

# Resource Consent Application and Assessment of Environmental Effects

Cleanfill, 14A Waiu St, Wainuiomata

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Applicant – Kiwi Realtech Limited

25 February 2022

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## **A    RESOURCE CONSENT APPLICATION**

**To:** Resource Consents Manager

**Address:** **Hutt City Council**  
Private Bag 31-912  
Lower Hutt 5040

Andrew Cumming on behalf of Kiwi Realtech Limited applies for the following land use consent under the Resource Management Act 1991 (RMA):

|                                   |                                                                                                                                    |                                                |
|-----------------------------------|------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------|
| Location of application site      | Street Address:                                                                                                                    | 14A Waiu St, Wainuiomata                       |
|                                   | Legal description:                                                                                                                 | LOT 3 DP 489061 held in Record of Title 702724 |
|                                   | District Plan Zoning:                                                                                                              | General Business                               |
| Type of resource consent          | Land use consent                                                                                                                   |                                                |
| Brief description of the proposal | <ul style="list-style-type: none"><li>Operation and remediation of a cleanfill including earthworks.</li></ul>                     |                                                |
| Activity Status                   | Discretionary Activity                                                                                                             |                                                |
| Other consents required           | The activity holds GWRC consent WGN180401                                                                                          |                                                |
| Deposit fee                       | \$1,750.00                                                                                                                         |                                                |
| Address for service               | Andrew Cumming<br><a href="mailto:andrew.cumming.nz@gmail.com">andrew.cumming.nz@gmail.com</a>                                     |                                                |
| Address for invoices              | Kiwi Realtech Limited<br><br>Attention: Sudesh Wasoori<br><br><a href="mailto:Kiwi.realtech@gmail.com">Kiwi.realtech@gmail.com</a> |                                                |

Attached, in accordance with **Schedule 4 of the RMA 1991**, is an assessment of environmental effects in the detail that corresponds with the scale and significance of the effects that the proposed activity may have on the environment.

Attached, in the policy analysis, is the relevant information required to be included in the application. Regional consent WGN180401 is held in relation to the activity. No additional regional consents are required. Consent is required under the National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health 2011.

Signature of applicant:



**Andrew Cumming**

On behalf of Kiwi Realtech Limited

Date: 25 February 2022

## **B ASSESSMENT OF ENVIRONMENTAL EFFECTS**

# 1. Existing Environment

## 1.1. Location and General Description

1. The application site is located at 14A Waiu St, Wainuiomata (Figure 1 and Attachment 1) and is 3.5127 hectares in area. The site is accessed from the Waiu St cul de sac via a right of way over 14 Waiu St (see Instrument 10175651.6 in Table 1 and Attachment 2)
2. The site is an undeveloped property zoned General Business as part of the Waiu St industrial area (Figure 2). The industrial area contains a range of light industrial uses plus the southern part and access to the Wainuiomata Mountain Bike Park, which borders the site to the north and northwest. Although partly zoned General Business, the Mountain Bike Park is a reserve under the Reserves Act 1977, owned and managed by Hutt City Council. East of the site is a scenic reserve encompassing a ridge vegetated predominantly in kanuka and manuka. Southeast of the site is a family playground reserve that includes children's play equipment.



Figure 1: Application site and its surrounds. Source: HCC GIS

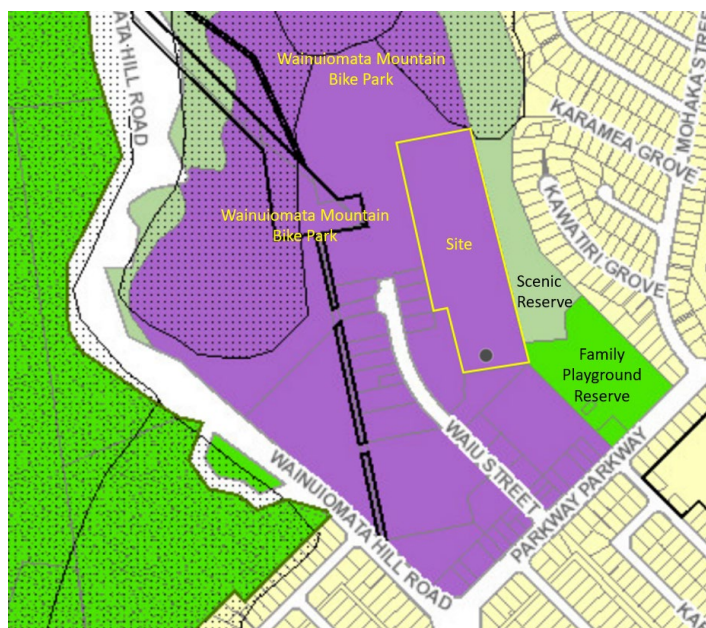


Figure 2: Application site zoning. Source: HCC ePlan

3. The site is not subject to any designation, heritage protections, identified natural hazards or significant natural, cultural or archaeological resources under the District Plan.
4. The site is not identified as contaminated under the GWRC Selected Land Use Register (SLUR) ([mapping.gw.govt.nz/GW/GWpublicMap\\_Mobile/?webmap=72ece62d902e4c3fb6506136104abfb9](https://mapping.gw.govt.nz/GW/GWpublicMap_Mobile/?webmap=72ece62d902e4c3fb6506136104abfb9))
5. The site is not identified in the GWRC flood hazard maps as being subject to flooding ([mapping.gw.govt.nz/GW/Floods](https://mapping.gw.govt.nz/GW/Floods)).

## 1.2. Legal Description

6. The site is legally described as Lot 3 DP 489061 held in Record of Title 702724 (Attachment 2). The Record of Title records the instruments described in Table 1 below and attached (Attachment 2).

**Table 1 Instruments listed on Record of Title**

| Instrument                                                                                                                                                                 | Relevance to the Proposal                                                                                                                     |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------|
| <ul style="list-style-type: none"> <li>1509 - Proclamation taking the subsoil of part below a plane of 400 feet above the Wellington City Datum</li> </ul>                 | <ul style="list-style-type: none"> <li>Not relevant</li> <li>Records the historical taking of land by Government for “waterworks”.</li> </ul> |
| <ul style="list-style-type: none"> <li>208869.4 - Subject to a right (in gross) to drain water over part marked L on DP 489061 in favour of Hutt County Council</li> </ul> | <ul style="list-style-type: none"> <li>Not relevant</li> <li>Records the 1976 creation of an easement over the site</li> </ul>                |
| <ul style="list-style-type: none"> <li>215051.1 Fencing Agreement to The Hutt County Council</li> </ul>                                                                    | <ul style="list-style-type: none"> <li>Not relevant</li> <li>Records a 1976 boundary fencing agreement</li> </ul>                             |

|                                                                                                                                                                                                            |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <ul style="list-style-type: none"> <li>8457469.1 Encumbrance to Hutt City Council</li> </ul>                                                                                                               | <ul style="list-style-type: none"> <li>Relevant to land use following the completion of the cleanfill operation</li> <li><i>"No building is to commence on the land until the land has been certified by a Chartered Professional Engineer suitably experienced in the geotechnical field, in accordance with condition 7 of Conditions for Cleanfill in Consent Order ENV-2007-WLG-000092"</i></li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| <ul style="list-style-type: none"> <li>10175651.5 Consent Notice</li> </ul>                                                                                                                                | <ul style="list-style-type: none"> <li>Relevant to land use following the completion of the cleanfill operation</li> <li><i>"This site has been subject to cleanfill activity and contains uncertified fill. Prior to the development of any proposed buildings or structures on Lot 3, the owner shall engage a geotechnical engineer to advise them of the suitability of the land to support that land use and any specific requirements for foundation and construction design. The geotechnical engineer shall prepare a report and this must be submitted to council at the time of building consent application."</i></li> <li><i>"At the time of subdividing the right of way was formed with hardfill. A future activity that requires resource consent will be subject to assessment under the District Plan (or its equivalent) and may be required to permanently seal the right of way."</i></li> </ul> |
| <ul style="list-style-type: none"> <li>10175651.6 – easements - right of way, right to drain water and sewage and right to convey electricity, water, gas, telecommunications and computer data</li> </ul> | <ul style="list-style-type: none"> <li>Relevant to access to 14A Waiu St over 14 Waiu St</li> <li>Relevant to land use following the completion of the cleanfill operation</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |

### 1.3. Site Consent History

7. A summary of the site's consent history is provided in Table 2.

**Table 2 Site Consent History**

|                                                                                     |                                                                                                                                                                                                                                                                   |
|-------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <ul style="list-style-type: none"> <li>Hutt City Council RM150061 (2015)</li> </ul> | <ul style="list-style-type: none"> <li>Land Use consent for earthworks associated with rehabilitation of a site subject to a cleanfill operation. Consent granted by independent commissioner on behalf of HCC.</li> <li>RM150061 lapsed in June 2021.</li> </ul> |
|-------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

|                                                                                     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
|-------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <ul style="list-style-type: none"> <li>Hutt City Council RM120097 (2012)</li> </ul> | <ul style="list-style-type: none"> <li>Partly retrospective land use consent at 14 Waiu Street to operate a cleanfill to give an already consented operation an additional 12 months' capacity.</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                     |
| <ul style="list-style-type: none"> <li>Hutt City Council RM100291 (2010)</li> </ul> | <ul style="list-style-type: none"> <li>Three lot subdivision and boundary adjustment with adjoining council reserve land which did not progress to new titles being Issued</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| <ul style="list-style-type: none"> <li>Hutt City Council RM060334 (2006)</li> </ul> | <ul style="list-style-type: none"> <li>Land use consent to establish cleanfill where commissioner acting for council granted consent for top soil stripping that had already occurred and refused consent to establish and operate cleanfill. An Environment Court consent order was issued in 2008 that cancelled the commissioner's decision to decline the cleanfill. Non-compliances with the conditions implemented through the consent order were subsequently subject to enforcement action and resulted in a memorandum of encumbrance being registered on the title for 14 Waiu Street.</li> </ul>                    |
| <ul style="list-style-type: none"> <li>GWRC WGN180401 (2018)</li> </ul>             | <ul style="list-style-type: none"> <li>Discharge of dust to air associated with the operation of a Class Three managed fill site</li> <li>Discharge permit to operate a Class Three managed fill site including the: <ul style="list-style-type: none"> <li>Excavation of existing deposited material;</li> <li>Deposition of managed fill; and</li> <li>Discharge of sediment laden stormwater to land where it may enter water</li> </ul> </li> <li>These consents expire on 24 August 2023. Replacement consents will be applied for before 24 February 2023 to enable the continued operation of the cleanfill.</li> </ul> |

