

13 March 2020

Wellington Water Ltd c/- GHD Ltd

Grant Thornton House
Level 2, 215 Lambton Quay
Wellington

Dear Sir / Madam,

RESOURCE CONSENT – NOTICE OF DECISION – RC8000 LU0122/19 LAND USE CONSENT FOR STORMWATER UPGRADES IN PORIRUA CENTRAL, INCLUDING THE CREATION OF A WETLAND WITHIN ELSDON PARK.

I am pleased to inform you that your application for resource consent for **Landuse consent** for earthworks to construct a wetland at Elsdon Park, flood protection earth bunds at Ngatitua Street and Porirua School and works associated with stormwater network pipeline upgrades AND **Land use consent** under the National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health (**NESCS**) was granted on 10 March 2020. The decision and the consent conditions, which are outlined at the **start of the decision report**, including the approved plans and details are attached.

Please review the conditions in the attached report as you will be required to comply with these. It is very important that you understand your obligations and undertake the necessary actions or work to comply with all the conditions of your consent.

If you have any questions or concerns about any aspect of your consent or its conditions, I would be happy to discuss them with you. Please also refer to the following general information for consent holders:

1. You may commence your activity in accordance with your consent conditions, unless you lodge an objection to Porirua City under section 357 of the Resource Management Act 1991. Your commencement date will then be the date on which the decision on the objection is determined.
2. This resource consent will expire five years after the date of commencement of consent unless:
 - a. it is given effect to before the end of that period; or
 - b. upon an application made before the consent lapses for an extension of consent. The statutory considerations, which apply to extensions, are set out in Section 125(1A)(b) of the Resource Management Act 1991.
3. If you are dissatisfied with any aspect of the decision on your consent application, you have the right to lodge an objection with the Council under section 357 of the Resource Management Act 1991. You have 15 working days from the date you receive this letter of notification within which to lodge your objection to the decision. Your objection should contain a statement as to what part of the consent you object to and should clearly explain the reasons for your objection. On receiving an objection in writing, the Council shall hear the objection and may uphold the objection wholly or partly.
4. The applicant needs to obtain all other necessary consents and permits, including those under the Building Act 2004 and comply with all relevant Council bylaws.

Please feel free to contact me if you have any questions or concerns.

Ngā mihi,



Olivia Campbell
SENIOR RESOURCE CONSENTS PLANNER

PLANNING REPORT, RECOMMENDATIONS AND DECISION: RCA8000

LAND USE CONSENT FOR STORMWATER UPGRADES IN PORIRUA CENTRAL, INCLUDING THE CREATION OF A WETLAND WITHIN ELSDON PARK.

Applicant	Wellington Water Ltd c/- GHD Ltd
Resource Consent reference:	RC8000 LU0122/19
Application Received	18 September 2019
Reporting Planner	Baylee Pakau, Urban Edge Planning Ltd
Peer Reviewing Planner	Olivia Campbell, Senior Resource Consents Planner
Site Inspection	24 October 2019

1. RECOMMENDATION AND CONDITIONS

That the application by **GHD Ltd on behalf of Wellington Water Ltd** to undertake stormwater upgrade works comprising of:

Landuse consent for earthworks to construct a wetland at Elsdon Park, flood protection earth bunds at Ngatittoa Street and Porirua School and works associated with stormwater network pipeline upgrades at:

- 1 Awarua Street (*Pt Mahinawa 1A*), 2 Awarua Street (*Sec 99 Blk I Belmont SD*), 22 Awarua Street and *Road Reserve* along Awarua Street, Porirua;
- Titahi Bay Road, Porirua (*Road Reserve*);
- Strip of land adjacent to Titahi Bay Road, Porirua (PCC) (*Lot 3 Deposited Plan 464327*)
- Tutuira Place, Porirua (*Road Reserve*)
- 9 Tutuira Place, Porirua (*Lot 2 Deposited Plan 464327*)
- 10 Titahi Bay Road, Porirua (*Lot 1 Deposited Plan 348171*)
- Wii Neera Drive, Porirua (*Road Reserve*);
- Porirua School (*Pt Mahinawa 1A, Pt Urukaika Blk SO 26037*);
- Mana College (*Sec 3073 and Pts 1C2B, 1C1, 1B, 1A, Mahinawa Blk Pts D1A1B4, D1A2A, D1A2B, E2 and Pt 104 DP 19070, Takapuwahia Blk*)
- Elsdon Park - *PCC Recreation Reserve (Section 99 Block I Belmont Survey District, Section 2 SO 38131)*;

be considered as a non-notified application under sections 95A, 95D and 95E and for a Discretionary Activity pursuant to sections 104, 104B, 108, 108AA and 220 of the Resource Management Act 1991; and;

Land use consent under the National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health (**NESCS**), as a Controlled Activity:

be GRANTED for the following reasons:

1. Pursuant to section 95A and 95B of the Act, there are no mandatory requirements in the Porirua City District Plan (the District Plan) to notify the application, the effects of the proposal on the environment will be minor or less and there are no affected persons.
2. There are no special circumstances.
3. Pursuant to section 104 of the Act, the effects of the proposal on the environment will be less than minor.
4. The proposal is in accordance with the relevant objectives and policies of the District Plan, and Part 2 of the Act.

That this consent be subject to the following conditions:

General conditions and duration:

1. That the development be in general accordance with the information and plans submitted with the application and held on Council file RC8000 LU0122/19 and stamped 'Approved Plans' for Resource Consent RC8000 as follows:

A. Drainage Design plans (submitted as Appendix G):

Porirua City Council Central Stormwater Upgrades – Stage 1 for Wellington Water Ltd drawn by GHD Ltd, drawing number 51-0908344: (G001, G006, C100-C106, C440, C500-C504, C700, C800-C802), Rev A dated 09/2019.

B. Wetland design plans (submitted as Appendix I):

Porirua City Council Central Stormwater Upgrades – Stage 1 for Wellington Water Ltd:

- Drawing number 51-0908344:(C320-C328 - Rev B drawn by DCM Urban Design Limited);
- Drawing number 51-0908344:(C300-C313), Rev A dated 23.8.19 drawn by GHD Ltd,

C. Porirua School Flood Protection plans (submitted as Appendix J):

Wellington Water Porirua School Flood Protection City Council Central Stormwater Upgrades – Stage 1, drawn by GHD Ltd, drawing number 51-0908344: (G601-G602, C611-C614, C621-C627), Rev A dated 09/2019.

D. Wellington Water Ngatitua Flood Wall plans:

Wellington Water Ngatitua Flood Wall, drawn by GHD Ltd, drawing number 51-0908344: (G401-G402, G411-415, C421-C424), Rev A dated 05/11/2019.

Reports:

- E. Geotechnical Report supplied with the application for Wellington Water Limited titled 'PCC Stormwater Flooding Preliminary Design Geotechnical Assessment Report' dated March 2019.
- F. PCC Central Stormwater Environmental Report for Wellington Water Limited: Combined Preliminary and Detailed Site Investigation - November 2019.
- G. PCC Central Stormwater Groundwater Assessment – for Wellington Water Limited Detailed Design Phase, September 2019

Minor alterations may be approved upon request providing the development is not materially different, the scale and intensity of adverse effects will be no greater, and no approval from affected persons is needed.

2. Pursuant to section 125 of the Act the consent shall lapse if not given effect to within **10 years** from the date of commencement of the resource consent pursuant to section 116 (1A)(b) of the Act.
3. The consent holder shall give the Manager, Resource Consents at Porirua City Council a minimum of two working days (48 hours) notice prior to works for each stage commencing.
4. The consent holder shall provide a copy of this consent and any documents and plans referred to in this consent to each operator or contractor undertaking works authorised by this consent, prior to works commencing.
5. The consent holder shall ensure that a copy of this consent and all documents and plans referred to in this consent are kept on site at all times and presented to any Porirua City Council officer on request.

