

Report for a discretionary resource consent application under the Resource Management Act 1991 (RMA)



1. Application description

Application number:	R/LUC/2016/2140
Applicant's name:	Auckland Council – Community Facilities
Site address:	12R Milano Boulevard, Hingaia
Legal description:	Lot 707 DP 393795 (Identifier: 401418)
Site area:	3,887m ²
Operative plan:	Auckland Council District Plan 1999: Papakura Section
Zoning:	Reserve
Special features, overlays etc:	Hingaia East Structure Plan Area
Proposed Auckland Unitary Plan (“PAUP”) Zoning & Precinct:	Single House
Special features, overlays etc:	ID 200 – Ardmore Airport Height Restriction

Locality Plan



The application has been reviewed by the following specialists:

- Raj Kumar (Senior Development Engineer)
- Andrew Gordon (Senior Environmental Health Officer)

2. The proposal, site and locality description

Proposal

The proposal is described within Section 4 of the Assessment of Environmental Effects (AEE) and the plans that were submitted with the application documents. In summary, the applicant proposes to undertake approximately 247m³ of earthworks over a land area of 625m² to enable the construction of a children's playground and associated landscaping. Approximately 195.24m³ of the proposed earthworks will comprise of cut to fill (i.e. cut material will be re-used on site). The applicant proposes to remove 51.76m³ of earth from the site.

Plans submitted with the application documents illustrate that earthworks will be undertaken 3.95m from the western boundary of the site and 6.4m from the eastern boundary of the site. Earthworks will be undertaken up to the northern boundary of the site and will be more than 56.5m from the southernmost boundary of the site.

To mitigate the potential adverse effects of waterborne sediment arising from bare/ exposed soil, the applicant proposes to implement sediment control measures that are in accordance with Council's guidelines (TP90) and has offered conditions of resource consent to ensure that are implemented.

The applicant has submitted plans of all of the play equipment/ structures that will be installed following the site enabling works that are subject to this application. All of the play equipment is intended for very young children, with all equipment having a height of less than 3.1m (a swing set); and the climbing/ slide structure having platform height of 1.2m above ground level. The below table contains an assessment of the proposal against the applicable rules of the District Plan.

Rule	Requirement	Compliance
Rule 2.10.1.1 – Earthworks	Earthworks over 50m ³ in volume require resource consent in urban Papakura	Non-Compliant
Rule 2.10.1.2 – Earthworks	Earthworks on land with a gradient of more than 1:5; or containing a significant landform; or within a coastal yard; or within 10m of a natural watercourse requires resource consent.	Yes Site gradient is less than 1:5, and the site does not contain a natural watercourse. The earthworks will not be undertaken within a coastal yard or within 10m of a watercourse.
2.10.2.1 – Conservation of landscape.	The alteration and/ or irreparable damage to vegetation listed in Schedules 3E & 3B of the District Plan, and/ or vegetation within a Significant Natural Area (SNA) requires resource consent.	Yes The site contains no vegetation listed in Schedules 3B and 3E of the District Plan. The site is not within an SNA.

Rule	Requirement	Compliance
2.10.3.1 – Discharge of contaminating material	Unauthorised discharge of contaminated material requires resource consent.	Yes The proposal does not involve the discharge of contaminated material to land or water.
2.10.3.2 – maintaining ground surfaces in an uncontaminated condition	Requirement to provide the best practical means of avoiding stormwater contamination.	Yes The activity does not involve the discharge of contaminated material or any commercial or industrial activities.
2.10.3.3 – stockpiling of contaminated material	Stockpiling of contaminated material requirements for resource consent.	Yes The applicant does not propose to stockpile contaminated material on site.
2.10.3.5 - underground storage facilities		Not applicable
2.10.4.1 – Filling in areas subject to flooding	The placement of fill on an identified flood prone site requires resource consent.	Yes The site is not identified in the District Plan as being susceptible to a higher risk of flooding.
2.10.4.2 – Buildings and structures within a site subject to flooding	Construction of buildings and structures on a flood prone site.	Yes The site is not identified in the District Plan as being susceptible to a higher risk of flooding.
2.10.4.3 – Placement and storage of material on sites subject to flooding	The storage of material on sites subject to flooding requires resource consent.	Yes The site is not identified in the District Plan as being susceptible to a higher risk of flooding.
2.10.5 – Maintenance of land and buildings	A requirement to keep land and buildings in good condition.	Yes The applicant proposes to stabilise works as soon as possible. The site has been kept in

Rule	Requirement	Compliance
		good condition while this application is being processed.
2.10.6 – Ridgeline Amenity		Not Applicable Site is not within a 'Ridgeline Amenity Area.'
2.10.7 – Vibration in Buildings		Not applicable
3.8.5 & 3.6 – damage to and works within the vicinity of a scheduled item	Resource consent is needed to damage a scheduled item and undertake excavation works in proximity to a scheduled item.	No applicable The site contains no scheduled features.
15.8.16.3 – car parking requirements	Resource consent is required should the activity fail to supply the minimum number of car parking spaces set out in Schedule 15C of the District Plan.	Complies Schedule 15C does not have any minimum requirements for the activity. Notwithstanding Schedule 15C requirements, I note that there are 18 formed car parking spaces within the road corridor adjacent to the sites, which are also owned by Council. Furthermore, there are eight public (Council owned) car parking spaces on the esplanade reserve that is immediately to the north of the site.
Rule 8.8.2 – Permitted Activities in the Reserve Zone	Resource consent is not required for a ' <i>recreation activity</i> ' that complies with all of the development controls. <i>"Recreation Activities"</i> is defined within Section One, Part 10 of the District Plan. The development controls mainly relate to the scale and location of buildings. <i>"Building"</i> is also defined within Section One, Part 10 of the District Plan.	Complies The playground is consistent with the definition of <i>"recreation activities"</i> in Part 10 of the District Plan. The only structures that are defined by the District Plan as <i>"buildings"</i> are those that are greater than 2.5m in height. The proposed playground equipment that is defined as a 'building' and therefore subject to the development

