

Frank Kitts Park Redevelopment Proposal



Resource Consent Application to Wellington City Council

1 May 2025

Updated 11 June 2025

Date:	1 May 2025 Updated 11 June	Prepared By:	Jason Jones Principal Consultant
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Application for Resource Consent Under Section 88 of the Resource Management Act 1991

TO: WELLINGTON CITY COUNCIL

1. **Wellington City Council** applies for the following types of resource consent:

Land use consent and subdivision.

2. **The activity to which the application relates is as follows:**

Land use consents associated with the redevelopment of Frank Kitts Park in central Wellington, including associated earthworks, construction of new structures, relocation of existing structures, demolition of existing structures, landscaping, lighting, servicing, maintenance, and removal/remediation of potentially contaminated land.

The proposal also involves fee simple subdivision to define new title boundaries within the application site, including for the purposes of formalising land tenure arrangements for the proposed National Fale building. Land use consent for the Fale building is being sought separately and concurrently by the Fale Malae Trust.

The proposal is more fully described in the sections **Description of the Proposed Activity** and **Assessment of Environmental Effects** and appendices attached to and forming part of this resource consent application.

3. **The site at which the proposed activity is to occur is as follows:**

Frank Kitts Park in Central Wellington, comprising:

- part of Lot 2 DP 436892;
- part of Lot 3 DP 436892; and
- adjoining road reserve in Jervois Quay.

4. **The full name of each owner and occupier of the site to which the application relates are as follows:**

Wellington Waterfront Limited, Wellington City Council.

5. **There are no other activities that are part of the proposal to which this application relates** (noting, as above, the consents required for the related Fale building are being sought concurrently by the Fale Malae Trust).

6. **The following additional resource consents are needed for the proposal to which this application relates and have not been applied for:**

- Land use consent for earthworks is required from Greater Wellington Regional Council, and other associated authorisations may be required (discharges, coastal permits, etc).

7. **In accordance with the Fourth Schedule of the Resource Management Act 1991, please find**

attached an assessment of environmental effects in the detail that corresponds with the scale and significance of the effects that the proposed activity may have on the environment.

8. Please advise of the deposit fee and the applicant will pay this directly to the Council.

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On behalf of Wellington City Council
May 2025

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COUNCIL CHARGES: Resource Management Group accepts no liability for any Council costs or charges. All such invoices are to be sent to the Applicant's address for billing.

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Appendix Two: Application drawings & plans

Appendix Three: Design statement

Appendix Four: Taranaki Whānui cultural impact assessment;

Appendix Five: Te Rūnanga o Toa Rangatira cultural values assessment

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Appendix Seven: Waterfront TAG report

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Appendix Ten: Draft erosion & sediment control plan

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Appendix Thirteen: Traffic impact report

Appendix Fourteen: Lighting report

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Appendix Sixteen: Detailed site investigation

Appendix Seventeen: Draft contaminated site management plan

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Appendix Twenty: Compliance assessment

Appendix Twenty-one: Assessment of Objectives & Policies

Appendix Twenty-two: Acoustic assessment

Introduction

Whārikitia te Whenua

A woven mat made of the land; a treasure left behind by the great phenomenon Whataitai.

Weaving the people, binding us to the land and sea, a whāriki tattooed upon the skin of Papatūānuku and fed from Ranginui.

Each panel of the whāriki has its own meaning and tells a story that is created by the weaver¹.

1. The term *whāriki* refers both to the traditional weaving technique for making mats and to the mats themselves. Its compound meaning is inherent in this redevelopment proposal for Frank Kitts Park ("**Park**") in both senses.
2. A key aim of the design process for the Proposal has been to weave people, communities and their values together in a manner that is at the same time coherent and expressive. The completed Park will also serve as a treasured mat that invites allcomers to stay, feel welcome, and enjoy the collective offerings of this important urban public space and the stories behind them.

Summary & purpose of this document

3. This assessment is provided in accordance with the requirements of section 88 and the fourth schedule of the Resource Management Act 1991 ("**the Act**" or "**the RMA**"). It is in support of a resource consent application by Wellington City Council ("**the applicant**") to authorise land use and subdivision activities associated with the redevelopment of Frank Kitts Park in central Wellington (the "**Proposal**").
4. Concurrently, the Fale Malae Trust ("**Trust**") is seeking resource consent to construct and occupy a new building ("**Fale**") in the southwestern corner of the Park. The Trust's application is separate to this application; however, both are being sought concurrently reflecting the integrated nature of the applications. This is discussed further below in the sections dedicated to the respective descriptions of the application site and the proposed activities. Collectively, the Park redevelopment and Fale proposals comprise the overall "**Project**" as referred to throughout this application document.
5. The Proposal requires resource consent under the operative and partially operative Wellington District Plans ("**the ODP**" and "**the PODP**", respectively).
6. This application and Assessment of Environmental Effects ("**AEE**") are provided to address the statutory requirements under the Act for the Proposal. As explained below, the bundled status of the consents required (for both the Proposal and the Project) is **non-complying**; therefore,

¹ Refer Mana Whenua design statement prepared by Len Hetet – Appendix 4

section 104D of the Act applies. The AEE concludes that: any adverse effects likely to arise from the Proposal can be avoided, remedied, or mitigated such that they are no more than minor; and the Proposal is consistent with the relevant objectives and policies of the applicable statutory instruments. Accordingly, consent is able to be granted for the Proposal, including with the imposition of conditions volunteered by the applicant.

7. The application *must* also be publicly notified in accordance with section 95A of the Act.

The Site and Existing Environment

The Application Site

8. In practical terms, the application site ("Site") for the Proposal comprises Frank Kitts Park in Central Wellington (excluding the playground) as well as discrete adjoining areas on the Park's immediate periphery. **Figure 1** illustrates the nominal area within which the Proposal is located.

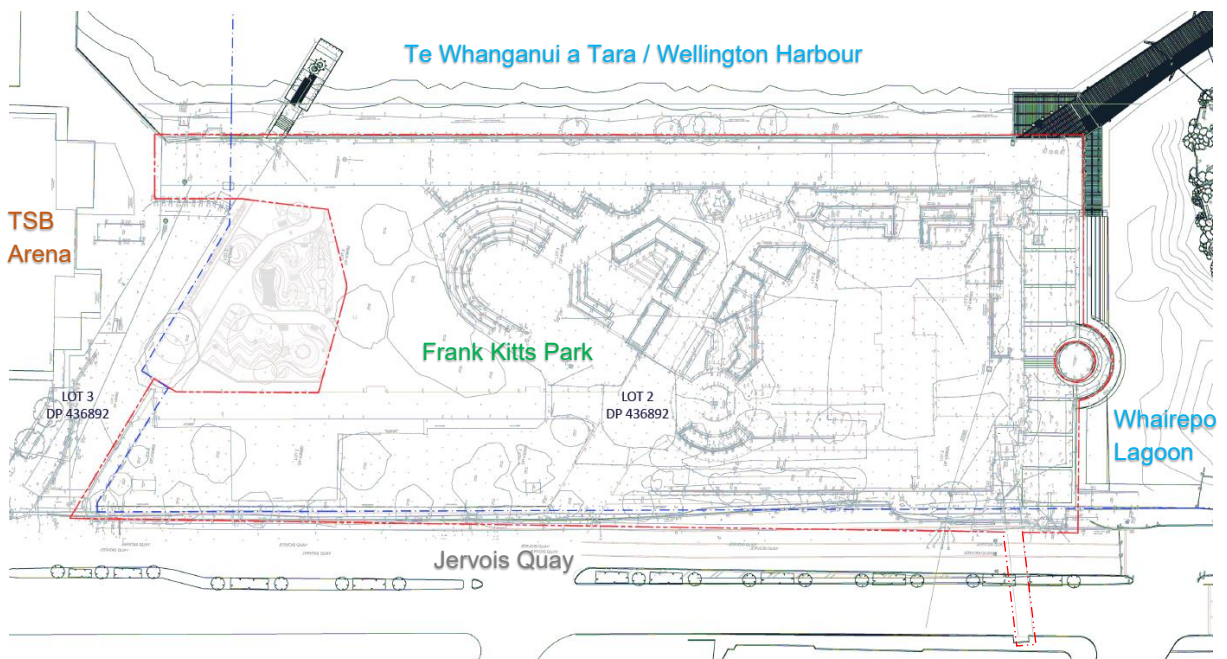


Figure 1 – Area subject to redevelopment proposal (red line is the nominal application Site; blue lines are title boundaries)

9. In cadastral terms, the Site comprises:
 - part of Lot 2 DP 436892 ("Lot 2");
 - part of Lot 3 DP 436892 ("Lot 3"); and
 - road reserve in Jervois Quay.
10. As shown in **Figure 2**, Lot 2 comprises nearly 5.7ha and contains the Park proper in its current configuration.



Figure 2 – Title boundary of Lot 2 DP 436892 (black & white outline) and application Site (yellow polygon). (image source: eplan.wellington.govt.nz/proposed)

11. In addition to the existing Park, Lot 2 encompasses:

- part of Te Whanganui a Tara / Wellington Harbour;
- Whairepo Lagoon;
- the extent of Ara Moana² from the Hunter Street extension, down Taranaki Wharf and to the seaward side of Te Papa;
- *Water Whirler*, being a kinetic sculpture by Len Lye located off Ara Moana at the end of the Hunter Street extension;
- *Albatross*, being a sculpture by Tanya Ashken and listed heritage item adjacent to Whairepo Lagoon;
- the Wellington Rowing Club and Star Boating Club, both listed heritage buildings, located opposite Whairepo Lagoon from the Park³; and
- to the south, Odlins Plaza, a portion of the Te Papa forecourt, and – at Taranaki Wharf – the Wellington Free Ambulance Response Station and the well-known Jump Platform.

² Ara Moana is also known as the Waterfront Promenade, and is part of Te Aranui o Pōneke / Great Harbour Way

³ The Wharewaka building is contained within its own title, otherwise surrounded by Lot 2

12. Lot 3 (refer **Figure 3**) comprises 22.5ha and is immediately to the north of Lot 2.

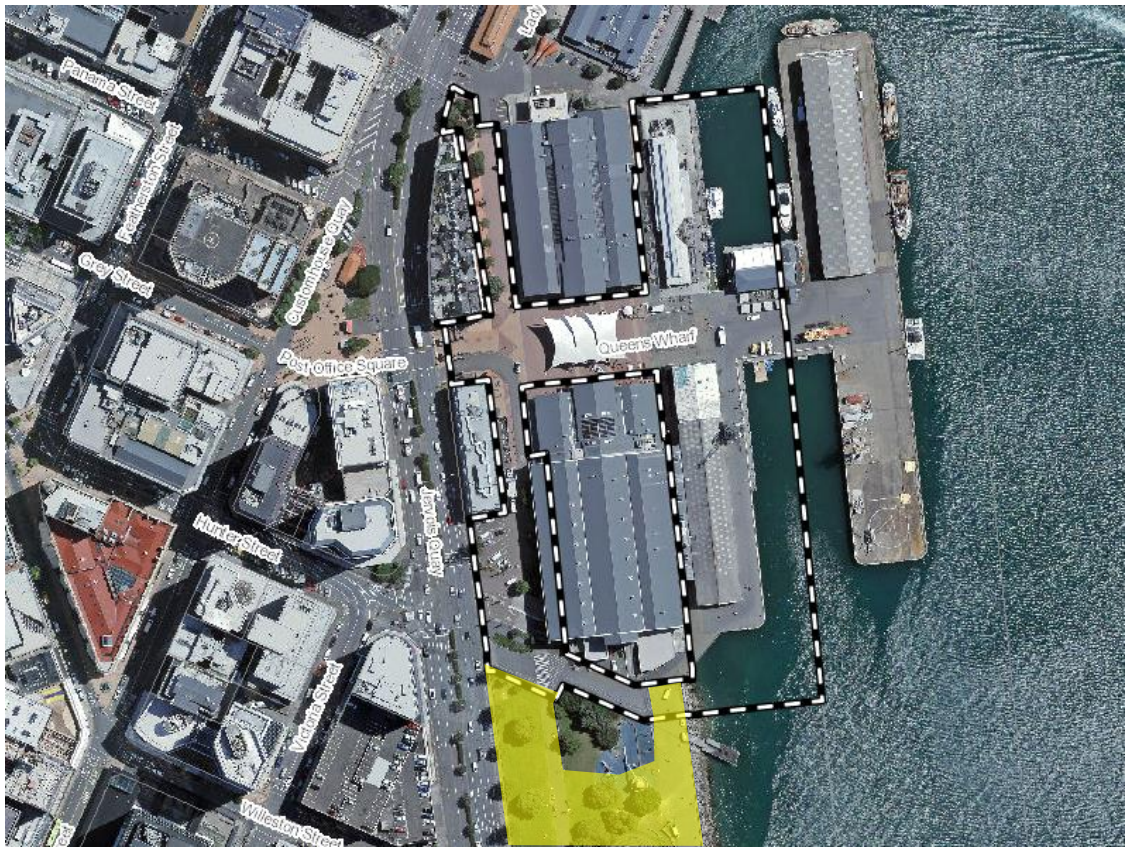


Figure 3 – Title boundary of Lot 3 DP 436892 (black & white outline) and application Site (yellow polygon). (image source: eplan.wellington.govt.nz/proposed)

13. The portion of Lot 3 affected by the Proposal is relatively small and is limited to: the existing and proposed footpath on the southern side of the Hunter Street extension; and a small area of Ara Moana between the TSB Arena and the Len Lye Water Whirler sculpture. The wider curtilage of Lot 3 also includes:
- Queens Wharf;
 - Shed 5, Dockside and the Crab Shack restaurants, all of which operate out of listed heritage buildings on the northern side of Queens Wharf;
 - Shed 6, comprising public toilets, Fergs Kayaks and other commercial uses; and
 - Ara Moana and other pedestrian and vehicle circulation areas around TSB Arena and other buildings located at Queens Wharf.
14. The portion of the Site to be occupied by the proposed Fale is located in the south-west corner of the Park. The proposed Fale will occupy approximately 708m³.
15. The redevelopment component of the Proposal will also include works in Jervois Quay. Those works are more fully described subsequently, but generally affect: the kerbline, lane orientation and parking/loading arrangements on the eastern side of the Quay; and the airspace above the Quay comprising the existing pedestrian overbridge at Harris Street.

