

**RESOLUTIONS PASSED BY A
DUTY COMMISSIONER**

**APPLICATION FOR A RESOURCE CONSENT / SECTION 127
APPLICATION**

RESOURCE CONSENT APPLICATION NO.: LUC-2010-1290

APPLICANT NAME: PRESERVE PIHA LIMITED

SITE ADDRESS: 20 SEAVIEW ROAD, PIHA

APPLICATION PROPOSAL: Section 127 RMA 1991 - variation to LUC 2007-252, to provide building additions, car park re-surfacing, replacing the gobi blocks along the eastern boundary with gravel style permeable pavers, consumption of alcohol and the confirmation of a cafe seating plan.

COMMISSIONER: Mr Les Simmons

DECISION

That pursuant to Sections, 104, 104B, 108 and s127 of the Resource Management Act 1991, **consent be granted** to the application by Preserve Piha Limited to change conditions of LUC-2007-252, to provide building additions, car park re-surfacing, replacing the gobi blocks along the eastern boundary with gravel style permeable pavers, consumption of alcohol and the confirmation of a cafe seating plan at 20 Seaview Road being Lot 6 DP 40332 for the following reasons:

- (i) The proposed changes are within the scope of the provisions set out in s127 RMA and subject to the amended wording of conditions would have no more than minor adverse effects on the environment.
- (ii) The proposal will not increase the hours of operation nor introduce any adverse effects that may compromise or undermine existing conditions of consent, nor challenge the underlying and consented purpose for the operation of a non-residential (café) activity.
- (iii) The proposal will not materially increase or noticeably alter the scale and nature of the activity, and it is expected that the proposed changes will not compromise or undermine the existing conditions of consent which in-part seek to protect nearby amenities.
- (iv) The proposal will not affect the performance of the on-site wastewater system and therefore will not adversely affect water

quality or increase any adverse amenity effects associated with odour.

- (v) The proposal is consistent with the relevant objectives and policies of the District Plan and regard has been given to the relevant assessment criteria in the District Plan.
- (vi) The proposal is consistent with the Auckland Regional Policy Statement and the New Zealand Coastal Policy Statement.
- (vii) The proposal is consistent with the purpose and objectives of the Waitakere Ranges Heritage Area Act 2008.
- (viii) The proposal will promote the sustainable management of resources as contemplated by Part 2 of the RMA.

The new conditions for resource consent LUC 2007-252 as varied by resource consent LUC 2010-1290 are imposed below. All changes to the original conditions are shown in bold, with deleted text struckthrough and new text underlined:

General

1 The development shall proceed in accordance with resource consent application LUC-2007-252 and supplementary technical reports submitted on 13 February 2007, with subsequent further information received, and with ~~Drawings G(-04) Rev-K and G(-03) Rev-K by Brandso-Design Sheet RC100 Revision 3, titled Proposed Coverage Plan and Sheet RC02 Revision 2, titled Proposed Elevation, both dated April 2011 and by Toa Limited; Figure 1 'Proposed Planting Concept Plan' Revision 8 and Figure 13 'Vegetation Analysis' by Boffa Miskell Ltd; E100, E101 R1, and E102 by Cato Bolam Consultants Ltd.~~

2 A consent compliance monitoring fee of \$1,363.00 must be paid to the Council. This fee is to recover the actual and reasonable costs incurred ensuring compliance with the conditions of this consent. If, on inspection, all conditions have not been satisfactorily met, a re-inspection shall be required at the relevant hourly rate applicable at the time of re-inspection.

The monitoring fee must be paid as part of the resource consent and the resource consent holder shall be advised of any further monitoring fees should they be required.

3 Pursuant to section 125 of the Resource Management Act 1991, this consent will lapse after a period of five (5) years after the commencement of the consent, unless given effect to within that period.

4(a) Prior to any physical works commencing on the property, a 'pre-start' meeting will be held between the consent holder's nominated representative, all contractors, and the Council nominated Environmental Monitoring Officer regarding the following:

- (a) Location of the stockpile, sediment and erosion controls and works methodology in relation to approved earthworks.
- (b) Location and method of required vegetation protection (particularly of the native shrubs along the west boundary) further to Condition (31) below.

4(b) **Prior to any physical works associated with resurfacing the driveway and carpark a 'pre-start' meeting will be held onsite between the consent holder's nominated**

representative, all contractors, a Chartered Professional Engineer or suitably qualified Consultant who is experienced in wastewater treatment and land disposal systems and the Council's Environmental Monitoring Advisor to determine the following:

- (a) Method of works to avoid damage to the wastewater disposal system which includes the geo-grid soil reinforcing system and the 300mm layer of hardfill.
- (b) Method for maintaining access to all components of the wastewater treatment and disposal system.
- (c) Sediment and erosion controls and works methodology in relation to approved earthworks.

