

Decision on application for resource consent under the Resource Management Act 1991



Discretionary activity

Application number: CST60409838 (s12 Coastal Permit)

Applicant's name: Watercare Services Limited

Site address: The coastal marine environment adjacent to 39 Frederick Street, Hillsborough

Legal description: N/A

Proposal:

The construction, occupation and use of a structure within the coastal marine area, and the associated deposition of materials and undertaking of earthworks within 10m of a natural wetland, for the purpose of natural restoration and ecological and habitat enhancement.

Resource consent is required for the following reasons:

Coastal permit (s9) – CST60409838

Auckland Unitary Plan (Operative in Part)

Coastal – General Coastal Marine Zone

- The deposition of material within the coastal marine area that is not otherwise provided for and located within the Coastal – General Coastal Marine Zone, being the deposition of material associated with ecological enhancement works, is a **discretionary activity** under Rule F2.19.2(A10).
- The construction, occupation and use of structures within the coastal marine area that are not provided for elsewhere in Table F2.19.10 and located within the Coastal – General Coastal Marine Zone, being rock armouring and timber piles for the purpose of ecological and habitat enhancement, is a **discretionary activity** under Rule F2.19.10(A121).

Resource Management (National Environmental Standard for Freshwater) Regulations 2020

- The undertaking of earthworks within 10m of a natural wetland where they are for the purpose of natural wetland restoration and do not comply with the conditions in Regulation 38(4), is a restricted **discretionary activity** pursuant to Regulation 39(2).

Decision

I have read the application, supporting documents and the report and recommendations on the consent application. I am satisfied that I have sufficient information to consider the matters required by the Resource Management Act 1991 (**RMA**) and make a decision under delegated authority on the application.

Acting under delegated authority, under sections 104, and 104B of the RMA and Part 2, the application is **GRANTED**.

1. Reasons

The reasons for this decision are:

1. In accordance with an assessment under s104(1)(a) of the RMA, the actual and potential effects from the proposal will be of an acceptable nature and scale in this environment. This is because the proposed works have been designed in a manner that is respectful of the subject environment, with any adverse relating to coastal processes, hazards and ecology, and landscape, natural character, amenity, and cultural values appropriately mitigated by:
 - a. the implementation of construction management and restoration measures with respect to the subject coastal marine environment, which will safeguard existing habitat and ecological values;
 - b. the nature, scale, design and extent of the works proposed within the coastal marine environment, which ensures adverse coastal processes and hazards, landscape and natural character, public access and recreational amenity, and cultural effects will be suitably addressed; and
 - c. the positive effects that will result from the ecological enhancements proposed and the long-term net gain in habitat provision for coastal birds within the Manukau Harbour, some of which are 'at-risk' or 'threatened'.
2. With reference to s104(1)(ab) of the RMA, there are no offsetting or environmental compensation measures proposed or agreed to by the applicant to ensure positive effects on the environment, over and above those outlined above.
3. In accordance with an assessment under s104(1)(b) of the RMA, the proposal is consistent with the requirements of the New Zealand Coastal Policy Statement, the National Policy Statement for Freshwater Management, the Resource Management (National Environmental Standard for Freshwater) Regulations 2020 and the relevant objectives and policies within F2 'Coastal – General Coastal Marine Zone' of the Auckland Unitary Plan (Operative in Part) for the following reasons:
 - a. There is a functional need for the works as they will provide much needed habitat for

for coastal birds within the Manukau Harbour, some of which are 'at-risk' or 'threatened', with this form of habitat not able to be provided outside of the coastal marine environment.

