

Report for an application to vary conditions of a resource consent under section 127 of the Resource Management Act 1991



Discretionary activity under section 127(3)

1. Application description

Application Numbers:	LUC60420246-A (s127 application (land use)) WAT60420394-A (s127 application (water permit)) DIS60422394-A (s127 application (discharge permit))
Applicant's Name:	Watercare Services Limited
Original consent numbers	LUC60420246 (s9 land use consent) WAT60420394 (s14 water permit) DIS60422394 (s15 discharge permit))
Site Address:	94 Shelly Beach Road and 37 Sarsfield Street, Herne Bay
Legal Description:	Part Allotment 9-10 Section 8 Suburbs of Auckland, Part DP 501 and Lot 3 DP 48893 (94 Shelly Beach Road) Lot 5 Deeds Plan 499 (37 Sarsfield Street)
Site Area:	4.2896 hectares (94 Shelly Beach Road) 501m ² (37 Sarsfield Street)
Auckland Unitary Plan (Operative in Part)	
Zoning:	Open Space – Informal Recreation Zone (94 Shelly Beach Road) Open Space – Sport and Active Recreation Zone (94 Shelly Beach Road) Residential – Mixed Housing Urban Zone (37 Sarsfield Street)
Precinct:	None
Overlays:	Significant Ecological Areas Overlay – SEA_T_6025, Terrestrial (94 Shelly Beach Road)

	Sites and Places of Significance to Mana Whenua Overlay – 006, Tr Koraenga Oka, 1 (94 Shelly Beach Road)
Designations:	Designation – 6718, Motorway – State Highway 1 Auckland Harbour Bridge to Otahuhu, State Highway 16 Newton to Avondale, State Highway 20 Hillsborough Road to Manukau Harbour Crossing, New Zealand Transport Agency (94 Shelly Beach Road)
Controls:	Coastal Inundation 1% AEP Plus 1m Control – 1m Sea Level Rise (94 Shelly Beach Road) Macroinvertebrate Community Index – Urban (37 Sarsfield Street) Macroinvertebrate Community Index – Native and Urban (94 Shelly Beach Road)
Special Features:	Floodplains (94 Shelly Beach Road) Overland Flow Paths (94 Shelly Beach Road)
Proposed Plan Changes:	Plan Change 120
Zoning:	Open Space – Informal Recreation Zone (94 Shelly Beach Road) Open Space – Sport and Active Recreation Zone (94 Shelly Beach Road) Residential – Mixed Housing Urban Zone (37 Sarsfield Street)
Management Layer:	Frequent Transit Corridor Zoning (37 Sarsfield Street)
Spatially Identified Qualifying Matters:	Coastal Environment (37 Sarsfield Street) Significant Ecological Areas – Terrestrial (94 Shelly Beach Road) Sites and Places of Significance to Mana Whenua Overlay (94 Shelly Beach Road) Flood Plains (94 Shelly Beach Road) Coastal Inundation (94 Shelly Beach Road) Designation (94 Shelly Beach Road)
Site Features:	Shallow Landslide Susceptibility (Very Low and High) (37 Sarsfield Street) Shallow Landslide Susceptibility (Very Low

to Very High) (94 Shelly Beach Road)

Large-Scale Landslide Susceptibility (Low)
(37 Sarsfield Street)

Large-Scale Landslide Susceptibility (Very
Low) (94 Shelly Beach Road)

Low to Very High Flood Hazard Areas (94
Shelly Beach Road)

Locality Plan



Figure 1: Aerial Photograph, 94 Shelly Beach Road and 37 Sarsfield Street, Herne Bay, Source: Auckland Council GeoMaps

2. The proposal, site and locality description

Consenting Background

Bundled resource consent BUN60420393, being land use consent LUC60420246, water permit WAT60420394, and discharge permit DIS60422394, was submitted to Council in association with the provision of a 1.5km long, 2.1m internal diameter trunk sewer and associated access shafts and pipe connections extending from Bella Vista Road in the west to at 94 Shelly Beach Road in the east. While operation of the sewer was not a consenting

activity, the required enabling works were, with consent required for earthworks, groundwater diversion and dewatering, the disturbance of contaminated land, the discharge of contaminants, construction noise and vibration standard non-compliances, and works to, and the removal of, protected trees

The consent was publicly notified and was subject to a public hearing. Upon consideration of all relevant matters, including evidence from the applicant and submitters, consent was granted on 27 March 2024 by Independent Hearing Commissioners on behalf of the Council. The reasons for this, as detailed on pages 20 and 21 of the decision, are set out as follows:

1. *In accordance with an assessment under s104(1)(a) of the RMA, the actual and potential effects from the proposal will be of an acceptable nature and scale in this environment. Any adverse effects generated by the project, especially traffic disruption, noise and vibration, ground settlement and the amenity of Salisbury Reserve can be appropriately managed and mitigated by the conditions of consent set out below.*
2. *There are positive effects that will result from the project including:*
 - *providing network capacity for existing development and future growth; and*
 - *reducing overflows to stream and coastal environments in the catchments it serves.*
3. *The proposal is generally consistent with the National Environmental Standards for Assessing and Managing Contaminants in Soil to Protect Human Health, the National Policy Statement on Urban Development, the National Policy Statement for Freshwater Management, the New Zealand Coastal Policy Statement, and the relevant objectives and policies of the Auckland Unitary Plan (Operative in Part).*
4. *The provisions of s105 of the RMA will be met, as the proposed discharge of contaminants represent the best practicable option, the receiving environment will not be adversely affected in an unacceptable manner and discharges into an alternative receiving environment is neither practical nor necessary.*
5. *The provisions of s107 of the RMA will be met, as after reasonable mixing, proposed discharge of contaminants will not give rise to any of the following effects on receiving waters:*
 - a. *The production of any conspicuous oil or grease films, scums or foams, or floatable or suspended materials.*
 - b. *Any conspicuous change in the colour or visual clarity.*
 - c. *Any emission of objectionable odour.*
 - d. *The rendering of fresh water unsuitable for consumption by*

farm animals.

e. Any significant adverse effects on aquatic life.