5 After engineering approval has been given by Waitakere City Council and prior to the commencement of construction, a pre-start meeting must be held with the Council nominated EcoWater Quality Assurance Supervisor regarding the approved stormwater system. The applicant is required to ensure that the contractor and nominated consent holder's representative attend the quality assurance pre-start meeting, and that construction materials are on-site for inspection.

6 In the event of archaeological features being uncovered in the course of physical works, all work must immediately cease in the vicinity of the discovery and the area must be secured. The consent holder shall immediately inform the Manager: Resource Consents (Waitakere City Council), the New Zealand Historic Places Trust, and the appropriate Iwi authorities so that appropriate action can be taken. This includes such persons being given a reasonable time as determined by the Council to record and recover archaeological features discovered before work may recommence.

Operation

7 The number of seated patrons (including indoor and outdoor areas) must not exceed 35 persons at any one time.

8 **No liquor or alcoholic beverages shall be consumed at any time.**

Wastewater

9 The wastewater disposal system must be constructed, operated and maintained in accordance with the report by Ormiston Associates Limited entitled 'On-site Wastewater Treatment and Land Disposal Assessment for Proposed Café at 20 Seaview Road, Piha' dated December 2006, and further information letters supplied to Waitakere City Council dated 14 April 2007, 15 June 2007, and 19 September 2007, and in accordance with terms and conditions of ARC Wastewater Consent No. 33789 and those terms and conditions shall prevail in the event of any conflict.

10 Wastewater flow must not exceed 3,300 litres per day.

11 No coffee grinds, cooking and edible oils, milk, wine or other materials that may compromise the efficient functioning of the wastewater system must be discharged to the approved wastewater system.

12 The only food preparation permitted on the premises shall involve: the reheating of pre-prepared food; the preparation of tea, coffee or other ~~non-alcoholic~~ beverages; the preparation of simple foods in the nature of sandwiches, and minor cooking such as light breakfasts. No full on-site restaurant style meal preparation shall be undertaken.

13(a) A kitchen management plan must be produced to identify methods for achieving compliance with Conditions (11) and (12) above. The kitchen management plan must be submitted to the Manager: Resource Consents for approval prior to the commercial use of the kitchen.

13(b) **An amended kitchen management plan must be produced to identify methods for achieving compliance with Conditions (11) and (12) above, including details of waste wine storage and offsite disposal at a suitable location. The amended kitchen management plan must be submitted to the Manager: Resource Consents for approval prior to serving any alcohol.**

14 High water level alarms must be included in all pump chambers and an audible alarm installed in the café building. In the event of the alarm sounding, the wastewater system must be immediately inspected for functionality and the Waitakere City Council Plumbing and Drainage Inspector contacted on telephone 839 0400.

15 All vents of the approved wastewater system shall be fitted with carbon filters to reduce odour emissions.

16 Pursuant to section 128 of the Resource Management Act 1991, six (6) months following the grant of this consent and at 12-monthly intervals for the next six (6) years thereafter, the Council may serve notice on the consent holder of its intention to review conditions of this consent relating to wastewater discharge, for the purpose of dealing with any adverse effect on the environment which may arise from the exercise of the consent and which it is appropriate to deal with at a later stage. The Council may, if deemed appropriate, require adoption of the best practicable option to remove or reduce any adverse effect on the environment.

Stormwater

17 Pursuant to section 108(2)(d) of the Resource Management Act 1991, a covenant shall be entered into, in favour of Council, to record that in order to mitigate against adverse effects on the environment, on-site stormwater management systems are required on an on-going basis to comply with EcoWater's Countryside and Foothills Stormwater Management Code of Practice & Stormwater Solutions for Residential Sites, and must meet the following specific requirements:

(i) Provide and install an interlocking plastic geo-grid permeable carpark surface with an engineered base course comprising minimal compaction materials ~~providing a natural grass surface consisting of permeable granular surface with minimum granular dimension of 10mm~~ with high load bearing capacity and water managing ability.

or

Provide and install a permeable aggregate paving carpark surface with an engineered base course comprising minimal compaction materials with high load bearing capacity and water managing ability in accordance with the manufacturers recommendations.

(ii) Rainwater capture from the building roof area must be collected for re-use.

(iii) Tank(s) of suitable capacity are to be provided to enable reuse.