Existing Park characteristics

16. The existing physical characteristics of the Park can be summarised as follows:

- at the northern end of the Park, there is a recently refurbished children's playground area which will remain unchanged by the Project and is excluded from the Site;
- to the immediate south of the playground is a landscaped amphitheatre comprising a mixture of hard surfaces and grass;
- the elevated eastern edge of the amphitheatre structure creates a physical barrier between the interior Park space and Ara Moana - this walled elevation is adorned with an array of memorial plaques which are to be retained within the redeveloped Park, albeit in a different configuration;
- the southern and western edges of the amphitheatre area are marked by internal pathways respectively running parallel to Ara Moana and as an extension to Willeston Street;
- the southern portion of the amphitheatre at the junction of Ara Moana and the Willeston Street extension is punctuated by the Wahine Mast, a memorial to honour those who lost their lives and those who were rescued when the vessel capsized at the mouth of Te Whanganui a Tara / Wellington Harbour in 1968 – the mast is to be retained and repositioned as part of the redevelopment;
- the area between the amphitheatre and Jervois Quay is relatively flat lawn with mature trees planted at intervals;
- a large carparking building is the defining feature of the Park's southern extent – ramps and stairs provide access to lawns, paved areas and seating on the building's roof and the elevations of the building presenting to Ara Moana and the Whairepo Lagoon contain various small commercial tenancies, public toilets and dragon boat storage facilities; and
- the carpark building is linked to the western side of Jervois Quay at Harris Street via a raised, open-air pedestrian overbridge.

17. Various existing elements of the Park summarised above are to be retained and/or repositioned, whilst others will be removed to make way for new facilities. These changes are more fully described in the proposal description below.

Other factors defining the "environment"

18. In addition to the Site's current physical characteristics described above, the "environment" for the purposes of this application's assessment includes⁴:

- the future state of the environment as it may be modified by the utilisation of rights to carry out permitted activities under the ODP and PODP; and

⁴ Refer *Queenstown Lakes District Council v Hawthorn Estate Ltd* (2006) 12 ELRNZ 299 (CA) at [84].

- the environment as it may be modified by the implementation of resource consents that have been granted at the time this application is being considered, where it appears likely those consents will be implemented.
19. As further detailed below, the Project includes several activities which are permitted under the ODP or PODP. For example:
- the demolition of buildings and structures⁵;
 - the construction of sculptures, public art, waterfront furniture and other structures⁶; and
 - permitted activities relevant to the Fale application, comprising community facilities, public toilets dragon boat storage⁷.
20. Furthermore, the Site is subject to resource consent SR358352, granted in 2018. That consent authorises a previous redevelopment proposal for the Park, aspects of which have been given effect to by the applicant over the ensuing period – most notably the playground renovations. It is understood that the consent would have been fully implemented by now but for external factors which have resulted in the need for refinements.
21. A key factor in this regard was the confirmation that the existing carparking building suffered significant damage during the 2016 Kaikoura Earthquake, to the point that it was subsequently assessed in 2020 as being earthquake prone. As a consequence, the Council resolved to demolish the building, in turn requiring amendments to the proposal envisaged in the 2018 consent.
22. A summary of the key elements previously consented in 2018 and a description of their adaptation in this proposed redevelopment is provided in **Table 1** below. The main development plan from the 2018 scheme is included at **Figure 4** for spatial orientation, with corresponding cross references provided in Table 1. More detailed descriptions of the proposed Park elements are provided in the subsequent section of this report.

TABLE 1 – Comparison of 2018 and 2025 Park features

2018 consented features	Description of feature (2018)	Degree of proposed change (2025)
Children's Playground <i>Refer item 19 in Figure 4</i>	Updated play equipment, park furniture, hard and soft landscaping	Nil The playground redevelopment is complete and the playground area excluded from the Project footprint.
Harbour Lawn <i>Refer item 18 in Figure 4</i>	New lawn and landscaped area to replace the existing amphitheatre. Ground modified to slope gently from west to east where interface with Ara Moana is	Negligible Subtle changes in the lawn's geometry and the positioning of perimeter pathways and planting. Location within the Park and overall

⁵ Refer Operative Rule WFZ-R13 which permits the "demolition or removal of a building" where it "i. Is required to avoid an imminent threat to life and/or property" or "ii. Enables the creation of public space" or "iii. Is required for the purposes of constructing a new building or adding to or altering an existing building that is a permitted activity under WFZ-R14 or WFZ-R15, or that has an approved resource consent or resource consent is being sought concurrently under WFZ-R14 or WFZ-R15". In this case, both ii. and iii. are relied on for the permitted activity status.

⁶ Refer Operative Rule WFZ-R15 (note also associated exemption under WFZ-R16)

⁷ Refer Operative Rule WFZ-R2.

2018 consented features	Description of feature (2018)	Degree of proposed change (2025)
	at grade.	scale is generally as per consented scheme. There is a modest reduction in grassed area ⁸ but amenity planting areas around the lawn have been generously increased.
Coastal Garden & stormwater filtration <i>Refer items 15 & 17 in Figure 4</i>	Low impact stormwater filtration facility and formal garden area with coastal planting palette proposed.	Negligible Minor changes in the geometry and the positioning of these facilities and the adjacent perimeter pathways and planting. Location within the Park and overall scale is generally as per consented scheme.
Park Promenade <i>Refer item 16 in Figure 4</i>	Replaces the existing north-south pathway linking the Hunter and Willeston Street extensions, albeit with new surfacing and in a subtly more westerly positioning.	Negligible Subtle changes in the promenade's geometry as a boundary feature responding to the new Playground, Coastal Garden and Harbour Lawn layouts. Serves the same function to the same level of service as the 2018 scheme and its predecessor. The reconfiguration to the southern part of the Site means also that the Park Promenade can better link with the newly proposed East-West Promenade.
Garden of Beneficence <i>Refer items 1-10 in Figure 4</i>	New Chinese garden, featuring a series of outdoor rooms with associated pavilions, seating, hard and soft landscaping. The main entrance to the garden was proposed via an entry square and through a large pai lau gate structure. The general format of the garden was to follow the existing elevational change between the lower lawn areas to the north and the raised rooftop spaces above the carparking building to the south.	Moderate The garden remains in its consented position but is able to be reimaged due to the lower ground level achieved by the carpark building demolition. The garden will retain its composition of unfolding outdoor rooms, albeit with modifications to the details for each space. An entrance to the garden will be retained on the Jervois Quay side; however, the main entrance plaza and the pai lau gate are relocated to the Ara Moana side of the Park. The overall topographical profile of the garden is lower than the 2018 scheme and perimeter walls are generally lower and more visually permeable.
City Lawn <i>Refer item 11 in Figure 4</i>	This 'upper' lawn above the carparking building rationalised the sporadic grassed areas	High In the proposed design, this lawn is relocated to the Ara Moana side of

⁸ From 2,528m² to 2,294m² or approximately 9% reduction.

2018 consented features	Description of feature (2018)	Degree of proposed change (2025)
	currently present.	the Park, now able to be integrated directly with the promenade. Like the Harbour Lawn, the City Lawn's total grassed area is modestly reduced relative to the 2018 scheme ⁹ , but perimeter planting has been increased. Its role and function will largely stay as per the consented design, though the dedicated lawn space can also serve as the Malae for the proposed Fale. The Fale itself is also to be incorporated into the general location where the City Lawn was previously proposed.
Ara Moana <i>Refer item 22 in Figure 4</i>	Works were generally limited to 'making good' the interface between the promenade and Park areas where existing walls are to be demolished. Pavilion and canopy structures proposed atop the carparking building would overhang Ara Moana and the Whairepo Lagoon promenade in places (<i>refer items 09 and 13 in Figure 4</i>).	Low-moderate 'Making good' works will be required as per the 2018 scheme following demolition works, albeit that those works will be more extensive with the removal of the carparking building. New sculptures and paving are also proposed in Ara Moana to reflect mana whenua cultural values.
Memorials & other artwork <i>Refer items 23-25 in Figure 4</i>	The Wahine Mast, <i>Fruits of the Garden</i> sculpture (Dibble), and assorted memorial plaques in the amphitheatre wall were proposed to be relocated.	Low The Wahine Mast and Fruits of the Garden will be in much the same place as previously proposed, albeit the latter will be closer to promenade level as a result of the carpark building demolition. Memorial plaques will be similarly relocated within the Park, though the placement and configuration of the plaques is slightly altered.
Pedestrian overbridge <i>Not referenced in Figure 4</i>	The proposal included the demolition of the Jervois Quay pedestrian overbridge and reconfiguration of access stairs from the Whairepo Lagoon promenade to the City Lawn.	Negligible The current Proposal will also involve the removal of the overbridge and reconfigured access from the Jervois Quay / Whairepo Lagoon corner into the Park.
Lighting and other Park furniture <i>Not referenced in Figure 4</i>	New internal lighting poles and low-level lighting were proposed for safety and wayfinding after dark.	Negligible The number, type and positioning of lighting is modified from the 2018 scheme to reflect changes in good practice and relevant National standards.

⁹ From 1,245m² to 1,168m² or approximately 9% reduction.

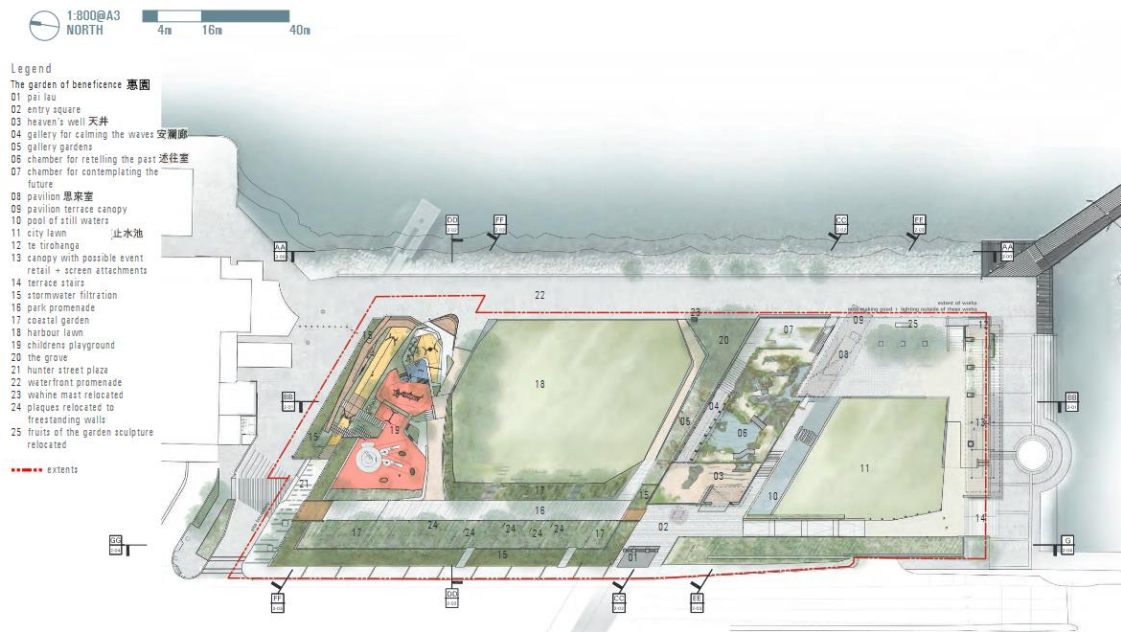


Figure 4 – Main development plan for 2018 scheme.

23. As can be derived from the above, the current Project bears a close resemblance to the 2018 scheme in many respects. The residual differences can be summarised as follows:

- new design elements, artwork and landscape treatments to integrate mātauranga Māori and mana whenua values;
- minor changes to the geometry of the “Harbour Lawn”, “Coastal Garden” and “Promenade” elements;
- demolition of the earthquake-prone carparking building, with provision made for more accessible, at-grade open space and an area dedicated for the Fale which has a smaller overall built footprint in its place¹⁰; and
- reconfiguration of the Garden of Beneficence to integrate with the changed ground level and proposed land usage realised by the carpark demolition;

24. As detailed in the assessment of environmental effects below, the Project can be said to alter the existing environment as it may be modified by the 2018 consent:

- to a minimal degree in the northern ‘half’ of the Park;
- to a low-moderate degree as relates to the Garden of Beneficence; and
- to a high degree as relates to the southern extent of the Site.

25. The extent to which those modifications amount to positive, neutral or adverse effects is the subject of the subsequent effects assessment.

¹⁰ The footprint of the Fale is estimated at 19% of the area of the existing carparking building. The footprint is approximately 3.5% of the Park’s ‘public open space’ area.

Surrounding Environment

26. The surrounding environment is generally of an urban nature to the north, west and south of the Park, with Te Whanganui a Tara immediately to the east.
27. On the western side of Jervois Quay, existing buildings are low- to mid-rise, with built form gradually increasing in scale and intensity towards Willis Street, Lambton Quay and the Terrace further afield. Pedestrian access to the Park is provided via at-grade pedestrian crossings on Jervois Quay at Hunter Street, Willeston Street and Harris Street.
28. Jervois Quay itself is a 6-lane divided arterial road with a general daily trip rate of more than 40,000 vehicles¹¹.
29. The wider site's¹² southern boundary is adjoined by land comprising Te Papa Tongarewa, Circa Theatre, Shed 22, the NZ Stock Exchange building and Wellington Free Ambulance building. To the north and west of Queen's Wharf, the wider site adjoins land comprising the former Wellington Harbour Board Head Office & Bond Store building, Shed 7 and the collection of low-rise buildings adjoining Lady Elizabeth Lane.
30. Existing three-waters servicing, power and telecommunication facilities are laid in Jervois Quay, including water supply and drainage networks which are proposed to be accessed by the Proposal.