The decision was subject to the imposition of 117 conditions that related to a range of matters, including:

- compliance with the submitted documentation;
- a lapse date;
- expiry dates for the regional land use consent, the groundwater diversion and dewatering permit, and the disturbance of contaminated land permit;
- the development and / or implementation of detailed works management plans in terms of:
 - erosion and sediment control;
 - overall construction works, including the temporary construction yard areas;
 - construction traffic;
 - construction noise and vibration;
 - contaminated land and groundwater;
 - trees;
 - maintenance of the integrity of buildings and structures; and
 - groundwater and ground settlement.
- works area reinstatement and replacement planting.

Proposal

Following on from approval of BUN60420393, it is proposed to alter the eastern alignment of the trunk sewer within Sarsfield Street, moving it slightly to the north, with a small portion extending underneath 37 Sarsfield Street. This realignment is required as it is also proposed to relocate Shaft 1 (now referred to as MH02) from its consented location at the intersection of Curran Street and Sarsfield Street to a position approximately 9.3m to the north and within the southwestern corner of 94 Shelly Beach Road (otherwise known as Point Erin Park). This relocation is proposed to minimise traffic disruption associated with the construction of MH02 and to avoid conflict with existing underground services.

In addition to relocating MH02, its internal diameter will reduce from the 13m consented to 7m, with the maximum depth increasing slightly from the 16.9m consented to 17m. Its construction method has also been confirmed as secant bored piles, with the consented development also allowing for sheet piling construction.

Other than the slight change in alignment noted above, no changes are proposed to the trunk sewer in terms of its location, diameter, depth and construction method.

No changes are proposed to any other component of the consented development.

To allow for these alterations to be made, the following changes are proposed (deletions in

~~striketrough~~ and additions in **bold underlined**):

1. Except as modified by the Conditions below and subject to final design, the works must be undertaken in accordance with the plans and all information submitted with the application, detailed below, and all referenced by the Council as consent numbers LUC60420246-~~A~~, WAT60420394-~~A~~, DIS60422394-~~A~~, of BUN60420393:
 - Application form and Assessment of Environmental Effects, prepared by WSP, Project Number W-SL007.01, Revision 03, dated 7 August 2023 except as amended by the Minor Methodology and AEE Update Letter, prepared by Watercare Services Limited, dated 8 August 2023, **and the application form and the Herne Bay Collector MH02 Relocation Section 127 Assessment of Effects on the Environment, prepared by Tonkin & Taylor Limited, Job Number: 30552.9089, Version 2.0, dated 3 June 2026.**

Reports Lodged with AEE

- Preliminary Site Investigation, prepared by Tonkin & Taylor Limited, Job Number 1090120.2000 v5, Version 5, dated June 2023.
- Ground Contamination Site Management Plan, prepared by Tonkin & Taylor Limited, Job Number 1090120 v2, Version 2, dated June 2023.
- Integrated Transport Assessment, prepared by Tonkin & Taylor Limited, Job Number 1090120.0000 v6, Version 6.0, dated 30 June 2023.
- Arboricultural Assessment of Effects, prepared by The Tree Consultancy Company, Job Ref: 2590, dated 9 June 2023.
- Archaeological Assessment, prepared by Clough & Associates Limited, dated March 2023.
- Construction Methodology Memorandum, prepared by WSP, dated 8 August 2023.
- Options Assessment Memorandum, prepared by WSP, dated 20 June 2023.

Further Information Response Documents

- Section 92 further information response letter, prepared by Harrison Fernandes-Burnard, WSP, dated 25 August 2023.
- Section 92 further information response letter, prepared by William Hung, Watercare Services Limited, dated 5 October 2023.
- Groundwater and Settlement Assessment Report, prepared by Tonkin & Taylor Limited, Job Number 1090120.0000 v4, Version 4.0, dated 27 September 2023.
- Groundwater and Settlement Monitoring & Contingency Plan (Draft), prepared by Tonkin & Taylor Limited, Job Number 1090120 v2, Version 2.0, dated 23 October 2023.
- Draft Erosion and Sediment Control Plan, prepared by WSP, Project Number W-SL007.01, Revision 2, dated 22 September 2023.
- Construction Noise and Vibration Technical Assessment, prepared by Tonkin & Taylor Limited, Job Number 1090120.3000 v1, Version 1, dated 3 August 2023.