Note: conditions 4 to 6 were offered by the applicant.

6. During the construction period, a copy of all certified management plans shall be kept on site at all times and be made available upon request.

Contamination management

7. The consent holder shall submit the Contaminated Land Site Management Plan (SMP) to Manager, Resource Consents at Porirua City Council for certification at least 10 working days prior to commencing of works that is generally in accordance with the draft SMP submitted with the application. The final SMP shall confirm where material will be stockpiled and disposed, and whether asbestos management is required throughout the proposal.
8. The project shall be carried out in general accordance with the certified SMP.
9. Works must not commence until certification of the SMP is received in writing from the Resource Consents Manager at Porirua City Council.
10. The certified SMP may be amended if necessary, to reflect any changes in design, construction methods, or management of effects. Any amendments are to be discussed with and submitted to the Council for information without the need for a further certification process, unless Council considers that they would result in materially different effects to those described in the original management plans. If the amendments once implemented would result in materially different effects to that described in the original SMP, the amended plans must be re-submitted for certification.

Note: the applicant has agreed to the contamination conditions.

Construction and traffic management

11. A Construction Traffic Management Plan (CTMP) shall be prepared by a suitably qualified and experienced person and shall be submitted to Manager, Resource Consents at Porirua City Council for certification at least 10 working days prior to commencing of works. The purpose of the CTMP is to avoid or mitigate adverse effects on traffic safety and efficiency resulting from the construction works, in order to:
 - a. Protect public safety, including the safe passage of pedestrians and cyclists;
 - b. Minimise delays to road users, pedestrians and cyclists, and particularly public transport at all times, especially bus travel times at peak traffic periods during weekdays (06:30 to 09:30 and 16:00 to 19:00); and
 - c. Inform the public about any potential impacts on the road network.
12. The CTMP shall describe the methods for avoiding, remedying or mitigating the local and network wide transportation effects resulting from the Project works, and shall address the following matters:
 - a. Methods to avoid, remedy or mitigate the local and network wide effects of the construction of individual elements of the Project;
 - b. Methods to manage the effects of the delivery of construction material, plant and machinery (including oversized trucks);
 - c. The numbers, frequencies, routes and timing of construction traffic movements;
 - d. Traffic management measures to address and maintain traffic capacity and minimise adverse effects;
 - e. Measures to maintain existing vehicle access to private properties, or where the existing property access is to be replaced, measures to provide alternative access arrangements in consultation the affected landowner;
 - f. Measures to maintain pedestrian and cycle access with thoroughfare to be maintained on all roads and footpaths adjacent to the construction works, (e.g. unless provision of such access is severed by the works or such access will become unsafe as a result of the construction works). Such access shall be safe, clearly identifiable, provide permanent surfacing and seek to minimise significant detours; and
 - g. Where possible, include measures to avoid road closures, and the restriction of vehicle, cycle and pedestrian movements.

Note: Any proposed works to construct the bypass pipeline within 10 Titahi Bay Road (Lot 1 DP348171) and 9 Tutuira Place (Lot 2 DP464327) on private land outside of the Easement in Gross (Transfer 473829.20) will require landowner approval, where any amendment to the width of the easement area may require a separate application under s243 of the RMA.

Construction noise and vibration

13. Noise arising from construction activities shall be measured and assessed in accordance with New Zealand Standard NZS 6803:1999 'Acoustics – Construction Noise' (NZS 6803:1999).
14. The consent holder shall ensure all development and construction work complies with the provisions of NZS 6803:1999 Acoustics - Construction noise, with the exception of the work hours detailed in condition 15 below.
15. Where on-site construction works and/or heavy vehicle movements need to be undertaken outside of normal working hours (as defined in condition 16), night time work (8:00pm – 6:30am) shall be avoided, where practicable. Where avoidance is not practicable, a best practicable option shall be adopted to minimise or mitigate noise effects.

Work hours

16. Normal working hours, shall be:
 - a. For on-site construction activities, excluding over pumping activities: 7:00am to 7:00pm Monday to Saturday (excluding public holidays)
 - b. For heavy vehicle movements on public roads: 7:00am - 7:00pm Monday to Saturday (excluding public holidays).

Incident register

17. The Consent Holder shall appoint a community liaison person for the duration of the construction phase of the Project to be the main point of contact for persons affected by the Project.
18. At all times during construction work, the Consent Holder shall maintain a permanent register of any complaints received relating to the construction works, including the full details of the complainant and the nature of the complaint. The complaints register shall contain the following information:
 - The record shall include:
 - o The type and nature of the incident
 - o Date and time of the incident
 - o Weather conditions at the time of the incident (as far as practicable)
 - o Measures taken to remedy the effects of the incident; and
 - o Measures put in place to prevent the incident from re-occurring
19. The Consent Holder shall respond to any complaint within 24 hours of receipt of the complaint, except where an immediate hazard is present or where the complaint relates to construction noise, in which case the Council shall use its best endeavours to respond immediately. A formal written response shall be provided to the complainant and the Council within seven days of complaint receipt.
20. The Consent Holder shall keep a copy of the complaints register on site and shall provide a copy to the Council upon request.

Earthworks

21. The consent holder shall comply with the approved Erosion Sediment Control Plan and all conditions managing earthworks effects as approved by Greater Wellington Regional Council, consent reference WGN20096.

NOTE: As the works require resource consent from both PCC and GWRC, it has been agreed

between PCC and GWRC that GWRC will manage and monitor earthworks in association with this project.

22. The consent holder deposits all unwanted spoil in a council-approved landfill by the conclusion of site works.

Landscaping

23. The consent holder shall submit a final landscape plan for approval to the Manager, Resource Consents at Porirua City Council that is generally in accordance with the landscape plan submitted with the application, prepared by Morphum Environmental Ltd titled 'planting plan' dated 09/09/2019 revision B. The final plan shall be prepared in consultation with Porirua City Council Manager Horticulture, with at least 10 working days provided for consultation with PCC.
24. The Council approved landscape plan must be implemented in the next planting season following the construction of the wetland. The planting shall be maintained by the consent holder for two years following installation, including the removal of weeds and the replacement of any plants that die within this period.


Accidental Discovery

25. If koiwi, taonga or other archaeological material is discovered in any area during the works, work shall immediately cease and the consent holder shall contact Heritage New Zealand, local iwi, and the Porirua City Council within twenty four hours. If human remains are found, the New Zealand Police shall also be contacted. The consent holder shall allow the above parties to inspect the site and in consultation with them, identify what needs to occur before work can resume.

Geotechnical condition

26. The consent holder shall meet the recommendations contained within section 7 of the Geotechnical Report supplied with the application for Wellington Water Limited titled 'PCC Stormwater Flooding Preliminary Design Geotechnical Assessment Report' dated March 2019. Works shall be completed to a satisfactory standard, and outcomes adopted in the final design, prior to any construction is permitted to commence.

End of conditions, please refer to advice notes, page 22.



Reporting Planner
Baylee Pakau, Urban Edge Planning Ltd

9 March 2020

Decision of Council

That consent be granted and be subject to the conditions specified in the above recommendation.



Olivia Campbell
SENIOR PLANNER RESOURCE CONSENTS

10 March 2020

Date

2. DESCRIPTION OF PROPOSAL

The applicant is seeking land use consent to undertake comprehensive stormwater improvement works in and around Elsdon Park and Porirua CBD. The works form part of stage 1 of an upgrade project that seeks to deliver flood protection and stormwater improvements in central Porirua, with other projects providing improvements to various suburbs around Porirua. Section 4 of the application describes the works in detail, with a high-level overview provided in Figure 1 below.

The largest extent of works takes place within Elsdon Park, where the wetland attenuation and treatment area are proposed. This will comprise of approximately 14,700m² of the park, and will be located at the south-east near the corner of Awarua Street and Titahi Bay Road. Treated stormwater from the wetland will discharge to the new bypass pipeline, then to Porirua Harbour. Public space including timber board walks, seating areas and a viewing platform are proposed as part of the works. Approximately 7,700m² of earthworks will be undertaken to form the wetland and undertake the associated works comprising of approximately 12,300m³ of excavations and 3,900m³ of fill.

