Wellington Water

Friday 5 August 2022

OIA IRO-241

[redacted]
Email: [redacted]@xtra.co.nz

Kia ora [redacted],

Official information request for Probable Unlawful Activities, Thornley Street Titahi Bay.

I write regarding your official information request dated Friday 15 April 2022. You asked several follow up questions regarding work being undertaken in the wetland associated with Titahi Creek, Titahi Bay and near the southern boundary of Whitireia Park.

We have considered your request in accordance with the Local Government Official Information and Meetings act 1987 and determined that we are able to grant your request in full.

Wellington Waters' response to your request can be found in the **Appendix** of this letter.

You have the right to seek an investigation and review by the Ombudsman of this decision. Information about how to make a complaint is available at www.ombudsman.parliament.nz or freephone 0800 802 602.

Ngā mihi nui

[redacted]
Manager, Customer Experience
Wellington Water Ltd

Appendix

Question 1: On what date did the emergency works commence.
Answer…

The emergency works commenced on Monday 28 March 2022, issue identified.

Question 2: On what date did WWL give GWRC the advice required under s.330A(1) of the RMA.

Answer…

Advice was given on Wednesday 30 March 2022, pre works.

Question 3: What is the scope of the works you are claiming are encompassed under the emergency work provisions of the RMA.

Answer…

The scope of work which encompassed the initial response:

- Remove damaged wingwall and pipe end;
- Repair or replace section of pipe and wingwall;
- Cut hole on top of existing pipe; and,
- Bolt scruffy dome on top of existing pipe

Question 4: What is the scope of the 'initial works' or 'initial response' to which you refer.

Answer…

See answer to Question 3.

Question 5: What is the scope of the 'balance of the works required' to which you refer.

Answer…

The property located at 45 Thornley Street has flooded six times in the previous two years, including in the February and July rainfall events in 2022.

An ongoing engineering design and permanent solution is required to determine the exact balance of the work to ensure an ecological and engineering solution. It is likely the design will include a flood wall or bund to protect property and persons from harm.

Question 6: Has the 'balance of the works required' been completed, and if so on what date.

Answer…

The balance of work has not been completed, funding has been set aside to complete this work in 2022/23 subject to the necessary design, ecological assessment and consents being approved.

Question 7: You refer to "a resource consent application is being developed", which implies that your answer to my 2nd question ["Does WWL require consents for the activity?"] should have been 'Yes'. Please confirm if a resource consent is required and if so under what provisions of the RMA, of the operative Regional Freshwater Plan and/or the proposed Natural Resources Plan and/or the National Environmental Standards for Freshwater.

Answer…

The following provides independent advice provided to Wellington Water (WWL) and provided to Greater Wellington Regional Council (GWRC). Please see attached in our email response to you the supporting material for the below **'Land Matters April 2022'.**

Operational works that have been undertaken and based on the sequence and scope of works you have described, believe that the works fall under Section 330 of the Resource Management Act 1991 that specifically provides for emergency works and power to take preventative or remedial action as follows:

> *(1)Where—*
> *(a) any public work for which any person has financial responsibility; or*
> *(b) any natural and physical resource or area for which a local authority or consent authority has jurisdiction under this Act; or*
> *(c) any project or work or network utility operation for which any network utility operator is approved as a requiring authority under section 167; or*
> *(ca) any service or system that any lifeline utility operates or provides—*
> *is, in the opinion of the person, authority, network utility operator, or lifeline utility, affected by or likely to be affected by—*
>
> *(d) an adverse effect on the environment which requires immediate preventive measures; or*
> *(e) an adverse effect on the environment which requires immediate remedial measures; or*
> *(f) any sudden event causing or likely to cause loss of life, injury, or serious damage to property—*
> *the provisions of sections 9, 12, 13, 14, and 15 shall not apply to any activity undertaken by or on behalf of that person, authority, network utility operator, or lifeline utility to remove the cause of, or mitigate any actual or likely adverse effect of, the emergency.*

(1A) Subsection (1) applies whether the adverse effect or sudden event was foreseeable.

Section 330 of the RMA gives WWL the scope to undertake these works as a temporary solution, however, a permanent solution is advisable. This will require ecological and engineering advice, and flood modelling of the area.

The following are matters that will need to be dealt with via the consenting process. However, these will change if a permanent solution is investigated further.

Under the National Environmental Standards for Freshwater (NES-F), retrospective consent under the following regulations would be required:

- The proposal will not be able to meet the following regulations under the NES-F.
- Regulation 46: Maintenance and operation of specified infrastructure and other infrastructure as a permitted activity.
- Regulation 47: Maintenance and operation of specified infrastructure and other infrastructure as a restricted discretionary activity.
- Regulation 51: Natural hazard works as a permitted activity.
- Regulation 55: General conditions on natural wetland activities as a permitted activity.
- As a result, the works (vegetation clearance and earthworks within a natural wetland) will need consent under **Regulation 54 of the NES-F for non-complying activities**.

Under the Operative District Plan, the following ODP notations are considered relevant to the area of works that the digger is located within.

- Open Space Zone
- Ponding - Flood Hazard (Low)
- Overland Flow - Flood Hazard (Medium)
- Stream Corridor - Flood Hazard (High)
- Seismic Hazard

- The ODP specifically provides for earthworks within the Open Space Zone as a permitted activity under Rule D7.1.1(vii) which reads:
  Ancillary maintenance and operational activities, including activities such as but not limited to earthworks, stream bank maintenance works and vegetation clearance, which do not contravene any permitted activity standards.

  <u>Rule D7.2.1 Maximum earthwork limits</u>
  (iii) In all other areas earthworks, in a 12-month period, shall not exceed 100m2 in area or 1.5 meters in height or depth.
  (viii) Erosion and sediment control measures shall be installed and maintained for all earthwork activity in accordance with "The Erosion and Sediment Control Guidelines for the Wellington Region –September 2002".

Under the Proposed District Plan, the following notations are considered relevant to the area of works.

- Open Space Zone
- Flood Hazard - Ponding
- Flood Hazard - Overland Flow
- Flood Hazard - Stream Corridor
- Ngāti Toa Rangatira Statutory Areas (ID: CSTAT002) - Outside of this area
- Significant Natural Areas (ID: SNA223): A small area of wetland, which is rare ecosystem type in the wellington region. This site includes indigenous vegetation on an Acutely Threatened land environment and a regionally uncommon species.

- As the Significant Natural Area provisions have legal effect, the following rules and standards apply to the works undertaken:

ECO-R1 - Removal of indigenous vegetation within a Significant Natural Area
1. Activity status: Permitted
Where:
a. The trimming or removal of indigenous vegetation is to:
vi. Enable necessary flood protection or natural hazard control where undertaken by a Statutory Agency or their nominated contractors or agents on their behalf as part of natural hazard mitigation works.
ECO-R4 - Earthworks within a Significant Natural Area
1. Activity status: Permitted
Where:
The earthworks:
1. Do not involve the removal of any indigenous vegetation; or
2. Are for the maintenance of existing public walking or cycling access tracks, as carried out by Porirua City Council, Greater Wellington Regional Council or their nominated contractor or agent; and
The earthworks do not occur within any wetland.

- The works will be able to comply with ECO-R1(a)(vi) however, retrospective consent will be required for earthworks within a Significant Natural Area as a restricted discretionary activity under Rule ECO-R7 outlined below:

2. Activity status: Restricted discretionary

Where:
1. Compliance is not achieved with ECO-R4-1.a.

Matters of discretion are restricted to:
1. The matters in ECO-P11.

Section 88 information requirements for applications:
1. Applications for activities within an identified Significant Natural Area

2. *must provide, in addition to the standard information requirements, an Ecological Assessment provided by a suitably qualified and experienced ecologist:*

1. Identifying the biodiversity values and potential impacts from the proposal; and

2. Demonstrating that the ECO-P2 hierarchy has been applied.

Under the PRNP, retrospective consent will be required for the following:

- **Proposed Regional Natural Plan**
  *Rule R104: Existing structures in natural wetlands - **permitted activity***
  Unless regulated by Regulations 43, 44, 46, 47 and 54 of the NES-F 2020 in a natural wetland

a. *The use, maintenance, repair, addition, alteration, or replacement (like for like) of an existing lawfully established structure or existing lawfully established regionally significant infrastructure, including associated vegetation removal, and*
b. *The removal of an existing structure*
Including any associated:
3. *disturbance of a river or lakebed, or foreshore or seabed that forms part of a natural wetland, and is a permitted activity, provided the following conditions are met:*

i. *only hand-held machinery is used in any area of the natural wetland, and*
a. *any alteration or addition to an existing structure does not increase the size of the structure so that it is occupies an area greater than 10m2, and*
b. *the activity shall comply with the wetland general conditions for activities in significant natural wetlands and outstanding natural wetlands specified above in Section 5.5.2.*

Note: *Regulations 43, 44, 46, 47 and 54 of the Resource Management (National Environmental Standards for Freshwater) Regulations 2020 prevail over Rule R104(a) in respect of vegetation clearance, earthworks or land disturbance or taking, use, damming, diversion or discharge of water associated with the maintenance of a wetland utility structure or the maintenance and operation of specified infrastructure and other infrastructure.*

- The NES-F Regulations prevail in this instance.

*Rule R112A Maintenance of function of structures – **controlled activity***
The removal or redistribution of flood debris or gravel, sand or other natural bed material that has accumulated as a result of a culvert, stormwater inlet or outlet, bridge or debris arrestor structure, or a dam spillway, outflow piper or overflow pipe, for the purposes of maintaining the function of a structure, including to reduce the perched nature of any culvert due to scour, by a local authority that does not meet Rule R112(h) including any associated:

(a) disturbance of the bed, and
(b) deposition on the bed, and
(c) diversion of water, and

(d) discharge of sediment to water

is a controlled activity provided the following conditions are met:

(e) the activity does not occur within a site identified in Schedule A (Outstanding waterbodies); and

(f) the activity shall be undertaken within 40m of the structure; and

(g) the activity shall result in the disturbance or excavation of an area of bed of no more than 200m2; and

(h) the activity shall not result in the deposition of non-natural material, or the deposition of flood debris or bed material in such a way as to form a stockpile, dam or mound within the bed of the river, except as required to provide for fish passage; and

(i) the activity shall comply with the beds of lakes and rivers general conductions specified above in Section 5.5.4, excluding condition (f); and

(j) the resource consent application includes a Code of Practice which sets out best practice for managing adverse effects on the following:

1. *biodiversity, aquatic ecosystem health and mahinga kai*
2. *Māori customary use and recreation values*
3. *values of sites identified in Schedule C (mana whenua), and Schedule F (indigenous biodiversity)*

Matters of Control

1. *The contents, implementation and review of a Code of Practice*
2. *Effects on biodiversity, aquatic ecosystem health and mahinga kai*
3. *Effects on Māori customary use and recreation values*
4. *Management of effects on sites identified on Schedule C (mana whenua), and Schedule F (indigenous biodiversity)*
5. *Management of hazard risk.*

Rule R113: Diversion of flood water by existing structures – ***permitted activity***

The diversion of flood water by a structure or stop bank outside the bed of a river or lake that was in existence on 31 July 2015, excluding activities regulated by the Resource Management (National Environmental Standards for Plantation Forestry) Regulations 2017, is a permitted activity, provided the following condition is met:

(a) the structure or stop bank causing the diversion shall not increase by more than 5% of the plan or cross-sectional area from 31 July 2015, provided the increased size does not cause flooding on any neighbouring property.

Note The diversion of flood waters by any new structure constructed outside the bed of a lake or river, or any upgraded structures that do not meet condition (a) of Rule R113, would fall under Rule R135.

As previously mentioned, the works you have undertaken appear to fall within the scope of s330 of the RMA as a remedial approach to an ongoing issue. We recommend investigating a permanent solution that will require specialist input to ensure an ecological and engineering solution to ensure the wetland is not adversely affected, but also that people and properties adjacent to this wetland that contains significant infrastructure are protected. The provisions listed above are based on a retrospective approach to deal to the temporary works. Once further investigations are done, you may require additional resource consents.

Question 8: If you have any advice (either internally within WWL, or externally from GWRC) that no consent is required, please provide me with a copy of that.

Answer…

See answer to Question 7.

Question 9: The site where the activity has been undertaken appears to be located within that part of Whitireia Park identified as Significant Natural Area 223 in the proposed District Plan for Porirua (PDP). The SNA provisions of the PDP have had immediate effect since the PDP was notified in August 2020. Please give me all information relating to any initiatives/endeavor's WWL has undertaken to determine whether or not a resource consent is required under the provisions of the PDP. If no such initiatives/endeavors have been undertaken by WWL a simple 'None' will suffice for the time being.

Answer…

See answer to Question 7 for the for consenting advise provided. As stated, once investigations and design of permanent works are completed further than the temporary operational solution to protect people and property, WWL may require additional resource consents including under the PDP.

[redacted]

From: [redacted]@landmatters.nz>
Sent: Thursday, 14 April 2022 1:23 pm
To: [redacted]
Cc: [redacted]
Subject: RE: 45A Thornley Street - Landmatters Consenting advise

Hi [redacted]

We have looked into the operational works that have been undertaken and based on the sequence and scope of works you have described, believe that the works fall under Section 330 of the Resource Management Act 1991 that specifically provides for emergency works and power to take preventative or remedial action as follows:

> *(1)*
> *Where—*
> *(a) any public work for which any person has financial responsibility; or*
> *(b) any natural and physical resource or area for which a local authority or consent authority has jurisdiction under this Act; or*
> *(c) any project or work or network utility operation for which any network utility operator is approved as a requiring authority under section 167; or*
> *(ca) any service or system that any lifeline utility operates or provides—*
> *is, in the opinion of the person, authority, network utility operator, or lifeline utility, affected by or likely to be affected by—*
>
> *(d) an adverse effect on the environment which requires immediate preventive measures; or*
> *(e) an adverse effect on the environment which requires immediate remedial measures; or*
> *(f) any sudden event causing or likely to cause loss of life, injury, or serious damage to property—*
> *the provisions of sections 9, 12, 13, 14, and 15 shall not apply to any activity undertaken by or on behalf of that person, authority, network utility operator, or lifeline utility to remove the cause of, or mitigate any actual or likely adverse effect of, the emergency.*
>
> *(1A) Subsection (1) applies whether or not the adverse effect or sudden event was foreseeable.*

We understand that following a rainfall event in February 2022, it was identified that an inlet structure was damaged and not receiving water which required immediate remedial measures. Being the entity responsible for the maintenance of the stormwater structure, WW's operations engaged a contractor to install an overflow (scruffy dome) on the existing pipe, installed a wing wall on the stormwater inlet structure that had collapsed and was buried. A like for like structure was replaced and no upgrading works was undertaken. It is also understood that this particular inlet structure has been subject to habitual flooding since 2016. Furthermore, the property at 45A Thornley Street, located immediately south of this stormwater structure has been susceptible to severe flooding over the years during rainfalls smaller than the 1 in 10 year event. To facilitate these works, earthworks and vegetation clearance within the identified wetland in which this structure is located was necessary as a remedial measure. We also understand that as part of your protocols, GWRC is notified of the works which we assume was undertaken prior to works within the wetland. On this basis, the immediate works are considered to be in keeping with the matters outlined under s330 of the RMA 1991.

We have organised for a suitably qualified ecologist to undertake a site visit and provide an ecological assessment. This will provide us with an understanding of 1) the current state of the wetland following the emergency works, and 2) future adverse effects on the wetland of the works being carried out.

Moving forward, we would recommend investigating the consenting of both temporary and permanent works. As discussed above, s330 of the RMA gives WW the scope to undertake these works as a temporary solution, however, a permanent solution is advisable. This will require ecological and engineering advice, and also flood modelling of the area.

The following are matters that will need to be dealt with via the consenting process. However, these will change if a permanent solution is investigated further.

Under the National Environmental Standards for Freshwater (NES-F), retrospective consent under the following regulations would be required:

- The proposal will not be able to meet the following regulations under the NES-F
    - Regulation 46: Maintenance and operation of specified infrastructure and other infrastructure as a permitted activity
    - Regulation 47: Maintenance and operation of specified infrastructure and other infrastructure as a restricted discretionary activity
    - Regulation 51: Natural hazard works as a permitted activity
    - Regulation 55: General conditions on natural wetland activities as a permitted activity
- As a result, the works (vegetation clearance and earthworks within a natural wetland) will need consent under **Regulation 54 of the NES-F for non-complying activities**.

Under the Operative District Plan, the following ODP notations are considered relevant to the area of works that the digger is located within;

- Open Space Zone
- Ponding - Flood Hazard (Low)
- Overland Flow - Flood Hazard (Medium)
- Stream Corridor - Flood Hazard (High)
- Seismic Hazard

- The ODP specifically provides for earthworks within the Open Space Zone as a permitted activity under Rule D7.1.1(vii) which reads:

    Ancillary maintenance and operational activities, including activities such as but not limited to earthworks, stream bank maintenance works and vegetation clearance, which do not contravene any permitted activity standards.

    <u>Rule D7.2.1 Maximum earthwork limits</u>

    (iii) In all other areas earthworks, in a 12 month period, shall not exceed 100m2 in area or 1.5 metres in height or depth.

    (viii) Erosion and sediment control measures shall be installed and maintained for all earthwork activity in accordance with "The Erosion and Sediment Control Guidelines for the Wellington Region – September 2002".
- Do we know if erosion and sediment control measures were installed and maintained during the earthworks? IF YES, this could be considered a permitted activity under the ODP.

Under the Proposed District Plan, the following notations are considered relevant to the area of works;

- Open Space Zone
- Flood Hazard - Ponding
- Flood Hazard - Overland Flow
- Flood Hazard - Stream Corridor
- Ngāti Toa Rangatira Statutory Areas (ID: CSTAT002) - Outside of this area

• Significant Natural Areas (ID: SNA223): A small area of wetland, which is a rare ecosystem type in the wellington region. This site includes indigenous vegetation on an Acutely Threatened land environment and a regionally uncommon species.

- As the Significant Natural Area provisions have legal effect, the following rules and standards apply to the works undertaken:

ECO-R1 - Removal of indigenous vegetation within a Significant Natural Area
1. Activity status: Permitted
Where:
a. The trimming or removal of indigenous vegetation is to:
vi. Enable necessary flood protection or natural hazard control where undertaken by a Statutory Agency or their nominated contractors or agents on their behalf as part of natural hazard mitigation works;
ECO-R4 - Earthworks within a Significant Natural Area
1. Activity status: Permitted
Where:
1. The earthworks:
1. Do not involve the removal of any indigenous vegetation; or
2. Are for the maintenance of existing public walking or cycling access tracks, as carried out by Porirua City Council, Greater Wellington Regional Council or their nominated contractor or agent; and
2. The earthworks do not occur within any wetland.