- Construction Noise and Vibration Management Plan, prepared by Tonkin & Taylor Limited, Job Number 1090120.3000 v1.0, Version 1.1, dated 8 September 2023.
- Draft Construction Traffic Management Plan, prepared by Tonkin & Taylor Limited, Job Number 1090120.7000P v1, Version 1, dated 24 October 2023.
- Mitigation Planting Plan Memorandum, prepared by The Tree Consultancy Company, dated 7 September 2023.
- Proposed Salisbury Reserve Reinstatement Concept Sketch (Draft), prepared by WSP, reference W-SL007.00, dated 7 September 2023.
- St Marys Bay and Masefield Beach Water Quality Improvement Project Pt Erin Park, St Marys Road Park and Curran Street Planting Landscape Architecture Detail Design Plans, prepared by WSP, Project No: 3-AL343.00, dated 23 March 2021.
- Amendments to Application letter, prepared by William Hung, Watercare Services Limited, dated 13 October 2023.
- Section 92 further information response letter, prepared by William Hung, Watercare Services Limited, dated 6 November 2023, including Permitted Activity Assessment (Appendix A).
- Section 92 further information response email on temporary activity matters from William Hung, Watercare Services Limited, dated 17 November 2023.
- Section 92 further information response email on industrial and trade activity matters from William Hung, Watercare Services Limited, dated 30 November 2023.
- Section 92 further information response email on outstanding traffic and groundwater matters from William Hung, Watercare Services Limited, dated 15 December 2023.
- Section 92 further information response email on outstanding traffic matters from William Hung, Watercare Services Limited, dated 19 December 2023, including attached comments and imagery.

Report lodged with Section 127 AEE

- **HBC MH02 Shaft Relocation S127 Groundwater and Settlement Effects Assessment, prepared by Tonkin & Taylor Limited, Job Number 0030552.9089, Revision 3.0, dated 24 June 2026.**
- **HBC MH02 Shaft Relocation S127 Noise and Vibration Assessment, Job No: 0030552.9089. Revision 2, dated 4 June 2026**

Drawing title and reference	Issue	Date
Prepared by Watercare Services Limited		
Herne Bay Trunk Sewer Upgrade Marine Parade to Pt Erin Project Overview – Plan W-SL007001	3	17 October 2023
Herne Bay Trunk Sewer Upgrade Marine Parade to Pt Erin Longitudinal Section – Trunk Sewer W-SL007002	3	17 October 2023

Herne Bay Trunk Sewer Upgrade Marine Parade to Pt Erin Longitudinal Sections – Local Network Sheet 1 W-SL007003	3	17 October 2023
Herne Bay Trunk Sewer Upgrade Marine Parade to Pt Erin Longitudinal Sections – Local Network Sheet 2 W-SL007004	3	17 October 2023
Herne Bay Trunk Sewer Upgrade Marine Parade to Pt Erin Longitudinal Sections – Local Network Sheet 3 W-SL007005	2	20 June 2023
Herne Bay Trunk Sewer Upgrade Marine Parade to Pt Erin Longitudinal Sections – Local Network Sheet 4 W-SL007006	2	20 June 2023
Herne Bay Trunk Sewer Upgrade Marine Parade to Pt Erin Construction Plan – Tunnel Shaft Locations W-SL007007	3	17 October 2023
Herne Bay Trunk Sewer Upgrade Marine Parade to Pt Erin Construction Plan – Interception Shaft Locations W-SL007008	2	20 June 2023
Herne Bay Trunk Sewer Upgrade Hamilton Road, Herne Bay Erosion Sediment Control Plan – Site Plan 2014132.700	2	September 2023
Herne Bay Trunk Sewer Upgrade Hamilton Road, Herne Bay Erosion Sediment Control Plan – Sheet 1 2014132.701	2	September 2023
Herne Bay Trunk Sewer Upgrade Hamilton Road, Herne Bay Erosion Sediment Control Plan – Sheet 2 2014132.702	2	September 2023
Herne Bay Trunk Sewer Upgrade Hamilton Road, Herne Bay Erosion Sediment Control Plan – Sheet 3 2014132.703	2	September 2023
Herne Bay Trunk Sewer Upgrade Hamilton Road, Herne Bay Erosion Sediment Control Plan – Sheet 4 2014132.704	2	September 2023
Herne Bay Trunk Sewer Upgrade Hamilton Road, Herne Bay Erosion Sediment Control Plan – Sheet 5 2014132.705	2	September 2023
Herne Bay Trunk Sewer Upgrade Hamilton Road, Herne Bay Erosion Sediment Control Plan – Sheet 6 2014132.706	2	September 2023
Construction Support Area Land Requirement Plan – Salisbury Reserve		20 February 2024
Construction Support Area Land Requirement Plan 94a – b Shelly Beach Road		5 October 2023
<u>Herne Bay Relief Sewer (DSB5R) 82 Gravity Sewers Including Manholes Manhole MH02 Temporary Works Structure Location Plan Dwg No. 2014514.155</u>	<u>A</u>	<u>6 March 2026</u>

The two Herne Bay Relief Sewer (DSB5R) drawings, Issue A, dated 6 March 2026, superseded all other drawings with respect to details associated with consented Shaft 1 (now MH02) and the immediately adjacent trunk sewer where it partially extends underneath 37 Sarsfield Street.

Pre-Construction Condition Survey

89. The Consent Holder must consult with owners of existing buildings and structures identified through the building risk assessment process defined in Condition 88 and as a minimum, those buildings listed in Table 4.1 of the report titled “ Herne Bay Connector Project – Groundwater and Settlement Monitoring & Contingency Plan”, prepared by Tonkin & Taylor, dated October 2023, Job No. 1090120v2, referenced in Condition 1; **and 37 Sarsfield Street;** and all retaining walls at the block of five units at 92, 94 ,96 & 98 Sarsfield Street and 51 Wallace Street, together with the swimming pool and adjacent area at 99 Sarsfield Street, the garage, retaining walls, swimming pool and adjacent area at 2 Stack Street, and subject to the owner's approval on terms acceptable to the Consent Holder, undertake a detailed pre-construction Condition Survey of these structures to confirm their existing condition and enable the sensitivity of the existing buildings and structures to any groundwater and ground settlement changes to be accurately determined. The survey must be completed at least three months prior to the Commencement of Dewatering of any Project stage involving shaft sinking and chamber excavation, or tunnelling. The intent of the survey is to assist in enabling the magnitude of allowable effects from changes in groundwater pressure and ground settlement movements to be reasonably determined. The survey must be undertaken by a SQEP or SQBS.