The proposed bypass pipeline from the wetland will be constructed along Titahi Bay Road next to Elsdon Park, and then from the wetland across Titahi Bay Road, along Tutuira Place, to discharge into the Porirua Harbour. The pipe is located predominately within road reserve, with a length of 94m of pipe located within private commercial properties at 9 Tutuira Place and 10 Titahi Bay Road. Existing easements are in place but require amendments to these agreements as the new pipe cannot fit within existing easements. Total excavation for the pipeline is estimated to be approximately 4,230m². The proposed volume of works (being excavation and reinstatement) for the bypass pipeline will be approximately 5,100m³.

Two flood protection bunds are proposed to be constructed, one to the north of Elsdon Park, near the southern termination of Ngatitua Street. The other will provide protection to Porirua School, across Awarua Street to the south of Elsdon Park. The Ngatitua Street bund will be 140m in length with a maximum height of 1.2m, with a crest width of 1m. Approximately 375m³ of imported fill will be required to construct the bund, over an area of 1,100m².

The Porirua School bund will be 153m in length along Titahi Bay Road, and 92m in length within, and next to, Awarua Street road reserve. The bunds will be approximately 1.2m high. As part of the flood protection works, the staff car park will have a higher ground level of 600mm that will be supported with blockwork retaining. Approximately 185m³ of fill is proposed over an area of 1,100m².

Overall, the works are estimated to take approximately 2.5 years. The first stage will be the wetland creation and bypass pipe. The applicant has outlined the overall methodology and timing for each stage, with details to be confirmed in a Construction Management Plan.

The total area of earthworks proposed is 18,770m² comprising mostly of the wetland works (14,770m²). The total volume of earthworks will be 21,683m³, with 13,433m³ of earthworks to be disposed off-site.

The applicant is requesting that Council grants consent under the National Environmental Standard for Soil Contamination (NES-SC) to account for the potential that soil that may be contaminated is uncovered through site works. PSI and DSI have been supplied with the application.

The applicant is seeking a 10 year consent in accordance with section 123(c) of the RMA to provide a buffer to the schedule should changes to programming or funding be required. The applicant is also seeking consent from Greater Wellington Regional Council for the works.

The applicant also seeks consent for ongoing maintenance works of the wetland. If the consent is approved, these maintenance works are considered to form part of the consent that may be given effect to.



Figure 1: overview of the proposal

3. DESCRIPTION OF SITE AND SURROUNDINGS

I agree with and adopt the applications description of the site in section 3 of the application, and identification of properties subject to the resource consent application. The project area includes Elsdon Park, Porirua School, Titahi Bay Road, and the northern end of the Porirua CBD.

The project area is low lying, approximately 2 to 3m above mean sea level, and subject to flooding during heavy rainfall from the large rainfall catchment of the Elsdon Hills to the west. The Mahinawa Stream (diverted underground in places) runs through the north of Elsdon Park. Works also take place within the Coastal Marine Area which has no legal ownership.

The application site encompasses a number of uses including recreation activities within Elsdon Park, education land uses, residential, Council road reserve and commercial businesses within the CBD.



4. **RELEVANT PLANNING PROVISIONS**

4.1 **Operative District Plan**

The application site spans a number of zones of the Porirua City District Plan (which became operative on 1 November 1999) as outlined in Table 6 and Figure 25 of the application (page 35). This includes the Recreation, City Centre, Open Space, and Suburban Zones. The works are considered to be in association with the upgrade and maintenance of utilities and therefore, the rules of the Network Utilities Chapter of the District Plan apply.

The application takes place over two designated properties, being Designation K0907 and K0908. Both of these sites are designated for schools with the Minister of Education as the requiring authority under section 166 of the RMA. As the proposed works are not in association with this purpose, the underlying zoning requirements apply, both of which are the Suburban Zone.

The below table outlines the relevant properties and zoning.

General area of works as described in section 1	Addresses	Underlying zoning	Relevant District Plan notations or overlays	Legal description
Ngatittoa Street flood protection	2 Awarua Street	Suburban Zone and Recreation Zone	Seismic Hazard	Section 99 Block 1 Belmont Survey District, Section 2 SO Plan 38131
Elsdon Park wetland attenuation and treatment area	2 and 22 Awarua Street	Suburban Zone and Recreation Zone	K0907 – Ministry of Education designation, Seismic Hazard overlay	Section 99 Block 1 Belmont Survey District, Section 2 SO Plan 38131
New bypass pipeline and a new stormwater outlet to the harbour	9 Tutuira Place and 10 Titahi Bay Road, road reserve along Awarua Street, Titahi Bay Road, Tutuira Place and Wii Neera Drive	City Centre and Recreation (Recreation zoning applies to the east of Wii Neera Drive)	Seismic Hazard	Lot 1 DP 348171 and Lot 2 DP 464327 Strip of land next to road reserve is legally described as Lot 3 DP 434327
Porirua School flood protection	1 Awarua Street and road reserve along Titahi Bay Road	Porirua School is zoned Suburban, underlying zoning of road reserve is City Centre	K0908 – Ministry of Education designation, Seismic Hazard overlay	Pt Mahinawa 1A Pt Urukaika Blk SO 23067

4.2 **Reasons for Resource Consent**

In the case of this application, the proposal requires consent for the following reasons:

1. Land use consent under the Network Utilities Chapter of the District Plan

Land Use Consent

The works are considered to be upgrading of a network utility, and thereby are to be considered under the Network Utilities Chapter of the District Plan. The wetland, once established, provides a secondary

recreation activity but is primarily considered to be for stormwater storage which is a network utility. The network utility rules override all other rules, with the exception of historic heritage. There are no areas or structures identified as protected historic heritage within the development site.

As the proposal spans various components of a utility upgrade across a large area, it has the following activity statuses:

- **Permitted Activity** in accordance with Rule 6.1.14 as the new underground bypass pipelines comply with the relevant conditions of the Utilities Chapter;
- **Restricted Discretionary** in accordance with Rule 6.1.6 where the earthworks in association with the formation of the wetland and the stormwater upgrades within road reserve do not comply with the standards relating to earthworks (7.6.2).
- **Discretionary** in accordance with Rule 6.1.12 as the proposed earth bunds are treated as a network utility not otherwise listed as a permitted, controlled, restricted discretionary or non-complying activity. The earth bunds do not comply with the standards relating to separation/setback (7.4.1), size and diameter (7.3.7) and earthworks (7.6.2).

Relevant standards

The proposal complies with 7.1, 7.7, and 7.8. In respect of noise, it is noted that dewatering pumps will be operating near Suburban Area zoned properties which the applicant advises is compliant with District Plan noise standards.

The proposal does not comply with the following standards:

7.3.7 Cabinets that are not located within the road reserve and other network utilities not otherwise provided for – 15m² maximum

Each earth bund has an area of approximately 1,100m².

7.4.1 minimum 20m riparian setback shall be maintained

The Ngatittoa Street earth bund will be within 20m of the Mahinawa Stream.

7.6.2 (b) Height, Depth – earthworks shall not exceed 1.5m in height or depth

The depth of earthworks to establish the wetland in Elsdon Park will be up to 2.24m in depth.

*7.6.2 (d) Area: Riparian areas – 25m²
Recreation, Suburban and Aotea Supermarket Zones – 100m²
Rural Zone – 1000m²
All other areas – 500m²*

The Ngatittoa Street earth bund is within Recreation Zone and requires earthworks over 1,100m².

The earthworks required to establish the new wetland take place over the Recreation and Suburban Zones, which both have a 100m² limit. Approximately 7,700m² of earthworks is required.

