

Applicant:	Marist Holdings (Greenmeadows) Limited
Consent Number:	DP180163L
Consent Type:	Diversion and discharge of stormwater to land and water
Activity Type:	Controlled (assessed under Rule 43 of the Regional Resource Management Plan 2006 (RRMP))
Property Address:	190 – 198 Church Road, Napier

1. Details of Proposal

The applicant has applied for a new consent to divert and discharge stormwater from a proposed residential zone, to detention ponds located predominantly within the Turirau Stream catchment. The Turirau Stream is a tributary of the Tutaekuri River.

The proposed development area is located on the western hills behind Greenmeadows, Napier. The 288.6 ha property is currently used for farming, forestry, viticulture and winemaking.

The applicant¹ has explained that the area is currently a mixture of zoning under the operative the Napier District Plan, including Western Hills Residential Zone (70 ha), Rural Residential Zone (196 ha) and the Main Rural Zone (22.6 ha).

The applicant has applied to Napier City Council (NCC) for a plan change to allow the area to become the "Mission Special Character Zone (MSCZ)". NCC have adopted this plan change as Plan Change 12. This plan change was notified on 7 February 2018. The proposed residential development would cover 246 ha of the 288.6 ha property. The structure plan for the property (Figure 3) indicates several precincts, including a large residential precinct, two rural residential precincts, a landscape and visitor precinct and a productive rural precinct adjacent to Church Road. The existing winery buildings are located in the Productive Rural Precinct. The existing restaurant is located in the Landscape and Visitor Precinct.

There are no existing HBRC resource consents for the site.

The application is supported with a technical assessment by Tonkin and Taylor². This assessment analyses the changes in stormwater runoff from six sub-catchments – three of which are located on the westwards draining side of the property (C1, C2 and C3, totalling 194 ha) and the remaining three on the eastern side, draining towards the Taipo Stream (C4, C5 and C6; 51 ha) (Figure 2). Approximately 570 residential properties are expected to be created within the zone.

¹ Mitchell Daysh (2018). 'Mission Special Character Zone – Stormwater Diversion and Discharge Resource Consent Application'. 3 April 2018.

² Tonkin and Taylor (2018). 'Stormwater Runoff Assessment – Mission Special Character Zone'. April 2018.

The proposed consent is for the residential precincts, and the existing commercial facilities are not included within the catchment areas that are the subject of the T&T assessment. The application and assessment of environmental effects (AEE) has been reviewed by Gary Clode (Council Engineering Manager).

The location of the proposal is shown in Figure 1.



Figure 1: Site location

2. Activity Classification

The applicant originally applied for a certificate of compliance (CC170062W). The Council did not accept that the proposal met the relevant permitted activity Rule (Rule 42) because there was uncertainty over the stormwater effects on downstream properties. The additional stormwater

modelling now undertaken has lessened this uncertainty and indicates that the proposal could avoid any “reduction in the ability of the receiving channel to convey flood flows” as required by the rule. However given the inherent uncertainties involved in modelling, and the ambiguity of the permitted activity rule, a resource consent is considered necessary.

Rule 43 of the Regional Resource Management Plan (RRMP) is therefore the relevant rule for the proposed diversion and discharge of stormwater. Rule 43 classifies this activity as a controlled activity, and the matters over which the Council has maintained control are as follows:

- a) *Location of the point of diversion and discharge including its catchment area*
- b) *Volume, rate, timing and duration of the discharge, in relation to a specified design rainfall event.*
- c) *Effects of the activity on downstream flooding*
- d) *Contingency measures in the event of pipe capacity exceedence*
- e) *Actual or likely adverse effects on fisheries, wildlife, habitat or amenity values of any surface water body*
- f) *Actual or likely adverse effect on the potability of any ground water*
- g) *Duration of consent*
- h) *A compliance monitoring programme*
- i) *A bond*
- j) *Administrative charges*

