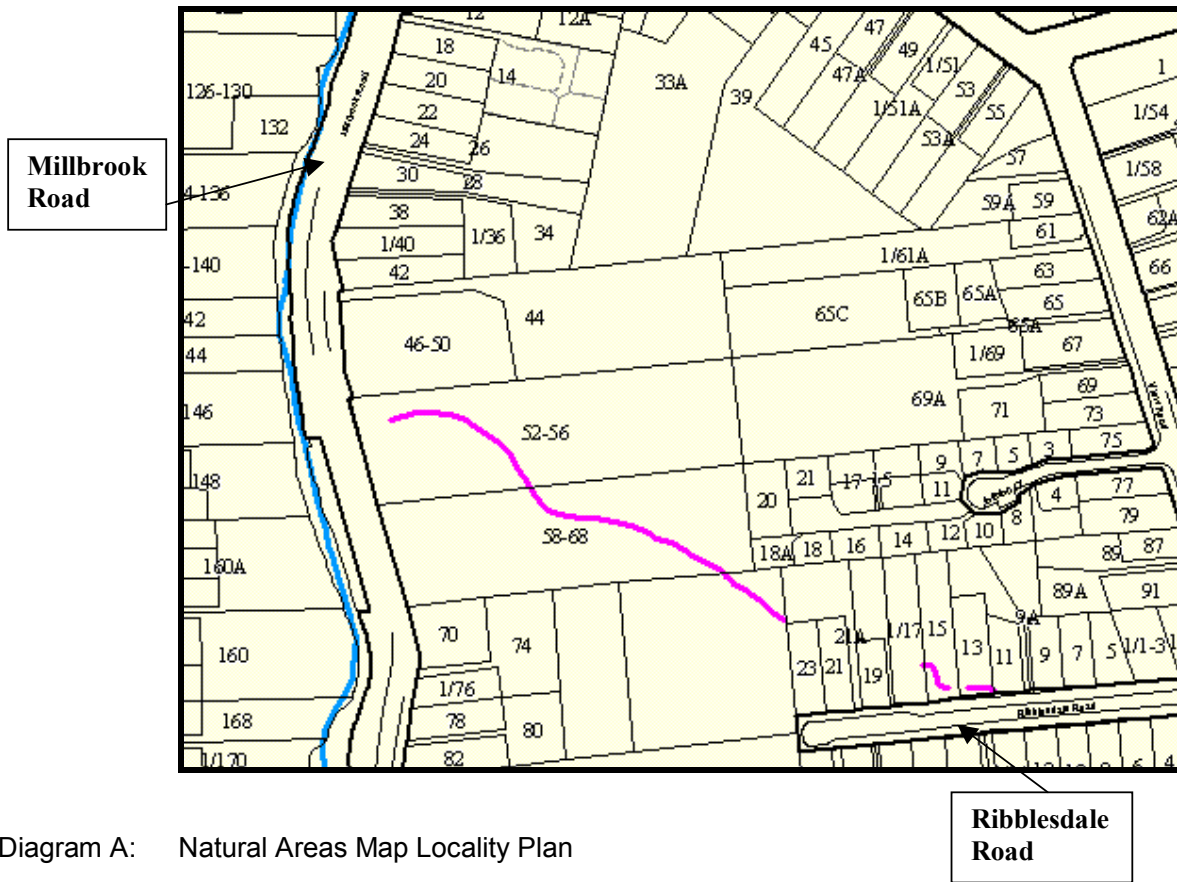


Diagram A: Natural Areas Map Locality Plan

3.0 THE SITE AND NEIGHBOURHOOD DESCRIPTION

Built Form & Surrounds

Ribblesdale Road is an established urban area containing a mix of residential sites, many of which contain dwellings that have been established for 30 - 40 years. Sunnyvale Primary School is located at the end of this cul-de-sac and was first established in 1961. The Waari Stream meanders through residential properties along this road. The stream extends upstream from an inlet structure located on the border of 15 and 17 Ribblesdale Road to a culvert in front of the property at 11 Ribblesdale Road. This culvert then pipes the stream under the road and into an open watercourse at 16 Ribblesdale Road. The portion of the stream between 15/17 Ribblesdale Road and Sunnyvale Primary School is piped via a 1200mm diameter concrete pipe.

This pipe extends to an existing outlet at the boundary of the northwestern corner of the property at 23 Millbrook Road. This outlet feeds into an above ground concrete channel of approximately 1.5m in width and 40m in length, which crosses over the northeastern corner of the school's playing fields. This outlet also feeds a 600mm diameter underground pipe, which extends under the full length of the concrete overland channel.

The school site adjoins two large residential properties at 52-56, and 58-68 Millbrook Road. An open watercourse runs from the edge of the overland channel at the boundary of the school site and 52-56 Millbrook Road to a culvert at the north-western corner of the property located at 58-68 Millbrook Road. This culvert extends under the street to the western side of Millbrook Road. The outfall discharges into the Oratia Stream, a portion of which is located inside a public reserve.

The sites between 17 and 23 Ribblesdale Road have been subject to more recent subdivision and infill housing. This is particularly notable at 19/1-19A Ribblesdale Road where the original parent title has been subdivided and now contains three residential dwellings. A small carport is located to the rear of the front dwelling and has been constructed over the public stormwater line. This carport has not been lawfully established by way of building consent and is in breach of Special Feature 5703 on Council's hazard register which states that any buildings shall be sited clear of the 1200mm diameter stormwater line by a distance equal to the depth of the line plus 1.0 metre. The applicant's consultant has stated that contract documents would be drawn up, which would require this carport to be removed prior to the replacement of the 1200mm diameter pipe.

The properties at 52-56 and 58-68 Millbrook Road are large residential sections, capable of accommodating further residential subdivision as a permitted activity. Both of these properties contain a 10m Riparian Margin, which flows diagonally from the southeast to the northwest. Dense vegetation surrounds the riparian margin on each of these sites. Each of these properties has frontage to Millbrook Road, a District Arterial route, and face the reserve area on the opposite side of this road. As noted above, this reserve bounds the Oratia Stream and provides a buffer between the watercourse and adjoining properties.

Fauna Habitat

The open sections of the stream have been extensively modified by urban development. The section upstream of the 1200mm diameter culvert at 15 Millbrook Road has a channel width of 1-2m and a low depth of 0.2m. The vegetative cover surrounding the stream-bed at the inlet is made up of predominantly weed plant species, such as common privet (*Ligustrum vulgare*). Within the private garden area above and immediately north of the existing inlet there are planted exotic garden shrubs, such as oleander (*Nerium sp.*) and bottlebrush (*Callistemon sp.*). There are also a few native plant species present on the stream banks, which include cabbage trees (*Cordyline australis*) and Ponga (*Cyathea dealbata*). At the time of the site visit Council's arborist observed 3 cabbage tree clumps and 1 small group of young black tree ferns.

A hedgerow of trees is located to the rear of the western boundary and across the northern boundary of the property at 23 Ribblesdale Road. These trees include several Karo (*Pittosporum crassifolium*), which are located inside the edge of the 10m Riparian Margin.

The section of open watercourse, located downstream of the overland channel and the Sunnyvale School property, has a channel width of 0.5 - 1m and a low depth of 0.2m. Riparian vegetation in this area consists mainly of regenerating natives such as giant reed and bamboo.