Description of Proposed Activity

Summary of Project

31. The Project can be largely distilled in three main parts¹³:
 - redevelopment of the Park and adjoining areas in Jervois Quay and Te Ara Moana;
 - construction and operation of the Fale; and
 - subdivision to create new title boundaries.
32. Each of these components is described in greater detail in turn below. A summary of volunteered conditions is also provided as these form part of the application.
33. As noted previously, this application relates to the Park redevelopment and subdivision aspects of the Project (as above, these aspects are also referred to as the Proposal). The Fale Malae Trust is the applicant in relation to the Fale component of the Project. The two applications should be considered concurrently.

¹¹ 7-day average calculated March 2019. Accounts for northbound and southbound trips. Source: <https://wellington.govt.nz/parking-roads-and-transport/roads/working-on-the-road/vehicle-counts>

¹² The 'wider site' in this context comprises the title boundaries for Lot 2 and Lot 3, along with that part of Jervois Quay impacted by the Project.

¹³ In addition, as above the Project involves certain permitted activities, including the demolition of the existing carpark building (which, as above, has a permitted activity status in part because of the proposed Fale).

Park redevelopment components – Wellington City Council application

34. The main components of the Park redevelopment are described in detail in the design statement prepared by Wraight & Associates and the mana whenua design statement prepared by Len Hetet of Baked Design¹⁴, respectively in **Appendices 3 and 4**. In summary these comprise the following, with corresponding references made in **Figure 5**:

- **Te papa ngahau | Harbour Lawn** – As summarised in Table 1, this space is an adaptation of the Harbour Lawn as consented in 2018. It comprises a large, grassed area which slopes gently toward the Harbour, surrounded by generous areas of hard and soft landscape elements. It is centrally located within the Park, linking Te Ara Moana with the newly reconstructed playground, the Filter Garden and the Garden of Beneficence. *Refer D in Figure 5.*¹⁵
- **Te papa whenua | Filter garden** – Like the Harbour Lawn, the Filter Garden bears a close resemblance to its predecessor as consented in 2018. It includes a stormwater filtration basin, with generous plantings. It will afford an opportunity to intercept contaminant-laden surface water runoff from Jervois Quay, providing treatment before the water is then discharged to the Harbour. *Refer C in Figure 5.*¹⁶
- **Te papa aroha | 惠園 | Garden of Beneficence** – Anchoring the centre of the Park is the Garden of Beneficence. While this feature adopts its predecessor’s series of unfolding outdoor rooms, the updated design is more open and sits more lightly on the Site compared to the previous design – which needed to link two different gradients between the Jervois Quay / Promenade level and the rooftop area of the carparking building. *Refer E in Figure 5.*¹⁷
- **Te papa A Pasifika | Malae | Whairepo Lawn** – The Whairepo Lawn replaces the former ‘City Lawn’, benefitting from the lower ground level realised by the demolition of the carparking building. The space is able to double as a Malae for the Fale¹⁸. Like the Harbour Lawn, the Malae is edged by hard and soft landscaping and slopes gently from west to east to address Te Ara Moana and the Harbour beyond. *Refer G in Figure 5.*¹⁹
- **Hiki | connections** – The components are joined together by hiki, pathways designed to provide safe, legible connections through and around the main Park spaces. At key anchor points on the periphery, raukura sculptures and motifs provide a gateway, inviting all people into the Park to feel welcome on the whariki, the mat of spaces bound together by the hiki. *Refer J, H, I in Figure 5.*²⁰

¹⁴ And attached to the Cultural Impact Assessment prepared on behalf of Taranaki Whānui ki Te Upoko o Te Ika

¹⁵ Refer also Appendix 2: Drawings L123, L124 L202, L604, L607, L608; and Appendix 3: p.15-16

¹⁶ Refer also Appendix 2: Drawings L123, L124 L202, L404; and Appendix 3: p.16-17

¹⁷ Refer also Appendix 2: Drawings L119, L122, L131, L201, L204, L300, L310, L311, L402, L602, L603, L604, L608, L610, L613-L619; and Appendix 2: p.17-21

¹⁸ Refer ‘F’ in Figure 5

¹⁹ Refer also Appendix 2: Drawings L122, L124, L201, L202, L601, L602, L604, L605, L606, L609, L611; and Appendix 3: p.21-22

²⁰ Refer also Appendix 2: Drawings L119, L121, L122, L601, L602, L605, L606, L609; and Appendix 3: p.22-23



Figure 5 – Proposed Landscape Plan.

35. Existing mature trees on the Site will be retained or relocated, with new plantings being established to suit the various function of each space within the Park.
36. Existing artwork and monuments will be relocated to suit the new configuration of Park elements. New artwork will be established, including the proposed raukura for example.
37. Seating, lighting and other park furniture will enhance comfort and safety of the spaces.
38. As authorised for the 2018 scheme, the Jervois Quay pedestrian overbridge is to be removed.

Fale - Fale Malae Trust application

39. A full description of the Fale proposal, including how the building will be integrated with the Malae and surrounding open space, is contained in the AEE prepared for the Fale Malae Trust by Urban Perspectives Ltd and the Architect's Design Statement attached to that AEE.
40. Principal components of the Fale application are:
 - **Fale** – the 'building' with a 708m² footprint and a maximum height (to the roof ridgeline) of 13.130m²¹; and
 - **Paepae** – raised platform around the Fale.
41. The Fale's ground floor space (Drawing RC-101 - refer **Figure 6**) will be occupied by:
 - ceremonial meeting space which can accommodate 400 people standing or 290 people seated;
 - community room for lectures, seminars and community gatherings accommodating 90 people standing or 70 people seated;

²¹ Measured from the Jervois Quay RL - refer Application Drawing RC-300

- cafe on the northern façade with access to outside seating on the paepae; and
- entry lobbies on the east and west facades.

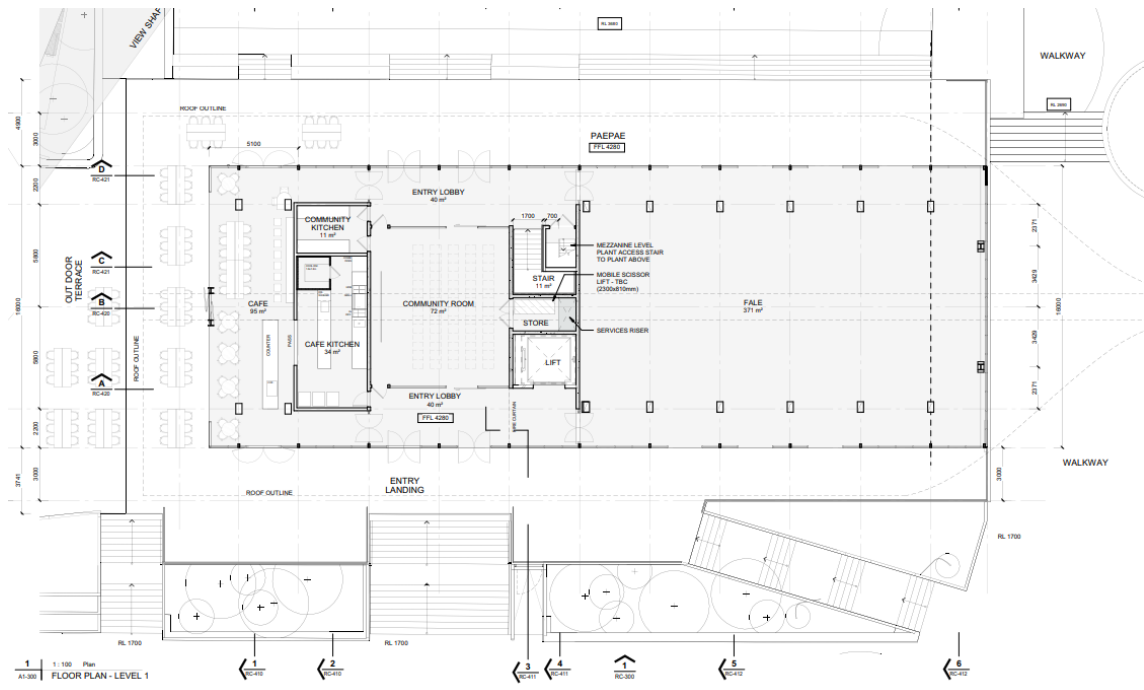


FIGURE 6: Floor plan (Level 1) - Application Drawing RC-101 (Fale Malae Trust application)

42. The lower, sub-basement level (refer **Figure 7**) will accommodate kitchen facilities and storage space associated with the Fale, dragon boat storage, changing rooms and public toilets.

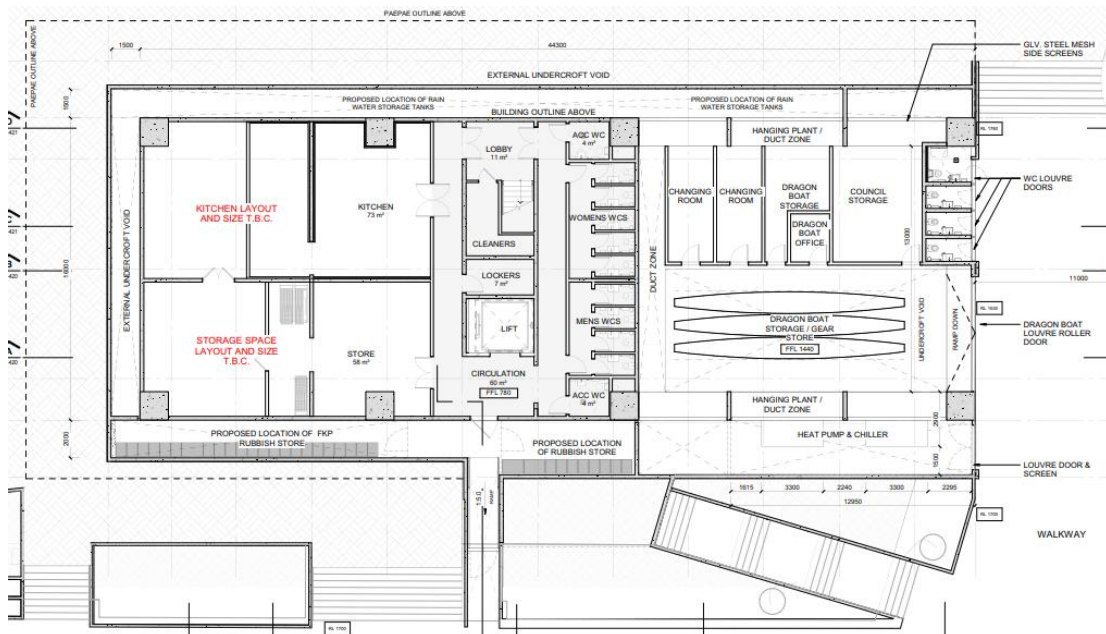


FIGURE 7: Floor plan (Basement Level) - Application Drawing RC-100

43. **Figure 8** presents a simulation of the Fale viewed from the waterfront promenade looking north-west to the central business district (CBD) beyond.



FIGURE 8: proposed Fale, Frank Kitts Park

44. For a statement summarising the Trust’s vision refer Appendix 5 to the application prepared by Urban Perspectives Ltd.

Subdivision - Wellington City Council application

45. A subdivision is proposed for the purpose of creating a new title around the footprint of the proposed Fale.
46. The subdivision plans at **Appendix 6** to this application show the proposed title boundaries for the new allotment configuration, including all necessary easements.

Volunteered conditions

47. Various measures are proposed to avoid, remedy or mitigate actual and potential effects on the environment arising from the Proposal. Those measures are volunteered as conditions of consent at **Appendix 19** and include:
- general requirements to conduct activities under the consent in general accordance with the material submitted;
 - requirements for ongoing consultation with mana whenua to ensure cultural values can be maintained or enhanced during future detailed design and construction phases of the project;
 - protocols to be adopted in the event of accidental discovery of archaeological sites;
 - process-based and substantive requirements for the preparation, certification and implementation of various management plans;

- erosion and sediment control measures;
 - requirements for the finalisation of landscape and design details;
 - measures to manage effects of lighting, dust, noise and vibration effects;
 - measures to avoid, remedy or mitigate residual effects from the handling of soil with potentially elevated levels of contaminants;
 - requirements for new and modified three waters servicing;
 - measures to address potential risks from natural hazards; and
 - administrative conditions for pre-construction, monitoring and review processes.
48. These volunteered conditions form part of the application, including for the purposes of Council's considerations under s95 and s104 of the RMA.

