

## ASSESSMENT OF EFFECTS ON THE ENVIRONMENT OF APPLICATION FOR RESOURCE CONSENT

### Retaining Walls, Stormwater Drains and Sump on Mauao

#### INTRODUCTION

This assessment of effects on the environment is in respect of an application by the City Services Department of the Tauranga District Council for Resource Consent to construction of retaining walls, installation stormwater drains and sump.

#### REASON FOR APPLICATION

To satisfy the requirements of Section 330 and 330A of the Resource Management Act 1991 relating to the carrying out of emergency works to remedy, avoid or mitigate adverse effects on the environment and injury, damage and loss of property that resulted and may result from slips on the eastern face of Mauao.

#### OPERATIONAL CHARACTERISTICS OF ACTIVITY

The plan attached and forming part of the application and this assessment of effects illustrates the location and form of the proposed activity.

The work will involve remedial excavations to allow construction and accommodation of the structure.

Excavated material will be backfilled behind walls constructed.

#### POTENTIAL EFFECTS

The structures will have the beneficial effect of avoiding, remedying and mitigating existing and potential future slips and the adverse effects these have on the environment and on the health, safety and welfare of property and persons.

A potential adverse effect of replacement of existing grassed banks, escarpment faces and slopes with retaining wall structures which will change their appearance. This may not be in keeping with the predominant appearance of the natural landscape in the locality, however this effect is mitigated by walls and structures of a similar nature being a common occurrence in other parts of Mauao.

Therefore, a balance between beneficial and any adverse effects the activity may have needs to be achieved. Attention to the appearance and materials used in these structures will assist in mitigating any adverse visual effects they may have by reflecting materials existing within the locality and used and the appearance of such structures already existing in the locality.

#### POTENTIALLY AFFECTED PERSONS

Tangata whenua, with manu whenua in respect of Mauao are the ngaiterangi and the ngati pokenga and the ngai Tamarawaho and the ngai ranginui. Consultation has not been carried out

with these iwi and hapu due to the emergency nature of the work and the 20 day time frame restriction on when this application is required to be lodged. However, the Council's application processing procedures provide established systems of consultation with tangata whenua through circulation of application for comment. As the application is a result of a statutory requirement to regularise emergency works permitted under the resource management act to be carried out without consent we envisage the results of any consultation will at the most be a need to ensure care not to disturb archaeological sites and to respond to any archaeological finds in a culturally appropriate manner is included in exercise of the consent and that conditions applied to the consent reflect this.

Iwi and hapu of tangata whenua with interest in the site are being contacted at this time to advise of the work being carried out for emergency purposes. The results of any discussions will be included in the works as is appropriate and possible.

Other persons immediately effected will comprise users of Mauao who may see and whose use of Mauao may be affected if the works are carried out in locations commonly used by these persons. Such effects will comprise exclusion of access to these areas during construction and visual effects. These persons however have no more interest in these effects than the community generally. Therefore, they have no special status resulting in need for their notification.

#### DESCRIPTION OF MITIGATION MEASURES

Materials used in constructing the walls should be in accordance with materials presently used on Mauao for the same or similar purpose.

Excavated materials should either be replaced as fill behind the walls or if unsuitable removed from the site and disturbed ground surface and vegetation replaced so as to reflect and merge into surrounding vegetation and landscape characteristic.

Stormwater drains and sumps will be located and constructed in such a manner so as not to be obtrusive to either physical use of the site or appearance of the site.

#### SECTION 94 ASSESSMENT

The activity is a discretionary activity within the conservation zone of the Proposed District Plan and a non-complying activity under the Transitional District Plan.

As the Proposed District Plan is not yet operative the landuse activity status of the activity is non-complying.

Section 94 requires the consent authority should be satisfied that the adverse effects on the environment of the activity for which it consent is sort will be minor and written approval to be obtained from every person whom a consent authority is satisfied may be adversely affected by the granting of the resource consent unless the authority considers it unreasonable in the circumstances to require the obtaining of every such approval, in order for the application to follow non notified procedures.

