

Before the Joint Hearings Panel of Greater Wellington Regional Council and Porirua City Council

IN THE MATTER of the Resource Management Act 1991

AND

IN THE MATTER Land use and subdivision consent application (RC6922-SL0046/15) and Discharge, land use and water permit consent application (WGN160028)

BETWEEN Wellington Regional Council
(Local Authority)

AND Porirua City Council
(Local Authority)

AND Jagger NZ Limited
(Applicant)

**Addendum to the primary brief of evidence
On behalf of Greater Wellington Regional Council (GWRC)**

**Michelle Conland
5 April 2016**

INTRODUCTION

- 1 Land Matters NZ (agent) acting on behalf of Jagger NZ Ltd (applicant) has applied for various resource consents required to authorise earthworks and stream works for the development of Brookside Estate.
- 2 This is an addendum to the primary brief of evidence (the Greater Wellington Regional Council's s42A report) and has been prepared to provide an update on outstanding matters, and an updated statutory assessment of the applications made to GWRC, following the lodgement of the s42A report. It does not comment on or assess the Statements of Evidence provided by the applicant, expert witnesses or submitters.

Qualifications and experience

- 3 My full name is Michelle Andrea Conland. I am a resource management consultant, contracted to Environmental Regulation, GWRC.
- 4 I have a Bachelor of Science degree and a Master of Science degree in Physical Geography, from Victoria University of Wellington. I have worked in the field of resource management for approximately 17 years.
- 5 From 1998 to 2000, I was employed by the Wellington City Council, assisting hearing panels writing notified resource consent decisions and then as a Policy Advisor. From 2000 to 2008, I was employed by the Otago Regional Council, as a Resource Adviser and then Senior Resource Adviser. From 2008 to 2010, I managed the Consents Team at Hawke's Bay Regional Council. Since April 2010, I have been a self-employed, resource management consultant, undertaking various projects for regional councils, including processing resource consent applications, and policy work for district councils.
- 6 I was the reporting officer for Whitby Coastal Estate Limited's application to undertake various activities to the south of this development within the area that was previously known as 'Duck Creek South'. This application was publicly notified in August 2011, and granted consent without a hearing on 6 December 2011. Since then I have been the reporting officer for various similar applications which involve earthworks (often in association with a subdivision) and the diversion of streams.

7 I have read and am familiar with the Code of Conduct for Expert Witnesses in the Environment Court Practice Note 2011. I agree to comply with that Code. Other than where I state that I am relying on the advice of another person, this evidence is within my area of expertise. I have not omitted to consider material facts known to me that might alter or detract from the opinions that I express.

KEY ASPECTS OF THE PROPOSAL

8 The key aspects of the proposal which require resource consent under GWRC's regional plans are outlined below.

9 The applicant proposes to undertake approximately 286,880m³ cut and fill within a 10.52ha area to create new roads and building platforms for new residential lots. The lots will be constructed at levels above the 2090 year extreme flood event which is a 1 in 100-year flood including allowance for increased flood flows arising from climate change through to the year 2090.

10 The proposed modification of the site's contours will result in the flood flows from Duck Creek being permanently diverted into a narrower flood plain. In addition, the proposed permanent diversion of two reaches of Duck Creek results in 225 lineal metres of existing stream habitat being reclaimed. Flow will be diverted into 134 lineal metres of constructed stream habitat, which results in a loss of 91 lineal metres of stream habitat.

11 Other structures to be placed over or within the bed of Duck Creek are three permanent bridges, 11 stormwater outlet structures, a stormwater pipe under Duck Creek and 265m of rock erosion protection works. Two temporary bridges and a stormwater pipe over Duck Creek will also be placed and used during the construction works.

OUTSTANDING INFORMATION

12 The s42A report outlined that further information was required to be submitted or assessed prior to the hearing. I can confirm that the further information provided by Mr Dean Miller from Tonkin and Taylor and Mr Kyle Christiansen from Cardno, has been received and assessed by GWRC's expert advisers, Mr Mark Lowe from Morphem Environmental Ltd, Dr Megan Oliver from GWRC, and Mr Thomas Joseph from Mott MacDonald.