The survey must include, but not necessarily be limited to, the following:

- a. Major features of the buildings and site developments, including location, type, construction, age, and existing Condition.
- b. Type and capacity of foundations.
- c. Existing levels of aesthetic damage.
- d. Existing level of structural distress or damage.
- e. Assessment of structural ductility.
- f. Susceptibility of structure to movement of foundations, including consideration of the local geological Conditions.

Advice Note:

‘Commencement of Dewatering’ means commencement of bulk excavation and/or commencing taking any groundwater from a shaft or tunnel excavation (after construction of the pile walls (if required) and/or dewatering prior to bulk excavation).

Post-Construction Condition Surveys

90. Unless otherwise agreed in writing with the building owner that such survey is not required, the Consent Holder must (subject to the owner(s) approval), within six months of the Completion of Dewatering of any Project stage involving shaft sinking, chamber excavation or tunnelling, undertake a post construction survey of buildings identified in accordance with Condition 89, and as a minimum, those buildings listed in Table 4.1 of the report titled “Herne Bay Connector Project – Groundwater and Settlement Monitoring & Contingency Plan”, prepared by Tonkin & Taylor, dated October 2023, Job No. 1090120v2, referenced in Condition 1; **and 37 Sarsfield Street**; and all retaining walls at the block of five units at 92, 94, 96 & 98 Sarsfield Street and 51 Wallace Street, together with the swimming pool and adjacent area at 99 Sarsfield Street, the garage, retaining walls, swimming pool and adjacent area at 2 Stack Street.

If any building damage is identified by the SQEP or SQBS and is determined to be due to the Project activities the Consent Holder must, subject to the agreement of the landowner, repair the damage in full in accordance with Condition 94.

The Consent Holder may, if they are able to provide evidence (of a suitably qualified and experienced independent expert) show the deformation was not caused by activities related to this consent, seek written approval from the Council to waive this Condition. If any building damage is identified following completion of the pre-construction survey, the survey must determine the likely cause of damage.

Advice Note:

'Completion of Dewatering' means when all the permanent chamber and shaft lining, base slab and walls are complete and the tunnel lining is complete, and effectively no further groundwater is being taken for the construction of the chamber/shaft/tunnel, in accordance with the design.

Site and surrounding environment description

94 Shelly Beach Road (Point Erin Park) is located on the western side of Shelly Beach Road, with Sarsfield Street to the south and Curran Street to the west. Public swimming pools are located on its northern portion, with a public car park, playground, and toilet block to the southeast along the Shelly Beach Road frontage. A construction yard associated with the applicant's Central Interceptor Project (**CIP**) is located centrally within the site, with this yard also containing the CIPs northernmost termination shaft. To the southwest and adjacent to its intersection with Curran Street and Sarsfield Street is an associated control chamber that has been partially constructed. It is to the south of this chamber where MH02 is now proposed. The remainder of the site is occupied by undulating grassland and mature vegetation. The vegetation along the northern side of the site is within a significant ecological area overlay, with this vegetation and a notable portion of the area occupied by the pools being subject to the Sites and Places of Significance to Mana Whenua Overlay – 006, Te Koraenga Oka, 1.

37 Sarsfield Street is located to the west on the opposite side of Curran Street. It is occupied by a residential dwelling of longstanding construction with the site having frontages to both Curran Street and Sarsfield Street. It is screened to a degree by a front boundary wall, with the 20m width of Curran Street providing a buffer between the dwelling and the proposed location of MH02.

The surrounding sites are all zoned residential, being a mixture of Residential – Mixed Housing Urban, and Residential – Single House. The sites closest to the subject sites are 24, 26, 28, 30, 32, 34, and 39 Sarsfield Street and 72 and 74 Curran Street. Each contain single residential dwellings of longstanding construction, with those at 24, 26, 28, and 30 Curran Street being well screened by vegetation and the others not directly facing those areas where subject works are proposed. Further levels of separation are provided by the widths of Curran Street and Sarsfield Street.

Noting the nature and scale of the amendments proposed, additional detail with respect to wider environment characteristics is not considered necessary.

Photos of the subject sites and their surroundings are included in Figures 2 to 8 below:



Figure 2 – Looking west along Sarsfield Street towards consented location of Shaft 1



Figure 3 – Looking west towards proposed location of MH02



Figure 4 – looking northwest towards 37 Sarsfield Street, with 72 Curran Street to the right and 39 Sarsfield Street to the left



Figure 5 – 37 Sarsfield Street as viewed from Curran Street



Figure 6 – 37 Sarsfield Street as viewed from Sarsfield Street



Figure 7 – 24 Sarsfield Street



Figure 8 – 26 and 28 Sarsfield Street

3. Background

Specialist Input

The proposal has been reviewed and assessed by the following specialists:

- Bin Qiu – Senior Specialist, Noise
- Richard Simonds – Consultant Principal Engineering Geologist

Compliance History

I am not aware of any compliance matters with respect to the subject site and the consented development.