With regard to Section 94 (2)(a) – concerned with the consent authority being satisfied that the adverse effects on the environment are minor – the transitional and proposed district plans provide for structures within the conservation zone which would have similar if not more effects on the environment that the proposed structures. The proposed structures are for the purpose of

avoiding further adverse effects on the environment by slips. Structures such as proposed by this application are a common and accepted activity on Mauao. The size of these structures with regards to the landscape characteristics of their immediate locality and Mauao generally and in regard to the aforementioned considerations result in any effects they may have being minor.

With regard to Section 94(2)(a) concerning whether written approval has been obtained from every person whom the consent authority may be adversely effected – the activity has to have been carried out as an emergency work therefore no opportunity was available for consulting or obtaining any such written approvals. Those persons identified as being potentially effected are being contacted through the application processing carried out by the Council. Their concerns will be responded to in any consent issued and in any works being or to be carried out. Also in this regard, it is unreasonable in the circumstances of this particular application to require obtaining of written approvals before the activity is carried out or the consent issued due to the emergency nature of the works. Therefore, the applicant concludes that written approvals being required from Tangata whenua would be unreasonable in the circumstances.

Therefore, the text of Section 94(2) are satisfied and the application may follow non-notified procedures.

#### DISTRICT PLAN PROVISIONS

##### Transitional District Plan:

The activity is a non-complying activity within the Recreation A zone. There are no rules in the Transitional District Plan relating to activities either permitted or requiring resource consent.

Policy relating to the recreation zones is provided in section 3.8 – Reserves Policy at page 59. These include specific concern for preserving, conserving and protecting land recognised for its contribution to the heritage and character of the district. In this regard the proposed activity is directly in accordance with this policy.

Section 3.7 – Amenities at page 49 includes specific reference at clause 3.7.1(b) to Mauao. The policy in this regard is to preserve the open space provided by these areas with limitation on the range of uses in only buildings of minor accessory nature being permitted. The proposed walls are effective buildings by definition and are definitely accessory and minor to Mauao. They are essential accessories to protecting the landscape, historic, and cultural and visual qualities and values provided by Mauao.

Section 3.3.1(e) at page 33 specifically refers to Mauao as having special significance to the Maori people of the Bay of Plenty. In response to this the applicant is consulting with the relevant iwi and hapu during construction activities and through the application process which was the only opportunity due to the emergency nature of the work having to be carried out prior to consultation. With regard to protecting the cultural values represented by Mauao the works are proposed in relation to these considerations as well as health, safety and welfare considerations.

#### PROPOSED DISTRICT PLAN

The activity is discretionary.

The site is identified in the Heritage Register (refer to page 16.7 – Heritage Register at pages 71 to and including 88). The site is registered as site number 2 on page 71 on the Heritage Register as Mount Maunganui (Mauao) domain, 1 Adams Avenue, Mt Maunganui, presenting heritage

values of archaeological site, Maori heritage, natural heritage and having one site of coastal vegetation ranked district importance, a site ranked local importance and historic site and landscape.

Management methods described in the heritage register through heritage rules, historic reserves and as crown land administered by the Tauranga District Council conservation zone.

Rule 16.4 describes the activity as discretionary and rule 16.4.1.1 the Council describes regard must be had to the matters of assessment provided in Section 10.1.1.1 in particular those under the heading “*Activities Heritage Site*”. There is no section 10.1.1.1. Section 11.4.9 at page 32 – activities on Heritage Sites (including archaeological sites, heritage features, wahi tapu, or other Maori ancestral sites) and notable trees seems to relate to the matters referred to in Rule 16.4.1.1 where section 10.1.1.1 is referred to.