The bund on Titahi Bay Road, outside of the Porirua School designation has an underlying zoning of City Centre. Earthworks over an area of approximately 687m² is proposed.

The bund on Awarua Street for Porirua School has an underlying zoning of Suburban. Approximately 413m² of earthworks are proposed.

NES-SC

The applicant has requested Land use consent under the National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health (NESCS), as a Controlled Activity for:

- Soil disturbance across the project area exceeding the permitted volume of 938.5 m³ – as the proposed works will require soil disturbance of approximately 17, 283 m³ (trenches - 5, 028 m³ and wetland - 12, 255 m³).
- The volume of soil to be taken off-site across the project area exceeding the permitted volume of 187.7 m³ - approximately 13, 433 m³ of soil is required to be disposed off-site

Within Council's s92.2 peer review process, concern was raised as to whether it has not been clearly demonstrated that the proposal requires consent through the evidence provided, where the position was taken that the tests to be a Controlled Activity have not been met. It was considered that the proposal does not trigger the volumetric tests for disturbing soil relating to the 'piece of land' and is not a change of use. However, in responding to the s92 process the applicant has stated:

The peer reviewer has questioned whether the works could be undertaken as a permitted activity within their review. The consent has been applied for as a Controlled Activity on the basis that the proposed works are for a lineal infrastructure project and that if residual contamination is discovered during the works having a controlled activity consent in place mitigates potential project risk in applying for additional consents to cover the works should residual contamination be encountered.

While this is a conservative approach to take, Wellington Water Limited (WWL) supports this approach to manage this particular consent. Please see GHDs updated report attached, titled: PCC Central Stormwater, Environmental Report: Combined Preliminary and Detailed Site Investigation (Revision 1) dated November 2019.

Accordingly, whilst Council cannot require a consent for an activity that may be assessed as a Permitted Activity, as a Discretionary utility under the District Plan, the matters relating to contamination can be considered. Therefore, as the applicant has requested controlled activity consent under the NES, and agreed conditions of consent address contaminated land via the submission of a Contaminated Land Site Management Plan (SMP) – refer conditions 8-11 is has been determined by the Manager of Resource Consents and Compliance that approval under the NES-CS can be granted on this basis.

Activity Status Conclusion

In bundling the overall activity status, the consent shall be considered as a Discretionary Activity.

5. SECTION 95 - NOTIFICATION

Sections 95A to 95E of the Resource Management Act set out the requirements for making a notification decision.

5.1 Public notification – Section 95A:

Section 95A of the RMA has a 4-step process to determine whether to publicly notify an application.

Step 1 - Mandatory Public Notification:

Mandatory public notification is not required as the applicant has not requested public notification [s95A(3)(a)], there are no outstanding section 92 matters [s95A(3)(b)], and the application has not been made jointly with an application to exchange recreation reserve land under section 15AA of the Reserves Act [s95A(3)(c)].

Step 2 - Preclusion to Public Notification:

Public notification is not precluded because the activity (being a non-residential land use application) is not subject to any rule in the District Plan that precludes public notification [s95A(5)(a)] and it is not a residential activity with a Discretionary Activity status [s95A(5)(b)(ii)].

Step 3 - Public Notification – Rule/Adverse Effects:

Public notification is not required as the application does not include an activity that is subject to any rule in the District Plan or relevant NES that requires public notification and it has been determined, in

accordance with section 95D, that adverse effects on the environment will not be more than minor [s95A(8)(a) and (b)] in accordance with the below assessment.

5.2 Assessment of Adverse Effects

The matters of assessment for a Discretionary Activity are listed in section 10 of the Network Utilities Chapter. Council can consider any relevant matter with particular regard to the objectives and policies of the Plan. In addition, the Council shall have particular regard to relevant matters outlined in NU9 – Matters of Discretion. The relevant matters are assessed below.

The degree, extent and effects of the non-compliance with the Permitted Activity Standards

The proposal does not comply with the earthworks standards relating to depth and area, with the largest non-compliance for depth taking place within the proposed wetland due to excavations required. While the proposal relates to a large area overall, the development will enable better mitigation of flood risk in central Porirua and management of stormwater.

The degree, extent and effects of the non-compliances are considered to be minor or less for the reasons outlined below.

Visual Impacts

The proposed wetland and treatment area will result in a permanent change to Elsdon Park, to around 14,700m² at the south-east end of the park that is currently used as a sports field. The artificial hockey turf will be retained, as well as the Mana College sports field to the west of the wetland. While the wetland is intended to be for stormwater attenuation and treatment, it is acknowledged that it will also contribute to the passive recreation opportunities within the park, through the creation of public spaces next to the wetland which is considered to be an anticipated outcome in the Recreation Zone. The proposed wetland will result in some new structures (i.e. boardwalks, signage, park benches and sculptures) all of which are small in scale and not located in close proximity to any residential dwelling or business. The proposal will alter the nature of Elsdon Park's recreation use from public fields to a wetland with space for the general public to utilise through seating and boardwalk next to the wetland and will likely create a more active public space than Elsdon Park with improved amenity values.

The proposed bunds along Ngati Toa Street and next to Porirua School will result in permanent visual changes to both sites. The bunds are generally low in height at 1.2m above ground level and will be grassed upon completion. The low height and natural appearance of the bunds will ensure they are not visually prominent in the wider environment. The bund to the south of Ngati Toa Street/north of Elsdon Park is largely separated from the public realm and its west-east orientation minimises the visual effects when viewed from Titahi Bay Road and Ngati Toa Street. The bund will be visible to users of the hockey club rooms and grounds, but given the recreation nature of the wider Elsdon Park, the bunds will not be out of character with the established visual amenity of a public park.

The bund and works at Porirua School will result in more visible changes to the site when viewed from the wider environment. As assessed above, the bunds are low in height and will be grassed, which mitigates their visual effects. The bunds, whilst visible, will be largely seen in passing by drivers along Awarua Street and Titahi Bay Road, with commercial businesses across Titahi Bay Road generally not facing the site. Residential properties to the east along Awarua Street are set back from the new bunds, and the west-east alignment means their visibility will be limited.

The bypass pipeline will be located below ground level and the visual effects upon completion will be limited to small structures and outlets which are not visually prominent.

The adverse visual impacts of the proposal will on balance, be no more than minor.

Amenity Effects

Amenity effects such as noise, vibration, odour, dust, and earthworks will be predominately observed during the construction period. The nature of use of Elsdon Park may change from a field to when it

was a wetland, which is anticipated by the underlying recreation zoning of the site with noise associated with these activities to be expected through passive recreation use. Once the works are complete, the applicant advises that the works will comply with activity noise standards of the relevant underlying zones.

The applicant has detailed the construction programme in the AEE under section 5.1 (taken from page 25) in the excerpt below:

5.1 Duration and timing of works

The duration of construction for this Stage 1 Porirua Central Stormwater Upgrade Project will be approximately two and a half years. Construction works will likely be staged during this period as follows:

- Elsdon Park wetland attenuation and treatment area – January 2020 – July 2020
- Bypass pipe (including new stormwater outlet) – January 2020 – September 2020
- Ngatitooa Street flood protection works – August 2020 – December 2020
- Porirua School flood protection works – December 2020 – March 2021. The works to upgrade the stormwater pipes within the school grounds will be timed to occur during the summer months and are anticipated to be completed during the summer break period to avoid disruptions. The summer period will also be beneficial from a bulk earthworks (bund construction) perspective.

Noting that the works were not able to begin in January 2020, the above duration and timing demonstrates that each part of the development will be largely undertaken as discrete areas of work in separate parts of the project area. Given the extent of the area, and separation between Ngatitooa Street and Porirua School it is considered that construction work will generally not be observed continuously for the 2.5 years (approximate).