Relevant Consenting History

The relevant consenting history has been outlined in section 2 above.

Changes since lodgement

No additional information has been submitted subsequent to lodgement of the application.

Records of Title

The applicant has submitted the Records of Title for the sites, being Identifier NA542/176, issued on 16 November 1931 for 37 Sarsfield Street, and Identifier NA26B/385, issued on 23 May 1973 for 94 Shelly Beach Road. They correctly describe the Estate, Area, Legal Description and Registered Owners of the sites, with neither having any registered interests. Both were less than three months old at the time of lodgement.

While 37 Sarsfield Street is Limited as to Parcels, that restriction is of no consequence to the subject application.

4. Status of the application

Application to vary resource consent conditions – LUC60420246-A, WAT60420394-A and DIS60422394-A

Land use consent LUC60420246, water permit WAT60420394, and discharge permit DIS60422394 allowed for a range of enabling works (earthworks, groundwater diversion and dewatering, the disturbance of contaminated land, the discharge of contaminants, construction noise and vibration standard non-compliances, and works to, and the removal of, protected trees) associated with the construction of a 1.5km long, 2.1m internal diameter trunk sewer.

This variation seeks to amend the design and location of one of the consented shafts and to slightly alter the alignment of the adjacent portion of the trunk sewer. No other changes are proposed. While the proposed amendments will have potential implications with respect to groundwater diversion and dewatering and noise and vibration related effects, these matters were considered as part of the original application, which ensures that they fall within the scope of the subject resource consent and will not be materially different from those originally assessed and considered. This includes any adverse effects from the works proposed

underneath 37 Sarsfield Street, noting that while not part of the original application 'site', groundwater diversion and dewatering and noise and vibration effects were considered with respect to it. As such, the proposed changes can be considered as part of an application under s127 of the Resource Management Act 1991 (**RMA**).

Sections 88 to 121 apply, though all references to resource consent and activity are replaced with reference to the changes and the resultant effects.

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

Section 95A specifies the steps the council is to follow to determine whether an application is to be publicly notified. These steps are addressed in the statutory order below.

Step 1: mandatory public notification in certain circumstances

No mandatory notification is required as:

- the applicant has not requested that the application is publicly notified (s95A(3)(a));
- there are no outstanding or refused requests for further information (s95C and s95A(3)(b)); and
- the application does not involve any exchange of recreation reserve land under s15A of the Reserves Act 1977 (s95A(3)(c)).

Step 2: if not required by step 1, public notification precluded in certain circumstances

The application is not precluded from public notification as:

- the activities are not subject to a rule or national environmental standard (NES) which precludes public notification (s95A(5)(a)); and
- the application does not exclusively involve one or more of the activities described in s95A(5)(b).

According, the development does not meet the criteria set out in set 2, which means that step 3 is relevant.

Step 3: if not precluded by step 2, public notification required in certain circumstances

As the application is not precluded from public notification by step 2, step 3 is applicable.

The application is not required to be publicly notified as the activities are not subject to any rule or a NES that requires public notification (s95A(8)(a)).

The following assessment addresses the adverse effects of the activities on the environment, as public notification is required if the activities will have or are likely to have adverse effects on the environment that are more than minor (s95A(8)(b)).

The adverse effects on the environment assessment is set out below.

Adverse effects assessment (sections 95A and 95D)

A consent authority that is deciding, for the purpose of section 95A(8)(b), whether an activity will have or is likely to have adverse effects on the environment that are more than minor:

- must disregard any effects on persons who own or occupy:
 - the land in, on, or over which the activity will occur; or
 - any land adjacent to that land.
- may disregard an adverse effect of the activity if a rule or national environmental standard permits an activity with that effect (the permitted baseline);
- must disregard trade competition and the effects of trade competition; and
- must disregard any effect on a person who has given written approval to the relevant application.

Effects on persons who are owners and occupiers of the land in, on or over which the application relates, or of land adjacent to that land

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 listed below and marked with a purple dot in Figure 9 below:

- 26, 28, 30, 32, 34 and 39 Sarsfield Street
- 72 Curran Street



Figure 9: Map of sites within the immediate environment

Permitted baseline

The permitted baseline refers to the effects of permitted activities on the subject site.

As the application involves the variation of conditions of an existing resource consent, the permitted baseline is not considered relevant in determining the adverse effects beyond those from the activities undertaken under the original consent.

Effects of trade competition

There are no trade competition effects to consider.

Any effect on a person who has given written approval to the application

Written approval has been provided from the following persons:

John Speight and Christine Nicola Geddez Mary Speight 37 Sarsfield Street, Herne Bay

No consideration will be given to adverse effects on these persons.

Receiving environment

The receiving environment beyond the subject site includes permitted activities under the relevant plans, lawfully established activities (via existing use rights or resource consent), and any unimplemented resource consents that are likely to be implemented. This is the

environment within which the adverse effects resulting from this application must be assessed.

In this instance, the receiving environment includes the subject sites, and the manner in which they relate to the surrounding environment. This includes the public open space use of 94 Shelly Beach Road but noting that it is currently subject to extensive construction works associated with the CIP, and to a lesser degree, subject bundled resource consent BUN60420393. 37 Sarsfield Street is zoned residential and is occupied by a longstanding residential dwelling typical of those located within the surrounding environment.