Rule 11.4.9 is concerned with:

- the extent of any modification,
- destruction or adverse effect,
- the extent of impact on the heritage value and the integrity of the site, seeking on the significance of the site for tangata whenua,
- effect on the reasons for registration of the site under the Historic Places Act 1993,
- recommendations made by the NZHPT,
- policies of any conservation plan and heritage inventory,
- whether the proposal can avoid,
- remedy or mitigate any adverse effect on the heritage site,
- whether there has been any change in circumstances which results in reduction of significance of the site,
- conditions that may be imposed to assist protection,
- conservation or maintenance of the site.

With regard to each of these considerations; while the proposed activity is concerned with remedying a need for emergency works for the purpose of repairing and avoiding further dangerous conditions arising from slips, its effect with regards to the considerations of Rule 11.4.9 is to protect these from further degradation by natural process. Conditions applicable to construction and materials of the proposed wall will assist them to be appropriate to the surrounding of the site. These are recommended to be in accordance with materials already used on Mauao for similar structures. Consultation with tangata whenua during construction and as part of the application processing activities of the Council is also concerned with addressing cultural and heritage issues that may be affected by the activity. Findings from this consultation will be reflected in any consent which may be granted.

The conservation zone provisions prescribe that consent is required for removal of more than 20 cubic metres of indigenous vegetation, 10 cubic metres of earth within a 12 month period, removal of any native tree, site works exceeding 20 cubic metres in any 12 month period.

The Conservation zone also requires at Rule 22.2.3 – Heritage Conditions: that all development on a site identified on the Heritage register will be in accordance with the provisions of Chapter 16 of the District Plan.

Chapter 16 is the management rules for heritage sites against which this activity has been assessed above.

As follows the policies paragraph and objectives and policies relevant to the application are as follows:

Objective 4.1.1 is concerned with protecting outstanding landscapes. Mauao is specifically referred to in the relevant policy.

The application is concerned with achieving this purpose.

Objectives and policies relating to heritage include generally the objective of avoiding or minimising adverse effects on, among others, Taonga, Waihi tapu and other sites. However policy in this regard refers specifically to those sites identified through the heritage register and the NZ Historic Places Trust. Mauao is one of these.

In objective 5.1.4 and related policy encourages consultation with tangata whenua as good practice. In this regard, the Council as applicant and consent authority should follow consultation procedures appropriate to this matter and in accordance with this objective and policy. This is being carried out in relation to processing the application and construction occurring prior to lodging a decision on the application. This process, as described above, is being followed due to the need for the activity to be carried out as emergency works.

In this regard the purpose of the wall is to prevent further slippage occurring which in turn will maintain the existing cultural and historical landscape and the values this represents to both tangata whenua and the wider community.

#### SECTION 104 AND 105 TESTS OF RESOURCE MANAGEMENT ACT 1991

With regard to section 104(a); the activity is for the purpose of avoiding actual and potential adverse effects on the environment from slips. Control of the activities appearance by way of materials used will avoid any adverse effects on visual considerations. Consideration to the effects on visual considerations. Consideration to effects on the cultural and historical environment is also being provided by the activity through its purpose for preventing further slips and through consultation activities with Tangata whenua.

With regard to relevant regulations: there are none.

There is no relevant national policy statement: NZ coastal policy statement, Regional Policy Statement or Proposed Regional Policy Statement.

Irrelevant objectives, policies, rules and other provisions of the plan or proposed plan have been examined and the activity has been found to be in accordance with these.

The activities in accordance with the proposed regional plan in that it is protecting and maintaining an historical and culturally important site.

There are no relevant water conservation or draft water conservation orders.

Relevant designations and heritage requirements are addressed in the application and satisfied.

With regard to Section 105:

The activity is non-complying due to not being provided for by the Transitional District Plan.

As a non-complying activity the consent authority may only grant the resource consent once it is satisfied the adverse effects on the environment will be minor, or the implication for an activity which will not be contrary to the objectives and policies of the District Plan. In both these respects the activity is proposed to have minor adverse effects on the environment, in fact beneficial effects are the reason for the activity and the activity is not contrary to the objectives and policies of the District Plan as illustrated in the assessment above.