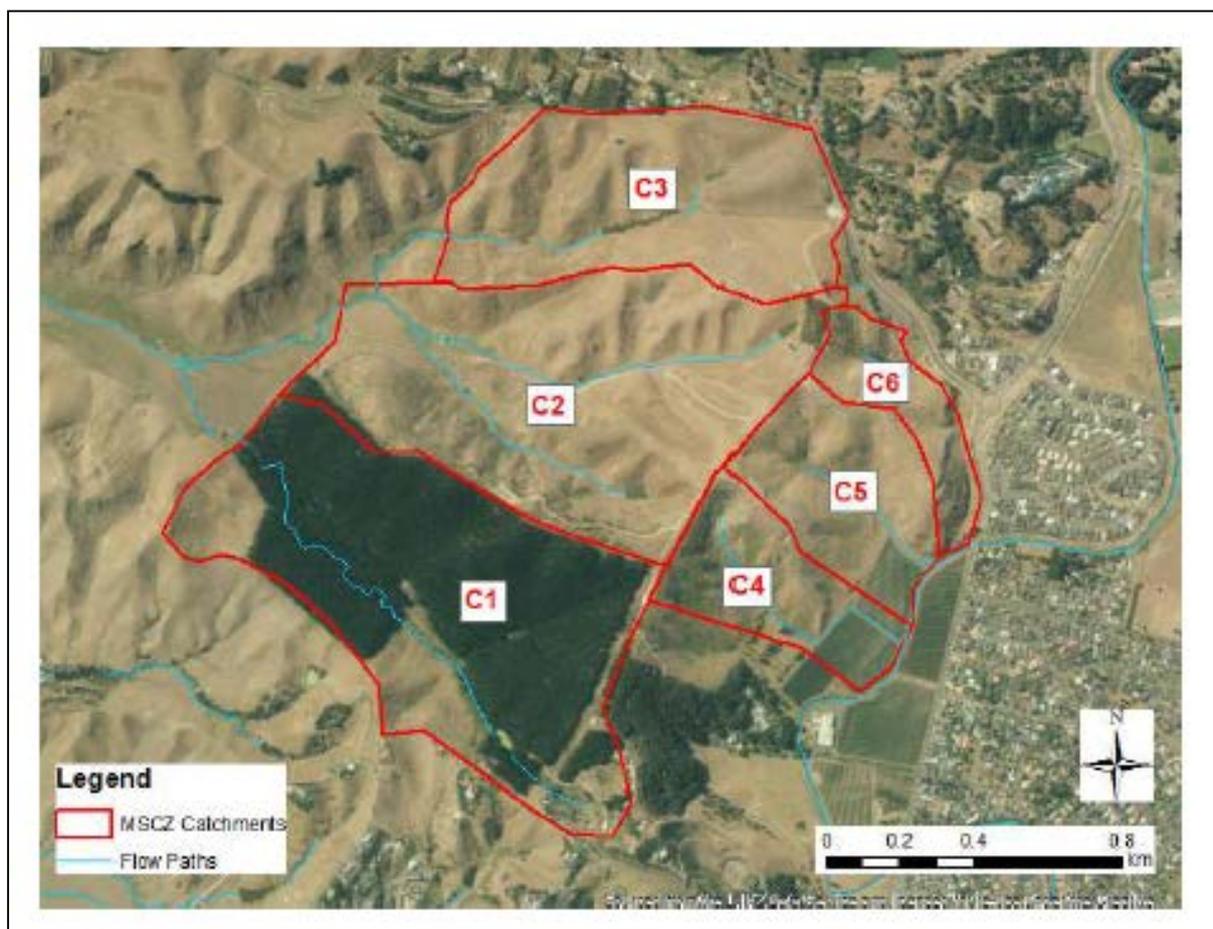


Figure 2. Stormwater Sub-catchments

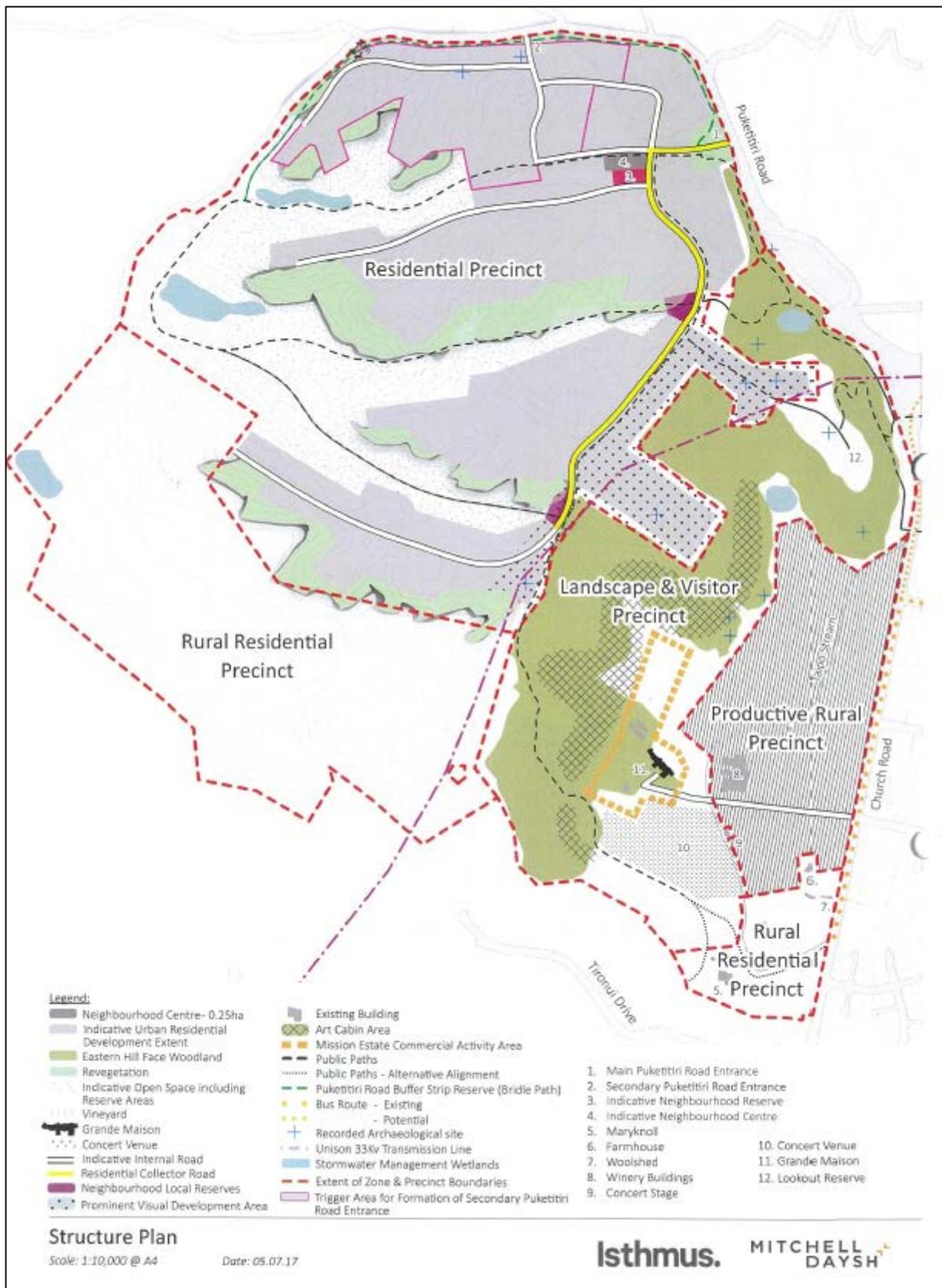


Figure 2. Structure Plan

3. The proposal

The proposed discharge of stormwater from the western side of the site involves the following:

- Meeting the following stormwater performance objectives (T&T, page 1):
 - o Post development peak discharge should not exceed the 48 hour pre-development peak discharge for storm events with average recurrence of 2 years, 10 years and 50 years.
 - o Attenuate and treat stormwater runoff from the water quality storm (30 mm) over a 24 hour period. 50% of the water quality volume will be allocated to pond storage. This is expected to achieve removal of 75% of total suspended solids. These ponds could be developed into wetlands to further improve treatment.
 - o Erosion control design criteria is to store 1.2 times the water quality volume which will be provided as live pond storage.
- Design and construction of a series of stormwater management ponds which will capture runoff from each of the gullies, attenuate peak flows and reduce the volume of runoff at critical times, delaying the hydraulic response downstream.
- An earth embankment will be used to form each attenuation pond. The gullies are described as containing ephemeral streams, some of which are currently un-channelised. The final design of the proposed stormwater ponds has not yet been undertaken. Additional consent will also be required where the dam to form the attenuation pond will be in a catchment exceeding 50 ha.
- Stormwater management is likely to comprise conventional curb and channel collection, piped to the base of the gully so as to flow into each pond. All ponds will have a sediment fore bay, a permanently stored volume (that may dry out in extended dry periods) and a broad crest weir spillway. The ponds will be designed so that the extended detention volume is released gradually over 24 hours through a small diameter orifice. Flood discharges exceeding the extended detention storage volume will be released through an overflow. An emergency overflow will also be incorporated to cover larger storm events and to allow for a secondary flow path in the event of a blockage.