- The works will be able to comply with ECO-R1(a)(vi) however, retrospective consent will be required for earthworks within a Significant Natural Area as a restricted discretionary activity under Rule ECO-R7 outlined below:

2. Activity status: Restricted discretionary

Where:
1. Compliance is not achieved with ECO-R4-1.a.

Matters of discretion are restricted to:
1. The matters in ECO-P11.

Section 88 information requirements for applications:
1. Applications for activities within an identified Significant Natural Area must provide, in addition to the standard information requirements, an Ecological Assessment provided by a suitably qualified and experienced ecologist:
1. Identifying the biodiversity values and and potential impacts from the proposal; and
2. Demonstrating that the ECO-P2 hierarchy has been applied.

Under the PRNP, retrospective consent will be required for the following:

- **Proposed Regional Natural Plan**

*Rule R104: Existing structures in natural wetlands - **permitted activity***
Unless regulated by Regulations 43, 44, 46, 47 and 54 of the NES-F 2020 in a natural wetland

a. *The use, maintenance, repair, addition, alteration, or replacement (like for like) of an existing lawfully established structure or existing lawfully established regionally significant infrastructure, including associated vegetation removal, and*
b. *The removal of an existing structure*

Including any associated:

3. *disturbance of a river or lake bed, or foreshore or seabed that forms part of a natural wetland, and*

is a permitted activity, provided the following conditions are met:

i. *only hand-held machinery is used in any area of the natural wetland, and*
a. *any alteration or addition to an existing structure does not increase the size of the structure so that it is occupies an area greater than 10m2, and*
b. *the activity shall comply with the wetland general conditions for activities in significant natural wetlands and outstanding natural wetlands specified above in Section 5.5.2.*

Note: *Regulations 43, 44, 46, 47 and 54 of the Resource Management (National Environmental Standards for Freshwater) Regulations 2020 prevail over Rule R104(a) in respect of vegetation clearance, earthworks or land disturbance or taking, use, damming, diversion or discharge of water associated with the maintenance of a wetland utility structure or the maintenance and operation of specified infrastructure and other infrastructure.*

- The NES-F Regulations prevail in this instance.

Rule R112A Maintenance of function of structures – ***controlled activity***
The removal or redistribution of flood debris or gravel, sand or other natural bed material that has accumulated as a result of a culvert, stormwater inlet or outlet, bridge or debris arrestor structure, or a dam spillway, outflow piper or overflow pipe, for the purposes of maintaining the function of a structure, including to reduce the perched nature of any culvert due to scour, by a local authority that does not meet Rule R112(h) including any associated:

(a) disturbance of the bed, and
(b) deposition on the bed, and
(c) diversion of water, and
(d) discharge of sediment to water

is a controlled activity provided the following conditions are met:

(e) the activity does not occur within a site identified in Schedule A (outstanding waterbodies); and

(f) the activity shall be undertaken within 40m of the structure; and

(g) the activity shall result in the disturbance or excavation of an area of bed of no more than 200m2; and

(h) the activity shall not result in the deposition of non-natural material, or the deposition of flood debris or bed material in such a way as to form a stockpile, dam or mound within the bed of the river, except as required to provide for fish passage; and

(i) the activity shall comply with the beds of lakes and rivers general conductions specified above in Section 5.5.4, excluding condition (f); and

(j) the resource consent application includes a Code of Practice which sets out best practice for managing adverse effects on the following:

1. biodiversity, aquatic ecosystem health and mahinga kai
2. Māori customary use and recreation values
3. values of sites identified in Schedule C (mana whenua), and Schedule F (indigenous biodiversity)

Matters of Control

1. The contents, implementation and review of a Code of Practice
2. Effects on biodiversity, aquatic ecosystem health and mahinga kai

3. Effects on Māori customary use and recreation values

4. Management of effects on sites identified on Schedule C (mana whenua), and Schedule F (indigenous biodiversity)

5. Management of hazard risk.

*Rule R113: Diversion of flood water by existing structures – **permitted activity***
The diversion of flood water by a structure or stopbank outside the bed of a river or lake that was in existence on 31 July 2015, excluding activities regulated by the Resource Management (National Environmental Standards for Plantation Forestry) Regulations 2017, is a permitted activity, provided the following condition is met:

(a) the structure or stopbank causing the diversion shall not increase by more than 5% of the plan or cross-sectional area from 31 July 2015, provided the increased size does not cause flooding on any neighbouring property.

Note The diversion of flood waters by any new structure constructed outside the bed of a lake or river, or any upgraded structures that do not meet condition (a) of Rule R113, would fall under Rule R135.

As previously mentioned, the works you have undertaken appear to fall within the scope of s330 of the RMA as a remedial approach to an ongoing issue. We recommend investigating a permanent solution that will require specialist input to ensure an ecological and engineering solution to ensure the wetland is not adversely affected, but also that people and properties adjacent to this wetland that contains significant infrastructure are protected. The provisions listed above are based on a retrospective approach to deal to the temporary works. Once further investigations are done, you may require additional resource consents.

Please be in touch with me or [redacted] if you require clarification.

Kind regards,
[redacted]

[redacted]
Tel: [redacted]

From: [redacted]@landmatters.nz>
Sent: Friday, 8 April 2022 4:06 pm
To: [redacted]@landmatters.nz>; [redacted]@wellingtonwater.co.nz>
Cc: [redacted]@wellingtonwater.co.nz>
Subject: RE: 45A Thornley Street - Landmatters Consenting advise

Good afternoon [redacted]

Just a quick update to let you know that I have started looking into this and will put something together for [redacted] to consider before we get back to you next week.

Kind regards,
[redacted]

[redacted]
Intermediate Planner

From: [redacted]
To: [redacted]
Cc: Official Information; [redacted]; [redacted]
Subject: Response to Follow up on OIA IRO-241
Date: Tuesday, 16 August 2022 3:27:05 pm
Attachments: image002.png

Kia ora [redacted],

Thank you for your follow up questions regarding unlawful activities – Thornley Street, which were onforwarded to us by Porirua City Council on Wednesday, 10 August 2022.

Wellington Water can confirm that retrospective consent applications have been lodged with both Porirua City Council and Greater Wellington Regional Council in respect to the emergency work undertaken at Thornley Street. These were lodged Yesterday, 15 August 2022.

Ngā mihi nui

[redacted]

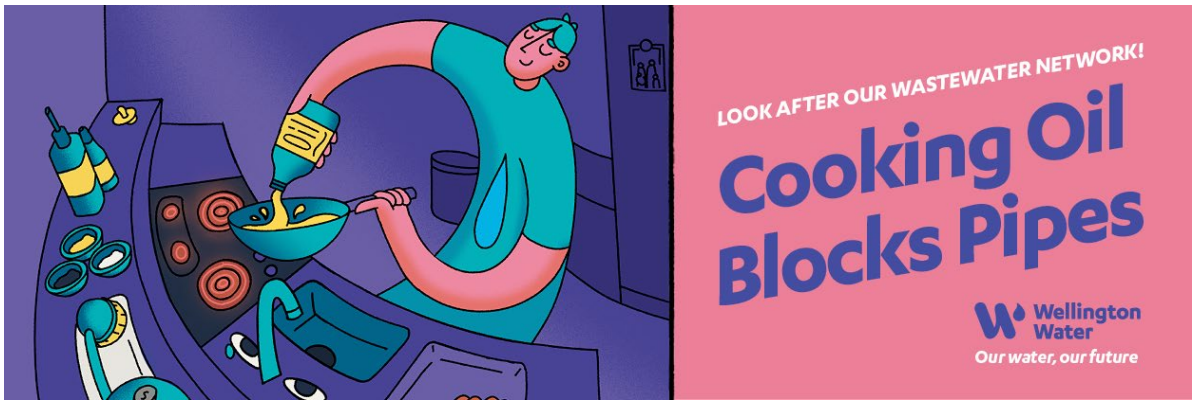
[redacted] (he/him)
Governance Coordinator - Chief Executive's Office

Wellington Water

Mob [redacted]

Private Bag 39804, Wellington Mail Centre 5045
Level 4, 25 Victoria Street, Petone, Lower Hutt

www.wellingtonwater.co.nz



From: Official Information
To: [redacted]@xtra.co.nz
Cc: Official Information; [redacted]
Subject: RE: Response to Follow up on OIA IRO-241
Date: Tuesday, 16 August 2022 3:41:34 pm
Attachments: 942-FINAL AEE_PCC.pdf
image002.png

HI [redacted],

Sorry about that.

See attached

L

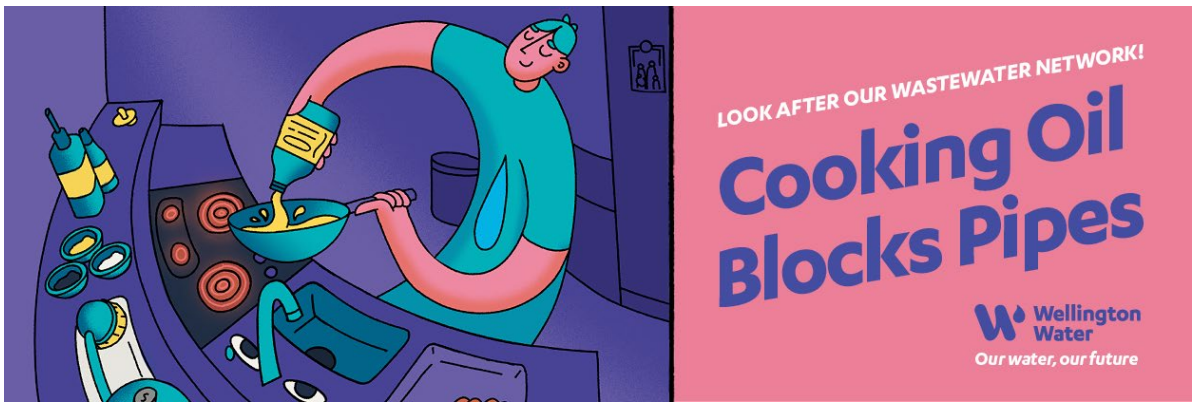
[redacted] (he/him)
Governance Coordinator - Chief Executive's Office

Wellington Water

Mob [redacted]

Private Bag 39804, Wellington Mail Centre 5045
Level 4, 25 Victoria Street, Petone, Lower Hutt

www.wellingtonwater.co.nz



From: [redacted]@xtra.co.nz <[redacted]@xtra.co.nz>
Sent: Tuesday, 16 August 2022 3:39 pm
To: [redacted] <[redacted]@wellingtonwater.co.nz>
Cc: Official Information <official.information@wellingtonwater.co.nz>; [redacted]
<[redacted]@wellingtonwater.co.nz>
Subject: RE: Response to Follow up on OIA IRO-241

Thanks [redacted]

Please provide me with a copy of the applications to PCC and to GWRC.

Thanks

[redacted]

From: [redacted] [redacted]@wellingtonwater.co.nz>
Sent: Tuesday, 16 August 2022 3:27 pm
To: [redacted] <[redacted]@xtra.co.nz>
Cc: Official Information <official.information@wellingtonwater.co.nz>; [redacted] <[redacted]@poriruacity.govt.nz>; [redacted] [redacted]@wellingtonwater.co.nz>
Subject: Response to Follow up on OIA IRO-241

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Ngā mihi nui

[redacted]

[redacted] (he/him)
Governance Coordinator - Chief Executive's Office

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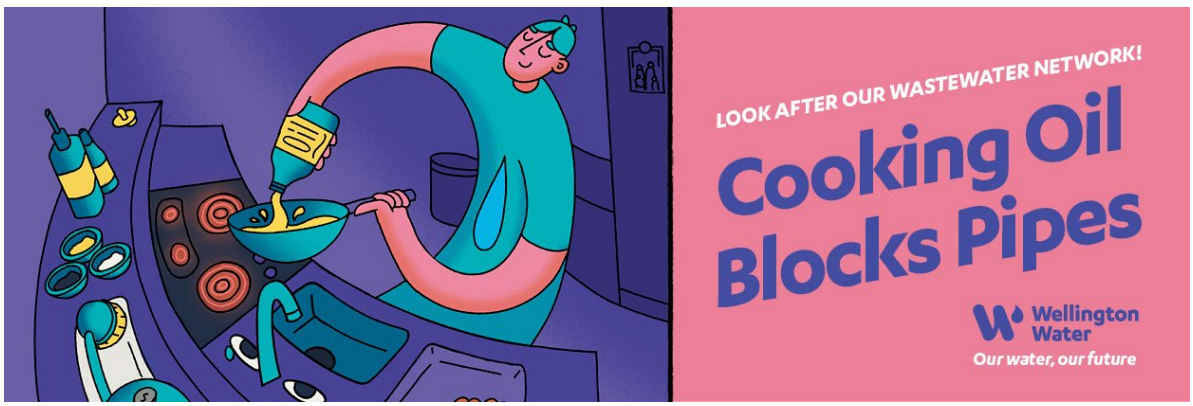

LANDMATTERS

APPLICATION AND ASSESSMENT OF ENVIRONMENTAL EFFECTS

ADDRESS

Opposite 45A Thornley Street, Titahi Bay

Client Wellington Water Limited

Augst 2022

RETROSPECTIVE LAND USE CONSENT

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APPLICATION FORM – FORM 9

APPLICANT	Wellington Water Limited
NAMES OF OWNER/S AND OCCUPIER/S OF THE SITE	Her Majesty the Queen
SITE ADDRESS	Opposite 45A Thornley Street, Titahi Bay to the north
LEGAL DESCRIPTION	Section 4 SO Plan 446704
DISTRICT PLAN ACTIVITY ZONE	Open Space Zone
TYPE OF RESOURCE CONSENT	Land Use Consent
ADDITIONAL RESOURCE CONSENT/S	Resource consent is also sought from Greater Wellington Regional Council (GWRC) concurrently.
DESCRIPTION OF APPLICATION	Retrospective consent for emergency works within a natural wetland
DEPOSIT FEE	$1,950.00
ADDRESS FOR SERVICE	Land Matters Limited 20 Addington Road Otaki, 5581 Attn: [redacted] [redacted]@landmatters.nz
BILLING ADDRESS	c/- Land Matters Limited Invoices to be emailed please

Please find attached an Assessment of Environmental Effects (AEE) prepared for Wellington Water Limited (the Applicant) for retrospective land use consent for emergency works undertaken within a natural wetland.

This AEE has been prepared in accordance with Section 88 and Schedule 4 of the RMA, this assessment is provided at a level of detail that corresponds with the scale and significance of the effects that the activity may have on the environment.

APPLICATION ON BEHALF OF: Wellington Water Limited

Prepared by:

[redacted]
Intermediate Planner

Reviewed by:

[redacted]
Principal Planner and Director

Date: AUGUST 2022
Version: **FINAL**
Job Ref: 942

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1. BACKGROUND

Wellington Water (the Applicant), in their capacity as the requiring authority, has undertaken remedial works within Whitireia Park, directly opposite 45A Thornley Street, Titahi Bay, to an existing stormwater inlet.

It is understood that following a rainfall event in February 2022, it was identified that an existing stormwater inlet structure was damaged and not receiving water which required immediate remedial measures. Being the entity responsible for the maintenance of the stormwater structure, the Applicants operations team engaged a contractor to install an overflow (scruffy dome) on the existing pipe and replace the collapsed and buried wing wall and stormwater inlet structure. A like for like structure was replaced and no upgrading works was undertaken. It is also understood that this particular inlet structure has been subject to habitual flooding over a long period of time. Furthermore, the property at 45A Thornley Street, located immediately south of this stormwater structure has been susceptible to severe flooding over the years during rainfalls smaller than the 1 in 10-year event due to the overland flows.

To facilitate these emergency works, earthworks and vegetation clearance within the identified wetland in which this structure is located was necessary as a remedial measure. The immediate works are considered to be in keeping with the matters outlined under s330 of the RMA 1991. However, as GWRC was not notified prior to the works being undertaken, and as the application area is identified as a Significant Natural Area (which has legal effect in the Proposed Porirua District Plan), retrospective resource consent is sought.

This application seeks to retrospective consent for works carried out, and out of an abundance of caution, this application also seeks to extend timeframes under section 37A of the Act.

2. INTRODUCTION

This set of documents form an application to Greater Wellington Regional Council (GWRC) and Porirua City Council (PCC) for retrospective resource consent under the Resource Management Act 1991 (RMA).

The next section of this report describes the subject site and the surrounding environment. Section 4 outlines the activities proposed to be undertaken by the Applicant to give effect to the development. Section 5 outlines the resource consents sought from GWRC and PCC. Section 7 provides an assessment of the actual and potential environmental effects of the proposed activity. Sections 8 and 9 contain a consideration of the emergency works against the relevant statutory considerations of the RMA and regional and district plans. Sections 10 and 11 address the consultation and notification requirements associated with the emergency works.

3. SITE DESCRIPTION & SURROUNDING ENVIRONMENT

The following sections give a general description of the site and the surrounding environment.

3.1. Legal Description and Zoning

Details of the application site are as follows:

Street addresses	Opposite 45A Thornley Street, Titahi Bay
Legal Descriptions	Section 4 SO 446704

Record of Title (RT)	702653
Site area	171.17ha
District Plan zoning	Open Space Zone

The RT for the property can be found in **Appendix 1** to this application. There are no interests of relevance registered to the title

3.2. Subject site

The application site is directly opposite 45A Thornley Street, Titahi Bay and is within the south-eastern most corner of Whitireia Park, which spans to the north and west. The location of the works is shown in Figure 1 below, and has been extracted from the Applicant's Notification of Emergency Works attached at **Appendix 2**.