## 2. Description of the Proposal

8. The applicant seeks land use consent to operate and remediate a cleanfill including earthworks.
9. A 6-year term of consent is sought. This is to ensure that sufficient cleanfill material is able to be imported to remediate the site and complete the earthworks design. The timeframe is necessary in these times of Covid 19 uncertainty and potential periods of inactivity in the construction industry that could result in fill being less available. The applicant's intention is to complete the works as soon as practicable within the consent term.
10. The site has operated intermittently as a cleanfill since at least 2003. The site holds GWRC consent WGN180401 (expiry August 2023, Attachment 7), which covers the following:
  - Discharge permit to operate a Class Three managed fill site including:
    - Discharge of dust to air;
    - Excavation of existing deposited material;
    - Deposition of managed fill; and
    - Discharge of sediment laden stormwater to land where it may enter water.
11. The site's most recent HCC land use consent for a cleanfill operation (RM150061) was not given effect to and lapsed in June 2021.
12. Prior to RM150061 and WGN180401, the site held HCC and GWRC consents to operate a cleanfill. However, the site was apparently not managed by a previous owner/operator in accordance with its conditions of consent. The decisions report for WGN180401 identified the following issues:
  - The material has not been compacted sufficiently and there are isolated pockets of loose fill;
  - The presence of unsuitable material, notably concrete with protruding rebar, is obvious even at the surface;
  - The site was irregularly contoured such that surface water runoff did not appear well controlled; and
  - Not all material placed is likely to have met the definition of cleanfill (two test pit soil samples taken during the geotechnical investigation of the site show that concentrations of some contaminants exceed likely background concentrations at two locations and therefore most likely also exceed likely background concentrations elsewhere).
13. The site is subject to Consent Notice 10175651.5 (Attachment 2), which states:

*This site has been subject to cleanfill activity and contains uncertified fill. Prior to the development of any proposed buildings or structures on Lot 3 the owner shall engage a geotechnical engineer to advise them of the suitability of the land to support that land use and any specific requirements for foundation and construction design. The geotechnical engineer shall prepare a report and this must be submitted to council at the time of building consent application.*
14. The applicant purchased the site from a receiver in 2019. The applicant proposes to remediate the site in accordance with the recommendations of the geotechnical investigation prepared by Engeo (Attachment 3). This will include excavating any existing uncertified deposited material, compacting it, and capping the site with approximately 77,000m<sup>3</sup> of imported fill that will result in a 3m vertical extension of fill material. The desired outcome is to achieve geotechnical stability so that the completed site becomes suitable for built development.

15. The earthworks design by Envelope Engineering is shown in Attachment 1. Compaction will be according to the specifications recommended by Engeo and set out in the OMP. The level areas of the completed site will be grassed. The finished batter slopes will be landscaped in accordance with an approved landscape plan prepared by a suitably qualified person.
16. Engeo also undertook an “Initial Environmental Investigation” (Attachment 4) in accordance with the requirements of the National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health 2011. ENGEO carried out a desktop study and excavated and analysed soil samples from test pits at multiple locations and depths. Concrete, wood, brick, metal, and rubber were encountered during test pitting. Laboratory results reported no exceedances of commercial/industrial human health criteria but indicated that degradable or leachable components are present at the site and contaminated soil and other contaminated materials (i.e. those above background levels) are present. The current condition of the cleanfill does not meet the WasteMINZ cleanfill definition (*WasteMINZ Technical Guidelines for Disposal to Land 2018*)<sup>1</sup>.
17. Engeo considers the Ministry for the Environment HAIL (Hazardous Activities and Industries List) category for the site to be:
  - HAIL ID G3 – Cemeteries and waste recycling, treatment and disposal; Landfill Sites.
18. The applicant proposes to operate the cleanfill in a best practice manner in accordance with a detailed Operational Management Plan (draft at Attachment 5) prepared by Envelope Engineering Ltd and conditions of consent. The applicant has appointed experienced earthworks contractor Bullocks Contracting to run the cleanfill. A statement of intention from Glenn Bullock is attached (Attachment 6).
19. The best practice operation of the cleanfill is summarised below.
20. The cleanfill will not be open to the general public. Tipping will be by appointment only. The Cleanfill Operator will manage the source, quantity and type of fill and the number and timing of truck movements and ensure fill is placed, compacted and certified according to engineering advice.
21. The hours of operation will be as follows. The cleanfill staff will arrive at 7.00 am and leave at 6.00 pm. The first truck will be accepted at 7.00 am and the last truck will leave by 5.30 pm. The cleanfill will operate 6 days per week, with work generally finishing at 2.00 pm on Saturdays.
22. The average number of truck movements required to transport the imported cleanfill over various timeframes is shown in Table 3 below. There would be several additional vehicle movements involving staff vehicles but they would amount to no more than 10 vehicle movements per day. Table 3 shows that even if fill was imported at an accelerated rate within a year, the required truck movements would be well within the permitted activity High Trip Generator standard of 500 vehicle movements per day.
23. The actual number of truck movements will be project-dependent and highly variable. A typical project may involve trucks arriving every day for 6 days. An unusually large project may involve trucks arriving every day for a month. A project may be followed by a period of no activity for several weeks. The cleanfill operation will have the capability and capacity to accept, spread and compact

<sup>1</sup> “Virgin excavated natural materials (VENM) such as clay, soil and rock that are free of:

- Combustible, putrescible, degradable or leachable components;
- Hazardous substances or materials (such as municipal solid waste) likely to create leachate by means of biological breakdown;
- Products or materials derived from hazardous waste treatment, stabilisation or disposal practices;
- Materials such as medical and veterinary waste, asbestos (above BRANZ guidelines), or radioactive substances that may present a risk to human health if excavated;
- Contaminated soil and other contaminated materials; and
- Liquid waste.

When discharged to the environment, cleanfill material will not have a detectable effect relative to the background.”

the loads from 10 trucks per hour or 6 truck and trailer units per hour. That equates to a maximum of 210 truck movements per day, still well within the permitted activity standard.

24. The number of vehicle movements described here is consistent with that approved in the previous consent RM150061. The traffic assessment that supported the previous consent application concluded that:
- Waiu Street is a wide, low volume cul-de-sac in an established industrial location;
  - Site access can be achieved safely, with all movements to and from Waiu Street made as forward-in and forward-out manoeuvres;
  - Truck movements to and from the cleanfill will be small and have been present on the network previously as part of the prior cleanfill operations; and
  - The level of truck movements will not affect road capacity, performance or safety.
25. There has been no change to the proposed activity or the roading network to suggest that the above analysis is out of date.

**Table 3 Vehicle Movements**

|                                                              | <b>6 year period</b> | <b>5 year period</b> | <b>3 year period</b> | <b>2 year period</b> | <b>1 year period</b> |
|--------------------------------------------------------------|----------------------|----------------------|----------------------|----------------------|----------------------|
| <b>Total volume of fill (m<sup>3</sup>)</b>                  | 77,000               | 77,000               | 77,000               | 77,000               | 77,000               |
| <b>Average fill per truck (m<sup>3</sup>)</b>                | 8                    | 8                    | 8                    | 8                    | 8                    |
| <b>Total no. of trucks</b>                                   | 9625                 | 9625                 | 9625                 | 9625                 | 9625                 |
| <b>No. of days per year (6 day weeks)</b>                    | 313                  | 313                  | 313                  | 313                  | 313                  |
| <b>No. of years</b>                                          | 6                    | 5                    | 3                    | 2                    | 1                    |
| <b>Total no. of days</b>                                     | 1877                 | 1564                 | 939                  | 626                  | 313                  |
| <b>Average trucks per day</b>                                | 5.1                  | 6.2                  | 10.3                 | 15.4                 | 30.8                 |
| <b>Average vehicle trips per day</b>                         | 10.3                 | 12.3                 | 20.5                 | 30.8                 | 61.5                 |
| <b>Minutes per day (10 1/2 hour day)</b>                     | 630                  | 630                  | 630                  | 630                  | 630                  |
| <b>Time interval per truck (2 truck movements) (minutes)</b> | 123                  | 102                  | 61                   | 41                   | 20                   |

26. The fill will be placed and compacted systematically, with a small area of the site being subject to works at any one time. As each area is worked, every 500m<sup>3</sup> of any excavated, existing fill material will be sampled and tested in accordance with the requirements of GWRC consent WGN180401. If the material exceeds the acceptance criteria outlined in the *WasteMINZ Technical Guidelines for Disposal to Land 2016, Appendix C, Table C-2, Ecological Receptor* it will be removed and disposed of to an authorised landfill under GWRC guidance.
27. Any incoming non-cleanfill material will not be accepted.
28. The Operational Management Plan (which has been approved by GWRC in relation to WGN180401) details the following:
- Cleanfill design

- Hours of operation
- Responsibilities of staff and consultants
- Suitable cleanfill material
- Erosion and sediment control measures
- Fill direction and progress stabilisation
- Fill compaction
- Dust control and monitoring
- Mud control
- Barrier gate
- Noise control
- Cleanfill survey control
- Volume and type of material
- Vehicle speed control
- Landscaping, hydroseeding and grassing
- Testing, inspections and record keeping
- Complaints register
- Closure.

29. As noted above, the completed earthworks will result in a building platform suitable for built development, elevated approximately 3m above existing ground levels as shown in the earthworks design drawings (Attachment 1). The effects of the earthworks, including on topography and amenity, were assessed by the Council and approved in the previous consent RM150061. The Council found that the key landscape and visual impacts were in relation to the visual appearance of the batter slopes and future buildings on the site and that a suitable landscape planting plan would mitigate the visual impact of both the batter slopes and future site development.
30. There are no changes to the activity or the receiving environment since RM150061. The effects of any landscape and visual matters can be readily mitigated via suitable landscape planting of the batter slopes. The applicant offers a condition of consent that requires landscape planting of the completed batter slopes to the approval of the Council.

### 3. Statutory Assessment

31. An assessment of the statutory framework that applies to the proposal is set out in Table 4 below.

**Table 4 Statutory Assessment**

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p><b>Section 5 (Purpose and Principles)</b></p> <p>The RMA has a single overarching purpose: to promote the sustainable management of natural and physical resources. Sustainable management is defined in section 5 as:</p> <p><i>...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 –</i></p> <ul style="list-style-type: none"> <li><i>(a) Sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations; and</i></li> <li><i>(b) Safeguarding the life-supporting capacity of air, water, soil, and ecosystems; and</i></li> <li><i>(c) Avoiding, remedying, or mitigating any adverse effects of activities on the environment.</i></li> </ul> | <p>The proposal is in keeping with the sustainable management purpose of the RMA in that it will result in the efficient use and development of land that is intended for residential buildings and uses. The proposal will provide for the social and economic wellbeing of future occupants and any adverse environmental effects associated with the development are avoided, remedied or mitigated by the design, location and scale of the proposal.</p>                                                                                                                                                                                                                                                                       |
| <p><b>Section 6 (Matters of National Importance)</b></p> <p>In achieving the purpose of the RMA, section 6 provides that all persons exercising functions and powers under the RMA, in relation to managing the use, development, and protection of natural and physical resources, shall recognise and provide for a range of matters of national importance.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | <p>There are no relevant section 6 matters that require consideration as part of this proposal.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| <p><b>Section 7 (Other Matters)</b></p> <p>Section 7 outlines other matters that shall have particular regard to when managing the use, development and protection of natural and physical resources. The following are generally relevant:</p> <ul style="list-style-type: none"> <li><i>(b) the efficient use and development of natural and physical resources;</i></li> <li><i>(c) the maintenance and enhancement of amenity values;</i></li> <li><i>(f) maintenance and enhancement of the quality of the environment;</i></li> <li><i>(g) any finite characteristics of natural and physical resources.</i></li> </ul>                                                                                                                                                                                                                                                                                                          | <p>Particular regard has been given to section 7(b) – efficient use and development of natural and physical resources; 7(c) – maintenance and enhancement of amenity values; and 7(f) – maintenance and enhancement of the quality of the environment in the assessment set out in this report. The proposal is an efficient use of a finite (land) resource, resulting in a large area of industrial land suitable for built development, will maintain the existing amenity values of the site and surrounding area, and will maintain the existing quality of the wider environment. The site is currently in poor condition and not suitable for the use and development anticipated by the General Business Activity Area.</p> |