Compliance Assessment

Partially Operative District Plan 2024

49. The Council publicly notified a new Proposed District Plan for Wellington City (“**PDP**”) in 18 July 2022. Prior to notification, the Council resolved that certain provisions in the PDP would be considered under the Intensification Streamlined Planning Process (“**ISPP**”)²², whilst the balance would follow the more ‘conventional’ process for changing a district plan set out under Schedule 1 of the RMA.
50. The PDP progressed through the public notification, submission, further submission and hearing stages, with the hearings on the ISPP provisions conducted in 2023. The independent hearings panel (“**Panel**”) appointed by the Council to hear the ISPP provisions delivered its recommendations to Council in March 2024.
51. The Council in turn accepted most of the Panel’s recommendations on the ISPP. As at the date of lodgement for this application, the majority of the ISPP provisions are now operative and comprise the PODP.
52. Under the PODP, the application Site (**Figure 1**) is within the Special Purpose Waterfront Zone. The Site is also subject to the following overlays on the planning maps:
- Specific controls: Waterfront Public Open Space;
 - Coastal Inundation extent (Medium Hazard Area);
 - Flood Hazard Overlay:
 - Inundation Area (Low Hazard Area);
 - Overland flowpath (Medium Hazard Area);
 - Liquefaction Overlay (Low Hazard Area);
 - Tsunami Hazard Overlay:
 - 1:1000 year inundation extent (Low Hazard Area);
 - 1:500 year inundation extent (Medium Hazard Area);
 - 1:100 year inundation extent (High Hazard Area);
 - Coastal Environment; and
 - Viewshafts VS10 (Hunter Street), VS11 (Willeston Street) and VS15 (Cable Car).
53. Additional overlays apply within Lot 2, Lot 3 and Jervois Quay, but outside the footprint of the

²² Under Subpart 5A, RMA

application Site, including:

- Te Whanganui-a-Tara Site and Area of Significance to Māori (“**SASM**”);
 - Te Whanganui a Tara Mana Whenua Statutory Acknowledgement Area;
 - Heritage Building notations 160, 161, 256, 257, 284 and 285;
 - Heritage Structure notations for the *Albatross* sculpture, Queens Wharf Harbour Board Gates and Dog Memorial Drinking Fountain;
 - Post Office Square Heritage Area; and
 - Viewshafts VS7 (Brandon Street), VS8(Panama Street) VS12 (Harris Street), VS14 (Cable Car) and VS16 (Taranaki Street).
54. The applicant and the Trust have undertaken detailed assessments of the extent to which the zone-based, overlay-based and additional district-wide provisions under the PODP affect the compliance status of the Project. The compliance table at **Appendix 20** sets out the detailed assessment of the Proposal (being the aspects relevant to *this* application).
55. A note on interpretation of relevant provisions is provided in **Appendix 20** and should be read in conjunction with the tabular assessment that follows.
56. **Table 2** below provides an index of all consent requirements for this application derived from the compliance assessment at **Appendix 20**.

TABLE 2 – Summary of consent requirements

Rule	Relates to...	Activity Status
Land Use Consents		
THW-R4	Water sensitive design methods	Restricted discretionary
NH-R1	Structures in an overland flowpath	Restricted discretionary
HH-R8	New buildings and structures on site of heritage building or structure	Restricted discretionary
VIEW-R2	Structures which may be deemed ‘intrusions’ into viewshafts VS10 and VS11	Restricted discretionary
EW-R4	General earthworks exceeding permitted activity limits	Restricted discretionary
EW-R5	Earthworks on site of scheduled heritage building or structure	Restricted discretionary
EW-R15	Earthworks within flood hazard overlay	Restricted discretionary
NOISE-R2	Potential construction noise exceedances	Restricted discretionary
WFZ-R15	Construction of new building/structures that do not comply with permitted activity limits	Discretionary
WFZ-R16	Development of new public space and modification to existing public open space	Discretionary
Subdivision Consents		
SUB-R5	Subdivision creating a vacant allotment with no provision of coastal esplanade	Restricted discretionary
SUB-R6	Subdivision of a site on which a heritage building or structure is located	Discretionary
SUB-R10	Subdivision of land within a site or area of significance to Māori Category A and B	Restricted discretionary
SUB-R15	Subdivision of land within coastal environment, outside	Discretionary

Rule	Relates to...	Activity Status
	high coastal natural character, coastal/riparian margin with no provision of coastal esplanade	
SUB-R16	Subdivision of land within: the coastal environment; coastal margins or riparian margins; and the special purpose waterfront zone	Controlled
SUB-R21	Subdivision within the Liquefaction Overlay	Controlled
SUB-R22	Subdivision within the inundation area of the Flood Hazard Overlay	Restricted discretionary
SUB-R23	Subdivision within the overland flow path of the Flood Hazard Overlay	Discretionary
SUB-R25	Subdivision within the low hazard area of the Coastal Hazard Overlay	Restricted discretionary
SUB-R26	Subdivision within the medium hazard area of the Coastal Hazard Overlay	Discretionary
SUB-R27	Subdivision within the high hazard area of the Coastal Hazard Overlay	Non-complying

57. When all consent requirements are bundled together, the application is to be assessed as a **non-complying activity** under the PODP²³.
58. No other rules in the PDP which have immediate effect are considered relevant to the application.

Operative District Plan 2000

59. Most of the relevant provisions of the ODP have been superseded by the PODP as relates to the subdivision, use and development of the Site. Two exceptions have been identified, and consent is accordingly sought under the ODP as summarised below.
60. Firstly, the Proposal requires consent as a **discretionary activity** under Rule 32.1.3 of the ODP to use, develop and subdivide potentially contaminated land. There are related compliance implications under the relevant national environmental standard for contaminated land as discussed immediately below.
61. Secondly, the applicant applies for consent out of precaution under Rule 13.3.3 in the ODP. The applicant considers that new park lighting can fairly be deemed ‘waterfront furniture’²⁴ which is a permitted activity under the Central Area zone²⁵ rules provided that relevant activity standards are met. The corresponding lighting levels now proposed are unable to meet the minimum 10 lux requirement under standard 13.6.2.2.2 due to its requirement for compliance to be measured in accordance with the (now outdated) 2005 Australia / New Zealand standard AS/NZS 1158.3.1:2005. This deemed non-compliance is to be assessed as a **restricted discretionary activity**.

²³ The Fale application is also to be assessed as a non-complying activity.

²⁴ The applicant relies upon the plain and ordinary meaning of ‘street furniture’ in the Cambridge, Oxford and Collins dictionaries, being the nearest equivalent term. The applicant notes also p.30 of the [Wellington Waterfront Framework \(April 2001\)](#), which, under the heading ‘Waterfront Furniture’ reads “[p]eople are more likely to occupy a space if seating, lighting and other furniture is provided” (*emphasis added*). This latter text is followed by a paragraph dedicated to lighting as an integral part of public space design on the waterfront.

²⁵ Noting that the site’s zoning under the ODP is “Central Area”. The Special Purpose Waterfront Zone does not exist in the ODP.

62. When the above activities are bundled together, the Proposal falls as a **discretionary activity** under the ODP.

National Environmental Standards for Contaminated Land

63. The Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011 (“**NES-CL**”) is relevant to the application Site.
64. A detailed site investigation (“**DSI**”) has been prepared as reported in **Appendix 16**. While the site sampling conducted to date indicated that contaminant concentrations are below the applicable standards for outdoor workers and recreational land use, it has also noted that there may be unidentified pockets of unknown hazardous material encountered during works due to the nature of the reclamation fill used when the Site was originally created.
65. The DSI notes also that testing has not been conducted under the existing carparking building due to access, health and safety issues.
66. Given the above, the applicant considers it appropriate to assume contaminants will be encountered during site works that are in excess of applicable standards under the NES-CL. The applicant therefore provisionally seeks consent as a **discretionary activity** under Regulation 11 of the NES-CL.

Statutory Considerations

Duties and Restrictions under the RMA

67. Sections 9 to 23 of the RMA set out the duties and restrictions relating to activities in terms of consenting authorities. These sections provide the basis for which consent is sought. Of relevance to this application is section 9 (restrictions on use of land) and section 11 (restrictions on subdivision of land).
68. Section 9 of the RMA sets out that any use of land may not proceed in a manner that contravenes a:

- national environmental standard;
- regional rule; or
- district rule

unless expressly allowed by a resource consent or by sections 10, 10A or 20A of the RMA.

69. Section 11 of the RMA sets out that no person may subdivide land unless the subdivision is—
- first, expressly allowed by a national environmental standard, a rule in a district plan as well as a rule in a proposed district plan for the same district (if there is one), or a resource consent; and

- second, is shown on one of the following:
 - a survey plan, as defined in paragraph (a)(i) of the definition of survey plan in section 2(1), deposited under Part 10 by the Registrar-General of Land; or
 - a survey plan, as defined in paragraph (a)(ii) of the definition of survey plan in section 2(1), approved as described in section 228 by the Chief Surveyor; or
 - a survey plan, as defined in paragraph (b) of the definition of survey plan in section 2(1), deposited under Part 10 by the Registrar-General of Land; or
70. The proposed activity is not allowed by any national environmental standard or other regulations. As outlined above, it does not meet several standards in the ODP and PODP. The Proposal therefore requires resource consent and shall be assessed in accordance with the following provisions of the RMA.

Consideration of Application

71. Section 104(1) of the RMA requires, amongst other matters, that when considering an application for resource consent, a Consent Authority must have regard to any actual and potential effects on the environment; any relevant provisions of a regional policy statement and regional plan; any measure proposed or agreed to by the applicant for the purpose of ensuring positive effects on the environment to offset or compensate for any adverse effects on the environment that will or may result from allowing the activity; and any other matters relevant and reasonably necessary to determine the application.
72. In respect of a discretionary activity or non-complying activity, section 104B of the RMA states that a consent authority may grant or refuse the application. If it grants the application, it may impose conditions under section 108.
73. Section 104D of the RMA places particular restrictions on non-complying activities and states that despite any decision made for the purpose of notification in relation to adverse effects, a consent authority may grant a resource consent for a non-complying activity only if it is satisfied that either:
- the adverse effects of the activity on the environment (other than any effect to which section 104(3)(a)(ii) applies) will be minor; or
 - the application is for an activity that will not be contrary to the objectives and policies of:
 - the relevant plan, if there is a plan but no proposed plan in respect of the activity; or
 - the relevant proposed plan, if there is a proposed plan but no relevant plan in respect of the activity; or
 - both the relevant and the relevant proposed plan, if there is both a plan and a proposed plan in respect of the activity.

74. The relevant plans to assess in the above context comprise the ODP, the PODP and PDP. All other things being equal, the PODP provisions are to be given the greatest weight of the three plans. The ODP and PDP provisions should only be considered where their substance is not otherwise addressed under the PODP, with appropriate weighting applied depending on particular circumstances.
75. The subject of weighting has been addressed by the Courts on numerous occasions, and corresponding decisions have informed planning practice subsequently. Synthesising key factors in this regard, the following should inform a decision of weighting:
- the extent to which the proposed plan has been exposed to independent decision-making;
 - possible injustice;
 - the extent to which the proposed plan may implement a coherent pattern of objectives and policies; and
 - where there is a significant shift in policy and provisions are in accord with Part 2 of the RMA, more weight may be given to the PDP²⁶.
76. Consideration of these and other factors is given in the assessment of objectives and policies below – preceded by an assessment of the actual and potential environmental effects of the Proposal.

Assessment of Environmental Effects

Introduction & summary

77. Section 88 of the RMA requires the applicant to undertake an assessment of any actual or potential effects on the environment that may arise from the Proposal, and the ways in which any adverse effects may be avoided, remedied or mitigated.
78. The corresponding information requirements and matters that must be assessed as set out in Schedule 4 of the RMA are satisfied by the assessment that follows.
79. An index of the relevant effects categories is provided in **Table 3** below, along with a reference to relevant technical reports in the appendices to this assessment:

TABLE 3 – Index of effects categories and associated technical reports

Effect Category	Appendix Reference
Cultural effects	Appendix 4 Cultural impact assessment Appendix 5 Cultural values assessment
Effects of buildings, structures and landscaping	Appendix 2

²⁶ Refer *Keystone Watch Group v Auckland City Council* (A0007/2001), and *Mapara Valley Preservation Society v Taupo District Council* (A083/2007)

Effect Category	Appendix Reference
	Application drawings Appendix 3 Landscape design statement Appendix 7 Waterfront TAG report Appendix 8 Viewshaft analysis
General earthworks, demolition & construction effects	Appendix 9 Civil engineering report Appendix 10 Draft erosion & sediment control plan Appendix 18 Draft demolition management plan Appendix 22 Acoustic assessment
Natural Hazards	Appendix 11 Natural Hazard assessment Appendix 12 Geotechnical Report
Effects on the transportation network	Appendix 13 Traffic Impact Report
Lighting, public safety and security	Appendix 14 Lighting design report Appendix 15 CPTED review
Effects from potentially contaminated land	Appendix 16 Detailed site investigation Appendix 17 Draft contamination site management plan
Servicing and other subdivision matters	Appendix 9 Preliminary Civil Engineering Report
Effects on historic heritage	N/A

80. Each of the above topics is addressed in turn below, with relevant sub-topics canvassed within each topic area. Positive effects are accounted for under each topic, rather than as a standalone section.
81. The *environment* for the purposes of this assessment includes all the factors contained in the definition of "environment" under the RMA as they occur naturally or as they have been lawfully established. The likely future state of the environment as it may be modified by activities permitted by relevant plans and/or the implementation of granted (and likely to be implemented) resource consents has also been factored in.
82. The assessment has also had regard to the 'permitted baseline'. Various activities and structures which are permitted by the PODP are identified at junctures below, but no formal application of the permitted baseline is considered necessary.

