



Waitakere City Council
Te Taiao o Waitakere

NOTICE OF MEETING

HEARINGS COMMITTEE

I hereby give notice that a Meeting of the Hearings Committee will be held on:-

<u>DATE:</u>	Monday,	3 September 2007	<u>TIME:</u>	9.30 am
<u>RESERVE</u>	Tuesday,	4 September 2007	<u>TIME:</u>	9.30 am
<u>DATE:</u>				

VENUE: Waitakere Central, 6 Henderson Valley Road, Henderson, Waitakere

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

Sharon Simiona .

22 August 2007

Sharon Simiona
COMMITTEE SECRETARY
Telephone (09) 836 8000 extn 8820

MEMBERSHIP:

Councillors	DQ	Battersby, JP (Chairman)
	WW	Flaunty, QSM, JP (Deputy Chairman)
	PA	Hulse
	JP	Lawley
	VS	Neeson, JP
	CA	Stone

Alternate Council Representative
LA Cooper

Ward Representative
Mrs EG Francke (New Lynn Community Board)

Alternate Ward Representative
Ms SL Taylor (New Lynn Community Board)

(Quorum 4 members)

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(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 A MEETING OF THE HEARINGS COMMITTEE TO BE HELD AT
WAITAKERE CENTRAL, 6 HENDERSON VALLEY ROAD, HENDERSON,
WAITAKERE, ON MONDAY, 3 SEPTEMBER 2007 COMMENCING AT 9.30 AM**

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**AGENDA FOR A MEETING OF THE HEARINGS COMMITTEE TO BE HELD AT
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1 APOLOGIES



2 URGENT BUSINESS

Section 46A(7) of the Local Government Official Information and Meetings Act 1987 provides that where an item of business is not on the agenda, it may only be dealt with at the meeting if:

- (i) the Committee by resolution so decides; and
- (ii) the Chairman has explained at the beginning of the meeting (when open to the public) that the item will be raised for discussion and decision, why the item is not on the agenda, and why it cannot be delayed until a subsequent meeting.

The Committee may make a decision on a matter determined to be urgent.

NOTE: Urgent Business need not be dealt with now and may be delayed until later in the meeting.



3 CONFLICTS OF INTEREST

The Council has acknowledged in its Code of Conduct that Elected Members need to be vigilant to stand aside from decision making when a conflict arises between their role as a member of the Council and any private or other external interest they might have. This note is provided as a reminder to members to check that no such conflicts arise in relation to any items on this agenda.



**4 NOTIFIED APPLICATION FOR RESOURCE CONSENT UNDER SECTION 88 OF THE
RESOURCE MANAGEMENT ACT 1991 BY VUKSICH & BORICH LIMITED TO
COMPLETE A CLEANFILL OPERATION THAT WOULD INVOLVE APPROXIMATELY
67,500M³ OF EARTHWORKS AND TO CONSTRUCT A STORMWATER DISPOSAL
SYSTEM AT CLINKER PLACE, NEW LYNN**

GLOSSARY

Resource Management Act 1991	Act
Local Government (Auckland) Amendment Act 2004	LG(A)AA 2004
Resource Management Act	RMA 1991
Auckland Regional Council	ARC
Construction Management Plan	CMP

Hegley Acoustic Consultants	HAC
Marshall Day Acoustics	MDA
Plan: Air, Land and Water	PARP
Auckland Regional Policy Statement	ARPS
Auckland Regional Growth Strategy	ARGS
Operative Auckland Regional Policy Statement	Operative ARPS
Environmental Monitoring Officer	EMO

RMA New Lynn

N.B. This report sets out the advice of Consent Services to 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 Hearings Committee.

APPLICATION DETAILS

Planner:	Rachel Dimery
Site Address:	Clinker Place, NEW LYNN
Applicant:	VUKSICH & BORICH LTD
Date Received:	6 September 2006
Resource Consent No:	LUC-2006-1579
Legal Description:	LOT 2 DP 122011
Address for Service:	C/- Damien McGahan Beca Planning PO Box 6345 Wellesley Street AUCKLAND 1141
Ward:	New Lynn 4
Site Area:	6.5832ha
Operative District Plan and Plan Change 17:	
Human Environment:	Working and Living 6 (PC 17)
Natural Area:	General
Landscape Elements:	Nil
Hazards:	Possible uncertified fill
Roading Hierarchy:	Local
Further Information Requested:	Yes
Date Requested:	15/09/06, 13/10/06, 20/10/06, 27/10/06, 17/01/07
Date Received:	20/09/06, 20/12/06, 23/12/06, 8/12/06, 31/01/07, 27/03/07, 9/05/07
Site Visit:	14/09/2006 and 16/04/07

1.0 INTRODUCTION AND RECOMMENDATION

1.1 Nature of the Application

The applicant seeks land use consent to complete a cleanfill operation that would involve approximately 67,500m³ of earthworks. It is also proposed to construct a stormwater disposal system comprising a stormwater attenuation pond, pump station and rising main connection. Overall, the activity is a discretionary activity.

1.2 Resource Management Issues Raised

The Resource Management Act 1991 (Act) 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 provisions of statutory planning documents. A consent authority may also have regard to any other matter considered relevant and reasonably necessary to determine an application. Additionally, as the overall activity status is non-complying, the “threshold” test contained in section 104D must also be satisfied in order to establish jurisdiction to grant consent. All decision making must be set within the framework of Part II of the Act, which sets out the purpose of the Act.

It is considered that the relevant resource management issues relating to the application relate to potential effects on water quality as the result of the proposed earthworks and potential effects on amenity as a result of noise, vibration, dust emissions and traffic movements associated with the works.

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 to complete a cleanfill operation that would involve approximately 67,500m³ of earthworks and to construct a stormwater disposal system comprising a stormwater attenuation pond, pump station and rising main connection. It is considered that the environmental effects that may be generated by the activity would be minor or could be adequately avoided, remedied or mitigated by the imposition of conditions, and that the relevant objectives and policies of the District Plan will be satisfied.

2.0 LOCATION PLAN



Figure One: Aerial Photograph (2005) showing the site and surrounds

3.0 PROPOSAL

It is proposed to complete filling of the former quarry pit by redistributing the existing fill located on the site. No additional fill would be imported to the site. The proposed works comprise:

- The removal of 8,500m³ of unsuitable material from the site;
- Potential stabilisation within the stormwater pond of up to 10,000m³ of unsuitable material;
- The cutting of 55,000m³ from the stockpile to fill; and
- The respreading of 4,000m³ of topsoil.

It is estimated that 600 truck movements would be required to remove the 8,500m³ of unsuitable material from the site. This would equate to an average of four or five truck movements per day over one earthworks season.

The proposed hours of operation are as follows:

- Weekdays 7:30am to 6:00pm
- Weekdays (daylight saving) 7:00am to 6:30pm
- Saturdays 7:30am to 6:30pm
- Sundays and Public Holidays Closed
- (excluding Christmas Day, Boxing Day,
New Years Day, New Years Holiday,
Good Friday, Easter Sunday and
Easter Monday).

The type of equipment to be used on site is as follows:

- Caterpillar 320 excavator - up to three
- Trucks for transporting materials - four or five
- Caterpillar D7 and Scraper - one
- D85 Bulldozer and Scraper - one
- Self propelled Compacter - one

The site is currently drained by an existing private stormwater line located in a tunnel, which extends from the site to an existing road culvert under Wolverton Street. It is proposed to construct a stormwater detention/quality pond at the north-western corner of the site, which would serve the subject site and the contributing catchment. The pond would be landscaped with wetland and water margin planting, which would serve future development on the site.