(iii) Stormwater overflow discharge must flow through a low impact passage, and must not discharge directly to any open drain or piped system.

(iv) The stormwater dispersal system must be planned in such a way that it will not compromise the on-site wastewater disposal area.

(v) Provide a maintenance manual for the stormwater management devices (rainwater re-use tank and permeable paving system).

(vi) At two (2) yearly intervals from the decision date of this resource consent, the

owner (at their own cost) must provide Council with an inspection report from a suitably qualified person verifying that the stormwater management system, including the car park geogrid and mitigation measures and devices installed as conditions of the resource consent are functioning in accordance with their intended purpose.

- 18 Engineering plans for the permeable paving required by Condition (17) above must be submitted and approved prior to the pre-start meeting required by Condition (5) above, in accordance with the requirements of Council's Code of Practice Engineering Standards. These must include manufacturer's specifications, and the consent holder shall advise of contact details for the appointed developer's representative fulfilling engineering responsibilities.

Earthworks

- 19 Prior to approved earthworks commencing on the subject site, appropriate temporary visible signage shall be erected on Seaview Road warning pedestrians and road users of heavy vehicle movements. Signage must be to the satisfaction of Council's Environmental Monitoring Officer, and must be removed immediately at the end of the earthworks period.

- 20 Any sediment laden runoff from the site must be treated by sediment control measures in accordance with the Auckland Regional Council Technical Publication No 90 "Erosion and Sediment Control Guideline for Earthworks" (updated March 1999)

These structures are to be constructed in accordance with best practice, be operational before earthworks commence, and be maintained until approval has been obtained from Council's Environmental Monitoring Officer to remove them.

- 21 A stabilised entranceway to the site must be provided. Any material deposited on the street must be immediately removed by sweeping and any damage caused must be immediately repaired (to the satisfaction of Council) at the expense of the consent holder.

- 22 Where the approved sediment control measures prove to be inadequate, additional measures must be implemented as deemed necessary by Council's Environmental Monitoring Officer.

- 23 All development works on the site involving earthworks and the use of associated heavy machinery shall be undertaken between the following hours only:-

Monday to Friday:	7.30am to 6.00pm
Saturday:	8.30am to 5.00pm
Sunday/Public Holidays:	No works

- 24 Heavy vehicle movements to and from the site must be restricted to Monday to Friday only. No heavy vehicles shall access the site during the weekend or public holidays.

Traffic

- 25 Prior to the commencement of the activity on-site, the design of the approved access shall be safety audited to the satisfaction of the Manager, Transport Assets, Design and Planning. This may incorporate localised trimming of the bank and/or vegetation as necessary. Waitakere City Council's Environmental Monitoring Officer shall be consulted

by the consent holder as to the nature and extent of any bank trimming or vegetation removal prior to submitting the site access design for auditing by the Manager: Transport Assets, Design and Planning.

26 The consent holder shall submit for approval of Waitakere City Council's Manager: Transport Assets, Design and Planning a Management Plan proposing measures to ensure that there is sufficient onsite parking, including requiring that employees do not park onsite.

27 The approved car park (#10) located to the east of the café building shall be sign posted and otherwise utilised for staff car parking only.

28 Service vehicles shall only access the site in the one-hour period immediately at the start and finish of opening hours of the café.

29 Access and car parking areas must be constructed of 'grassings' plastic grid or similar and maintained to the satisfaction of the Manager: Resource Consents.

30 Pursuant to section 128 of the Resource Management Act 1991, six (6) months following the grant of this consent and at 12-monthly intervals for the next six (6) years thereafter, the Council may serve notice on the consent holder of its intention to review conditions of this consent relating to the surface of the car park area, for the purpose of dealing with any adverse effects on the environment which may arise from the exercise of the consent and which it is appropriate to deal with at a later stage. The Council may, if deemed appropriate, require adoption of the best practicable option to remove or reduce any adverse effect on the environment, including (but not limited to) resurfacing of the car park should it be found that the grassings system does not have sufficient load bearing capacity. Any such review must take into account the infrastructure and visual amenity benefits of a permeable paving system.

Landscaping

31 Prior to the commencement of any site works, protective fences must be erected around all trees and lower native vegetation to be retained (this includes a Pohutukawa and native shrubs) to the satisfaction of the Council nominated Environmental Monitoring Officer. The protective fence must be a solid barrier which cannot be removed, uplifted, or otherwise moved, made from plastic construction mesh or other approved fence. The protective fence must be at least 1.8 metres high and must be retained on-site until the completion of all construction works.