The existing vegetation at the Millbrook Road outlet is made up of weed species (mainly tree privet and wandering jew). Further from the work site there are located mature native trees and tree ferns (kowhai (*Sophora japonica*) and Ponga (*Cyathea dealbata*).

4.0 PROPOSAL

The applicant seeks consent to undertake works associated with the upgrade and replacement of infrastructure for stormwater disposal through several residential properties extending from 15 Ribblesdale Road to 58 Millbrook Road. The applicant's report states that these works are required to reduce the risk of flooding for those properties numbered 15 to 23 Ribblesdale Road. The report also states that a secondary purpose of the works is to improve the natural habitat of the stream located within the works area.

The proposed structural works include the following:

1. The reshaping of the headwall culvert entry at 15 and 17 Ribblesdale Road to allow an improved alignment into the culvert. This headwall would have a maximum height of 2.2m and would curve around a ground area of approximately 20m². The existing apron would be retained and the rear wall and sidewalls would be demolished. The area behind the rear wall would be removed in order for a gradient to be achieved up to the remaining sections of the existing concrete channel that would allow fish passage. Riprap would also be placed along the gradient to assist in fish passage. Rocks would be placed immediately downstream of the apron to protect the stream channel and banks from further erosion. Total earthworks in this location are estimated to be 60m³ of cutting at the outlet. This earthworks figure has been factored into the calculation of total earthworks requiring consent.
2. The replacement of the pipe through numbers 17 to 23 Ribblesdale Road by removing the present 1200mm diameter pipe and installing an 1800mm diameter pipe in its place.
3. The raising of the new 1800mm diameter pipe so it is the same height as the existing concrete channel by Sunnyvale School, as well as placing baffles in the pipe to aid fish passage.
4. Filling the existing 600mm diameter pipe, which is currently located under the concrete channel in the northeastern corner of the Sunnyvale School site. This would enable the concrete channel to receive the flows from the upstream 1800mm diameter pipe. This channel is approximately 60m² in above ground area.
5. Fitting the culvert underneath Millbrook Road with baffles for fish passage.
6. The placement of slotted weir baffles at the culvert outlet adjacent to Millbrook Road for the purpose of fish passage. These would not infringe the bulk and location requirements of the Open Space Environment in which they are located.

7. The reconstruction of the outlet structure on the boundary of the school site and 23 Ribblesdale Road. This outlet structure would have a maximum height of 2.2m. Total earthworks in this location are estimated to be 7m³ of cutting and 10m³ of filling at the outlet.
8. The replacement of stormwater pipes and the construction of the inlet / outlet structures would necessitate a total of 2,130m² and 615m³ of earthworks across the total works area. Of this sum 60 m³ would be associated with the construction of the inlet structure, and 17m³ would be associated with the construction of the outlet structure, (totalling 77m³ of earthworks), the remainder of which would be part of the trenching required to re-lay the new stormwater pipes.

The proposed vegetation alteration is as follows:

1. The applicant is proposing to remove clumps of bamboo / giant reed immediately downstream of the Sunnyvale Primary School culvert outlet. This bamboo would be cut and the stumps immediately poisoned. All material would be removed and treated in accordance with the Waitakere City Council requirements for vegetation removal within the painted apple moth restriction zone.
2. The applicant is proposing to remove 3-5 *Pittosporum crassifolium* located in the northwestern corner of the property at 23 Ribblesdale Road, which adjoin the outlet structure and would be within the 10m riparian margin.
3. The applicant has stated that the following replanting would be undertaken in the riparian margin -
 - (a) Replacement plants on the small flat area exposed by the removal of the bamboo. The applicant has specified that these will be native species, *Carpodetus serratus* and *Cordyline australis* at on-metre spacings. This area would be mulched with untreated wood or bark chips 100mm deep.
 - (b) The disturbed areas or a 4 metre wide strip surrounding the proposed new inlet structure, (whichever is the larger), would be replanted post construction with appropriately selected native plant species. Where possible the existing native vegetation within the area would be retained and worked around.
 - (c) At the request of Council's landscape architect, the applicant has agreed to the replacement planting of 3-5 *Pittosporum crassifolium* at a grade of Pb95 in the rear northwestern corner of the site at 23 Ribblesdale Road. This replacement planting would be undertaken once infrastructure works are complete.
 - (d) The area on either side of the existing concrete channel, which currently is roughly kept grass and is enclosed by an existing fence. The applicant's report indicated that these areas would be prepared for replanting with native plant species.

The applicant has stated that subject to approval of consent, the works would be carried out within the Auckland Regional Council earthworks season and would have a duration of 6 weeks. The applicant's engineer estimates that it will take up to 6 days to reconstruct the inlet and outlet structures.

A1-A65

The applicant consulted with the following parties prior to lodging the application: the landowners and residents of the properties from numbers 15 to 23 Ribblesdale Road, the Sunnyvale Primary School, the landowners at 58-68 and 52 - 56 Millbrook Road, and iwi identified as being affected by the Auckland Regional Council - Te Kawerau a Maki Trust and Ngati Whatua o Orakei Corp Limited. The details of that consultation of the applicant's original resource consent application, attached at pages A1 to A65.

4.0 REASONS FOR THE APPLICATION

Consent is required under those provisions of the Transitional and Proposed District Plans for the following reasons:

4.1 Proposed District Plan

Living Environment - Infrastructure Rules

The Proposed Plan's definition of upgrading is as follows:

"... means the maintenance, enhancement or replacement of existing infrastructure and:

- *in relation to electricity lines means an increase in the carrying capacity, efficiency or security of electricity and associated telecommunications lines, utilising the existing support structures of a similar scale and character, and includes:*
 - *the addition of circuits and conductors*
 - *the reconditioning of the line with higher capacity conductors*
 - *the re-sagging of conductors*
 - *the addition of longer or more efficient insulators*
 - *the addition of earth wires which may contain telecommunications lines, earth peaks and lightning rods*
- but shall not include:*
 - *an increase in voltage of the line unless the line was originally constructed to operate at a higher voltage but has been operating at a reduced voltage and there will be no physical change to the line.*
- *in relation to existing above ground pipes means any enhancement provided that there shall be no more than a 150mm increase in the diameter of the pipe.*
- *in relation to any other infrastructure means any enhancement provided that there shall be no more than a 10% increase in the width, length and / or height of the infrastructure".*

The proposed works would result in a significant increase in the size and capacity of existing infrastructure including a 66% increase in the size of the stormwater pipes. Therefore it is considered that the proposed works would not meet the definition of upgrading.

Further to this the duration of the works period would exceed 4 days in any one calendar year. Therefore the proposal is not considered to meet the Proposed Plan's definition of a temporary activity.

Discretionary Activity Consent is required for activities relating to infrastructure, which involve infrastructure with an above ground area in excess of 6m². Consent is required because the above ground open concrete channel is approximately 60m² in area. The closure and abandonment of the 600mm pipe under the existing open concrete channel would potentially result in increased runoff across this formalised flow path. Whilst the proposal would not involve any alterations to the concrete channel, the closure of the 600mm pipe would be a new activity involving the established above ground infrastructure. Consent is therefore required pursuant to Rule 17.4(b)(ii) of the Living Environment.