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |                                                                                                                                                                                                                                                             |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p><b>Section 8 (Principles of the Treaty of Waitangi)</b></p> <p>The principles of the Treaty of Waitangi shall be taken into account when managing the use, development, and protection of natural and physical resources.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | <p>The application site is not identified as having any particular cultural or historic significance. Therefore, this section of the Act is not applicable to this proposal.</p>                                                                            |
| <p><b>Section 104(1)(a) – Potential or Actual Effects</b></p> <p>Section 104(1)(a) requires that regard is given to any actual and potential effects on the environment of allowing the activity.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | <p>An assessment of the actual and potential effects of the proposed structure is included in Section 8 of this report.</p>                                                                                                                                 |
| <p><b>Section 104(1)(b)(i) – National Environmental Standards</b></p> <p>Section 104(1)(b)(i) of the RMA requires that regard is given to any relevant provisions of a National Environmental Standard (NES). The following NESs are currently in force through regulations:</p> <ul style="list-style-type: none"> <li>• National Environmental Standards for Air Quality</li> <li>• National Environmental Standard for Sources of Drinking Water</li> <li>• National Environmental Standards for Telecommunication Facilities</li> <li>• National Environmental Standards for Electricity Transmission Activities</li> <li>• National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health</li> <li>• National Environmental Standards for Plantation Forestry</li> <li>• National Environmental Standards for Freshwater</li> </ul> | <p>The activity requires consent under the National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health.</p> <p>The rules of the NESAMCSPHH are presented in Section 5 Table 6 and discussed in Section 6.2.</p> |
| <p><b>Section 104(1)(b)(ii) – Other Regulations</b></p> <p>Under section 104(1)(a)(ii), consideration must be given to any other relevant regulations.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | <p>No other regulations are relevant to the proposal.</p>                                                                                                                                                                                                   |
| <p><b>Section 104(1)(b)(iii) and (iv) – National Policy Statements</b></p> <p>Under section 104(1)(b)(iii), consideration must be given to any relevant provisions of a National Policy Statement (NPS). The following NPSs are currently in place:</p> <ul style="list-style-type: none"> <li>• National Policy Statement on Urban Development</li> <li>• National Policy Statement for Freshwater Management</li> <li>• National Policy Statement for Renewable Electricity Generation</li> <li>• National Policy Statement on Electricity Transmission</li> <li>• New Zealand Coastal Policy Statement</li> </ul>                                                                                                                                                                                                                                                              | <p>No National Policy Statements are relevant to the proposal.</p>                                                                                                                                                                                          |

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| <p><b>Section 104(1)(b)(v) – Regional Policy Statement</b></p> <p>Section 104(1)(b)(v) of the RMA requires that regard is given to any relevant provisions of a Regional Policy Statement (RPS) or proposed RPS.</p> | <p>The cleanfill activity holds GWRC consent WGN180401. The proposal is generally consistent with the objectives and policies of the RPS as it:</p> <ul style="list-style-type: none"> <li>• Will not impact on air quality, fresh water, historic heritage, indigenous ecosystems or soils and minerals;</li> <li>• Will not result in any significant modifications to the natural landforms;</li> <li>• Will not affect natural hazards or unnecessarily increase risk to people from natural hazards; and</li> <li>• Supports a consolidated regional form, design and function with a development that is appropriate to the residential character of the area.</li> </ul> |
| <p><b>Section 104(1)(b)(vi) – Plans or Proposed Plans</b></p> <p>Under section 104(1)(b)(vi), regard must be given to any relevant provisions of a plan or proposed plan. There is no relevant proposed plan.</p>    | <p>The relevant objectives and policies of the operative District Plan are identified in Table 5 and considered in Section 8 Assessment of Effects.</p> <p>The applicable rules are considered in Table 6 Rules Checklist.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| <p><b>Section 104(1)(c) - Other Matters</b></p> <p>Section 104(1)(c) requires that regard is given to any other matters the consent authority considers necessary to determine the application.</p>                  | <p>HCC has responsibilities under the Health Act 1956 in respect of dust from premises that causes nuisance or is injurious to health.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |

## 4. Objectives and Policies of the City of Lower Hutt District Plan

32. The following Table 5 considers the objectives and policies of the General Business Activity Area (in which the site is located) as well as the district-wide objectives and policies.

**Table 5 Objectives and Policies**

| Chapter 6A – General Business Activity Area                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |                                                                                                                                                                                                                           |
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| Objectives and Policies                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | Assessment                                                                                                                                                                                                                |
| <p><b>6A 1.1.1 Accommodation of a Mix of Activities</b></p> <p><b>Objective</b></p> <p>To accommodate those non-industrial activities which are suitable in the General Business Activity Area and which do not cause adverse effects on amenity values of the area and the receiving environment.</p> <p><b>Policy</b></p> <ul style="list-style-type: none"> <li>(a) Accommodate those commercial activities which provide a local service for the workforce in the same area.</li> <li>(b) Accommodate commercial recreational activities which are appropriate within the General Business Activity Area and which are compatible with the surrounding area.</li> <li>(c) Accommodate certain retail activities which are compatible with other activities of the General Business Activity Area and do not undermine the strength, vitality and viability of commercial activity areas.</li> <li>(d) Accommodate tertiary education activities within the Tertiary Education Precinct, which provides for tertiary education on a local and regional basis.</li> <li>(e) That the accommodation of non industrial activities avoids or mitigates adverse effects on the amenity values of the area and the environment.</li> </ul> | <p>Consistent <input checked="" type="checkbox"/></p> <p>The objective and policies focus on non-industrial activities in the General Business Activity Area and are not directly relevant to the cleanfill proposal.</p> |

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| <p><b>6A 1.1.1 Accommodation of a Mix of Activities</b></p> <p><b>Objective</b></p> <p>To accommodate those non-industrial activities which are suitable in the General Business Activity Area and which do not cause adverse effects on amenity values of the area and the receiving environment.</p> <p><b>Policy</b></p> <ul style="list-style-type: none"> <li>(f) Accommodate those commercial activities which provide a local service for the workforce in the same area.</li> <li>(g) Accommodate commercial recreational activities which are appropriate within the General Business Activity Area and which are compatible with the surrounding area.</li> <li>(h) Accommodate certain retail activities which are compatible with other activities of the General Business Activity Area and do not undermine the strength, vitality and viability of commercial activity areas.</li> <li>(i) Accommodate tertiary education activities within the Tertiary Education Precinct, which provides for tertiary education on a local and regional basis.</li> <li>(j) That the accommodation of non industrial activities avoids or mitigates adverse effects on the amenity values of the area and the environment.</li> </ul>                      | <p>Consistent <input checked="" type="checkbox"/></p> <p>The objective and policies focus on non-industrial activities in the General Business Activity Area and are not directly relevant to the cleanfill proposal.</p> |
| <p><b>6A 1.1.2 Main Entrance Routes</b></p> <p><b>Objective</b></p> <p>To enhance the image and visual appearance of main entrance routes of the City where they pass through the General Business Activity Area.</p> <p><b>Policy</b></p> <ul style="list-style-type: none"> <li>(a) That the design, appearance and scale of structures or buildings fronting main transport routes be managed to emphasise the importance of the area as a major access to the City.</li> <li>(b) That all structures fronting main entrance routes are modulated and do not have continuous blank walls.</li> <li>(c) That the design and appearance of sites fronting main transport routes be maintained to avoid adverse effects on the visual quality of the routes and the surrounding area.</li> <li>(d) That the location, design and appearance of structures be managed to reinforce the definition of the street edge and enclosure of the sites fronting Waione Street.</li> <li>(e) That the effects of activities fronting Railway Avenue, Hutt Road, Waione Street, and State Highway No.2 be managed to enhance the image of these main entrance routes and avoid adverse effects on the amenity value and character of the surrounding areas.</li> </ul> | <p>Not applicable.</p> <p>The site is not on a main entrance route.</p>                                                                                                                                                   |

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| <p><b>6A 1.1.3 Environmental Effects</b></p> <p><b>Objective</b></p> <p>To avoid or mitigate adverse effects on the amenity values of the area and neighbouring areas, and the receiving environment.</p> <p><b>Policy</b></p> <ul style="list-style-type: none"> <li>(a) That effects likely to be generated by each activity, such as noise, dust, odour and traffic, are managed to avoid or mitigate adverse effects on the amenity values and character of both the General Business Activity Area and interface areas.</li> <li>(b) That effects likely to be generated by each activity are managed to avoid or mitigate any adverse effects causing harm or damage to the receiving environment.</li> </ul>                                                                                                                                            | <p>Consistent <input checked="" type="checkbox"/></p> <p>The proposal manages the effects of the activity in accordance with the comprehensive OMP and landscapes the fill batters to mitigate effects on amenity values.</p>                                                                                                        |
| <p><b>6A 1.2.1 Effects on the Amenity Values of the Area</b></p> <p><b>Objective</b></p> <p>To maintain and enhance the amenity values of the activity area and neighbouring areas.</p> <p><b>Policy</b></p> <ul style="list-style-type: none"> <li>(a) That each site, structure and building is designed and maintained to enhance the amenity values and character of both the General Business Activity Area and adjacent activity areas.</li> <li>(b) That identified urupa sites be protected from inappropriate development on neighbouring sites.</li> <li>(c) That buildings or structures in the Point Howard General Business Activity Area located on Eastern Bays Marine Drive adjacent to the Seaview Tanker Terminal be designed and maintained to maintain and enhance the amenity values and character of the coastal environment.</li> </ul> | <p>Consistent <input checked="" type="checkbox"/></p> <p>The proposal manages the effects of the activity in accordance with a comprehensive OMP and landscapes the fill batters to enhance amenity values.</p> <p>There are no relevant urupa sites.</p> <p>The site is not in the Point Howard General Business Activity Area.</p> |

