

**IN THE MATTER** of the Resource  
Management Act 1991

**AND**

**IN THE MATTER** of an application by the  
Markham Trust  
(RC165656) relating  
to 63-65 Tennyson Street,  
Rolleston

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## **DECISION OF THE COMMISSIONER**

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### **INTRODUCTION**

1. Over the last five years the growth of Rolleston has accelerated considerably, at least in part, because it has become the recipient of the movement of populations from those parts of Christchurch affected by earthquake damage. In anticipation of the growth in population, the Council has produced a future vision for the Rolleston Town Centre in the form of a Master Plan. This plan envisages a Key Activity Centre incorporating a Central Business District expanding significantly into existing residential areas. The process is expected to take some years (between 5 and 20) and in anticipation of this, Living 1 properties along the eastern side of Tennyson Street between the Business 1 Zone and the Moore Street intersection have been placed in a Transitional Living Precinct Overlay. Over a period of time this section of Tennyson Street is to become transformed into Rolleston's High Street.
2. This application involves the three residential properties fronting Tennyson Street between the Business 1 Zone and Markham Way. The applicant seeks consent to undertake a mixed use commercial development containing retail or commercial

service, food and beverage activities, together with car parking and landscaping. Currently the land is occupied by three houses and these are to be replaced by a two storey building with a floor area of 1084m<sup>2</sup> and a maximum height of 8m.

3. As the zoning of the property remains Living 1, there will be inconsistency with a number of rules. In terms of Rule 4.7.1 the maximum site coverage permitted is 905.2m<sup>2</sup> (the proposed building has a site coverage of 1283m<sup>2</sup>). Secondly, in terms of Rule 4.9.1 the building will intrude into the recession plane at the southern internal boundary. Thirdly, Rule 4.9.2 requires a setback from internal boundaries of 2m and from road boundaries of 4m. The building is located on the southern internal boundary and in parts at the street boundary. Fourthly, in terms of Rule 4.18.1 relating to the KAC precinct any new building is classified as a controlled activity. A fifth inconsistency is with Rule 10.6.1 relating to allowable noise emissions which are anticipated to be exceeded. Rule 10.8.1 relating to non-residential activities (the seventh) limits them to a gross floor area of 300m<sup>2</sup>, two equivalent full-time staff, and (on a local road) to 20 vehicle movements and two heavy truck movements per day. These limits are expected to be exceeded. The eighth inconsistency (Rule 10.9.1) limits hours of operation to between 7.00 am and 10.00 pm. Activities to 11.00 pm Sunday to Thursday and through to 1.00 am on Saturday and Sunday are anticipated. A ninth inconsistency relates to Appendix E13.1.1 which requires the provision of 139 parking spaces. Only 39 are to be provided. Likewise, Appendix E13.1.5.1 is not met in terms of provision for loading spaces. Finally, Appendix E13.1.10 requires a 10.5m queue space at the site entrance when only 2m is provided.

## **NOTIFICATION**

4. A number of affected parties were approached for their approval but in several instances such approval was not forthcoming. Accordingly, the application was processed on a limited notified basis. Seven submissions in opposition and one submission in support were received.

## **THE HEARING**

5. The hearing was conducted at the Council's headquarters in Rolleston on Thursday, 6<sup>th</sup> July 2017. At the hearing I was assisted by Ms Kate Bonifacio, the Council's Resource Management Planner responsible for the section 42A report. With her were the Council's Urban Designer, Ms Gabi Wolfer and the Council's Adviser on Acoustics, Dr Jeremy Trevathan. Ms Wolfer and Dr Trevathan had contributed to the section 42A report. The following persons participated at the hearing:

### **For the applicant:**

Mr Ben Williams (Legal Counsel) assisted by Mr Allan Brent.

Mr Jatinder Singh (a Representative of the Trust).

Mr Nigel Williams (Traffic Engineer).

Dr Stephen Chiles (Acoustical Consultant).

Ms Lisa Arnott (Planning Consultant)

### **Submitters:**

Ms Rebecca Moreton (5 Markham Way)

Ms Rebecca Bennett (3 Markham Way)

Ms Bennett spoke on behalf of her husband Allun Bennett, Joanne Campbell (the tenant at 4 Markham Way) and the residents of 6, 8, 10 and 12 Markham Way.