Cultural effects

83. A Cultural Impact Assessment (**CIA**) has been prepared on behalf of Taranaki Whānui ki Te Upoko o Te Ika (Taranaki Whānui) and a Cultural Values Assessment (**CVA**) has been prepared by Te Rūnanga o Toa Rangatira (Ngāti Toa). The CIA and CVA are respectively included in **Appendix 4** and **5**.
84. The Taranaki Whānui CIA notes that:
- the site is situated in an area historically rich with significant cultural and historical connections;²⁷
 - the Park redevelopment component of the proposal has been co-designed with mana whenua to ensure cultural values are acknowledged and celebrated, whilst also bringing the site-specific cultural narrative to life;²⁸
 - provided that mana whenua co-design elements are maintained as a core part of the Project, the park redevelopment is expected to support, rather than adversely effect, relevant cultural values;²⁹
 - certain works need to be sensitive to the ecological values and water quality of the Lagoon and the Harbour, including as habitat for whairepo (stingrays), and mana whenua must play an active role in overseeing sustainable design practices, such as stormwater management systems, indigenous planting, and natural filtration mechanisms;³⁰ and
 - Taranaki Whānui supports the Project with the understanding that recommendations provided in the CIA are thoughtfully applied.³¹
85. The cultural narrative and an overview of the co-design process is described more fully in the Mana Whenua design statement attached as Appendix 1 to the CIA. As noted in that statement, the co-design process will continue through to the delivery stage. This is reflected in the volunteered condition³² with the final landscape and design plan to be prepared in consultation with mana whenua.
86. Turning to Ngāti Toa values, the following points are noted in the CVA:
- the cultural landscape of the area has many values of significance for Ngāti Toa;³³
 - the Proposal aligns strongly with the principles and values of Ngāti Toa especially mana whenua, mātauranga, kaitiakitanga and manaakitanga;³⁴
 - appropriate tikanga should be observed with karakia for blessing of the site preceding

²⁷ Appendix 4, p.10

²⁸ Appendix 4, p.6

²⁹ Appendix 4, p.15

³⁰ Appendix 4, p.19

³¹ Appendix 4, p.18

³² In particular, Condition LAND2

³³ Appendix 5, p.5-7

³⁴ Appendix 5, p.7

earthworks and prior to the opening of the Fale;³⁵

- mana whenua design input should continue in the detailed design phase, including on any pou, tohu or other cultural markers, landscaping and signage, and to respectfully reflect the cultural significance of the ancestral landscape, the foreshore and te taiao;³⁶

87. The Proposal includes conditions to address the recommendations of the CIA and CVA, including:

- Condition IWI1, which provides for the exercise of kaitiakitanga, manaakitanga, mātauranga and other tikanga by mana whenua;
- Condition MANA2, which requires the CEMP to be prepared in consultation with mana whenua and for any recommendations from mana whenua regarding the CEMP to be recorded along with the steps taken by the consent holder to address the recommendations;
- Condition ESC3, which contains similar content to MANA2 in relation to erosion and sediment control during earthworks; and
- Condition SERV5, which requires the consent holder to describe any advice received from Mana Whenua regarding the design of stormwater management facilities and the steps taken by the consent holder to address the advice.

88. There are no anticipated issues arising from the site being partly within an identified SASM. That there is a corresponding compliance obligation for the proposed subdivision is primarily a function of the unorthodox title boundary for the site, which extends beyond Council's jurisdiction into the coastal marine area. That aside, the proposed subdivision of the site is not anticipated to have any material impact on the SASM based on the conclusions in the CIA.

89. For the reasons above, the Proposal is anticipated to result in positive effects on mana whenua and iwi cultural values, with any adverse effects that may arise able to be appropriately addressed by volunteered conditions.

Buildings, structures and landscaping

90. For the reasons set out below, the buildings, structures and landscaping comprised within the Proposal are anticipated to result in a net improvement compared to the existing environment. Any adverse effects on townscape, visual amenity and public open space values will be no more than minor.

91. This section addresses the following in turn:

- effects on townscape and visual amenity, including viewshafts; and
- effects on public open space.

³⁵ Appendix 5, p.8

³⁶ Appendix 5, p.8

Townscape & visual amenity

92. The Proposal is anticipated to result in an environmental outcome largely similar to the 2018 scheme as relates to townscape and visual amenity effects. As assessed by the Waterfront Technical Advisory Group (“TAG”) in **Appendix 7**, the current Proposal also introduces further enhancements in this respect, including³⁷:
- retention of key design elements from the 2018 scheme, adapted to accommodate the Fale and achieve better public realm outcomes;
 - superior accessibility to proposed lawn spaces relative to the 2018 scheme, with better built edge activation to waterfront areas and overall spatial definition;
 - improved physical and visual connections overall due to more regular topographical profile, including as a result of the demolition of the carpark building;
 - better visual connections between the city and the water through the changes within the Willeston Street viewshaft – including lowered ground profile and removal of above-ground structures;
 - a ‘greener’ Jervois Quay frontage with greater emphasis given to indigenous coastal plants;
 - relocation of the Pai Lau to the eastern side of the Park, providing a more obvious waterfront entrance to the Garden of Beneficence; and
 - better expression of mana whenua values through artwork, hiki paving motif and other design features.
93. Overall, TAG concluded that the wider Project:
- represents sophisticated context-specific design with the potential to match the quality of other recent award-winning waterfront projects;
 - will be a positive addition to the waterfront which will enrich public experience and enhance the cultural responsiveness of the City’s premier public space; and
 - is consistent with the *Waterfront Framework*³⁸ themes, values and objectives, including those specific to Frank Kitts Park.
94. The TAG assessment also recommended further attention to be given to various design elements. Those matters have been addressed as summarised in Table 4 below.

TABLE 4 – Application responses to TAG recommendations

TAG recommendation re: refinements	Application Response
Position and mounting of relocated memorial plaques	The position is now confirmed as per the preference stated by TAG, being along the Park Promenade and associated Te Papa Whenua.

³⁷ Appendix 7, parts 4, 5 & 6

³⁸ The Wellington Waterfront Framework 2021

TAG recommendation re: refinements	Application Response
Detailed design of hiki pattern on the promenade	The applicant agrees with TAG that this is a matter for detailed design. The current 'placeholder' impressions in the design plans signal general location, scale and theme. Conditions of consent are volunteered to enable post-consenting detailed design certification, noting that mana whenua advice is essential in finalising the design.
Works to rip rap edge east of promenade	An earlier design concept contemplated refinements to the promenade's relationship with the water's edge – however, such works are not part of the current Proposal. All of the proposed works to the promenade can be unmade, refined or adapted should additional works be proposed in the future in this respect.
Additional seating on inland edges of Harbour Lawn	The applicant has made good provision for seating around the periphery of the Harbour Lawn. As shown in Appendix 2 , Drawing L320: the northern edge of the lawn includes three banks of benches, plus concrete nib seating walls; the western edge of the lawn includes 5 banks of benches and additional nib wall seating; and the southern side includes two banks of benches on the edge of the lawn, with an uninterrupted nib seating wall south of the adjoining landscape strip, and 7 banks of benches immediately adjacent to the nib wall.
Replacement specimen trees for Norfolk Pines adjacent to Jervois Quay	The applicant agrees with TAG that this is a matter for detailed design. As noted in the proposed landscape plan, the applicant proposes to finalise species selection in discussion with the Council's Parks and Recreation Team. A condition is volunteered in this respect.
Precise location of light poles	The precise location of new poles can be addressed at detailed design stage, but no specific conditions are considered needed to manage a resource management issue. The applicant acknowledges TAG's suggestion that new poles should not conflict with the Water Whirler within the Hunter Street viewshaft. However, it is further noted that the Water Whirler is imperceptible from the viewpoint location for the viewshaft, and positioning a new light pole in the general position indicated on the lighting plan will not impact that.
Detail for water-sensitive design elements	The applicant agrees that proposed water-sensitive design solutions should be subject to additional consideration at detailed design stage. This is understood to be consistent with normal Council practice for such features.
Location of transformer	As discussed below, a new transformer and switchboard are likely to be required to service the electricity needs of the Proposal. It is possible this facility could be located off-site, but provision has been made to include in this Proposal in the event an on-site option is required. After careful consideration of options, and the functional and operational requirements of the facility the most appropriate location has been identified as being in the northwest corner of the Harbour Lawn. The final location appearance and associated screening of the transformer will be provided as part of the final landscape design certification process as set out in the

TAG recommendation re: refinements	Application Response
	volunteered conditions at Appendix 19 .

95. Another issue of relevance to townscape and visual amenity values is the management of built form in identified viewshafts. A detailed study of the Proposal in the context of the Hunter Street and Willeston Street viewshafts has been carried out as detailed in **Appendix 8**. Each is discussed in turn below.

96. This matter was of some significance in the Environment and High Court appeals associated with the 2018 scheme – particularly in relation to the Willeston Street viewshaft³⁹. A key matter before the High Court was whether development within Frank Kitts Park could be deemed an intrusion into the viewshaft given that the Park itself is a defined ‘focal element’ to be protected. Justice Cull’s judgment was that the viewshaft ‘protects the view of Frank Kitts Park from Willeston Street, not what is *in* Frank Kitts Park⁴⁰,’ and that:

[58] The purpose of the viewshaft is to preserve the focal and context elements of the view from a specified place. Here, from Willeston Street, the importance of the viewshaft is to ensure that the view of the Park and the Monastery is retained. This proposal seeks to develop the Park itself, but does not intrude or impinge on the identified focal elements in the viewshaft, that is, the Park and the Monastery. If the layout or detail in the Park changes – which all parties agree can occur – the observer in Willeston Street will still have a view of Frank Kitts Park and the Monastery.⁴¹

97. This rationale has now been codified in the introduction to the Viewshaft chapter of the PODP, which states:

The purpose of the rule framework is to regulate development that intrudes on the focal and context elements identified in Schedule 5, but not to prevent changes to those elements themselves. Any such development will be subject to the provisions of the relevant zone-based chapter.⁴²

98. While this is the clear intent of the viewshaft rules, and the justification for them as set out in the report of the Independent Hearing Panel appointed to hear and determine the PODP⁴³, there is no express exclusion in the viewshaft rules for structures within a viewshaft that are also within a focal or context element. The applicant has applied for consent for an intrusion out of conservatism, but considers that the High Court’s reasoning remains applicable in the context of this application.

99. The description of Viewshaft VS10 at Hunter Street in Schedule 5 of the PODP is as follows:

VS10 is one of eight viewshafts offering views from the Golden Mile (Lambton Quay/Willis Street) to the harbour and its wider setting and is sequential to VS8 as you move south along Lambton Quay. The importance of these viewshafts, individually and collectively, is that they provide frequent and sequential views to the harbour for those

³⁹ *Waterfront Watch Incorporated v Wellington City Council*. [2018] NZHC 3453

⁴⁰ *Waterfront Watch Incorporated v Wellington City Council*. [2018] NZHC 3453. At [54]

⁴¹ *Waterfront Watch Incorporated v Wellington City Council*. [2018] NZHC 3453. At [58]

⁴² Part 2 – District-wide Matters. Historical and Cultural Values. Viewshafts. Introduction. Final paragraph

⁴³ *Report and Recommendations of Independent Commissioners. Hearing Stream 3. Report 3B. Viewshafts*. At para 133.

moving along the Golden Mile - one of the most widely used pedestrian routes within the city – and enhance the historical connection between the original shoreline and the harbour. They also promote the visual and physical connection between the city centre and the waterfront which, in turn, contributes to wayfinding and an enhanced sense of place.

100. The ‘focal elements’ in VS10 are Oriental Bay and Te Ranga a Hiwi Precinct, with Frank Kitts Park, the Inner Harbour and the Mount Victoria Ridgeline identified as ‘context elements.’ The Proposal makes provision for four structures within the viewshaft, comprising three lightpoles and one raukura feather sculpture.
101. As shown in **Appendix 8**⁴⁴, the Proposal is comparable to the 2018 scheme with light poles being the main structures proposed within the viewshaft extent. The proposed raukura feather is a new addition, but is considerably lesser in scale than the playground elements proposed within this field of view in the 2018 scheme.
102. Collectively, these four structures do not have any effect on the visibility of the other context and focal elements identified in Schedule 5.
103. The Willeston Street Viewshaft is labelled VS11 in the PDOP. Its description in Schedule 5 of the PODP is verbatim the description of VS10 apart from relevant number and identifier references being unique to each. The identified ‘focal elements’ for VS11 are St Gerard’s Monastery and Frank Kitts Park, with ‘context elements’ comprising Oriental Bay, Roseneath and Te Ranga a Hiwi Precinct.
104. It is noted that the viewpoint location for VS11 under the PODP is aligned with the centreline of Willeston Street, being modestly further to the south compared to the ODP viewpoint location for this viewshaft. As shown in **Appendix 8**⁴⁵, this has altered the relative positioning of focal and context elements to now be assessed.
105. Notwithstanding that minor refinement to the viewshaft provisions, the net effect of the current Proposal is the same as, if not more benign than, the 2018 scheme. That is, there is no impediment of the view to St Gerard’s Monastery or any of the context elements in the viewshaft arising from the Proposal. Moreover, the demolition of the carpark building and lowering of the Garden of Beneficence amounts to a relative reduction in overall built form height and volume relative to the 2018 scheme.
106. The Site is also located within the extent of Viewshaft VS15 – Cable Car. The base of this viewshaft is located well above the proposed built form within the Site, and no intrusions will result.
107. For all the above reasons, the Proposal is anticipated to result in net positive benefits on townscape and visual amenity values, and any adverse effects on the existing environment will be less than minor.

Effects on public open space

108. Of particular relevance here is the consideration of the individual and aggregate size of proposed buildings and structures, and the quantitative and qualitative impact they have on

⁴⁴ At page 12

⁴⁵ At pages 5-10

open space values.