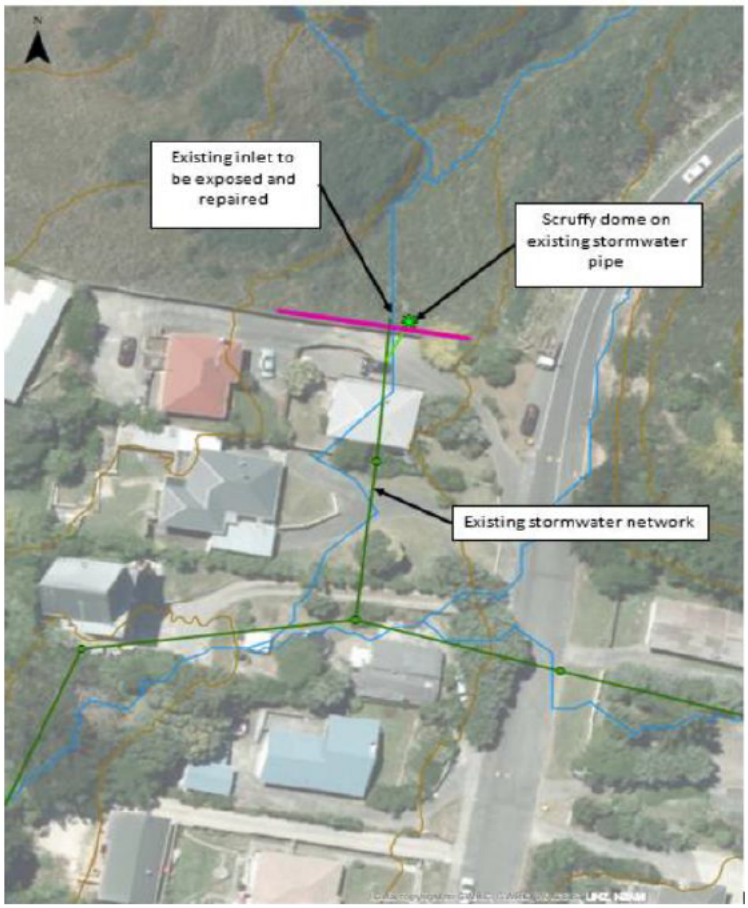


Figure 1 Aerial view of area that emergency works have been undertaken. Source: Extracted from Notification of Emergency Works attached at Appendix 2 of this report.

The application site is located directly opposite the residential property at 45A Thornley Street, Titahi Bay. The stormwater inlet is identified on the PCC Water Network GIS Maps as being part of the stormwater open drain channel that extends from Transmitter Street in the north to where the inlet is located. This channel is also identified on the GWRC Web Map Viewer as being a stream. Under PCC's Proposed District Plan (PDP), this particular area is identified as a

Significant Natural Area 223 – Te awa rere I Whitireia, described by ecologist [redacted] as being *…a wetland gully system terminating in a culvert, which directs water under the neighbouring residential area of Titahi Bay.*

The following description from Ms. Brown's assessment is also relevant when considering the area in which these emergency works were undertaken:

> *The gully itself is approximately 350 m long and is surrounded by retired pasture with some early regeneration species such as gorse and tauhinu (Image 3). The regenerating vegetation is most dense along the riparian edge of the lowest 150m, which consists mostly of gorse, tauhinu, pampas, cherry, Coprosma propinqua, mahoe, Coprosma repens, and Muehlenbeckia vine, all standing between 1-2m in height. The gully base remains relatively flat along the first ~100m, and then the gully gradually begins to steepen and narrow as it winds upwards. Within the gully, there are swathes of Carex geminata, broken up by large areas of pasture such as creeping buttercup (Ranunculus repens), tall fescue (Lolium arundinaceum), Lotus (Lotus pedunculatus) and Yorkshire fog (Holcus lanatus), with high amounts of isolepis (Isolepis prolifera) and Eleocharis actua spread throughout (Image 2). Occasional Juncus species (namely Juncus effuses and J. sarophorus) are present throughout, though excluded from Carex swathes. Patches of Parablechnum novae-zealandiae and gorse encroach into the gully at points, generally coinciding with firmer ground compared to the soft, squidgy substrate of the lower portion. There are narrow, deep channels throughout the gully, sometimes in excess of 1m deep where small trickles of running water can be heard through dense swathes of vegetation. Occasionally, Carex virgata, Cyperus ustulatus and Phormium tenax are present. The head of the gully contains homogenous swathes of Carex geminata which continue down the gully, broken occasionally by pasture, pasture with wetland herbs, and gorse (image 4).*

3.3. Surrounding environment

The surrounding environment is characterised by a mix of residential and reserve land on steep to rolling/gully topography.

North, west and southwest of this application area is the remainder of the reserve land with dense native vegetation covering the majority of the reserve.

Opposite this stormwater inlet are residentially zoned properties that have been residentially developed and located along Thornley Street immediately to the south-east and Whanake Street to the south-west.

4. DESCRIPTION OF PROPOSED ACTIVITY

4.1. Introduction

The works are described in the sections below.

As shown at Figure 1 above, a sketch of the works undertaken is outlined in the notification document at **Appendix 2** and has been extracted below for ease of reference.

As previously discussed, the Applicant identified that the stormwater inlet structure was damaged and not receiving water following a rainfall event in February 2022 which caused localised flooding. A contractor was engaged to expose the existing inlet and repair the wing wall and stormwater inlet with a like-for-like structure, as well as installing a scruffy dome on top of the existing stormwater pipe. As shown in Figure 1, this inlet constitutes an existing stormwater network that transects the residential properties to the south.

4.2. Replacement stormwater inlet and scruffy dome within ecological site

A site visit of the affected area was undertaken by ecologist [redacted] from Boffa Miskell on 26 April 2022 and involved an observation of the area works were undertaken, the stormwater inlet structure, and included walking over the gully to identify species and understand the wider gully system. It is noted that the gully had not been visited by the ecologist prior to the works occurring, and so the condition of the wetland or presence of species in the area prior to works is unknown.

Figure 2 Aerial view of the extent of SNA223 Te awa rere i Whitireia. Source: PCC PDP GIS Maps.

To understand the scope of works and the effects of these works on the identified wetland, a helpful description of the affected area has been extracted from Ms. Browns ecological assessment below, and should be read in conjunction with this report:

> *At the base of the gully, there was an area of coconut matting approximately 4 m x 8 m, assumed to be covering the area of earthworks or accompanying excavator tracks associated with the culvert works. The scruffy dome was in the centre of this coconut matting area, and the culvert had a protective grate at the inlet (Image 5). A small pool of water approximately 1 x 2 m had*

established at the culvert inlet. The inlet appeared to sit lower than the ground level, as some muds had been dug away to access the culvert. As a result, the existing vegetation at the upper margin of the works sat at approximately 70cm higher than the culvert inlet and had water draining from the exposed substrate. This trickle of water contributed to the shallow pool at the inlet of the culvert, which drained into the culvert in a flow about 8 cm wide and 1 cm deep (Image 6).

Figure 3 Extracted from Ecological Assessment showing completed works. Source: Figure 5 of Ecological Assessment attached at Appendix 3.

4.3. Construction methodology

Outlined below is the construction methodology that was employed as part of the emergency works:

- *Remove fence between 45A Thornley Street and Whiteria Park to obtain access to inlet structure.*
- *Complete ecology and environmental controls around the inlet structure*
- *Hand remove any native or other vegetation around inlet structure*
- *Excavate around buried inlet structure, assessing damage and suitability of wingwall attachment*
- *Repair or replace section of pipe to attach precast wingwall*
- *Cut hole ontop of existing pipe*
- *Bolt scruffy dome ontop of existing pipe*

As indicated by the Applicant, mitigation measures for the earthworks were followed to facilitate the earthworks required to replace the collapsed and buried stormwater inlet in accordance with *Greater Wellington Regional Council's guidelines for Erosion and Sediment Control for Small Sites.*

4.4. Summary of proposed activity

The emergency works were undertaken following the collapse of the existing dysfunctional stormwater inlet with a new, like for like structure, including a scruffy dome over the existing stormwater pipe. The existing structure was removed from site.

The construction methodology included measures to manage the works to capture any sediment or site run off.

5. RESOURCE CONSENTS REQUIRED

R Resource consents are required from GWRC, and PCC as detailed in the following sections.

5.1. National Environmental Standards for Freshwater (NES-F)

As the activity was undertaken within an identified natural wetland under the PCC District Plan, compliance against the NES-F has been assessed below.

We have classified this stormwater inlet as *specified infrastructure* under the NES-F which is defined under the National Policy Statement for Freshwater as:

a) *infrastructure that delivers a service operated by a lifeline utility (as defined in the Civil Defence Emergency Management Act 2002)*

b) *regionally significant infrastructure identified as such in a regional policy statement or regional plan*

c) *any public flood control, flood protection, or drainage works carried out:*

(i) *by or on behalf of a local authority, including works carried out for the purposes set out in section 133 of the Soil Conservation and Rivers Control Act 1941;*

(ii) *or for the purpose of drainage by drainage districts under the Land Drainage Act 1908*

The Proposed Natural Regional Plan (PNRP) defines Regionally Significant Infrastructure to include:

- *the local authority wastewater and stormwater networks and systems, including treatment plants and storage and discharge facilities*

PCC GIS Maps for Three Waters identifies this infrastructure as an open drain stormwater channel and therefore fits this definition.

Regulation	Complies?	Method of compliance
Maintenance and operation of specified infrastructure		
46 Permitted Activities (1) Vegetation clearance within, or within a 10 m setback from, a natural wetland is a permitted activity if it— **(a)** is for the purpose of maintaining or operating specified infrastructure or other		

infrastructure; and **(b)** complies with the conditions. (2) Earthworks or land disturbance within, or within a 10 m setback from, a natural wetland is a permitted activity if it— (a) is for the purpose of maintaining or operating specified infrastructure or other infrastructure; and (b) complies with the conditions. (3) The taking, use, damming, diversion, or discharge of water within, or within a 100 m setback from, a natural wetland is a permitted activity if it— (a) is for the purpose of maintaining or operating specified infrastructure or other infrastructure; and (b) complies with the conditions.		
(4) The conditions are that— (a) the activity must comply with the general conditions on natural wetland activities in regulation 55 (but regulation 55(2), (3)(b) to (d), and (5) do not apply if the activity is for the purpose of maintaining or operating hydro-electricity infrastructure); and (b) the activity must not be for the purpose of increasing the size of the specified infrastructure or other infrastructure; and (c) the activity must not result in the formation of new pathways, boardwalks, or other accessways; and (d) if the activity is vegetation clearance, earthworks, or land disturbance, the activity must not occur over more than 500 m2 or 10% of the area of the natural wetland, whichever is smaller; and (e) if the activity is earthworks or land disturbance,— (i) trenches dug (for example, to maintain pipes) must be backfilled and compacted no later than 48 hours after being dug; and (ii) the activity must not result in drains being deeper, relative to the natural wetland's water level, than they were before the activity.	☒	**Does not comply** –the replacement stormwater inlet was a like for like structure and therefore was not for the purpose of increasing the size of the breached stormwater inlet. No new pathways, boardwalks, or other accessways were formed as a result of the works. The vegetation clearance and land disturbance occurred over an area of 8m². Any earthworks that were undertaken were compacted no later than 48 hours after being dug and no changes to the stream corridors water level. The works were able to meet the majority of conditions, except condition (a) as prior notice was not given before the applicant started works in accordance with Regulation 55(2).
47 Restricted Discretionary Activities (1) Vegetation clearance within, or within a 10 m setback from, a natural wetland is a restricted discretionary activity if it— (a) is for the purpose of maintaining or operating specified infrastructure or other infrastructure; and (b) does not comply with any of the conditions in regulation 46(4). (2) Earthworks or land disturbance within, or within a 10 m setback from, a natural wetland is a restricted discretionary activity if it— (a) is for the purpose of maintaining or operating specified infrastructure or other infrastructure; and (b) does not comply with any of the conditions in regulation 46(4).		
(5)	☑	Complies – Both the earthworks

The conditions are that— (a) the activity must be undertaken only for as long as necessary to achieve its purpose; and (b) before the activity starts, a record must be made (for example, by taking photographs) of the original condition of the natural wetland's bed profile and hydrological regime that is sufficiently detailed to enable compliance with paragraph (c) to be verified; and (c) the bed profile and hydrological regime of the natural wetland must be returned to their original condition no later than 30 days after the start of the activity.		and vegetation clearance within the natural wetland were for the purposes of operating specified infrastructure and do not meet a condition in regulation 46(4). The activity was undertaken over three days and photographs were taken as recorded in Notification of Emergency Works attached at **Appendix 2**.
Natural hazard works		
Meaning of natural hazard works (1) In this regulation, **natural hazard works** means works for the purpose of removing material, such as trees, debris, and sediment, that— (a) is deposited as the result of a natural hazard; and (b) is causing, or is likely to cause, an immediate hazard to people or property. **Regulation 51 - Permitted activities for purpose of natural hazard works** *(2) Vegetation clearance within, or within a 10 m setback from, a natural wetland is a permitted activity if it—* *(a) is for the purpose of natural hazard works; and* *(b) complies with the conditions.* *(3) Earthworks or land disturbance within, or within a 10 m setback from, a natural wetland is a permitted activity if it—* *(a) is for the purpose of natural hazard works; and* *(b) complies with the conditions.*		
(5) The conditions are that— (a) the activity must not— (i) result in land becoming unstable; or (ii) result in, or involve, debris or other materials being deposited in the natural wetland; and (b) the activity must be undertaken only to the extent necessary to achieve the purpose of the natural hazard works; and (c) if the activity changes the profile of the bed of the natural wetland, the profile must be restored so that it does not inhibit the passage of fish; and (d) if the activity is earthworks or land disturbance, erosion and sediment control measures must,— (i) during and after the earthworks, be	☑	Complies – the activity has not resulted in land becoming unstable, or resulting in, or involving, debris or other materials being deposited in the natural wetland. The activity was undertaken in three days and involved sediment control measures during and after the earthworks were undertaken. Debris, materials, and equipment relating to the activity has been removed from the site and is free from litter.

applied and maintained at the site of the activity to minimise adverse effects of sediment on the natural wetland; and (ii) include stabilising or containing soil that is exposed or disturbed by the activity as soon as practicable after the activity ends; and (e) as soon as practicable (but no later than 3 months) after the activity ends,— (i) debris, materials, and equipment relating to the activity must be removed from the site; and (ii) the site must be free from litter.		

As demonstrated above, the emergency works is able to meet the majority of the NESF Regulations except for *Regulation 55: General conditions on natural wetland activities* as a permitted activity. As a result, the works (vegetation clearance, and earthworks within a natural wetland) will need consent under Regulation 47 of the NES as a **restricted discretionary activity**.

5.2. Proposed Natural Resources Plan (PNRP)

The PNRP rules for existing structures in natural wetlands are considered a permitted activity under Rule 104 which reads as follows:

Unless regulated by Regulations 43, 44, 46, 47 and 54 of the Resource Management (Natural Environmental Standards for Freshwater) Regulations 2020, in a natural wetland:

(a) The use, maintenance, repair, addition, alteration, or replacement (like for like) of an existing lawfully established structure or existing lawfully established regionally significant infrastructure, including associated vegetation removal, and
(b) the removal of an existing structure, including any associated:
(c) disturbance of a river or lake bed, or foreshore or seabed that forms part of a natural wetland, and
(d) deposition in, on, or under a river or lake bed, or foreshore or seabed that forms part of a natural wetland, and
(e) damage to a part of the foreshore or seabed that forms part of a natural wetland, and
(f) diversion of water, and
(g) discharge of sediment to water

is a permitted activity, provided the following conditions are met:

(i) only hand-held machinery is used in any area of the natural wetland, and
(k) any alteration or addition to an existing structure does not increase the size of the structure so that it is occupies an area greater than 10m2, and
(l) the activity shall comply with the wetland general conditions for activities in natural wetlands and outstanding natural wetlands specified above in Section 5.5.2.

Note
Regulations 43, 44, 46, 47 and 54 of the Resource Management (National Environmental Standards for Freshwater) Regulations 2020 prevail over Rule R104(a) in respect of vegetation clearance, earthworks or land disturbance or taking, use, damming, diversion or discharge of water associated with the maintenance of a wetland utility structure or the maintenance and operation of specified infrastructure and other infrastructure.

As the proposed structure is considered to fall within the definition of a regionally significant structure[1], compliance against Regulations 46 and 47 (as directed by this provision) has been assessed under section 5.1 of this report and considered a **restricted discretionary activity** under regulation 47 of the NES-F.

5.3. Operative District Plan Rules and Standards

5.3.1. Zoning

The site is within the Open Spaces Zone of the operative Porirua District Plan.

The following District Plan notations are also applicable to the site:

- Outstanding Natural Features and Landscapes
- Significant Natural Areas (SNA223)
- Flood Hazard – Ponding
- Flood Hazard – Stream Corridor
- Flood Hazard – Overland Flow

5.3.2. District Rules and Standards

The ODP specifically provides for earthworks within the Open Space Zone as a permitted activity under Rule D7.1.1(vii) which reads:

> *Ancillary maintenance and operational activities, including activities such as but not limited to earthworks, stream bank maintenance works and vegetation clearance, which do not contravene any permitted activity standards.*

Public Open Space Zone **Rule D7.2.1 - Maximum earthwork limits**		
(i) Within a riparian setback of 20m, earthworks, in a 12 month period, shall not exceed 25m2 in area or 0.5 m in height or depth.	N/A	No riparian setback identified where inlet is located. Furthermore, does not meet the ODP definition for Riparian Setback.
(ii) Excluding earthworks with a riparian setback, earthworks within Battle Hill Farm Forest Park and Belmont Regional Park, in a 12 month period, shall not exceed 500m2 in area or 1.5 m in height or depth.	N/A	No riparian setback identified where inlet is located. Furthermore, does not meet the ODP definition for Riparian Setback.
(iii) In all other areas earthworks, in a 12-month period, shall not exceed 100m^2 in area or 1.5 metres in height or depth.	☑	Earthworks did not exceed 100m^3 and vertically altered the land by less than 1.5m in depth.

[1] *Regionally significant infrastructure includes: …the local authority wastewater and stormwater networks and systems, including treatment plants and storage and discharge facilities* [emphasis added].

(iv) Clauses (ii) and (iii) do not apply to: (a) excavations for foundations which do not extend further than 2 metres beyond exterior walls of any building when measured in plan view; (b) earthworks required for the construction and maintenance of walkways, footpaths, bridle paths and cycle ways; (c) topdressing of grassed areas with top soil; (d) earthworks associated with the laying of safety surface for children's play equipment;	N/A	Clause (ii) does not apply to the works, and earthworks did not require foundations.
(v) Earthworks associated with walkways, footpaths, bridle paths and cycleways shall not exceed 6 metres in width or 1.5 metres in height or depth.	N/A	Earthworks were not for walkways, footpaths, bridle paths and cycleways.
(vi) Earthworks shall not be undertaken on land with a slope in excess of 45 degrees.	☑	Earthworks were not undertaken on land with a slope in excess of 45 degrees.
(vii) Earthworks within a yard shall not exceed a height recession plane measured at an angle of 45 degrees from the closest boundary into the site.	☑	Earthworks do not encroach the height recession plane.
(viii) Erosion and sediment control measures shall be installed and maintained for all earthwork activity in accordance with "The Erosion and Sediment Control Guidelines for the Wellington Region –September 2002".	☑	Earthworks were undertaken in accordance with the Erosion and Sediment Control Guidelines for the Wellington Region.
(ix) Any earthworks within a National Grid Yard: (i) within a distance measured 12 metres from the outer visible edge of any National Grid support structure, any earthworks shall not exceed a depth (measured vertically) of 300mm (ii) shall not result in a ground to conductor clearance of less than: - 6.5m (measured vertically) from a 110kV National Grid transmission line; or - 8m (measured vertically) from a 220kV National Grid transmission line. Note: Earthworks may also require consent under the Regional Soil Plan and the Regional Freshwater Plan. Compliance with the New Zealand Electrical Code of Practice for Electrical Safe Distances (NZECP34:2001) is mandatory under the Electricity Act 1992. All activities regulated	N/A	Earthworks were undertaken outside of the National Grid Yard.

by NZECP34, including buildings, structures, earthworks and the operation of mobile plant, must comply with that regulation. Activities should be checked for compliance beven if they are permitted by the District Plan.		
Rule D7.1.1 Disturbance within an ecological site	N/A	The application land is not identified as an ecological site under the ODP and therefore an assessment against these permitted activity standards is not required.
PART NU Network Utilities **7.6 Earthworks**		
7.6.2 Sediment and Erosion Control Erosion and sediment control measures shall be installed and maintained for all network utility activities, in accordance with the "Erosion and Sediment Control Guidelines for the Wellington Region – September 2002" – reprinted 2006.	☑	Earthworks undertaken were for maintenance purposes of a regionally significant infrastructure.