The construction works involve the use of dewatering pumps which potentially will occur overnight. The applicant has proposed a dewatering construction management plan which demonstrates how noise nuisance from the dewatering pumps in particular will be managed and proposes to undertake noise mitigation measures i.e. acoustic shrouds of the pumps. The applicant has advised that methods of mitigation to minimise noise effects on residential neighbours (who would be more sensitive to overnight noise than a commercial or industrial activity) can be undertaken which will reduce noise levels to a compliant degree.

In addition to the dewatering construction management plan, a general construction management plan will be prepared for final approval by the Council. The applicant has identified measures to minimise construction effects within the AEE which include:

- Limiting hours of construction (excluding use of dewatering pumps) to Monday to Friday during daylight hours;
- Undertaking works within Porirua School during school holidays;
- Identifying and documenting noise mitigation measures
- Requiring the contractor to work within NZ Construction Noise Standards and within relevant District Plan noise standards. It is noted the application states that consent would be sought if these limits cannot be met.

Note: the applicant has advised in correspondence that it is expected the construction works would comply with the applicable noise standards.

- Undertaking a letter drop to Ngatitooa Street residents in advance of construction commencing. Noise complaints received will be recorded in an Incident Register, actioned and details provided to PCC. The applicant has proffered the register as a condition of consent.

Sediment and erosion control measures will be in place during works, noting that the proposal also requires consent from GWRC. It is considered that GWRC has particular expertise in managing the effects of large-scale earthworks and in consultation with processing officers at GWRC, it is considered more appropriate that they manage the erosion and sediment control measures throughout site works. Overall, there will be measures in place to manage the effects of the earthworks.

The amenity effects arising from the construction and earthworks are considered to be no more than minor.

In respect of the ongoing amenity effects, the constructed wetland will be planted in species appropriate for the local environment and will provide additional greening of the local environment that will contribute more amenity to passers-by and users of the wetland recreation area than the existing fields at Elsdon Park. The amenity effects of the bunds will be less than minor, as they will be grassed and sufficiently low in height to assimilate to their surrounding green spaces.

The amenity effects of the proposal are considered to be minor or less.

Cumulative Effects

The proposal is stage one of four stages of improvements to stormwater in Porirua. Cumulative effects of the overall project can be considered at later stages. As the first stage, it is considered there are no cumulative effects.

Interference with Other Land Uses

The improvement works take place over public spaces and educational land being Elsdon Park, road reserve and Porirua School. The bypass pipeline will also be constructed within private commercial properties at 9 Tutuira Place (Lot 2 Deposited Plan 464327) and 10 Titahi Bay Road, Porirua (Lot 1 Deposited Plan 348171) however it is noted that these works comply with the District Plan provisions for utilities and therefore consideration of effects are not necessary.

However an advice note will be offered outlining that any proposed works to construct the bypass pipeline within 9 Tutuira Place (Lot 2 Deposited Plan 464327) and 10 Titahi Bay Road, Porirua (Lot 1 Deposited Plan 348171) on private land outside of the Easement in Gross (Transfer 473829.20) will require landowner approval, where any amendment to the width of the easement area may require a separate application under s243 of the RMA.

In turning to whether the utility works will interfere with other land uses, the Ngatitua Street bund and constructed wetland will be established within Elsdon Park which is a recreation area. The location of the bund at the northern end of the park and is adjacent to the stream that is generally not utilised as an active recreation space given its location near the hockey turf and clubrooms, and the car park.

The proposed wetland within Elsdon Park to the south of the hockey turf will mean that part of the park cannot be used for active recreation. The proposed wetland will result in passive recreation use and will provide a focal point for visitors and will enable a recreation experience that is not currently available elsewhere in the CBD. The wetland will provide recreation space, albeit passive in nature as opposed to active such as organised sports. There will still be spaces within Elsdon Park to undertake active recreation, and the wetland will not affect the hockey turf towards the north of Elsdon Park.

The works within Porirua School will take place during school holidays to minimise disruption to teachers and students, and upon completion, is not considered to interfere with school activities due to the bunds' locations on the outside boundaries of the school.

The works will require traffic management in place which will affect the flow of traffic during construction however this is considered a temporary effect that will not prevent the functioning of roading network.

Measures to Mitigate Bulk and Scale of the Utility

The nature of the utilities as a constructed wetland and flood protection bunds, are generally in keeping with the predominant open character of Elsdon Park, Porirua School and the adjoining road reserves of Awarua Street and Titahi Bay Road. While the wetland and bunds will cover large areas of land, they will appear to be natural landscapes due to the planting and grassing proposed across the development area. Structures relating to the utilities such as detention chambers are small in scale and generally at or below ground level.

Size and Scale

In considering whether the size and scale of the proposal is generally compatible with other development in the area, the proposal will result in new areas for use of passive recreation in the form of a wetland, which is consistent with the underlying zoning of Elsdon Park. In respect of the bunds, they will be located within Elsdon Park, Porirua School and alongside road reserve whereby they will appear to form part of a relatively open environment. The size and scale of the development, whilst covering a large area of land, provides a dual benefit by improving stormwater management in the CBD, and contributing new passive recreation space.

Traffic and Pedestrian Safety

Traffic and pedestrian safety during each stage of works will be managed through the construction management plan process, and through any road stopping applications the applicant needs to make to the Council outside of this application. Trench methodology may be undertaken to install the pipeline under Titahi Bay Road, and the applicant advises this is likely to take a full working week (five days) to complete, including reinstatement of the road. Stop-Go traffic management will be required.

The utility works are not considered to inherently alter the existing traffic and pedestrian environment, noting that established roads, vehicle crossings and car park areas are unaffected.

The utilities will generally not alter the roading network, with a new single vehicle crossing proposed on Awarua Street for maintenance vehicles and pedestrians to access the wetland. The existing bus stop on Titahi Bay Road will be reinstated.

The wetland has the potential to attract visitors who may arrive by vehicles or on foot. It is considered that given the underlying recreation zoning of Elsdon Park and its current set up as sports fields which would attract high numbers of people on weekends in particular, the site can readily accommodate visitors.

Alternatives Considered

The application does not identify alternative options to the proposal. In any respect, the effects of the proposal are considered to be minor or less for the reasons detailed in this assessment.

Cultural and archaeological Effects

As the applicant proposes a stormwater outlet to Porirua Harbour, the works take place adjacent to a Statutory Acknowledgment Area for Ngati Toa Rangatira and therefore has the potential to adversely affect the cultural values and significance of the harbour, and its tributaries. The applicant has undertaken consultation with Ngati Toa Rangatira and has gained their written approval. Furthermore, the applicant has proffered an accidental discovery protocol in section 12 of the application. Accordingly, it is considered that sufficient consideration has been given to cultural effects.

Contamination

The applicant has requested consent under the NES on the basis that the proposed works are for a lineal infrastructure project and that if residual contamination is discovered during the works, having a consent in place mitigates future risk in applying for additional consents to cover the works should residual contamination be encountered. Dave Bull of Hail Environmental was engaged by Council to peer review the PSI and DSI provided with the application to determine if the contamination considerations are appropriate for the development.

The utility works do not take place within an identified SLUR site on GWRC's register. GHD's desktop study shows the historic aerials for the site include land reclamation between 1941 and 1980 and the site's land use changed from rural to urban during this period. Because asbestos was known to be used as part of land reclamation, asbestos in the reclaimed land within the park and development area is a possibility to be discovered during excavations. The applicant has identified HAIL activities to have been undertaken within the piece of land, being Category G5, F4 and F7 resulting in potential for heavy metals, hydrocarbons and asbestos to be present within the soil. The applicant has provided their DSI results that outlines heavy metals, hydrocarbons and asbestos were all below the applicable levels for the purposes of the NES-SC.

In Dave Bull's assessment of the applicant's review, he questions whether the proposal does in fact need consent under the NES-SC due to the proposed soil disturbance within those pieces of land being well below the volumetric permitted activity standards of clauses 8(3)(c) and (d) NES-SC. The applicant has acknowledged this may be the case and has sought to undertake a conservative approach by requesting consent under the NES.