Riparian Margin (10m and 20m)

Non-Complying Activity Consent is required for approximately 77m³ of earthworks (cut and fill), associated with the construction of a headwall and new inlet and outlet structures, within a 10 & 20m Riparian Margin. Rule 3.1 provides for up to 30m³ of earthworks in a Riparian Margin. Therefore consent for earthworks in excess of this volume is required pursuant to Rule 3.3.

Note: The Proposed District Plan defines earthworks as excluding the following:

“Trenching work for the installation of infrastructure”.

The works associated with the new headwall and inlet / outlet structures are not considered to meet the common interpretation of trenching. Therefore the requirements of Rules 3.1 and 3.3 would apply.

Controlled Activity Consent is required for the proposal to remove clumps of bamboo / giant reed immediately downstream of the Sunnyvale Primary School culvert outlet. These works would be undertaken by EcoWater who are a Network Utility Operator. Consent is required pursuant to Rule 2.2(b) of the Riparian Margins Natural Area Rules.

Controlled Activity Consent is also required for clearance of 3-5 native *Pittosporum crassifolium*, which are at a grade of Pb95 and located in the rear northwestern corner of the site at 23 Ribblesdale Road. Consent for the removal of these trees is required because they are located on the edge of a 10m riparian margin. As this vegetation is associated with the upgrading of infrastructure, consent is required pursuant to Rule 2.22.2(b) of the Riparian Margins Natural Area Rules.

City Wide Rules - Natural Hazards

Limited Discretionary Consent is required for works on sites subject to a flooding hazard. Consent is required pursuant to Rule 1.1.

4.2 Transitional District Plan

Waitemata Section - Residential 2

Discretionary Activity Consent is required for the total earthworks volume of 2,130m² and 615m³, which would exceed 50m³ on several sites.

Henderson Section - Residential and Recreation A

Discretionary Activity Consent is required for the total earthworks volume of 2,130m² and 615m³, which would exceed 50m³ on several sites.

4.3 Overall, the application is considered to be a Non-Complying Activity. The proposal complies with all other development controls under the Transitional and Proposed District Plans.

4.4 Consent is required from the Auckland Regional Council for Works in a Watercourse pursuant to Section 13 of the Resource Management Act (1991). Permission for structures and the diversion of surface water, disturbance, and the deposition of materials or substances has also been sought from the Auckland Regional Council. The applicant has confirmed that consent has now been granted for these matters.

5.0 ISSUES IDENTIFIED THROUGH THE SUBMISSION PROCESS

A69-A81 The application was publicly notified on 19 November 2002, and the period for submissions closed on 19 December 2002. Two submissions were received, both of which opposed the application. The two submitters did not wish to be heard at the hearing. Please refer to pages as attached at Axx to Axx, for copies of the submissions that were received. A map showing the location of the submitters is attached at pages A69 to A81.

5.1 Submissions

Submitter One objected to the vegetation alteration in the riparian margin downstream of Sunnyvale School and asked that the entire stream be piped and that all works are undertaken from the Sunnyvale School end of the private property. It is considered that this objection relates to the maintenance and management of the riparian margin. As a consequence of this submission further information was sought from the applicant regarding the nature of the vegetation removal and restoration planting downstream of the overland channel in the Sunnyvale School site. Clearer information about the proposed vegetation alteration was subsequently provided. Further to this the applicant has advised Council that all landowners have now given their verbal approval to the works associated with the upgrade of infrastructure, the clearance of weeds, and replanting of cleared areas in this private property. However no plans or affected party consent forms signed by this submitter, have been provided and the submission has not been withdrawn.

Submitter Two objected to the reshaping of the headwall culvert entry at 15 and 17 Ribblesdale Road, the replacement of the pipe through 17 to 23 Ribblesdale Road and the raising of the new 1,800mm pipe. The reasons for making this submission were that the earthworks would be non-complying under the Proposed District Plan and by virtue of this status, would have more than a minor effect.

7.0 STATUTORY REQUIREMENTS

The relevant policies and criteria which apply under the Transitional and Proposed District Plans and the Resource Management Act 1991 are set out in more detail in Section 9.2 of this report. This should be referred to as the legal framework within which the application should be addressed.

7.1 The Weighting of District Plans

The Resource Management Act 1991 requires the consideration of both the Transitional and Proposed District Plan prior to the Proposed Plan becoming operative. In relation to this application the approach taken by both plans could be considered to be significantly different with the Transitional Operative Plan requiring consent for the entire volume of earthworks while the Proposed District Plan allows much of the works to be undertaken through the definition of trenching. However as determined by case law the regard to be given to the different plans can be weighed up in relation to what stage in the process of becoming operative a proposed plan is. In this case the Proposed Plan is in the final stages before becoming operative with only a few outstanding references. There are no outstanding references affecting these specific sites, their zoning, or related development controls. Any provisions of the Proposed Plan, which has been prepared under the auspices of the Resource Management Act 1991, relevant to this proposal have been resolved via the District Plan submission and appeal process. Therefore the Proposed Plan is considered to have greater weight in this particular case.

7.2 Non-Complying Activities

A100-A124 The relevant policies and criteria which apply under the Transitional and Proposed District Plan and the Resource Management Act 1991 are set out in more detail as attached at pages A100 to A124. This should be referred to as the legal framework within which the application should be addressed.

As noted, the proposal requires consideration as a non-complying activity under the provisions of the Resource Management Act 1991. Section 105(2A) of the Resource Management Act 1991 sets a threshold test which all resource consent applications for non-complying activities must first pass before a consent authority has jurisdiction to grant consent, having regard to the matters specified in Section 104. In short, the proposal must be able to establish and operate without generating more than minor adverse effects on the environment, or must not be contrary to the relevant objectives and policies of either the Proposed District Plan or the Transitional District Plan.

Section 104 of the Resource Management Act 1991 sets out those matters to be considered when assessing an application for resource consent. Amongst other things, these matters require consideration of any actual and potential effects on the environment arising from the proposal, together with an assessment as to whether the application is consistent with relevant objectives, policies and rules of the Transitional and Proposed District Plan. All considerations are subject to the provisions of Part II of the Resource Management Act 1991, which sets out the purpose and principles that guide this legislation.

The Proposed District Plan has been prepared with an “effects based” emphasis, in keeping with the Resource Management Act 1991. As such, consideration of the application in relation to each of the assessment criteria relating to the various infringements would ensure that all the relevant matters contained in Section 104 of the Resource Management Act 1991 would have been addressed. In addition, a brief summary is presented below of the main effects on the environment generated by the application.

8.0 EVALUATION IN ACCORDANCE WITH SECTION 104 OF THE RESOURCE MANAGEMENT ACT 1991

8.1 Assessment of Environmental Effects (104(1)(a)): Actual and potential effects on the environment.

8.1.2 Water Quality and Quantity

Consent to the proposed works in the bed of a stream has been granted by Auckland Regional Council pursuant to Section 13 of the Resource Management Act. The Regional Council officer's report states that the Waari Stream is considered to have moderate ecological values and is likely to have several fish species present. The report notes that whilst it is considered that a small volume of sediment may eventually enter this area as a consequence of the proposed works, the proposed operation will have a no more than a minor effect on this environment.