Rule	Requirement	Compliance
		<p>controls are the slide/ climbing structure (2.9m); the rope climbing structure (3.07m); and the swing set (3.0m).</p> <p>As stated below, these structures comply with the development controls of the Reserve Zone.</p>
Rule 8.8.2(1) – Yard setback requirement	Resource consent is required to locate or construct a building within 6.0m of a boundary.	<p>Complies</p> <p>All of the play equipment that is defined as a 'building' will be located more than 6.0m from site boundaries. The swing set will be situated approximately 9.0m from the northern boundary (Milano Boulevard).</p> <p>The swing set will be located approximately 14.0m from the eastern boundary; and the rope climbing frame will be located more than 11.0m from the western boundary.</p>
Rule 8.8.2(1) – Maximum height & Floorspace	Resource consent is required to construct a building that is more than 7.5m in height and to establish buildings with a floor area of more than 75m ² .	<p>Complies</p> <p>All equipment is less than 7.5m in height. The floor area of the climbing/ slide structure is less than 75m².</p>
Rule 8.8.2(2) – Design and Appearance	Buildings shall enhance the amenities of area.	<p>Complies</p> <p>The buildings will enhance the amenities of the area.</p>
Rule 8.8.2(3) – Noise	Activities that exceed 50dBA L ₁₀ between 0900-2200 and 40 dBA L ₁₀ 220-0900 requires resource consent.	<p>Non-compliant</p> <p>Predicted noise arising from the playground is anticipated to exceed the night time standard of 40 dBA L₁₀.</p>
Rule 8.8.2(4) – Glare	Lighting that exceeds the specified standards requires resource	<p>Not Applicable</p> <p>No lighting is proposed.</p>

Rule	Requirement	Compliance
	consent.	
Rule 8.8.2(5) – Parking		Complies As stated earlier in this report, Schedule 15C does not have any minimum requirements for the activity.
Rule 8.8.2(6) – Landscaping	Resource consent is needed to establish impervious surfaces that cover more than 80% of the site. A minimum of 40% of the front yard must also be landscaped.	Complies Much less than 80% of the site will be grassed. More than 40% of the front yard will be grassed/ landscaped.

As stated above, resource consent is needed under the following rule of the District Plan:

- Resource consent is required for a **controlled activity** under Section Three, Rule 2.10.1.1 of the District Plan to undertake earthworks that exceeds a volume of 50m³.
- Resource consent is required for a **discretionary activity** under Section Three, Rule 8.8.2.3 of the District Plan to establish a playground activity that will result in noise that is predicted to exceed the night time limit (applied between the hours of 2200 and 0900), of 40 dBA L₁₀ at the nearest property boundary with residential zoning.

The following is an assessment of the activity and the development against the rules of the Proposed Auckland Council Unitary Plan 2013 (PAUP) pursuant to Section 86B of the RMA.

Rule	Requirement	Compliance
Chapter 3H.2 – Mana Whenua		Not Applicable There are no identified sites or features of importance to Mana Whenua in the vicinity of the works.
Chapter 3H.4.4.2 – Earthworks	Resource consent is needed to undertake earthworks over a land area of between 50m ² and 500m ² and from 5m ³ and 250m ³ within Public Open Space.	Compliant Resource consent is not required under this rule because the proposed zoning for the site is 'Single House' and not 'Public Open Space.'
Chapter 3H.4.4.2 – Earthworks	Resource consent is needed to undertake earthworks over a land area of between 501m ² and	Non-compliant Resource consent is needed

Rule	Requirement	Compliance
	1000m ² and from 251m ³ and 1000m ³ within a proposed Residential zone.	because earthworks will be undertaken over 625m ² of land.
Rules 3H.4.4.11 and 3H.4.4.12 – Natural Hazards and Flooding	Various requirements for resource consent on flood prone sites or where a natural hazard exists.	

As stated above, resource consent is needed under the following rule of the PAUP:

- Resource consent is required for a **restricted-discretionary activity** under Rule 3H.4.4.2 of the PAUP to undertake earthworks that exceed a land area of 501m².

Overall, resource consent is required for a **discretionary activity**.