While the proposed activity could be considered as permitted with respect to the NES-SC, Council agrees with the request of the applicant to issue Controlled Activity consent where conditions of consent will require a contaminated land site management plan (SMP). This is to be prepared by the applicant, where Mr Bull who advises that final approval of the SMP should be undertaken by the Council prior to works beginning to finalise where unsuitable material may go. The applicant has provided information on 13 February 2020 stating:

After speaking to our engineers (water, contam and geotech) this is likely to be the situation regarding reuse or otherwise of excavated soil:

- *Trenches - excavated material will not be re-used and will be taken off-site. This material is unsuitable as it won't meet compaction requirements*
- *Ngatitua earth bund – the excavated material will be unsuitable for re-use for the above existing ground level earth bund. Soil may be suitable for either backfilling in the cut-off trench under the bund or for landscape/planting areas around the wetland. If not suitable, the material will be taken off-site.*
- *Wetland – if suitable, the material will be reused for the mound or landscape/planting areas. Also, if suitable, there will be excess material that will need taking off-site, as it all cannot be re-used. If considered unsuitable, the material will be taken off-site.*
- *Porirua School earth bund – excavated material unlikely to be re-used. Take off-site.*

If the geotech engineer determines the material suitable for reuse (i.e. structural/compaction qualities etc), testing will be undertaken for areas that have not been previously sampled and analysed to confirm suitability from an environmental perspective.

The response was considered to address the outstanding issues for Mr Bull's peer review. The applicant has agreed to a condition requiring final approval of the SMP by the Council prior to works commencing. Based on Mr Bull's feedback and the applicant's proposed management plan, the contamination effects are considered to be less than minor.

Special Circumstances:

There are no special circumstances that warrant public notification under section 95A(9) because none of the circumstances of the application are exceptional or unusual. While the proposal is of a large scale that encompasses a number of properties and zones, the works are anticipated given they will enable improved stormwater management across a large area of Porirua.

5.3 Limited Notification - Section 95B:

Section 95B relates to limited notification of consent applications and (in summary) directs that, where notification of an application for resource consent is not required under Section 95A, the consent authority must give limited notification of the application to any affected person. Section 95B is also a 4-step process to determine whether to limited notify an application.

Step 1 - Customary Rights and Marine Title Groups, and Statutory Acknowledgements:

There are no protected customary rights groups or customary marine title groups that will be affected by the proposal.

The proposal is adjacent to a statutory acknowledgement area [s95B(2)(a) and (b) and s95B(3)]. The applicant has obtained the approval of Ngati Toa Rangatira whereby they cannot be considered an affected person.

Step 2 - Preclusions to Limited Notification:

There is no preclusion to limited notification as there is no rule in the District Plan or relevant NES that precludes limited notification of the application [s95B(6)(a)] and the application is for neither a district land use consent with Controlled activity status or an activity prescribed by regulations made under

section 360H(1)(a)(ii), which precludes limited notification [s95B(6)(b)].

Step 3 - Limited Notification - Affected Persons:

Section 95E(3)(a) stipulates that those individuals who give written approval to a proposal cannot be considered to be an “affected person”. It is noted that the following people have given their approval and therefore cannot be considered an affected person:

- Ngati Toa Rangatira as owner of 2 Ngati Toa Street and statutory acknowledgment area, and
- Ministry of Education as owner of Porirua School and Mana College

Limited notification is not required as the effects on any person who has not provided written approval will be less than minor [s95B(8)], for the reasons outlined in the assessment above, and in more specific detail on surrounding properties below.

Ngatitoo Street flood protection

In respect of properties near the proposed bund at the southern extent of Ngatitoo Street, the effects will be most observed by 2 Ngatitoo Street who has given written approval as owner, which is located approximately 2m to the north of the bund. Once constructed, the bund will be up to 1.2m in height and will run along the creek that is parallel to the southern boundary of this property for a length of approximately 140m. This boundary is currently densely vegetated which will have to be removed to facilitate construction of the bund, resulting in the northern bund slope being most visible from 2 Ngatitoo Street. The bund is well separated from any other residential property along Ngatitoo Street.

The estimate timeframe for these works are August 2020 to December 2020. While the Elsdon Park wetland works are likely to run from early 2020 to mid-2020, the wetland is separated from the dwelling by the hockey fields and club rooms, and machinery and staff facilities will be located on Awarua Street which is well separated from residential properties on Ngatitoo Street. The applicant proposes to limit the hours of construction to Monday to Fridays during daylight hours which will minimise the effects on nearby residential properties. Further, no dewatering pumps are required during construction of the bund that may result in additional noise effects.

Given the bund’s setback from any nearby residential property who hasn’t given written approval, the effects are considered to be less than minor on any person.

While the hockey club will likely observe the construction and resulting bund, this is considered to be a less sensitive receiver compared to residential neighbours and is located within the application site such that the owner (Porirua City Council) in conjunction with Wellington Water, can manage potential disruptions during construction period.

Porirua School flood protection

Two bunds are proposed, to the north and east of the school site. The eastern bund will generally run the length of the school field, within road reserve next to the school field. The northern bund will be within road reserve and the school site. Both bunds are considered well separated from residential properties such that any visual amenity effects of these bunds will be less than minor.

To the east of the school, across Titahi Bay Road, are commercial buildings which are well set back from the bund and whose visual amenity is less sensitive than residential activities. No commercial properties are considered affected by this bund.

There are residential properties to the west of the site, with 3 and 7 Awarua Street sharing their eastern boundaries with the site. These properties are considered adequately separated from the bunds to not be adversely affected by the resulting visual amenity effects.

In terms of construction works, the applicant advises that construction works for the Porirua School flood protection works will be from December 2020 to March 2021 which involves the establishment of the bunds and the bypass pipeline. Construction of the pipeline involves trench dewatering with the pipeline near the residential properties on Awarua Street. These dewatering pumps are proposed to operate overnight to enable the trench to recharge and recommence on a Sunday to enable construction works on a Monday. The construction management plan will ensure the construction

effects on nearby residential properties will be less than minor.

Elsdon Park wetland attenuation and treatment area

The proposed wetland and treatment area will result in a permanent change to Elsdon Park, to around 14,700m² at the south-east end of the park that is currently used as a sports field. The artificial hockey turf will be retained, as well as the Mana College sports field to the west of the wetland. While the wetland is intended to be for stormwater attenuation and treatment, it will also contribute to the passive recreation opportunities within the park, through the creation of public spaces next to the wetland which is considered to be an anticipated outcome in the Recreation Zone. The proposed wetland will result in some new structures (i.e. boardwalks, signage, park benches and sculptures) all of which are small in scale and not located in close proximity to any residential dwelling or business. The visual amenity effects of the proposal on any person are considered to be less than minor.

The wetland will be established partly within land owned by the Ministry of Education, designation K0907 and is generally for public infrastructure purposes such that it will not be within the scope of the designation's purpose. MoE has given written approval for the activity within and adjacent to their land.

In considering the construction effects, it is estimated that works will take six to seven months. This overlaps with other parts of the project however the areas of work are considered to be separated from each other and can be viewed as discrete portions of the overall project to not result in cumulative construction effects on neighbours.

In respect of the wetland, it is noted the nearest residential neighbours are across from Awarua Street which provides physical separation of the construction effects. Machinery, stockpiles, staff facilities and vehicle storage will be near the Awarua Street frontage of Elsdon Park, which are considered temporary in nature and buffered by the road carriageway. Overall this separation distance, compliance with construction noise standards, limited hours of construction (Monday to Friday – during daylight) are considered to adequately mitigate the construction effects on any residential neighbour to a degree that is less than minor.

The excavations to create the wetland are not located on any person's adjoining boundary where their stability could be affected. Silt and sediment runoff, and dust will be managed throughout earthworks. Upon completion, all areas of exposed earth will be planted or built over to create the wetland. Overall, the earthworks effects on any person will be less than minor.