The writer of this report concurs with these comments and considers that with the implementation of sediment and erosion controls, and on-going monitoring of the works, the proposal would have no more than a minor effect on water quality. The applicant's consultant engineers have confirmed that whilst the upgrading of the stormwater pipes would alleviate the flooding / ponding effect upstream, the channel would be sufficiently designed to dissipate downstream flows so that they would not result in any significant increase in downstream water volumes.

Interested iwi have not raised any concerns about the proposal. As water quality would be maintained it is considered that it would not contribute to the degradation of mauri or the loss of a potential food source.

8.1.3 Native Vegetation, Vegetation and Fauna Habitat

As addressed in the site description, Ribblesdale Road has largely been modified by urban development. In particular the sites at 17 and 19 Ribblesdale Road have been modified by infill subdivision where the stream is piped underground. Consideration of potential effects on fauna habitat has been restricted to certain areas. These include the adjoining properties at 15 & 17 Ribblesdale Road where the applicant is proposing to upgrade the headwall structure, the fauna habitat downstream of the concrete channel 58-68 Millbrook Road, the vegetated environment adjacent to the outlet structure at the border of 23 Ribblesdale Road, and the area immediately adjoining the outfall adjacent to Millbrook Road.

A96-A99 Council's arborist has reviewed the fauna habitat and vegetative environment upstream of the outlet structure at 15/17 Ribblesdale Road and has confirmed that this area is dominated by weed species, as attached at pages A96 to A99. The arborist supports the applicant's proposal to replant disturbed areas of a 4m wide strip surrounding the new inlet structure once works are complete.

The arborist has considered the effect of constructing the new outlet structure near the western boundary of 23 Ribblesdale Road on fauna habitat. His report notes that there is native vegetation present in this location including karo (*Pittosporum crassifolium*) of a semi mature age class. The arborist has concluded that there is nothing of merit present in this area and that the applicant's proposal to replace these trees with the same species and at similar grade will mitigate the loss of this vegetation.

Further to this assessment, Council's arborist has considered the effect of the proposal to remove a small clump of weeds (Bamboo and Giant Reed), and the proposal to replant this area and place rocks within the streambed to aid fish passage. His report notes that these works would be within the drip line of protected vegetation, but this vegetation is growing above the streambed on top of the stream banks. His report concludes that this vegetation would not be adversely affected by the works.

The arborist's report notes that the existing vegetation cover at the outfall on the western side of Millbrook Road is made up of weed species (mainly tree privet and wandering jew). Further from the work site there are located mature native trees and tree ferns (kowhai (*Sophora japonica*) and Ponga (*Cyathea dealbata*). He concludes that the proposed works to aid fish passage in this area should not affect the protected vegetation because it is located away from the immediate work site, but would require the pruning or removal of weed species. The arborist supports the proposal to use herbicide to treat weeds and the proposal to replant these cleared areas post construction using appropriately selected native plant species. The arborist also notes that there is the potential to prune lower branches from surrounding trees to provide access. As a result of a site visit he concluded that these branches arise from large tree privet (*Ligustrum lucidum*) and that it would be appropriate to remove this tree rather than prune it.

Finally the arborist's report supports proposed measures to implement tree protection measures when working within the drip line of native vegetation inside the riparian margin and has imposed conditions on this consent accordingly. The applicant has indicated that the grassed areas immediately adjacent to the overland concrete channel located within the Sunnyvale School site would be prepared for planting. The arborist supports the notion that these areas could be planted to improve amenity, however Council do not wish to see this area left in dirt. Should the applicant decide not to undertake this planting, a condition would be imposed requiring that the applicant re-instate the area to its previous condition once works are complete.

Overall it is concluded that the extent of the vegetation alteration across the whole site is of a minor nature. Considerable amounts of the existing vegetation to be removed are weeds, as these species occupy the bulk of the land to be disturbed. The extent of vegetation being removed is limited, as there only a few specimens present in the proposed works sites. It is considered the suggested replanting, as illustrated in the information submitted with the application, would mitigate the loss of protected vegetation and would generally improve the aesthetics and ecological status of the works area.

8.1.4 Land / Soil

As discussed earlier, several of the sites inside the works area have been extensively modified by urban development. It is considered that works around the inlet and outlet structures and the trenching required to replace the piped stormwater line, would have a de minimis effect on the long-term character of land and soils.

Whilst the sites are all subject to a natural flooding hazard, the subject sites do not contain areas of sensitive soils or stability issues, other than what could be indirectly caused by the flood risk in this area.

Council's geotechnical engineer has reviewed the proposal and has confirmed that as the sites and their surrounds are not known to be subject to stability sensitive soils, he saw no reason to comment further on the proposal. Further to this the headwall, inlet, and outlet structures have been designed to prevent erosion at the interface between the piped systems and the open watercourse. Therefore it is considered that the works would have a de minimis effect on the stability of soils around the riparian margin.

8.1.5 Air

The proposed works would not require the discharge of contaminants to the air. Dust emissions arising from the works area would be minimal however it is considered appropriate that conditions be imposed requiring that dust suppression measures be put in place throughout the works period. Overall the effect of the proposed works on air quality would be de minimis.

8.1.6 Ecosystem Stability

The applicant's report includes comments on the ecology of the Waari Stream Environment and the associated ecosystems. The report notes that the stream has been substantially modified and contains only a few remnants of native riparian vegetation. It also notes that the stream itself does have significant amenity value and that the clarity of the water in this vicinity is fair.

In terms of in-stream ecology the applicant notes that a Waitakere City Council survey in 1997 found 2 fish species present in the Oratia Stream, which is located below the confluence of the Waari Stream. Whilst no further fish surveys were undertaken as part of this application, it is assumed that as the outfall from the culvert under Millbrook Road has no climbing structures in place and cascades approximately 1.7m, fish passage through this area would be restricted. Therefore it is considered that the proposal to install climbing structures for fish and baffles through the piped areas would improve the natural habitat and would subsequently improve ecosystems in this area. As discussed in Section 8.1.3 above, the clearance of weed species and replanting of cleared areas with selected native plants would improve the fauna habitat and would support native ecosystems.

Further to this it is noted that the proposed earthworks would have no more than a minor effect on downstream water quality. Therefore any further effects on natural ecosystems would be de minimis.

8.1.7 Outstanding Natural Features; Landforms, Geological Sites

As discussed earlier in this report, the sites and their surrounds have been extensively modified by residential development. Therefore it is considered that the stream environment does not contain any outstanding natural features or geological sites. The proposal would not result in soil loss from the immediate site area. Local iwi have raised no further concerns about the proposal and its impact on landforms.

8.1.8 Natural Character of Coast and Margins of Lakes, Rivers and Wetlands

In dry conditions, the Waari Stream is a small urban watercourse that flows at low velocities. However the applicant's report states that modifications to the overland flow path along Ribblesdale Road have placed several properties at risk of flooding. This is because excess stormwater overflows from the drain at the pipe entry point and has a ponding effect upstream during storm events. The report states that the existing 1200mm diameter culvert along Ribblesdale Road has a capacity that is less than the 20% AEP flood flow and that several properties over the pipeline have been filled so that the overland flow path has been completely blocked. Therefore the purpose of the works has been to alleviate this natural hazard.