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| <p><b>6A 1.2.2 Effects of the Hutt River Flood Hazard</b></p> <p><b>Objective</b></p> <ul style="list-style-type: none"> <li>(a) To avoid or mitigate adverse flood hazard effects on buildings and structures.</li> <li>(b) To avoid or mitigate adverse flood hazard effects on flood protection structures.</li> </ul> <p><b>Policy</b></p> <ul style="list-style-type: none"> <li>(a) To discourage the siting of buildings and structures in the Primary and Secondary River Corridors.</li> <li>(b) To ensure that buildings and structures in the Primary or Secondary River Corridor of the Hutt River have no more than minor adverse effects on flood protection structures.</li> <li>(c) To mitigate the effects of flood hazards on buildings and structures in the Primary and Secondary River Corridors by managing their location, size and scale.</li> <li>(d) Flood protection measures at 61 Connolly Street (Lot 1 DP 87322 C.T.WN 54D/764) need to be established and maintained to ensure buildings and structures on site are protected from adverse flood hazard effects of the Hutt River.</li> </ul> | <p>Not applicable.</p> <p>The site is distant from the Hutt River.</p>                                                                                |
| <p><b>District-Wide Objectives and Policies</b></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |                                                                                                                                                       |
| <p><b>14A Transport</b></p> <p><b>Objective 14A 3.4</b></p> <p>Adverse effects on the safety and efficiency of the transport network from land use and development that generate high volumes of traffic are managed.</p> <p><b>Policy 14A 4.5</b></p> <p>Any activity that is a High Trip Generator must be assessed on a case by case basis. Adverse effects of High Trip Generators on the safety and efficiency of the transport network should be managed through the design and location of the land use, subdivision or development.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | <p>Consistent <input checked="" type="checkbox"/></p> <p>The activity does not generate high volumes of traffic and is not a High Trip Generator.</p> |
| <p><b>14B Signs</b></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | <p>Consistent <input checked="" type="checkbox"/></p> <p>Any signs will meet the permitted activity standards.</p>                                    |

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| <p><b>14C Noise</b></p> <p><b>Objective</b></p> <p>To maintain or enhance the amenity value of all activity areas by ensuring that the adverse effects of excessive noise on the environment are avoided or mitigated.</p> <p><b>Policy</b></p> <ul style="list-style-type: none"> <li>(a) To recognise that background noise levels are markedly different throughout the City.</li> <li>(b) To recognise that acceptable noise levels will vary according to the nature of the principal activities occurring within activity areas.</li> <li>(c) To ensure that residential activity areas are protected by establishing appropriate noise levels at the interface between residential activity areas and non residential activity areas.</li> <li>(d) That maximum noise levels are established within each activity area to ensure that amenity values are protected.</li> <li>(e) To make provision for those situations where there has already been considerable history to the establishment of specified noise conditions.</li> <li>(f) To recognise that noise levels may be different through a construction phase.</li> <li>(g) To recognise that Noise Management Plans may be appropriate to manage matters beyond those addressed in this District Plan.</li> </ul> | <p>Consistent <input checked="" type="checkbox"/></p> <p>The activity will operate in accordance with the OMP and comply with the permitted activity noise standards of the General Business Activity Area.</p> |
| <p><b>14D Hazardous Facilities</b></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | <p>Not applicable</p>                                                                                                                                                                                           |
| <p><b>14E Significant Natural, Cultural and Archaeological Resources</b></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | <p>Not applicable</p>                                                                                                                                                                                           |
| <p><b>14F Heritage Buildings and Structures</b></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | <p>Not applicable</p>                                                                                                                                                                                           |
| <p><b>14G Notable Trees</b></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | <p>Not applicable</p>                                                                                                                                                                                           |
| <p><b>14H Natural Hazards</b></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | <p>Not applicable</p>                                                                                                                                                                                           |

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| <p><b>14I Earthworks</b></p> <p><b>14I 1.1 Natural Character</b></p> <p><b>Objective</b></p> <p>To ensure that earthworks are designed to maintain the natural features that contribute to the City's landscape.</p> <p><b>Policy</b></p> <ul style="list-style-type: none"> <li>(a) To ensure that earthworks are designed to be sympathetic to the natural topography.</li> <li>(b) To protect significant escarpments, steep hillside areas, and the coastal area by ensuring that earthworks are designed to retain the existing topography, protect natural features, and prevent erosion and slips.</li> </ul>                                                                                                                                                                                                                                                                                                  | <p>Consistent <input checked="" type="checkbox"/></p> <p>The earthworks are designed to tie into the base of the existing hillside.</p>                                                      |
| <p><b>14I 1.2 Amenity, Cultural and Historical Values</b></p> <p><b>Objective</b></p> <p>To ensure earthworks do not affect adversely the visual amenity values, cultural values or historical significance of an area, natural feature or site.</p> <p><b>Policy</b></p> <ul style="list-style-type: none"> <li>(a) To protect the visual amenity values of land which provides a visual backdrop to the City.</li> <li>(b) That rehabilitation measures be undertaken to mitigate adverse effects of earthworks upon the visual amenity values.</li> <li>(c) To protect any sites with historical significance from inappropriate earthworks.</li> <li>(d) To recognise the importance of cultural and spiritual values to the mana whenua associated with any cultural material that may be disinterred through earthworks and to ensure that these values are protected from inappropriate earthworks.</li> </ul> | <p>Consistent <input checked="" type="checkbox"/></p> <p>The completed earthworks batters will be landscaped to be aesthetically pleasing in accordance with an approved landscape plan.</p> |
| <p><b>14I 1.3 Essential Works</b></p> <p><b>Objective</b></p> <p>To ensure that provision is made for earthworks to be carried out for services which are essential to the health and safety of the community.</p> <p><b>Policy</b></p> <ul style="list-style-type: none"> <li>(a) To provide for essential earthworks to be carried out which are necessary for the management of any stream or river.</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | <p>Not applicable</p>                                                                                                                                                                        |

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| <p><b>14I 1.4 Primary and Secondary River Corridors</b></p> <p><b>Objective</b></p> <p>To ensure earthworks in the Primary or Secondary River Corridor of the Hutt River do not affect adversely flood protection structures.</p> <p><b>Policy</b></p> <p>(a) To ensure that earthworks in the Primary or Secondary River Corridor have no more than minor adverse effects on flood protection structures.</p> | Not applicable |
| <b>14J Temporary Activities</b>                                                                                                                                                                                                                                                                                                                                                                                | Not applicable |
| <b>14K Filming</b>                                                                                                                                                                                                                                                                                                                                                                                             | Not applicable |
| <b>14L Renewable Energy Generation</b>                                                                                                                                                                                                                                                                                                                                                                         | Not applicable |

## 5. Resource Consent Requirements

33. The relevant rules of the District Plan and the National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health 2011 are identified in Table 6 Rules Checklist below. The level of compliance with each rule is noted.

**Table 6 Rules Checklist**

| <b>City of Lower Hutt District Plan</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                 |                                   |
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| <b>General Business Activity Area</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                   |                                   |
| <b>District Plan Rule</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                               | <b>Activity Status/Compliance</b> |
| <b>Rule 6A 2.1 Permitted Activities</b><br>(a) Activities which meet the conditions for Permitted Activities and are not included as a Controlled, Restricted Discretionary, Discretionary or Non-Complying Activity.                                                                                                                                                                                                                                                                   | Does not comply                   |
| <b>Rule 6A 2.1.1</b><br><b>(a) Minimum Yard Requirements</b><br>(i) The side yard shall be a minimum depth of 3m where the site abuts a residential activity area. No side yard is required where a service lane is provided<br>(ii) The rear yard shall be a minimum depth of 8m where the site abuts a residential activity area. This may be reduced if there is a service lane to the rear of the site and sufficient provision has been made for loading and unloading operations. | Not applicable                    |
| <b>Rule 6A 2.1.1</b><br><b>(b) Setback Requirements</b><br>Buildings and structures abutting an urupa shall have a minimum setback of 3m.<br>All new buildings and structures or additions in the Primary or Secondary River Corridor with a gross floor area of 20m <sup>2</sup> or less and with a setback of 20m or more from a flood protection structure                                                                                                                           | Not applicable                    |
| <b>Rule 6A 2.1.1</b><br><b>(c) Maximum Height of Buildings and Structures:</b><br>Maximum height of all buildings and structures is 12m.                                                                                                                                                                                                                                                                                                                                                | Not applicable                    |

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| <p><b>Rule 6A 2.1.1</b></p> <p><b>(d) Recession Planes:</b></p> <p>All buildings or structures shall comply with the recession plane requirements of the abutting residential activity area.</p>                                                                                                                                                                                                                                                               | <p>Not applicable</p>                                                                                                                                                                                          |
| <p><b>Rule 6A 2.1.1</b></p> <p><b>(e) Maximum Site Coverage:</b></p> <ul style="list-style-type: none"> <li>(i) Maximum site coverage - 100% subject to compliance with yards and screening requirements and off street carparking, loading and unloading requirements.</li> <li>(ii) That portion of the site not covered shall be to the rear of the site, for servicing and parking provision.</li> </ul>                                                   | <p>Not applicable</p>                                                                                                                                                                                          |
| <p><b>Rule 6A 2.1.1</b></p> <p><b>(f) Dust:</b></p> <ul style="list-style-type: none"> <li>(i) All outside areas shall be sealed, surfaced, or managed appropriately so that there is no dust nuisance at or beyond the boundary of the site.</li> <li>(ii) All use, handling and storage of goods, raw materials and waste materials shall be undertaken in such a manner so that there is no dust nuisance at or beyond the boundary of the site.</li> </ul> | <p>Permitted.</p> <p>Dust will be managed in accordance with the Operational Management Plan and the conditions of GWRC consent WGN180401, which manages the discharge of dust to air.</p>                     |
| <p><b>Rule 6A 2.1.1</b></p> <p><b>(g) Odour:</b></p> <ul style="list-style-type: none"> <li>(i) All activities shall be carried out in such a manner so as to ensure that there is not an offensive odour or fumes at or beyond the site boundary.</li> </ul>                                                                                                                                                                                                  | <p>Permitted</p> <p>Materials including any mulched site vegetation will be managed in accordance with the Operational Management Plan to prevent offensive odour or fumes at or beyond the site boundary.</p> |

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| <p><b>Rule 6A 2.1.1</b></p> <p><b>(h) Light Spill and Glare:</b></p> <ul style="list-style-type: none"> <li>(i) Artificial light shall not result in added illuminance in excess of 8 lux measured at the window of a dwelling on a neighbouring site.</li> <li>(ii) All activities shall be undertaken so as to avoid all unreasonable light spill beyond the site boundary.</li> <li>(iii) All activities, buildings and structures shall avoid glare (light reflection) beyond the site boundary.</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | <p>Not applicable</p>                                                                                                  |
| <p><b>Rule 6A 2.1.1</b></p> <p><b>(i) Vibration:</b></p> <ul style="list-style-type: none"> <li>(i) All activities that cause vibration shall be managed to ensure that no vibration is discernible beyond the site boundary.</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | <p>Permitted</p> <p>Trucks and site machinery will be operated in accordance with the Operational Management Plan.</p> |
| <p><b>Rule 6A 2.1.1</b></p> <p><b>(j) Retail Activities:</b></p> <p>There shall be no retail activities except in the following circumstances:</p> <ul style="list-style-type: none"> <li>(i) Where the goods are manufactured on site; provided that the retailing shall be ancillary to such manufacturing. For the purposes of this Section, manufacturing excludes those activities which comprise only the packing, labelling, sorting, mixing or assembling of pre-made products.</li> <li>(ii) Where the retail activity involves the sale of: carports, kitset garages and sheds; trailers; caravans; boats; swimming pools, spa pools, new and used motor cars; heavy commercial and agricultural vehicles; machinery; and the accessory parts which are essential to the operation of those goods.</li> <li>(iii) Where the goods are natural materials which are sold in bulk: gravel, sand, shingle, rock, concrete, coal, fire wood and timber for construction purposes.</li> <li>(iv) Where the retail activity is a building improvement centre on Lots 536 and 555, SO 22903 - Vogel Street/Hollands Crescent, Naenae.</li> </ul> | <p>Not applicable</p>                                                                                                  |