As assessed above, under PCC's Operative District Plan, the emergency works undertaken within the Open Space Zone is considered a permitted activity.

5.4. Proposed District Plan

5.4.1. Zoning

Under the Proposed District Plan, the following notations are considered relevant to the area of works;

- Open Space Zone
- Flood Hazard - Ponding
- Flood Hazard - Overland Flow
- Flood Hazard - Stream Corridor
- Ngāti Toa Rangatira Statutory Areas (ID: CSTAT002) - Outside of this area
- Outstanding Natural Features and Landscapes (ID:ONFL003) Whitireia Peninsula
- Significant Natural Areas (ID: SNA223):

  A small area of wetland, which is a rare ecosystem type in the wellington region. This site includes indigenous vegetation on an Acutely Threatened land environment and a regionally uncommon species.

Ecosystems and Indigenous Biodiversity		
ECO-R1 - Removal of indigenous vegetation within a Significant Natural Area 1. Activity status: **Permitted**	☑	The works were undertaken to enable necessary flood protection (i.e., stormwater inlet) by the a

Where: a. The trimming or removal of indigenous vegetation is to: vi. Enable necessary flood protection or natural hazard control where undertaken by a Statutory Agency or their nominated contractors or agents on their behalf as part of natural hazard mitigation works;		nominated contractor on behalf of the Applicant.
ECO-R4 - Earthworks within a Significant Natural Area 1. Activity status: Permitted Where: a. The earthworks: i. Do not involve the removal of any indigenous vegetation; or ii. Are for the maintenance of existing public walking or cycling access tracks, as carried out by Porirua City Council, Greater Wellington Regional Council or their nominated contractor or agent; and b. The earthworks do not occur within any wetland.	☒	The emergency works involves the removal of indigenous vegetation and works were not for the maintenance of existing public walking or cycling access tracks.
2. Activity status: **Restricted discretionary** Where: a. Compliance is not achieved with ECO-R4-1.a. Matters of discretion are restricted to: 1. The matters in ECO-P11. Section 88 information requirements for applications: 1. Applications for activities within an identified Significant Natural Area must provide, in addition to the standard information requirements, an Ecological Assessment provided by a suitably qualified and experienced ecologist:	☑	As compliance with ECO-R4-1.a. is not achieved, the works will require consent under **Rule ECO-R4-2.**

. Identifying the biodiversity values and and potential impacts from the proposal; and a. Demonstrating that the ECO-P2 hierarchy has been applied.		
ECO-R7 Removal of indigenous vegetation within Significant Natural Areas 1. Activity status: Restricted discretionary Where: a. The indigenous vegetation being removed is within an identified Significant Natural Area, including any tree within an Urban Environment Allotment, except as otherwise provided for under: i. ECO-R1; ii. ECO-R5; or iii. ECO-R6. Matters of discretion are restricted to: 1. The matters in ECO-P2; 2. The matters in ECO-P4; and 3. The matters in ECO-P11. Section 88 information requirements for applications: 1. Applications for activities within an identified Significant Natural Area must provide, in addition to the standard information requirements, an Ecological Assessment provided by a suitably qualified and experienced ecologist: b. Identifying the biodiversity values and and potential impacts from the proposal; and Demonstrating that the ECO-P2 hierarchy has been applied.	☑	The emergency works involved the removal of indigenous vegetation within a Significant Natural Area. On this basis, the works will require consent under restricted discretionary activity **Rule ECO-R7**.
Open Spaces Zone		
OSZ-R1 Buildings and structures, including additions and alterations 1. Activity status: Permitted	☑	As demonstrated below, the emergency works undertaken within this reserve is able to meet standards OSZ-S1 – S5.

Where: a. Compliance is achieved with: i. OSZ-S1; ii. OSZ-S2; iii. OSZ-S3; iv. OSZ-S4; and v. OSZ-S5.		
OSZ-S1 Height 1. All buildings and structures must not exceed a maximum height above ground level of 5m, except: a. Any building or structure within Battle Hill Farm Forest Park or Belmont Regional Park must not exceed a maximum height above ground level of 8m; b. A light pole must not exceed a maximum height above ground level of 18m; and c. Playground equipment must not exceed a maximum height above ground of 8m.	☑	The stormwater inlet is less than 5m in height.
OSZ-S2 Height of buildings and structures in relation to a zone boundary 1. All buildings and structures must be contained beneath a line of 45° measured into the site from any point 3m vertically above ground level along any zone boundary.	☑	The stormwater inlet is contained beneath a line of 45°.
OSZ-S3 Scale of buildings and structures 1. All individual buildings and/or structures on a site must not exceed a maximum gross floor area of 50m2, except: All buildings and/or structures on a site within the Battle Hill Farm Forest Park or Belmont Regional Park must not exceed a maximum gross floor area of 100m2. This standard does not apply to: Playground equipment; or Boardwalks.	☑	The stormwater inlet does not exceed a gross floor area of 50m^2 of net site area.
OSZ-S4	N/A	The stormwater inlet is not a

Building coverage 1. The maximum building coverage must not exceed 5% of net site area. This standard does not apply to: Playground equipment; or Boardwalks.		building.
OSZ-S5 Setback 1. Buildings or structures, excluding playground equipment, must not be located within: a. A 5m setback from a boundary with a road; and b. A 5m setback from a site boundary that adjoins any Residential Zone, any Rural Zone or the Future Urban Zone. 2. Playground equipment must not be located within: a. A 1.5m setback from any boundary with a road; and b. A 1.5m setback from a site boundary that adjoins any Residential Zone, any Rural Zone or the Future Urban Zone	☑	The stormwater inlet is setback more than 5m from a road boundary and the Residential Zone to the south. No playground equipment is proposed as part of this application.
Infrastructure		
INF-R2 Noise from construction of new infrastructure and the maintenance and repair, upgrading and removal of existing infrastructure 1. Activity status: Permitted Where: The noise must be measured, assessed, managed and controlled in accordance with the requirements of NZS 6803:1999 Acoustics – Construction noise and DIN 4150-3:1999 Structural Vibration – Part 3: Effects of Vibration	☑	Noise from construction of the stormwater inlet did not exceed the requirements of NZS 6803:1999.

on Structures.		
INF-R5 The maintenance and repair and removal of existing infrastructure including any existing ancillary vehicle access tracks, within any Overlay All zones 1. Activity status: Permitted Where: a. Compliance is achieved with: INF-S14; INF-S15; and **b. Compliance is achieved with INF-S18 and INF-S20 where the activity is located within an area identified in SCHED7 - Significant Natural Areas and the infrastructure is not located within a wetland;** c. Compliance is achieved with INF-S17 where the activity is located within an area identified in: i. SCHED9 - Outstanding Natural Features and Landscapes; or ii. SCHED10 - Special Amenity Landscapes; or iii. SCHED11 - Coastal High Natural Character Areas; d. Compliance is achieved with INF-S19 where the activity involves trimming, pruning, removal or activities within the root protection area of a notable tree identified in SCHED5 - Notable Trees and the trimming, pruning, removal or activities are required: i. To comply with the Electricity (Hazards from Trees) Regulations 2003; ii. To comply with the Telecommunications Act 2001; or iii. For maintenance and repair purposes; e. Compliance is achieved with INF-S16 where the activity is located on or within a heritage item, heritage setting, historic heritage site, or an area identified in SCHED2 - Historic Heritage Items (Group A), SCHED3 - Historic Heritage Items (Group B), SCHED4 - Historic Heritage Sites and SCHED6 - Sites of Significance to Māori; f. The activities do not result in a	☒	While the earthworks are able to comply with standards INF-14, INF-15, INF-17 and INF-18, the stormwater inlet is located within a wetland. It should be noted that this is an existing situation prior to the SNA having legal effect.

permanent change to the ground level where the activity is located in the Flood Hazard Overlays of the Natural Hazard Overlay, or the Coastal Hazard Overlay. Note: The operation of legally established existing infrastructure may rely on existing use rights or any resource consent obtained for that infrastructure		
All zones 7. Activity status: Discretionary Where: The works involve infrastructure located within a wetland within an area identified in SCHED7 - Significant Natural Areas. Section 88 information requirements for applications: Applications for activities within SNAs must provide, in addition to the standard information requirements, an Ecological Assessment provided by a suitably qualified and experienced ecologist: Identifying the biodiversity values and potential impacts from the proposal; and Demonstrating that the ECO-P2 hierarchy has been applied.	☑	The emergency works were undertaken within an area identified within SCHED7 – Significant Natural Areas. Attached at **Appendix 3** has been prepared by a suitably qualified and experienced ecologist from Boffa Miskell.
INF-R39 Upgrading of infrastructure, excluding roads and walkways, cycleways and shared paths, located in an area identified in SCHED7 – Significant Natural Areas 88. Activity status: **Restricted discretionary** Where: a. Compliance is achieved with: . INF-S1; i. INF-S14; ii. INF-S15; iii. INF-S18; iv. INF-S20; and v. The noise rule(s) applying to the zone; b. Any gas transmission pipeline is located underground; and c. The infrastructure is not located within a wetland. 2. Matters of discretion are restricted to: . The matters in INF-P20.	N/A	The stormwater inlet is located within a wetland.

Section 88 information requirements for applications: 1. Applications for activities within SNAs must provide, in addition to the standard information requirements, an Ecological Assessment provided by a suitably qualified and experienced ecologist: . Identifying the biodiversity values and potential impacts from the proposal; and a. Demonstrating that the ECO-P2 hierarchy has been applied.		
Natural Hazards		
NH-R2 Flood mitigation or stream or river management works undertaken by a statutory agency or their nominated contractor or agent within the Flood Hazard Overlays in a Natural Hazard Overlay 1. Activity status: Permitted	☑	The Applicant is the statutory agency who has nominated a contractor to undertake the flood mitigation works within this stream which is also identified to be within the Flood Hazard Overlay.
NH-R5 Earthworks within a Natural Hazard Overlay associated with hazard mitigation works undertaken by a statutory agency 1. Activity status: **Permitted** Where: a. Compliance is achieved with: . EW-S3; and i. EW-S4.	☑	The earthworks within this Flood Hazard Overlay were for the purposes of hazard mitigation and were undertaken by a statutory agency. Compliance with standards EW-S3 and EW-S4 was achieved as no import material was required and the earthworks were completed in three days.

As demonstrated above, under the PDP, earthworks and removal of indigenous vegetation within the SNA is considered a **restricted discretionary activity** under Rule ECO-R4 and ECO-R7, respectively. The maintenance, repair and removal of infrastructure within this site is also considered a **discretionary activity** under Rule INF-R5.

Overall, the works that have been carried out are assessed as a discretionary activity under the PDP. As these rules have been adopted by Council, these provisions have legal effect, and a decision consideration will be assessed as such.

5.5. Any other consents required

No other consents are considered necessary for the activity proposed.

5.6. Consent Summary

The following consents are sought:

1. Resource consent from GWRC for works on natural wetland where prior notice was not given before commencement of emergency works as a **restricted discretionary activity** under Regulation 47 of the NES-F.
2. Land use consent from PCC for earthworks and removal of indigenous vegetation in a SNA as a **restricted discretionary activity** under Rule ECO-R4(2) of the Proposed District Plan.
3. Land use consent from PCC for the maintenance, repair and removal of infrastructure in a wetland identified in SCHED7 as a **discretionary activity** under Rule ECO-R5(7) of the Proposed District Plan.

Overall, the works that were undertaken will be assessed as a **discretionary activity.**

6. OTHER CONSENTS AND APPROVALS REQUIRED

No other consents are considered necessary for the activity proposed.

7. ASSESSMENT OF ENVIRONMENTAL EFFECTS

7.1. Introduction

This section provides a comprehensive assessment of the environmental effects of the emergence works. In accordance with Section 88 and Schedule 4 of the RMA, this assessment is provided at a level of detail that corresponds with the scale and significance of the effects that the activity may have on the environment.

The matters that it is considered could generate actual or potential environmental effects are:

- Stormwater effects;
- Effects on Significant Natural Areas (SNA)
- Effects on Open Space site;
- Flood risk effects
- Potential for accelerated erosion
- Positive effects for residentis

These matters, the anticipated scale of the actual and potential environmental effects and the proposed mitigation measures incorporated into the design of the proposed activity are detailed below.

7.2. Stormwater effects

The stormwater inlet structure was damaged and not receiving water following a rainfall event in February 2022 which caused localised flooding. The Applicant engaged a contractor to expose the existing inlet and repair the wing wall and stormwater inlet with a like-for-like structure, as well as installing a scruffy dome on top of the existing stormwater pipe. No upgrading works were undertaken. These works were undertaken as minimum preventative and remedial work to mitigate the risk to people and property that are affected by this stormwater network.

We therefore consider the works were necessary and resulted in positive stormwater effects.

7.3. Effects on Significant Natural Areas (SNA)

It is worth noting that the Applicant considered the following options before undertaking the works within this wetland:

> *Construct embankment*
>
> *A 2 – 3 m high embankment would create a storage area upstream that could potentially provide capacity for events greater than a 10-year return period flood. This option could only be considered as planned for future consented works.*
>
> *Catchment Wide Capacity Upgrade*
>
> *An upgrade of the pipe and open channel network all the way down to the coast could be considered as part of the investigations currently being undertaken by Wellington Water.*

Given the immediate flooding caused to the property and people at 45 and 45A Thornley Street, the emergency works were necessary to remove debris and replace the collapsed stormwater inlet. The above options would have required a larger scale of works within this ecological site.

In considering the effects on SNA 223 Te awa rere Whitireia, ecologist [redacted] has provided the following summary:

> *The works at present have removed a proportionally small amount of vegetation in a lengthy gully system, deemed to be of low ecological value. The small scale of edge vegetation loss has made no effect on the extent or range of wetland vegetation and does not require any remedial or offset consideration. However, it is possible that draining could occur in the lower portion of the SNA with the current low-lying culvert inlet transporting water away more effectively. The upper reaches are not likely to be affected by this at all. If there is concern about potential drainage, monitoring of the site could be undertaken, or the implementation of a small bund to retain water at the lower edge.*

Based on this summary, and considering the alternatives, we consider that the emergency works within SNA 223 has resulted in adverse effects that are no more than minor.

7.4. Effects on Open Space Site

The application site is contained within the Open Space Zone being on land maintained as reserve land. The proposed structure will replace an existing stormwater structure that is no longer fit for purpose and will result in improved outcomes for the reserve.

The emergency works will have no effect on the public access or recreational opportunities within the reserve and it has been demonstrated that the emergency works will result in less than minor adverse effects on existing ecosystems and water quality values.

The replacement structure has provided a positive effect in immediate relief for residential properties adjacent to this stormwater inlet

7.5. Flood risk effects

The emergency works involved the replacement of the collapsed stormwater inlet with a new like-

for-like stormwater inlet, and the installation of a scruffy dome on top of the existing stormwater pipe. Vegetation clearance and excavation works were required to facilitate these works.

These measures were considered to be a solution to on-going flooding which affects residential properties directly south of the inlet (i.e., 45A Thornley Street, Titahi Bay). The works have allowed the stream/wetland to discharge in a rainfall event up to a 1/10-year event as designed preventing damage to property and people.

The works will therefore reduce the potential for flooding within the stormwater network that is no longer fit for purpose.

As such, we consider the emergency works will result in positive flood management in this area.

7.6. Potential for accelerated erosion

The emergency works have not generated the need for substantial earthworks or the need for significant areas of land to be stripped of soil cover to facilitate the works.

The methods outlined in the GWRC document *Small earthworks – Erosion and sediment control for small sites* were employed where necessary to ensure the emergency works would not generate adverse effects beyond the boundaries of the application site or within any surface water bodies.

We consider the emergency works will result in less than minor potential erosion effects.

7.7. Positive Effects

The replacement structure has provided a positive effect in immediate relief for residential properties adjacent to this stormwater inlet. Furthermore, the works have ensured that this regionally significant infrastructure is able to carry out its flood management purpose for the health and safety of the adjacent residential properties.

7.8. Summary of environmental effects

This assessment of the actual and potential effects of the proposed activity is at a level of detail that corresponds with the scale and significance of the effects that the emergency works may have on the environment.

In accordance with Section 3 and the requirements of Section 104 of the RMA, the assessment covers positive or adverse; temporary or permanent; past, present, or future; and cumulative effects. It also considers both potential effects of high probability and potential effects of low probability but high potential impact.

The assessment confirms that the emergency works undertaken to repair the stormwater structure has been undertaken without generating more than minor adverse environmental effects. The assessment details the measures employed to avoid, remedy, or mitigate any potential adverse environmental effects, including temporary effects from construction, so that they will be less than minor.

7.9. Conclusion

The replacement of the stormwater inlet with a like for like structure will have less than minor adverse effects on the environment and will result in improved stormwater outcomes for the existing network by replacing a dysfunctional structure.

The construction methodology employed to undertake the works ensured the proposed works do not result in sedimentation or erosion.

It has been demonstrated that the works will result in less than minor adverse environmental effects.

8. STATUTORY CONSIDERATIONS

8.1. Introduction

This section provides an assessment against the relevant statutory requirements of the RMA, including the general purpose and principles in Part 2 of the RMA and the specific matters relating to resource consents in Part 6.