New bypass pipeline and a new stormwater outlet to the harbour

The proposed bypass pipeline is predominately located in Council road reserve, with portions of the pipeline being located within 9 Tutuira Place (Lot 2 Deposited Plan 464327) and 10 Titahi Bay Road, Porirua (Lot 1 Deposited Plan 348171). There are easements in place on the titles for these properties that allow for stormwater pipes to run through, however these easements are required to be amended as the depth of the proposed bypass pipeline requires a wider easement.

The bypass pipeline requires the applicant to undertake works within private property that may in turn affect their business operation and availability of car parks during construction. The proposed bypass pipeline within 9 Tutuira Place and 10 Titahi Bay Road, Porirua are a permitted activity under the Utilities Chapter and therefore any effects will be in line with District Plan expectations for the site. Any proposed works to construct the bypass pipeline within 9 Tutuira Place and 10 Titahi Bay Road, Porirua on private land outside of the Easement in Gross (Transfer 473829.20) will require landowner approval, where any amendment to the width of the easement area may require a separate application under s243 of the RMA. This has been brought to the applicant's attention via an advice note.

A public transport route along Titahi Bay Road will be affected during construction of the bypass pipeline and will be restored to its current location upon completion. Traffic management will be in place during this period that will be approved by PCC prior to starting work.

The bypass pipeline through Tutuira Place, towards Porirua Harbour will be established in commercial areas where there is less sensitivity to noise. While disruption may be caused to surrounding businesses, the effects are temporary in nature, will not result in any discernible structures, and works

are largely limited to the road reserve (with the exception of 9 Tutuira Place (Lot 2 Deposited Plan 464327) and 10 Titahi Bay Road, Porirua (Lot 1 Deposited Plan 348171)).

Step 4 - Special Circumstances:

I have considered whether there are special circumstances that exist relating to the application that warrant limited notification to any persons who have not been excluded as affected persons by the assessment above [s95B(10)]. There are no special circumstances that warrant limited notification under section 95B(10). None of the circumstances of the application are exceptional or unusual.

Conclusion on limited notification

I consider the effects on any person will be less than minor. The proposal therefore can be determined on a non-notified basis.

6. SECTION 104 MATTERS TO BE CONSIDERED

Application has been made under the Resource Management Act 1991 (the Act) being an application for resource consent (pursuant to section 88).

Section 104 of the Resource Management Act provides that:

- (1) *When considering an application for a resource consent and any submissions received, the consent authority must, subject to Part II, have regard to –*
 - (a) *any actual and potential effects on the environment of allowing the activity; and*
 - (ab) *any measure proposed or agreed to by the applicant for the purpose of ensuring positive effects on the environment to offset or compensate for any adverse effects on the environment that will or may result from allowing the activity; and*
 - (b) *any relevant provisions of*
 - (i) *a national environmental standard*
 - (ii) *other regulations*
 - (iii) *a national policy statement*
 - (iv) *a New Zealand coastal policy statement*
 - (v) *a regional policy statement or proposed regional policy statement;*
 - (vi) *a plan or proposed plan; and*
 - (c) *any other matter the consent authority considers relevant and reasonably necessary to determine the application.*
- (2) *When forming an opinion for the purposes of subsection (1)(a), a consent authority may disregard an adverse effect of the activity on the environment if a national environmental standard or the plan permits an activity with that effect.*
- (3) *A consent authority must not –*
 - (a) *when considering an application, have regard to”*
 - (i) *any effect on a person who has given written approval to the application*

The actual and potential effects of the proposal are discussed in section 4 above, and the relevant provisions of the District Plan will be discussed in detail below.

Section 104B of the Resource Management Act provides that:

- After considering an application for a resource consent for a discretionary activity or non-complying activity, a consent authority –*
- (a) *may grant or refuse the application; and*
 - (b) *if it grants the application, may impose conditions under section 108.*

6.1 s104(1)(a) - Environmental Effects

I have undertaken an assessment of the potential adverse effects arising from the proposed development in section 4 of this report, whereby I have concluded that any adverse effects on the environment will be minor or less. Further, I consider that any potential adverse effects on the subject land or adjacent land will be acceptable.

Porirua City Council Parks and Gardens officers have advised that once the wetland is constructed, they will manage maintenance of plants species. PCC officers have reviewed the proposed planting

schedule and have provided suggested amendments to improve the wetland's performance. The approval of PCC's Parks and Gardens officers is not considered necessary for the purposes of section 95E.

The matters discussed, and the conclusions reached are also applicable with regard to the adverse effects assessment under section 104(1)(a) of the Act. Overall, the effects associated with the proposal are acceptable.

In addition, the applicant has provided the below assessment of positive effects under section 8.2 of the application which I agree with and adopt:

The proposed maintenance, repair, replacement and installation of stormwater infrastructure is necessary to improve essential stormwater drainage in the Porirua CBD and improve stormwater discharge quality to the Porirua Harbour. Based on the proposed design and mitigation measures, the adverse environmental effects of the proposal have been assessed, in section 7 of this report, as less than minor, with substantial resultant positive benefits.

Conditions of consent have been proffered by the applicant in section 12 of the application which will largely be adopted. These conditions relate to contaminated land management, erosion and sediment control, accidental discovery protocols, and creation of an incidents register. As the application also requires consent from GWRC, it is considered appropriate that the lead for management of erosion and sediment is undertaken by GWRC officers, to ensure there isn't double up of requirements by authorities.

In addition to the proffered conditions, a construction management plan will be required to be complied with.

6.2 104(1)(b) - Planning Provisions

In considering this application the Council has had regard to provisions of the following planning documents:

- National Environmental Standards
- National Policy Statements
- The New Zealand Coastal Policy Statement
- The Wellington Regional Policy Statement
- The Porirua City District Plan

6.2.1 Higher Order Planning Documents:

I have given regard to the higher order planning documents specified at section 104(1)(b)(i) – (vi) of the Act. No NPS is considered relevant. The proposal is considered to accord with the general strategic direction of the Wellington Regional Policy Statement, with particular consideration given to the objectives and policies for natural hazards (3.8) and infrastructure (3.3).

6.2.2 Objectives & Policies

The District Plan has a number of objectives and policies that require consideration in assessing a resource consent. These include specific zone related objectives and policies as well as policies relating to general issue areas for Porirua. The following are most relevant to this application:

NETWORK UTILITIES OBJECTIVES AND POLICIES

- | | |
|--------------|--|
| 3.1 | OBJECTIVE
To recognise the benefits of regionally significant network utilities and ensure their functions and operations are not unreasonably compromised by other activities. |
| 3.1.2 | Policy
Recognise the national, regional and local benefits of regionally significant network utilities. |

- 3.1.3 Policy
Avoid, or as appropriate, remedy or mitigate, the potential for any adverse effects, including reverse sensitivity effects on regionally significant network utilities from incompatible new subdivision, use and development occurring under, over, or adjacent to regionally significant network utilities.
- 3.2 OBJECTIVE**
To recognise and provide for the sustainable, secure and efficient use, operation and development of network utilities within the City.
- 3.2.1 Policy
Recognise and provide for the:
- Need for new and the maintenance and upgrading of existing network utilities; and
 - Technical and operational requirements and constraints of network utilities in assessing their location, design, development, construction and appearance; and
 - benefits that network utilities provide to the economic, social and cultural functioning of the City.
- 3.2.2 Policy
Enable the efficient construction, installation, operation, upgrading and maintenance of network utilities.
- 3.2.3 Policy
Ensure that the provision and operation of utilities that cross jurisdictional boundaries is managed in an integrated manner.
- 3.3 OBJECTIVE**
To manage any adverse effects on the environment resulting from the design, location, operation and upgrading and maintenance of network utilities.
- 3.3.1 Policy
Ensure that network utilities are designed, located, developed, constructed, upgraded operated and maintained to avoid, remedy or mitigate any actual or potential adverse effects on the environment.
- 3.3.5 Policy
Encourage the use of roads as network utility corridors in accordance with the National Code of Practice for Utility Operators' Access to Transport Corridors.