The Monier site forms part of the contributing catchment and it is therefore proposed to construct a new 900mm diameter stormwater line within the Monier site, which would discharge to the stormwater pond. A pumping system would be installed, together with a rising main which would connect to the existing public stormwater line to the north of the site.

Following connection of the stormwater pond to the existing public stormwater line, the tunnel would be filled in three locations where it passes under or close to buildings and would then be taken over by Council as an abandoned asset. It is proposed that the stormwater pond would be vested in Council in the future.

The applicant proposes to complete the earthworks during one (and at the most two) earthworks seasons (1 October to 30 April). Consent is sought for a period of two earthworks seasons, that is, until May 2009.

4.0 REASONS FOR THE APPLICATION

Consent is required under the following provisions of the District Plan for the following reasons:

Operative District Plan

General Natural Area Rules

Discretionary activity for earthworks meeting the performance standards contained in Rule 3.4(a) of the General Natural Area Rules. The proposal will involve the following works:

- The removal of 8,500m³ of soil off site;
- Potential stabilisation within the pond of up to 10,000m³ of unsuitable material;
- The cutting of 55,000m³ from the stockpile to fill; and
- The respreading of 4,000m³ of topsoil.

Working Environment Rules

Discretionary activity consent is required for noise levels not meeting the permitted standards of Rule 8.1(a), (b) and (c) (Rule 8.2 Working Environment). The noise levels of the proposed earthworks machinery that would operate on the site would be up to 75dBA (L₁₀).

Discretionary activity under Rule 12.3 of the Working Environment for *infrastructure or connections* not meeting the standards specified in Rules 12.1 or 12.2. The proposal involves the construction of a stormwater detention pond and pump station with a rising main connecting to the public stormwater system.

A new 900mm diameter stormwater line would also be constructed on the adjoining site at 10 Rankin Avenue (CSR Building Materials Ltd), which would discharge to the stormwater detention pond. This infrastructure falls under the definition of a connection and is a permitted activity.

Proposed Plan Change 17

Living Environment Rules

Discretionary activity for a non-residential activity not meeting the standards of Rule 10.1 or Rule 10.2 where the activity does not involve retail sales. The proposal would involve the completion of a cleanfill operation.

Discretionary activity for a Non-Residential Activity not meeting the noise standards in Rule 13.1. The noise levels of the proposed earthworks machinery that would operate on the site would be up to 75dBA (L₁₀).

Discretionary activity under Rule 17.4 of the Living Environment for *infrastructure or connections* not meeting the standards specified in Rules 17.1 or 17.2. The proposal involves the construction of a stormwater detention pond and pump station with a rising main connecting to the public stormwater system.

A new 900mm diameter stormwater line would also be constructed on the adjoining site at 10 Rankin Avenue (CSR Building Materials Ltd), which would discharge to the stormwater detention pond. This infrastructure falls under the definition of a connection and is a permitted activity.

Overall the application is considered to be a **discretionary activity**. The proposal complies with all other development control rules under the District Plan.

The following resource consents are also required from the Auckland Regional Council:

- Discharge permit for the diversion and discharge of stormwater;
- Discharge permit for the discharge of contaminants to water from contaminated land; and
- Land use consent to undertake earthworks over an area greater than 1.0 ha outside the Sediment Control Protection Area.

Applications have been lodged by the applicant for the above consents.

5.0 BACKGROUND INFORMATION

The subject site was formerly quarried to supply clay to the Ceramco brick making operation.

Vuksich and Borich Ltd purchased the site in 1998 and established a cleanfill operation at the site. Some 58,000m³ of engineered fill was placed on the site between 1988 and September 1993.

A publicly notified resource consent (RMA 1994-2502) was granted on 9 December 1994 to place 235,000m³ of cleanfill material on the site. The consent expired on 31 December 1998. A further resource consent (RMA 1996-2102) was granted on 16 May 1996 on a non-notified basis to vary two of the conditions of the 1994 consent. The varied conditions allowed the placement of an additional 28,000m³ of fill (resulting in 263,000m³ of fill material in total) and for filling to commence prior to proposals for the permanent disposal of stormwater from the site being agreed to by Council.

A s124 application (RMA 1998-1895) was granted on 12 October 1998 to allow the cleanfill operation to continue while a new application was determined.

On 9 September 1999, a publicly notified resource consent application was granted to continue to operate a clean fill operation and place a further 195,000m³ of material on the site (refer RMA 1998-1895). The consent expired on 31 [sic] April 2006. A resource consent (RMA 2006-088) to vary the finished ground levels was granted on a non-notified basis to allow the finished ground levels within the stormwater detention pond to be increased by 0.5m and to allow the finished ground levels to be in general accordance with the approved plans.

6.0 SITE AND NEIGHBOURHOOD DESCRIPTION

The subject site is located at the southern end of Clinker Place. It comprises a large partially filled quarry pit. To date some 325,000m³ of fill has been brought onto the site. The topography generally falls from the highest point at the southern boundary which has a RL of 30m, towards the northern boundary, which has a RL of 17m. The lowest point on the site is at RL 11m, which is the approximate water level of the existing sediment pond.

There is a large stockpile on the western half of the site, while the eastern half of the site comprises the partially filled quarry pit. The fill has been placed up against a steep sandstone cliff, part of which is still exposed.

The site is located at the periphery of an industrial area and adjoins a mix of industrial, commercial and residential land uses. The southern boundary of the site abuts Margan Avenue and the Margan Avenue Reserve. The land on the opposite side of Margan Avenue is occupied by residential properties. The eastern boundary adjoins seven residential properties, an electricity substation and a factory. There is an apartment complex comprising several multi-storey buildings adjacent to part of the northern boundary, while the remaining portion of the northern boundary adjoins industrial sites occupied by large warehouse/factory buildings. Monier Brickworks adjoins the western boundary.

7.0 ISSUES IDENTIFIED THROUGH THE SUBMISSION PROCESS

A168-A183 Notice of this application was served on all identified affected persons on 12 July 2007. The period for submissions closed on 10 August 2007. Eight submissions were received. One submission supported the application, and five submissions opposed the application. In addition, two late submissions were neutral to the application. Please refer to pages A168 to A183 for copies of the submissions that were received.

7.1 Submissions

As noted above, two late submissions were received. The Hearing Committee will need to resolve whether to accept the submissions, pursuant to Section 37 of the Act. In making this decision, the Commissioner is required to consider the provisions set out in Section 37A(1), being:

- a) *The interests of any person who, in its opinion, may be directly affected by the extension or waiver, and*
- b) *The interests of the community in achieving adequate assessment of the effects of any proposal, policy statement, or plan, and*
- c) *Its duty under Section 21 of the act to avoid unreasonable delay.*

Section 37A(2)(a) also requires that the extension of time shall not have the effect of exceeding twice the maximum period specified in the Act. It is noted that the submissions made by LJ and SJ Thomas were received on the first working day following the close of submissions. The Act allows a twenty day period within which submissions are to be made. Accordingly, these submissions were within the maximum time period (40 working days) specified in Section 37A(2)(a) of the Act. Furthermore, as the submissions are neutral to the application, it is considered that no one would be prejudiced by the acceptance of the late submissions.

The submissions received are summarised in the Table One (below).

