

**Before Independent Hearings Commissioners  
At Wellington**

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Under the Resource Management Act 1991

In the matter of Applications for resource consents, and a Notice of Requirement for a Designation, by Wellington Water Limited ('WWL') on behalf of Upper Hutt City Council, for the construction, operation and maintenance of the structural flood mitigation works identified as the Pinehaven Stream Improvements Project

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**Joint Witness Statement - Planning**

Dated 20 July 2020

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**Experts participating:**

- 1 Helen Anderson (WWL)
- 2 Josie Burrows (GWRC)
- 3 James Beban (UHCC)

**1 Introduction**

- 1.1 All experts confirm that they have read and are familiar with Code of Conduct for Expert Witnesses in the current Environment Court Practice Note (2014) and agree to comply with it.
- 1.2 The primary purpose of expert conferencing is to assist the Commissioners and to reduce hearing time.
- 1.3 The issues discussed by the witnesses were:
  - a Environment which will be affected by the project (the 'existing environment');
  - b Project description and nature of the proposed work;
  - c Confirmation of RMA approvals sought;
  - d Designation considerations:
    - i Reasonable necessity;
    - ii Consideration of alternatives;
  - e Confirmation of rules which are breached;
  - f Activity status for regional consent applications;
  - g Relevant planning documents;
  - h Relevant objectives and policies;
  - i Whether a permitted baseline is useful, and if so, what it comprises;
  - j Nature and scale of effects (including effects raised in submissions);
  - k Assessment of discharges against sections 105 and 107 of the RMA;

- l Any relevant 'other matters';
  - m Relevance of Part 2 of the RMA;
  - n Consistency of the project with Part 2;
  - o Conditions.
- 1.4 The following drawings, data and published standards/ papers relied upon in coming to their opinion are attached to this statement:
- a *General Arrangement Plans IZ089000-SO3-400-CD-DRG-3100 (rev B), -3101 (rev B), -3102 (rev C), -3103 (rev B), -3104 (rev B), -3105 (rev C) and -3106 (rev C).*
  - b *Designation Plans IZO- 8900 0 SPO – 400 – GN – DRG – 0100 (Rev B), 0101 (Rev D), 0102 (Rev C), 0103 (Rev B), 0104 (Rev B), 0105 (Rev B) and 0106 (Rev B).*

## **2 Issues which the witnesses agree upon**

- 2.1 The witnesses agree the following:
- a Environment which will be affected by the project (the 'existing environment');
    - i Pinehaven Stream from Pinehaven Reserve to 48 Whitemans Road, being the lower reach of the Pinehaven Stream.
    - ii The affected stream length is approximately 1.2km in length.
    - iii Pinehaven Stream is an urban stream that has been modified along this length.
    - iv There are a number of private residences that are in close proximity to the Pinehaven Stream.
    - v The stream passes through a number of properties on Whitemans Road, Clinker Grove, Sunbrae Drive, Blue Mountains Road, Pinehaven Road, Birch Grove and Freemans Way, as well as Pinehaven Reserve, Pickerills Reserve, Sunbrae Drive drainage reserve and Willow Park.
    - vi The private properties are zoned a mix of Residential and Residential Conservation.