13 Mr Joseph remains concerned about the amount of bank stabilisation proposed to mitigate the effects of flooding and erosion, and considers that based on the flood

modelling, a greater length of bank stabilisation is required. Mr Lowe considers that even without the additional bank stabilisation works, the amount of riparian planting proposed by the applicant does not adequately compensate for the reduction of stream length and other stream works.

14 Mr Joseph will be in attendance at the hearing and will present a statement of evidence in relation to flooding within Duck Creek.

15 Mr Lowe is unable to attend the hearing but has prepared a statement of evidence in relation to freshwater ecology, to be tabled at the hearing. Mr Damian Young, also from Morphum Environmental Ltd will be in attendance at the hearing and is able to respond to any questions of the panel in relation to freshwater ecology, and the SEV methodology and assessment.

16 Dr Oliver has confirmed that the applicant's assessment of the baseline monitoring data and their recommendations regarding water quality trigger limits for the Environmental Monitoring and Adaptive Management Plan submitted to GWRC on 8 March 2016 are generally acceptable. However, as stated in the recommended consent conditions, it is recommended that a baseline report be submitted to GWRC which provides a detailed analysis of the data in relation to the proposal, provides further details of any additional monitoring undertaken at sites DCN-01 and DCN-05, and outlines the methodologies in obtaining the baseline data. Dr Oliver is unable to attend the hearing but can be contacted should this be required.

ASSESSMENT OF THE RELEVANT PLANNING INSTRUMENTS

17 GWRC seeks to provide an updated assessment of the objectives and policies for the relevant planning instruments due to various factors. This assessment is attached as Annexure 1 to this addendum.

18 First, the policy assessment is not as robust as is required in order to assist the hearing panel and submitters in understanding the policy framework for this application.

19 Secondly, an assessment of the application under the Proposed Natural Resources Plan (PNRP) is required by section 104(1)(b) as the PNRP was notified after the lodgement of the resource consent application but before a decision on the application was made. The PNRP was notified on 31 July 2015. Submissions have been received on the plan and the closing date for further submissions was 29 March 2016. No hearings have been held in relation to the provisions in the plan nor decisions made. As such, the PNRP is considered to be in the early stages of the plan development process, and this is the first time the provisions of this plan will

be tested in this context. Consequently, the objectives and policies have weight and a thorough analysis of these provisions is required.

20 Thirdly, the updated assessment of the objectives and policies for the relevant planning instruments reflects the current position of the GWRC's experts who have now assessed the further information provided by the applicant, and of Ngāti Toa Rangatira.

21 Key amendments to the statutory analysis relate to the assessment of the objectives and policies in relation to the identified values of Duck Creek and the other sites of significance downstream of the proposed development site. In addition, the sites of significance to Ngāti Toa and the huanga of these sites are recognised, and a discussion of how these sites and values will be protected or restored is provided.

22 While a more comprehensive analysis of the statutory instruments is provided, the recommendation of the original s42A report remains largely the same. The proposal generally meets the objectives and policies of the PNRP, as well as the objectives and policies of the operative Regional Freshwater Plan and the operative Regional Plan for Discharges to Land. However, this determination is subject to an acceptable resolution in terms of the amount of riparian mitigation planting and bank stabilisation works required to be undertaken as part of the development. While I consider that the effects arising as a result of the proposal may be avoided, remedied or mitigated, this again is conditional on a satisfactory resolution of the issues in relation to riparian planting and the bank stabilisation works.

CONCLUSION

23 In summary this addendum provides an update on matters that were still outstanding at the time of lodging the s42A report, and an updated statutory assessment of the applications made to GWRC. The purpose of this addendum and the attached updated statutory assessment is to provide up to date information for the parties to the hearing, and clarify the position of GWRC.

24 I consider that, subject to an acceptable resolution of the outstanding issues and provided the applicant undertakes the works in accordance with the consent application and the recommended consent conditions, the proposal may be granted.

Michelle Conland

5 April 2016