Name of submitter(s) and location of affected property	Reasons for submission and decision requested	Support / Oppose?
H T Lokhandwala and F Ranjiwalla 4L/17 Crown Lynn Place New Lynn	No reasons given.	Support

Name of submitter(s) and location of affected property	Reasons for submission and decision requested	Support / Oppose?
Centurion Management Services 10 and 17 Crown Lynn Place New Lynn	The submitter is the Body Corporate Secretary for the apartments at 10 and 17 Crown Lynn Place, representing 166 apartments. The submission seeks that consent be declined. The reason given is the potential vibration effects. It is alleged that there has been damage to exterior walls of the buildings due to previous work.	Oppose
Q Zhu and L Guo 2/59 Margan Avenue New Lynn	The submitters seek that remedial procedures are implemented to address potential effects on local residents. In particular, it is sought that landscaping be provided to mitigate dust nuisance. The reasons given for the submission are that: Odour effects could arise if the stormwater pump malfunctions. Noise from a seven day work schedule would affect residents' lifestyles. Dust nuisance could arise from the site works and trucks.	Oppose
S Xing Unit 1A 17 Crown Lynn Place New Lynn	The submitters seeks that consent be declined. The submitter considers industrial development to be inappropriate at the location. The reasons given are that the noise effects would adversely affect rest and sleep, as the submitter suffers from neurasthenia.	Oppose
G Kong Unit 1A 17 Crown Lynn Place New Lynn	The submitters seeks that consent be declined. The reasons given are that the noise effects would be detrimental to health, as the submitter suffers from neurasthenia.	Oppose
Y Sammi Unit 5A 17 Crown Lynn Place New Lynn	The submitter seeks that consent be declined. The reasons given are that the proposal would have adverse environmental effects including noise, chemicals and water disposal issues. The submitter considers that the activity is of an industrial character that is not compatible with the adjoining apartments and would reduce property values.	Oppose
L J Thomas 1A/10 Crown Lynn Place New Lynn	No reasons given.	Neutral (Note: Late submission, received 13/8/07)
S J Thomas 1A/10 Crown Lynn Place New Lynn	No reasons given.	Neutral (Note: Late submission, received 13/8/07)

Table One: Summary of Submissions

8.0 STATUTORY REQUIREMENTS

The Waitakere City District Plan became operative on the 27 March 2003. However since this time, Proposed Plan Changes 17 and 18 have been notified. These plan changes were notified on 31 March 2005 and as a result changed the zoning of the site from Working Environment to Community Environment.

Case law¹ has established that consent authorities retain the discretion to consider the weight that is to be accorded to the relevant statutory planning documents. There is no general rule about where a proposed plan is to prevail over the inconsistent provisions in an operative plan under the RMA. Each case is to be decided on its individual circumstances. There are three key factors identified in the cases:

1. The extent to which the proposed measure has been exposed to testing and independent decision making
2. Any circumstances of injustice that may result
3. The extent to which a new measure may implement a coherent pattern of objectives and policies

Firstly, consideration needs to be given to the extent to which a proposed plan has been subject to independent decision making. This will depend on the procedural stage that any given document has reached, with the weight generally being greater as a document moves through the statutory process. In this case, the decisions were released on the proposed plan changes on 31 July 2007. At the time of writing, the appeal period had not yet closed. It is highly likely that there will be appeals to the Environment Court given the breadth of the matters raised in submissions. Therefore, having regard to the procedural stage attained, it is considered appropriate to accord greater weight to the operative statutory planning documents at this time, as the nature of potential appeals is not known.

Secondly, regard should be had to any circumstances that would give rise to an injustice if legitimately held expectations might be disappointed. This relates not only to the applicant, but also other parties including submitters on the present application and the proposed plan changes. The applicant has owned the site since 1988. The relevant provisions of the Operative District Plan that applied to the site up until 31 March 2005 were extremely permissive. In comparison, the proposed plan changes have effectively created an expectation within the community that a higher level of amenity will be achieved within the New Lynn Town Centre and surrounds in the future. The level of effects anticipated in the Working Environment and Community Environment are clearly disparate. Of relevance to this application, it is noted that the adjoining residential apartments on Crown Lynn Place are situated within land zoned Working Environment under the Operative District Plan. It is considered that it would unduly prejudice the applicant to give greater weight to the relevant provisions, particularly the noise standards, contained in the proposed plan changes at this point in time, as the area is in a transitory phase.

Lastly, the resource management approach taken under the Operative District Plan and the Proposed Plan Changes differ significantly. In particular, Proposed Plan Change 17 changes the zoning of the subject site from Working Environment to Community Environment. Furthermore, the proposed plan changes have come about as a result of an Act of Parliament (the Local Government (Auckland) Amendment Act 2004 (LG(A)AA 2004)). The plan changes are required to integrate the provisions relating to land transport and land use and make those provisions consistent with the Auckland Regional Growth Strategy. Proposed Plan Changes 17 and 18 also seek specific urban design outcomes for New Lynn, in accordance with Schedule 5 of the LG(A)AA 2004. The proposed plan changes are a response to a statutory mandate set by the LG(A)AA 2004 and were required to be publicly notified by 31 March 2005. However, this does not obviate the need to follow the statutory process under the First Schedule of the Resource Management Act (RMA 1991), which is designed to ensure that there is full and widespread knowledge of any proposed plan or proposed plan change. To accord greater weight to a set of proposed plan changes at this present stage of the statutory process would give the plan changes an anticipatory effect, not intended under either the LG(A)AA 2004 or the RMA 1991.

¹ Relevant authorities include: *Hanton v Auckland City Council* [1994] NZRMA 289; *Entwisle v Dunedin City Council and Roman Catholic Bishop of Dunedin* [1994] 3 NZPTD 838; *Lee v Auckland City Council* [1995] NZRMA 241; *TV3 Network Services v Waikato District Council* [1997] NZRMA 539

On balance, it is considered that the Operative District Plan should be considered to be the dominant statutory planning document. It would not be appropriate to accord significant weight to the proposed plan changes, as this would not accord with due process and would pre-empt the outcomes of the decision making process currently being undertaken in respect of the proposed plan changes. Whilst the proposed plan changes signal an important change in direction for the City and region and must be given consideration, they cannot yet be accorded greater weight than the Operative District Plan, as the proposed provisions have not yet been exposed to testing.

8.1 Limited Notification - Section 94(1)

A235-A249 Section 94(1) provides for "limited notification" if the adverse effects of a proposal would be no more than minor but not all adversely affected persons have given their written approval, whereby all affected persons will be notified (but not the public at large) and have the opportunity to make a submission and be heard. This application was the subject of limited notification under section 94(1). A Section 93, 94 and 94A - 94D Determination Assessment was completed on 3 July 2007. This report attached at pages A235 to A249 and identified that all of the residents on the adjoining residential properties may potentially be adversely affected by the proposal. The written approval of the persons identified as being affected was not sought by the applicant. Therefore, as required by section 94(1) notice of the application was served on all persons who were identified as being adversely affected.

8.2 Discretionary Activities

A215-A230 The relevant policies and criteria which apply under the District Plan and the Resource Management Act 1991 are set out in more detail in pages A215 to A230. This should be referred to as the legal framework within which the application should be addressed.

The matters to be considered when assessing an application for resource consent are set out in Section 104 of the Act. 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 District Plan. A consent authority may also consider any other matter it considers relevant to the application. These considerations are subject to the purpose and principles of the Act (Part II).

An analysis is presented below of the actual and potential effects on the environment generated by the application. Following this, an evaluation of the relevant statutory planning provisions is presented.

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

In order to make a decision in terms of Section 104B of the Act it is necessary to undertake an analysis and assessment to determine whether the purpose and principles of the Act are being met (Part II) having regard to the matters set out in Sections 104, 104A - 104D as relevant, the Fourth Schedule and any other statutory considerations.

Section 104(1) of the Act requires that Council have regard to any actual or potential effects on the environment, any relevant objectives, policies, rules or other provisions of a plan or proposed plan and any relevant regional policy statement and regional plan or proposed plan, and any other matters the consent authority considers relevant and reasonably necessary to determine the application.

When considering an application Council must not have regard to any effect on a person who has given their written approval to the application (section 104 (3)(b)) and may disregard an adverse effect of an activity on the environment if the Operative Plan permits and activity with that effect (section 104(2)).