The applicant has undertaken a comprehensive assessment of the proposal against the relevant objectives and policies of the District Plan in Appendix N of the application, which is adopted for the purposes of this assessment. Overall it is considered the proposal provides a necessary infrastructure upgrade to manage flooding issues around central Porirua and the effects of the utility works are considered to be acceptable.

I therefore consider that the development is consistent with the above Objective and Policies.

6.3 Part 2 assessment

Part 2 (sections 5, 6 and 7) of the Act sets out the purpose and principles of the legislation, which as stated in section 5, is "Avoiding, remedying, or mitigating any adverse effects of activities on the environment", section 7(c) "The maintenance and enhancement of amenity values" and section 7(f) "The maintenance and enhancement of the quality of the environment".

In addition, Part 2 of the Act requires the Council to recognise and provide for matters of national importance (section 6); have particular regard to other matters (section 7); and to take into account the principles of the Treaty of Waitangi (section 8).

In respect of the above, the following sections of Part 2 are considered of particular relevance:

- Section 6(e) identifies that the relationship of Maori and their culture and traditions with their ancestral lands, water, sites waahi tapu and other taonga of is a matter of national importance.
- Section 6(h) the management of significant risks from natural hazards

In respect of section 6(e), the application takes place adjacent to a statutory acknowledgement identified in the Porirua City District Plan. The applicant proposes to establish an accidental discovery protocol and has gained the approval of iwi. Accordingly, it is considered that section 6(e) considerations are met.

The proposal is considered to assist with the management of significant risks from natural hazards (section 6(h)). For the reasons outlined in this report, it is considered that the proposal meets the relevant sections of Part 2 of the Act.

6.4 Comments from Other Departments

This application has been circulated for comment to Council's Landscape Architect, Council's geotechnical advisor, and Parks and Gardens. GWRC flood engineers are also reviewing the proposal for the GWRC resource consent application. Comments from advisors have been incorporated into the assessment, and relevant conditions.

7. CONCLUSION

The earlier analysis has established:

- The environmental effects, adverse or otherwise, of allowing the activity to proceed will be less than minor and acceptable.
- The proposal is generally consistent with the relevant objectives and policies of the Porirua City District Plan.

In addition, an assessment of the proposal in terms of any relevant provisions of a national policy statement, the New Zealand Coastal Policy Statement, a regional policy statement and Part II of the Resource Management Act, has been carried out. It is concluded that the proposal would not be inconsistent with any of these instruments. Additionally, there are no other matters relevant to this application.

On the above grounds, it is therefore recommended that the Senior Resource Consents Planner, grant consent to the resource consent application.

8. RECOMMENDATION

That the application by **GHD Ltd on behalf of Wellington Water Ltd** to undertake stormwater upgrade works comprising of:

Landuse consent for earthworks to construct a wetland at Elsdon Park, flood protection earth bunds at Ngatitooa Street and Porirua School and works associated with stormwater network pipeline upgrades at:

- 1 Awarua Street (*Pt Mahinawa 1A*), 2 Awarua Street (*Sec 99 Blk I Belmont SD*), 22 Awarua Street and Road Reserve along Awarua Street, Porirua;
- Titahi Bay Road, Porirua (*Road Reserve*);
- Strip of land adjacent to Titahi Bay Road, Porirua (*PCC*) (*Lot 3 Deposited Plan 464327*)
- Tutuira Place, Porirua (*Road Reserve*)
- 9 Tutuira Place, Porirua (*Lot 2 Deposited Plan 464327*)
- 10 Titahi Bay Road, Porirua (*Lot 1 Deposited Plan 348171*)
- Wii Neera Drive, Porirua (*Road Reserve*);
- Porirua School (*Pt Mahinawa 1A, Pt Urukaika Blk SO 26037*);
- Mana College (*Sec 3073 and Pts 1C2B, 1C1, 1B, 1A, Mahinawa Blk Pts D1A1B4, D1A2A, D1A2B, E2 and Pt 104 DP 19070, Takapuwhia Blk*)
- Elsdon Park - *PCC Recreation Reserve (Section 99 Block I Belmont Survey District, Section 2 SO 38131)*;

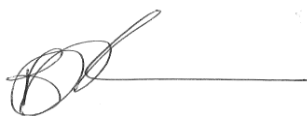
be considered as a non-notified application under sections 95A, 95D and 95E and for a Discretionary Activity pursuant to sections 104, 104B, 108, 108AA and 220 of the Resource Management Act 1991; and;

Land use consent under the National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health (**NESCS**), as a Controlled Activity:

be **GRANTED** for the following reasons:

1. Pursuant to section 95A and 95B of the Act, there are no mandatory requirements in the Porirua City District Plan (the District Plan) to notify the application, the effects of the proposal on the environment will be minor or less and there are no affected persons.
2. There are no special circumstances.
3. Pursuant to section 104 of the Act, the effects of the proposal on the environment will be less than minor.
4. The proposal is in accordance with the relevant objectives and policies of the District Plan, and Part 2 of the Act.

That this consent be subject to the conditions set out in section 1 above.



Reporting Planner
Baylee Pakau, Urban Edge Planning Ltd

9 March 2020

Decision of Council

That consent be granted and be subject to the conditions specified in the above recommendation.



Olivia Campbell
SENIOR PLANNER RESOURCE CONSENTS

10 March 2020

Date

THE APPLICANT IS TO NOTE:

Section 357

Under section 357 of the Resource Management Act 1991 you have the right to object in writing to all or part of this decision. Notice of this objection must be received by the Council within 15 working days of your receipt of this decision letter.

Building Act

This is NOT a Building Consent. The Building Act 2004 contains provisions relating to the construction, alteration, and demolition of buildings. The Act requires building consents to be obtained where relevant, and for all such work to comply with the building code.

Section 125

This consent is subject to section 125 of the Resource Management Act 1991 which states that a resource consent lapses on the expiry of 5 years after the commencement of the consent, unless an extension on time is granted by the Council prior to lapsing of the consent. In this instance a 10 year consent has been approved pursuant to section 116 (1A)(b) of the Act.

Traffic Management Plan

If the intended work that is covered by this consent includes any activities within the road reserve, then a Temporary Traffic Management Plan is to be prepared by a person who is certified in accordance with 'Temporary Traffic Management for Local Roads – Supplement to NZTA COPTTM', and submitted to the Roading Administration Officer – City & Community Infrastructure for review and approval before any physical works within the road reserve are started.

Fees and charges

Should any additional fees charged for the processing of this application or any financial contributions, levies or bonds required by conditions of this consent not be paid within the deadlines set either through invoicing or consent conditions, this could ultimately lead to Council seeking to recover money owed through the debt collection agency. Should the need arise to use a debt collection agency then the consent holder will be liable for and charged any extra expense that the debt collection service incurs.

Post Consent Granted Charges

In accordance with Council's Fees & Charges, the Council will be recovering costs from the consent holder associated with time spent on resource consent related work after a resource consent has been granted and in the case of subdivision before Section 224 RMA certification is applied for. Further information on this can be found in Note 9 within the Fees & Charges that can be accessed on the Council website porirua.govt.nz/services/building-consents/resource-consents/#notes

Private Covenants

This resource consent does not excuse you of any legal obligations that you may have to comply with any private (non-Council related) covenants that apply to your property. If there are any Private Covenants relevant to your property these will be listed on your Computer Freehold Register (formerly known as a Certificate of Title). These covenants may place restrictions on developments and activities that can be undertaken on your property. Please check your computer freehold register and the content of any covenants to see if there are any restrictions relevant to your proposal. Copies of your Computer Freehold Register and any private covenants that may apply can be obtained through Land Information New Zealand.