8.2. Part 2 – Purpose and Principles

8.2.1. Section 5 - Purpose

Section 5 defines "sustainable management" as:

> *"managing the use, development, and protection of natural and physical resources in a way, or at a rate, which enable people and communities to provide for their social, economic, and cultural wellbeing and for their health and safety while-*
>
> *(a) sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations; and*
>
> *(b) safeguarding the life-supporting capacity of air, water, soil and ecosystems; and*
>
> *(c) avoiding, remedying, or mitigating any adverse effects of activities on the environment."*

It is shown elsewhere in these application documents that the activity was not carried out contrary to the purpose of the RMA. The emergency works were undertaken to ensure that any actual or potential adverse environmental effects were avoided, remedied or mitigated.

8.2.2. Section 6 – Matters of National Importance

In exercising its powers and functions under the RMA, consent authorities are required to recognise and provide for the matters of national importance listed in Section 6 of the RMA. The matters of national importance of relevance to this application are:

> *(a) the preservation of the natural character of the coastal environment (including the coastal marine area), wetlands, and lakes and rivers and their margins, and the protection of them from inappropriate subdivision, use, and development:*
>
> *(c) the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna:*
>
> *(e) the relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga:*
>
> *(h) the management of significant risks from natural hazards.*

It is demonstrated elsewhere in this report that measures were employed to ensure the natural character of the region's waterbodies will be protected from inappropriate development.

For the purposes of this application, and the scale of works that were undertaken as part of the emergency works, we do not consider there to be a loss of indigenous vegetation or habitats of indigenous fauna as a result of the emergency works.

The values of the existing water course will be protected throughout the proposed works and will reduce erosion and sedimentation of the water body on completion of the works.

8.2.3. Section 7 – Other Matters

The other matters to which the local authorities must have particular regard in relation to managing the use, development, and protection of natural and physical resources are listed in Section 7 of the RMA.

Section 7 of this report (assessment of actual and potential effects) addresses the matters listed in Section of 7 of the RMA, in particular:

(a) kaitiakitanga

(b) the efficient use and development of natural and physical resources

(c) the maintenance and enhancement of amenity values

(f) maintenance and enhancement of the quality of the environment

(g) any finite characteristics of natural and physical resources

The emergency works are not inconsistent with these matters, will demonstrate efficient use of the natural and physical resources through an appropriate solution to a currently dysfunctional stormwater structure.

8.2.4. Section 8 – Principles of the Treaty of Waitangi

Section 8 of the RMA requires the local authority to take into account the principles of the Treaty of Waitangi (Te Tiriti o Waitangi) when considering applications for resource consent. The proposed activity is not inconsistent with the principles of the Treaty.

8.3. Part 6 – Resource Consents

The matters to which a consent authority shall have regard when considering applications for resource consents and submissions include sections 104, 105, 106, 107 and 108 of the RMA. The particular considerations for determining applications for non-complying activities are set out in sections 104B of the RMA.

8.3.1. Section 88 – Making an application

Section 88 of the RMA (at Subsection (2)) and Schedule 4 set out the information requirements for resource consent applications.

It is considered this application meets all the requirements of Section 88 and the Schedule 4 to the RMA (*Information required in application for resource consent*).

8.3.2. Section 104 – Consideration of applications

Section 104(1) states:

When considering an application for resource consent and any submissions received, the consent authority must, subject to Part 2, have regard to –

(a) any actual and potential effects on the environment of 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;

iv. a plan or proposed plan; and

(c) any other matters the consent authority considers relevant and reasonably necessary to determine the application.

The provisions of Section 104 are subject to Part 2 of the RMA (sections 5 to 8), which means that the purpose and principles of the Act are paramount. Part 2 of the RMA is discussed in Section 8.2 of this report, above.

The actual and potential effects on the environment of allowing the activity are discussed in Section 7 of this report.

The remaining relevant matters for this application are discussed in the following sections. An assessment of the emergency works against the relevant district plan objectives and policies is provided in Section 9 of this report.

An assessment of the emergency works consistency with the Wellington Regional Policy Statement **(RPS)** and the objectives and policies of the Proposed Natural Resources Plan **(PNRP)** and the Porirua City Council Operative and Proposed District Plans is provided in Section 9 of this report. An assessment of the actual and potential adverse effects of the works is provided in Section 7 of this report. The effects have been determined to be less than minor.

8.3.3. Section 104B – Determination of applications for discretionary or non-complying activities

Section 104B (*Determination of applications for discretionary or non-complying activities*) states:

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.

Based on the assessment of the actual and potential effects of the emergency works and the consideration of the relevant statutory considerations, it is considered that this application can be granted consent in accordance with Section 104B.

9. RELEVANT REGULATIONS, POLICY STATEMENTS AND PLANS

9.1. National Policy Statements

9.1.1. National Policy Statement on Freshwater Management (NPS-FM)

An assessment against the objective and relevant policies of the National Policy Statement for Freshwater Management 2020 (**NPS-FM**) is provided below.

Objective 2.1 *The objective of this National Policy Statement is to ensure that natural and physical resources are managed in a way that prioritises:* *(a) first, the health and well-being of water bodies and freshwater ecosystems* *(b) second, the health needs of people (such as drinking water)* *(c) third, the ability of people and communities to provide for their social, economic, and cultural well-being, now and in the future.*	***Policy 1:*** *Freshwater is managed in a way that gives effect to Te Mana o te Wai.* ***Policy 3:*** *Freshwater is managed in an integrated way that considers the effects of the use and development of land on a whole-of-catchment basis, including the effects on receiving environments.* ***Policy 4:*** *Freshwater is managed as part of New Zealand's integrated response to climate change.* ***Policy 5:*** *Freshwater is managed through a National Objectives Framework to ensure that the health and well-being of degraded water bodies and freshwater ecosystems is improved, and the health and well-being of all other water bodies and freshwater ecosystems is maintained and (if communities choose) improved.* ***Policy 6:*** *There is no further loss of extent of natural inland wetlands, their values are protected, and their restoration is promoted.* ***Policy 9:*** *The habitats of indigenous freshwater species are protected.* ***Policy 15:*** *Communities are enabled to provide for their social, economic, and cultural wellbeing in a way that is consistent with this National Policy Statement.*
Comments The stormwater inlet structure (a like-for-like structure) and scruffy dome has been installed within an identified wetland as part of emergency works in response to a heavy rainfall event that caused flooding further downstream. The works within this wetland and the construction of the infrastructure has been undertaken to ensure that the receiving environment directly south of the open stormwater drain, that has been adversely affected by the collapse of this regionally significant infrastructure in the past and recently, was appropriately managed. Water quality and the values of the waterbody are considered to be protected and no impediments to fish passage introduced as part of the emergency works. Implementation of an appropriate erosion and sediment control plan was undertaken to ensure the proposed works would not result in accelerated erosion, with all exposed areas stabilised as soon as practical following the completion of works. The work will enable the residents of the adjacent residential property to provide for their social and economic well-being in a way that is consistent with the NPS-FM. The works is therefore considered to be consistent with the objective and relevant policies of the NPS-FM.	

9.1.2. New Zealand Coastal Policy Statement (NZCPS)

The application site is technically in the Coastal Environment (ODP Planning Maps). As such, an assessment against the relevant objectives and policies of the New Zealand Coastal Policy Statement (NZCPS) is provided below.

Objectives
Objective 1 – As already detailed, the integrity, form, function and resilience of the coastal environment will be retained. The works will not adversely affect any coastal processes or result in changes to any significant or dynamic coastal landform. ***Objective 2*** – The works undertaken to repair the stormwater inlet and install the scruffy dome disturbed an area of 8m^2. The existing coastal residential character of the site and the surrounding area will continue to be displayed. ***Objective 3*** – As detailed in the Section 8 of this report, Section 8 of the RMA requires the local authority to take into account the principles of the Treaty of Waitangi (Te Tiriti o Waitangi) when considering applications for resource consent. The activity is not inconsistent with the principles of the Treaty. ***Objective 4*** – As assessed throughout the report, the emergency works will have no effect on matters relating to the beach, foreshore and access to these areas. ***Objective 5*** – The application site is not identified to be located within a coastal hazard risk. ***Objective 6*** – The adverse environmental effects of the emergency works have been demonstrated to be less than minor. The activity will enable people living south of the application site to provide for their social, economic, cultural wellbeing, and in particular, their health and safety. ***Objective 7*** – The emergency works will have no effect on the ability to provide for NZ's international obligations.
Policies
Policy 6: Activities in the coastal environment
Comments The works involved relatively minor earthworks and removal of vegetation to facilitate the replacement of the collapsed stormwater inlet. The works will result in an improved operation of an existing regionally significant infrastructure for the purposes of flood management. The work is considered to be important to the social and economic wellbeing of the people who live adjacent to the site. The works are therefore considered to be consistent with Policy 6.
Policy 7: Strategic Planning
Comments This policy provides that local authorities should consider where to provide for residential activities in the Coastal Environment. Council have zoned the subject land directly south of the application site for residential land use and therefore we consider the proposed activities are consistent with the intent of the strategic policy planning direction as it mitigates flooding that the existing residential activities are susceptible to. The works are therefore considered to be consistent with Policy 7.
Policy 11: Indigenous biological diversity (biodiversity)
Comments As summarised in the ecological assessment: *The works at present have removed a proportionally small amount of vegetation in a lengthy gully system, deemed to be of low ecological value. The small scale of edge vegetation loss has made no effect on the extent or range of wetland vegetation and does not require any remedial or offset consideration. However, it is possible that draining could occur in the lower portion of the SNA with the*

current low-lying culvert inlet transporting water away more effectively. The upper reaches are not likely to be affected by this at all. If there is concern about potential drainage, monitoring of the site could be undertaken, or the implementation of a small bund to retain water at the lower edge.
Based on this assessment, the land disturbance and vegetation clearance will avoid significant adverse effects on this identified wetland. The works are therefore considered to be consistent with Policy 11.
Policy 13: Preservation of natural character
Comments The proposed activity is not within an area of outstanding natural character, nor will it adversely affect any area identified as such. The works will have no effect on matters relating to the coast, foreshore and access to these areas. The works are therefore considered to be consistent with Policy 13.
Policy 14: Restoration of natural character
Comments The existing character of the site and surrounding area, which is primarily open space abutting onto residential properties to the south within, is within an established reserve setting which has been retained following the completion of the emergency works. The works are therefore considered to be consistent with Policy 14.
Policy 15: Natural features and natural landscapes
Comments No significant natural landscapes or features will be affected by the proposed works. The changes to the application site have been managed through earthwork design, and stabilisation design, ensuring a like for like structure replaced the collapsed stormwater outlet. The works are therefore considered to be consistent with Policy 15.
Policy 18: Public open space
Comments The works will have no effect on the public access or recreational activities within the reserve and it has been demonstrated that the emergency works will result in less than minor adverse effects on the existing ecosystems and water quality values. The works are therefore considered to be consistent with Policy 18.

Based on the above assessment, the emergency works is considered to be consistent with the objectives and policies of the NZCPS.

9.2. National Environmental Standards

The Resource Management (National Environmental Standards for Freshwater) Regulations 2020 contains rules relating to some structures, vegetation clearance and earthworks within waterbodies.

As the works involved the disturbance of vegetation and earthworks within a wetland, the rules of the NES-Freshwater were assessed.

9.3. Regional Policy Statement for the Wellington Region (RPS)

The Operative RPS outlines the resource management issues of significance to the region and provides a framework for managing the natural and physical resources of the region in a sustainable manner. The RPS covers the following broad issues:

- Air quality;
- Coastal environment, including public access;
- Energy, infrastructure and waste;
- Fresh water, including public access;
- Historic heritage;
- Indigenous ecosystems;
- Landscape;
- Natural hazards;
- Regional form, design and function;
- Resource management with tangata whenua; and
- Soils and mineral.

The RPS identifies objectives, policies and methods, which are designed to achieve integrated management of the natural and physical resources of the whole region. The RPS has been reviewed in relation to this application. These provisions have been considered in formulating the Assessment of Environmental Effects.

It is considered that the emergency works are consistent with objectives of the RPS.

9.4. Proposed Natural Resources Plan (PNRP)

The proposed activity is considered against the relevant objectives and policies of the PNRP below.

Objectives
Objective O1 *Air, land, fresh water bodies and the coastal marine area are managed as integrated and connected resources; ki uta ki tai – mountains to the sea.* ***Objective O2*** *The importance and contribution of air, land, water and ecosystems to the social, economic and cultural well-being and health of people and the community are recognised in the management of those resources.* ***Objective O3*** *Mauri particularly the mauri of fresh and coastal waters is sustained and, where it has been depleted, natural resources and processes are enhanced to replenish mauri.* ***Objective O4*** *The intrinsic values of freshwater and marine ecosystems are recognised and the life supporting capacity of air, water, soil and ecosystems is safeguarded.* ***Objective O9*** *The recreational values of the coastal marine area, rivers and lakes and their margins and natural wetlands are maintained and enhanced, , other than in exceptional circumstances, in which case*

alternative access is provided where practicable.

Objective O12

The social, economic, cultural and environmental benefits of regionally significant infrastructure, renewable energy generation activities and the utilisation of mineral resources are recognised.

Objective O14

The relationships of Māori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga are recognised and provided for, including:

(a) maintaining and improving opportunities for Māori customary use of the coastal marine area, rivers, lakes and their margins and natural wetlands, and

(b) maintaining and improving the availability of mahinga kai species, in terms of quantity, quality and diversity, to support Māori customary harvest, and

(c) providing for the relationship of mana whenua with Ngā Taonga Nuia Kiwa, including by maintaining or improving Ngā Taonga Nui a Kiwa so that the huanga identified in Schedule B are provided for, and

(d) protecting sites with significant mana whenua values from use and development that will adversely affect their values and restoring those sites to a state where their characteristics and qualities sustain the identified values.

Objective O15

Kaitiakitanga is recognised and mana whenua actively participate in planning and decision-making in relation to the use, development and protection of natural and physical resources.

Objective O17

The natural character of the coastal marine area, natural wetlands, rivers, lakes and their margins is preserved and protected from inappropriate use and development.

Objective O20

The hazard risk and residual hazard risk, from natural hazards and adverse effects of climate change, on people, the community, the environment and infrastructure are acceptable.

Objective O23

The quality of groundwater, water in surface water bodies, and the coastal marine area is maintained or improved.

Objective O24

Rivers, lakes, natural wetlands and coastal water are suitable for contact recreation and Māori customary use, including by:

(a) maintaining water quality, or

(b) improving water quality in:

- ***a)*** *significant contact recreation fresh waterbodies and sites with significant mana whenua values identified in Schedule C and Ngā Taonga Nui a Kiwa identified in Schedule B to meet, as a minimum, the primary contact recreation objectives in Table 3.1, and*
- ***b)*** *coastal water and sites with significant mana whenua values and Ngā Taonga Nui a Kiwa to meet, as a minimum and within reasonable timeframes, the primary contact recreation objectives in Table 3.3, and*
- ***c)*** *all other rivers and lakes and natural wetlands to meet, as a minimum and within reasonable timeframes, the secondary contact recreation objectives in Table 3.2.*

Objective O25

Biodiversity, aquatic ecosystem health and mahinga kai in fresh water bodies and the coastal marine area are safeguarded such that:

(a) water quality, flows, water levels and aquatic and coastal habitats are managed to maintain biodiversity aquatic ecosystem health and mahinga kai, and

(b) where an objective in Tables 3.4, 3.5, 3.6, 3.7 or 3.8 is not met, a fresh water body or coastal marine area is meaningfully improved so that the objective is met within a reasonable time, and

(c) restoration of aquatic ecosystem health and mahinga kai is encouraged.

Objective O27
Vegetated riparian margins are established, maintained or restored to enhance water quality, aquatic ecosystem health, mahinga kai and indigenous biodiversity of rivers, lakes, natural wetlands and the coastal marine area.

Objective O28
The extent of natural wetlands is maintained or increased, their values are protected, and their condition is restored. Where the values relate to biodiversity, aquatic ecosystem health and mahinga kai, restoration is to a healthy functioning state as defined by Table 3.7.

Objective O29
The passage of fish and koura is maintained, and the passage of indigenous fish and koura is restored.

Comments

The consistency of the emergency works with the relevant objectives is assessed through consideration against the supporting policies below.

Policies

Policy P12: *Benefits of regionally significant infrastructure and renewable electricity generation facilities*

Policy P13: *Providing for regionally significant infrastructure and renewable electricity generation activities The use, development, operation, maintenance, and upgrade of regionally significant infrastructure and renewable energy generation activities are provided for, in appropriate places and ways. This includes by having particular regard to:*

(a) the strategic integration of infrastructure and land use, and

(b) the location of existing infrastructure and structures, and

(c) the need for renewable energy generation activities to locate where the renewable energy resources exist, and

(d) the functional need and operational requirements associated with developing, operating, maintaining and upgrading regionally significant infrastructure and renewable energy generation activities.

Policy P15: *Flood protection activities*

The use, maintenance and ongoing operation of existing catchment based flood and erosion hazard risk management activities to which manage the hazard risk of flooding to people, property, infrastructure and communities are provided for

Policy P29: *Effects of climate change*

Particular regard shall be given to the potential for climate change

(a) to threaten biodiversity, aquatic ecosystem health and mahinga kai, or

(b) to cause or exacerbate natural hazard events over at least the next 100 years that

could adversely affect use and development including as a result of:

(c) coastal erosion and inundation (storm surge), and

(d) river and lake flooding and erosion, aggradation, decreased minimum flows, and

(e) stormwater ponding and impeded drainage, and

(f) relative sea level rise, reliable scientific data for the Wellington region.

Policy P39A: *Indigenous biodiversity values within the coastal environment*

To protect the indigenous biodiversity values, use and development within the coastal environment shall:

(a) avoid adverse effects on indigenous biodiversity values that meet the criteria in Policy 11(a) of the New Zealand Coastal Policy Statement (NZCPS) namely:

(i) indigenous taxa listed as threatened or at risk in the NZ Threat classification system lists or as threatened by the International Union for Conservation of Nature and Natural Resources, and

(ii) indigenous ecosystems and vegetation types in the coastal environment that are threatened or are naturally rare, and

(iii) habitats of indigenous species where the species are at the limit of their natural range, or are naturally rare, and

(iv) areas in the coastal environment containing nationally significant examples of indigenous community types, and

(b) avoid significant adverse effects, on indigenous biodiversity values that meet the criteria in Policy 11(b) (i) – (vi) of the NZCPS, and

(c) manage non-significant adverse effects of activities on indigenous biodiversity values that meet the criteria in Policy 11(b) of the NZCPS by:

(i) avoiding adverse effects where practicable, and

(ii) where adverse effects cannot be avoided, minimising them where practicable, and

(iii) where adverse effects cannot be minimised they are remedied where practicable, and

(iv) where residual adverse effects cannot be avoided, minimised, or remedied, biodiversity offsetting is provided where possible, and

(v) if biodiversity offsetting of residual adverse effects is not possible, the activity itself is avoided unless the activity is regionally significant infrastructure then biodiversity compensation is provided, and

(vi) the activity itself is avoided if biodiversity compensation cannot be undertaken in a way that is appropriate as set out in Schedule G3, including Clause 2 of that schedule, and

(d) for all other sites within the coastal environment not meeting Policy 11(a) or (b) of the NZCPS, manage significant adverse effects on indigenous biodiversity values using the effects management hierarchy set out in (b) to (g) of Policy P32.