- b. The small size of the enhancement works relative to the subject coastal environment and their location outside the main harbour channel will ensure that coastal processes within the wider coastal environment remain unaffected.
- c. Adverse effects from coastal process and hazard effects, and particularly erosion, will likely be reduced with respect to land to the north and west of the proposed works, with a range of factors, including the sheltered nature of the works area, the shape of the subject inlet and the porous design of the structure suitably mitigating adverse effects with respect to land to the east.
- d. The design of the proposal in terms of sea level rise will be suitable for the proposed term of the consent, with the structure able to be raised to accommodate any adverse effects that may arise from overtopping, if necessary.
- e. Adverse effects on benthic fauna and other biota within the water, including fish, will be confined to the construction period and with the works generally occupying an area that is occupied by a temporary staging platform, additional levels of disturbance will be minimal. Noting this, that measures are proposed to minimise adverse sedimentation effects, and that the overall area of disturbance is relatively limited in the context of the wider coastal environment, any associated adverse effects will be appropriately managed.
- f. Disturbance to coastal birds during construction will be negligible given the presence of suitable habitat within close proximity to the works, while the erosion and sediment control measures proposed will minimise adverse effects with respect to foraging. Positive effects will result in the long-term noting through the habitat enhancements that will result.
- g. The management measures contained within the submitted coastal wetland management plan, the non-removal of any coastal vegetation and the planting works proposed will ensure that the ecological values of the affected natural wetland will be maintained and enhanced.
- h. The geology and landform of the works area and the wider Hillsborough area has been modified through continued and extensive urban development, including land reclamation and the adjoining wastewater pump station. While the works will result in modification to the existing harbour edge, they will be natural in appearance and formation and in keeping with the established coastal character of the area. Noting these factors, the provision of planting and the low height of the proposed structure relative to seabed level, adverse visual amenity, landscape and natural character effects will fall well within acceptable levels

- i. Access to the subject portion of the coastal marine environment will be restricted to the construction period and noting the limited existing use of this area due to it being an area of mudflat that is not ideal for low tide walking and that all existing public walkways will remain unobstructed, adverse public access and recreational amenity effects will not result.
 - j. Consultation with Mana Whenua has not identified any matters of concern with respect to the proposed works and adverse effects as they relate to cultural values.
4. In accordance with an assessment under s104(1)(c) of the RMA, there are no other relevant matters.
 5. In the context of this discretionary activity application for a coastal permit where the relevant objectives and policies in the relevant statutory documents were prepared having regard to Part 2 of the RMA, they capture all relevant planning considerations and contain a coherent set of policies designed to achieve clear environmental outcomes. As they also provide a clear framework for assessing all relevant potential effects, there is no need to go beyond these provisions and look to Part 2 in making this decision as an assessment against Part 2 would not add anything to the evaluative exercise.
 4. Overall, the proposal will result in acceptable actual and potential effects and is consistent with the relevant objectives and policies of the New Zealand Coastal Policy Statement, the National Policy Statement for Freshwater Management, the Resource Management (National Environmental Standard for Freshwater) Regulations 2020, the Auckland Unitary Plan (Operative in Part) and Part 2 of the RMA.

2. Conditions

Under section 108 of the RMA, the consent and permit are subject to the following conditions:

General Conditions

Approved Documents and Plans

1. The consented works must be carried out in accordance with the plans and all information submitted with the application, detailed below, and all referenced by the Council as consent number CST60409838:
 - a. Application form and Assessment of Environmental Effects, prepared by Tonkin & Taylor Limited, Job Number 1015172 v1600R, Version 1.0, dated 4 October 2022.
 - b. Coastal Processes Assessment and Consent Level Design Report, prepared by Tonkin & Taylor Limited, Job Number 1015172.1600v1, Version 2, dated 6 October 2022.
 - c. Assessment of Ecological Effects, prepared by Tonkin & Taylor Limited, Job Number 1015172 v1600R, Version 2, dated 4 October 2022.

- d. Draft Coastal Wetland Restoration Plan, prepared by Tonkin & Taylor Limited, Job Number 1015172 v1600R, Version 1, dated 6 October 2022.
- e. Natural Character, Landscape and Visual Assessment Report, prepared by Isthmus Group Limited, Reference 4565/C2, Document Status Final, dated 3 October 2022.
- f. Plan as detailed below:

Drawing No.	Title	Prepared by	Dated
1015172.1600-000, Rev 1	Ecological Enhancement Works Drawing List and Location Plan	Tonkin & Taylor Limited	7 October 2022
1015172.1600-001, Rev 1	Ecological Enhancement Works Existing Layout	Tonkin & Taylor Limited	7 October 2022
1015172.1600-002, Rev 1	Ecological Enhancement Works Proposed Layout	Tonkin & Taylor Limited	7 October 2022
1015172.1600-003, Rev 1	Ecological Enhancement Works Proposed Sections – Sheet 1 of 2	Tonkin & Taylor Limited	7 October 2022
1015172.1600-004, Rev 1	Ecological Enhancement Works Proposed Sections – Sheet 2 of 2	Tonkin & Taylor Limited	7 October 2022

Lapse of Consent

- 2. Under section 125 of the RMA, this consent lapses five years after the date it is granted unless:
 - a. The consent is given effect to; or
 - b. The Council extends the period after which the consent lapses.

Consent Expiry – Construction

3. Pursuant to section 123 of the RMA, consent to construct the structures and deposit the materials required to implement the natural restoration and ecological and habitat enhancement works expires five years after the date it is granted, unless it has been surrendered or cancelled at an earlier date pursuant to the RMA.

Consent Expiry – Duration

4. Pursuant to section 123 of the RMA, consent to occupy the common marine and coastal area with the structures and material required in association with the consented natural restoration and ecological and habitat enhancement works expires 35 years after the date it is granted, unless it has been surrendered or cancelled at an earlier date pursuant to the RMA.

Monitoring Charges

5. The consent holder must pay the Council an initial consent compliance monitoring charge of \$696 (inclusive of GST), plus any further monitoring charge or charges to recover the actual and reasonable costs that have been incurred to ensure compliance with the conditions attached to this consent.

Advice Note:

The initial monitoring deposit is to cover the cost of inspecting the site, carrying out tests, reviewing conditions, updating files, etc., all being work to ensure compliance with the resource consent. In order to recover actual and reasonable costs, monitoring of conditions, in excess of those covered by the deposit, must be charged at the relevant hourly rate applicable at the time. The consent holder will be advised of the further monitoring charge. Only after all conditions of the resource consent have been met, will the council issue a letter confirming compliance on request of the consent holder.

Before Construction Starts

Construction Management Plan

6. A minimum of 10 days prior to the commencement of any works, the consent holder must submit a Construction Management Plan (**CMP**), or similar, for the proposed works for certification by Council.

The CMP must specify, but not necessarily be limited to the following matters:

- a. Construction timetable;
- b. Construction methodology, including:
 - Details of any temporary structures in the CMA (e.g., silt fences); and

- Methods to remedy any disturbance resulting from works.
- c. Site management, including details of:
- Erosion and sediment control details in accordance with Auckland Council *Erosion and Sediment Control Guide for Land Disturbing Activities in the Auckland Region, June 2016, Incorporating Amendment 2*;
 - Site access, including methods to clearly identify and delineate all entry and exit points to the common marine and coastal area;
 - Bunding or containment of fuels and lubricants to prevent the discharge of contaminants;
 - Maintenance of machinery and plant to minimise the potential for leakage of fuel or lubricants;
 - A spill contingency plan in the event that there is any discharge of contaminants to the common marine and coastal area;
 - Methods to ensure compliance with noise standards;
 - Restrictions and methods necessary to maintain public health and safety, including means for restricting and notifying the public of any restrictions on public access to and along the coastal marine area;
 - Management of public access to and along the coastal marine area while the activities are being carried out;
 - Methods to minimise disturbance of the foreshore and/or seabed, including minimising siltation and discoloration; and
 - Removal of all spoils from the CMA.
- d. Site reinstatement upon completion of activities.

Construction activity must not commence until written certification of the CMP has been provided and all measures identified in that plan as needing to be established prior to commencement of works have been.

Final Coastal Wetland Restoration Plan

7. A minimum of 10 days prior to commencement of any works, the consent holder must submit a final Coastal Wetland Restoration Plan for the proposed works for certification by Council. The final plan must be developed in accordance with the Draft Coastal Wetland Restoration Plan, prepared by Tonkin & Taylor Limited, Job Number 1015172 v1600R, Version 1, dated 6 October 2022, as referenced in condition 1.