109. The PODP introduces new area limits on buildings and structures within areas identified on the planning maps as ‘public open space.’ Such a notation is applied over Frank Kitts Park with an area of approximately 1.97ha. The permitted dimensions of any *single* building or structures under the PODP are 4m in height and 30m² in coverage (area) and the permitted *aggregate* area of all buildings in the public open space is limited to 200m² per hectare – or 394m² in total.
110. Most of the proposed structures are exempted from compliance with these limits by virtue of being outdoor furniture, play equipment, sculptures or public art. The applicant has assumed that the two proposed pavilions do not meet these exemptions and are not permitted by the plan given their height (max 5.5m) and area (combined 122m²).
111. While these structures amount to non-compliances under the PODP any adverse effect on public open space will be negligible, as:
 - exclusive of the Fale, the proposed combined aggregate 122m² area of the pavilions is under the permitted limit;
 - inclusive of the Fale, the combined aggregate area is 830m², which amounts to a net *reduction* in building footprint of 2,862m² compared to the existing environment⁴⁶; and
 - the pavilions are relatively low profile, of a scale suitable to their function and purpose and are designed to provide visual interest and cohesion with the remainder of the Garden of Beneficence.
112. In terms of additional positive effects, the pavilions will enhance the recreational value, comfort, and safety of the open space providing shelter and shade for park users.
113. The location of buildings, structures (and landscaping) is such that Park users of the dedicated lawn spaces will have ample choice of sun or shade depending on preference. As illustrated in the shading diagrams⁴⁷ at **Appendix 2**, this outcome is anticipated in all seasons from morning to mid-afternoon, albeit weather dependent.
114. With the demolition of the carparking building and corresponding changes to the Site layout and contouring, the Proposal will also result in substantial enhancements⁴⁸ to the accessibility of dedicated open space areas in the Park, including as they are accessed from the adjoining promenades.
115. Compared to the existing environment overall, the Proposal will result in:
 - a significant reduction in building coverage;
 - a significant improvement in terms of the quality, utility and attractiveness of built form; and
 - more attractive, accessible open space areas with better visual connectivity provided

⁴⁶ Noting that the footprint of the existing carparking building to be demolished is 3,692m².

⁴⁷ Refer drawings L151-L153

⁴⁸ Refer Appendix 2, drawings L111 & L112

between the City and the Harbour.

General earthworks, demolition & construction effects

116. With the measures required by the volunteered conditions of consent, the effects arising from temporary earthworks and construction activities will be managed such that they are no more than minor.
117. The discussion of these effects is organised to consider in turn:
- earthworks effects; and
 - demolition and construction effects.
118. Ancillary effects on the transportation network arising from earthworks, demolition and construction activities are addressed in the transportation effects below. Likewise, associated effects regarding servicing and risks from natural hazards are addressed separately below.

Earthworks effects

119. Earthworks associated with the Park redevelopment are anticipated to affect an area of approximately 15,600m² at a total estimated volume of nearly 18,000m³. A summary of the estimated earthworks volumes is provided in Table 1 of the Civil Engineering report at **Appendix 9**. Indicative cut heights and fill depths are shown in the 'Cut Fill Plan' attached to that report.
120. Fill heights and cut depths around the periphery of the Site are generally in the range of 0-500mm. The Harbour Lawn area will be raised between 500 and 2,500mm to provide desired contouring and aspect toward the Harbour. Similar contouring will be carried out to establish the Whairepo Lawn / Malae.
121. In the southwestern part of the Site, ground levels will be reduced by up to a metre to prepare the Site for the Fale. Further earthworks associated with the foundations and underground services of the Fale are addressed in the corresponding application from the Fale Malae Trust.
122. The greatest extent of fill will be required to create the paepae around the Fale and upper 'rooms' of the Garden of Beneficence, with the maximum fill height compared to existing ground level estimated at 2,750mm.
123. While on-site excavated material will be reused where appropriate, imported cleanfill material will be required to achieve the desired finished ground contours. Associated considerations regarding transportation effects and surface water management are provided further below.
124. The main effects of general earthworks to be managed relate to stability, erosion and sediment control. Provided that good environmental management practice is adopted, it is considered that such effects will be no more than minor. The volunteered conditions include a suite of measures to codify that good practice so that desired outcomes are achieved.
125. The design of the Park redevelopment Proposal is such that no exposed cut surfaces will be left unsupported after contouring works are completed. Finished contours will either be gently sloping and landscaped to maintain stability or – where more steeply finished – retained by low concrete nib walls, many of which will provide seating for Park users.

126. The applicant has commissioned a draft Erosion and Sediment Control Plan (“**ESCP**”) to demonstrate how effective management measures can be implemented to minimise associated effects. This document, attached at **Appendix 10**, will form the basis for a final ESCP to be prepared, certified by the Council, and implemented over the duration of earthworks activities. Earthworks are to be carried out in general accordance with the current guidelines for the Wellington Region prepared by Greater Wellington Regional Council.
127. The final ESCP is also to be prepared in consultation with mana whenua to address matters raised in the CIA and CVA. The ESCP is to record advice and recommendations provided by mana whenua and any steps taken by the applicant to address that information.
128. With the above measures adopted as codified in the volunteered conditions, the effects of proposed earthworks are anticipated to be no more than minor.

Demolition and construction effects

129. The applicant has commissioned a draft Demolition Management Plan (“**DMP**”) to understand the likely temporary effects associated with the demolition of the carpark building, Jervois Quay overbridge and amphitheatre structures and the measures required to manage those effects (refer **Appendix 18**). Similar to the ESCP, this will form the basis of a final DMP to be prepared, certified by Council and implemented during demolition works.
130. Construction activities are generally limited to the installation of necessary services, relocation and establishment of artwork and waterfront/park furniture, and the erection of the pavilions and walls associated with the Garden of Beneficence. In comparison to the scale of building work that might be anticipated on adjoining sites in the Central City, the proposed construction works are relatively small-scale.
131. The primary method proposed to address any potential adverse effects from these construction activities is the Construction and Environmental Management Plan (“**CEMP**”). As codified in the volunteered conditions, the CEMP will be prepared by suitably qualified and experienced professionals and set out relevant management measures for construction noise, traffic, and environmental management. For ease of implementation and effective integrated management, the conditions provide that that the CEMP may also incorporate the ESCP and DMP.
132. For construction noise management, the CEMP will describe the methods that will be used to ensure noise associated with construction activities comply with the relevant New Zealand construction noise standard⁴⁹. Should any discrete construction activities be unable to comply, the conditions require the applicant to adopt the best practicable option to ensure emission of noise from those discrete activities does not exceed a reasonable level in accordance with s16 of the Act.
133. Based on the applicant’s acoustic assessment (refer **Appendix 22**), compliance is anticipated to be achieved for all construction and demolition activities except for two potential instances where exceedances of the construction noise standard may occur for a short time. Namely: compaction activities in proximity to TSB Arena may result in minor exceedances; and, should the Jervois Quay bridge removal occur at nighttime as anticipated in the draft demolition management plan, exceedances may also occur at Chews Lane Apartments. In both cases, the

⁴⁹ NZS 6803:1999

acoustic assessment has conservatively assumed no acoustic screening from buildings or other structures, which are – in reality – likely to provide effective attenuation during some of these works. Even with that conservative assumption, the resulting exceedances are not anticipated to result in unreasonable noise and will be very short in duration. Prior written notice will be provided to potentially sensitive receptors as set out in the volunteered conditions.

134. The applicant also volunteers other measures to be adopted during demolition and construction works to reduce the level of demolition and construction activity noise beyond the site. This will include the use of 2m-high acoustic screening around areas to be worked, selecting equipment which is of the minimum size necessary to complete relevant works, and scheduling works with relatively higher levels of noise and vibration during periods where nearby buildings are likely to have lower occupancy.
135. If Council prefers, these conditions can be adapted to utilise a standalone construction noise and vibration management plan similar to the management plans currently volunteered for construction, contaminated soil management and demolition activities. Such a management plan could be used to provide greater detail on measures to be adopted as works progress across the site and over time. As currently proposed, those details would be addressed in the CEMP, but the standalone alternative is equally viable. The applicant would be happy to discuss this further with Council as a matter of administrative detail post-lodgement.
136. Overall, it is anticipated that noise effects from construction and demolition will be effectively managed by the conditions such that the effects are no more than minor.
137. The CEMP will also include a complaints management process and will address communications, signage and temporary fencing.
138. With the management measures described above as codified in the volunteered conditions, any temporary adverse effects associated with demolition and construction activities will be no more than minor.

Natural Hazards

139. The risks associated with natural hazards have been assessed in detail by Aurecon as reported in **Appendix 11** and by Tonkin & Taylor in **Appendix 12**. The Aurecon assessment considers the Park redevelopment and Fale aspects of the Project and concludes both have addressed relevant hazard considerations and demonstrate suitable resilience and safety in response to flooding and coastal hazard events⁵⁰.
140. The Aurecon hazard assessment has adopted the risk-based approach promoted in the PODP, identifying the consequences and likelihood of different natural hazards and ensuring a commensurate level of risk avoidance or mitigation has been applied.
141. To summarise the assessment of the land use activities in relation to flood, coastal and tsunami hazards:
 - the Proposal will remove eight ‘potentially hazard-sensitive activities’ from an area identified as subject to medium risk from coastal inundation, and/or medium- to high-risk from tsunami – being existing commercial tenancies on the waterfront and lagoon

⁵⁰ At page 30

elevations of the carparking building;

- risks to people from flooding and coastal inundation is minimised through raised ground levels, removal of the underground carparking building and proposed water sensitive design measures;
- only a small portion of the Site is subject to medium flood risk from overland flow, with structures in that area being limited to light poles, hard landscaping and artwork;
- risks associated with a high tsunami hazard have been avoided or mitigated through raised ground levels, and avoidance of locating hazard-sensitive or potentially hazard-sensitive activities in affected areas;
- lower tsunami risk events will be managed through effective evacuation measures; and
- earthworks will not increase flooding risk or displacement of floodwaters relative to the current situation, nor will overland flow paths be impeded.

142. The subdivision involves the creation of new titles which will be occupied by ‘less hazard-sensitive’, ‘potentially hazard-sensitive’ and ‘hazard-sensitive activities’ as classified in the PODP. To ensure the appropriate risk response is adopted for the relevant activities the hazard assessment recommends the following measures which are codified in the volunteered conditions:

- any building spaces used for ‘potentially hazard sensitive activities’ below the 1% Annual Exceedance Probability flood event must include appropriate tanking, sealed penetrations, and any openings able to be sealed to submarine grade to minimise the risk to people and property;
- any development associated with the subdivision must ensure that the overland flow path along Jervois Quay is not impeded;
- any critical plant to support continued occupation of a building (e.g. ventilation and electrical systems) must be located above the *1% Annual Exceedance Probability flood and coastal inundation* levels (as defined in the Plan); and
- that a flood management plan is developed before occupation of a building and includes flood evacuation plan ensuring that people can safely evacuate from the Site in the event of a *1% Annual Exceedance Probability flood or a coastal inundation event*.

143. An additional condition is volunteered to require the above mitigation to be registered as a consent notice against the relevant titles created.

144. Tonkin & Taylor have assessed geotechnical aspects of hazard management, including risks to life safety and damage from proposed structures affected by earthquake events. The assessment notes that – for proposed structures – consideration will be required as to foundation design at detailed design and building consent stages. Based on the assessment and the future adoption of appropriate design responses to meet Building Code requirements, no

additional conditions have been volunteered to address geotechnical stability matters⁵¹.

145. Based on the respective assessments at **Appendix 11** and **Appendix 12** and for the reasons summarised above, the Proposal has adopted appropriate avoidance and mitigation measures, commensurate with relevant risks from geotechnical, flood and coastal hazards, and these are provided for in the volunteered conditions and future building consent processes. Any residual adverse effects are anticipated to be no more than minor.

Effects on the transportation network

146. The applicant has commissioned a traffic impact report ("TIR") from Traffic Concepts attached as **Appendix 13**. The report concludes that, overall, *'the effects of the redevelopment proposal on the safety and efficiency of the transport network are considered to be positive'*.

147. Relevant effects in this regard include those associated with:

- construction vehicle traffic;
- short-term parking and loading; and
- active transport connectivity.

148. Each of the above is discussed in turn below. As noted in the TIR, traffic generation associated with events is not a relevant matter for this application. Such activities will be addressed on a case-by-case basis and be subject to separate applications as necessary. This Proposal relates only to the construction and general day-to-day operation of the park exclusive of bespoke events.

Construction vehicle traffic

149. The TIR estimates that around 1,000 heavy vehicle movements will be required to facilitate the anticipated demolition and earthworks activities. As noted in the TIR, these vehicles can safely access the Site via the existing Hunter Street intersection at Jervois Quay.
150. There may be occasions when limits need to be imposed on heavy vehicle movements, but this can be effectively administered through relevant requirements in the CEMP. With such measures in place, the TIR concludes that any residual effects of construction traffic will be less than minor.

Short-term parking and loading

151. The long-standing approach in the Central Area zone under the ODP has been to avoid the use of minimum on-site carparking requirements in the relevant rules and standards⁵². The policy basis for this approach was to maximise the efficient use and development of the Central Area, to promote active and public transport utilisation and to support the City's consolidated urban form. More recently, this approach has been applied to relevant urban authorities at the national level through the National Policy Statement for Urban Development 2022 ("NPS-UD").
152. Being in the heart of the City, and given its primary intended use, it remains appropriate for the

⁵¹ Noting, however, the broad application of volunteered Condition GEN1 for the subdivision and land use applications.

⁵² For example, refer Policies 12.2.15.6 – 12.2.15.8 and associated explanation text in the Operative District Plan 2000.

Park to provide no on-site vehicle parking. That said, short-term parking and loading areas are appropriate and consistent with other waterfront activities. The Proposal makes provision for appropriate facilities in the Jervois Quay road reserve, which collectively:

- standardise the currently irregular lane widths in Jervois Quay to 3,200mm and increase the footpath width to 3,500mm; and
- replace the slip lane currently used for the carparking building with an inset parking and loading area on the eastern side of Jervois Quay.

153. These alterations will provide sufficient area for short term parking and loading, including coaches and other larger vehicles, without reducing the lane widths for through traffic to an unacceptable degree. It is noted that the lane width at Jervois Quay south of the Harris Street intersection reduces to around 2,500mm, being 700mm narrower than proposed in this stretch of the Quay. No adverse effects are anticipated in relation to the provision of parking and loading activities.

Active transport connectivity

154. As noted in the TIR, pedestrian amenity will also be significantly enhanced by the proposed increase in footpath width along Jervois Quay.