9.1 Assessment of Environmental Effects (104(1)(a)): Actual and Potential Effects on the Environment.

9.1.1 Water Quality and Quantity

Sediment control measures are proposed in order to control sediment laden runoff. The proposed measures are in accordance with Auckland Regional Council's (ARC) Technical Publication No. 90 and include clean water diversion, progressive stabilisation; contour drains and a silt pond. The final stage of the works will involve filling in the temporary sediment pond and formation of the permanent stormwater detention pond. Proposed sediment control measures during this stage of works include silt control fences, diversion drains and stabilisation.

Council's Environmental Monitoring Officer, Mr Glenn Pope, has reviewed the application and associated material, including the Construction Management Plan ("CMP") that was previously approved by Council in conjunction with RMA 99-7706. Mr Pope has recommended a comprehensive suite of conditions and is satisfied that the subject to the CMP being updated to reflect recommended conditions, the effects of the proposal would be no more than minor.

The completed stormwater pond will be connected to the public stormwater system, which discharges to the Avondale Stream. The pond has been designed to provide 75% removal of total suspended solids on an average annual basis in accordance with ARC's Technical Publication No. 10 (Design guideline manual: stormwater treatment devices 2003). The proposed works will reduce the flow velocities, as the existing stormwater system discharges at 230l/sec, compared to a maximum of 200 l/sec for the proposed system.

It is noted that Council's Water and Drainage Engineer, Ms Lucy Lunevich, has reviewed the application and has recommended conditions that would ensure that effects on water quality and quantity are no more than minor.

In conclusion, subject to compliance with recommended conditions, there would be no more than minor adverse effects in relation to water quality/quantity.

9.1.2 Native Vegetation, Vegetation and Fauna Habitat

There would be no adverse effects in relation to vegetation and fauna habitat as a result of the proposed activity as the site has already been extensively modified and it is not proposed to remove any vegetation or work within the dripline of any vegetation.

9.1.3 Land / Soil

The site has been extensively modified over an extended period of time (refer Background - Section 5.0, above). Completion of the cleanfill operation would result in finished ground levels that would be in keeping with those on adjoining sites and would allow for future redevelopment to occur. Filling on the site has occurred in accordance with the recommendations of the Geotechnical Report prepared in June 1996 by Beca Carter Hollings & Ferner Limited. It is proposed to complete the earthworks in accordance with the recommendations in this report and to provide a foundations completion report which would detail the nature of the fill and foundation conditions and restrictions for future buildings.

A20-A214 Council's Geotechnical Engineering Consultant, Mr Richard Simonds, has reviewed the Geotechnical Report and further information that has been submitted in respect of the application. Mr Simonds concludes that the proposal is suitable for the site from a geotechnical perspective (refer Geotechnical Review attached at pages A210 to A214). Conditions are recommended to ensure that the development proceeds in accordance with the recommendations contained in the Geotechnical Report.

Overall, it is concluded there would be *de minimis* adverse effects on soil/existing landform as a result of the completion of the proposed cleanfill operation on the site.

9.1.4 Air

Several of the submissions received raise the issue of the potential for dust nuisance from the proposed activity. The cleanfill operation at the site has been operating in accordance with the Construction Management Plan (CMP) approved in conjunction with the notified resource consent RMA 99-7706, which was granted in 1999. It is proposed that the operation would continue to operate in accordance with the CMP, which sets out the proposed methods for dust control (among other matters). Water-carts and progressive re-vegetation are the principal methods to control dust emissions.

As noted in Section 9.1.1 (above), Council's Environmental Monitoring Officer has recommended a number of conditions should consent be granted. These conditions specifically address the need to control dust nuisance and it is therefore considered that the potential adverse effects on air quality would be *de minimis*.

9.1.5 Ecosystem Stability

There would be *de minimis* adverse effects on the stability of ecosystems as a result of the proposed works as the site has been extensively modified over an extended period and there are no ecological features worthy of protection on the site.

9.1.6 Amenity Values

Vibration

The applicant has provided a memorandum from the Senior Geotechnical Engineer which states that the type of equipment to be used would be non-vibrating compaction plant (Cat 815). The engineer advises that this type of equipment is not expected to cause vibrations in excess of the background level from traffic using the adjacent roads. The engineer further advises that the existing ground conditions are typically stiff to very stiff and that any vibration caused by traffic or machinery would not be amplified. It is considered that the imposition of a condition of consent requiring vibration levels to not exceed the levels permitted under Rules 10.1 (Working Environment) and 14.1 (Living Environment) of the District Plan would ensure that vibration effects are *de minimis*.

As noted in Section 7.1, the potential for vibration effects to occur in association with the works have been raised in submissions. It is therefore considered appropriate that a review condition be imposed to ensure that compliance with the District Plan standards noted above is achieved.

Noise

The applicant has submitted an Assessment of Noise Effects prepared by Nevil Hegley of Hegley Acoustic Consultants (HAC). This report sets out the results of measurements of the noise levels of the equipment which would be used on the site. The report states the proposed works would fall under the category of construction noise and that therefore Rule 1.1 Construction, Maintenance and Demolition Noise is applicable. The Addendum to the Original AEE prepared by Beca Carter Hollings & Ferner also states that it is considered that the proposal falls within the ambit of construction noise and therefore Rule 1.1 of the District Wide Rules is more applicable than Rule 13.1 of the Living Environment and Rule 8.1 of the Working Environment.

In the writer's opinion, Rule 1.1 is not applicable. The activity does not fall under the District Plan's definition of construction, as it does not involve the erection or alteration of a structure. Nor can the proposed activity be said to be demolition or maintenance. Furthermore, Rule 1.1 relates to construction, maintenance or demolition where such activities are subsidiary to the existing or intended future use of the site. It is considered that the cleanfill operation is an activity in its own right. Whilst completion of the cleanfill operation would facilitate future development of the site, it cannot be said to be subsidiary to the future use of the site given that cleanfill activities have been occurring on the site for approximately 20 years. Further, it is considered that the proposed activity is of a scale which is beyond that contemplated by the temporary activity provisions of the District Plan. It is therefore considered that the proposal should be assessed against the relevant zone rules relating to noise. In this regard, it is noted that the applicant subsequently provided information on the 31 January 2007 and 27 March 2007 relating to the relevant zone rules pertaining to noise.

The HAC Report identifies that the noise levels at the façade of the closest house across Margan Avenue will not exceed 64dBA L10. The noise levels for the houses on Astley Avenue which adjoin the site and the nearest apartments at Crown Lynn Place will be up to 75dBA L10 providing the earthmoving equipment does not go closer than 20m to the facades of the dwellings. It is proposed to erect temporary screening if machinery is required to operate closer than 20m to the dwellings. The Noise Report concludes that the predicted noise levels will have no more than a minor adverse effect on the adjoining nearby properties.

The relevant zone rules under the District Plan set out a maximum noise level for permitted activities of 55 dBA L10 measured at any adjoining site in the Living Environment (between the hours of 7.00am - 7.00pm Monday - Saturday). The maximum noise level measured at any adjoining site within the Working Environment is 65 dBA L10 (between the hours of 7.00am - 7.00pm Monday - Sunday). Under the relevant zone rules in Proposed Plan Change 17, the maximum noise level measured at any adjoining site in the Living Environment for permitted activities is 50dBA L10 (between the hours of 7.00am - 7.00pm Monday - Saturday). Lower noise levels apply outside of the foregoing periods.

Further information was provided by HAC in a letters dated 30 January 2007 and 19 March 2007 (received 27/03/07). This information clarified that mitigation measures are proposed so that the proposed activity can comply with the relevant District Plan noise standards. Mitigation measures include screening adjacent to the Astley Avenue property boundary and set back distances for the operation of the machinery.