Natural Wetland Bed Profile

8. Prior to the commencement of any works, a record must be made (e.g., by taking photographs) of the original condition of the bed profile of the natural wetland (the foreshore / intertidal area) that will be disturbed by construction works and that will not be occupied by the consented structures and deposited material. The record must include its hydrological regime and be sufficiently detailed to enable compliance with condition 9 to be confirmed.

During Construction

Natural Wetland Bed Profile Restoration

9. The bed profile and hydrological regime of the natural wetland must be returned to their original condition as per the records required in accordance with condition 8 no later than 30 days after the completion of construction works that will disturb the natural wetland (the foreshore / intertidal area) but that will not occupy it with consented structures or deposited material.

Construction Management Plan

10. All works authorised by this consent must be carried out in accordance with the CMP certified by condition 6.

Machinery Operation

11. All machinery associated with construction activity must be operated in a manner that ensures that spillages of hazardous substances such as fuel, oil, grout, concrete products and any other contaminants are prevented.

Minimisation of Disturbance

12. The works must be carried out in a manner that minimises any disturbance to the coastal marine environment. In the unlikely event that construction materials are accidentally remain in the coastal marine environment, they must be removed at the first available opportunity.

Following Completion of Construction

Machinery and Material Removal

13. The consent holder must, within one week following the completion of the works, remove all machinery and constructed related materials from the coastal marine area to the satisfaction of the Council.

As-Built Plans

14. Within six months of the completion of construction activity, the consent holder must supply the Council with a complete set of “as-built” plans. The “as-built” plans must include a location plan and a plan(s) which show the area of occupation, structure dimensions,

and typical cross-sections.

Occupation

15. Occupation of the common marine and coastal area by the structures authorised by this consent is not an exclusive right of occupancy. The general public or any person(s) may not be excluded from the area(s) or any part of the areas to which this consent applies, unless necessary for the primary purpose of the structures, and only to the extent necessary to enable the primary purpose of the structures.

Final Coastal Wetland Restoration Plan Compliance

16. The consent holder must comply with the final Coastal Wetland Restoration Plan certified by condition 7 for the 35-year duration of this consent.

Maintenance

17. The structures authorised by this consent must be maintained in a structurally sound condition for the 35-year duration of the consent.

3. Advice notes

1. Any reference to number of days within this decision refers to working days as defined in s2 of the RMA.
2. For the purpose of compliance with conditions of consent, "the Council" refers to the council monitoring inspector unless otherwise specified. Please email monitoring@aucklandcouncil.govt.nz to identify your allocated officer.
3. Council has approved the Regional Pest Management Plan 2020-2030 (**RPMP**). The RPMP is issued under the Biosecurity Act 1993. The RPMP establishes biosecurity rules for the region. These rules are separate, and are additional, to any resource consent or conditions of consent. These rules manage biosecurity threats from terrestrial, freshwater and marine pests. The RPMP includes provisions that apply Auckland wide and to the Hauraki Gulf Controlled Area.

To find out more information or if you require an Exemption under the RPMP please click [here](#) Find out more about the Council's approach to pest management and how you can help.

4. Any piles proposed for the enhancement works need to be free of encrusting marine organisms prior to taking to site.
5. For more information on the resource consent process with Auckland Council see the council's website www.aucklandcouncil.govt.nz. General information on resource consents, including making an application to vary or cancel consent conditions can be found on the Ministry for the Environment's website: www.mfe.govt.nz.

6. The consent holder is responsible for obtaining all other necessary consents, permits, and licences, including those under the Building Act 2004, and the Heritage New Zealand Pouhere Taonga Act 2014. This consent does not remove the need to comply with all other applicable Acts (including the Property Law Act 2007 and the Health and Safety in Employment Act 1992), regulations, relevant Bylaws, and rules of law. This consent does not constitute building consent approval. Please check whether a building consent is required under the Building Act 2004.
7. If you disagree with any of the above conditions or disagree with the additional charges relating to the processing of the application, you have a right of objection pursuant to sections 357A or 357B of the RMA. Any objection must be made in writing to Council within 15 working days of notification of the decision.

Delegated decision maker:

Name: Colin Hopkins

Title: Principal Project Lead
Premium Resource Consents

Signed:



Date: 8th December 2022