Policy P39B: *Existing regionally significant infrastructure and renewable energy generation activities*

within a site that meets any of the criteria in Policy P39A(a)(i) - (v) or (b) or included in Schedule F5

Consider providing for the operation, maintenance, upgrade and extension of existing regionally significant infrastructure and renewable energy generation activities within a site in the coastal environment that meets any of the criteria in Policy P39A(a)(i) - (v) or (b) or included in Schedule F5 where:

(a) there is a functional need or operational requirement for the activity to locate in that area, and

(b) there is no practicable alternative on land or elsewhere in the coastal environment for the activity to be located, and

(c) the activity provides for the maintenance and, where practicable, the enhancement or restoration of the affected significant indigenous biodiversity values and attributes at, and in proximity to, the affected area, taking into account any consultation with the Wellington Regional Council, the Department of Conservation and mana whenua.

***Policy P40**: Ecosystems and habitats with significant indigenous biodiversity values*

Protect in accordance with Policy P32 and Policies P39A-D and where appropriate restore the following ecosystems and habitats with significant indigenous biodiversity values:

(a) the rivers and lakes with significant indigenous ecosystems identified in Schedule F1 (rivers/lakes), and

(b) the habitats for indigenous birds identified in Schedule F2 (bird habitats), and

(c) natural wetlands, including the natural wetlands identified in Schedule F3 (identified significant natural wetlands), and

(d) the ecosystems and habitat-types with significant indigenous biodiversity values in the coastal marine area identified in Schedule F4 (coastal sites) and Schedule F5 (coastal habitats).

***Policy P73**: Minimising adverse effects of stormwater discharges*

The adverse effects of stormwater discharges shall be minimized including by:

(a) using good management practice, and

(b) taking a source control and treatment train approach to new activities and land uses, and

(c) implementing water sensitive urban design in new subdivision and development, and

(d) progressively improving existing stormwater, wastewater, road and other public infrastructure, including during routine maintenance and upgrade, and

(e) managing localised adverse effects, including by addressing particular attributes appropriate to the receiving environment.

Policy P102: Loss of extent and values of the beds of lakes and rivers, and natural wetlands

The loss of extent and values of the beds of lakes and rivers and natural wetlands, including as a result of reclamation and drainage, is avoided except where:

(a) in a natural inland wetland:

(i) the loss of extent or values arises from any of the following:

1. the customary harvest of food or resources undertaken in accordance with tikanga Māori, or

2. restoration activities, or

3. scientific research, or

4. the sustainable harvest of sphagnum moss, or

5. the construction or maintenance of wetland utility structures, or

6. the maintenance or operation of specified infrastructure, or other infrastructure, or

7. natural hazard works, and

8. where the activity involves reclamation or drainage there are no other practicable alternative methods of providing for the activity,

or

(ii) for specified infrastructure:

1. the activity, including any reclamation and drainage, is necessary for the construction or upgrade of specified infrastructure, and

2. the specified infrastructure will provide significant national or regional benefits, and

3. there is a functional need for the specified infrastructure in that location,

or

(b)...

Policy P110: National Policy Statement for Freshwater Management requirements for water takes, damming and diversion

When considering any application the consent authority shall have regard to the following matters:

(a) the extent to which the change would adversely affect safeguarding the life-supporting capacity of fresh water and of any associated ecosystem, and

(b) the extent to which it is feasible and dependable that any adverse effect on the life-supporting capacity of fresh water and of any associated ecosystem resulting from the change would be avoided.

This policy applies to:

(c) any new activity, and

(d) any change in the character, intensity or scale of any established activity that involves any taking, using, damming or diverting of fresh water or draining of any wetland which is likely to result in any more than minor adverse change in the natural variability of flows or level of any fresh water, compared to that which immediately preceded the commencement of the new activity or the change in the established activity (or in the case of a change in an intermittent or seasonal activity, compared to that on the last occasion on which the activity was carried-out).

This policy does not apply to any application for consent first lodged before the National Policy Statement for Freshwater Management 2011 took effect on 1 July 2011.

Policy P129: Minimum flows and minimum water levels

The damming or diversion of water from a surface water body shall not reduce flows or water levels below minimum flows or minimum water levels identified in the whaitua chapters of the Plan (chapters 7-11).

Comments

The stormwater inlet structure (a like-for-like structure) and scruffy dome has been installed within

an identified wetland as part of emergency works in response to a heavy rainfall event that caused flooding further downstream. The works within this wetland has been undertaken to ensure that the receiving environment directly south of the open stormwater drain, that has been adversely affected by the collapse of this regionally significant infrastructure in the past and recently, was appropriately managed.

Water quality and the values of the waterbody are considered to be protected and no impediments to fish passage introduced as part of the emergency works.

Implementation of an appropriate erosion and sediment control plan was undertaken to ensure the proposed works would not result in accelerated erosion, with all exposed areas stabilised as soon as practical following the completion of works. The proposed activity is therefore considered to be in accordance with the objectives and policies of the PNRP.

9.5. PCC Operative District Plan (ODP)

The provisions of the Operative District Plan of relevance to this proposal are considered in the table below.

Chapter 17 – Recreation and Open Spaces
Objective C17.2 *THAT THE USE AND DEVELOPMENT OF RECREATION AREAS AND PUBLIC OPEN SPACES DOES NOT HAVE SIGNIFICANT ADVERSE EFFECTS.* ***Policy C17.2.1*** *To control the scale and intensity of activities permitted on different recreation areas and public open spaces by adopting a Public Open Space Zone and a Recreation Zone.* ***Policy C17.2.2*** *To identify recreation areas and public open spaces which are capable of accommodating more intensive recreation or community activities and associated buildings, taking into account past patterns of use, the interface with surrounding land uses and classifications under the Reserves Act 1977.* ***Policy C17.2.3*** *To identify recreation areas and public open spaces which are capable of accommodating more intensive recreation or community activities and associated buildings, taking into account past patterns of use, the interface with surrounding land uses and classifications under the Reserves Act 1977.* ***Policy C17.2.4*** *To ensure that the location, scale and treatment of all recreation and public open space facilities avoids, remedies or mitigates adverse environmental effects including those on the open space values of the site.*
Comments The application site is contained within the Public Open Space Zone being on land maintained as reserve land. The stormwater structure has replaced an existing structure that collapsed as part of a flood event. The proposal will have no effect on the public access or recreational opportunities within the reserve and it has been demonstrated that the proposal will result in less than minor effects on the identified wetland. We therefore consider the proposal is consistent with Objective 17.2 and it associated policies.

PART NU – Network Utilities

Objective 3.1

To recognise the benefits of regionally significant network utilities and ensure their functions and operations are not unreasonably compromised by other activities.

Policies

3.1.1 *Identify regionally significant network utilities within the City on Council planning maps, as practicable.*

3.1.2 *Recognise the national, regional and local benefits of regionally significant network utilities.*

3.1.3 *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.*

3.1.4 *Ensure the safe and efficient functioning and operation of the National Grid by avoiding inappropriate establishment of sensitive activities and incompatible buildings and structures within a defined National Grid Yard.*

Objective 3.2

To recognise and provide for the sustainable, secure and efficient use, operation and development of network utilities within the City.

Policies

3.2.1 *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 *Enable the efficient construction, installation, operation, upgrading and maintenance of network utilities.*

3.2.3 *Ensure that the provision and operation of utilities that cross jurisdictional boundaries is managed in an integrated manner.*

3.2.4 *Encourage the appropriate use of designations for new network utilities and extensions to existing network utilities that are not designated.*

Objective 3.3

To manage any adverse effects on the environment resulting from the design, location, operation, upgrading and maintenance of network utilities.

Policies

3.3.1 *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.*

3.3.2 *Ensure network utilities, in particular those emitting electric and magnetic fields, are designed, located, upgraded, operated and maintained to comply with relevant national environmental standards and to meet other nationally recognised standards.*

3.3.3 *Enable the co-location or multiple use of network utilities where this is efficient and practicable and assists with avoiding, remedying or mitigating adverse effects on the environment.*

3.3.4 *Require the underground placement of new network utilities unless*

- *there are natural or physical features or structures, or technological and operational constraints that makes underground placement impractical or unreasonable;*
- *they are of a temporary nature and required for emergency purposes or critical events; and*
- *they are of a nature that they can only operate aboveground.*

3.3.5 *Encourage the use of roads as network utility corridors in accordance with the National Code of Practice for Utility Operators' Access to Transport Corridors.*
3.3.6 *Encourage network utility providers to consult with local communities on the appropriate placement, location, and design of new network utilities.*

Comments

The emergency works involved replacing the existing stormwater structure that collapsed and was no longer fit for purpose, with a like-for-like structure, and the installation of a scruffy dome atop the existing stormwater pipe.

As discussed previously, we have identified the stormwater inlet to fit the definition of regionally significant network utilities and therefore the works were considered to fall under maintenance of this infrastructure.

The emergency works have been undertaken to manage adverse effects on the receiving environment directly south of the application site that has been adversely affected by the collapse of the stormwater inlet. It has been demonstrated that the proposal will result in less than minor effects on existing wetland.

We therefore consider the proposal is consistent with Objective NU 3.1, NU 3.2 and NU 3.3 and their associated policies.

9.6. PCC Proposed District Plan (PDP)

Strategic Direction

Natural Environment

NE-O1 Natural character, landscapes and features and ecosystems

The natural character, landscapes and features and ecosystems that contribute to Porirua's character and identity and Ngāti Toa Rangatira's cultural and spiritual values are recognised and protected.

NE-O2 Open space

Porirua's community has access to a diverse and connected network of open spaces within which:

1. *There is a wide range of recreational opportunities and experiences; and*
2. *Areas with natural, ecological and landscape values are protected.*

Comments

The proposal will have no effect on the public access or recreational opportunities within the reserve and it has been demonstrated that the proposal will result in less than minor effects on existing ecosystems and water quality values.

We therefore consider the proposal is consistent with Objective NE-O1-O2 and its associated policies.

INFRASTRUCTURE

Objectives

INF-O1 The benefits of Regionally Significant Infrastructure

The national, regional and local benefits of Regionally Significant Infrastructure are recognised and provided for.

INF-O2 The protection of Regionally Significant Infrastructure

The function and operation of Regionally Significant Infrastructure is protected from the adverse effects, including reverse sensitivity effects, of subdivision, use and development.

INF-O3 Availability of infrastructure to meet existing and planned needs

Safe, efficient, and resilient infrastructure is available to meet the needs of, and is well integrated with, existing and planned subdivision, use and development.

INF-O4 Transport network

The transport network is effective, accessible and integrated with other land uses, including contributing to the amenity of public spaces, and provides for all transport modes and users to move efficiently within and beyond the City.

INF-O5 Providing for infrastructure

Infrastructure provides benefits to people and communities and is established, operated, maintained and repaired, and upgraded efficiently, securely and sustainably, while the adverse effects of infrastructure are avoided, remedied or mitigated, including effects on:

1. *The anticipated character and amenity values of the relevant zone;*
2. *The identified values and qualities of any Overlay; and*
3. *The change in risk to people's lives and damage to adjacent property and other infrastructure from natural hazards.*

Policies

INF-P1 The benefits of Regionally Significant Infrastructure

Recognise the social, economic, environmental and cultural benefits of Regionally Significant Infrastructure, including:

1. *...*
4. *Safe and efficient water, wastewater and stormwater treatment systems, networks and services, which maintains public health and safety.*

INF-P4

Appropriate infrastructure

- *Enable new infrastructure and the maintenance and repair, upgrading and removal of existing infrastructure, including earthworks, that:*
- *Is of a form, location and scale that minimises adverse effects on the environment;*
- *Is compatible with the anticipated character and amenity values of the zone in which the infrastructure is located; and*

For any maintenance and repair, or removal of existing infrastructure in any Overlay, it is of a nature and scale that does not adversely impact on the identified values and characteristics of the Overlay that it is located within.

INF-P8

- *Provide for Regionally Significant Infrastructure and other infrastructure outside of Overlays*
- *Provide for Regionally Significant Infrastructure and other infrastructure which is not located within an Overlay, where it can be demonstrated that the following matters can be achieved:*
- *Compatibility with the site, existing built form and landform;*
- *Compatibility with the anticipated character and amenity values of the zone it is located in;*
- *Any adverse effects on amenity values are minimised, taking into account:*
- *The bulk, height, size, colour, reflectivity of the infrastructure;*
- *Any proposed associated earthworks;*
- *The time, duration or frequency of any adverse effects; and*
- *Any proposed mitigation measures;*
- *Any adverse effects on the health, wellbeing and safety of people, communities and the environment, including nuisance from noise, dust, odour emissions, light spill and sedimentation are avoided, remedied or mitigated;*
- *Any adverse effects on the natural character and amenity of water bodies, the coast and riparian margins and coastal margins are minimised;*
- *Public access to and along the coastal marine area and water bodies is maintained or enhanced;*
- *Any adverse effects on any values and qualities of any adjacent Overlays are minimised;*
- *The safe and efficient operation of any other infrastructure, including the transport network, is not compromised; and*

Any adverse cumulative effects are minimised.

INF-P9

- *Recognise operational needs and functional needs of infrastructure*
- *Recognise the operational needs and functional needs of Regionally Significant Infrastructure and other infrastructure by having regard to the following matters when making decisions on new infrastructure and the maintenance and repair and upgrading of existing infrastructure:*

The extent to which;

- *The infrastructure integrates with, and is necessary to support, planned urban development;*
- *The potential for significant adverse effects have been minimised through site, route or method selection; and*
- *The ability to avoid, remedy or mitigate adverse effects of infrastructure is constrained by functional and operational needs;*
- *The time, duration or frequency of adverse effects;*
- *The necessity of the infrastructure including;*
- *The need to quickly repair and restore disrupted services; and*
- *The impact of not operating, repairing, maintaining, upgrading, removing or developing infrastructure;*
- *The location and operational needs and functional needs of existing infrastructure including:*
- *The complexity and connectedness of networks and services; and*
- *The potential for co-location and shared use of infrastructure corridors; and*
- *Anticipated outcomes for the receiving environment and the purpose, character and amenity values of the zone in which it is located.*

INF-P20

- *Upgrades to and new infrastructure in Significant Natural Areas*
- *Except as provided for by INF-P6 and INF-P7, only allow for upgrades to existing infrastructure and for new infrastructure in areas identified in SCHED7 - Significant Natural Areas where it can be demonstrated that:*
    - *There is an operational need or functional need that means the infrastructure's location cannot be avoided; and*
    - *Any adverse effects on indigenous biodiversity values within areas identified in SCEHD7 - Significant Natural Areas are addressed in accordance with ECO-P2 and the matters in ECO-P4, ECO-P11 and ECO-P12.*

Comments

The emergency works involved replacing the existing stormwater structure that collapsed and was no longer fit for purpose, with a like-for-like structure, and the installation of a scruffy dome atop the existing stormwater pipe.

As discussed previously, we have identified the stormwater inlet to fit the definition of regionally significant network utilities and therefore the works were considered to fall under maintenance of this infrastructure.

The emergency works have been undertaken to manage adverse effects on the receiving environment directly south of the application site that has been adversely affected by the collapse of the stormwater inlet. It has been demonstrated that the works will result in less than minor effects on existing wetland.

We therefore consider the works to be consistent with Objective INF-O1 to INF-O5 and their associated policies.

NH – NATURAL HAZARDS

NH-O1 Risk from natural hazards

Subdivision, use and development in the Natural Hazard Overlay do not significantly increase the risk to life or property and do not reduce the ability for communities to recover from a natural hazard event.

NH-O2 Planned mitigation works

There is reduced risk to life and property from flood hazards through planned mitigation works.

NH-P1

Identification and mapping of natural hazards

Identify and map natural hazards in the Natural Hazard Overlay and take a risk-based approach to the management of subdivision, use and development within the Natural Hazard Overlay based on the approach outlined in APP10 - Natural Hazard Risk Assessment, including:

The sensitivity of the activity to loss of life, damage from a natural hazard and the ability for communities to recover after a natural hazard event; and
The level of risk presented to people and property from a natural hazard.

NH-P9

Planned mitigation works

Enable natural hazard mitigation or stream or river management works undertaken by a statutory agency or their nominated contractors or agents within identified Natural Hazard Overlay where these decrease the risk to people and property.

Comments

The emergency works were undertaken to repair a buried and collapsed stormwater structure which is

part of Council's stormwater network. The dysfunction of this stormwater inlet resulted in residential properties directly south of the wetland being affected by flooding.

The emergency works were necessary to remediate the damage caused by the failure of this infrastructure. These works have ensured that any future flooding within this wetland is mitigated to reduce the risk of inundation on the receiving environment.

We therefore consider the works to be consistent with Objective NH-O1 to NH-O2 and its associated policies.

NATURAL ENVIRONMENTAL VALUES

ECO – ECOSYSTEMS AND INDIGENOUS BIODIVERSITY

ECO-O1

Significant Natural Areas

The identified values of Significant Natural Areas are protected from inappropriate subdivision, use and development and, where appropriate, restored.

ECO-O2

Plantation Forestry

The identified values of Significant Natural Areas are protected from the adverse effects of plantation forestry activities.

ECO-P2

Protection of Significant Natural Areas

Protect the biodiversity values of Significant Natural Areas identified within SCHED7 - Significant Natural Areas, by requiring subdivision, use and development to:

- *Avoid adverse effects on identified indigenous biodiversity values where possible;*
- *Minimise adverse effects on the identified indigenous biodiversity values where avoidance is not possible;*
- *Remedy adverse effects on the identified indigenous biodiversity values where they cannot be avoided or minimised;*
- *Only consider biodiversity offsetting for any residual adverse effects that cannot otherwise be avoided, minimised or remedied and where the principles of APP8 - Biodiversity Offsetting are met; and*
- *Only consider biodiversity compensation after first considering biodiversity offsetting and where the principles of APP9 - Biodiversity Compensation are met.*

ECO-P3

Appropriate use and development in Significant Natural Areas

Enable vegetation removal within Significant Natural Areas identified within SCHED7 - Significant Natural Areas where it is of a scale and nature that maintains the identified biodiversity values, including;

- *Maintenance around existing buildings;*
- *Safe operation of roads, tracks and accessways;*
- *Restoration and conservation activities; and*
- *Opportunities to enable tangata whenua to exercise customary harvesting practices.*

ECO-P5

Protection of wetlands

Avoid activities that would result in the loss or degradation of the identified indigenous biodiversity values of wetlands within a Significant Natural Area listed in SCHED7 - Significant Natural Areas, while providing for restoration activities in accordance with ECO-P7.