- vii The reserves are zoned Open Space and are also designated, with UHCC being the requiring authority (identified as UHC62 – Pinehaven Reserve, UHC61 – Pickerills Reserve, UHC73 - Sunbrae Drive Drainage Reserve and UHC89 – Willow Park).
  - viii The Upper Hutt City District Plan identifies that areas of the Lower Pinehaven Catchment are located within the Pinehaven Flood Hazard Extent (comprising of the Stream Corridor, Overland Flowpaths and Ponding Areas).
  - ix The stream passes through a large residential property at 50 Blue Mountains Road which contains an Urban Tree Group – Tree Groups 99 and 102. There are no individual Notable Trees within the Project area.
  - x The stream passes through two road culverts at Sunbrae Drive and Pinehaven Road (consented separately– Consent No: WGN200101), which now forms part of the existing environment.
  - xi There are a number of structures over the stream, including private bridges (pedestrian, vehicle), network utilities and services.
  - xii The Guildford Block, while identified in the Urban Growth Strategy as a potential future growth area, does not form part of the existing environment. This is because no resource consent or plan change has been lodged or approved to enable this development to occur, and the existing zone pattern of this land would not allow for urban residential housing.
- b Project description and nature of the proposed work;
- i The nature of the proposed works is primarily to undertake flood mitigation works (structural works) predominantly within the stream channel of the lower reach of the Pinehaven Stream, in order to provide improved capacity and function of the Stream in a 4% AEP (1 in 25 year return period) flood level event and to manage flood risk to habitable floors up to the 1% AEP (1 in 100 year return period).
  - ii The proposed physical works associated with the project include:
    - A Creation of a naturalised channel in sections with riparian planting;

- B Construction of vertically lined streams, replacing existing gabion baskets with Redi-rock retaining wall;
  - C Reclamation of stream at 26 and 28 Blue Mountains Road and creation of a new channel;
  - D Securing secondary flow paths;
  - E Replace, remove and construct private vehicle crossings and pedestrian bridges;
  - F Removal of a house over the streambed (48 Blue Mountains Road);
  - G Upgrade debris screens at inlet structures;
  - H Construction a 0.3m high wall along the southern boundary of Willow Park and 10a Blue Mountains Road,;
  - I Construction of a private access to 28, 30 and 32 Blue Mountains Road, and 34 and 36 Blue Mountains Road;
  - J Installation of riprap scour protection and bank stabilisation works;
  - K Relocation of utilities that cross the stream channel.
  - L Earthworks and vegetation clearance including the removal of 13 mature remnant indigenous trees within the project area.
- iii The proposed physical works would require earthworks, vegetation removal and planting, streamworks, stream diversions, discharges of sediment-laden water, demolition and construction works.
  - iv The designation provides for the construction and on-going operation and maintenance of the structural works, which are designed to achieve increased stream flood capacity within that area. The extent of the designation also includes areas of land required for temporary construction access and activities, such as laydown areas, creation of site office areas, demolition and relocation of accessory buildings to enable the proposed works, and protection of overland flow paths. Following completion of the construction phase of the Project, the extent of the designation will be reviewed and revised under section 182 of the RMA.

- v The proposed designation will also pass over a number of existing designations, held by UHCC. A section 177 RMA approval is required from UHCC in order to undertake works within the existing designations. Options to address the designation overlaps have been explored with UHCC, with the following approach for each designation being agreed<sup>1</sup>:
  - A UHC89 (Willow Park): UHCC will give written consent for works at Willow Park, and the existing recreation designation will be extended to meet the new footprint of the park once works are completed;
  - B UHC73 (Sunbrae Drive Drainage Reserve): This designation will be removed, once the Project NOR has been confirmed;
  - C UHC61 (Pickerills Reserve): This designation will be removed;
  - D UHC62 (Pinehaven Reserves): UHCC will give written consent for works to occur in Pinehaven Reserve. After completion of the Project works, UHCC will assess whether the UHC62 designation boundary needs to be amended, with consideration of the potential impact of removal of part of the Project designation, and whether any overlapping of the designations will occur during the operational-phase of the Project.
- c Jurisdictional considerations;
  - i Effects that are landward of the stream bank, including flooding – UHCC;
  - ii Effects between the streambank and the bed of the stream, with the exception of flooding – GWRC;
  - iii Erosion and sediment control – GWRC.
- d Confirmation of RMA approvals sought;
  - i Notice of Requirement (UHCC)
  - ii Outline Plan waiver deferred to the conclusion of the designation process (UHCC)

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<sup>1</sup> Email from Owen Jeffreys to Michael Hall, 21 February 2020 – NOR designation overlap strategy