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| <p>(v) Where the goods are sold at an auction, or garden centre.</p> <p>(vi) Where the retail activity provides a food service, provided the gross floor area does not exceed 200m<sup>2</sup>.</p> <p>(vii) Where the retail sale of goods is from a service station.</p> <p>(viii) Where the retail activity is a supermarket on Lot 2 DP 15329 and Sections 493, 537, 551 and 555 Hutt District - Cambridge Terrace/Vogel Street, Naenae.</p>                                                                                                                                                                                                                                                        |                |
| <p><b>Rule 6A 2.1.1</b></p> <p><b>(k) Residential Activities:</b></p> <p>(i) No residential activities are permitted except where it is necessary to provide living quarters for a caretaker on site.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | Not applicable |
| <p>Rule 6A 2.1.1</p> <p><b>(l) Visitor Accommodation:</b></p> <p>(i) No visitor accommodation is permitted.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | Not applicable |
| <p>Rule 6A 2.1.1</p> <p><b>(m) Storage Requirements:</b></p> <p>(i) All activities shall be provided with an outdoor area for storage of goods, materials and waste products. This area shall be clearly defined at the time an application is made for development or change of use and occupancy and shall be clear of vehicle access, manoeuvring and parking areas.</p> <p>(ii) All outdoor storage areas shall be of such dimensions as to adequately provide for the storage requirements of the proposed use.</p> <p>(iii) Waste management: All storage and disposal of refuse will be carried out in such a manner so as to avoid causing adverse effects beyond the boundary of the site.</p> | Not applicable |
| <p>Rule 6A 2.1.1</p> <p><b>(n) Landscaping and Screening Requirements:</b></p> <p>(i) All outdoor storage and servicing areas must be screened so that they are not visible from a road or public space. Where this is not practicable such areas must be screened by a close-boarded fence or a fence made of solid material with a minimum height of 1.8m.</p> <p>(ii) Where a site abuts a residential or recreation activity area, all outdoor storage and servicing areas must be screened by a close-boarded fence or a fence made of solid material with a minimum height of 1.2m and a maximum height of 1.8m.</p>                                                                              | Not applicable |

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| <p>(iii) Where there are 5 or more parking spaces on site, that area is to be screened from the street and adjoining properties by a fence or wall not less than 1.5m in height.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |                                   |
| <p>Rule 6A 2.1.1</p> <p><b>(o) Servicing Hours:</b></p> <p>Where a site abuts or is opposite a residential activity area, servicing of activities must not occur between the hours of 10.00 pm and 7.00 am, however this shall not apply to any activity on Pt Lot 1 DP 10694, Sec 1 SO 31984 and Secs 70, 71 and 72 Blk XIV Belmont SD where the hours of servicing are not limited (land adjacent to the Seaview Tanker Terminal).</p>                                                                                                                                                                                                                                                                                                                                                                | Not applicable                    |
| <p><b>Rule 6A 2.1.1</b></p> <p><b>(p) 61 Connolly Street, Lot 1 DP 87322 C.T.WN 54D/764 (identified in Appendix General Business 2):</b></p> <p>In addition to the other Permitted Activity Conditions, the following shall apply to the scheduled activities on this site:</p> <ul style="list-style-type: none"> <li>(i) The site must be protected from flooding by flood protection measures. The flood protection measures protecting the site from Hutt River flooding must be to a minimum level of 10.1m above mean sea level; and</li> <li>(ii) All buildings and structures must have a minimum floor level of 9.2m above mean sea level; and</li> <li>(iii) There must be at all times an operational mobile onsite water pump that will be used to manage surface water run-off.</li> </ul> | Not applicable                    |
| <p><b>Rule 6A 2.1.1</b></p> <p><b>(q) General Rules</b></p> <p><b>Compliance with all matters in the General Rules - see Chapter 14.</b></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | See analysis of Chapter 14 below. |
| <p>Rule 6A 2.2 Controlled Activities</p> <p>(a) Any Permitted Activity on a site abutting or on the opposite side of a road from a residential activity area.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | Not applicable                    |
| <p>Rule 6A 2.3 Restricted Discretionary Activities</p> <ul style="list-style-type: none"> <li>(a) Any activity which involves vehicle repairs, vehicle maintenance and servicing, engine and bodywork, spray painting and panel beating, or car wrecking and is located, either wholly or in part on a site abutting or on the opposite side of a road from a residential activity area.</li> <li>(b) Any building or structure on a site fronting Waione Street.</li> <li>(c) Any building or structure on a site fronting Railway Avenue.</li> </ul>                                                                                                                                                                                                                                                  | Not applicable                    |

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| <p>(d) Any building or structure on a site fronting Hebden Crescent.</p> <p>(e) Any building or structure on a site fronting State Highway No.2 and the Hutt Road.<br/>(These main entrance routes are identified in Appendix General Business 1.)</p> <p>(f) Any building or structure on Pt 1 DP 10694, Sec 1 SO 31984 and Sec's 70, 71 and 72 Block XIV Belmont Survey District - land adjacent to Seaview Tanker Terminal.</p> <p>(g) All new buildings and structures or additions in the Primary or Secondary River Corridor with a gross floor area greater than 20m<sup>2</sup> or with a setback less than 20m from a flood protection structure.</p> <p>(i) Principal tertiary education activity within the Tertiary Education Precinct (as shown on Appendix General Business 2), including associated buildings and structures, which do not comply with the relevant Permitted Activity Conditions.</p> <p>(i) Non-notification</p> <p>In respect of Rule 6A 2.3(i), public notification of applications for resource consent is precluded and limited notification of applications for resource consent need not be required.</p> <p>NOTE: Rule 6A 2.3 (i) (i) prevails over Rule 17.2.2.</p> <p>(j) All ancillary tertiary education activities within the Tertiary Education Precinct, including associated buildings and structures.</p> <p>(i) Non-notification</p> <p>In respect of Rule 6A 2.3(j), public notification of applications for resource consent is precluded and limited notification of applications for resource consent need not be required.</p> <p>NOTE: Rule 6A 2.3 (j) (i) prevails over Rule 17.2.2.</p> |                                                                                                                                                                           |
| <p>Rule 6A 2.4 Discretionary Activities</p> <p>(a) Except where stated in the General Rules, any Permitted, Controlled or Restricted Discretionary Activity which fails to comply with any of the relevant Permitted Activity Conditions, or relevant requirements of Chapter 14 - General Rules.</p> <p>(b) Residential activities, except where it is necessary to provide living quarters for a caretaker on site.</p> <p>(c) Visitor accommodation.</p> <p>(d) Waste transfer stations.</p> <p>(e) Any offensive trade specified in the Third Schedule to the Health Act 1956 and amendments.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | <p>The activity does not meet the permitted activity conditions of 14I 2.1. but is a Restricted Discretionary Activity as stated in the General Rules - Rule 14I 2.2.</p> |

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| <p>(f) Any activity which involves the use of radiation processes emitting up to 1,000,000 curies. This does not include x-ray machines and low level laboratory chemicals licensed by the National Radiation Laboratory, under the Radiation Protection Act 1965.</p> <p>(g) Any activity which involves the use of radiation processes emitting up to 1,000,000 curies. This does not include x-ray machines and low level laboratory chemicals licensed by the National Radiation Laboratory, under the Radiation Protection Act 1965.</p> <p>(h) Trading warehouses.</p> <p>(i) Brothels and commercial sexual services on a site abutting or directly across the road from schools, pre-school facilities, churches and other similar religious establishments or a residential activity area.</p>                                                                                                                                                                   |                                                                                                                                                                                                                     |
| <p><b>Rule 6A 2.5 Non-Complying Activities</b></p> <p>(a) Any retail activity which is not identified as a Permitted Activity.</p> <p>(b) Any activity involving the use of radiation in excess of 1,000,000 curies or acceptable limits as defined in the Radiation Protection Act 1965 and subsequent amendments.</p> <p>(c) Any abattoir, slaughterhouse or packing house required to be licensed pursuant to the Meat Act 1981 and amendments.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | Not Applicable                                                                                                                                                                                                      |
| <p><b>Chapter 14 – General Rules</b></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |                                                                                                                                                                                                                     |
| <p><b>Rule 14A5.1 Transport</b></p> <p>(a) Any activity is permitted if it:</p> <p>(i) Complies with the standards listed in Appendix Transport 1; and</p> <p>(ii) Does not exceed the high trip generator thresholds specified in Appendix Transport 2.</p> <p>(b) Any activity that does not comply with the standards listed in Appendix Transport 1 is a Restricted Discretionary Activity. Discretion is restricted to:</p> <p>(i) The effects generated by the standard(s) not being met.</p> <p>(c) Any activity that exceeds the high trip generator thresholds specified in Appendix Transport 2 is a Restricted Discretionary Activity. Discretion is restricted to:</p> <p>(i) The effects of the activity on the transport network including impacts on on-street parking.</p> <p>An Integrated Transport Assessment, prepared by a suitably qualified traffic engineer/planner, must be submitted with any resource consent application under this rule.</p> | <p>Permitted.</p> <p>The activity complies with the standards listed in Appendix Transport 1 and does not exceed the 500 vehicle trips per day high trip generator threshold specified in Appendix Transport 2.</p> |

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| <p>NOTE: The New Zealand Transport Agency guidelines "Research Report 422: Integrated Transport Assessment Guidelines, November 2010" should be used to inform any Integrated Transport Assessment.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |                  |
| <p><b>Rule 14B2.1 Signs</b></p> <p>(a) Signs in all Activity Areas.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |                  |
| <p><b>14B2.1.5 Permitted Activities - Conditions In all Commercial Activity Areas, Business Activity Areas, and Community Iwi Activity Area 3 - Kokiri Centres, excluding the Petone Commercial Activity Area 1</b></p> <p>(a) Location:</p> <p>(i) No sign shall be painted onto the roof of any building.</p> <p>(b) Maximum Height:</p> <p>(i) The maximum height of any sign attached to a building may not project above the highest point of the highest building on the site by more than 20%.</p> <p>(ii) The maximum height of free standing signs shall be 8m.</p> <p>(c) Maximum Face Area:</p> <p>(i) Where any sign is painted on or attached in any way to the exterior of a building, the maximum face area of all signs visible in any one direction shall not exceed 30% of the area of that wall.</p> <p>(ii) Where a sign is erected within the Avalon Business Activity Area the maximum face area of all signs erected at the main entrance to the site shall not exceed 3m<sup>2</sup>.</p> <p>(iii) The maximum face area of free standing signs shall be 20m<sup>2</sup>.</p> <p>(d) Illumination:</p> <p>(i) If a sign is to be lit, they shall be lit by constant illumination, and shall not flash. Such signs may be lit by directional illumination or lit from within.</p> <p>(ii) Artificial light shall not result in added illuminance in excess of 8 lux measured at the window of any dwelling house within a residential, recreation or rural activity area, Community Iwi Activity Area 1 - Marae, or Community Health Activity Area.</p> <p>(iii) All measures shall be taken to ensure there is no unreasonable light spill beyond the boundary of the site.</p> <p>(e) Movement:</p> <p>(i) No sign shall have any parts which are moving. This shall not preclude however any sign with a variable message, suspended signs or flags.</p> <p>(ii) No sign shall be inflated by any means.</p> <p>(f) Temporary Signs:</p> | <p>Permitted</p> |