155. The proposed circulation plan has also been assessed by Traffic Concepts as enhancing and strengthening connections along and through Frank Kitts Park.

156. The Proposal is assessed by Traffic Concepts to result in a net positive accordingly, with no adverse effects arising in this respect.

157. Regarding cycle parking, the pedestrian and cycle circulation plan at **Appendix 2** indicates that facilities will be proposed at junctures around the periphery of the Site.

158. The two cycle parking bays in the northern part of the Site are within and adjacent to the Children's playground and will not be modified by the Proposal. The single bay on the eastern side of the Malae/Whairepo Lawn and the southern side of the lagoon promenade will replace similar facilities in existing locations.

159. Lunchtime utilisation surveys of existing cycle parking facilities were conducted during workdays with fine weather conditions in July, October and December 2024. To summarise the results of the surveys:

- current facilities comprise 13 single ring bike rails, with: five rings provided in two banks at/within the playground; three rings in two banks atop the existing carparking building; and five rings in two banks immediately south of the carparking building;
- during the July survey, one ring was utilised by a single hire scooter in the bank to the south of the dragonboat storage area on the lagoon promenade – no other rings were utilised and no informal parking was observed elsewhere in the Park;
- during the October survey, one ring was utilised by a single bicycle adjacent to the children's playground – no other rings were utilised and no informal parking was observed elsewhere in the Park; and

- during the December survey, one ring was utilised by a single bicycle adjacent to the children’s playground, one private scooter was observed informally parked next to an outdoor table serving one of the promenade cafes and four hire scooters were informally parked about the Park and lagoon promenade – no other rings were utilised elsewhere in the Park.
160. While utilisation may fluctuate during a given day, week or month, the three surveys conducted did not point to a need to provide any facilities over and above the level of service already provided.

Lighting, public safety & security

161. The Proposal has been designed to minimise risk of public safety or security effects arising, including through the provision of appropriate lighting during night time hours and additional crime prevention through environmental design (“CPTED”) measures. Each of these matters is discussed further in turn here.

Lighting

162. A lighting design statement prepared by 335 Building Systems Design is attached at **Appendix 14**.
163. The lighting statement notes that existing lighting in the Park is outdated and provides generally poor levels of service which do not meet relevant national standards. The newly proposed facilities are anticipated to increase lighting levels at ground level, increase energy efficiency, reduce glare and reduce upward light or ‘skyglow’ effects.
164. Proposed light levels are designed to achieve the average and minimum illuminance values for public activity areas and pedestrian / cycle paths as set out in the relevant Australia / New Zealand standard for the Lighting of Roads and Public Spaces⁵³. Similarly, relevant limits on spill light and glare will be met by the proposed design.
165. It is noted that resource consent has been granted as part of a separate application to replace the existing light poles on the *eastern* side of the waterfront promenade and southern side of the lagoon promenade⁵⁴. The application addresses replacement lighting across the waterfront, but in the vicinity of Frank Kitts Park it authorises 10 poles of 9m in height, each with four luminaries per pole.
166. The current application proposes an alternative lighting arrangement of these poles comprising:
- repositioning waterfront promenade poles on the *western* side of the promenade;
 - 11 poles in the area where 10 are currently authorised⁵⁵; and
 - 12m heights for all 11 poles⁵⁶.
167. The intent is that the above design parameters would only be given effect to if the relevant

⁵³ AS/NZS 1158.3.1:2020

⁵⁴ Refer SR544891

⁵⁵ This includes an 8th pole on the western side of the promenade which is additional to the 10 consented poles

⁵⁶ Increased from 9m

aspects of the earlier application are surrendered. A condition has been volunteered in this respect to avoid any cumulative effects on visual amenity that might otherwise result from over-proliferation of lighting structures.

168. The greater number of taller poles now proposed is anticipated to provide a more balanced and even light across the promenade *and* Park, without any corresponding adverse effects on amenity values. However, both the proposed lighting scheme and the already consented scheme are considered appropriate in terms of illuminance, glare and light spill. Any associated adverse effects will be less than minor.

Public safety and security

169. A CPTED assessment of the proposed redevelopment has been undertaken by Frank Stoks as reported in **Appendix 15**. Mr Stoks' overall conclusion is that:

*Although I have some residual concerns about afterhours access to the Garden of Beneficence, it is my opinion that overall, the design proposal for the redevelopment of Frank Kitts Park incorporates CPTED, security-for-safety and security considerations, in a deliberate and positive manner and to a level of detail commensurate with the For Resource Consent stage of design development.*⁵⁷

170. Mr Stoks' assessment is based on accepted CPTED principles adopted in relevant Ministry of Justice guidelines. In addition to his final assessment, Mr Stoks provided preliminary assessments and recommended revisions to earlier design iterations which have led to various design refinements being adopted to enhance safety and security.
171. Regarding the 'residual concerns' noted in Mr Stoks' conclusion, the applicant understands these principally relate to the 'rooms' in the Garden of Beneficence labelled as Heavens' Well and the Chamber for Retelling the Past. Design modifications have been adopted to make the walls adjoining these spaces more permeable to enable better passive surveillance.
172. Mr Stoks suggests it would be prudent to also allow the Garden to be 'physically access controllable' after hours notwithstanding the applicant's desires for all aspects of the Park to be accessible 24 hours a day. While no permanent physical access control mechanisms are proposed in this regard, the applicant notes that temporary measures can be utilised from time to time in the future. Furthermore, should it become apparent that permanent access controls are required, these are not precluded by the proposed design.
173. Overall, the assessment carried out by Mr Stoks confirms that the Proposal has adopted appropriate CPTED measures to provide for the safe function and use of the Park during daytime and nighttime hours. Any adverse effects will be managed such that they are no more than minor.

Effects from potentially contaminated land

174. The DSI prepared by Tonkin & Taylor is provided at **Appendix 16**. Key conclusions of the DSI are that:

⁵⁷ At p.3

- on-site investigations yielded no visual or olfactory indications of contamination;
 - all soil samples taken returned concentrations below applicable soil contaminant standards for commercial, industrial and recreational land uses and no significant health risks to workers or recreational users are indicated;
 - there nevertheless remains the *potential* for unidentified pockets of hazardous materials to be encountered during works, including below the underground carparking building which was inaccessible to site investigations;
 - while there is a low risk of unacceptable risks to human health or the environment based on investigations to date, a Contaminated Site Management Plan (“**CSMP**”) is recommended to manage any residual risks; and
 - secondary site inspections and soil testing are also recommended following the demolition of the carparking building to confirm the level of risk remains low.
175. The applicant has accordingly adopted the recommendations of the DSI and corresponding conditions of consent have been volunteered to that end. Should any discovery of unidentified contaminated material arise during secondary site investigations under the carparking building or any other on-site works, appropriate remedial actions will need to be identified and followed based on the advice of a suitably qualified and experienced professional, consistent with accepted practice.
176. A draft CSMP has been prepared (refer **Appendix 17**) and will form the basis of the CSMP to be certified in due course.
177. Based on the DSI and given the volunteered conditions, it is concluded that the actual and potential effects from the subdivision, use and development of potentially contaminated land will be no more than minor.

Servicing and other subdivision matters

178. Tonkin & Taylor have also addressed all relevant servicing matters as reported in **Appendix 9**. A summary of each relevant matter is provided below, addressing the following in turn:
- electricity and communications;
 - water supply;
 - wastewater; and
 - stormwater management.
179. Additional matters relevant to the proposed subdivision include the provision of legal access and esplanades, which are also discussed here.
180. Overall, it is concluded that the Site can be appropriately serviced, both proposed allotments will be provided with practical legal access to Jervois Quay and no esplanade is required. Any associated adverse effects in these respects will be less than minor.

Electricity and telecommunications

181. Existing power supplies that service the Site are anticipated to be reusable following site development works. With the addition of the Fale building and other electrical elements within the Park redevelopment, it is also anticipated that a new transformer and switchboard will be required.
182. As noted previously, it is possible the new transformer could be located off-site on other land owned by the applicant; however, in the absence of detail regarding that option, the applicant has identified a potential location for the transformer adjacent to the Harbour Lawn. Final details on the location, size and accessibility to the transformer will be confirmed at detailed design stage in consultation with Wellington Electricity.
183. Connections are available to fibre optic communications services in Jervois Quay sufficient to meet relevant connectivity needs in the Park.

Water supply

184. Confirmation has been provided by Wellington Water that existing supply is available in Jervois Quay sufficient to service the proposed Park redevelopment, including drinking fountains and (if needed) water features in the Garden of Beneficence.
185. The Park is currently served by four service connections to mains in Jervois Quay. These connections are anticipated to be re-utilised post redevelopment and the relevant regional standard for water services is able to be met.

Wastewater

186. Existing wastewater connections service the Site, accessing an existing wastewater main in Jervois Quay. Correspondence with Wellington Water indicates that the main has sufficient capacity to service the Park redevelopment Proposal such that the relevant regional standard for water services can be met.

Stormwater

187. The Park redevelopment proposes to manage stormwater runoff using conventional engineering methods and low-impact stormwater design, including:
 - permeable landscaped planted areas comprising a rain garden, garden beds and lawns;
 - perforated subsoil drains around lawn perimeters and garden beds;
 - a rain garden in the northwest corner of the Park to collect and treat runoff from approximately 900m² of Jervois Quay, adapted from the 2018 scheme;
 - grated channels/slot drains to intercept runoff on walkways at change of grade and to convey runoff from Jervois Quay under the footpath to the proposed rain garden; and
 - a variety of sumps to suit the environment located at runoff collection points along Jervois Quay, in planted areas, in the Garden of Beneficence and throughout the park.
188. Existing outfalls to Wellington Harbour will be utilised to convey collected runoff with a small

reduction in total runoff anticipated relative to the existing situation.

189. Attenuation and a small amount of detention will be provided within the rain garden thus allowing the Site to achieve post development hydraulic neutrality. A flow splitter is proposed in the existing manhole in the vicinity to divert additional flow to the rain garden from Jervois Quay and maximise its use. The splitter will divert low flows into the rain garden for treatment and bypass it in high flows so its capacity (and that of outfall 1) is not exceeded.
190. Runoff from the Park itself is not anticipated to carry excess contaminants or sediment that would otherwise require treatment before discharge. Sumps at low points in the Park will aid in removal of any residual sediment and a proprietary device will be installed on the overflow outlet for the water feature in the Garden of Beneficence to intercept any rubbish and larger debris that may make its way into the feature; however, no other treatment or contaminant reduction is necessary.
191. The conditions also require the applicant to invite mana whenua to provide advice and recommendations for the final stormwater management design to be certified by the Council. The advice and recommendations, and any steps taken by the applicant to address them, must be set out in the material presented for certification. These steps are proposed in response to the recommendations of the CIA at **Appendix 4**.

Legal access

192. As shown on the subdivision plans at **Appendix 6**, both proposed lots will be provided with legal access to Jervois Quay. The PDOP's expectations are accordingly satisfied and no adverse effects are expected to arise.

Esplanade Reserves

193. The application includes a technical non-compliance with the requirement to provide a 20m-wide esplanade reserve. As noted on the record of title at **Appendix 1**, the waterfront promenade is subject to a right (in gross) to an open space easement in favour of the Council⁵⁸. The width of the easement varies but is generally between 17m- to 18m-wide.
194. The Proposal does not introduce any change to that existing easement. The overall design and associated conditions make clear that both the waterfront and lagoon promenades are to be maintained principally for access purposes. Both will continue to function in much the same way as an esplanade reserve by providing public access to and along the sea and enabling the areas to be used for recreational purposes⁵⁹.
195. There is accordingly no need to create a separate esplanade reserve and no adverse effect arising from maintaining the existing arrangements.

Historic heritage

196. While the titles comprising the application Site contain heritage buildings, structures and area identified in the PODP, the Proposal is not anticipated to result in any adverse effects on any of those features.

⁵⁸ Refer Easement 'WM'

⁵⁹ Per s229, RMA

197. The only listed feature in proximity to the Park itself is the *Albatross* sculpture adjoining Whairepo Lagoon. The net environmental outcome of the park redevelopment will be to enhance the visibility of the sculpture and its relationship with the Park through demolition of the carpark building, and well-designed lawn and landscaped areas in its place. This is further addressed in the concurrent application from the Fale Malae Trust as relates to the impact of the Fale on the sculpture.

Assessment of Objectives and Policies

198. A detailed assessment of the Proposal against the objectives and policies of relevant national and regional planning instruments is provided at **Appendix 21**. A summary of that assessment is provided below, organised by relevant instrument.
199. For the purposes of the summaries below, particular consideration is given to policies using more directive language. Such provisions include those with active language to ‘avoid’, ‘require’ or ‘restrict’ – but also to ‘enable’ or ‘provide for’⁶⁰.
200. In the context of all relevant statutory instruments, greater weight has been afforded to provisions expressed in more directive terms compared to those using less directive language, and all relevant instruments have been read as a whole.

National Policy Statements – s104(1)(b)(iii)

201. Neither of the NPSs relating to Electricity Transmission, Renewable Electricity Generation, Greenhouse Gas Emissions from Industrial Process Heat or Highly Productive Land are relevant to this Proposal.
202. The NPS-FM⁶¹ and the NPSs relating to Urban Development (“**NPS-UD**”) and Indigenous Biodiversity (“**NPS-IB**”) are all relevant and discussed briefly in turn below.

NPS-FM

203. Clause 1.3 of the NPS-FM sets out the “Fundamental Concept” of Te Mana o Te Wai, including the concept itself at subclauses (1) and (2) and the framework at subclauses (3) to (5).
204. Under the changes made to the RMA through the Resource Management (Freshwater and Other Matters) Amendment Act 2024, the “*hierarchy of obligations*” expressed in clauses 1.3(5) and 2.1⁶² is not to be assessed in resource consent applications; however, to the extent that Te Mana o te Wai remains a relevant consideration for resource consent applications, it is understood to be as described in Clause 1.3, but exclusive of subclause (5).
205. As assessed in **Appendix 21**, the Proposal is consistent with the concept and principles of Te Mana o te Wai, and with all relevant policies under Clause 2.2 of the NPS-FM.