Ms Georgina Thomas (Solicitor) accompanied Ms Bennett

6. The section 42A report was taken as read since it had been pre-circulated and the hearing proceeded with a presentation from the applicant.
7. **Mr Williams**, Counsel for the Applicant, covered the planning history of the site describing the process to form the Master Plan in 2013 and 2014 and the process that was required under the Land Use Recovery Plan with Action 27 leading to the KAC overlays in the District Plan. The Transitional Living Precinct seeks to enable both the current residential activities and a transition to commercial activities subject to amenity standards.
8. Mr Williams then turned to the issue of potential adverse effects relevant to both sections 104 and 104D of the Act. Those concerning the submitters could be

separated into four areas: traffic and parking, noise generation, building bulk and location and a group of others relating to residential amenity, urban design, glare/lighting, anti-social behaviour, odour and waste management. These areas were to be covered by expert witnesses.

9. When discussing the relevant Objectives and Policies of the District Plan, Mr Williams noted that only one element - that of site coverage - attracted non-complying status, other elements being discretionary. Discretionary elements on the whole would not be contrary to objectives and policies because they are generally regarded as being appropriate within this zone, although not on every site. He emphasises that the objectives and policies must be considered as a whole and that it would be very unusual for an application to not meet the section 104D test because it was found to be contrary to a single objective or policy.
10. **Mr Singh** explained that at the time the District Plan was changed, the Trust was not in a position to develop its three sites so that it would not have been possible for the Council's planners to foresee such a development as is now proposed. Great care had been taken to protect neighbourhood amenity and the development was set as far as possible from the rear fence with acoustic screening for outdoor areas. Mr Singh envisaged a mix of retail and hospitality tenancies with retail activities at each end. He did not envisage premises without a reasonable food offering. Waste would be placed in a screened off area and regularly removed by commercial operators. He contrasted the proposed development with the adaptive use of existing houses for commercial use. He felt that this would be fragmented and less appealing than the proposed development.
11. **Mr Nigel Williams'** evidence in chief had been pre-circulated so he presented a summary at the hearing. He described the development as occurring in a context of marked increases in traffic intensity anticipated by the District Plan provisions and the expected connection of Markham Way through to Norman Kirk Drive. In his view, the 38 parking spaces to be provided will be sufficient to meet the normal day to day demands of the tenancies proposed. He felt that the District Plan requirements for food and beverage was underlain by assumptions as to activity types quite unlike those proposed. The proposed 38 spaces closely matched the

ratio provided in the existing town centre development. He was satisfied that the vehicle crossing would not give rise to any significant off-site traffic effects relating to the efficiency or safety of the road network.

12. **Dr Chiles'** evidence in chief had been pre-circulated and he produced a summary at the hearing. He acknowledged that the proposed development would involve sound sources that would be audible at neighbouring properties. Sound levels are predicted to be up to 45 dB  $L_{Aeq}$ -(15 mins) at the nearest residential neighbours at 4-6 Markham Way. Sound levels in the Core Retail Precinct from patrons and music are predicted to be up to 60dB  $BL_{Aeq}$  (15 min). Those levels fully comply with the guidelines in NZS 6802:2088 but exceed the night-time noise limit in the District Plan. He considered the District Plan night-time noise limit to be unduly stringent.
13. Dr Chiles believed that the sound from the proposed activities should not cause undue disturbance and should be acceptable at all neighbouring sites including the residential area on Markham Way. Sound from the development at night will comply with guidelines for the avoidance of sleep disturbance at residential neighbours and for the protection of residential amenity. He proposed controls to be specified in consent conditions which he said would address the noise issues raised by the submitters.
14. **Ms Arnott** had also prepared a summary of her pre-circulated brief. She emphasised that the proposed development was consistent with the Rolleston Town Centre Plan (Master Plan). While the proposed building exceeded some of the District Plan's bulk and location standards, it was proposed to be sited as far as possible from residential boundaries to reduce its visual dominance. Based on the evidence of Mr Nigel Williams and Dr Chiles she considered that any adverse effects would be no more than minor. Of the 27 objectives and policies that were relevant to the application, she considered there would be inconsistency with only three. The first of these, Policy 3.4.18 relating to traffic effects is dealt with by Mr Nigel Williams. The other two, Policies 3.4.26 and 3.4.27 relate to setbacks which she had considered from an amenity perspective. The building would not visually dominate adjoining properties and the privacy and outlook of adjoining residents

would be maintained. On that basis, Ms Arnott considered that the proposal would be generally consistent with the objectives and policies of the District Plan and would not be contrary to any of them either individually or collectively. In her view, the proposal would be consistent with the Regional Policy Statement and would give effect to Part 2 of the Act.