Site and surrounding environment description

Section 2.0 of the AEE submitted with the application material provides an accurate description of the site and the surrounding context. If particular importance to this application is:

- The land is held as a '*recreation reserve*' under the Reserves Act 1977. The proposed use is consistent with Section 17 ('*recreation reserves*') of the Reserves Act 1977. The site is known as '*Milano Reserve*' and is sometimes referred to by the public as '*Rossini Reserve*' because the reserve lies in the centre of the one-way northbound and southbound lanes of Rossini Reserve.
- The site has already been developed for passive recreation with grass and specimen trees along its edges. I am not aware of their being any organised recreation (e.g. sports) occurring on the site.
- The site has a rectangular shape with the longest sides on the east-west boundaries.
- The site has four road frontages. Beyond the adjacent road carriageways, the site is flanked by low-medium residential housing to the west, east and south. To the north of the site is an esplanade reserve with public car parking. Houses are generally large, two storied dwellings on sections of 550m² or more, and are constructed perpendicular to the road boundary. Consequently, mid-row houses on Rossini Court are orientated towards the reserve. The principal areas of private outdoor space for the occupants of neighbouring dwellings are to the rear of these properties.
- Section 2.2 of the applicant's acoustic report indicates the ambient noise level of the immediately locality is 45 dBA L₁₀, based upon noise measurements over a 15 minute period on 13 June 2016 (1425-1447). The dominant noise sources are listed by the acoustic consultant as planes flying overhead, traffic on Milano Road and distant traffic.
- The land gently slopes towards Milano Boulevard. The gentle rise in topography continues beyond the reserve to adjoining properties. The natural topography of the site

has been modified through the bulk works that was required to enable the Karaka Lakes subdivision to occur.

- There are no watercourses within 50m of the works area. The exposure pathway for waterborne sediment to the coastal marine area is via cesspits in the adjacent road corridors. However, stormwater from the neighbouring road corridors is conveyed to a sediment pond prior to discharging to the coastal marine area. Council's Senior Development Engineer advises that subsoil stormwater drains are typically located 600mm below the surface of public roads and therefore subsoil drains within the Milano Boulevard corridor are located at a lower elevation to the proposed playground.
- Council's Senior Development Engineer is familiar with the Geotechnical Completion Report that was prepared for the subdivision, and he advises that the groundwater level in this location is very low and it is well below the finished ground level of the proposed playground.
- Resource consent is part-retrospective as the applicant commenced earthworks without realising that resource consent is required. Public access to the area of works is prevented by a temporary security fence and the applicant has implemented erosion and sediment control measures such as silt fences along the northern, eastern and western extent of the area of works.

Background

The reserve was established by a subdivision of 300 Hilldene Road on 12 September 2000 (referenced LU 8614). The subdivision is known as Stages 2A and 2B of the Karaka Harbourside subdivision. Stages 2A and 2B established residential lots to the east of the reserve, with residential lots to the west of the reserve being consented at a later date.

Section 3.0 of the applicant's AEE states that consultation was undertaken by the Papakura Local Board and through that process a small number of people opposed the playground in this location. The applicant advises that these residents expressed concerns about the playground being a gathering point for anti-social behaviour and that there is not sufficient demand for a playground in this location.

Prior to this resource consent being lodged, opposition to the playground was reported in the NZ Herald (31 May 2016) and the Papakura Courier (1 June 2016). The following concerns were reported in these articles:

- Lack of consultation with residents
- The playground is a waste of funds as most of the nearby properties were sold to empty-nesters and retirees.
- The reserve was never intended to be used for a playground. It was intended for semi-recreational sports and a place for community gatherings.
- The purpose of the reserve/ site was to provide a view shaft from the road. The playground will interrupt views from the road and neighbouring properties with ugly paraphernalia.
- The playground will attract undesirables leaving needles and condoms.

I have also had telephone conversations with Mr. Glenn Archibald (10 Milano Boulevard) on 3 June 2016 and 17 June 2016. Mr. Archibald indicated the following concerns:

- Asked if bollards could be placed around the playground to prevent vehicles being driving off the road and around the playground area.
- Asked if Council Engineers had considered drainage and, in particular, the high groundwater level, and whether ponding will occur in the vicinity of playground equipment. Mr. Archibald was concerned that resource consent to divert groundwater or to discharge stormwater could be needed as part of this resource consent application. Mr. Archibald also sought assurances that Parks/ the Local Board do not need to obtain a separate consent/ permission to discharge stormwater from the playground to the cesspits within the road corridor.
- Expressed concern that the playground is not in accordance with the information considered as part of the Plan Change that led to the creation of the Hingaia East Structure Plan Area in the District Plan.

3. Status of the applications

The appropriate practice is to consider the applications together if there is an overlap between the consents required for earthworks and the matters over which the plans have limited Council's discretion and restricted Council's control. In this instance, the consents required for the proposed earthworks overlap and are considered together as a restricted discretionary activity overall.

Resource consent is required to infringe the operative District Plan's daytime noise standard that applies to activities within the Reserve Zone. The proposed PAUP rules relating to noise did not have legal effect at the time of writing this report, pursuant to Section 88F of the Resource Management Act 1991.

4. Public & limited notification assessment & recommendation (sections 95A-95G)

The following rules enable controlled and restricted discretionary activities in the respective plans to be considered without public notification and without having to either obtain the written approval of, or serve notice on, affected persons.

- Rule 3G.2.2.4 - Notification

The applicant has not requested public notification.

All further information requested (under s92) has been provided by the due date.

No special circumstances for this application are considered to exist as the earthworks are needed to construct facilities associated with a permitted activity.

Accordingly, under ss95A, 95B and 95C the application is not to be publicly or limited notified.