32 Landscape development (including planting) must be undertaken in accordance with the approved plans and must include the relocation of existing shrubs and additional planting of native shrubs as required; with further native shrub companion planting additional to the Coprosma acerosa approved within the western boundary garden, of any of the following species: Coprosma macrocarpa, Phormium tenax, Macropiper excelsum, and Pitosporum crassifolium (at Pb5 minimum grade) at 1.5m maximum spacing between plants; within the first planting season (May till 7th September) following the completion of approved earthworks and prior to the operation of the café. All landscaping must be to the satisfaction of Council's Environmental Monitoring Officer, including the design details of the temporary acoustic screen on the north and eastern side of the deck as shown on the Figure 1 "Proposed Planting Concept Plan (Revision 8) referenced in Condition 1.

33 Coprosma macrocarpa and Phormium tenax (at Pb5 minimum grade) shall be planted surrounding the semi-buried water tank located to the north of the café building; within

- the first planting season (May till 7th September) following the completion of approved earthworks and prior to the operation of the café. All landscaping must be to the satisfaction of Council's Environmental Monitoring Officer.
- 34 Native climbing plants local to the area (for example *Parsonsia heterophylla*, *Muehlenbeckia complexa* or *Clematis paniculata*) must be planted to climb the trellis surrounding the refuse area to the rear of the café building. These must be at Pb5 grade with 1m spacing between plants. It is recommended that this planting be associated with understorey planting of *Rengaringa*, *Arthropodium cirratum*.
- 35 Grassed areas must be sown or reseeded laid down at the time earthworks are completed, with manual grading (raking) carried out in the final stages to marry ground levels to adjacent undisturbed ground or to flush with the path.
- 36 Weed control must be carried out on an ongoing basis (particularly within the area north of the café building), and must target environmentally damaging species present on the site such as *Hedychium gardenianum* (Kahili ginger), *Ipomea indica*, (Blue morning glory vine), *Passiflora caerulea*, (Blue passion flower), *Tradescantia fluminensis*, (Wandering Jew). Weed control shall be undertaken to the satisfaction of Council's Environmental Monitoring Officer.
- 37 Native planting must be undertaken over a minimum 40m² within the currently clear area to the north of the café, planted at 1.0m intervals and at Pb5 minimum grade. Planting must be undertaken in the first planting season following placement of the water tank, to the satisfaction of Council's Environmental Monitoring Officer. This planning must include a minimum of 40 plants using a range of native species selected from Council's document 'A Guide for Planting and Restoring the Nature of Watakeke City'; from the lists for 'Medium Trees', 'Small Trees, Large Shrubs', 'Shrubs and Flax-Like Plants' for Ecosystem One.
- 38 All garden areas must be maintained weed and debris free at all times and must have well-rotted wood chip mulch to 60mm depth at the time of planting.
- 39 All planting must be appropriately maintained and watered to facilitate establishment and on-going health on a permanent basis. Any plant that dies or otherwise fails to prosper must be immediately removed and replaced.
- 40 The approved sign must have a maximum height of 1.2m above ground level. The sign shall not be backlit or illuminated.
- 41 Wheel stops (for example recycled rubber product or similar) must be installed to define the limit for car tyres and to keep the pedestrian path and western grassed area clear of vehicles. Wheel stops may be set so as to have restricted points of contact with the ground to allow surface sheet flow beneath, and shall be located and designed so as to ensure surface runoff occurs to the swale from the parking area, to the satisfaction of Council's Environmental Monitoring Officer.
- 42 Odour
- No noxious or offensive or objectionable odours shall be discernable at the boundaries of the subject site at any time. Solid waste shall be collected/removed from the site at a minimum frequency of once per week so as to avoid odour nuisance.
- Noise

43

- (i) Noise emissions from activities within the site shall not exceed the following noise limits as measured from within any other site in the Coastal Villages Environment.

7.00am - 7.00pm Monday - Saturday	7.00pm - 10.00pm Monday – Saturday	10.00pm - 7.00am			
	7.00am - 10.00pm Sundays & Public Holidays				
L ₁₀ 50dBA	L _{Max} n/a	L ₁₀ 45dBA	L _{Max} n/a	L ₁₀ 40dBA	L _{Max} 70dBA