Plans and initial pond design calculations indicate that four ponds will be constructed, one in each of catchments C1 and C2, and two in C3. The ponds will likely have a total storage volume of between approximately 7,400 m³ and 28,520 m³.

Stormwater flows from the eastern sub-catchments will be reduced as a result of the proposed planting on these catchments. Stormwater discharged to the eastern catchments will need to be spread using a level spreader and will be discharged via gross pollutant traps and coarse filtration.

The proposal will increase the impervious area of the catchment, and this can change the rate at which stormwater will runoff. If not mitigated, this can exacerbate downstream flooding effects and cause erosion. T&T state that the proposed development will increase impervious area in the catchment by 43 ha for land draining to the west, and by 3.4 ha for land draining to the east.

It is noted that the land to the west of the site already experiences flooding, and the landowner here uses a flood pump to remove floodwater. The land owner could be adversely affected by activities upstream that exacerbate this existing issue. T&T note that irrespective of the mitigation proposed for the MSCZ, the land to the west will continue to be flood prone.

4. Actual and Potential Effects (S104)

Only the matters that are within the matters of control can be considered. These generally relate to water quantity effects (e.g. flooding) and water quality effects. These are discussed below:

Water quantity

The assessment undertaken by Tonkin and Taylor concluded that the creation of planted areas on the eastern draining areas was sufficient to reduce peak flow and runoff volumes. The property notes that if the amount of planting on the eastern side is reduced from that expected to occur, then further analysis would be required to assess the need for additional mitigation measures.

The T&T report concluded, with respect to the western draining areas, that the proposed mitigation (ponds) ensures that the peak post development flows are less than the predevelopment flows in each individual catchment for a range of ARI (from 2 years to 100 years). The assessment indicates a reduction in peak discharge of between 6% and 77% for all event scenarios as a result of the proposed mitigation.

The Council's Engineers met with T&T prior to them undertaking the work and agreed on the modelling approach and design parameters. The conclusions from the assessment are therefore considered reasonable and are accepted, provided the mitigation is designed, constructed and maintained as proposed. Consent condition (discussed below) are recommended to ensure that this occurs.

Water quality

The proposed stormwater ponds will be designed to achieve water quality outcomes for the water quality storm (30 mm). The applicant estimates that the stormwater management ponds will reduce suspended solids by 75%.

Stormwater will be generated from a residential area, and high contaminant loads are not expected. The proposed ponds may be able to be modified to include wetland elements, which could further improve their ability to provide stormwater treatment.

Given the nature of the area generating stormwater, the provision of stormwater management ponds, and the nature of the receiving gullies, which largely consist of grassed ephemeral stream beds, the discharge is not likely to cause any significant water quality effects downstream.

Recommended Consent Conditions

Conditions of consent are recommended that will ensure the stormwater ponds are designed, constructed and maintained to ensure they function as intended. Some key recommended conditions include requirements for:

- Provision of pre-construction design plans for certification, and to provide as built plans.
- Ensuring that the design plans achieve the design parameters and outcomes set out in the T&T report, and in the conditions of consent. Conditions also require the consent holder to consider and implement wetland treatment options where these are practicable.
- Monitoring of stormwater quality. This will enable any changes in quality over time to be identified, and for the contribution of contaminants from the site to be evaluated.
- Development and implementation of a construction plan to ensure that adequate stormwater controls are in place during construction.
- Development and implementation of a maintenance and management plan.

Overall, with the recommended consent conditions, the adverse effects of the proposal appear to be less than minor.

5. Notification

It is considered that there are no adversely affected persons and the adverse effects of the activity on the environment will be no more than minor, therefore this application can be processed on a non-notified basis.

As a controlled activity, public notification is precluded in any case. No special circumstances have been identified that warrant the application being publicly notified.

The effects on downstream land has been specifically considered, and the evidence provided suggests that these parties will not be adversely affected because of the mitigation to be provided.