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| <ul style="list-style-type: none"> <li>(i) Electioneering signs shall not be displayed more than 42 days before the election, or 2 days after the election.</li> <li>(ii) Any other temporary sign shall not be displayed more than 3 months prior to the purpose or event, and shall be removed within 2 days of the completion of the purpose or event for which the sign was erected.</li> </ul>                                                                                                                                                                                                                                                                                     |                                                                                                                                                                 |
| <p><b>14C Noise</b></p> <p><b>14C 2.1.5 General Business Activity Area</b></p> <ul style="list-style-type: none"> <li>(d) Within the General Business Activity Area, all activities must not exceed 65dBA, measured at the boundary of the site on which the activity takes place.</li> <li>(e) All activities must not exceed the conditions as specified measured anywhere within a recreation or residential activity area. Appendix Noise 2 identifies the locations –</li> </ul> <p>Parkway    Maximum 65dBA    7.00am - 10.00pm</p> <p>                 Maximum 45dBA    10.00pm - 7.00am.</p>  | <p>Permitted.</p> <p>Noise will be managed in accordance with the Operational Management Plan to ensure the permitted activity standards are complied with.</p> |
| <p><b>14D Hazardous Facilities</b></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | <p>Not Applicable</p>                                                                                                                                           |
| <p><b>14E Significant Natural, Cultural and Archaeological Resources</b></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | <p>Not Applicable.</p> <p>The site is not identified as containing Significant Natural, Cultural or Archaeological Resources.</p>                               |
| <p><b>14F Heritage Buildings and Structures</b></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | <p>Not Applicable.</p> <p>The site does not contain a Heritage Building or Structure.</p>                                                                       |
| <p><b>14G Trees</b></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | <p>Not Applicable.</p> <p>No Notable Trees are identified on the site.</p>                                                                                      |
| <p><b>14H Natural Hazards</b></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | <p>Not Applicable.</p> <p>The site is not within an identified hazard area.</p>                                                                                 |

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| <p><b>14I Earthworks</b></p> <p>14I 2.1 Permitted Activities</p> <p>(a) Earthworks in all activity areas except Special Recreation Activity Area, Passive Recreation Activity Area, Hill Residential Activity Area and Landscape Protection Residential Activity Area and in Maire Street, Eastbourne, Lot 4 DP 14002 as shown on Appendix Earthworks 1.</p> <p>(b) Baring Head, Pt 1A2 Parangarahu, earthworks for the purpose of creating a building platform as shown on Appendix Earthworks 2.</p> <p>(b) Baring Head, Pt 1A2 Parangarahu, earthworks for the purpose of creating a building platform as shown on Appendix Earthworks 2.</p> <p><b>Permitted Activity Conditions</b></p> <p>(a) Ground Level:</p> <p>The natural ground level may not be altered by more than 1.2m, measured vertically.</p> <p>(b) Quantity:</p> <p>Maximum volume of 50m<sup>3</sup> (solid measure) per site.</p> <p>(c) Baring Head, Pt 1A2 Parangarahu:</p> <p>Baring Head, Pt 1A2 Parangarahu, as shown on Appendix Earthworks 2, any earthworks must be limited to the immediate area of the building platforms.</p> <p>(d) In the Primary and Secondary River Corridors:</p> <p>In the Primary and Secondary River Corridors, earthworks must be a minimum distance of 20m from a flood protection structure.</p> | <p>Does not comply.</p> <p>The natural ground level will be altered by more than 1.2m, measured vertically and the volume of earthworks will exceed 50m<sup>3</sup> (solid measure).</p> |
| <p><b>14I 2.2 Restricted Discretionary Activities</b></p> <p>(a) In all activity areas except Special Recreation Activity Area, Passive Recreation Activity Area, Hill Residential Activity Area, and the Landscape Protection Residential Activity Area, earthworks which fail to comply with any of the Permitted Activity Conditions.</p> <p>(b) In the Special Recreation, Passive Recreation, Hill Residential and Landscape Protection Residential Activity Areas and in Maire Street, Eastbourne, Lot 4 DP 14002 as shown on Appendix Earthworks 1, all earthworks.</p> <p><b>14I 2.2.1 Matters in which Council has Restricted its Discretion and Standards and Terms</b></p> <p>(a) In all activity areas except Special Recreation Activity Area, Passive Recreation Activity Area, Hill Residential Activity Area, and the Landscape Protection Residential Activity</p>                                                                                                                                                                                                                                                                                                                                                                                                                           | <p>Restricted Discretionary. The activity does not meet the permitted activity conditions.</p>                                                                                           |

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| <p>Area, earthworks which fail to comply with any of the Permitted Activity Conditions.</p> <p>(i) Amenity Values:</p> <p>The extent to which any earthworks proposal will affect adversely the visual amenity values of the area, and the extent to which the earthworks will result in unnecessary scarring and be visually prominent.</p> <p>The extent to which replanting or rehabilitation works are included as part of the proposal to mitigate adverse effects. Earthworks should not result in the permanent exposure of excavated areas.</p> <p>(ii) Existing Natural Features and Topography:</p> <p>The extent to which the proposed earthworks reflect natural landforms, and be sympathetic to the natural topography.</p> <p>(iii) Historical or Cultural Significance:</p> <p>The extent to which the proposed earthworks will affect adversely land and features which have historical and cultural significance.+</p> <p>(iv) Natural Hazards:</p> <p>Consideration should be given to those areas prone to erosion, landslip and flooding. Excavation should not increase the vulnerability of people or their property to such natural hazards. In the Primary and Secondary River Corridors of the Hutt River, consideration should be given to the effects on the flood protection structures.</p> |                                                                           |
| <b>14J Temporary Activities</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | <p>Not Applicable.</p> <p>No temporary activities are proposed.</p>       |
| <b>14K Filming</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | <p>Not Applicable.</p> <p>No filming is proposed.</p>                     |
| <b>14L Renewable Energy Generation</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | <p>Not Applicable.</p> <p>No renewable energy generation is proposed.</p> |

**National Environmental Standard for  
Assessing and Managing Contaminants in Soil  
to Protect Human Health 2011**

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| <p><b>8 Permitted Activities</b></p> <p><b>Disturbing soil</b></p> <p>(3) Disturbing the soil of the piece of land is a permitted activity while the following requirements are met:</p> <ul style="list-style-type: none"> <li>(a) controls to minimise the exposure of humans to mobilised contaminants must— <ul style="list-style-type: none"> <li>(i) be in place when the activity begins:</li> <li>(ii) be effective while the activity is done:</li> <li>(iii) be effective until the soil is reinstated to an erosion-resistant state:</li> </ul> </li> <li>(b) the soil must be reinstated to an erosion-resistant state within 1 month after the serving of the purpose for which the activity was done:</li> <li>(c) the volume of the disturbance of the soil of the piece of land must be no more than 25 m<sup>3</sup> per 500 m<sup>2</sup>:</li> <li>(d) soil must not be taken away in the course of the activity, except that,— <ul style="list-style-type: none"> <li>(i) for the purpose of laboratory analysis, any amount of soil may be taken away as samples:</li> <li>(ii) for all other purposes combined, a maximum of 5 m<sup>3</sup> per 500 m<sup>2</sup> of soil may be taken away per year:</li> </ul> </li> <li>(e) soil taken away in the course of the activity must be disposed of at a facility authorised to receive soil of that kind:</li> <li>(f) the duration of the activity must be no longer than 2 months:</li> <li>(g) the integrity of a structure designed to contain contaminated soil or other contaminated materials must not be compromised.</li> </ul> | <p>The cleanfill activity does not meet the permitted activity requirements, including for volume of disturbance and duration of activity.</p> |
| <p><b>Controlled Activities</b></p> <p><b>9 Removing or replacing fuel storage system, sampling soil, or disturbing soil</b></p> <p>(1) If a requirement described in any of regulation 8(1) to (3) is not met, the activity is a controlled activity while the following requirements are met:</p> <ul style="list-style-type: none"> <li>(a) a detailed site investigation of the piece of land must exist:</li> <li>(b) the report on the detailed site investigation must state that the soil contamination does not exceed the applicable standard in regulation 7:</li> <li>(c) the consent authority must have the report:</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | <p>The cleanfill activity does not meet the requirements for a controlled activity because there is no detailed site investigation.</p>        |

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| <ul style="list-style-type: none"> <li>(d) conditions arising from the application of subclause (2), if there are any, must be complied with.</li> <li>(2) The matters over which control is reserved are as follows: <ul style="list-style-type: none"> <li>(a) the adequacy of the detailed site investigation, including— <ul style="list-style-type: none"> <li>(i) site sampling:</li> <li>(ii) laboratory analysis:</li> <li>(iii) risk assessment:</li> </ul> </li> <li>(b) how the activity must be— <ul style="list-style-type: none"> <li>(i) managed, which may include the requirement of a site management plan:</li> <li>(ii) monitored:</li> <li>(iii) reported on:</li> </ul> </li> <li>(c) the transport, disposal, and tracking of soil and other materials taken away in the course of the activity:</li> <li>(d) the timing and nature of the review of the conditions in the resource consent:</li> <li>(e) the duration of the resource consent.</li> </ul> </li> </ul>                                                                                                                                                                                                                                                                                                                                                      |                                                                                                                                         |
| <p><b>10 Restricted Discretionary Activities</b></p> <ul style="list-style-type: none"> <li>(1) This regulation applies to an activity described in any of regulation 5(2) to (6) on a piece of land described in regulation 5(7) or (8) that is not a permitted activity or a controlled activity.</li> <li>(2) The activity is a restricted discretionary activity while the following requirements are met: <ul style="list-style-type: none"> <li>(a) a detailed site investigation of the piece of land must exist:</li> <li>(b) the report on the detailed site investigation must state that the soil contamination exceeds the applicable standard in regulation 7:</li> <li>(c) the consent authority must have the report:</li> <li>(d) conditions arising from the application of subclause (3), if there are any, must be complied with.</li> </ul> </li> <li>(3) The matters over which discretion is restricted are as follows: <ul style="list-style-type: none"> <li>(a) the adequacy of the detailed site investigation, including— <ul style="list-style-type: none"> <li>(i) site sampling:</li> <li>(ii) laboratory analysis:</li> <li>(iii) risk assessment:</li> </ul> </li> <li>(b) the suitability of the piece of land for the proposed activity, given the amount and kind of soil contamination:</li> </ul> </li> </ul> | <p>The cleanfill activity does not meet the requirements for a controlled activity because there is no detailed site investigation.</p> |