Ms Fiona Parr of Marshall Day Acoustics (MDA) has peer reviewed the report and further information provided by HAC. Ms Parr advises that MDA is in agreement with Council's assessment that the activity is not construction and should be subject to the relevant Human Environment District Plan Noise Rules. Ms Parr further advises that with careful noise management the proposal will be able to comply with the Operative District Plan noise limits most of the time. However the Proposed Plan Change 17 noise limits will be exceeded at times.

The peer review notes:

PPC17 noise limits may be exceeded by up to 8 decibels at neighbouring dwellings.

...

MDA considers that the HAC noise assessment demonstrates that with careful noise management measures, noise levels at the neighbouring properties could comply with the Waitakere Operative District Plan noise limits. While the HAC report concludes that the PPC17 noise limits will also be achieved, MDA considers that these limits are likely to be exceeded at times, and hence the environmental noise effects of the proposed activity may have a minor effect on the neighbouring properties.

The MDA review also notes that given the low level of truck movements (4 to 5 per day) there would be minimal noise effects associated with vehicular access to the site.

On the basis of the foregoing, it is concluded that the potential noise effects would be no more than minor.

Visual Effects

The proposed works would occur over two earthworks seasons (1 October to 30 April) and would result in a finished landform that is consistent with that of the adjoining sites. The landscaping of the stormwater pond would enhance visual amenity, as would the removal of the large stockpile on the site for use as fill material. However there would be minor adverse effects on visual amenity while the works are occurring, as large expanses of bare earth would be exposed during the cutting of material from the large stockpile on the western half of the site. The stockpile is generally visible from all of the immediately adjoining sites, many of which are residential. Given that the site has been historically used as a Quarry and Cleanfill for many years, the overall character as an exposed site has been evident for some time and therefore, it is considered that continuing and completing this activity would have less than minor adverse effects on visual amenity.

9.1.7 Health and Safety

Contamination

A Site Wide Environmental Investigation has been undertaken by Beca Infrastructure Ltd. This report identifies that the fill material across the site contains some very low levels of heavy metals and hydrocarbons, marginally elevated above background levels for non-volcanic soils. The elevated heavy metal levels are attributed to importing volcanic material from around the Auckland Region and the report notes that the values are not above background levels for volcanic soil. The report concludes that the levels of contaminants are typically below the adopted statutory and environmental guidelines and that the land is suitable for either residential or commercial/industrial land use. As such, it is concluded that no remediation is required. Council's consultant has reviewed the report by Beca Infrastructure Ltd and concurs with the report's conclusions that the site does not require remediation, but notes that the report should be forwarded to ARC to confirm this. The applicant has supplied a copy of a letter from Auckland Regional Council's Contaminated Sites officer which states that the site does not present a significant risk to the environment and no further investigation is required. The letter also confirms that a consent for the discharge of contaminants is not required. The letter does however note that accumulated sediment in the pond should be dealt with as part of a stormwater discharge consent application. As already noted, the applicant has lodged a stormwater discharge application with ARC.

A210-A214 Council's Consultant Environmental Scientist has reviewed the application material and advises that the subject site does not require remediation (refer Contamination Review, attached at pages A210 to A214). As such, no conditions are proposed in relation to site contamination matters.

9.1.8 Positive Effects

The proposed cleanfill operation would result in completion of earthworks that would allow for the future development of an existing vacant site. This would be a significant improvement to the existing environment.

9.1.9 Summary

It is considered that the actual and potential adverse effects of the proposed activity are minor and can be adequately mitigated through appropriate conditions of consent. In particular, the impact of noise on adjoining properties can be controlled through the implementation of a Noise Management Plan and compliance with the proposed condition relating to noise limits.

9.2 Any Relevant Provisions of a Statutory Planning Document – Section 104(1)(b)

Subject to Part II of the Act, consent authorities must have regard to the relevant provisions of statutory planning documents. The following statutory planning documents are considered relevant to the proposal: Auckland Regional Policy Statement (ARPS); Proposed Plan Change 6 to the ARPS; the Proposed Auckland Regional Plan: Air, Land and Water; Waitakere Operative District Plan; and Proposed Plan Changes 16, 17 and 18 to the Waitakere District Plan.

The Act directs consent authorities to have regard to both an operative plan or policy statement and any proposed plan or policy statement (subsections (iii) and (iv) of s104(1)(b)). In this instance, the Waitakere City District Plan became operative on the 27 March 2003 and Proposed Plan Changes 16, 17 and 18 were notified on 31 March 2005. The ARPS became operative in 1999 and is also subject to a proposed plan change (Proposed Plan Change 6), which was notified on 31 March 2005. The issue of plan weighting has been discussed at Section 8.0 where it was concluded that the Operative District Plan should be afforded greater weighting at this point in time.

9.2.1 National Policy Statement - Section 104(1)(b)(i)

The Proposed National Policy Statement on Electricity Transmission was publicly notified on 16 May 2007. The proposal does not give rise to any matters that require consideration in the context of the Proposed National Policy Statement.

9.2.2 Auckland Regional Policy Statement – Section 104(1)(b)(iii)

Operative Auckland Regional Policy Statement and Proposed Plan Change 6

The Operative Auckland Regional Policy Statement (Operative ARPS) sets out the framework for the integrated management of the use, development and protection of the natural and physical resources of the region. It provides a broad overview of key strategic resource management issues within the Auckland region and sets out objectives, policies and methods to achieve sustainable and integrated management. The focus is on major natural and physical resources and regionally significant activities.

The Operative ARPS has been amended by Proposed Plan Change 6, which seeks to give effect to the growth concept set out in the Auckland Regional Growth Strategy (ARGS), as required by s40 of the LG(A)AA 2004.

The Act requires that district plans and regional plans shall not be inconsistent with the ARPS.

The provisions relevant to the application are discussed below.

Strategic Objectives and Policies

Objectives: 1 and 2 (Operative RPS) and 1, 2 and 3 under Proposed Plan Change 6
Strategic Policies: 1

Comment:

The Operative ARPS seeks to ensure that growth is accommodated in a sustainable and integrated manner consistent with the purpose of the RMA. One of the key themes is recognition of the potential for growth to adversely impact on natural and physical resources, as well as amenity values. Another key theme is the containment of growth within the metropolitan urban limits. In this regard, the proposal is considered to sit comfortably with the strategic objectives and policies of the Operative ARPS, as it does not give rise to any significant adverse effects on natural and physical resources or amenity values. Furthermore, the site is located within an existing urban area.

It is considered that the proposal is generally consistent with the relevant policies, as completion of the cleanfill operation would allow future development of the site in accordance with the intent of the ARPS and Proposed Plan Change 6.

9.2.3 Regional Plan or Proposed Regional Plan - Section 104(1)(b)(iv)

As noted in Section 4 above, consents are required from ARC under the provisions of the Proposed Auckland Regional Plan: Air, Land and Water (PARP). The provisions of the PARP have been considered by the ARC in relation to decision making process in respect of the consents sought. Accordingly, it is considered that the provisions of the Proposed Regional Plan have been satisfied.

9.2.4 District Plan Provisions – Section 104(1)(b)(iv)

Part 5 of the District Plan contains the objectives, policies and methods by which the effects of activities on natural and physical resources are to be managed. The majority of the objectives and policies are concerned with managing the effects of activities on the natural environment, including water, native vegetation and air. The objectives and policies that relate to the built environment focus on the effects of activities on amenity values.

The relevant objectives and policies that were inserted as a result of Proposed Plan Changes 16, 17 and 18 being notified are also discussed. These provisions introduce a greater emphasis on the built environment compared to that of the Operative District Plan's provisions. In addition, Proposed Plan Change 16 inserts a new policy section relating to the management of growth in the City. At the time of writing Council had released decisions on the proposed plan changes, but the appeal period had not yet closed.