Section 95(D) and 95(E) (and s104(2)) recognise that the consent authority may disregard an adverse effects of an activity if a rule permits an activity with that effect. The proposed discharge does not drain industrial or trade premises, and, based on the modelling of the efficacy of the mitigation proposed, is unlikely to cause a reduction in the ability of the receiving channel to convey flood flows, because peak outflows will be stored in the ponds and released over a longer duration than would otherwise be the case.

6. Statutory Considerations

6.1 Section 104

Section 104 of the Resource Management Act 1991 (the RMA) sets out the matters to be considered when assessing a consent application.

Section 104(c) allows for consideration of other relevant matters. It is relevant to consider the hapu management plan for the Tutaekuri Awa³, as the Tarurau Stream is a tributary of the Tutaekuri River. It is noted that iwi/hapu management plans must be taken into account when preparing or changing regional plans, and that this plan will need to be specifically taken into account as part of the TANK plan change for changes relating to the Tutaekuri Awa.

The Ngā Hapū o Tūtaekurī plan was lodged with the Council on 29 June 2015. The plan sets out the values, key concerns and desired resource management approach of the hapū. Key concerns relating to the water quality of the Tutaekuri Awa, include the effects of residential and industrial developments, and the potential sediment loss to the river from these developments. The hapū aspire to ensure that water quality and mauri in the awa is enhanced over time.

6.2 National Environmental Standards 2007

Regulations 7, 8 of the regulations (Resource Management - National Environmental Standards for Sources of Human Drinking Water Regulations 2007) relates to resource consents for water or discharge permits upstream of drinking water abstraction points, which supplies no fewer than 501 people with drinking water, for not less than 60 days each calendar year. These regulations do not allow the granting of a discharge permit if it would adversely affect this drinking water supply. Regulation 12 relates to discharge permits that may affect drinking water supplies supplying water to more than 25 people for not less than 60 days per year. This regulation requires the inclusion of certain specified conditions on discharge permits that may affect these supplies.

There are no registered drinking water supplies downstream of the site to the west. To the east, there is a Napier City Council water supply bore (T4 Bore) located approximately 2.1 km away.

The proposed activity is unlikely to increase the concentration of any of the determinands at any registered drinking water abstraction point. Nor is it likely to introduce, or increase, the concentration of any aesthetic determinands in the drinking water to levels exceeding the drinking water guideline

³ Hawaikirangi, H., Hawaikirangi, T.K., & Ormsby, C. 2014. Tutaekuri Awa Management and Enhancement Plan. Prepared by: Nga Hapu o Tutaekuri.

values. Therefore, this resource consent can be granted, in accordance with sections 7, 8 of the Regulations.

Given the distance to, and nature of the nearest registered water supplies, a condition of consent is also not recommended in accordance with Regulation 12.

6.3 Section 105

Section 105(1) of the RMA states that where an application is for a discharge permit, to do some thing that would otherwise contravene sections 15 or 15B of the RMA, the Consent Authority shall have regard to:

- (a) the nature of the discharge, the sensitivity of the receiving environment, and the applicant's reasons for making the proposed choice; and
- (b) any possible alternative methods of discharge including discharge into any other receiving environment.

The discharge will consist of stormwater from a residential zone, and associated stormwater from roads and the applicant has proposed sufficient stormwater treatment and management to mitigate any adverse effects.

The receiving environment is the Tarurau Stream to the west, and the Taipo Stream to the east. Both can be considered sensitive, and effects on the water quality of these stream should be avoided as far as practicable. It is considered that the applicant's proposal provides a suitable means of managing the effects of this development, and provides integrated infrastructure for the area.

6.4 Section 107

Section 107 of the RMA states that:

“Consent authorities must not grant a discharge consent or coastal permit for the discharge, of either water or contaminants, into water, which after reasonable mixing are likely to give rise to the following effects in the receiving waters:

- (a) *the production of any conspicuous oil or grease films, scums or foams, or floatable or suspended materials*
- (b) *any conspicuous change in the colour or visual clarity*
- (c) *any emission of objectionable odour*
- (d) *the rendering of fresh water unsuitable for consumption by farm animals*
- (e) *any significant adverse effects on aquatic life*

unless there are exceptional circumstances which justify the effects or if the discharge is of a temporary nature, or if the discharge is associated with necessary maintenance work”.