5. Notification assessment

Public notification assessment (sections 95A, 95C-95D)

Section 95A gives the council discretion in deciding whether to publicly notify an application or not. However an application must be publicly notified if (a) the activity will have or is likely to have adverse effects on the environment that are more than minor; (b) the applicant requests public notification of the application; or (c) a rule or national environmental standard ("NES") requires public notification.

The applicant has not requested public notification.

All further information requested (under s92) has been provided by the due date.

No rules in the Operative Plan or in any NES preclude or require public notification of this application.

The following assessment addresses the adverse effects of the activity on the environment. The council must decide whether the activity will have, or is likely to have, adverse effects on the environment that are more than minor.

The below matters are a combined list of the matters over which Council has reserved its control (Operative Plan) and restricted its discretion (PAUP) with respect to earthworks:

- Potential adverse effects arising from waterborne sediment.
- Potential adverse effects upon land stability.
- Potential adverse effect upon natural hazards, including overland flow paths.
- Potential adverse effects upon amenity values arising from dust, construction noise, vibration and the duration of earthworks and hours of operation.
- Potential adverse effects from vehicle movements and access to the site during the construction period. (Assuming one truck has a capacity of 8m³, up to 6.5 truck movements from the site would be required to remove/ deposit a permitted quantity of fill).
- Potential visual effects, including landscape treatment, screening site layout and design.
- Potential adverse effects upon the mauri of water, and sites of natural or historic significance.

Adverse effects assessment (sections 95A and 95D)

Under section 95D the council is to disregard any effects on persons who own or occupy any adjacent land. The land adjacent to the subject site is:

- 10 Milano Boulevard (GW & AS Archibald)
- 7 Rossini Court (ML & MR Tomlinson)
- 5 Rossini Court (AJ & A Thurston)
- 3 Rossini Court (RE & TJ Palmer)
- 281 Harbourside Drive (P Kumar & S Vallabh-Kumar and HK Vallabh)

- 2 Lombardia Way (K Dahya)
- 1 Lombardia Way (DP & EM Walsh)
- 283 Harbourside Drive (Y Shen)
- 4 Rossini Court (Y Bao)
- 6 Rossini Court (CG Martin & MJ Daly)
- 8 Rossini Court (H Yang)
- 14 Milano Boulevard (J Sheng & R Guo)

The applicant has not provided the written approval of any persons.

Adverse effects Assessment

- I concur with the permitted baseline that has been applied by the applicant with respect to the location of play equipment. All play equipment structures comply with the bulk and location requirements that have legal effect and are intended to maintain the amenity values of the locality.
- The playground is designed as a neighbourhood park and not as a destination playground. Therefore, the playground is intended to be within walking distance of its “target market” and it is not anticipated to generate significant traffic movements. The number of people that the applicant expects to frequent the playground will have a less than minor adverse effect upon the number of formed public car parking spaces that are available.
- The proposed earthworks will result in a small change to the site’s topography, with works needed to facilitate the proposed pathways, play areas and landscaping. Furthermore, all areas will be reinstated with grass or covered with soft-fall or paving. The proposed earthworks will have a no more than minor adverse effect upon the visual landscape and the character of the neighbourhood.
- Council’s Senior Development Engineer has reviewed the proposal and is of the opinion that the proposed works will have a less than minor adverse effect on land stability. Furthermore, Council’s Senior Development Engineer is of the opinion that the reticulated stormwater network has capacity to drain the proposed amount of impervious surfaces and the proposed earthworks will not penetrate groundwater. The coefficient for stormwater run-off in grass is 0.35, and therefore Council’s Senior Development Engineer envisages that stormwater arising from the proposed impermeable surfaces will mostly be absorbed by the grassed areas. It is anticipated that the 600mm deep subsoil drain that is located under the road corridor will take any absorption flows under the soil.
- Any adverse effects on the environment and amenity values from the earthworks and the construction of the playground equipment will be of a temporary nature given that soft and hard landscaping will eventually cover all earth-worked areas.

- The proposed works are being undertaken more than 50m from the nearest watercourse. Council's Senior Development Engineer has inspected the erosion and control measures and is satisfied that the existing silt fence will mitigate the effects of waterborne sediment on the road corridor. The applicant has offered to implement and maintain erosion and sediment control measures in accordance with Auckland Council's Technical Publication 90: Guidelines for Land Disturbing Activities in the Auckland Region (TP90).
- The applicant has furnished an acoustic report that concludes that noise arising from children playing on the playground equipment is not expected to exceed the daytime standard at the boundary of properties that are zoned for residential purposes and beyond land identified as being "*adjacent*" to the site. It is not anticipated that the noise generated by the playground activities will affect use of Rossini Reserve by the general public for informal recreation use as noise from children playing on the play equipment is anticipated to be generally consistent with the measured ambient noise levels.
- The playground has been designed for and is intended for the use of pre-school children. Public access cannot be restricted to a '*recreational reserve*' under Section 17(2) of the Reserves Act 1977 without being enforced through Council's Consolidated Bylaws. This would be the case whether or not the reserve is maintained in its current state, without playground facilities. Therefore, it is considered that the perceived potential for this playground to become a focal point for anti-social behaviour and littering is not an RMA consideration.

Special Circumstances

Section 95A(4) of the Resource Management Act 1991 allows Council to publicly notify an application for resource consent if special circumstances exist. A "*special circumstance*" is "*something outside the norm, which may be unusual or exceptional, but may be less than extraordinary*" (Penninsula Watchdog Group v Minister of Energy 1996 CA200/94).