- iii Resource consents (GWRC) to address the requirements of sections 9(2), 13(1), 14(2), and 15(1) of the RMA
- e Designation considerations:
  - i Reasonable necessity;
  - ii Consideration of alternatives;
    - A Broad considerations – do nothing, non-structural approach, enhanced structural approach to provide a greater level of flood mitigation protection, or apply for resource consent.
    - B Detailed considerations – multi-criteria assessment as detailed in the application.
  - iii It is agreed that the use of a designation is the most appropriate planning tool to use in order to achieve the Project Objectives.
- f Confirmation of rules which are breached;
  - i We are in agreement of the relevant GWRC planning rules, Appendix 3 of the GWRC Officer's Report.
  - ii The UHCC rules are not listed as there is no activity status for a designation.
- g Activity status for regional consent applications;
  - i We agree that the the proposal is considered to be a discretionary activity under the GWRC Operative Regional Freshwater Plan and Proposed Natural Resources Plan.
- h Relevant planning documents;
  - i National Planning Standards 2019;
  - ii National Policy Statement for Freshwater Management 2014;
  - iii Regional Policy Statement for the Wellington Region 2013;
  - iv Regional Freshwater Plan for the Wellington Region 1999;
  - v Proposed Natural Resources Plan 2019 (decisions version); and

- vi Upper Hutt District Plan 2004.
- i Relevant objectives and policies;
  - i UHCC – section 16 (Regional Policy Statement) and section 17 (District Plan) of the UHCC Officer’s report, specifically noting:
    - A UHCC District Plan (Objective 13.3.1 and 13.3.2; Policies 13.4.1 and 13.4.2) – we are in agreement that these provision are relevant.
  - ii GWRC – section 11 of the GWRC Officer’s report, specifically noting:
    - A RPS Policy 39 – we are in agreement that the Pinehaven Stream is not considered to fall within the definition of regionally significant infrastructure.
    - B GWRC RFP Policy 5.2.8 – we are in agreement that the proposal is inconsistent with this policy, however this is provided for by Policy 5.2.10.
    - C GWRC PNRP Objective O29, Policies P31(f) and P34 – we are in agreement that the Project is inconsistent with these policies, due to the confirmed construction methodology of a piped diversion.
- j Whether a permitted baseline is useful, and if so, what it comprises;
  - i There is no relevant permitted baseline for the Notice of Requirement application.
  - ii The use of the permitted baseline has not been applied to the resource consent applications.
- k Nature and scale of effects (including effects raised in submissions);
  - i UHCC – temporary construction, visual, ecology, natural hazards, traffic safety, earthworks, recreational, historical and cultural and positive effects. Subject to conditions of designation, the overall environmental effects of the project are acceptable.
  - ii GWRC – flooding, erosion and scour, water quality, aquatic ecology (turbidity, sedimentation, compaction, habitat and fish passage), riparian ecology, cultural values. Subject to conditions of consent, the overall environmental effects of the project are acceptable.

- I Assessment of discharges against sections 105 and 107 of the RMA;
  - i Section 105 is a relevant provision, and the matters listed have been addressed.
  - ii Section 107 is a relevant provision, and subject to agreement to details in consent conditions 26 – 28, this will ensure that the requirements of section 107 are met.
  
- m Any relevant ‘other matters’;
  - i Pinehaven Stream Floodplain Management Plan (2016);
  - ii Overlapping of designations
  - iii The Port Nicholson Block (Taranaki Whānui ki Te Upoko o Te Ika) Claims Settlement Act 2009; and
  - iv The Ngāti Toa Rangatira Claims Settlement Act 2014.
  
- n Relevance of Part 2 of the RMA;
  - i Section 5;
  - ii Section 6a, 6c, 6d, 6e, 6h;
  - iii Section 7a, 7aa, 7b, 7c, 7d, 7f, 7h, 7i; and
  - iv Section 8.
  
- o Consistency of the project with Part 2;
  - i The Planners are of the view that the proposal is consistent with Part 2, and the details of the reasoning is outlined in the respective evidence.
  