15. ***Ms Rebecca Moreton*** and her family have lived at 5 Markham Way for the last 13 years. While they are concerned at the changes that will result from the implementation of the Master Plan, they were somewhat relieved that Markham Way was to be retained as a low volume low speed residential street. They were relieved to read in the plan that there would be a transition process in place for Tennyson Street and that the residential rules would be retained. Their understanding was that this transitional area allowed for commercial activities that are compatible with residential amenity such as office activities and small format retail – not food and beverage. Ms Moreton considered that many more residents than those notified were concerned about the potential effects of the proposal. One element of the proposal of particular concern was the proposed opening hours of the food and beverage outlets which she considered would not be consistent with residential amenity.
16. Ms Moreton did not believe the noise assessment took full account of the implications of potential effects on the residential environment especially on vulnerable groups. She was particularly sceptical of the proposal for the restaurant closest to Markham Way to close its window on Markham Way after 8pm. Ms Moreton considered that opening hours should be limited to between 7.00 am and 10.00 pm.
17. The fact that the proposed building exceeded the site coverage standard of 40 per cent and would be 8m high added to Ms Moreton's concerns as did the shortfall in parking spaces and queuing space. While she accepted that there would be a transition occurring in Tennyson Street, it was not expected to be abrupt and should be respectful of the residential amenity of the area.

18. **Ms Rebecca Bennett** and her family have resided at 3 Markham Way for eight years. Her conclusion from reading the Land Use Recovery Plan, the Council's decision on Action 27, background reports and the Master Plan, was that the Transitional Living Zone between the Business 1 Zone and the Living 1 Zone was not a defacto Business 1 Zone. Ms Bennett was concerned that authorising a non-complying activity at this stage could set a precedent for the rest of the Transitional Living Precinct. Ms Bennett's husband, Allun Bennett, had submitted on Action 27 and they had been somewhat reassured that the amended District Plan rules contemplated only some limited types of commercial activities that are compatible with residential activity. These did not anticipate food and beverage outlets. Ms Bennett noted that the types of activity anticipated in the Transitional area were anticipated to operate between 7.00 am and 10.00 pm so that they ceased at the time most people go to bed. That would ensure that they remained at a scale that could be "family focussed". Noise was a particular concern of Ms Bennett and she noted that no account had been taken of noise in the street from people leaving the premises. Assessing noise in accord with NZS 6802 rather than the standards in the District Plan she considered was incorrect. In support of this she quoted from the standards document which stated that such standards should not be used to justify changes to noise limits in consent conditions that have been set to ensure a high degree of protection against noise. She noted that the changes sought by Action 27 made no alterations to the noise standards on the District Plan.
19. Ms Bennett expressed concern at the proposed access from Markham Way (rather than Tennyson Street). Markham Way was anticipated to remain a low volume low speed residential street. The departure from the parking standard would likely mean that people would park on Markham Way. She felt that insufficient queueing space would exacerbate the potential problems.
20. Ms Bennett considered that the proposal would be contrary to Objective B3.4.2 and it's supporting Policy B3.4.2 because it would not be compatible with the character and amenity values of the zone. For very similar reasons, she opined that the proposal would be contrary to Policies B3.4.20, B3.4.26 and B3.4.27. If the proposal went ahead, she considered that the noise environment would be degraded and that therefore it would be contrary to Policies B3.4.10 and B3.4.11.

In terms of vehicle and pedestrian activity and car parking, she considered that the application would be contrary to Policies B3.4.18, B2.1.6(a), B3.4.19(a), Objective B2.1.1 and Policy B2.1.12.