"*Special circumstances*" are therefore a safeguard to ensure that applications that are minor in their effects yield to special circumstances if the proposal is sufficiently outside of what is anticipated by an Operative District Plan and which is therefore assumed to reflect the public interest (*Murray v Whakatane District Council*).

In *Murray v Whakatane DC*, Judge Elias remarked:

"In an Act concerned with balancing competing factors to arrive at resource use which is in the overall public interest, where the public interest is not able to be sufficiently informed by the District Plan or by the applicant and such inquiries as the Council can reasonably make there would seem to be "special circumstances" which prompt notification."

While the proposal has attracted public interest, I am of the opinion that there is nothing particularly unusual about a playground being established on land that is gazetted as a reserve. Furthermore, there is only one "*reserve*" zone in Papakura and there are no sub-categories of reserves (such as passive or informal). The use is in accordance with the general purpose of single reserve zone.

As advised earlier in this report, I am aware that some of the community are opposed to the playground on the basis that a playground was never intended for the site. In this regard, there is no consent notice registered on the title that would limit its use, and the proposed use is consistent with the gazetted purpose of the reserve. There is no reserve management plan.

The proposed PAUP zoning is “*Single House.*” I therefore concur with the applicant that this appears to be an error in the drafting of the PAUP because it is gazetted as a reserve.

Overall, I am of the opinion that public notification would not add to my understanding of the effects from the proposal, and as such, I do not believe that special circumstances apply in this instance.

Conclusion

This application can be processed without public notification for the following reasons:

- Adverse effects are considered to be no more than minor.
- There are no special circumstances to warrant notification.
- No reasons exist to exercise the general discretion under s95A(1).

6. Limited notification assessment (sections 95B, 95E-95G)

If the application is not publicly notified the council must decide if there are any affected persons, or customary rights or title groups. These persons must then be notified.

There are no rules that preclude limited notification.

In deciding if a person is affected:

- A person is affected if the adverse effects of the activity on that person are minor or more than minor (but not less than minor).
- Adverse effects permitted by a rule in a plan (the permitted baseline) may be disregarded.
- The adverse effects on those persons who have provided their written approval must be disregarded.
- As a discretionary activity all adverse effects can be considered.
- The council must have regard to any statutory acknowledgement under schedule 11. Within the Auckland region the following are relevant:
 - Te Uri o Hau Claims Settlement Act 2002
 - Ngāti Manuhiri Claims Settlement Act 2012
 - Ngāti Whātua Ōrākei Claims Settlement Act 2012
 - Ngāti Whātua o Kaipara Claims Settlement Act 2013
 - Te Kawerau ā Maki Claims Settlement Act 2015

Adversely affected persons assessment (section 95E)

Noise

As stated earlier in this report, the applicant seeks resource consent to infringe the District Plan standard of 40 dBA L₁₀ that applies between the hours of 2200 and 0900, seven days a week including public holidays.

The applicant has submitted an acoustic report prepared by Marshall Day Acoustics Limited to predict the level of noise generated by typical use of the playground. As stated earlier in this report, the four play equipment structures that are proposed are designed for pre-school children and the playground is intended to function as a “*neighbourhood playground*” and not a “*destination playground*.” I have reviewed the plans and confirm that the equipment is the same or similar to other equipment found in small-scale playgrounds throughout the Auckland Region, and there is none of the bespoke and/ or larger-scale equipment proposed that you may find in larger destination playgrounds that draw families with pre-school and school-aged children from the wider area, such as Totara Park, Potters Park and Coyle Park.

As the play equipment itself does not generate noise, it is the children using the equipment; the acoustic report has therefore relied upon assumptions of “*likely*” and “*maximum*” use, as well as frequency of use and age of users.

Accordingly, the acoustic report has been based on the playground having a “*likely*” user rate of two children and a “*maximum*” user rate of 10 children. This seems a reasonable assumption based upon the amount of play equipment proposed and its “*neighbourhood playground*” function. The applicant also states that the equipment is likely to be used infrequently.

The applicant has applied 5 dBA averaging and a 2 dBA discount for the night-time period (2200 to 0900) because it is envisaged that noise will be generated during less than 30% of this 13 hour period. This methodology is supported by Council’s Senior Environmental Health Officer and I also consider that the discount is reasonable as it is unlikely that preschool children would be using the equipment late at night or early in the morning. I am of the opinion that for the purposes of Section 95E of the RMA, it is also reasonable to assume that the playground would only be used by pre-school children between 0700-0900 when the lower night standard applies (40 dBA L₁₀), which constitutes about 15% of the 13-hour period where the lower noise standard applies. A higher standard of 50 dBA L₁₀ applies between the hours of 0900 and 2200 when the majority of playground use is anticipated.

Table 2 of the applicant’s acoustic report indicates that the playground activity is expected to comply with the 50 dBA L₁₀ limit at the boundary of adjacent residential properties, with up to 10 children playing on the equipment. Furthermore, Council’s Senior Environmental Health Officer notes that if theoretically 20 children were using the equipment at the same time, noise would increase by an additional 3 dBA L₁₀ at the boundary of adjacent residential properties. This would only exceed the standard by 1 dBA L₁₀ at 14 Milano Boulevard and at 8 Rossini Court. The applicant considers such a scenario as being unlikely, however the applicant does suggest that at times when the playground is most likely to be used, it would need to be used by a significant number of children before the daytime limit of 50 dBA L₁₀ is infringed.