Part 6 of the District Plan contains an explanation of the strategic direction of the District Plan.

The District Plan Assessment Criteria have been developed to address the issues covered in the objectives and policies and are a useful guide in assessing the effect of an activity. The relevant assessment criteria relating to aspects of the development for which consent is required are identified and commented on below.

A215-230 Comments are provided below in relation to the relevant provisions under the headings which they appear in Part 5 of the District Plan. Full copies of the relevant plan provisions (objectives, policies, rules and assessment criteria) are attached at pages A215 to A230.

Managing City Growth

Objective 0 and Policies 0.1, 0.2, 0.4, 0.7, 0.8
(Note: This entire policy section was inserted by Proposed Plan Change 16.)

Comment:

The relevant objectives and policies seek to align the District Plan with the outcomes sought in the Auckland Regional Growth Strategy and Auckland Regional Policy Statement. These documents identify that significant population growth is likely to occur, which must be managed in an integrated manner. Particular emphasis is placed on attaining a compact urban form with integrated land use and transport. The approach taken is to seek to concentrate growth around town centres and transport corridors. Development and redevelopment is expected to attain a high level of amenity.

It is considered that the proposal is an appropriate activity at this location as it would allow for the future development of a vacant site that is underutilised at present.

Effects on Water: Quality and Quantity

Objective 1 and Policies 1.9, 1.10

Comment:

Potential adverse effects on water could result during the site works. The applicant proposes to install erosion and silt control measures, which would prevent sediment laden runoff from entering the public stormwater system. In terms of the completed development, all stormwater from the stormwater pond would be discharged in accordance with Council's Code of Practice, thus avoiding the potential for adverse downstream effects.

Effects on Air Quality/Atmospheric Quality

Objective 4

Comment:

These provisions seek to maintain air quality. In this regard, it is noted that the potential adverse effects arising from dust nuisance would be appropriately mitigated by the implementation of the proposed Construction Management Plan

Effects on Amenity Values: Health and Safety

Objective 10 and Policies 10.1, 10.2, 10.10, 10.14, 10.16, 10.17, 10.19

Assessment Criteria

Contaminated Sites: 2(a) – (c)

Natural Hazards: 1(b) – (c)

Noise: 8(a) – (e)

Comment:

These provisions seek to maintain the health and wellbeing of residents by managing activities that can cause a nuisance such as noise, dust and vibration.

It has been demonstrated that the proposed site works can be undertaken in a manner that will avoid potential adverse effects on public health. In particular, the imposition of conditions relating to the vibration levels and noise limits will minimise potential effects.

On this basis it is considered that the proposal would not be contrary to the relevant objectives and policies.

Effects on Amenity Values - Landscapes, Local Areas and Neighbourhood Character

Objectives and Policies

Objective 11

Policies 11.7, 11.13, 11.14,

Assessment Criteria

General Natural Area Earthworks: 3(a), (e), (h), (i), (k), (m), (o), (p), (q)

Infrastructure: 12(a) – (t)

Comment:

As already discussed in Section 9.1.6, the proposal would have no more than minor adverse effects on amenity values. In particular, stringent consent conditions are proposed to control the potential effects arising from vibration, noise emissions and site rehabilitation. Furthermore, the site works would occur over a limited period (two earthworks seasons) and would ultimately provide for the redevelopment of the site as envisioned under Proposed Plan Change 17.

Overall, it is considered that the proposal would be consistent the relevant objectives and policies of the Operative District Plan and Proposed Plan Changes 16 and 17.

9.3 Any Other Matters the Consent Authority considers relevant and reasonably necessary to determine the Application (104(1))(c))

9.4 Other Issues Raised by Submitters Not Covered Elsewhere in Report

A submission in opposition to the proposal was received from Y Sammi, which raised the issue of reduced property values as a result of the proposal. It is noted that property values are not a valid resource management issue.

9.5 Bonds/Reserve Contributions/Development Levy/Financial Contributions

The proposed development would not attract a development contribution under Council's Long Term Council Community Plan, as it would not increase the impermeable surfaces and gross floor area of development on the site.

There are no rules within the District Plan that provide for a financial contribution in respect of the proposed development.

The proposal does not relate to a subdivision or development and therefore a reserve contribution cannot be taken.

9.6 Monitoring

The performance of the activities under this consent will 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 erosion and sediment control, site management and noise mitigation measures.

9.7 Lapsing of Consent

Under section 125 of the Act, unless given effect to earlier, a consent lapses either on the date that is specified in the consent or if no date is specified, 5 years after the date of commencement of the consent. The Applicant has advised that earthworks should be completed by April/May 2008, but has requested that should consent be granted, two full earthworks seasons be provided for to provide for weather conditions. Thus, a two year lapse period is proposed. This would accommodate any potential time delays that might occur.

10.0 PART II OF THE RESOURCE MANAGEMENT ACT 1991

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 a way that enables people and communities to provide for their social, cultural and economic well-being while sustaining those resources for future generations, protecting the life supporting capacity of ecosystems, and avoiding, remedying or mitigating adverse effects on the environment.

It is considered that the granting of this application would be consistent with sustainable resource management. In particular the proposal would promote the sustainable management of an existing clean fill operation in such a way that the communities' social and cultural aspirations are realised whilst the quality of the environment and amenity values of the neighbourhood are maintained. The proposal would allow for completion of the cleanfill operation within the next two earthworks seasons. The proposal is considered appropriate within the environment and would be able to be undertaken in such a way that there would be no more than minor adverse effects on the amenities of the neighbourhood.

The proposal is not considered to adversely affect any matters of national importance. It is considered that the adverse effects arising from the proposal are limited in significance to the surrounding urban 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 the efficient use of natural and physical resources, and the maintenance and enhancement of amenity values.

It not considered that the proposal would give rise to any issues relating to the Treaty of Waitangi that would require consideration under Section 8 of the Act.

The potential effects of the proposal on the amenity and character of the area have been discussed in detail in the effects assessment contained in Section 9.1 of this report. Subject to imposition of conditions relating to the site works and noise limits, it is concluded that the potential adverse effects on the amenity of the surrounding environment could be appropriately mitigated.

CONCLUSION

Consent is sought to complete a cleanfill operation that would involve approximately 67,500m³ of earthworks and to construct a stormwater disposal system comprising a stormwater attenuation pond, pump station and rising main connection.

The site is zoned Working Environment under the Operative District Plan and Community Environment under Proposed Plan Change 17.

It is considered that the proposal meets the criteria for granting consent. In particular, the proposal to complete a cleanfill operation that would involve approximately 67,500m³ of earthworks and to construct a stormwater disposal system comprising a stormwater attenuation pond, pump station and rising main connection will not have more than minor adverse effects on the environment. Furthermore, it is considered that any potential adverse effects can be adequately mitigated through the imposition of appropriate conditions of consent.

The proposal is considered to be consistent with the objectives and policies of the District Plan and Proposed Plan Changes 16, 17 and 18. In relation to the relevant objectives and policies, it is noted that amenity is one of the key considerations. The relevant objectives and policies seek to manage activities in a way that maintains residential amenity, whilst providing for efficient use of the City's Working and Community Environment zoned land. The utilitarian nature of industrial land is specifically recognised. In this regard, it is considered that the proposal is consistent with the objectives and policies, as it would allow for the completion of the cleanfill operation in a manner that would have no more than a minor impact on the amenity of the surrounding residential and commercial properties.

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 Section 104 of the Resource Management Act 1991.