21. Understandably, Ms Bennett expressed a level of disagreement with the recommendations of the section 42A report.
22. Ms Bennett tabled a letter (dated 5/7/17) from Marshall Day, Acoustic Consultants (Mr Farren) this suggested the adoption of suitable conditions. In particular it recommended that car parking activity should not be permitted after 10.00 pm because he felt that noises in the car park had special characteristics.
23. Following the submitters Ms Bonifacio asked Ms Gabi Wolfer and Dr Trevathan to speak in response. Ms Wolfer confirmed the work that lay behind the development of the Master Plan. She placed it in context as a high level policy document rather than a statutory item such as the District Plan.
24. Dr Trevathan observed that apart from a difference of opinion regarding special audible characteristics, Mr Farren appeared generally to agree with Dr Chiles' assessments.
25. Ms Moreton had discussed World Health Organisation guidelines which Dr Trevathan agreed provided relevant guidance. The 30 dB  $L_{eq}$  level the guidelines recommend is the level received inside bedrooms whereas the 45 dB  $L_{Aeq}$  is related to the façade of the dwelling. Dr Trevathan agreed that noise associated with patrons and parking on Markham Way had not been assessed and he invited the applicant to reply on that matter. Controls regarding waste management are typical, he said.
26. Dr Trevathan observed that there was a level of inconsistency between the various conditions proposed in regard to the level of noise emissions. He recommended the following levels measured in accord with NZS 6801 : 2008 and assessed in accord with NZS 6802 : 2008:

**Hours:**

**Noise Limit**





TLP to function as a buffer. The title word “transitional” mean that over time there would be a change from residential to commercial, he said. This did not imply that there would be a much reduced range of business type activities between the residential activities and the commercial activities over the road. He described the Transitional provisions as enabling the type of development proposed as long as regard is had to residential amenity as part of the resource consent process.

31. Mr Williams explained how he considered food and beverage fitted into the KAC provisions. There are two definitions of retail activity in the District Plan. One of these is general and one is for KAC. While the former includes food and beverage the latter does not the plan is silent on food and beverage activities in Precinct 5 (the Transitional Living Zone). This simply means that, while a food and beverage activity is not a permitted activity by virtue of the fact that it does not comply with Rules 10.8.1 or 10.8.2, it becomes a discretionary activity. Such activities are not prohibited and there is no intention to discourage them. Mr Williams emphasised that account had to be taken of the plain text of the District Plan.
32. Mr Williams then turned to the submitter’s key concerns which he perceived were principally focussed on the proposed food and beverage outlets. These concerns related to parking, traffic and noise with some disquiet over waste management. As far as the parking provision is concerned, Mr Nigel Williams’ expert opinion is that it is sufficient and that there would be little of any overspill onto Markham Way. The traffic environment in Markham Way was expected to change once it was connected to Norman Kirk Drive. This would happen regardless of the proposed development. Mr Nigel Williams’ opinion was not contested by other expert opinions. Mr Farren’s advice in relation to noise related to his view that vehicle door closure and engine starting had a special audible characteristic. On that basis, he recommended a curfew. However, Dr Chiles could not recall any occasion when such sources had been regarded as having special audible characteristics. Dr Chiles did not believe there was reason to apply a special penalty and this opinion was shared by Dr Trevathan. Dr Chiles did not consider Mr Farren’s 11 o’clock curfew to be justified. Having said that, Mr Williams said that it was very unlikely that all of the tenancies would be occupied by food and beverage facilities or which would operate to 1am. Mr Singh wished to record that

conditions relating to waste disposal were commonplace and easily dealt with by conditions such as disposing of glass bottles only during daylight hours.

33. Mr Williams presented a set of revised conditions to ensure that adverse effects would be less than minor and ensure consistency with the objectives and policies of the District Plan. Among other things he said, such conditions would incorporate a glare condition, at most two of the six tenancies would be used for food and beverage, retain the proposed hours of operation, include widened landscaping provisions, a waste condition, a lowered daytime noise limit and a condition on the testing of mechanical plant.
34. The submitters had proposed a complaints condition which Mr Williams considered was unusual but the Trust was not totally opposed to it. He felt that a construction noise condition would not be required because the activity (construction) would not exceed 55 dB  $L_{Aeq}$ . However, the Trust was open to a condition requiring compliance with *NZS 6803 : 1999 Acoustics – Construction Noise*. He did not think that the submitters proposed review condition added anything of merit.