- (ii) Except for land to the east of the subject site boundary enclosed by lines at a 45° angle from the extended eastern boundary line, commencing at the north-eastern corners of the subject site for which the applicable noise limit is 50 dBA L₁₀ applying to all days of the week between the hours of 7:00am and 10:00am.
- (iii) The noise shall be measured in accordance with the requirements of NZS6801:1991 Measurement of Sound and assessed in accordance with the requirements of NZS6802:1991 Assessment of Environmental Sound.
- (iv) A design report shall be provided from a suitably qualified and experienced person prior to the issue of building consent demonstrating that activities on the site will comply with the noise limits of Conditions (i) and (ii) above.
- (v) Acoustically effective fencing shall be erected on the eastern and western sides of the site as necessary to control noise from the site and to achieve compliance with the noise limits of condition (i) and (ii) above. The final details of location and fence specifications shall be provided to the Council as part of the design report required by condition (iv).
- (vi) Monitoring of noise emission levels shall be undertaken within three months of full operation of the cafe, in accordance with the relevant New Zealand acoustic standards and provided to the Waitakere City Council within 10 days of completion.
- (vii) Monitoring of noise emission levels shall be undertaken at any time following a reasonable request from the Waitakere City Council to do so.
- (viii) In the event of non-compliance with conditions (i) and (ii), the Consent Holder shall take immediate steps to achieve compliance within two weeks of becoming aware of the non-compliance. If compliance is not achieved within two weeks the activity shall cease until compliance is achieved. Further monitoring shall be undertaken in accordance with the provisions of Condition (vi) above.
- (ix) Noise from construction activities shall not exceed the limits recommended in, and shall be measured and assessed in accordance with, New Zealand Standard NZS 6803:1999 "Acoustics — Construction Noise".
- (x) A Construction Noise Management Plan (CNMP) shall be formulated and presented to the Waitakere City Council before the commencement of any construction or demolition activity on the site.

- 44 Music is not permitted to be played outside the café building at any time.
- 45 Pursuant to section 128 of the Resource Management Act 1991, six (6) months following the grant of this consent and at 12-monthly intervals for the next six (6) years thereafter, the Council may serve notice on the consent holder of its intention to review conditions of this consent relating to noise, for the purpose of dealing with any adverse effect on the environment which may arise from the exercise of the consent and which it is appropriate to deal with at a later stage. The Council may, if deemed appropriate, require adoption of the best practicable option to remove or reduce any adverse noise effect on the environment.

Legal requirements and fees

- 46 The covenant document required by Condition (17) above will be prepared by Council solicitors at the consent holder's application, upon issue of consent. The consent holder shall pay all reasonable legal costs incurred.
- 47 The consent holder must pay to Council any engineering, works supervision, monitoring, or administrative fees as incurred. Fees shall be charged as advertised in Council's 'Schedule of Fees & Charges'.

Advice Notes:

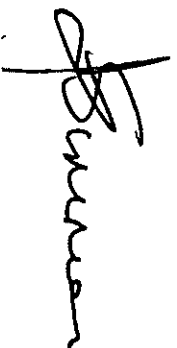
- This resource consent does not remove the need for the consent holder to comply with any other relevant statutory requirements including, but not limited to, the Wastewater Discharge Consent No: 33789, Regional Council resource consent any liquor licence required under the Sale of Liquor Act 1989 to enable alcohol to be consumed on the site as an accompaniment to food served at the café, and any authorities under the Historic Places Act 1993.
- Where indicated in the conditions it is the consent holder's responsibility to inform the Environmental Monitoring Officer/ EcoWater Quality Assurance Supervisor when pre-start meetings and/or inspection is required. Inspections can be requested through the Call Centre on 839 0400, at least three days prior to the intended meeting date.
- **Should at any time in the future an owner of the café seek a liquor licence, further resource consent (incorporating the liquor licence) may be required under the provisions of the District Plan at that time.**
- Water supply must be compliant with the Drinking Water Standards New Zealand and the Health Act 1956.
- Note that EcoWater's Quality Assurance Supervisor may undertake site inspections during the construction process. This may involve checking of all information against the approved design, and the undertaking of field checks of the approved permeable paving drainage system.
- With regards to the wastewater system, it is advised that the consent holder enter into an annual maintenance agreement with the manufacturer or supplier of the wastewater system to enable the system to be maintained and serviced on a regular basis to allow for its operational efficiency. Such an agreement should be submitted to Waitakere City Council's Plumbing and Drainage Inspector.
- A full copy of the resource consent conditions, approved plans (including site management and erosion and sediment control plans) should be kept on the site at all times. All personnel working on the site shall be made aware of, and have access to,

the contents of this resource consent document and the associated plans.

- Replacing the grassings turf reinforcement system with permeable aggregate pavers over the wastewater trenches will require approval from the Wastewater Manager pursuant to Condition 26 of the Wastewater Discharge Consent No: 33789.

Name: Mr Les Simmons

Signed:



Date: 1 June 2011