Table 2 of the acoustic report indicates that the “*likely use*” scenario of two children using the playground will exceed the District Plan acoustic limits by 1 dBA L₁₀ at the boundary of 14 Milano Boulevard and 8 Rossini Court. Table 2 also indicates that children playing at the playground will exceed 40 dBA L₁₀ at the boundary of many of the adjacent properties, when 10 children are playing at the same time.

I consider that the adverse effects of noise arising from children playing at the playground upon the amenity of the occupants of the identified adjacent residential properties will be less than minor for the following reasons:

- Noise predicted from the likely number of children that are expected to be playing at the playground will be generally in accordance with recorded ambient noise levels. The applicant's acoustic engineer is of the opinion that the change from existing noise environment to when children are playing within the playground will be "*negligible to just noticeable.*"
- Children's voices are part of the ambient noise environment of a residential area. Noise experienced at the front boundary of residential properties, and arising from children playing at the playground will generally be within the District Plan's limit for activities occurring within the Residential 9 zone, being 45 dBA L₁₀, 0700 to 1800, Monday to Friday and Saturday 0800 to 1200. The limit of 45 dBA L₁₀ is intended to maintain a reasonable standard of amenity for residential sites and is also more-or-less in accord with the measured ambient noise levels.
- Noise from 10 children playing at the playground is expected to comply with the daytime standards at the front boundary of all adjacent properties between the hours of 0900 and 2200.
- The playground has been designed for pre-school children and will have no lighting, and therefore it is unlikely to be used late at night or very early in the morning when the owners/ occupants of adjacent properties are likely to be affected by noise interrupting sleep.
- The primary outdoor areas for the adjacent residential properties are located to the rear of the property, behind dwellings. Dwellings are generally located a further 5m from the road boundary. The front yards of properties that are identified as being adjacent to the site, are not a part of the site that is likely to be used for enjoyment prior to 0900 hours.

Overall, it is considered that the noise from children playing on the playground will have a less than minor adverse effect on the amenity of the owners/ occupants of those properties that have been identified as being adjacent to the site.

Outlook

As stated earlier in this report, there are no identified or protected view shafts or restrictions on the height of structures within the site.

The natural form of the site has been modified through the bulk earthworks that were undertaken as part of the proposed subdivision. The cut/ fill plan illustrates that the earthworks are needed to create flat areas for the playground equipment as well as the landscaped bunds.

The location and height of the play equipment complies with the District Plan controls that are intended to preserve the amenity of adjacent properties.

All of the play equipment will be less than 3.5m in height and the playground will occupy less than a third of the reserve.

Overall, it is considered that the proposal will have a less than minor effect upon the visual outlook of the owners/ occupants of adjacent properties.

Erosion and Effects of Waterborne Sediment

Council's Senior Development Engineer has inspected the erosion and sediment control measures and is satisfied that the existing silt fence will mitigate the adverse effects of waterborne sediment. The site is surrounded by public road and it is therefore considered unlikely that waterborne sediment will adversely affect private properties.

In summary, no persons are considered to be adversely affected by the activities because:

- The adverse effects relating to the construction and earthworks periods will be temporary and can be managed to mitigate adverse effects. The site is surrounded by public roads and it is anticipated that private property is unlikely to be affected by waterborne sediment should the erosion and sediment control measures fail.
- The proposal will have a less than minor adverse effect upon the outlook of the owners and occupiers of adjacent properties because all of the equipment will be less than 3.5m in height and the playground will occupy less than a third of the reserve. The balance of the reserve will not be modified by this proposal. Furthermore, there are no identified or protected view shafts across the reserve.
- Noise from the expected number of children playing on the playground is predicted to comply with the District Plan noise limit of 50 dBA L₁₀ that applies between 0900 and 2200 hours, seven days a week. Few children are expected to use the playground prior to 0900 hours when the lower District Plan limit of 40 dBA L₁₀ applies and noise is predicted to be in general accord with the measured ambient noise level.

Therefore, it is recommended that this application be processed without limited notification because there are no affected persons under s95E of the RMA.

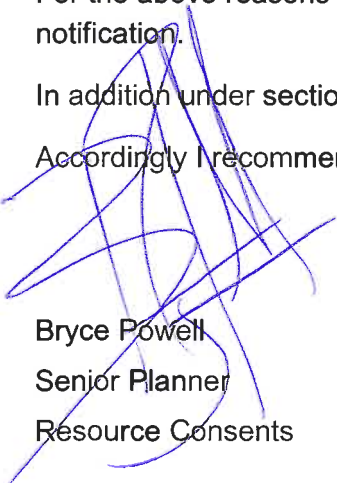
7. Notification recommendation

Non-notification

For the above reasons under section 95A these applications may be processed without public notification.

In addition under section 95B limited notification is not required.

Accordingly I recommend that these applications are processed non-notified.



Bryce Powell
Senior Planner
Resource Consents

Date

21/6/16

Approved for release

Sections 95A and 95B recommendation approved for release to the duty commissioner for determination.