## **DISCUSSION**

35. Legislation directed at earthquake recovery in Christchurch has overridden some of the usual processes whereby affected parties have a right of appeal and so it has been with the Land Use Recovery Plan and Action 27. What otherwise could be seen as injustices have been deemed necessary to ensure sufficiently rapid progress toward recovery. While the process of transition from residential to commercial activities is expected to be gradual and may well involve commercial use of existing houses as an interim measure, the process has to start somewhere. A location adjacent to the existing commercial zone would seem to be the obvious point to start. Inevitably, there are concerns from those residential owners who purchased their properties at a time when they were flanked by other residential properties and there was no proposal for transition. To them, the change has been unexpectedly abrupt and as a consequence they are seeking to soften its effects.

Understandably the focus is on the proposal to include food and beverage outlets with their extended hours of operation.

36. The application is non-complying by virtue of the building's site coverage. When all the other elements requiring lesser levels of consent are bundled together, the entire proposal may be treated under the non-complying category. While this approach is no longer regarded as universally appropriate, I have examined the whole proposal in terms of the two gateway tests of section 104D. Only one of these has to be met for the proposal to move on to be considered in terms of section 104. Without some very specific conditions, I believe that the proposal would have the potential to produce more than minor adverse effects. In terms of the relevant objectives and policies of the District Plan, it is not a matter of having to be in accord with them. Indeed a proposal may contravene an objective or policy (or several) yet still not be contrary to them. Ms Arnott identified some 27 relevant objectives and policies and found that there was inconsistency with just 3. I heard no expert opinion contrary to that. I am satisfied therefore that the proposal is not stopped at the section 104D gateway.
37. Section 104 requires a more balanced consideration. The first element I must have regard to is any actual or potential effects on the environment of allowing the activity. The submitters' concerns centred on the potential effects of up to four food and beverage tenancies are understandable and if this were to be a simple case of non-complying activity seeking to establish in a residential zone, it could have serious implications. Such is not the case, however because it is the clear intention of the District Plan that this area should (over time) transfer from a residential area into a commercial one. The process probably will be gradual (a period of 20 years is contemplated) but it has to start somewhere and whenever it starts it is bound to seem like a transmogrification to neighbours. The change could come more gently by converting the existing houses to commercial activity but one only has to observe that process elsewhere to see that local amenity can suffer. The domestic gardens tend to become unkempt and often end up being paved over for parking. In this instance, the applicant has been aware of the sensitivities and has incorporated some factors designed to lessen adverse effects to a level he (and his experts) say will be no more than minor. These include a

1.8m high fence on the north-eastern boundary and the placement of retail only tenancies at each end of the building so containing the four tenancies which could be utilised for food and beverage. Outdoor dining is restricted to the Tennyson Street frontage. Further measures are proposed in the section 42A report and for the most part have been accepted by the applicant. Principally these are measures designed to mitigate noise exposure. Further measures are clearly possible ranging from the exclusion of food and beverage outlets altogether, reducing their number and further limitation of the hours of operation – residents are clearly concerned at the prospect of 1.00am closing on Saturday and Sunday mornings. Residents also clearly see benefit in accessing the car park exclusively from Tennyson Street. These measures, sought by the submitters (apart from Mr Farren’s letter) have not been put by experts and nor are they produced as legal submissions. Thus, while they are within my purview as a decision maker, they do carry less weight as a result.

38. Both Ms Bonifacio and Ms Arnott have taken me through the considerations which will apply under section 104(1)(b) and I agree with their conclusions. In terms of section 104(1)(c) I do not believe that there is any other matter that might be considered relevant and reasonably necessary to determine the application.