The applicant has advised that the upgrade of the existing drainage infrastructure will alleviate this upstream problem by allowing additional stormwater flows through the piped system without resulting in flooding of downstream areas. Therefore it is considered that the works would result in a negligible change to the form and structural integrity of the Waari Stream as the proposal would not result in a significant increase in downstream water quantities. Therefore the proposed works would have a de minimis effect the natural character of this stream, other than enabling upstream areas to drain during heavy rain events.

The proposal would involve the removal of vegetation in the riparian margin of the Waari Stream, however it has been concluded that replacement planting would mitigate any effects of vegetation loss and that the re-planting of selected native species would improve the character of this watercourse.

Local iwi have not raised any concerns about the effect of the works on the natural character of the stream. Further to this the proposal would not result in significant rock and soil disturbance once works are complete.

8.1.9 Outstanding Landscapes

The location of the works area is within a modified urban environment and is not located in an area of significant landscape quality or above a ridgeline. The structures associated with the upgrade of the stormwater infrastructure would be obscured by vegetation and would not be intrusive on the natural environment. The proposal would therefore have a de minimis effect on landscape. Therefore effects on landscape would be of no further concern to iwi.

8.1.10 Amenity Values - Health and Safety, Landscapes, Local Areas and Neighbourhood Character

- *Visual Amenity, Streetscape, Sense of Place, Neighbourhood Character, Amenity Values, on Site Amenity*

Whilst the proposal would require the trenching of a large open area to replace the 1200mm pipe along Ribblesdale Road with an 1800mm pipe, these visual effects would be temporary. The works around the inlet and outlet structures, and replacement of headwalls, would not impact on amenity values or views from the street because as they would largely be obscured by existing vegetation on private properties.

The proposed vegetation removal would have a minor effect on visual amenity, and as such, would only be a temporary effect until the cleared areas are replanted.

Overall it is considered that the proposal would have a de minimis effect on amenity and general neighbourhood character.

- *Noise, Dust, Natural Hazards*

The proposed works would have a minor and temporary effect on residents along Ribblesdale Road who live within the proposed works area. The applicant has advised that tender documents would be prepared, which would address agreements between affected landowners and the successful contractor. These tender documents would include Waitakere City Council standards relating to hours of operation, the reinstatement of driveways and all hard surfaces, agreements between the landowners and the contractors with regard to the timing of works such as open trenching across driveways, and agreements relating to restrictions on the use of heavy machinery along Ribblesdale Road during the opening and closing hours of the school day. Further to this, conditions would be imposed on the consent requiring restrictions on hours of construction works and the need to implement dust suppression measures during the works period.

The purpose of the works would be to alleviate the flooding hazard on all of the sites. The works would be undertaken during the Auckland Regional Council earthworks seasons when the risks of local flooding are at their lowest. Therefore the proposal is not expected to have an adverse effect on the local environment with respect to natural hazards.

- *Infrastructural Capacity and Availability*

The purpose of the works is to alleviate the insufficient stormwater drainage capacity on Ribblesdale Road. The proposed infrastructure works have been designed at the request of Council's EcoWater department and would have no further impact on other infrastructure in the locality including the downstream piped environment.

8.1.11 Heritage

The proposed works would be undertaken in a modified urban environment where there are no heritage buildings or heritage trees in the vicinity of the works area. Further to this the proposed works area is not in the vicinity of a waahi tapu site. All matters of concern to iwi have been addressed under the consent for works in a watercourse, therefore the proposal is considered to have no further effect on iwi. Overall the proposal would have no effect on natural heritage.

8.1.7 Summary

The proposal to upgrade an existing stormwater line, replace inlet and outlet structures and to undertake vegetation removal, would have a wider public benefit in that it would alleviate upstream flooding and the associated effects of this hazard. By increasing the capacity to drain stormwater in this area the proposal would significantly reduce an existing flood risk without compromising the quality of downstream watercourses or significantly increase downstream water volumes. The works would also contribute to improvements in the ecology of the watercourse through the provision of fish passage across this length of the Waari Stream, feeding into the Oratia Creek.

The works would result in a temporary disturbance for the occupants of the dwellings between 15 Ribblesdale Road and the Sunnyvale School site. Disturbance to the landowner at 58-68 Millbrook Road would be minimal, as the applicant has reached an agreement with this landowner to enter the property from the Sunnyvale School end only. Effects of this disturbance have been addressed in the contract documents, and would be further reinforced by way of conditions on the resource consent.

The proposal would also result in disturbance to native and exotic vegetation in the vicinity, particularly within the riparian margins. It is considered that this disturbance could be adequately mitigated by replacement planting in all cleared areas.

It is the report writer's opinion, that the potential adverse effects of the proposed activity are *no more than minor*, and can be adequately mitigated through appropriate conditions of consent. Further, having regard to the meaning of the word 'effect', the potential adverse effects are such that this activity can meet the requirements of section 104(1)(a).

8.2 District Plan Considerations (104(1)(d)): Relevant Objectives, Policies, Rules and other provisions of a Plan or Proposed Plan.

As discussed in Part 7.1 of this report, the Proposed Plan is considered to be the dominant document and discussion of the proposal in relation to the objectives, policies and rules of the District Plan has therefore been limited to those of the Proposed Plan.

8.2.1 Proposed District Plan

8.2.1.1 Assessment Criteria

The assessment criteria relating to the proposed activity have been addressed in the effects discussion under Section 8 above and therefore will not be discussed in full detail. However, a brief assessment against the relevant criteria is provided below.

Infrastructure

17(e)

The extent to which the scale and design of the infrastructure or connection proposed complements amenity values and neighbourhood character.

With the exception of the inlet and outlet structures, the only above ground infrastructure is the concrete overland channel that crosses through the Sunnyvale School site. The applicant has advised that this concrete channel would not be replaced with an artificially formed open waterway, which could have utilised natural materials such as rocks, riparian planting, and re-contouring of the natural landform to create a stream channel. This is because an extension of the open waterway could potentially result in increased levels of downstream erosion and an inability to adequately channel surface water. Whilst the concrete channel is not considered to be aesthetically attractive, it is located to the rear of the school's play area and is not clearly visible from adjoining sites. Further to this, the proposed planting on either side of the channel would improve amenity. Therefore this above ground infrastructure is not considered to adversely impact on existing amenity values and neighbourhood character.

17(g)

The extent to which provision is maintained to provide for the planting of lawns and trees around the infrastructure or connection.

The proposal would require the removal of existing vegetation above the existing piped stormwater system. The applicant has confirmed that all trees and lawns removed as part of the works contract would be reinstated to their original condition and at the same grade.

17(n)

The extent to which the stormwater treatment and disposal system has regard to the requirements of any comprehensive catchment resource consent issued by the Auckland Regional Council.

Consents for the diversion of surface water, discharge, and works in the bed of a stream have been granted by the Auckland Regional Council. Therefore it is considered that the works would be in accordance with the comprehensive discharge consent in this locality.

17(o)

The extent to which the stormwater treatment and disposal system is designed having regard to the natural upstream catchment area, including likely future development and any adverse effects it may have on the downstream system.

The works have been designed by an engineering consultant on behalf of Council's EcoWater Department. The system has been designed to improve stormwater flows through this urban area without altering the characteristics of the upstream catchment. At the same time the engineers have confirmed that the pipelines would accommodate an increased capacity of stormwater without having more than minor effects on downstream water volumes and stream velocities.