ECO-P11

Earthworks within Significant Natural Areas

Only allow earthworks within a Significant Natural Area where it can be demonstrated that:

- *Any adverse effects on identified indigenous biodiversity values of a Significant Natural Area listed in SCHED7 - Significant Natural Areas are addressed in accordance with ECO-P2 and the matters in ECO-P4 and ECO-P12;*
- *Any biodiversity offsetting proposed is in accordance with APP8 - Biodiversity Offsetting; and*
- *Any earthworks within a wetland are avoided.*

Comments

The emergency works were undertaken to repair a buried and collapsed stormwater structure which is part of Council's stormwater network.

As stated in Boffa Miskell's Ecological Assessment:

> *The works at present have removed a proportionally small amount of vegetation in a lengthy gully system, deemed to be of low ecological value. The small scale of edge vegetation loss has made no effect on the extent or range of wetland vegetation and does not require any remedial or offset consideration.*

The methods outlined in the GWRC document *Small earthworks – Erosion and sediment control for small sites* were employed where necessary to ensure the emergency works would not generate adverse effects beyond the boundaries of the application site or within any surface water bodies.

We therefore consider the works to be consistent with Objectives ECO-O1 and ECO-O2 and its associated policies.

OPEN SPACE AND RECREATION ZONES

OSZ-O1

Purpose of the Open Space Zone

The Open Space Zone supports a wide range of passive and active recreational and community activities.

OSZ-O2

Character and amenity values of the Open Space Zone

The predominant character and amenity values of the Open Space Zone are maintained and where possible enhanced and includes:

- *Large areas of open space with high natural, ecological, landscape and historic heritage value;*
- *A predominance of vegetation of varying types, with some areas of pasture for grazing and forestry; and*
- *A low level of development and built form with few structures to support passive and active*

community activities.

OSZ-O3
Adverse effects generated by activities in the Open Space Zone
The adverse effects of activities undertaken in the Open Space Zone on the surrounding area are avoided, remedied or mitigated.

OSZ-P1
Appropriate activities
Enable a range of activities, buildings and structures which are compatible with the purpose, character and amenity values of the Open Space Zone.

OSZ-P2
Primary production
Allow for primary production activities that are complementary to the purpose, character and amenity values of Battle Hill Farm Forest Park and Belmont Regional Park.

OSZ-P3
Maintaining character and amenity values
Enable use and development that maintains the character and amenity values of the Open Space Zone where these:

- *Ensure a predominance of openness and vegetation;*
- *Ensure that buildings are suitably located and of an appropriate size;*
- *Provide visual separation between new buildings and existing buildings on neighbouring properties;*
- *Minimise hard surfacing and, where possible, retaining or providing visually prominent trees, bush and/or landscaping;*
- *Integrate new buildings and structures with existing built form, including walkways, cycleways and pedestrian access points; and*
- *Ensure that buildings maximise opportunities for multifunctional use by recreational and community activities.*

OSZ-P4
Potentially inappropriate activities
Only allow potentially inappropriate activities in the Open Space Zone where they can demonstrate that they are:

- *Consistent with Porirua City Reserves Management Plan 2013, the Greater Wellington Parks Network Plan 2020, Whitireia Park Management Plan and Whitireia Park Bylaws 2016 or the Wellington Conservation Management Strategy 2019 (whichever applies to the site);*
- *Compatible with the purpose, character and amenity values of the Zone;*
- *Ancillary to and/or support open space activities;*
- *Of an appropriate scale and location;*
- *Not constraining the establishment and operation of open space activities or restrict public access to and across open space;*
- *Of a form, scale, location and nature that will not compromise established and planned open space activities and result in any conflict; and*

- *Able to be serviced with adequate on-site infrastructure and services.*

OSZ-P5
Inappropriate use and development
Avoid use and development that is incompatible with the purpose, character and amenity values of the Open Space Zone, unless there is a functional need to operate on the site.

Comments

The application site is contained within the Open Spaces Zone being on land maintained as reserve land. The emergency works were undertaken to repair a buried and collapsed stormwater structure which is part of the Council's stormwater network.

The works will have no effect on the public access or recreational opportunities within the reserve and it has been demonstrated that the works will result in less than minor effects on existing ecosystems and water quality values.

We therefore consider the works to be consistent with Objectives OSZ-O1 to O3 and its associated policies.

Based on the above assessment, it is considered the works to be fully consistent with the intent, objectives, and policies of the Porirua City Council Proposed District Plan.

9.7. Other relevant matters 104(1)(c)

There are no other matters, in accordance with Section 104(1)(c) of the RMA, considered to be of relevance to the determination of this application.

10. CONSULTATION

As detailed elsewhere in this report, it is considered that, by virtue of (a) the pre-existing conditions of the application site and the dysfunctional nature of the existing structure; (b) the nature of the proposed development and its consistency with the relevant regional and district policy documents; and (c) the measures proposed to minimise any actual or potential adverse effects of the works, no parties are affected by the proposed activity.

11. PUBLIC NOTIFICATION, LIMITED NOTIFICATION OR NON-NOTIFICATION

The Resource Management Act 1991 details a four-step process that must be followed and triggers or precludes notification of applications in certain circumstances. The sections below follow the four-step process for public notification (under section 95A) and limited notification (under section 95E).

11.1. Public Notification – Section 95A

Pursuant to section 95A of the Resource Management Act, this section follows the four-step process to determine if public notification is required.

Step 1 - Public notification is mandatory in certain circumstances

Public notification is mandatory in certain circumstances:

Has the applicant requested public notification?	No
Is public notification required under s95C?	No
Is the application made jointly with an application to exchange recreation reserve land under s15AA of the Reserves Act?	No

Public notification is not mandatory under step 1.

Step 2 - Public notification is precluded in certain circumstances

If public notification is not required under step 1 it may be precluded in certain circumstances (unless special circumstances apply under step 4):

Are all activities in the application subject to a rule in a Plan or National Environmental Standard precluding public notification?	No
Is the application for one or more of the following (but no other) activities? • A controlled activity • A boundary activity with a restricted discretionary, discretionary or non-complying activity status	No

Public notification is not precluded under step 2.

Step 3 - Public notification is required in certain circumstances

If public notification precluded under step 2, public notification may be required in certain circumstances:

Is any activity in the application subject to a rule in a Plan or National Environmental Standard that requires public notification?	No
Does the activity have, or is likely to have, adverse environmental effects that are more than minor in accordance with s95D?	No (see assessment below)

Considerations pursuant to Section 95D:

Public notification is required under step 3 if the activity will have or is likely to have adverse effects on the environment that are more than minor.

As detailed above and elsewhere in this report, any actual or potential adverse environmental effects of the works have been assessed and will be managed to ensure they are minor.

Therefore, council is not required to notify the application under Section 95D of the RMA.

Step 4 – Public notification is required in special circumstances

If public notification is not required under step 3 public notification may still be warranted where there are special circumstances:

Do special circumstances exist that warrant public notification?	No

Special circumstances have been defined as circumstances that are unusual or exceptional but may be less than extraordinary or unique. This retrospective consent relates to works to repair infrastructure within a wetland within an Open Space Zone. I therefore do not consider there to be any unusual or exceptional circumstances that warrant public notification of the emergency works.

Conclusion

Public notification is not required.

11.2. Limited Notification – Section 95B

As determined in section 10.2 of this report, public notification is not required. Pursuant to section 95B of the Resource Management Act, a four-step process must therefore be followed to determine if limited notification is required.

Step 1 – Certain affected groups/persons must be notified

Limited notification is mandatory for certain groups/persons:

Are there affected customary rights groups?	No
Are there affected customary marine title groups (for accommodated activities)?	No
Is the proposal on or adjacent to, or may affect, land that is subject to a statutory acknowledgement and whether the person to whom the statutory acknowledgement is made affected under section 95E?	No

Limited notification is not required under step 1.

Step 2 – Limited notification is precluded in certain circumstances

Limited notification to any other persons not referenced in step 1 is precluded in certain circumstances (unless special circumstances apply under step 4):

Are all activities in the application subject to a rule in a Plan or National Environmental Standard precluding limited notification?	No
Is the application for a controlled activity (other than a subdivision) under the District Plan but no other activity?	No

Limited notification is not precluded under step 2.

Step 3 – Certain other persons must be notified

If limited notification is not precluded under step 2, limited notification is required for any persons found affected under s95E:

For 'boundary activities' are there any owners of an allotment with an 'infringed boundary' considered 'affected' under s95E?	No (see below assessment)
For all other activities, are there any affected persons in accordance with s95E?	No (see below assessment)

In accordance with s95E are there any affected persons?

Section 95E(3)(a) stipulates that those individuals who give written approval to a proposal cannot be considered to be an "affected party".

As detailed elsewhere in this report, we consider there to be no affected persons as the potential environmental effects will be less than minor due to:

- the consistency of the emergency works with the policy intent of the operative and proposed district planning documents;
- the avoidance of adverse environmental effects that are more than minor;
- the improvement to the receiving environment directly south of this wetland, where the remedial works have mitigated further inundation of these properties;

The emergency works will result in no significant adverse environmental effects and the activity is

of a scale and nature appropriate for the subject site. We therefore consider the application should be processed on a non-notified basis without serving notice on any party.

As such, we consider limited notification of the application under Section 95B of the RMA is not required.

Step 4 – Limited notification is required under special circumstances

If limited notification is not required under step 3, limited notification may still be warranted where there are special circumstances:

Do special circumstances exist that warrant notification of any persons to whom limited notification would otherwise be precluded?	No

Conclusion

Limited notification is not required.

12. CONCLUSION

The emergency works is of a scale and nature that is suitable in the location proposed. The new stormwater structure will provide a more site-specific solution to stormwater than the existing structure and will result in improved outcomes in terms of stormwater management, erosion prevention and flood inundation.

As detailed elsewhere in this report, the emergency works is consistent with all relevant objectives and policies found in the regional and district planning documents and the actual and potential effects of the works can be managed to ensure they will be minor.

Overall, the emergency works activity is consistent with the purpose of the RMA and therefore resource consents can be granted.

APPENDIX 1

RECORD OF TITLE

RECORD OF TITLE
UNDER LAND TRANSFER ACT 2017
FREEHOLD
Limited as to Parcels
Search Copy

R.W. Muir
Registrar-General of Land

Identifier	**702653**
Land Registration District	**Wellington**
Date Issued	03 June 2015

Prior References
WN447/193

Estate	Fee Simple
Area	176.1743 hectares more or less
Legal Description	Section 4 Survey Office Plan 446704
Purpose	Public Reserve

Registered Owners
Her Majesty the Queen

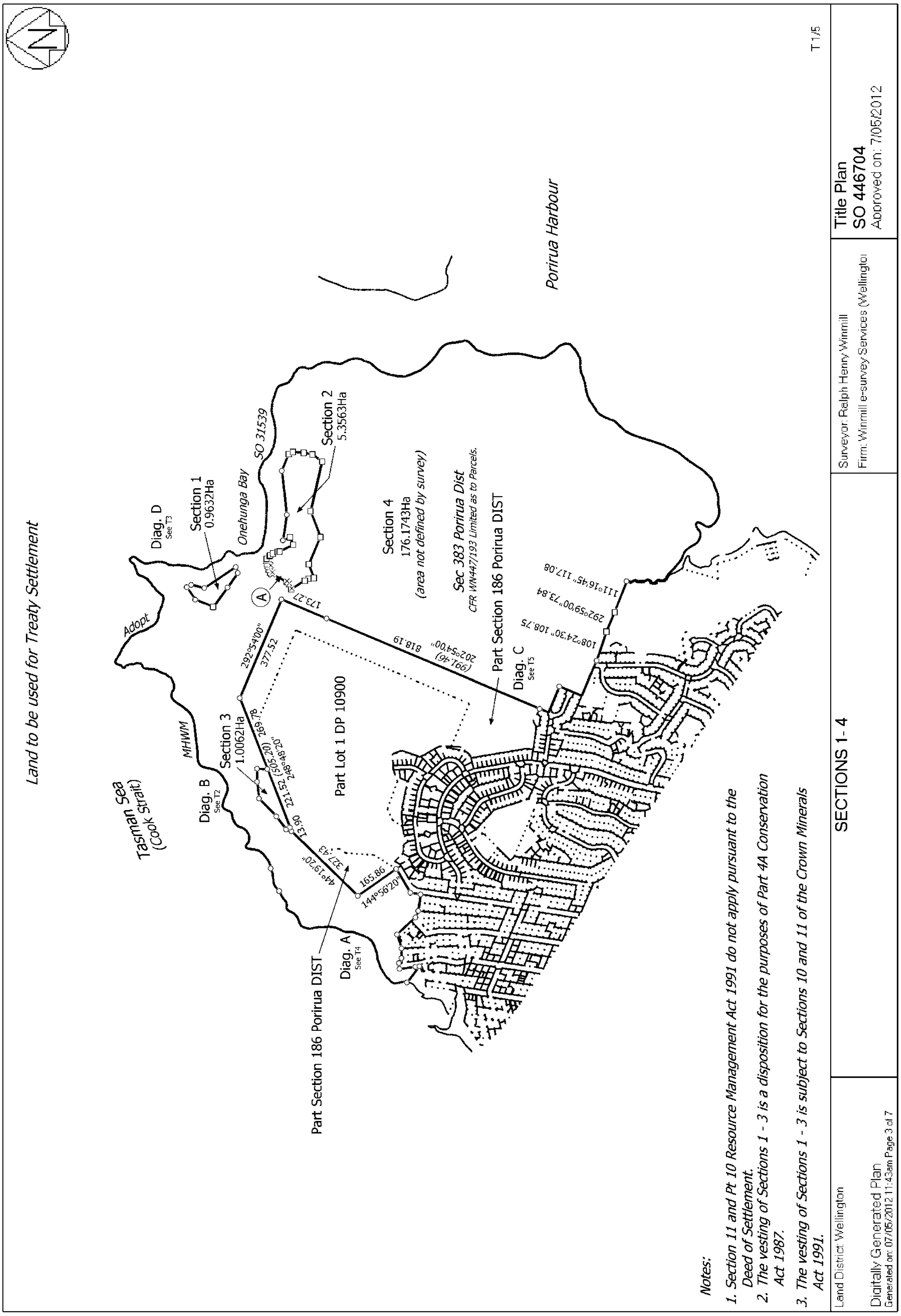
Interests

Subject to the Reserves Act 1977

Appurtenant hereto is a right of way created by Transfer 226931 as from 12th December 1955 - 12.1.1956 at 9:21 am

661346 Compensation Certificate pursuant to Section 17 Public Works Amendment Act 1948 against part formerly Section 186 Porirua District (8600m²) - 22.2.1966 at 1:30 pm

Appurtenant hereto is a right to convey water created by Easement Instrument 10081617.13 - 3.6.2015 at 7:00 am


Land to be used for Treaty Settlement
Tasman Sea
(Cook Strait)
MHWM
Adopt
Porirua Harbour
Onehunga Bay
SO 31539
Diag. D
See T3
Section 1
0.9632Ha
Section 2
5.3563Ha
Diag. B
See T2
Section 3
1.0062Ha
Section 4
176.1743Ha
(area not defined by survey)
Sec 383 Porirua Dist
CFR WN447/193 Limited as to Parcels.
Part Section 186 Porirua DIST
Part Lot 1 DP 10900
Diag. C
See T5
Diag. A
See T4
Part Section 186 Porirua DIST
292°54'00"
377.52
173.27
818.19
202°54'00"
(991.46)
269.78
(505.20)
248°48'20"
221.52
13.90
44°19'20"
327.43
165.86
144°56'20"
108°24'30" 108.75
292°59'00" 73.84
111°16'45" 117.08
T1/5
Notes:
1. Section 11 and Pt 10 Resource Management Act 1991 do not apply pursuant to the Deed of Settlement.
2. The vesting of Sections 1 - 3 is a disposition for the purposes of Part 4A Conservation Act 1987.
3. The vesting of Sections 1 - 3 is subject to Sections 10 and 11 of the Crown Minerals Act 1991.
Land District: Wellington
Digitally Generated Plan
Generated on: 07/05/2012 11:43am Page 3 of 7
SECTIONS 1 - 4
Surveyor: Ralph Henry Winmill
Firm: Winmill e-survey Services (Wellington
Title Plan
SO 446704
Approved on: 7/05/2012

APPENDIX 2

NOTIFICATION OF EMERGENCY WORKS

WELLINGTON WATER

Wellington Water

Notification of Emergency Works

(RMA s330A (1) and s330B (2))

Our water, our future.

Notification – RMA s330 Emergency Works

1. Wellington Water Authorised Status

Wellington Water (WWL) has delegated authority to determine when it is appropriate to use RMA s330 emergency powers to protect the environment, people, and property.

Attachment A: Authority Summary

2. Description of Emergency Event

Description of Adverse Effect on the Environment or Failure that is likely to cause injury to people / damage to property.

- Porirua City Councils stormwater inlet structure collapsed and buried adjacent to 45A Thornley Street.
  Wellington Water operations engaged a contractor to install an overflow (scruffy dome) on the existing pipe, installed a wing wall on the stormwater inlet structure that had collapsed and was buried. A like for like structure was replaced and no upgrading works was undertaken

  The property at 45A Thornley Street, located immediately south of this stormwater structure has been susceptible to severe flooding, the flooding event in February is suspected to further damage and block the stormwater inlet structure. If emergency works were not undertaken failure and flooding in minor rainfall events with damage to property and people within the habitual living floors was likely. Assessing against the risk matrix the consequence has been assessed as moderate with likelihood as likely.

Attachment B: Photos

3. Site Location

Description of location.

- The inlet structure is located at Whiteria Park Reserve ajacent to the boundary of 45A Thornley Street, Titahi Bay, Porirua City.

Attachment C: Site Location Map

- Environment Assessment

  Under the various operative and proposed statutory documents, the site is identified as being subject to a number of constraints, including:Seismic Hazard

- Landscape Protection Area
- Significant Natural Area
- Outstanding Natural Features and Landscape Area
- Flood Hazard and overland flowpath

4. Proposed Emergency Works

Immediate Preventative or Remedial Action.

Wellington Water operations engaged a contractor to install an overflow (scruffy dome) on the existing pipe, installed a wing wall on the stormwater inlet structure that had collapsed and was buried. A like for like structure was replaced and no upgrading works was undertaken the minimum preventative and remedial work required to mitigate the risk to people and property.