RECOMMENDATIONS

That pursuant to Sections 104,104B, 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 Vuksich and Borich Limited to undertake a cleanfill operation and to construct a stormwater disposal system at Clinker Place, New Lynn (being Lot 2 DP 122011) for the following reasons:

1. The landfill has been in operation for a number of years and is incomplete. Completion of the site works would enable this strategic block of land to be used for urban development in the future. This will facilitate a more efficient use of the site, and will be in accordance with the purpose of the Resource Management Act, which is to promote the sustainable management of natural and physical resources.
2. The proposed development would not adversely affect or compromise the provision of future roading proposals in the area.
3. The revised Construction Management Plan and Noise Management Plan to be prepared for the site operations will ensure that issues raised by submitters relating to noise and dust nuisance can be appropriately mitigated.
4. Compliance with the measures incorporated in the consent, and the consent issued by the Auckland Regional Council, will ensure that effects on water quality due to the discharge of stormwater will be no more than minor.
5. The proposal would be consistent with the relevant objectives and policies of the Waitakere City District Plan, Proposed Plan Changes 16, 17 and 18 to the District Plan, the Auckland Regional Plan, the Auckland Regional Policy Statement and Proposed Plan Change 6 to the Regional Policy Statement.

Consent shall be subject to the following conditions:

1. The development shall proceed in accordance with the plans titled:
 - Proposed Stormwater System and Discharge Location, Revision B, prepared by Beca and dated 03.07.06
 - Overall Drainage Plan, prepared by Beca and dated 12.12.05
 - Typical Cross Sections of Pond, prepared by Beca and dated 12.12.05
 - Drainage Structures Inlet / Outlet Structures / Pump Station, prepared by Beca and dated 12.12.05
 - Existing Monier Pipeline, prepared by Beca and dated 12.12.05
 - Longitudinal Section of Tunnel, prepared by Beca and dated 12.12.05
 - Monier Site Drainage Upgrade Details, prepared by Beca and dated 12.12.05
 - Plan of New Access to Pump Station, prepared by Beca and dated 10.01.06and all referenced by Council as LUC 2006-1579 and the information, including further information, submitted with the application.
2. Pursuant to section 125 of the Resource Management Act 1991, this consent shall lapse after a period of two years after the commencement of the consent.
3. All earthworks associated with this consent shall be completed by 31 May 2009.
4. A consent compliance monitoring fee of \$672.00 (inclusive of GST) has been paid to 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 the relevant hourly rate applicable at the time the re-inspection is carried out.

Site Work Conditions

5. The Consent Holder shall submit for approval an updated Construction Management Plan to the Manager, Resource Consents within one month of the granting of this consent. The Construction Management Plan shall include a Noise Management Plan. The Noise Management Plan shall outline the best practicable options for controlling the impact of noise on the neighbouring properties, and describe the methods by which compliance with the Operative District Plan and Proposed Plan Change 17 noise limits would be achieved. The following shall be included:
 - Appropriate consultation with potentially affected neighbouring properties.
 - A completion date for the works.
 - Times for construction activity.
 - No operation on Sunday and Public Holidays unless proven to comply with noise limits.
 - A noise monitoring programme to ensure noise limits are being met at critical locations.

Works shall not commence until written approval is gained from the Manager, Resource Consents. The updated Construction Management Plan shall take into consideration the conditions of this consent.

6. The noise level from activities within the site shall not exceed the following limits when measured at the boundary of any other site:

	Noise Limit at Boundary	
	Living Environment	Working / Community Environment
Monday - Saturday 7:00am - 7:00pm	55 dBA L ₁₀	65 dBA L ₁₀

7. The noise levels specified in Condition 6 shall be measured and assessed in accordance with the requirements of New Zealand Standard NZS 6801: 1991 "Measurement of Sound" and New Zealand Standard NZS 6802: 1991 "Assessment of Environmental Sound", except for the requirements specifically stated in this control.
8. The Consent Holder shall nominate a Site Manager for the course of the proposed works. The Consent Holder shall submit the details of the Site Manager to Council prior to works commencing as follows:
- Work hours phone number
 - Address for correspondence
 - Home address and after hours phone number
9. Prior to any works commencing, the Consent Holder shall arrange a Pre-start meeting to be held onsite to discuss the conditions of this consent. Present at the meeting shall be:
- The Consent Holder's representative.
 - The Contractor undertaking the works including the nominated Site Manager.
 - Council's Environmental Monitoring Officer (EMO).

Advice note: Please contact Council's Call Centre (09 839 0400) and request to arrange a Pre-start meeting with the EMO. Council's response time can be from 2 to 5 working days.

10. Before commencement of any works and until completion of exposed site works, adequate sediment and erosion control measures in accordance with the approved Construction Management Plan shall be constructed and maintained by the consent holder. The consent holder shall notify Council's EMO (ph. 839-0400) when controls are in place. Work shall not commence until approval has been gained in writing from the Manager Resource Consents. The control measures must be maintained until the site has been adequately stabilised against erosion and sediment-laden run off.
11. All sediment laden runoff from the site shall be treated by sediment control measures in accordance with the Auckland Regional Council Technical Publication No 90 "Erosion and Sediment Control Guideline for Earthworks" (latest edition). These structures are to be constructed in accordance with best practice, be operational before earthworks commence, and be maintained until the site has been adequately secured against erosion (whether by vegetative means, paving or otherwise).
12. A full copy of the Resource Consent Conditions, Approved Plans, CMP and Erosion and Sediment Control Plans shall be kept on the site at all times. All personnel working on the site shall be made aware of and have access to the contents of this consent document and the associated CMP and Erosion and Sediment Control Plans.

13. Prior to work commencing signage shall be placed in appropriate locations to warn traffic about truck movements, to the satisfaction of the Manager, Transport Assets and the Manager, Resource Consents.
14. The existing wheel wash facility shall continue to be utilised by all traffic leaving the site that could potentially transport soil/mud on to the surrounding road network. All runoff from the wheel wash facility shall be directed to the approved sediment and erosion control structures for treatment.
15. The Consent Holder shall ensure that a fully stabilised entranceway is provided to the site at all times during the period of works for both entry and exit.
Explanation: This may consist of a fully sealed (hotmix, concrete or similar) entranceway provided that any traffic using it has been cleaned via the wheel wash facility prior to leaving the site.
16. All dirt tracked onto Clinker Place, Astley Avenue or Margan Avenue as a result of the activities carried out under this consent shall be cleaned up on a daily basis via sweeping at the full cost of the consent holder.
17. The applicant shall nominate a street sweeping contractor to Council prior to works commencing. Should Council's Environmental Monitoring Officer (EMO) deem it necessary to prevent an adverse effect on the environment, the EMO may engage the nominated street sweeper to clean the effected streets at the full cost of the Consent Holder.
18. Roads, footpaths, berms and kerbs including entry and exit points to the site shall be kept free from damage. Any damage caused associated with the works being undertaken onsite shall be immediately repaired at the full expense of the consent holder.
19. All clean fill works shall be restricted to the following hours:
 - Weekdays (during normal hours) 7:30am to 6:00pm
 - Weekdays (during daylight saving hours) 7:00am to 6:30pm
 - Saturdays 8:00am to 5:00pm
 - Sundays and Public Holidays No Work
20. All necessary action shall be taken to prevent a dust nuisance to neighbouring properties; including, but not limited to, the staging of areas of works, the retention of existing shelter belts and hedgerows, the installation and maintenance of wind fences and vegetated strips, watering of all haul roads and manoeuvring areas during dry periods, spraying of load dumping operations, and suspension of all operations if necessitated by the prevailing conditions to the satisfaction of the Manager, Resource Consents.
21. All areas of exposed earth shall be top-soiled and grassed or otherwise stabilised against erosion as soon as practicable and in a progressive manner as works are complete but no later than one week following the completion of works. Vegetative cover required by this condition shall be achieved over the entire site to the satisfaction of the Manager, Resource Consents prior to the consent being finalised.
22. An "as-built" plan showing the finished land contours, positions of all services and location of all subsoil drainage installed shall be submitted to the Manager, Resource Consents for Council's Records within one (1) month of the completion of works.

