



Tauranga City Council
Infrastructure Projects Team
Attention: s 7(2)(f)(ii)

CONFIRMATION LETTER FOR DEEMED PERMITTED MARGINAL ACTIVITY

Under Section 87BB(2)(b) of the Resource Management Act 1991

Applicant: TCC Infrastructure Projects Team.

Site Location: 21 Adams Avenue - Mauao Base Track - refer Option 1 Project Drawing [Attached] Project No.2 2-9B463.00

Legal Description: Pt Lot 1 SP 429354 Mauao Historic Purpose Reserve

City Plan Zone: Conservation Zone
Significant Maori Are M1 Mauao (Group1)
Outstanding Natural Landscape Features and Landscapes Plan Area – Mauao
Significant Archaeological Area: A6 – Mauao
Special Ecological Area (Category2): 32 Mauao

DESCRIPTION OF ACTIVITY

Tauranga City Council has reconsidered how it might undertake reinstatement works for the Mauao Base Track. Whilst resource consent had been sought and granted¹ to realign the Base Track, four options for a refined scope of works to enable a suitable remedy of the existing base track section have been considered following geotechnical investigation. The four options are set out in the letter from WSP to TCC entitled “Mauao Base Track Repair Options Assessment” dated 12 November 2019².

Following the geotechnical investigation the four options developed were discussed with TCC, the Mauao Trust and Heritage New Zealand Pouhere Taonga and Option 1 was selected as the preferred option for the proposed works. A detailed description of the scope of works proposed with preliminary drawing is attached to the request letter from WSP entitled “Mauao Base Track Reinstatement – Request for Confirmation of a Permitted Activity under 87BB of the Resource Management Act 1991.

Briefly, the proposed works for Option 1 involves:

- § retreating the track landward by excavating into the modified slope between the existing track and the Pōhutukawa trees.

¹ RC26572

² Also refer WSP Letter – Mauao Base Track Repair Options Assessment ref: 2-9B463.00 dated 12 November 2019.

- § Approx. 40m³ of material would be removed, which will be re-spread on the existing track.
- § To mitigate the reduced width for the reinstated track (minimum 1.2m) around the base of the two Pōhutukawa trees above the track, widened areas will be formed at either end of the works to allow easy passing of buggies and wheelchairs.
- § Stabilisation of exposed slopes above and below the track with soil nails and hydro seeding for longer term resilience;
- § Retention, pruning and crown lifting of two significant Pohutukawa Trees in the location under supervision of a TCC contractor Arborist;
- § Construction timeframe of 3 – 4 weeks.

The WSP Request set out the Tauranga City Plan Rule framework based on the following zoning and overlays

- § Conservation Zone (Open Space)
- § Significant Maori Are M1 Mauao (Group1)
- § Outstanding Natural Landscape Features and Landscapes Plan Area – Mauao
- § Significant Archaeological Area: A6 – Mauao
- § Special Ecological Area (Category 2): 32 Mauao

The WSP assessment concluded that compliance can be achieved and noted the intention is to complete all reinstatement and restoration of the site in accordance with the conditions listed in Rule 6A.3 of the TCP and the works are able to be considered maintenance of existing minor public recreational facilities and activities.

Notwithstanding the above, given the slip event that caused the base track closure, it was agreed that it is difficult to define with certainty the boundaries of existing areas of cut and fill associated with the base track. The age of the track and the occurrence of smaller slips and revegetation since the section of track was closed made this difficult. Any earthworks outside the existing cut and fill area would not comply with permitted activity rules 7C.6.1 and 7E.3.1 and would trigger the requirement for a restricted discretionary activity resource consent under rules 7C.7(a) and 7E.4(a)(i)³.

It has been determined that this non-compliance will be of a marginal nature and can be considered under section 87BB. Under 87BB(1)(a). The effects of the marginal non-compliance will be no different in character intensity and scale than if the existing section of track was intact and maintenance was being undertaken as a permitted activity (87BB(1)(b)). As the stairs create a marginal non-compliance with less than minor effects, it is considered that no persons are adversely affected under 87BB(1)(c).

The information relied on in making this decision includes:

- § WSP Letter entitled “ Request for Confirmation of a Permitted Activity under Section 87BB of the Resource Management Act 1991, ref 2-9B463.00;
- § Attachment B – Preliminary Drawing - Option 1;
- § Attachment C – Correspondence with Arbor Care;
- § Attachment D – Correspondence with Mauao Trust; and
- § Attachment E – Correspondence with Heritage New Zealand Pouhere Taonga.

In normal circumstances, any non-compliance with rules and requirements under the RMA or City Plan will require a resource consent. However, pursuant to section 87BB(2)(b) of the RMA, the Council has discretion to waive the resource consent requirements for the proposed activity on the site.

³ Resource consent sought under these rule are precluded from notification under the TCP with the exception of relevant Iwi/Hapu Groups and New Zealand Pouhere Taonga.

It has been determined that the request meets these tests and is therefore permitted under section 87BB and does not require resource consent.

Delegated Authorisation by:



s 7(2)(f)(ii)

Date: 19 November 2019

Advice Notes:

1. This notice will lapse 5 years after the date it is given unless the activity permitted by this notice is undertaken.
2. A certificate of compliance (under section 139 of the Act) cannot be applied for in respect of this activity.
3. The application has been processed on a time and cost basis and will be invoiced through the separate correspondence.
4. Any changes to the activity, as described in the notice, may trigger the requirement for a resource consent from Tauranga City Council.