The nature and location of the dwellings on the immediately surrounding sites, as described in section 2, is also noted, and particularly their orientation, the presence of screening vegetation, and the buffer provided by the width of Curran Street and Sarsfield Street.

There are no unimplemented consents that affect the subject site and surrounding area that I am aware of.

These aspects need to be taken into consideration when assessing the effects of the proposed development.

Adverse effects

The applicant has provided, in accordance with schedule 4 of the RMA, an Assessment of Effects on the Environment (**AEE**) in such detail that generally corresponds with the scale and significance of the effects that the activity may have on the environment. This assessment can be found in section 4 of the AEE on pages 6 to 9, with the conclusion contained in section 4.6 set out below:

The activity consented under BUN60420393 would require a full closure of Sarsfields Street for approximately 100 days, and diversion of traffic onto Emmett and Curran Streets. This temporary disruption was assessed as a significant adverse effect in the original application. The revised proposal relocates Shaft MH02 further into Point Erin Park and reduces the need for works within the road reserve, meaning the full closure of Sarsfield Street will no longer be required. Any carriageway restrictions would be limited to intermittent partial closures (e.g. for occasional delivery of oversize loads). Accordingly, the proposed relocation is anticipated to have a positive effect for the local community through a material reduction in traffic and transport -related adverse effects.

The revised proposal also includes a reduction in shaft size and a minor adjustment to the tunnel alignment as set out above. Technical assessments conclude that this change remains within the consented envelope of effects, with groundwater and settlement effects remaining less than minor and noise and vibration effects also remaining consistent with the consented project and manageable under the existing CNVMP framework.

Overall, the proposed change to conditions of consent does not result in materially different adverse effect, nor does it represent a fundamentally different activity from that currently consented. Accordingly, the adverse effects on the environment remain less than minor as assessed and consented, with a net improvement in traffic and access outcomes. These

effects will continue to be avoided, remedied and mitigated through implementation of the environmental management plans and mitigation measures required by the existing consent conditions.

Noting that positive effects cannot be considered as part of the s95 assessment and referencing the assessment provided by the Council's specialist advisors as necessary, I concur with this assessment and provide the following supplementary assessment as follows:

Groundwater

Adverse effects associated with groundwater diversion and dewatering from the amendments proposed have been addressed within the submitted s127 Groundwater and Settlement Effects Assessment, which has been reviewed by the Council's Consultant Principal Engineering Geologist, Mr Richard Simonds.

Within a technical review email dated 8 July 2026, Mr Simonds confirms his agreement with the submitted Groundwater and Settlement Effects Assessment and that any resulting changes in respect of total and maximum differential settlement will be confined to the sites at 28, 30 and 37 Sarsfield Street. Beyond these sites, no ground settlement as a consequence of works associated with the amended shaft and truck sewer alignment and design will result.

Relying on the assessment of Mr Simonds and noting that effects on the above sites are excluded for the purpose of the s95A assessment, no adverse groundwater related effects will result.

Noise and Vibration

Adverse effects associated with noise and vibration from the amendments proposed have been addressed within the submitted s127 Noise and Vibration Effects Assessment, which has been reviewed by the Council's Senior Specialist, Noise, Mr Bin Qiu.

As with groundwater, within a technical review email dated 16 July 2026, Mr Qiu confirms his agreement with the submitted Noise and Vibration Effects Assessment and notes that while there will be a slight increase noise levels at 37 Sarsfield Street and 72 Curran Street, at 1-2 dB, this will be imperceptible to human hearing and within the effects limits already consented. With respect to other receivers (26, 28 and 30 Sarsfield Street to the south), noise levels will reduce by 5 dB, with this occurring as a consequence of increased separation distances.

Mr Qiu states that the only change with respect to vibration will be from the amended tunnel alignment, with the 0.2mm/s level at 37 Sarsfield Street being below permitted amenity and structural standards. The reduced diameter and the use of secant bored piling will not result in any increase in vibration levels associated with the construction of shaft MH02.

Relying on the assessment of Mr Qiu and again noting that effects on the above sites are excluded for the purpose of the s95A assessment, no adverse noise and vibration related effects will result.

Traffic

While a review from a traffic engineering specialist has not been undertaken, with the shaft being relocated from within Sarsfield Street, which would have necessitated a full road closure, I concur with the assessment within the AEE that only positive effects can result from constructing the shaft in a manner that no longer requires this management measure. Noting

that positive effects cannot be considered and that all traffic matters will be addressed through implementation of a construction traffic management plan, as required by condition 45, I conclude that any adverse traffic related effects will be less than minor.

Other Matters

While all adverse effects can be considered given the discretionary activity status of the s127 application, given the nature of the amendments proposed and that all other adverse effects, including those relating to erosion and sediment control and the management of contaminated soil and groundwater, will be addressed through compliance with existing conditions of consent that will remain unchanged, there are no other matters of relevance that need to be considered.

Summary

Overall, for the above reasons, I consider that adverse effects on the environment as a consequence of the proposed condition amendments will be less than minor.

Step 4: public notification in special circumstances

If an application has not been publicly notified as a result of any of the previous steps, then the council is required to determine whether special circumstances exist that warrant it being publicly notified (s95A(9)).

Special circumstances are those that are:

- exceptional or unusual, but something less than extraordinary; or
- circumstances which make notification desirable, notwithstanding the conclusion that the adverse effects will be no more than minor.

In this instance I have turned my mind specifically to the existence of any special circumstances and conclude that there is nothing exceptional or unusual about the s127 application, and that the proposal has nothing to suggest that public notification should occur.