23. The vibration level from activities on the site shall not exceed the following limit when measured in the horizontal plane of the highest floor of any residence in the vicinity of the site and in accordance with the provisions of DIN 4150 Part 3:1999 "Structural Vibration in Buildings - Effects on Structures":

Peak particle velocity (PPV) - 5 mm/s

24. In circumstances where claims of structural damage due to vibration from the site have been received prior to the issue of this consent, and at residences for which concern has been expressed relating to vibration effects, dilapidation reports shall be prepared with the agreement of the dwelling owners before, during and after the completion of works. The reports shall be provided to the Council within 10 days of completion.
25. Monitoring of vibration levels specified in Condition 23 shall be undertaken by a suitably qualified and experienced person when required by the Council following the receipt of a legitimate complaint of vibration effects. Monitoring reports shall be provided to the Council within 10 days of completion.
26. Pursuant to Section 128 of the Resource Management Act 1991, the Council may serve notice on the consent holder of its intention to review conditions 23, 24 and 25 of this consent within 6 months following the grant of this consent and six monthly intervals thereafter for the purposes of:
- a. Dealing with any adverse effect on the environment that may arise from the exercise of the consent at a later stage;
 - b. Dealing with any adverse effect on the environment caused by vibration arising from the exercise of this consent, including the amendment or imposition of conditions.
 - c. Requiring the adoption of the best practicable option to eliminate 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 resource consent holder within one month of being invoiced.

Geotechnical Conditions

27. The proposed pond shall be located and have the geometry as shown on the "New Lynn Cleanfill Earthworks Plan" Figure 101 Rev C, dated 03.07.06 prepared by Beca.
28. A Chartered Professional structural or geotechnical Engineer familiar with the following documents prepared by Beca: "Geotechnical Report New Lynn Landfill Initial Site Investigation for Vuksich and Borich Ltd dated June 1996, Assessment of Environmental Effects (AEE) report dated 28th August 2006, Clinker Place Cleanfill, Site Wide Environmental Investigation" dated June 2006 and the 31st October 2006 Beca memorandum Ref 1206702, must specifically design foundations for the pump station, check the local and final overall slope stability slopes around the pond.
29. All site works shall be under the control of a Chartered Professional Engineer (with experience of geotechnics). This will include supervision of any lime stabilisation works, excavations for the foundations and floor slab of the pump station and excavations for the rising main. Provision must be made for over deepening of any foundations where soft or weak soils are encountered.

30. Earthworks shall be undertaken in accordance with NZS4404 and NZS4431: 1989.
31. Rock rubble filling over the pond area shall be replaced with a minimum 600 mm thick layer of lime stabilised contaminated materials from the pond area.
32. A Chartered Professional Engineer (with experience of geotechnics) shall inspect any footings and shall provide Council with a Producer Statement Construction Review for this part of the work.
33. That all temporary excavations (except those in rock), be limited to an open face of not more than 3m (three metres) horizontal distance. That all excavations that intercept a line 1 vertical to 2 horizontal from an adjacent boundary shall be retained with a suitable retaining structure designed for at-rest conditions.
34. An Earthworks Completion Report shall be prepared and supplied to Waitakere City Council for the site prior to Building Consent. This report shall include, inter alia, a Statement of Professional Opinion as To Suitability of Land For Building Construction, as-built fill drawings together with foundation conditions and restrictions for future buildings, geotechnical parameters for the design of the footings and floor slab of the pump station and a detailed description of any geotechnical issues in relation to the excavations for the rising main.

ECOWATER CONDITIONS (PUBLIC DRAINAGE)

35. Design, provide and install a complete public and private storm water drainage system to serve the future development in compliance with Council's Code of Practice for City Infrastructure and Land Development (Refer section 4.0). Specific requirements: Maintain storm water runoff flows, volumes, and timing to pre-development levels for the 2 and 100 year storm event(s). Mimic natural runoff patterns, and not to discharge directly to a watercourse, open drain or piped system. Note: Council's Hazards and Special Features Register will be advised of the above requirements.
36. Provide a new storm water attenuation pond with a pump station and rising main connecting into the Waitakere public storm water system. Waitakere City Council have agreed in principle to take over the pipeline/tunnel as a public drain and to operate and to maintain the pumping system. The provision of a permanent storm water system will involve the decommissioning of the old tunnel/pipeline and discharge point. Specific requirements:
 - a. Establish a storm water quality/detention pond in the north-western corner of the site. The pond must be sized to store all catchments runoff for storm events up to the 100 year 72-hours rainfall event and provide 75% total suspended solids removal in accordance with ARC TP 10. It is noted that the new system will provide storm-water quality treatment for the total 13 hectare catchment draining to it. The detention pond, the pump station and rising main will be vested in Waitakere City Council as a drainage easement at the later stage.
 - b. Obtain engineering approval submitted under RMA 20061328 for the proposed pond. Specific requirements:
 - c. The proposal must address the following issues, with particular emphasis on maintenance and access for maintenance purposes:
 - d. The approved access must remain available at all times for the design lifetime of the pond. The formation of suitable access for heavy equipment (long reach excavator and trucks) to carry out maintenance activities and sediment removal.

- e. The need for drying areas, adjacent to the pond, to allow dewatering of sediment.
 - f. Suitable access to all retaining walls for maintenance purposes must be provided and guaranteed for the life of the structures. Retaining walls must be designed for a minimum 100-year life.
 - g. The pond shall be operated and regularly maintained by the consent holder, or a nominated agent, for a period of one year with the planting being maintained for two growing seasons. At the end of the two growing season period a final inspection and handover to Council's Stormwater Operations department shall take place.
 - h. The consent holder shall ensure that the pond is cleaned and de-silted and sediment disposed of to the developer's own approved site.
 - i. Planting well established and maintained for the two growing seasons. Grass cut regularly and dead plants replaced with the same or similar or bonding arrangements suitable to the Development Engineer arranged.
 - j. Provide a surveyed as-built plan of the device showing all lid and invert levels, permanent water level, and contours at 200mm intervals below water level.
 - k. Provide a geotechnical completion report certifying construction of the pond.
 - l. Provide a maintenance manual for the treatment device.
 - m. Install a new pumped system from the detention pond on site to the existing Waitakere City Council public storm-water system which serves the Clark Street and Astley Avenue catchments. Waitakere City Council will take over the operation and maintenance of the pumping system as part of the public drainage system at the later stage.
 - n. Pumping stations shall be provided with: Suitable (swing-arm type davit or similar) equipment for lifting pumps and heavy equipment, or adequate access for mobile lifting plant. Comply with the engineering plans and calculations submitted under RMA 20061328.
 - o. Install a new 900 mm diameter pipeline within the Monier site to provide additional capacity drainage system to reduce the risk of flooding of the factory on the site. Obtain engineering approval submitted under RMA 2006-1328.
37. Obtain from the Auckland Regional Council a discharge permit, and all other consents, on terms acceptable to the Council, pay all costs attributable to such application and comply with any conditions imposed by the Council.
38. If drainage work is required to be carried out on land outside the development, obtain the written consent of the owner(s) of that land prior to the approval of the drainage plans. After construction, obtain the written acknowledgement of the owner(s) that the property has been satisfactorily reinstated.

Advice Notes:

1. Where indicated in the conditions it is the consent holder's responsibility to inform the Environmental Monitoring Officer when inspection is required. Inspections can be requested through the Call Centre on 839 0400.

Report prepared by: Rachel Dimery, Senior Planner