With the recommended conditions of consent, the proposed discharge is considered unlikely to result in any of these effects.

6.5 National Policy Statement – Freshwater Management

The Freshwater NPS sets out two water quality objectives as follows:

Objective A1 To safeguard the life-supporting capacity, ecosystem processes and indigenous species including their associated ecosystems of fresh water, in sustainably managing the use and development of land, and of discharges of contaminants.

Objective A2 The overall quality of fresh water within a region is maintained or improved while:
a) protecting the quality of outstanding freshwater bodies
b) protecting the significant values of wetlands and
c) improving the quality of fresh water in water bodies that have been degraded by human activities to the point of being over-allocated.

Policy A4 of the Freshwater NPS required the insertion of policies into the RRMP. This is policy 72A which has been considered in this recommendation and as outlined in section 4 above the effects on the environment are likely to be less than minor.

6.6 Part II

Section 104 is subject to the matters contained in Part 2 of the RMA, which contains sections 5, 6, 7 and 8.

Section 5 sets out the purpose of the RMA, which is to promote the sustainable management of natural and physical resources. Sustainable management means:

Managing the use, development, and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic, and cultural wellbeing, and for their health and safety while:

- *Sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations,*
- *Safeguarding the life-supporting capacity of air, water, soil, and ecosystems,*
- *Avoiding, remedying, or mitigating any adverse effects of activities on the environment.*

While there is now some uncertainty over the need for a Part 2 assessment, after the *Davidson* decision, a brief assessment has been undertaken below for completeness.

The promotion of sustainable management requires an overall broad judgement of whether a proposal will meet the requirements of section 5(2). The approach recognises that the RMA has a single purpose – that of sustainable management. Such a judgement allows for the comparison of conflicting considerations, their scale and degree, and their relative significance in the final outcome.

This proposal provides for integrated infrastructural servicing of the area in advance of development. The proposed stormwater system and management measures are considered adequate to ensure that adverse effects on the receiving environment are avoided, and therefore this proposal is considered to provide for sustainable management and therefore is consistent with the purpose of the RMA.

6.7 Plans and Policies

The Regional Policy Statement contains a number of objectives and policies relevant to these activities, as does the Regional Plan. Both these documents are contained in the Regional Resource Management Plan (RRMP) (August 2006) document. Of key importance are the following Objectives and Policies:

Objective 27 relates to surface water quality and sets out to achieve the maintenance or enhancement of the water quality of rivers in order that it is suitable for sustaining or improving aquatic ecosystems in catchments as a whole, and for contact recreation purposes where appropriate.

Policies 71 and 72 provide environmental guidelines with which activities affecting the quality of water in rivers should comply. The guidelines apply “after reasonable mixing”. The discharge proposed is not likely to cause any breach of the environmental guidelines outlined in Tables 7 and 8 of the RRMP.

Policy 49b requires mitigation of the cumulative effects of stormwater discharges on water quality where appropriate. Policy 49b recognises that practical mitigation measures need to be considered to avoid, remedy or mitigate any cumulative effects of contaminants in stormwater discharges. The recommended conditions will ensure that the proposed mitigation measures will be implemented and maintained.

Objective 31 provides clear direction that the effects of flooding need to be avoided or mitigated. The recommended conditions address this matter. For key rainfall events, the proposed design will not cause any additional flooding beyond that already occurring, and should reduce this in most cases.

Objective 32 is of particular relevance to this proposal. This objective relates to provision of physical Infrastructure and is “the ongoing operation, maintenance and development of physical infrastructure that supports the economic, social and/or cultural wellbeing of the region’s people and communities”. The proposal is seen to meet this objective.

This application is consistent with all of the relevant policies contained in the RRMP and RPS. It is worth noting that the TANK plan change will soon be notified and that this plan will likely introduce new provisions targeting stormwater management and water quality. It is possible that this will result in a need to review the conditions of consent to ensure they are consistent with the TANK provisions.

6.8 Regional Policy Statement Change 4 – Managing the Built Environment

Change 4 includes provisions relating to the built environment and infrastructure into the Regional Policy Statement. Change 4 became operative on 1 January 2014.