M. J. Whitehead

Marian Whitehead

Team Leader – Resource Consents
(Papakura)

Date *21/06/2016*

Recommendation on application for resource consent under the Resource Management Act 1991



Discretionary activity

Application number:	R/LUC/2016/2140
Applicant:	Auckland Council – Community Facilities
Site address:	12R Milano Boulevard, Hingaia
Legal description:	Lot 707 DP 393795 (Identifier: 401418)
Proposal:	To establish and operate a children's playground on land gazetted as a recreation reserve under the Reserves Act 1977 and zoned "Reserve" under the Operative Plan, which involves 247m ³ of earthworks over a land area of 625m ² .

The resource consents required are:

Auckland Council District Plan 1999 (Papakura Section)

- Resource consent is required for a **controlled activity** under Section Three, Rule 2.10.1.1 of the District Plan to undertake earthworks that exceeds a volume of 50m³.
- Resource consent is required for a **discretionary activity** under Section Three, Rule 8.8.2.3 of the District Plan to establish a playground activity that will result in noise that is predicted to exceed the daytime limit (applied between the hours of 2200 and 0900), of 40 dBA L₁₀ at the nearest property boundary with residential zoning.

Proposed Auckland Unitary Plan 2013 (PAUP)

- Resource consent is required for a **restricted-discretionary activity** under Rule 3H.4.4.2 of the PAUP to undertake earthworks that exceed a land area of 501m².

Recommendation

I have read the application, supporting documents, and the report and recommendations on the consent application. I am satisfied that I have sufficient information to consider the matters required by the Resource Management Act 1991 (RMA) and make a decision under delegated authority on the application.

It is recommended that under sections 104 and 104B of the RMA, the application is **GRANTED**.

1. Reasons

The reasons for this recommendation are:

1. The application has been supported by a professionally prepared acoustic report and engineering drawings and these have been peer reviewed by Council experts who support the application being granted.

2. The playground has been designed for pre-school children. The playground is also of a small-scale and it is intended to serve the local community rather than functioning as a 'destination playground' serving the wider community. The playground use is consistent with the purpose of the reserve under the Reserves Act 1977 and is a permitted activity under the "Reserve Zone" rules of the Operative District Plan. Taking into account this regulatory framework, it is considered that the proposed playground will achieve an appropriate outcome for the northernmost portion of Milano Reserve.
3. The playground will occupy less than a half of the 3,877m² reserve and will not result in any physical changes to the southern portion of the site. The balance of the reserve will therefore continue to provide informal recreation/ sport opportunities for the local community. The reserve is not subject to a reserve management plan; however it is understood that the reserve is not used for any organised sports/ activities.
4. In terms of Section 104(1)(a) of the Resource Management Act 1991 (RMA), the adverse effects resulting from the proposed development and activity will be appropriate and mitigated by way of its design and through the imposition of the recommended conditions of consent relating to the construction period and in particular, the implementing of erosion and sediment control measures in accordance with Council's best practice guidelines.

Children playing within the playground and on play equipment are expected to generate noise that exceeds the night time acoustic level of 40 dBA L₁₀, which applies between the hours of 2200 and 0900. Very few pre-schoolers are expected to use the play equipment during this time, and I consider it reasonable to assume that the playground is unlikely to be used at all by pre-school children between 2200 and 0700 hours because no artificial lighting is proposed. The level of non-compliance with the night standard that applies between 0700 and 0900 hours is predicted to be small and within the measured ambient acoustic levels for the locality, of which children playing outdoors is expected within a residential area.

In terms of positive effects, the proposal provides recreational opportunities for young children that currently do not exist in the subdivision.

5. In terms of Section 104(1)(b) of the RMA, the proposal is considered to be generally consistent with the provisions of the District Plan because:
 - The playground is consistent with the strategic intent of the Reserve Zone, which is to provide for a range of recreational and community activities to become established within the Urban Reserve Zone (Objective 8.6.2). On balance, the proposal is also generally consistent with Objective 8.6.3 of the District Plan as the playground activity will enhance the amenity of the reserve for pre-school children and will retain over half of the reserve as a space for passive recreation activities. The reserve does provide outlook amenity for adjacent properties, however in this regard, the height and location of the play equipment complies with the bulk and location standards of the Urban Reserve Zone and land surrounding the playground will be landscaped, as encouraged by Objective 8.6.3 and its supporting policies.
 - The proposed earthworks can be undertaken in a way that is consistent with the matters over which Council has reserved control in Rule 2.10.2.2 of the District Plan and restricted discretion in Rule H.4.14.2.4.2 of the PAUP. The use of the site as a

“reserve” is gazetted, and Council is yet to release a decision on the proposed “Single House” zoning of the site under the PAUP.

6. In terms of Section 104(1)(c) of the RMA, other relevant matters, including monitoring have been considered in the recommendation.
7. Having regard to Part 2 of the RMA, and in particular my conclusion that the proposal will have appropriate environmental effects while enhancing the recreational opportunities for pre-school children. Further, the proposal will satisfy the matters raised in the Operative and Proposed Plans; and therefore I am of the opinion that the proposal is consistent with the sustainable management purpose of the RMA.

2. Conditions

Under section 108 of the RMA, I recommend the following conditions:

General conditions

1. The playground and earthworks activity shall be carried out in accordance with the plans and all information submitted with the application, detailed below, and all referenced by the council as consent number R/LUC/2016/2140:
 - Application Form, and Assessment of Environmental Effects prepared by Richmond Planning Ltd, dated May 2016.