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| <ul style="list-style-type: none"> <li>(c) the approach to the remediation or ongoing management of the piece of land, including— <ul style="list-style-type: none"> <li>(i) the remediation or management methods to address the risk posed by the contaminants to human health:</li> <li>(ii) the timing of the remediation:</li> <li>(iii) the standard of the remediation on completion:</li> <li>(iv) the mitigation methods to address the risk posed by the contaminants to human health:</li> <li>(v) the mitigation measures for the piece of land, including the frequency and location of monitoring of specified contaminants:</li> </ul> </li> <li>(d) the adequacy of the site management plan or the site validation report or both, as applicable:</li> <li>(e) the transport, disposal, and tracking of soil and other materials taken away in the course of the activity:</li> <li>(f) the requirement for and conditions of a financial bond:</li> <li>(g) the timing and nature of the review of the conditions in the resource consent:</li> <li>(h) the duration of the resource consent.</li> </ul> |                                                  |
| <p><b>11 Discretionary Activities</b></p> <ul style="list-style-type: none"> <li>(1) This regulation applies to an activity described in any of regulation 5(2) to (6) on a piece of land described in regulation 5(7) or (8) that is not a permitted activity, controlled activity, or restricted discretionary activity.</li> <li>(2) The activity is a discretionary activity.</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | <p>The activity is a discretionary activity.</p> |

## 5.1. Activity Status

34. As noted in the Table 6 checklist, the activity is a Restricted Discretionary Activity under Rule 14I 2.2 of the City of Lower Hutt District Plan because it does not meet the permitted activity conditions of 14I 2.1.
35. In addition, since the activity is “disturbing the soil of the piece of land” and “an activity or industry described in the HAIL has been undertaken on it”, the activity requires consent under the NESAMCSPHH. The activity cannot meet the requirements for a permitted activity and a detailed site investigation has not been provided. Therefore, the activity must be assessed as a discretionary activity under regulation 11 of the NESAMCSPHH.
36. The components of the application are mutually inclusive therefore the bundling principle applies and the most onerous activity status should be applied to the application. Therefore, the application should be assessed as a discretionary activity.

## 6. Assessment Under Rule Provisions

### 6.1. District Plan

37. The activity does not meet the permitted activity requirements of Rule 14I 2.1 and is a restricted discretionary activity under Rule 14I 2.2. The natural ground level will be altered by more than 1.2m, measured vertically and the volume of earthworks will exceed 50m<sup>3</sup> (solid measure).
38. The Council has restricted its discretion to four matters that are listed and responded to below.

*(i) Amenity Values:*

*The extent to which any earthworks proposal will affect adversely the visual amenity values of the area, and the extent to which the earthworks will result in unnecessary scarring and be visually prominent.*

*The extent to which replanting or rehabilitation works are included as part of the proposal to mitigate adverse effects. Earthworks should not result in the permanent exposure of excavated areas.*

39. The earthworks result in a minor (3m) vertical raising of the site at the toe of a minor hillslope and do not detract significantly from the natural landform. The finished batters will be landscaped in accordance with an approved landscape plan and will be in keeping with the locality. There will be no permanent exposure of excavated areas.
40. As noted above, the completed earthworks will result in a building platform suitable for built development, elevated approximately 3m above existing ground levels as shown in the earthworks design drawings (Attachment 1). The effects of the earthworks, including on topography and amenity, were assessed by the Council and approved in the previous consent RM150061. The Council found that the key landscape and visual impacts were in relation to the visual appearance of the batter slopes and future buildings on the site and that a suitable landscape planting plan would mitigate the visual impact of both the batter slopes and future site development.
41. There are no changes to the activity or the receiving environment since RM150061. The effects of any landscape and visual matters can be readily mitigated via suitable landscape planting of the batter slopes. The applicant offers a condition of consent that requires landscape planting of the completed batter slopes to the approval of the Council.

*(ii) Existing Natural Features and Topography:*

*The extent to which the proposed earthworks reflect natural landforms, and be sympathetic to the natural topography.*

42. The earthworks result in a minor vertical raising of the site at the toe of a minor hillslope and do not detract significantly from the natural landform.
43. The completed building platform will be elevated approximately 3m above existing ground levels as shown in the earthworks design drawings (Attachment 1). The effects of the earthworks, including on topography and amenity, were assessed by the Council and approved in the previous consent RM150061. The Council found that the key landscape and visual impacts were in relation to the visual appearance of the batter slopes and future buildings on the site and that a suitable landscape planting plan would mitigate the visual impact of both the batter slopes and future site development.

44. There are no changes to the activity or the receiving environment since RM150061. The effects of any landscape and visual matters can be readily mitigated via suitable landscape planting of the batter slopes. The applicant offers a condition of consent that requires landscape planting of the completed batter slopes to the approval of the Council.

*(iii) Historical or Cultural Significance:*

*The extent to which the proposed earthworks will affect adversely land and features which have historical and cultural significance.*

45. There are no sites of historical or cultural significance identified in the District Plan for the site or its environs.

*(iv) Natural Hazards:*

*Consideration should be given to those areas prone to erosion, landslip and flooding. Excavation should not increase the vulnerability of people or their property to such natural hazards. In the Primary and Secondary River Corridors of the Hutt River, consideration should be given to the effects on the flood protection structures.*

46. The earthworks will be carried out in accordance with geotechnical advice and will result in a stable area of land suitable for built development. The works will not increase the vulnerability of people or their property to erosion, landslip, flooding or other natural hazards. The site is not in a Hutt River Corridor.

## **6.2. National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health**

47. The cleanfill activity does not meet the permitted activity requirements of Regulation 8, including for volume of disturbance and duration of activity and is a discretionary activity under Regulation 11.
48. The matters listed for restricted discretionary activities in Regulation 10 remain relevant as part of consideration as a discretionary activity. The matters are listed and responded to below

(a) the adequacy of the detailed site investigation, including—

- (i) site sampling
- (ii) laboratory analysis
- (iii) risk assessment

49. The initial site investigation was carried out in accordance with the NESAMCSPHH and best practice. No detailed site investigation has been carried out because the best practicable approach to the remediation of the site is to investigate areas of the site systematically as they are earthworked to achieve the required geotechnical performance. GWRC consent WGN180401 Condition 31 requires sampling and testing of every 500m<sup>3</sup> of existing excavated material:

*31. The consent holder shall ensure that existing soil and /or material excavated at the site shall be assessed against the Class 3 landfill acceptance criteria set outlined in the WasteMINZ Technical Guidelines for Disposal to Land 2016, Appendix C, Table C-2, Ecological Receptor; at a testing frequency of one sample per 500 m3 (in accordance*

with WasteMINZ Technical Guidelines for Disposal to Land 2016, Table 6-4). All testing shall be carried out in accordance with the recommendations of a Suitably Qualified and Experienced Practitioner (SQEP). If soil/material exceeds the acceptance criteria outlined in the WasteMINZ Technical Guidelines for Disposal to Land 2016, Appendix C, Table C-2, Ecological Receptor the consent holder must:

- Immediately appoint or notify the appointed SQEP and take actions all actions as advised by the SQEP to contain and prevent from disturbing any further contaminated material including but not limited to ceasing all excavation, compaction and filling works within a radius (of the point at which the contaminant was discovered) as advised by the SQEP.
- Notify the Manager within 24 hrs of the exceedance being recorded detailing what the exceedance was, and detailing the area of the site affected.
- Submit a report within 5 working days of the exceedance being recorded which has been prepared by a SQEP to the satisfaction of the Manager which details what actions will be undertaken by the consent holder to ensure that the soil which exceeds the criteria (WasteMINZ Technical Guidelines for Disposal to Land 2016, Appendix C, Table C-2, Ecological Receptor) is disposed of (either on site or off site at a landfill authorised to accept this material) to ensure adverse effects to the environment will be adequately avoided. The report must detail what timeframe the actions will be undertaken within.

50. The above approach will ensure that suitable material can be compacted to geotechnical requirements and capped with newly brought in clean fill, and unsuitable material can be removed and disposed of appropriately. The approach avoids the potential for unsuitable material to be exposed over larger areas of the site for longer periods and ensures that suitable cleanfill material is available for capping and there is a revenue stream to fund dealing appropriately with unsuitable material.

(b) the suitability of the piece of land for the proposed activity, given the amount and kind of soil contamination

51. The site holds a current GWRC consent (WGN 180401) for the activity and has previously been consented (including RM150061) by Hutt City Council. The site has therefore been determined to be suitable for the proposed activity. The proposal will provide significant positive effects, remediating the site to become suitable for built development.

(c) the approach to the remediation or ongoing management of the piece of land, including—

- (i) the remediation or management methods to address the risk posed by the contaminants to human health
- (ii) the timing of the remediation
- (iii) the standard of the remediation on completion
- (iv) the mitigation methods to address the risk posed by the contaminants to human health
- (v) the mitigation measures for the piece of land, including the frequency and location of monitoring of specified contaminants

52. The site's Operational Management Plan (Attachment 5) sets out the approach to the remediation and ongoing management of the site.
53. As noted above, GWRC consent WGN180401 Condition 31 requires sampling and testing of every 500m<sup>3</sup> of existing excavated material.

54. The remediation will occur systematically as described above to ensure that all parts of the site are suitably addressed and any contaminants are disposed of appropriately.
55. The remediation on completion will result in a large industrially-zoned site suitable for built development. The batter slopes will be landscaped to ensure compatibility with the amenity values of the area.
56. The mitigation methods are detailed in the OMP and include compaction and capping and removal of unsuitable material to a suitable landfill.

- (d) the adequacy of the site management plan or the site validation report or both, as applicable
- (e) the transport, disposal, and tracking of soil and other materials taken away in the course of the activity

57. The site's OMP (Attachment 5) has been accepted by GWRC as fulfilment of WGN180401 Condition 3, which required the provision of a Managed Fill Management Plan to demonstrate how conditions of consent would be met.
58. The OMP requires records to be maintained (and provided to GWRC) detailing the discovery of any existing unsuitable material and how it is addressed, including details of any transport and disposal to an appropriately classified landfill.

- (f) the requirement for and conditions of a financial bond

59. The approach described above for dealing with existing unsuitable material makes use of incoming cleanfill material for capping. The revenue from the incoming material funds the appropriate treatment of unsuitable material including any that requires disposal off-site. The cleanfill will be operated in a best practice manner in accordance with the OMP and conditions of consent. No financial bond is necessary.

- (g) the timing and nature of the review of the conditions in the resource consent

60. GWRC consent WGN180401 contains review clauses in relation to winter earthworks and dust management and an annual review in relation to issues arising.
61. HCC may also wish to include an annual review opportunity so that any issues arising in the implementation of the consent may be addressed through changes to the OMP.