## **DISCUSSION**

39. For the reasons given above, I believe that consent should be granted to the application subject to conditions designed to mitigate any adverse effects upon the local residential community. As the applicant acknowledges, the likely outcome is that not all the area allocated to be open to food and beverage will be so taken up (the residents would like some certainty). The ratio sought of such space against purely retail/commercial is very high in any case. If the corner tenancy (shown as Tenancy 5) is restricted to retail activity (perhaps by combining it with Tenancy 6 and adjusting the division with Tenancy 4), this would reduce the exposure to Markham Way. There would then be no need for any pedestrian access to Markham Way, outdoor dining could be moved further away from the corner and there would be no need for an acoustic barrier. There is good reason to be flexible about the number and disposition of tenancies as long as they do not exceed six in

number. The restriction of Tenancy 1 to retail does nothing to protect residential amenity and I think that tenancy could remain flexible as well, although it clearly has a design function containing the outdoor seating. I accept Mr Nigel Williams' evidence on parking and traffic, and I agree that obtaining sole traffic access from Tennyson Street would not be desirable either in a traffic or urban design sense.

40. I have given consideration to the hours of operation proposed. The applicant proposes that the hours of operation be 7.00am to 11.00pm between Sunday and Thursday and 7.00am to 1.00 am on Fridays and Saturdays. This would not allow a Saturday night to roll over to 1.00 am on Sunday and in any case it does not make any sense for Friday either. If it is intended that the time limit should roll over to the next day, the proposed condition should be re-worded. Having said that, however, I think it would be un-neighbourly for Saturday to roll over to Sunday 1.00am. Accordingly, while I would be prepared to allow a 1.00am closure on Saturday mornings, I think premises should cease to operate at 11.00pm on both Saturday and Sunday nights. If such operations prove to be disturbing to neighbours, a review under section 128 would be appropriate.

## **DECISION**

41. For the above reasons, consent is **granted** to the application by the Markham Trust (RC165656) subject to the following conditions which are imposed to ensure that adverse environmental effects are suitably mitigated.

### **Conditions**

1. That the proposal proceeds substantially in accordance with the attached approved site plan and the details submitted with the application, except where there is inconsistency between these conditions and the application in which case these conditions will prevail.

### **Tenancies**

2. Up to six tenancies may be located on the site generally as set out in the attached approved plan provided that:

- (a) up to three of the tenancies may be used for food and beverage activities:
- (b) the tenancies numbered 5 and 6 may be used for retail or commercial service activities only;
- (c) the actual area used for each individual tenancy may vary from that set out in the attached approved plans provided that Condition 2(b) continues to be completed with.

### **Hours of Operation**

- 3. That the hours of operation shall be between 7.00am and 11.00pm on Saturday (with the exception of a 1.00am Saturday closure for Friday operations) through to Thursday and that Friday operations shall be from 7.00am to midnight and may continue the following Saturday to 1.00am.

### **Landscaping**

- 4. An amended landscaping plan showing planting that varies between each tenancy along the western boundary shall be submitted to the Council for certification. The plan shall be submitted at the time of submission of the engineering plans and specifications, and the landscaping shall be undertaken in accordance with the certified plan.
- 5. All required landscaping shall be completed within 6 months of the first exercise of this consent.
- 6. All landscaping shall be maintained. Any dead, diseased, or damaged plants are to be replaced immediately.
- 7. All required landscaping shall be completed within 6 months of the first exercise of this consent.
- 8. All landscaping shall be maintained. Any dead, diseased, or damaged plants are to be replaced immediately.

9. Specimen trees shown on the Landscaping Plan must be at least 1.5 metres in height at the time of planting and once established must be maintained at a height of at least 1.8 metres thereafter.

### **Traffic**

10. A vehicle crossing to service the site shall be formed and sealed in accordance with the details submitted with the application to the approval of Council's Roading Department.
11. The car park shall be formed and sealed in accordance with the application. A total of 38 car parks shall be provided on the site on the site.
12. Car parks shall be marked in accordance with the plans approved by Council's Roading Department.
13. Service vehicles (including waste collection vehicles) shall only call at any tenancy between 8.00am and 6.00pm, and shall not park on Markham Way.

### **Urban Design**

14. An amended plan of the western elevation showing changes in the exterior cladding along the length of the building in order to differentiate the individual tenancies shall be submitted for certification by the Council.
15. A detailed colour and material palette for the building be provided to the Council for certification that it is in keeping with other 'exemplar' buildings in the town centre.
16. The pedestrian path on the eastern side of the building shall provide a clear access with a minimum width of 1.2m to allow for wheelchair access.