- p Conditions;
  - i There is general agreement with the conditions unless otherwise noted below. However HA wishes to note that this list is not exhaustive and further amendments to conditions may be proposed once feedback from the Applicant’s technical experts and the Applicant has been obtained:

- A UHCC condition 23a – reference to ‘riparian zone’ in the condition should instead be made to the Riparian Planting Plan required by GWRC consent conditions 64 & 65;
- B UHCC condition 23b(i) – height of trees within proximity to residential buildings. We agree that a typing error has been made and that the condition should refer to trees planted within 10m of a residential building, not 30m, HA confirms that the applicant does not support imposing a restriction on tree planting location;
- C UHCC condition 28/GWRC condition 5 – complaints process. It was agreed that an advice note should be added to the conditions stating that the same register can be used to fulfil GWRC and UHCC conditions.
- D UHCC condition 32 – replanting ratio for all other vegetation of 3:1. HA noted that the applicant did not support this condition. HA raised a concern that ‘all other vegetation types’ may be interpreted as applying to weed species that are removed. Therefore if this condition were to be imposed, then clarification on the vegetation types the condition applies to is required.
- E UHCC condition 35 – the wording of this condition is incomplete. It is agreed that the condition should be amended so the condition states “Any replacement or compensation planting undertaken shall be undertaken as close to the vegetation that is to be removed as practicable”.
- F UHCC condition 39 – agreed that the condition should refer to the Detailed Hydraulic Design Memorandum to ensure consistency with GWRC condition 10. Wording of the condition is to be changed so condition says “Prior to the commencement of construction on the site, the Requiring Authority shall provide the Team Leader Policy a copy of the Detailed Hydraulic Design Memorandum (DHDM) that has been certified by Greater Wellington Regional Council for their records. If during the construction period any changes are made to the DHDM that requires the recertification by Greater Wellington Regional Council, then a copy of the revised certified model shall be provided to the Team Leader Policy within 5 working days of receiving confirmation of the recertification.”

- G GWRC condition 10 – Detailed Hydraulic Design Memorandum (subject to amendments to be confirmed through flood expert conferencing).
- H GWRC condition 12 – a, b and e – Fish Relocation and Recovery Programme. We agree that minor amendments are required, subject to confirmation from aquatic ecology expert conferencing.

GWRC condition 25 – effects after reasonable mixing. We agree that this condition requires rewording as follows: “The discharge shall not give rise to the following effect in the Pinehaven Stream, except on a temporary and intermittent basis and in compliance with conditions 27 (effects of heavy rainfall) or condition 28 (installation/removal of the temporary piped diversion and dam): a) Any conspicuous change in the colour or visual clarity.”

- I GWRC conditions 26 – 28 water quality and construction-related monitoring (subject to confirmation from water quality and construction expert conferencing).
- J GWRC condition 56 fish relocation and recovery. We agreed a minor amendment is required to refer to the stage’s piped diversion dam, and not ‘fish movement barrier’.
- K GWRC condition 79 – network utilities. We agreed to the removal of this condition as it is unnecessary.

- q Lapse and expiry of designation and consent;
  - i Designation – in agreement with the lapse date of five years.
  - ii Resource consent - in agreement with the proposed lapse and expiry dates for [36459], [36829], [36830], [36460], [36461] and [36825].
- r Pre-hearing meeting
  - i The pre-hearing meeting was held on 20 April 2020. No resolution on the issues discussed was reached.

### **3 Issues which the witnesses do not agree upon**

- 3.1 The witnesses do not agree the following:

- a As specified in section 3(p), there are a range of conditions which are yet to be agreed on.

3.2 The reasons for the disagreement are:

- a Awaiting outcomes and recommendations of expert conferencing to inform those conditions.

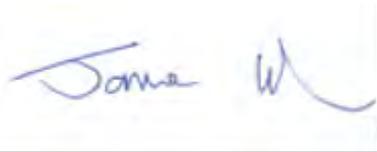
Date: 20 July 2020

Signed



Josephine Burrows (GWRC)

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James Beban (UHCC)

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Helen Anderson (WWL)

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