Public notification conclusion

Having undertaken the s95A public notification tests, the following conclusions are reached:

- Under step 1, public notification is not mandatory.
- Under step 2, there is no rule or NES that specifically precludes public notification of the activities, and the application is for activities other than those specified in s95A(5)(b).
- Under step 3, public notification is not required as the application is for activities that are not subject to a rule that specifically requires it, and adverse effects on the environment will be less than minor.
- Under step 4, there are no special circumstances that warrant the application being publicly notified.

It is therefore recommended that this s127 variation be processed without public notification.

6. Limited notification assessment (sections 95B, 95E-95G, s127(4))

If the variation is not publicly notified under s95A, the council must follow the steps set out in s95B to determine whether to limited notify the application. These steps are addressed in the statutory order below.

Step 1: certain affected protected customary rights groups must be notified

There are no protected customary rights groups or customary marine title groups affected by the proposed activity (s95B(2)).

In addition, the council must determine whether the proposed activity is on or adjacent to, or may affect, land that is subject of a statutory acknowledgement under schedule 11, and whether the person to whom the statutory acknowledgement is made is an affected person (s95B(3)). Within the Auckland region the following statutory acknowledgements 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.
- Ngāti Tamaoho Claims Settlement Act 2018.
- Ngāi Tai Ki Tāmaki Claims Settlement Act 2018.

While the subject sites are located on proximity to the coastal marine area (**CMA**), which is subject to statutory acknowledgements relevant to Ngāi Tai Ki Tāmaki and Ngāti Tamaoho, the nature and scale of amendments proposed is such that they will have no implications with respect to the coastal environment. Indeed, with one of the key outcomes of the CIP and the subject trunk sewer being to reduce uncontrolled discharges into the CMA, long term adverse environmental effects will be reduced. Accordingly, no persons to whom a statutory acknowledgement is made will be affected by the proposed amendments.

Step 2: if not required by step 1, limited notification precluded in certain circumstances

The application is not precluded from limited notification as:

- the application is not for one or more activities that are exclusively subject to a rule or NES which preclude limited notification (s95B(6)(a)); and
- the application is not exclusively for one or both of the following: a controlled activity, other than a subdivision, that requires consent under a district plan; or a prescribed activity (s95B(6)(b)).

Step 3: if not precluded by step 2, certain other affected persons must be notified

As this application is not for a boundary activity or a prescribed activity, there are no affected persons related to those types of activities (s95B(7)).

The following assessment addresses whether there are any affected persons that the application is required to be limited notified to (s95B(8)).

In determining whether a person is an affected person:

- a person is affected if the activity's adverse effects on that person are minor or more than minor (but not less than minor);
- adverse effects permitted by a rule in a plan or NES (the permitted baseline) may be disregarded; and
- the adverse effects on those persons who have provided their written approval must be disregarded.

In considering the variation of conditions of an existing resource consent, the council must consider in particular every person who made a submission on the original application and who may be affected by the change or cancellation of that consent (s127(4)).

Adversely affected persons assessment (sections 95B(8) and 95E)

With respect to those persons that made a submission on the original publicly notified application, the following assessment is provided within the AEE in section 6.2 on page 12:

The original application (BUN60420393) was publicly notified as requested by Watercare. Although submissions were received relating to ground settlement, those submitters are not considered to be affected by the proposed change as the changes and associated effects are small in scale and confined to the immediate vicinity of the relocated shaft and the short section of revised tunnel alignment. Accordingly, the overall change in the level of adverse effects is negligible. The groundwater and settlement assessment concludes that effects remain less than minor. Ground settlement risk will continue to be appropriately managed through implementation of the environmental management plans and mitigation measures required by the consent conditions.

Accordingly, no persons have been identified as being affected by the proposed change of conditions.

I concur with this assessment. While there were a number of submissions that raised groundwater diversion and dewatering and noise and vibration as matters of concern, the closest submitter to the works area was Robin Scholes at 86 Sarsfield Street, approximately 500m to the west. Given the very localised nature of any likely adverse effects from the proposed amendments, no persons who made a submission on the original application will be affected.

With respect to any other persons who might be adversely affected by the proposed

amendments, the following assessment is provided within the AEE in section 6.2 on pages 11 and 12:

The effects of the proposed change to conditions, including the effects on 37 Sarsfield Street, are assessed as less than minor and, on that basis, there are no affected persons.

Notwithstanding this, the owners of 37 Sarsfield Street have provided affected party approval (attached as Appendix G) and therefore cannot be considered adversely affected by the application. This approval is subject to Watercare preparing comprehensive reports on the condition of the property pre-and post-construction and remaining responsible for long-term maintenance of the relocated infrastructure and any resulting property damage. Watercare has accepted these conditions and they are reflected in the proposed amendments to consent conditions 89 and 90. Evidence of the owners of 37 Sarsfield Street sighting the most updated project documentation is attached as Appendix I.

Watercare has an existing lease agreement with Auckland Council for the use of Point Erin Park. An updated copy of this lease which reflects the relocated shaft and associated reduction in size is attached as Appendix H. Additionally, an acknowledgement from Auckland Council Parks and Community Facilities that Shaft MH02 will be included in the Pt Erin Reinstatement Plan is attached as Appendix J.