The area affected is approximately 8m2, the structure is a stormwater inlet structure.

Attachment D: Design Sketch

5. Construction Methodology

Step by step description of set-up, works and remediation.

- Remove fence between 45A Thornley Street and Whiteria Park to obtain access to inlet structure.
- Complete ecology and environmental controls around inlet structure.
- Hand remove any native or other vegetation around inlet structure
- Excavate around buried inlet structure, assessing damage and suitability of wingwall attachment
- Repair or replace section of pipe to attach precast wingwall
- Cut hole ontop of existing pipe
- Bolt Scruffy dome ontop of existing pipe

Attachment E: Standard Sediment / Stream Diversion / Fish Passage / Contaminants or toxicants / Refuelling Mitigation Measures

6. Options Considered

Construct embankment

- A 2 – 3 m high embankment would create a storage area upstream that could potentially provide capacity for events greater than a 10-year return period flood. This option could only be considered as planned for future consented works.

Catchment Wide Capacity Upgrade

- An upgrade of the pipe and open channel network all the way down to the coast could be considered as part of the investigations currently being undertaken by Wellington Water.

7. Assessment to proceed with preferred solution

- The preferred works ensure the existing Stormwater system is operating, with the pipe blocked and collapsed the network is not operating as intended.

The works will allow the stream/wetland to discharge in a rainfall event up to a 1/10 year event as designed preventing damage to property and people.

8. Monitoring

- The works undertaken will took 3 working days to complete, split across a working week (once the damage to the pipe was assessed, a wingwall was ordered and required to be delivered)
- An ecology assessment of the emergency work was completed post works.

9. Timeline

- The emergency work was completed between 31st March and 5th April 2022
- The work was completed during fine weather

10. Retroactive Consent Assessment

- The works will be included in a retrospective resource consent as part of a consent application for improvements.

11. Additional Information

- Retrospective planning advice provided by Landmatters.

Attachment F: Additional Information

12. Contact Details

Please contact us should you have any questions about the project.

Name: [redacted]
Position: Customer Planning Engineer
Phone: [redacted]
Email: [redacted]@wellingtonwater.co.nz

Attachment A – Authorised Status

WWL is the network utility operator for the Wellington City Council, Hutt City Council, Upper Hutt City Council, Porirua City Council, South Wairarapa District Council and Greater Wellington Regional Council. WWL has the delegated authority as the 'person' authorised to determine whether the use of RMA s330 emergency powers are appropriate within the council jurisdiction's.

The use of RMA s 330 emergency provisions may be applied where WWL is of the opinion that any matter over which it has jurisdiction is affected or likely to be affected by either:

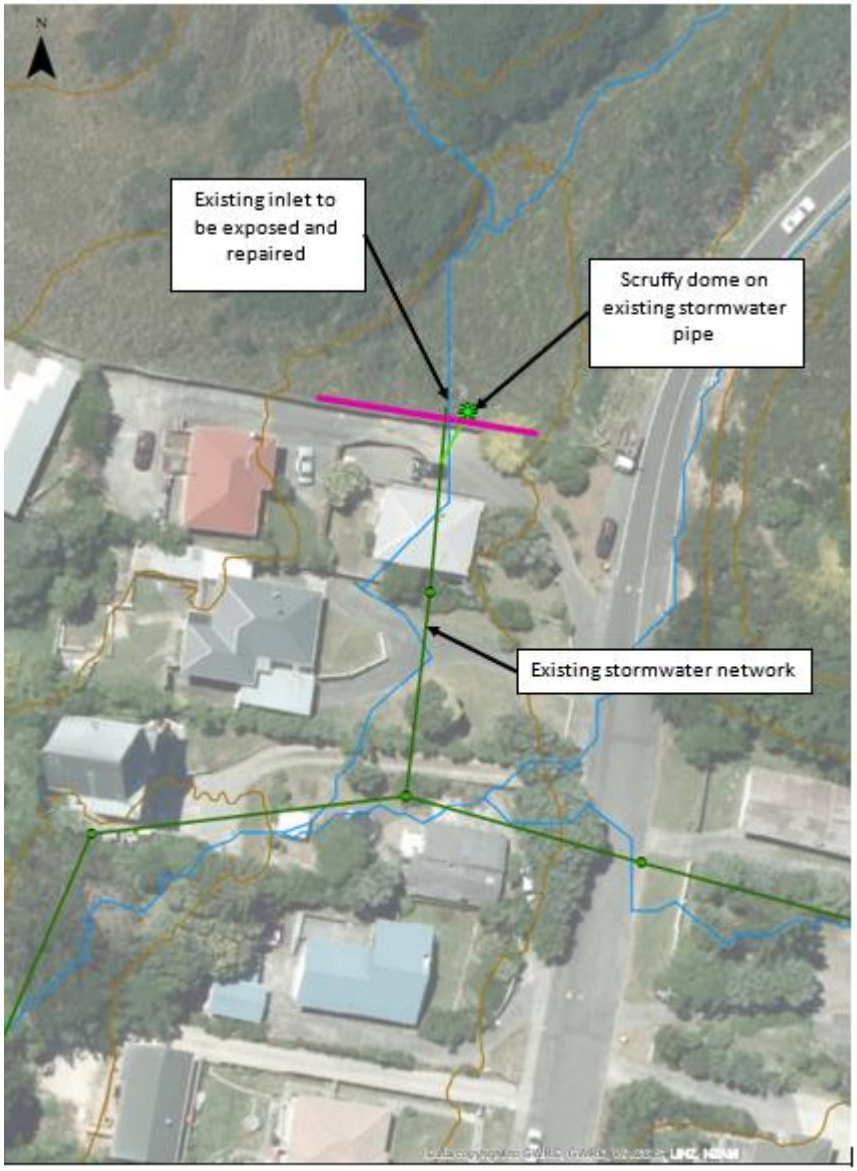
- an adverse effect on the environment which requires immediate preventative or remedial measures
- any sudden event causing or likely to cause loss of life, injury, or serious damage to property.

Note: part (1A) permits the use of the emergency works powers provided by s330 whether or not the adverse effect or sudden event was foreseeable.

Attachment B – Site Photos

Attachment C – Site Location

Attachment D: Design Sketch



Attachment E: Standard Mitigation Measures

https://www.gw.govt.nz/assets/Documents/2006/06/Small-sites-guidelines1.pdf

Attachment F: Additional Information

Attached retrospective planning advise received by Land Matters (Resource Planner)

APPENDIX 3

ECOLOGICAL ASSESSMENT

BOFFA MISKELL

Boffa Miskell

Memorandum

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☐ **Dunedin**
PO Box 657, 9054
+64 3 470 0460

Attention:	[redacted]
Company:	Landmatters
Date:	18/05/2022
From:	[redacted]
Message Ref:	SNA 223 culvert work ecological assessment – Phase 1
Project No:	BM220360

Introduction

Significant Natural Area (SNA) 223, or 'Transmitter Street Wetland', as recognised in the Porirua Proposed District Plan (Porirua City Council, 2020), is located in Whitireia Regional Park, Porirua. It is a wetland gully system terminating in a culvert, which directs water under the neighbouring residential area of Titahi Bay.

Wellington Water identified that this culvert inlet structure was damaged and not receiving water following a rainfall event in February 2022 which caused localised flooding. A contractor was consequently engaged to install a scruffy dome on top of the existing culvert and install a wing wall at the inlet to replace the damaged one. These works involved earthworks and removal of vegetation within SNA 223 using a small excavator. See Image 1 for the gully and works location.

Image 1: SNA233 as shown in the Porirua City ePlan (excluding large teal corner) with yellow indicating the approximate culvert and works location.

As part of Phase 1, Boffa Miskell Ltd. was engaged by Landmatters Ltd. to provide an ecological values assessment of this SNA following the works undertaken at the culvert. As well, to provide comment on whether the wetland SNA feature is likely present as a result of the culvert, or not. Phase 2 will be to address the potential adverse effects upon the SNA as a result of further culvert works, to be completed when proposed culvert works information is supplied.

SNA 223 has been previously described in the Proposed Porirua Plan as:

> *"A small area of wetland, which is a rare ecosystem type in the Wellington region. This site includes indigenous vegetation on an Acutely Threatened land environment and a regionally uncommon species."*

More detail of the SNA 223 species is provided in a submitter/further submitter context by Porirua City Council in a hearing for the Proposed District Plan (*Council Reply on Ecosystems and Indigenous Biodiversity - Hearing Stream 2 -* [redacted] *on Behalf of Porirua City Council*, 2021). Based on review of this right of reply, the PCC representative indicates that the regionally significant species present is *Aciphylla squarrosa*. The entire site summary is described in this submission as:

> *'This wetland comprises patches of* Carex geminata *with occasional* Cyperus ustulatus, Carex virgata, Juncus sarophorus, Lotus pedunculatus, Aciphylla squarrosa, Parablechnum novae-zealandiae *and rank grasses, with* Coprosma propinqua *and tauhinu along the margins*.

A site visit undertaken by a BML ecologist on 26 April 2022 involved observation of the culvert structure and walking over the gully to identify species and understand the wider gully system. It is noted that the gully had not been visited by the ecologist prior to the works occurring, and so the condition of the wetland or presence of species in the area prior to works is unknown.

Site description

The gully itself is approximately 350 m long and is surrounded by retired pasture with some early regeneration species such as gorse and tauhinu (Image 3). The regenerating vegetation is most dense along the riparian edge of the lowest 150m, which consists mostly of gorse, tauhinu, pampas, cherry, *Coprosma propinqua,* mahoe, *Coprosma repens*, and Muehlenbeckia vine, all standing between 1-2m in height. The gully base remains relatively flat along the first ~100m, and then the gully gradually begins to steepen and narrow as it winds upwards. Within the gully, there are swathes of *Carex geminata*, broken up by large areas of pasture such as creeping buttercup (*Ranunculus repens*), tall fescue (*Lolium arundinaceum*), Lotus (*Lotus pedunculatus)* and Yorkshire fog (*Holcus lanatus*), with high amounts of isolepis (*Isolepis prolifera*) and *Eleocharis actua* spread throughout (Image 2). Occasional *Juncus* species (namely *Juncus effuses* and *J. sarophorus*) are present throughout, though excluded from *Carex* swathes. Patches of *Parablechnum novae-zealandiae* and gorse encroach into the gully at points, generally coinciding with firmer ground compared to the soft, squidgy substrate of the lower portion. There are narrow, deep channels throughout the gully, sometimes in excess of 1m deep where small trickles of running water can be heard through dense swathes of vegetation. Occasionally, *Carex virgata, Cyperus ustulatus* and *Phormium tenax* are present. The head of the gully contains homogenous swathes of *Carex geminata* which continue down the gully, broken occasionally by pasture, pasture with wetland herbs, and gorse (image 4).

Image 2: Looking northward from the bottom of the gully in a Carex and pasture area.

Image 3: The gully as seen from the top eastern side. The culvert is located at the house indicated by yellow arrow.

Image 4: The head of the gully showing retired pasture surrounds and the first swathe of Carex geminata

At the base of the gully, there was an area of coconut matting approximately 4 m x 8 m, assumed to be covering the area of earthworks or accompanying excavator tracks associated with the culvert works. The scruffy dome was in the centre of this coconut matting area, and the culvert had a protective grate at the inlet (Image 5). A small pool of water approximately 1 x 2 m had established at the culvert inlet. The inlet appeared to sit lower than the ground level, as some muds had been dug away to access the culvert. As a result, the existing vegetation at the upper margin of the works sat at approximately 70cm higher than the culvert inlet and had water draining from the exposed substrate. This trickle of water contributed to the shallow pool at the inlet of the culvert, which drained into the culvert in a flow about 8 cm wide and 1 cm deep (Image 6).

Image 5: The coconut matting covering the work space and the resulting repaired culvert

Image 6: The culvert inlet showing a pool (shaded) and carex overhanging the exposed dug out substrate

Online data resources

Online data resources were accessed for further information.

- LINZ Land Cover Information Database (Ministry for the Environment, n.d.) shows the previous predicted land cover as rimu-matai-broadleaf forest.
- No wetlands are indicated historically on the peninsular
- iNaturalist showed many September 2018 records throughout SNA223 of common wetland and pasture associated species also seen during this survey, as well as *Aciphylla squarrosa*, which was not seen during the survey.
- The national Freshwater Fish Database (NIWA, n.d.) was accessed, and no records of freshwater fish species have been recorded.

Assigning ecological value

The Environment Institute of Australia and New Zealand (EIANZ) Ecological Impact Assessment guidelines (Roper-Lindsay et al., 2018) are used to aid in prescribing ecological value to SNA 223 in this report. The EIANZ uses criteria (matters) and attributes which are used to assess value (Table 1). The site has been subsequently analysed using these criteria to aid in assessing ecological value and are assessed against these matters below. The resulting ecological value is arrived at by combining the ratings from the four matters below, and is assessed on a scale of Very High, High, Moderate, Low, and Negligible.

Table 1 and Table 2 below outline the attributes which were used for assigning ecological value to the area.

Table 1. Attributes to consider when assigning ecological value or importance to a site or area of vegetation/habitat/community (Roper-Lindsay et al., 2018).

Matter:	Attributes to be Considered:
Representativeness	Criteria for representative vegetation and habitats: • Typical structure and composition • Indigenous species dominate

Matter:	Attributes to be Considered:
	• Expected species and tiers are present • Thresholds may need to be lowered where all examples of a type are strongly modified Criteria for representative species and species assemblages: • Species assemblages that are typical of the habitat • Indigenous species that occur in most of the guilds expected for the habitat type
Rarity/Distinctiveness	Criteria for rare/distinctive vegetation and habitats: • Naturally uncommon, or induced scarcity • Amount of habitat or vegetation remaining • Distinctive ecological features • National priority for protection Criteria for rare/distinctive species or species assemblages: • Habitat supporting nationally Threatened or At Risk species, or locally uncommon species • Regional or national distribution limits of species or communities • Unusual species or assemblages • Endemism
Diversity and Pattern	• Level of natural diversity, abundance and distribution • Biodiversity reflecting underlying diversity • Biogeographical considerations – pattern, complexity • Temporal considerations, considerations of lifecycles, daily or seasonal cycles of habitat availability and utilisation
Ecological Context	• Site history, and local environmental conditions which have influenced the development of habitats and communities • The essential characteristics that determine an ecosystem's integrity, form, functioning, and resilience (from "intrinsic value" as defined in RMA) • Size, shape and buffering • Condition and sensitivity to change • Contribution of the site to ecological networks, linkages, pathways and the protection and exchange of genetic material • Species role in ecosystem functioning – high level, key species identification, habitat as proxy

Table 2. Scoring for sites or areas combining values for the four matters in Table 1 (Roper-Lindsay et al., 2018).

Matter:	Attributes to be Considered:
Very High	• Area rates High for 3 or all of the four assessment matters listed in Table 2. • Likely to be nationally important and recognised as such.
High	• Area rates High for 2 of the assessment matters, Moderate and Low for the remainder, or • Area rates High for 1 of the assessment maters, Moderate for the remainder. • Likely to be regionally important and recognised as such.
Moderate	• Area rates High for one matter, Moderate and Low for the remainder, or • Area rates Moderate for 2 or more assessment matters Low or Very Low for the remainder • Likely to be important at the level of the Ecological District.
Low	• Area rates Low or Very Low for majority of assessment matters and Moderate for one. • Limited ecological value other than as local habitat for tolerant native species.
Negligible	• Area rates Very Low for 3 matters and Moderate, Low or Very Low for remainder

Representativeness

The gully is a mix of exotic and native vegetation coverage. The species (both exotic and native) seen during the survey are common and typical of modified gully systems found over much of the Wellington Region

today, and while it represents a common situation it is not representative of a natural unmodified indigenous species assemblage related to the physical habitat present. Importantly, the historic vegetation expected was forest. There is a large presence of exotic grasses and weeds, which has restricted the native species assemblages, and as a result there are gaps in the indigenous species expected in all the guilds for this habitat type. Due to the modifications of the area, the species found here are not entirely fitting of what would be expected. Representativeness is valued Low.

Rarity

Indigenous wetlands are uncommon and threatened habitat type nationwide, and in the Wellington Region (due to induced scarcity). Less than 10% of historic wetland cover remains in New Zealand today and 3% in the Wellington Region. No Threatened, At Risk, or locally uncommon species, were identified at the time of survey, however there is record of locally uncommon *Aciphylla squarossa* present in the SNA in 2018. It is likely this species does not rely on the wetland (it is not a wetland species), rather it will be associated with the gully banks (and not at all affected by the works). Both native and exotic species are present, forming common assemblages often seen in comparable sites. Rarity is valued conservatively as Moderate.

Diversity and Pattern

Species diversity is low overall, many potential species which could occupy the wetland area are excluded by the presence of exotic grasses. The monoculture of *C. geminata* present is a native species which would be unlikely to support further native species in its midst, and so a high diversity of native plants in these swathes would not necessarily be expected. The gully is long and represents a gradient from steep, winding down to flat and wide with areas of higher water availability and so a pattern of environmental gradients does exist. The coverage of exotic grass and pasture species throughout most of the gully and vegetation communities does greatly reduce the potential diversity. Local steep-sided gullies in pasture are typified by these narrow, topographically defined gully wet areas as a result of farming practises (e.g. lack of fencing, removal of native forest riparian, altered drainage, etc). This is supported here, where the localised habitat is modified and partially challenged by weed species as a result of compromised riparian margins. There are no direct linkages to other ecological areas. Diversity and Pattern is valued Low

Ecological context

The ecological context in which the wetland is situated does not allow it to perform full ecological services of a wetland, due to modification to the wetland itself, and downstream fish barriers (several hundred metres of culverting). The wetland does provide filtering prior to culvert entry, but of a relatively clean surface water runoff and this buffering is of little value to the wider downslope landscape. The wetland appears to be functional in terms of capturing sediment from further upstream but again does not protect downstream systems from that sediment. The production of seed from *C. geminata* may provide a seed source for other wetlands in the area, and over time may develop further diversity and linkages to riparian and other habitats as the pasture regenerates. As it currently stands, it is an unlinked piece of habitat. Ecological context is rated Low.

Outcome

The SNA is considered to have Low ecological value (Table 3). Though it is arguably a rare habitat type and supports some indigenous species, it is not representative of the historic state of the area or of a natural indigenous narrow gully wetland. Its function within the context of the landscape currently provides little ecological benefit, and the presence of downstream culverting detracts from the value, as does a lack of riparian indigenous species, and the high cover of exotic species.

Table 3: Summary of ecological values of the assessed wetland.

Matter	Representativeness	Rarity/distinctiveness	Diversity and pattern	Ecological context	**Overall ecological value**
Rating	Low	Moderate	Low	Low	**Low**