17(r)

The extent to which infrastructure or connection is located and constructed to minimise the need for maintenance, allow for access and avoid impacts on other infrastructure or connection.

The purpose of the works is to upgrade the existing stormwater system to cope with present and future urban development in this area. Urban development is almost at capacity and it is considered that maintenance or upgrading of this system would not be required in the short-term future.

Earthworks

3(a)

The extent to which earthworks degrade or lead to the degradation of existing water quality in the adjoining stream, river, lake, harbour or sea.

It is considered that by following the recommendations of the applicant's sediment and erosion control plan, and through the implementation of dust suppression measures when undertaking trenching works to replace underground pipes, sediment would be sufficiently contained and stabilised throughout the works period. With these measures in place it is considered that the proposed earthworks would not lead to the degradation of the Waari Stream or the downstream watercourses to which it connects.

3(g)

The extent to which earthworks reduce the extent, range and linkages between vegetation, fauna habitat and natural features.

The earthworks would have a temporary impact on vegetation around the inlet and outlet structures and across parts of the piped sections of the works area. It is not considered that the earthworks would result in a permanent loss of linkages to the overall fauna habitat as replacement trees would be planted and replacement planting of selected native species would be undertaken over all cleared areas.

3(i)

The extent to which earthworks exacerbate or contribute to flooding, erosion or instability of land, or the potential for flooding, erosion or instability of land.

The proposed earthworks are required to form a headwall around the inlet structure, and the upgrading of the inlet and outlet structures. These structures have been designed to reduce potential soil erosion at the interface of the piped systems and the open watercourse. Further to this the replacement of these piped systems would be necessary to alleviate a flooding problem. Whilst measures would have to be in place to stabilise the stream-banks as these structures are built, they would have a long term effect of reducing potential erosion in these areas.

3(t)

The extent to which the earthworks affects or may affect the water quality and aquatic ecosystem health of any part of the waterway, adjacent to, upstream of or downstream of, the earthworks.

The works include the use of rocks to provide a climbing structure at the Millbrook Road outfall for improved fish passage. The applicant is also proposing to use baffles inside the piped areas to further assist in improving the habitat and movement of native fish from the Oratia Creek. Therefore it is considered that the works would assist in improving the aquatic ecosystems without adversely impacting on water quality.

Vegetation Alteration

2(b)

The extent to which vegetation alteration reduces the extent, range and linkages between vegetation, fauna habitats and natural features.

Council's arborist has confirmed that considerable amounts of the existing vegetation to be removed are weeds and that the proposed replanting of cleared areas would generally improve the aesthetics and ecological status of the areas to be modified. Therefore, the proposed clearance would have a de minimis effect on fauna habitats and natural features.

2(e)

The extent to which vegetation alteration adversely affects the historical, cultural or spiritual significance of any site or waahi tapu of significance to iwi.

As no significant native species of historical, cultural, or spiritual significance would be removed and the works would be clear of sites of significance to iwi, the proposed vegetation removal would have a de minimis effect on matters of importance to local iwi.

2(k)

The extent to which vegetation alteration creates, contributes to or exacerbates stability problems.

Areas of vegetation clearance would have a temporary effect on the stability of parts of the riparian margin. It is considered that this effect would be mitigated by sediment and erosion controls during the construction works and would be off-set in the long term by replanting and the stabilisation of newly planted areas by the use of bark and mulch.

2(p)

The extent to which the vegetation alteration affects or may affect the water quality and aquatic ecosystem health of any part of the waterway, adjacent to, upstream of or downstream of, the vegetation alteration.

It is considered that the removal of weeds and replacement planting of selected native tree species would assist in improving water quality and would improve the native habitat for the aquatic ecosystem.

Natural Hazards

1(c)

The extent to which any *subdivision* or *building*:

- will or may result in damage to property or harm to people;
- will or may result in more than minor adverse effects on existing landforms or coastlines will or may result in more than minor adverse effects on water quality.

As concluded earlier in this report, the proposed works would be designed to reduce the potential for flood damage to upstream properties without resulting in an increase in flood risk for properties downstream. The works would be undertaken in such a way that they would have no more than a minor effect on water quality and would not result in long-term modification to existing landforms.

8.2.1.2 Policies and Objectives

The relevant objectives and policies in relation to this proposal relate to the provision of infrastructure, earthworks in a riparian margin, and vegetation alteration.

Infrastructure

Policy 11.7 states the following:

Infrastructure should be designed and managed in a way that:

- will maintain, and not adversely affect the amenity values and neighbourhood character of the surrounding area, including streetscape character;
- placement on sensitive ridgelines in a way that visual intrusion above that ridgeline when viewed from a public place is avoided, or where unavoidable, remedied or mitigated;
- does not detract from the significance to tangata whenua of any ridgeline;
- minimises disturbance of natural and physical features;
- does not physically dominate adjoining sites.

The proposed infrastructure works would be in accordance with this policy as they would improve a natural hazard to an urban area, whilst maintaining urban amenity and undertaking means to restore and improve natural features around the structures. The physical works would be undertaken in such a way that they would minimise physical disturbance to private property and would not be undertaken in a location that is on a prominent ridgeline or of significance to iwi.

Earthworks

Policy 1.8 states the following:

Activities, including the management of forestry and woodlots should be carried out in a way that avoids, remedies or mitigates, so minimising, the movement of soils and sediment and other contaminants into receiving waters, and the degradation of water quality in a way that destroys or reduces their:

- ability to support in stream vegetation and fauna;
- ability to be used as a food source;
- clarity, quality and flow, and suitability for swimming.

The proposed works would be in accordance with this policy as sediment and erosion controls would be put in place to minimise the movement of soils and the potential for contamination in receiving waters.

Vegetation Alteration

Policy 1.5 states the following:

Activities (including structures) should be managed in a way that avoids further clearance and damage to native vegetation within the margins of the City's lakes, rivers, wetlands and the coast, provided that exotic vegetation may be removed where there is a programme to restore native vegetation to the riparian margins and coastal edges.

The proposed works would be in accordance with this policy as the proposal would avoid, where possible, the clearance or disturbance of native vegetation, particularly within the riparian margins. Further to this the proposal would include the restoration of native vegetation in areas that currently contain exotic weed species.

Summary

A100-A124 It is considered that the proposal would be consistent with the objectives and policies of the Proposed Plan. The Proposed Plan is "effects based" in its approach to natural and physical resources and it has been demonstrated in the previous assessment of effects that subject to conditions, any effects arising from the proposal would be de minimis or no more than minor. A summary of relevant policies is attached at pages A100 to A124.

8.3 Any Other Matters the Consent Authority Considers Relevant (104(1)(i))

8.3.1 Other Issues Raised by Submitters Not Covered Elsewhere in the Report

There are no further issues raised by submitters that are not covered elsewhere in this report.

8.3.2 Monitoring

The implementation of the works provided for by this consent would be subject to Council's standard monitoring procedures. These procedures include scheduled inspections to ascertain compliance with conditions of consent, together with periodic inspections as and when required to establish whether conditions are being complied with on an ongoing basis. In particular, attention is likely to be directed toward the implementation of conditions relating to sediment and erosion controls, replacement planting, and the reinstatement of all physical structures and hard surfaces on private property and within the works area.