I concur with this assessment and provide the following supplementary assessment below:

Groundwater

Mr Simonds notes that total levels of ground settlement as a consequence of the construction of MH02 will be less than 1mm for the sites at 28, 30 and 37 Sarsfield Street, which is the same as that originally assessed for 37 Sarsfield Street and a 1mm reduction for 28 and 30 Sarsfield Street (noting that MH02 will be located further from them than consented Shaft 1). Differential settlement for these two sites will also improve, extending from the 1:3,500 consented to between 1:5,000 and 1:10,700.

The only site that will experience increased levels of settlement from tunnelling works associated with the trunk sewer will be 37 Sarsfield Street, with a maximum of 6mm of total settlement predicted and differential settlement of 1:3,600. While increased, Mr Simonds has confirmed that this does not change the tunnelling-related settlement effects that were originally assessed and that the magnitude of effects remains less than minor.

I rely on the assessment of Mr Simonds and noting that written approval has been provided from the owners of 37 Sarsfield Street (with the applicant having agreed to amend conditions 89 and 90 to ensure that pre-and-post-condition surveys are undertaken with respect to the dwelling at 37 Sarsfield Street) and that predicted levels of settlement will be reduced with respect to all other sites within the immediate environment, any adverse groundwater related effects on persons from whom written approval has not been provided will be less than minor.

Noise and Vibration

As set out in the assessment from Mr Qiu, while there will be a 1-2 dB increase in noise levels with respect to 37 Sarsfield Street and 72 Curran Street, this increase will be imperceptible. This is particularly so noting that the maximum generated level of noise will not exceed those originally assessed (and will be reduced with respect to some sites) and along with vibration (levels of which will not increase) will be managed appropriately through implementation of the consented construction noise and vibration management plan.

With written approval having been provided from the owners of 37 Sarsfield Street, no adverse effects can be considered upon persons with an interest in this property. That notwithstanding, I rely on the assessment of Mr Qiu that the maximum likely generated levels of noise and vibration will remain within consented levels and will not be perceptible such that increased levels of disturbance or annoyance will not result with respect to any persons. With detailed management measures proposed to be implemented via the construction noise and vibration management plan required by existing condition 37, any noise and vibration related effects on persons from whom written approval has not been provided will be less than minor.

Traffic

As detailed in section 5, construction traffic effects will be likely be improved compared with that consented given that Sarsfield Street will not require a full closure (as would have been required to construct consented Shaft 1). For these reasons, adverse traffic effects on persons beyond those consented, including persons with an interest in 26, 28 and 30 Sarsfield Street (being those sites directly outside the location of consented Shaft 1) will not result.

Parks

I note the assessment within the AEE that the location of MH02 within 94 Shelly Beach Road is subject to a lease agreement with the Council's Parks and Community Facilities, with communication setting out the discussions that have occurred being contained in Appendix J to the AEE. In my opinion, this is a landowner issue and not one that needs to be considered in terms of adversely affected persons, as should the Council's Parks and Community Facilities Department not agree with the works proposed, landowner approval can be withheld until an amenable solution is reached.

Other Matters

While all adverse effects can be considered given the discretionary activity status of the s127 application, given the nature of the amendments proposed and that all other adverse effects, including those relating to erosion and sediment control and the management of contaminated soil and groundwater, will be addressed through compliance with existing conditions of consent that will remain unchanged, there are no other matters of relevance that need to be considered with respect to persons.

Conclusion

Accordingly, for the reasons outlined above, any adverse effects on persons from whom written approval has not been provided as a consequence of the proposed condition amendments will be less than minor.

Step 4: further notification in special circumstances

In addition to the findings of the previous steps, the council is also required to determine whether special circumstances exist in relation to the application that warrant it being notified to any other persons not already determined as eligible for limited notification.

Special circumstances are those that are:

- exceptional or unusual, but something less than extraordinary; or
- circumstances which make limited notification to any other person desirable, notwithstanding the conclusion that no other person has been considered eligible.

In this instance I have turned my mind specifically to the existence of any special circumstances under s95B(10) and conclude that there is nothing exceptional or unusual about the subject application to suggest that notification to any other persons should occur.

Limited notification conclusion

Having undertaken the s95B limited notification tests, the following conclusions are reached:

- Under step 1, limited notification is not mandatory and no persons to whom a statutory acknowledgement is made will be affected.
- Under step 2, there is no rule or NES that specifically precludes limited notification of the variation, and the application is for an activity other than those specified in s95B(6)(b).
- Under step 3, limited notification is not required as it is considered that the variation will not result in any adversely affected persons, with any adverse effects on persons being less than minor and no persons that made a submission on the original application being affected.
- Under step 4, there are no special circumstances that warrant the variation being limited notified to any persons.

It is therefore recommended that this s127 variation be processed without limited notification.

7. Notification recommendation

Non-notification

For the above reasons under section 95A this application may be processed without public notification.

In addition, under sections 95B and 127(4) limited notification is not required.

Accordingly, I recommend that this application is processed non-notified.

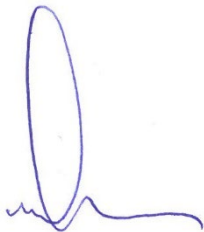


Mark Ross
Consultant Planner
Sentinel Planning Limited

Date: 18 July 2026

8. Notification determination LUC60420246-A, WAT60420394-A and DIS60422394-A

Acting under delegated authority, and for the reasons set out in the above assessment and recommendation, under sections 95A and 95C to 95D, and 95B, 127(4) and 95E to 95G of the RMA this application shall be processed non-notified.



Warwick Pascoe
Principal Project Lead
Premium Resource Consents

Date: 19 July 2026