Change 4 assists in the implementation the Heretaunga Plains Urban Development Strategy (HPUDS). HPUDS was jointly developed by the Regional Council, Hastings District Council and Napier City Council, and then a reviewed version was adopted by all three councils in early 2017. Notably, HPUDS identifies the Mission site as a residential growth area.

Change 4 proposes a number of new policies intended to provide guidance to local authorities when they make decisions on urban activities and infrastructure. Specific policies are intended to embed HPUDS’s settlement pattern and principles into the Regional Policy Statement, which local authorities will then have to implement via regional plans and district plans.

The relevant Policies and Objectives of Change 4 appear to generally support the applicant’s approach of integrated infrastructural servicing ahead of new development. Change 4 will need to be considered through the NCC re-zoning process.

7. Consent Duration

The application is for a controlled activity meaning consent must be granted however, one of the matters of control is the term of consent. The applicant has requested a term of 35 years.

Section 8.2.4 of the Regional Plan provides guidance on consent duration. The RRMP states the Regional Council will grant resource consent for an activity such as this for a period of 20 to 35 years unless one or more of the exceptions apply. The relevant exception to consider is: *(d) the type of activity has effects that are unknown or potentially significant for the locality in which it is undertaken.*

A decision on what is the appropriate term of consent requires consideration of the actual and potential effects on the environment, the nature of the discharge, and the sensitivity of the receiving environment to adverse effects.

The effects of the activity have been discussed in this report. The effects of the proposed stormwater discharge are not likely to be more than minor, but there will remain some uncertainty until such time as the land is developed and discharges commence.

It is recommended that consent be granted for 20 years, with expiry in May 2038. This term is seen as providing a reasonable length of time over which the re-zoning and development of the area can proceed, and the proposed stormwater management system become established. It also recognises the inherent uncertainties associated with a ‘greenfield’ development, where the exact nature of land use and contaminant loads and types remains unknown until development occurs. It is also considered to be long enough to provide certainty to the applicant and recognises the considerable infrastructural investment which will occur to implement the proposal.

8. Monitoring and Conditions

8.1 Conditions

Notable consent conditions are discussed above. Additional consent conditions are included that set out an accidental discovery protocol, and as set out maintenance requirements. Because the final ownership structure for the land is not known, a recommended consent condition requires that access to the stormwater system be legally established, and that the consent is only transferred to an entity that can access the structure for monitoring and maintenance purposes.

8.2 Review Conditions

Several review conditions are included in the consent. Of note are:

- To modify any monitoring programme or conditions of this consent, or to require additional monitoring as the stormwater catchment area is developed to better address an actual or potential adverse environmental effect.
- To set stormwater quality parameters for on-site stormwater treatment devices should this be required to ensure adverse effects on the environment are avoided.
- To modify the requirements of consent conditions in response to the ongoing development of the area, and to include additional matters if these are considered necessary to better address an actual or potential adverse environmental effect.
- To modify the consent requirements, such as by including stormwater quality limits and requiring additional monitoring.
- To ensure that the consent conditions are consistent with the provisions of an operative plan.

8.3 Monitoring by Consent Holder

Monitoring conditions are outlined above.

The consent holder is required to regularly maintain the stormwater system so that at all times they are operating within its design criteria.

8.4 Monitoring by Council

It is recommended that routine monitoring of this consent is to be undertaken by a Council officer at a frequency of up to twice every year. The costs of this routine monitoring and any formal monitoring programme that may be established in consultation with the consent holder will be charged to the consent holder in accordance with the Annual Plan current at the time. The council officer may take samples at this time.

“Non routine” inspections will be made on other occasions if there is reason to believe (e.g. following a complaint from the public, or monitoring) that the consent holder is in breach of the conditions of this consent. The cost of non-routine monitoring will be charged to the consent holder in the event that non-compliance with conditions is determined, or if the consent holder is deemed not to be fulfilling the obligations specified in the RMA.

9. CONCLUSION

It has been determined that the proposal will result in no more than minor effects and that exercising the consent would be consistent with Part 2 of the RMA and the relevant plans, objectives and policies.

10. Recommendation

The application be granted as attached.

Recommendation Confirmed



Paul Barrett
Principal Consents Officer
EXTERNAL RELATIONS GROUP
21st May 2018



Malcolm Miller
Manager Consents
EXTERNAL RELATIONS GROUP
21st May 2018