### **Services**

17. The development shall be serviced with water and sewer systems.



18. The development shall be provided with an individual potable high pressure connection to the Rolleston water supply in accordance with the Engineering Code of Practice.
19. Water meters shall be installed in the road reserve only (please note that multi meter boxes may be utilised).
20. Connection into Council's reticulated water supply must either be carried out or supervised by Council's contractor SICON Ferguson Ltd.
21. Connection to the Council sewer shall be arranged by the applicant, with the work to be done by a registered drainlayer.
22. All work shall comply with the Engineering Code of Practice, except as agreed with Council.

### **Noise**

23. A 1.8 metre high solid fence shall be erected and maintained and maintained along the site's rear's rear boundary with 4 and 8 Markham Way. The fence will have a surface mass of at least 10 kg/m<sup>2</sup> and should be constructed so there are no gaps in the fence or between the fence and the ground.
24. Waste including any bottles or cans shall including any bottles or cans shall not be emptied into the rubbish enclosure between 2000h and 0730h.
25. All doors and windows, other than those directly facing Tennyson Street, shall be kept closed between 2000h and 0730h other than for timely entry and exit of staff and patrons of staff and patrons.
26. There shall be no music or sound played outside. There shall be no loudspeakers located outdoors, or directed through open external doors, or other openings such as windows,, or other openings such as windows, from inside the building on the site the building on the site.

27. Music played within the units shall not exceed 75 dB  $L_{Aeq}(15 \text{ min})$  at any point inside the units.
28. Building services equipment shall comply with a noise limit of 35 dB  $L_{Aeq}(15 \text{ min})$  when measured at any point both beyond the site boundary and within the boundary of residential sections (excluding the subject site and 61 Tennyson Street) and within the boundary of residential sections (excluding the subject site and 61 Tennyson Street).
29. A noise management plan shall be prepared and provided to the Council for certification prior to any outdoor areas being used beyond 2000h.
30. Noise levels generated on the subject site (not including noise generation from vehicles travelling along Council roads) when measured at any point both beyond the site boundary and within the boundary of residential sections (excluding the subject site and 61 Tennyson Street) when measured at any point both beyond the site boundary and within the boundary of residential sections (excluding the subject site and 61 Tennyson Street) shall not exceed the following:

<b>Hours</b>	<b>Noise Limit</b>
• 7.30am-8.00pm	55 dBA $L_{Aeq}$ (15 mins) 85 dBA $L_{max}$
• 8.01pm – 7.29am	45 dBA $L_{Aeq}$ (15 mins) 70 dBA $L_{max}$

31. One month after all tenancies are occupied, the consent holder shall have prepared a report by a suitably experienced acoustics professional that confirms that mechanical plant complies with Condition 26. That report shall be provided to the Selwyn District Council. Complies with condition 28. That report shall be provided to the Selwyn District Council.

## **Lighting**

32. All exterior lighting shall be shielded or directed away from internal and road boundaries to ensure that light spill onto adjoining properties does not exceed 3 lux.
33. Any lighting in the car park area shall be installed with sensor lighting positioned away from the site's rear boundary (with 4 and 8 Markham Way).
34. Any lighting in the carpark area shall be installed with sensor lighting positioned away from the site's rear boundary (with 4 and 8 Markham Way).

### **Waste**

35. Waste shall be collected for disposal by a commercial operator.
36. All waste stored on site shall be stored in waterproof containers with secure lids.

### **Review**

37. That pursuant to Section 128 of the Resource Management Act 1991, the Council may review any condition of this consent by serving notice on the consent holder within a period of 1 month of any 12 month period following the date of this decision, in order to deal with any adverse effects on the environment which may arise from the exercise of this consent and which is appropriate to deal with at a later stage.

### **NOTES TO THE CONSENT HOLDER**

- a. Pursuant to section 125 of the Resource Management Act 1991, if not given effect to, this resource consent shall lapse five years after the date of this decision unless a longer period is specified by the Council upon application under section 125 of the Act.
- b. In accordance with section 36 of the Resource Management Act 1991, the Council's standard monitoring fee has been charged.

- c. This consent is not an authority to build. Building consent will also be required before construction begins.



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M.J.G Garland  
Commissioner  
Date: 3 August 2017