

Memorandum



To: [REDACTED]
From: [REDACTED]
cc: DoES
Legal/Committee Officer
Insurance/Administration Officer
Manager Facilities/Reserves
Subject: Mauao Landslips, RMA and the District Plan
Date: 15 June 2000

In Reply Please Quote:

[REDACTED] I am concerned about the amount of time it has taken to implement the safety works along the Mauao Base Track. The failure occurred on 9 April 2000 and the stabilisation measures, while they have now been designed and quoted on, have yet to be implemented. Extensive delays have occurred due to the following reasons:

1. Funding.
2. Delays have occurred as a result of the discussions over whether a building consent and a resource consent is required prior to construction.
3. Lastly Iwi want to have some comment on the works.

In the interim the headscarp of the slip is understood to have migrated back further into the track and the remaining track is now quite narrow. There is an increased risk of someone being hurt should the last section of track collapse suddenly and this risk will increase until such time as to the remedial works are implemented.

While I accept this particular site is unique in that it is right opposite a midden and the failure included midden material, the delays can be avoided in the future. These delays have three obvious implications. Firstly, somebody could get hurt if the track suddenly falls away. Secondly, and as a result of an injury, there is an increased liability exposure to Council despite the fact warning signs have been put in place and fences erected - a duty of care issue. Lastly, there is a credibility issue about Council's ability to act quickly in obviously risky situations. If the current unsatisfactory bureaucratic systems are left unresolved then further delays could be expected in similar cases in the future. As I have previously advised, Mauao is an unstable environment and slips affect the track on a regular basis in the future generally during and following wet weather. The numerous cuttings and unengineered filled areas historically created to form the track over the years exacerbate the situation. Therefore, I believe it is necessary to do some planning work now to avoid delays and reduce Council's exposure to risk.

I have discussed this issue with some of our planners and there appears to be a number of possibilities that are worth exploring. One is that the appropriate changes are made to the District Plan and Mauao - Mt Maunagau Management Plan (MMP) including Plan 1 so that stability works can be implemented as soon as possible after a slip. As an alternative, it is possible the MMP Objective 3.3.2 does give us some flexibility in this regard (copy attached) - perhaps a policy statement on this issue may solve this problem rather more easily.

I also understand from one of our planners that it is not uncommon for other Council's to "designate" their reserves in their district plans. I believe that in essence this means the relevant management plan become the overriding document and resource consents are not required for works which fall within the designation. This has other implications in that designated activities such as new toilet blocks replacing old ones etc do not need resource consents! Therefore, I propose some serious thought be given to whether or not it is appropriate to revise our District Plan by designating some or all of our reserves to give us flexibility in the future on certain reasonable courses of action.

As a note of caution, it appears that if "failures" have occurred several times historically at a site, then I understand that the Court's do not see a further failure at a site as an "emergency" as it could have been foreseen. This is another reason why we should plan in advance.

As I have previously advised Facilities and Reserves via yourself, I believe it is well worth exploring alternative track routes or partial routes now and incorporate these into a revision on Plan 1 (attached). This will provide some flexibility should a whole section of track drop out - which is quite conceivable and this section may not be cost effective to repair. This could possibly be handled as a minor change to the MMP or as a resource consent that is reviewed on a regular (say 5 year) basis.

I note that the MMP also requires an Advisory Group be set up to advise on iwi issues (Objective 3.3.1f - copy attached). I understand this group yet to be formed. As a matter of priority this group should be set up and address the issue of landslips around the Mauao base track and establish a policy that can be acted on quickly should the need arise. Perhaps this Advisory Group should be expanded to include EBOP as I understand the most of the disputes and case law on what constitutes "emergency works" has resulted from conflicts between the regional and local councils. It is note worthy in this regard that I have received verbal confirmation from EBOP yesterday that the currently proposed works can be construed to meet EBOP's Regional Land Plan in this instance - subject to iwi being consulted on the issue (meaning a resource consent is not required in this instance). This opinion is to be confirmed in writing shortly.

Lastly, immediate access must be made available for funding "emergency works". This could be handled either as a policy issue by the Policy and Resources Committee in the medium term and/or as delegated authority from the CE in the short-term. The recent delay in getting approval for contingency funding is obviously not ideal and increases Council risk exposure. I propose a funding limit of say \$50,000 per emergency be delegated to the appropriate Director. As an aside, this is an issue that should be considered when Council's Risk Management Plan is drafted.

In summary, this current situation has raised a number of concerns that need addressing. I have now doubt some of my suggestions above will be viewed as a further burden on already busy planning staff and appreciate these changes will not be easy to initiate or implement. Notwithstanding these difficulties, I believe the benefits of initiating some changes now and over the next few years will significantly reduce paper work, work load and Council's risk exposure in similar situations the future.

Regards

§ 7(2)(f)(ii)