8.4 Auckland Regional Policy Statement (104(1)(c))

The Auckland Regional Policy Statement sets out the broad resource management issues, objectives and policies for the Auckland Region to achieve the integrated management of its natural and physical resources. The Policy Statement functions as an umbrella policy document for environmental planning and policy development within the region under which the Proposed Waitakere District Plan has been prepared.

The Regional Policy Statement includes land adjacent to the coast from which surface drainage may flow directly to the Coastal Marine Area as a feature of the coastal environment. Policies within the Regional Policy Statement reflect the need to avoid where practical, or remedy or mitigate adverse effects from development on the natural character of these areas and to avoid, remedy or mitigate adverse effects from sediment discharge to waterways.

It is considered that Section 8 (Water Quality) is of relevance. In particular Policy 8.4.7.3 which states:

"All land disturbance activities which may result in elevated levels of sediment discharge shall be carried out so that the adverse effects of such discharges are avoided, remedied, or mitigated".

The writer of this report concurs with the applicant's statement that to be consistent with the ARPS it would be necessary to ensure that elevated levels of sediment do not enter the watercourse as a result of the works. It is also agreed that measures to control sediment entering the watercourse during construction are contained in the Erosion and Sediment Control Plan supplied with the application for resource consent. With conditions in place requiring the implementation of the recommendations of this Sediment and Erosion Control Plan, it is considered that the proposal would mitigate adverse effects from development on the natural character of the coast and would avoid adverse effects from the sediment discharge to waterways. Therefore the proposal is considered to be consistent with the policies of the Auckland Regional Policy Statement.

8.5 Auckland Regional Plan: Sediment Control

The proposed earthworks are Permitted Activities within the Sediment Control Protection Area because the earthworks would be less than the consent trigger of 0.25ha being some 2,130m². This proposal would comply with all the performance standards of the Plan.

8.6 Regional Plan or Proposed Regional Plan (104(1)(f))

The Proposed Auckland Regional Plan: Air, Land and Water was publicly notified in October 2001. Prior to this there were no Regional Council Rules relating to Sections 13, 14, and 15 of the Resource Management Act. As submissions to this Plan have not yet closed, further weighting will be given to these provisions of the Act. As consent to these works has already been granted by the Auckland Regional Council, the proposal is considered to be consistent with the objectives, policies, and rules of this plan, and consequently, the provisions of the Act as they relate to works in a watercourse, structures, and the diversion of surface water.

8.7 Any relevant regulations made under the Resource Management Act 1991(104(1)(b)), any relevant designations or heritage orders (104(1)(b)).

There are no relevant designations or heritage orders that apply to the sites or their immediate surrounds.

9.0 PART II OF THE RESOURCE MANAGEMENT ACT 1991

The purpose and principles of the Resource Management Act 1991 have primacy over all other considerations that are set out in section 104 of the legislation. In summary, sections 5, 6 and 7 require that resources must be sustainably managed in such a way that any adverse effects on the environment can be avoided, remedied or mitigated. Furthermore, the Resource Management Act 1991 requires that amenity values and the quality of the environment are maintained and enhanced.

Section 5 in Part II of the Act identifies the purpose of the Act as being the sustainable management of natural and physical resources. This means managing the use of natural and physical resources in such a way that enables people and communities to provide for their social and cultural well-being and their health and safety without significantly compromising the needs of future generations, protecting the life supporting capacity of ecosystems, and avoiding, remedying or mitigating adverse effects on the environment as demonstrated through the assessment in Section 8 of this report.

It is considered that that the proposal is consistent with sustainable resource management. In particular this proposal is concerned with the sustainable management of the replacement of infrastructure, and associated vegetation removal and earthworks, within the margin of an urban stream.

The proposal would allow for the upgrade of infrastructure associated with stormwater drainage that subject to conditions would be able to establish and operate in such a way that the amenities of the neighbourhood and long-term health of the stream would not be adversely affected.

The proposal is not considered to adversely affect any matters of national importance, as addressed in Section 6 in Part II of the Act. It is considered that the adverse effects arising from the proposal and the proposed mitigation are limited in significance to the surrounding neighbourhood.

Section 7 identifies a number of “other matters” to be given particular regard by Council in the consideration of any assessment for resource consent, and includes efficient use of natural and physical resources, and the maintenance and enhancement of amenity values. It is considered that the proposal would not be contrary to any other such matters.

Section 8 addresses matters relating to the principles of the Treaty of Waitangi. Iwi consultation has been undertaken by the applicant during the process of designing the works and it is considered that the proposal would be undertaken in such a way that it would be not be contrary to the Treaty’s principles.

It is considered that the granting of this application would not be contrary to the purpose of the Act. The proposal would enable the upgrade of the stormwater drainage capacity in an urban environment, associated earthworks and vegetation removal without significantly affecting the life supporting capacity of natural resources such as air, water and soils. Through the imposition of appropriate conditions of consent, it is considered that the proposed activity can sufficiently avoid, remedy or mitigate any adverse effects on the environment.

As such it is considered that the proposal would be consistent with Sections 5, 6, 7, & 8 or the Resource Management Act 1991 in that any adverse effects on the environment can be avoided, remedied or mitigated through conditions of consent and the amenity values and the quality of the environment can be maintained and enhanced.

10.01 EVALUATION IN ACCORDANCE WITH SECTION 105 OF THE RESOURCE MANAGEMENT ACT 1991

The threshold test in Section 105(2A) of the Resource Management Act 1991 states that a consent authority must not grant consent to a non-complying activity unless it is satisfied that the adverse effects on the environment will be minor (105(2A)(a)) or the activity will not be contrary to the objectives and policies of a plan or proposed plan (105(2A)(b)). As discussed in Section 7.0 of this report very little weight shall be given to the objectives, policies and rules of the Transitional Plan as the Proposed Plan is considered to be the dominant document.

It is considered that the threshold test for a non-complying activity has been met as the proposal satisfies section 105(2A) in that subject to appropriate conditions of consent requiring mitigation the adverse effects on the environment of the proposal would be no more than minor and the proposal is not contrary to the relevant objectives and policies of the Proposed District Plan. Jurisdiction to grant consent has therefore been established.

CONCLUSION

The applicant seeks consent to replace a 1200mm diameter underground stormwater pipe with a 1600mm stormwater pipe, re-direct stormwater flows over an established overland concrete channel, upgrade inlet and outlet structures and build a headwall around an inlet structure, undertake approximately 615m³ (2,130m²) of earthworks across the total works area, 77 m³ of which would be associated with the construction of inlet and outlet structures inside the riparian margin, and to remove protected native and exotic vegetation inside a riparian margin. The subject site is located at 15-34 Ribblesdale Road, and 58-68 Millbrook Road. The site is zoned Residential 2 and Residential and Recreation A under the Transitional District Plans, and Living and Open Space Human Environments, and General Natural Area (with 10m and 20m Riparian Margins), under the Rules of the Proposed District Plan.

It is considered that the proposal meets the criteria for granting consent as the potential adverse environmental effects are no more than minor and can adequately be mitigated through the imposition of appropriate conditions of consent. It is considered that the replacement and increase in infrastructure, and associated earthworks and vegetation alteration would not lead to a decline in the amenity values of the area in which it seeks to locate.

The proposal is considered to be consistent with the objectives and policies of the Proposed Plan/Transitional Plan, which seek to maintain the amenity of urban environments, and prevent adverse effect on fauna habitat and the life supporting capacity of urban streams.