- (h) the duration of the resource consent

62. A 6 year term of consent is sought. This is to ensure that sufficient cleanfill material is able to be imported to remediate the site and complete the earthworks design. The timeframe is necessary in these times of Covid 19 uncertainty and potential periods of inactivity in the construction industry that could result in fill being less available.

## 7. Notification Assessment

### 7.1. Public Notification

63. The matters to be considered by the consent authority when deciding whether or not to publicly notify an application are set out as a four-step process in Section 95A of the RMA.

**Step 1: Mandatory public notification in certain circumstances (sections 95A(2) and (3))**

*Determine whether the application meets any of the following criteria –*

- (a) *The applicant has requested that the application be publicly notified;*
- (b) *Public notification is required under Section 95C; or*

*The application is made jointly with an application to exchange recreation reserve land under section 15AA of the Reserves Act 1977*

64. The applicant has not requested that the application be publicly notified, nor has the applicant jointly made an application to exchange recreational reserve land. Therefore, public notification is not required under Step 1, and the test for public notification continues at Step 2.

**Step 2: If not required by step 1, public notification precluded in certain circumstances (sections 95A(4), (5) and (6))**

*Determine whether the application meets any of the following criteria –*

- (a) *the application is for a resource consent for 1 or more activities, and each activity is subject to a rule or national environmental standard that precludes public notification;*
- (b) *the application is for a resource consent for 1 or more of the following, but no other, activities:*

- (i) *a controlled activity;*

*[Repealed by Resource Management Amendment Act 2020]*

- (ii) *a restricted discretionary, discretionary, or non-complying activity, but only if the activity is a boundary activity;*

- ~~(iii)~~ *[Repealed by Resource Management Amendment Act 2020]*

65. The application is for a discretionary activity that is not a boundary activity and is therefore not a prescribed activity or precluded from public notification under the District Plan or any NES. Therefore, the application must be tested for public notification under Step 3.

**Step 3: If not precluded by Step 2, public notification required in certain circumstances**

*Determine whether the application meets any of the following criteria –*

- (a) *the application is for a resource consent for 1 or more activities, and any of those activities is subject to a rule or NES that requires public notification;*
- (b) *the consent authority decides, in accordance with section 95D, that the activity will have or is likely to have adverse effects on the environment that are more than minor.*

66. The application is for a resource consent that does not require public notification under an NES or rule.
67. The adverse effects are short term effects on amenity that are no more than minor. The effects of similar proposals on the site have previously been considered by Council and determined to be, with suitable conditions of consent, no more than minor.
68. Therefore, public notification is not required under Step 3 and the test for public notification continues at Step 4.

**Step 4: Public notification in special circumstances (section 95A(9))**

*Determine whether special circumstances exist in relation to the application that warrant the application being publicly notified.*

69. No special circumstances exist in relation to the application that could warrant the application being publicly notified.

### 7.1.1. Section 95A Conclusion

70. Having regard to the four steps of s95A outlined above, public notification of this application is not required.

## 7.2. Potentially Affected Persons

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

**Step 1: Certain affected groups and affected persons must be notified (Sections 95B (2) and 95B (3))**

*Determine whether there are any—*

- (a) *affected protected customary rights groups; or*
- (b) *affected customary marine title groups (in the case of an application for a resource consent for an accommodated activity).*

*Determine—*

- (a) *whether the proposed activity is on or adjacent to, or may affect, land that is the subject of a statutory acknowledgement made in accordance with an Act specified in Schedule 11; and*
- (b) *whether the person to whom the statutory acknowledgement is made is an affected person under section 95E.*

*Notify the application to each affected group identified under subsection (2) and each affected person identified under subsection (3).*

72. The proposal does not affect any of the parties identified in Step 1, nor is it located on, adjacent to, or may affect land that is subject to a statutory acknowledgement. Therefore, limited notification is not required at Step 1, and the test for limited notification continues at Step 2.

**Step 2: If not required by step 1, limited notification precluded in certain circumstances**

- (a) *the application is for a resource consent for 1 or more activities, and each activity is subject to a rule or national environmental standard that precludes limited notification;*

(b) *the application is for a controlled activity (but no other activities) that requires consent under a district plan (other than a subdivision of land).*

73. The application is not precluded from limited notification under Step 2. Therefore, the test for limited notification continues at Step 3.

***Step 3: If not precluded by step 2, certain other affected persons must be notified (Sections 95B (7) and 95B(8))***

*Determine whether, in accordance with section 95E, the following persons are affected persons:*

- (a) *In the case of a boundary activity, determine in accordance with section 95E whether an owner of an allotment with an infringed boundary is an affected person; and*

(b) *In the case of any other activity determine whether a person is an affected person in accordance with section 95E.*

74. The application is not for a boundary activity only.
75. Any effects arising from the proposal on any other party in accordance with section 95E are less than minor for the following reasons:
- The activity is not a High Trip Generator. The volume of truck movements is low and is a permitted activity for a site zoned General Business Activity Area.
  - The earthworks will be suitably managed in accordance with the comprehensive OMP including management of potential dust effects and on-going monitoring of the controls to ensure they are achieving their intended purpose.
76. The application meets the requirements of Step 3 and the test for limited notification continues at Step 4.

***Step 4: further notification in special circumstances (Section 95 (10))***

*Determine whether special circumstances exist in relation to the application that warrant notification of the application to any other persons not already determined to be eligible for limited notification under this section (excluding persons assessed under section 95E as not being affected persons), and,—*

- a) *if the answer is yes, notify those persons; and*

b) *if the answer is no, do not notify anyone else.*

77. No special circumstances exist in relation to the application that could warrant the application being limited notified.

### **7.2.1. Section 95B Conclusion**

78. Having regard to the four steps of Section 95B outlined above, limited notification of the application is not required.

## 8. Assessment of Environmental Effects

79. The following section presents an assessment of environmental effects (AEE) in accordance with Schedule Four of the RMA. The AEE covers the following:
- Earthworks Effects
  - Effects on those in the neighbourhood and, where relevant, the wider community, including any social, economic, or cultural effects
  - Physical effects on the locality, including any landscape and visual effects
  - Effects on ecosystems, including effects on plants or animals and any physical disturbance of habitats in the vicinity
  - Effect on natural and physical resources having aesthetic, recreational, scientific, historical, spiritual, or cultural value, or other special value, for present or future generations
  - Any discharge of contaminants into the environment, including any unreasonable emission of noise, and options for the treatment and disposal of contaminants
  - Any risk to the neighbourhood, the wider community, or the environment through natural hazards or hazardous installations.

### 8.1. Earthworks Effects

80. Earthworks effects in respect of erosion, sedimentation and dust are managed by GWRC through the comprehensive requirements of consent WGN180401. The consent requirements, which are reinforced in the site management required under the OMP, address HCC's interests in dust under the Health Act 1956.
81. The relevant District Plan requirements for earthworks focus on potential visual and amenity effects. There is potential for the fill batter on the site's western boundary to have adverse visual effects. These effects are mitigated by the proposed landscaping of the fill batter, which is offered by the applicant as a condition of consent. Any visual impact needs to be considered in the context of the industrial nature of the area. The site is zoned General Business. Therefore, the District Plan anticipates that the site will have an industrial appearance. Users of the reserve to the east and the mountain bike park already look onto the Waiu St industrial area. The proposal will in the short term lead to little difference in that outlook and in the medium term will provide a continuation of the soft, landscaped margin with the parks.

### 8.2. Effects on those in the neighbourhood and, where relevant, the wider community, including any social, economic, or cultural effects

82. The visual effects of the earthworks and the mitigation of finished batter slopes are discussed above.
83. The activity is not a High Trip Generator. The vehicle movements generated by the activity are provided for as a permitted activity by the District Plan.
84. The activity has the significant positive effect of remediating a degraded site so that it is suitable for built development. Built development in a General Business Activity Area is likely to generate economic activity and employment opportunities for the neighbourhood and wider community.
85. Cleanfills are also a scarce resource that provide a necessary service for the disposal of excess fill from construction sites.

### **8.3. Physical effects on the locality, including any landscape and visual effects**

86. The physical effects on the locality, including any landscape and visual effects are discussed above.

### **8.4. Effects on ecosystems, including effects on plants or animals and any physical disturbance of habitats in the vicinity**

87. The site is highly modified and has no ecological value. There will be no physical disturbance of habitats beyond the site. The discharge of contaminants from the site is managed by GWRC consent WGN180401.

### **8.5. Effect on natural and physical resources having aesthetic, recreational, scientific, historical, spiritual, or cultural value, or other special value, for present or future generations**

88. No effects on natural and physical resources having aesthetic, recreational, scientific, historical, spiritual, or cultural value, or other special value, for present or future generations have been identified.

### **8.6. Any discharge of contaminants into the environment, including any unreasonable emission of noise, and options for the treatment and disposal of contaminants**

89. The discharge of contaminants from the site is managed by GWRC consent WGN180401.
90. The activity will operate in accordance with the OMP and will meet the noise standards of the General Business Activity Area.

### **8.7. Any risk to the neighbourhood, the wider community, or the environment through natural hazards or hazardous installations.**

91. No risks to the neighbourhood, the wider community, or the environment through natural hazards or hazardous installations have been identified.

### **8.8. AEE Conclusion**

92. Overall, on the basis of the above assessment, the actual and potential effects of the proposal, with mitigation, are no more than minor.

## 9. Conditions of Consent

93. The applicant offers conditions of consent that require the following:
1. Ongoing compliance with the Operational Management Plan;
  2. Landscaping of the finished earthworks batters in general accordance with a landscape plan prepared by a suitably qualified person, including the staged timing of planting as areas of the site are completed.

## 10. Conclusion

- 94. The applicant is seeking resource consent to operate and remediate a cleanfill, with the ultimate, significantly positive effect being a large business site suitable for built development.
- 95. The earthworks are managed in accordance with an Operational Management Plan that has been approved by GWRC in relation to GWRC consent WGN180401. The implementation of the GWRC consent achieves remediation of the site and also aligns with the requirements of the NESAMCSPHH.
- 96. The City of Lower Hutt District Plan requirements for earthworks relevant to the application focus on potential visual and amenity effects. The application has assessed the proposal's actual and potential effects on the environment. The proposal mitigates these visual and amenity effects through the OMP and with the landscaping of final earthworks batters.
- 97. The proposal achieves the outcomes sought by the objectives and policies of the District Plan and the NESAMCSPHH.
- 98. The proposal will proceed in a best practice manner and the positive effects of remediating the site will be significant. There are no affected persons.
- 99. I therefore recommend that Council grants the consent, subject to appropriate conditions.

# **Attachment 1**

## **Site Plan and Earthworks Design Drawings**

## **Attachment 2**

### **Record of Title**

## **Attachment 3**

### **Geotechnical Investigation**

## **Attachment 4**

### **Initial Environmental Investigation**

## **Attachment 5**

### **Operational Management Plan**

**Attachment 6**  
**Statement of Intention from Cleanfill Operator**

**Attachment 7**  
**Regional consent WGN180401**