Report title and reference	Author	Rev	Dated
Milano Reserve Playground	Marshall Day Acoustics Ltd	01	15 June 2016

Plan title and reference	Author	Rev	Dated
Site Context Plan; 1-6	Park and Playground Solutions Ltd		25 May 2016
General Plan; 2-6	Park and Playground Solutions Ltd		25 May 2016
Dimensions and Drainage Plan; 3-6	Park and Playground Solutions Ltd		25 May 2016
Earthworks – Cut and Fill Plan; 4-6	Park and Playground Solutions Ltd		25 May 2016
Planting Plan; 5-6	Park and Playground Solutions Ltd		25 May 2016
JT 558	Playground People Ltd		Received by Council on 30 May 2016
COR8220			Received by Council on 30 May 2016
GXY916			Received by Council on 30 May 2016
2 Bay Ace UFO			Received by

Plan title and reference	Author	Rev	Dated
			Council on 30 May 2016

Other additional information	Author	Rev	Dated
FW: Milano Noise Report	Richmond Planning Ltd		17/06/16
RE: Milano Noise Report	Richmond Planning Ltd		17/06/16

2. Under section 125 of the RMA, this consent lapses five years after the date it is granted unless:
 - a. The consent is given effect to; or
 - b. The council extends the period after which the consent lapses.
3. The consent holder shall pay the council an initial consent compliance monitoring charge of \$280.00 inclusive of GST), plus any further monitoring charge or charges to recover the actual and reasonable costs incurred to ensure compliance with the conditions attached to this consent.

Advice note:

The initial monitoring deposit is to cover the cost of inspecting the site, carrying out tests, reviewing conditions, updating files, etc., all being work to ensure compliance with the resource consent. In order to recover actual and reasonable costs, monitoring of conditions, in excess of those covered by the deposit, shall be charged at the relevant hourly rate applicable at the time. The consent holder will be advised of the further monitoring charge. Only after all conditions of the resource consent have been met, will the council issue a letter confirming compliance on request of the consent holder.

Development in progress conditions

4. There shall be no obstruction of access to public footpaths, berms, private properties, or public services/utilities resulting from the construction and/or earthworks activity. All materials and equipment shall be stored within the subject site's boundaries.
5. All earthworks shall be managed to ensure that no debris, soil, silt, sediment or sediment-laden water is discharged beyond the subject site to either land, stormwater drainage systems, watercourses or receiving waters. In the event that a discharge occurs, works shall cease immediately and the discharge shall be mitigated and/or rectified to the satisfaction of the Team Leader Southern Monitoring.

Advice Note:

In accordance with condition 5 all earthworks shall be undertaken to ensure that all potential sediment discharges are appropriately managed. Such means and measures may include:

- *Catchpit protection*
- *run-off diversions*
- *sediment retention ponds*

- *silt and sediment traps*
- *decanting earth bunds*
- *silt fences*

During excavation, the ingress and accumulation of surface run-off water and/or perched groundwater can be minimised by:

- *maintaining a waterproof cover over any excavation trenches and pits outside of working hours,*
- *diversion of surface water flow around the works area, and*
- *regular disposal of the water into an appropriate sediment control device, if ponding occurs within the excavation.*

It is recommended that you discuss any potential measures with the council's monitoring officer who may be able to provide further guidance on the most appropriate approach to take. Please contact the Team Leader Southern Monitoring on monitoring@aucklandcouncil.govt.nz for more details. Alternatively, please refer to "Auckland Regional Council, Technical Publication No. 90, Erosion & Sediment Control Guidelines for Land Disturbing Activities in the Auckland Region".

6. All required erosion and sediment control measures on the subject site shall be put in place in accordance with "Auckland Regional Council, Technical Publication No. 90, Erosion & Sediment Control Guidelines for Land Disturbing Activities in the Auckland Region". All controls shall remain in place until earth disturbing activities are complete.

3. Advice notes

1. Any reference to number of days within this decision refers to working days as defined in s2 of the RMA.
2. For the purpose of compliance with the conditions of consent, "the council" refers to the council's monitoring inspector unless otherwise specified. Please contact monitoring@aucklandcouncil.govt.nz to identify your allocated officer.
3. For more information on the resource consent process with Auckland Council see the council's website www.aucklandcouncil.govt.nz. General information on resource consents, including making an application to vary or cancel consent conditions can be found on the Ministry for the Environment's website: www.mfe.govt.nz.
4. If you disagree with any of the above conditions, or disagree with the additional charges relating to the processing of the application, you have a right of objection pursuant to sections 357A or 357B of the Resource Management Act 1991. Any objection must be made in writing to the council within 15 working days of notification of the decision.
5. The consent holder is responsible for obtaining all other necessary consents, permits, and licences, including those under the Building Act 2004, and the Heritage New Zealand Pouhere Taonga Act 2014. This consent does not remove the need to comply with all other applicable Acts (including the Property Law Act 2007 and the Health and Safety in Employment Act 1992), regulations, relevant Bylaws, and rules of law. This consent does

not constitute building consent approval. Please check whether a building consent is required under the Building Act 2004.


Recommendation prepared by:


Bryce Powell
Senior Planner
Resource Consents

Date 21/6/16

Approved for release

Recommendation approved for release to the duty commissioner for determination.


Marian Whitehead
Team Leader – Resource Consents
(Papakura)

Date 21/06/16