It is considered that the threshold test for a non-complying activity has been met as the proposal satisfies Section 105(2A) in that subject to appropriate conditions of consent the adverse effects on the environment of the proposal will be no more than minor and the proposal is not contrary to the relevant objectives and policies of the Proposed District Plan.

It is considered that the issues raised by the submitters can be adequately addressed through the imposition of appropriate conditions.

Subject to any additional and/or contrary evidence being presented at the hearing, it is concluded that the application merits consent in accordance with Sections 104 and 105 of the Resource Management Act 1991.

RECOMMENDATIONS

That pursuant to Sections 104, 105, 108 and 113 of the Resource Management Act 1991, and subject to additional or contrary information being presented at the hearing, **consent be granted** to the application by EcoWater Solutions to undertake 77m³ of earthworks, clearance of exotic weeds and native vegetation at the edge of the riparian margin, & infrastructure activities associated with the upgrade of a stormwater drain at 15, 17/1, 17/2, 17/3, 17/4, 19, 19a/1, 19a/2, 21, 21a, 23, & 34 Ribblesdale Road, and 58 - 68 Millbrook Road, being (Lot 4 DP 20042, Xlease DP 136877 & Xlease DP 112833), Lot 1 DP 79115, Lot 2 DP 79115, X Lease DP 120118, Lot 1 DP 48577, Lot 2 DP 48577, Lot 3 DP 48577, PT Sec 395041301, Lot 4 DP 8893, Pt Sec 33 Allot 905015260.

for the following reasons:

- (i) The proposal to replace, and increase the capacity of stormwater infrastructure, and to block an underground pipe that would result in the diversion of further stormwater over an existing overland concrete channel, would alleviate an existing flood hazard in an urban environment. The works would reduce the risk of upstream ponding and resultant flooding of residential properties adjacent to the works area. Whilst the proposal would be a temporary inconvenience for landowners and occupiers situated within the works area, the works would be of benefit to the local community and positive impacts would outweigh any adverse effects.

- (ii) The proposed earthworks would be minimised to levels necessary for the replacement of infrastructure. These earthworks would be carried out in such a way that sediment and erosion runoff onto private land, roads, and watercourses would be minimised. All exposed areas would be stabilised on completion of the works and all hard surfaces would be re-instated to their original condition.
- (iii) The proposed vegetation alteration would predominantly consist of the removal of weed species. Whilst some native vegetation would be removed as part of the works project, these trees would be replaced by plants of the same species and grade. Restoration planting of cleared areas would improve native ecology around the riparian margins.

Consent shall be subject to the following conditions:

General

1. The development shall proceed in accordance with the documents titled "Sunnyvale Stormwater Upgrade and Improvements, EcoWater Solutions / Waitakere City Council" dated January 2002 and the amended drawings titled Waitakere City Council Sunnyvale Catchment Stormwater Upgrade, R1 prepared by Opus International Consultants, dated 8 January 2003 and all referenced as RMA 20020028 and the information, including all further information submitted with the application.

Earthworks

2. Prior to the movement of soil, the consent holder shall contact Council's Customer Field Advisor (Field Services) for earthworks matters for an inspection of the erosion and sediment control measures outlined in the Sediment and Erosion Control Plan (as approved by the Auckland Regional Council). An inspection fee shall be charged for this visit, as part of the total monitoring fee outlined in Condition 15 below. If work is unsatisfactory a re-inspection will be required at a cost of \$89.00 No work can commence until the erosion and sediment control measures have been correctly installed and have been approved by the Customer Field Advisor.
3. Works shall proceed in accordance with the Sediment and Erosion Control Plan titled "Sunnyvale Catchment Stormwater Upgrade, Erosion and Sediment Control Plan" dated December 2001. The measures shall be implemented to the satisfaction of the Manager: Resource Consents.
4. All necessary action shall be taken to prevent a dust nuisance to neighbouring properties to the satisfaction of the Manager Resource Consents.
5. Footpaths, berms and kerbs shall be protected from damage by crossing or parking vehicles to the satisfaction of the Manager, Resource Consents. Any damage which is attributed to the earthworks operation shall be rectified at the cost of the consent holder.
6. All development works across the site area, including earthworks and the use of associated heavy machinery, shall be undertaken between the following hours only:

Monday to Friday:	7.30 am to 7.00 pm
Saturday:	8.00 am to 5.30 pm
Sunday and Public Holidays:	No work
7. Notwithstanding the requirements of condition 6 above, no heavy machinery shall be transported across and adjacent to Ribblesdale Road between the hours of 8.30 am and 9.30 am, and 2.30 pm and 3.30 pm on a normal school day.

Tree Conditions

8. Subject to the conditions outlined below, the vegetation clearance and replanting shall take place in accordance with all information submitted with the application, and referenced by Council as RMA 20020028.
9. The clearance and/or pruning of vegetation within the work sites shall be undertaken by a competent and experienced arborist using hand held machinery only and done in such a way as to avoid damage to peripheral vegetation.
10. Where the outlet structure is to be built at the rear of 23 Ribblesdale Road Temporary Fence(s) shall be erected around retained protected vegetation located alongside and beyond the work site, such as the karo (*Pittosporum crassifolium*) along the northern and western boundary, prior the start of the works. The Temporary Fence(s) should be strong and appropriate to the degree of construction works taking place on the site. The Temporary Fence(s) can be constructed using orange plastic mesh, but this must be supported by waratahs (or equivalent) placed firmly into the ground at a minimum 4 meter centres. The waratahs shall have two stands of steel wire attached to them (top and bottom) and the orange plastic mesh must be fastened to the wires every 1-meter (top and bottom). Any sediment control measures can be fixed to the lower portions (bottom) of the plastic mesh (the temporary fence) but must be otherwise installed to manufactures standards.
11. No works, storage of materials, cement/concrete washings and leaching of chemicals, trenching or alteration of soil grade should occur within those areas demarcated by the Temporary Fence(s). The Temporary Fence(s) shall remain in place throughout the duration of the construction works. The position of the Temporary Fence(s) shall not be altered without the prior consent of Council's Customer Field Advisor Resource Management (extrn. 8041).
12. Any exposed and/or severed roots of retained trees that occur as a result of the works shall be clean cut back to the edge of excavations with a sharp implement such as a handsaw or a pair of secateurs.
13. All proposed new planting shall take place in the planting season (May - September) immediately following the completion of the proposed works. It shall be the responsibility of the resource consent holder to provide evidence of this replacement planting to Council's Environmental Monitoring Officer in the form of an invoice or similar.
14. The replacement trees shall be of good quality nursery stock and maintained to the satisfaction of Council for a period of 2 years from the date of planting. If any of the replacement trees die within this period, they shall be replaced and maintained as per good horticultural practice.
15. A consent compliance monitoring fee of \$356.00 (inclusive of GST) shall be paid to the Council. This fee is to recover the actual and reasonable costs incurred ensuring compliance with the conditions of this consent. If, on inspection all conditions have not been satisfactorily met, a re-inspection shall be required at a further cost of \$89.00 per hour (inclusive of GST).

The \$356.00 fee shall be paid as part of the resource consent and the resource consent holder shall be advised of any further monitoring fees if they are required.

Report prepared by: Rochelle Edwards, Resource Planner.