⁶⁰ Refer *Southern Cross Healthcare Limited v Eden Epsom Residential Protection Society Incorporated and others*. [2023] NZHC 948. At para [121]. Note also the plain and ordinary meaning of ‘provide for’ is analogous to ‘enable’ per Cambridge and Collins dictionaries.

⁶¹ National Policy Statement for Freshwater Management 2020 (updated February 2023)

⁶² That is, the overarching “Objective” of the NPS-FM

NPS-UD

206. The Proposal is well-aligned with the NPS-UD, and in particular its aim for Aotearoa New Zealand's urban environments to enable all people and communities to provide for their social, economic, and cultural wellbeing and their health and safety⁶³. It also reflects the outcome anticipated in the NPS-UD that urban environments and their amenity values develop and change over time in response to diverse and changing needs of people and communities⁶⁴.
207. The Proposal has also taken into account the relevant principles of Te Tiriti o Waitangi. In particular, informed decisions have been made through consultation and through expression of cultural values that have been incorporated into the proposed design. The CIA and CVA accompanying the application reflects positively upon the Proposal in this regard.
208. The Proposal has also taken appropriate steps to ensure the resulting design is suitably resilient to current and future effects of climate change, including those effects associated with natural hazard events.

NPS-IB

209. The Proposal will increase indigenous vegetation cover and – where possible – retain or relocate existing mature native species⁶⁵. It is accordingly well-aligned with the primary aim of the NPS-IB to maintain indigenous biodiversity across Aotearoa New Zealand so that there is at least no overall loss in indigenous biodiversity.
210. The Proposal has also been codesigned with mana whenua, and additional support for the proposal has been signalled in the CIA and CVA, consistent with relevant direction in Policies 1 and 2 of the NPS-IB. The applicant has addressed the substance and recommendations of the CIA and CVA, including through volunteered conditions which formalise further involvement by mana whenua in the detailed design stage.

NZ Coastal Policy Statement – s104(1)(b)(iv)

211. The NZCPS is assessed in detail at **Appendix 21**, and additional emphasis is provided here regarding provisions using more directive language.
212. Policy 13 of the NZCPS directs the *preservation* of natural character in the coastal environment and its *protection* from inappropriate subdivision, use and development. The Site is not in an area of outstanding natural character, so the relevant direction is to *avoid significant adverse effects* and *avoid, remedy or mitigate other adverse effects* on the natural character of the area. The Park redevelopment is consistent with this direction insofar as it will maintain the predominant existing use of the Site, with enhancements provided through demolition of large-scale structures and establishment of generous landscaping, including coastal species.
213. Under Policy 17 of the NZCPS, historic heritage in the coastal environment is to be *protected from inappropriate subdivision, use and development* through various measures. Relevant items with significant historic heritage value have been identified and the Proposal has been designed to ensure any adverse effects on those items are less than minor. The subdivision, use and development of the Site as proposed is accordingly *not* inappropriate; and is rather deemed to

⁶³ Objective 1 and supporting policies

⁶⁴ Objective 4

⁶⁵ The area of dedicated planted areas is estimated as 4-5 times greater than in the existing Park.

be consistent with this policy.

214. Policy 18 of the NZCPS directs that public open space within and adjacent to the coastal marine area for public use, appreciation and recreation is *provided for*. The Proposal is consistent with this direction, including as:

- the location and treatment of the open space is compatible with relevant natural and amenity values;
- walking access linkages between public open spaces are maintained or enhanced; and
- the impacts of climate change and coastal processes have been considered and addressed by the Proposal.

215. The Proposal will also be consistent with Policy 22 of the NZCPS, which *requires* that subdivision, use and development will not result in significant increases in sedimentation in the coastal marine area or coastal water. Also consistent with the policy, the Proposal volunteers controls on land use activities to *reduce* sediment loadings in runoff and stormwater systems.

216. Lastly, NZCPS Policy 25 relates to areas affected by coastal hazards over the next 100 years. The Aurecon assessment at **Appendix 11** illustrates that the Proposal is consistent with the policy's direction, including in particular as it:

- avoids increasing the risk of social, environmental or economic harm from coastal hazards; and
- has considered the potential effects of tsunami and how to avoid or mitigate them.

Regional Policy Statements – s104(1)(b)(v)

217. The assessment at **Appendix 21** includes consideration of the operative RPS for the Wellington Region and the provisions in Change 1 to the RPS⁶⁶. For the reasons expressed in that assessment, the Proposal is considered to be consistent with both the operative and proposed provisions to the extent relevant.

218. The provisions using directive language in the operative and proposed RPS are generally focussed on natural hazards. As concluded in the Aurecon assessment at **Appendix 11** the Proposal will maintain or enhance people and communities' resilience to natural hazards and the effects of climate change.

Operative, Partially Operative and Proposed District Plan – s104(1)(b)(vi)

219. The assessment at **Appendix 21** illustrates that the Proposal is well-aligned with all relevant direction in the ODP and the PODP along with those provisions that have not been made operative under the proposed District Plan. Further consideration of relevant PODP provisions using directive language is provided below for emphasis.

220. Objective HHSASM-O3 in the PODP is that values associated with sites of significance to Māori are protected. The Proposal has been codesigned in partnership with mana whenua to enhance

⁶⁶ At the time of writing, the relevant version of the Change 1 provisions is as per the Regional Council's decision dated October 2024.

rather than adversely affect cultural values. The CIA and CVA support a finding that the Proposal is well aligned with this objective.

221. The Proposal is also considered to be consistent with the PODP’s provisions regarding natural hazards, including as:

- high hazard risks to life and buildings are avoided⁶⁷;
- it incorporates appropriate mitigation measures to manage low- to moderate risks, including through raised floor levels and evacuation procedures⁶⁸; and
- it is enabling of activities with lower sensitivity to natural hazard events.⁶⁹

222. While the subdivision is associated with the construction and use of a new building that is partly within an area identified in the PODP as having a high hazard risk from tsunami, it is noted that:

- the portion of the building within the high hazard overlay is relatively small in terms of floor area affected; and
- at the level likely to be impacted by a relevant tsunami event, the use of the proposed building is for boat storage which has a functional and operational need to be in proximity to the area affected by the coastal hazard.

223. The Proposal is well-aligned with the direction in the Three Waters chapter insofar as it incorporates water sensitive design, sustainably manages the volume and rate of stormwater discharges including through generous provision of permeable surfaces.⁷⁰

224. The Proposal does not include any intrusions into any Category 1 viewshaft, and to the extent that aspects of the Proposal fall within Category 2 viewshafts, the integrity of both viewshafts is maintained, including visual connections with all relevant focal elements and context elements.⁷¹

225. Regarding general subdivision matters:

- policy requirements for adequate servicing are met by the Proposal⁷²; and
- while coastal esplanade is not proposed to be vested as part of the subdivision Proposal, such methods are not required to ensure good public access to and along the coast given the status of the waterfront and lagoon promenades⁷³.

226. Regarding general earthworks matters, the Proposal is consistent with the relevant policy direction for stability, control or erosion, sedimentation and dust, and management of effects on the transport network.⁷⁴

⁶⁷ Per Objective SRCC-O2, Policy NH-P2 & Policy NH-P6.

⁶⁸ Per Policies NH-P6, NH-P7 & CE-P12 through CE-P18.

⁶⁹ Per Policies CE-P13 & CE-P15.

⁷⁰ Per Policies THW-P1, THW-P5 & THW-P6.

⁷¹ Per Policies VIEW-P2 & VIEW-P3.

⁷² Per Policy SUB-P8.

⁷³ Per Policy SUB-P9.

⁷⁴ Per Policies EW-P3, EW-P4 & EW-P6.

227. Regarding directions specific to the Special Purpose Waterfront Zone, the Proposal:

- avoids activities that are incompatible with the zones’ role and function⁷⁵;
- provides attractive, safe, efficient and convenient access to transport networks, to and along the coastal marine area and to the City Centre for all active modes⁷⁶;
- maintains the policy requirement for no more than 35% of the total waterfront to be covered by buildings and results in public spaces that reflect the City’s rich Māori and tauiwi/non-Māori history, provides for good sunlight access, visual connections between the City and sea, and accessibility for people of all ages and mobility levels⁷⁷; and
- only enables new buildings and structures that improve the space for public use and enjoyment and do not dominate or cumulatively diminish the public open space⁷⁸.

228. As assessed in **Appendix 21**, several provisions in the PODP ‘enable’ or ‘provide for’ the Proposal or aspects thereof, including:

- three waters objective and policies relating to subdivision, use and development⁷⁹;
- policies which provide for buildings/structures on, and subdivision of, sites containing listed heritage items and/or sites of significance to Māori⁸⁰;
- policies which provide for general subdivision and subdivision of land within coastal margins⁸¹;
- policies which enable earthworks and associated structures, including where in flood hazard overlays⁸²;
- policies that enable a range and diversity of activities in the Special Purpose Waterfront Zone⁸³; and
- policies that recognise and provide for cultural associations of mana whenua in the Special Purpose Waterfront Zone, including through collaboration and co-design to incorporate Māori cultural elements into public open space⁸⁴.

Assessment under RMA s104D

229. The preceding assessments have found that the Proposal:

⁷⁵ Per Policy WFZ-P3.

⁷⁶ Per Policy WFZ-P4.

⁷⁷ Per Policy WFZ-P6.

⁷⁸ Per Policy WFZ-P10.

⁷⁹ THW-O2, THW-P3 & THW-P4

⁸⁰ HH-P8, SASM-P4, SUB-P11 & SUB-P15

⁸¹ SUB-P3, SUB-P6, SUB-P23 & SUB-P25

⁸² EW-P2 & EW-P17

⁸³ WFZ-P1

⁸⁴ WFZ-P10

- will not result in any adverse effects that are more than minor; and
- is consistent with the relevant objectives and policies of the ODP, PODP and proposed District Plan.

230. The Proposal satisfies both limbs of the ‘gateway’ test under section 104D of the RMA accordingly.

Other Matters

231. Other relevant considerations include Sections 104(1)(b)(i), 105, 107 and 104(1)(c) of the RMA.

National Environmental Standards – s104(1)(b)(i)

232. At the time of lodgement, the following NESs are in force:

- NES-Freshwater;
- NES-CL;
- NES-Sources of Human Drinking Water;
- NES-Air Quality;
- NES-Commercial Forestry;
- NES-Telecommunications Facilities;
- NES-Electricity Transmission Activities;
- NES-Storing Tyres Outdoors;
- NES-Marine Aquiculture;
- NES-Greenhouse Gas Emissions from Industrial Process Heat.

233. The only NES considered relevant to this Proposal is the NES-CL. As discussed previously, the relevant regulatory requirements of the NES have been identified and appropriate measures adopted in volunteered conditions to avoid, remedy or mitigate the effects of the subdivision, use and development of potentially contaminated land.

Other regulations – s104(1)(b)(ii)

234. No other regulations are relevant to this Proposal.

Section 106 matters

235. Section 106 of the RMA sets specific matters which may justify a subdivision application being refused or subject to conditions. The applicant’s assessment of natural hazards has demonstrated that the Proposal is not at significant risk from natural hazards. Moreover,

sufficient legal and physical access is available for all allotments.

236. Accordingly, s106(1) and s106(2) need not be applied to this Proposal.

Section 104(1)(c) matters

237. Regard should also be had under section 104(1)(c) to the *Wellington Waterfront Framework 2001*.

238. As noted in the introduction to the Waterfront Zone chapter in the PODP, the *Framework* remains an applicable Council policy document which has informed the zone provisions. It is identified in the introduction text as a tool to help manage the waterfront in Council's role as property owner and manager of the land and public assets.

239. Historically, Council has relied upon assessments by TAG to inform evaluations of waterfront proposals and their consistency with the *Framework*. As noted in the assessment of effects above, TAG has assessed the Project as consistent with the *Framework* themes, values and objectives, including those specific to Frank Kitts Park.

Summary of consultation

240. The 2018 scheme was subject to extensive public engagement prior to the preparation and lodgement of relevant resource consent applications. That the 2018 scheme bears a close resemblance to the current Proposal in many respects is a relevant consideration; however, the applicant has carried out additional consultation on the current Project (inclusive of the Fale).

241. As noted in the application prepared by the Fale Malae Trust, the Trust has also carried out further consultation with various parties with a specific focus on the Fale itself.

242. The Council's engagement commenced June and July 2022, comprising three workshops with mana whenua partners and key interest stakeholders⁸⁵. A guiding purpose was derived from these workshops, being 'Frank Kitts Park is a centrepiece for our city, it draws us to Te Whanganui a Tara, to play, reflect, celebrate, and commemorate.'

243. The following set of principles was established by the working group to support the purpose:

- Embodiment of the place for Mana Whenua.
- A vibrant centrepiece of community life for all:
 - Welcoming
 - Accessible
 - Reflecting the diversity of our city

⁸⁵ Workshop attendees included representatives of Port Nicholson Block Settlement Trust, Wellington Tenth's Trust, Ngāti Toa Rangatiratanga, Wellington Civic Trust, Wellington Sculpture Trust, Inner City Residents Association, Wellington Dragon Boat Festival, Homegrown Festival, Wellington Chinese Garden Society, Fale Malae Trust, and Youth Council

- To gather, play, celebrate and commemorate.
 - Mana Moana, Mana Whenua, Mana Tangata (connect to the waterfront, moana, and city).
 - Cohesive design for the whole park, integrated to the waterfront and city.
244. The design team applied the purpose and principles to the park design, with the result being combined with the Fale component of the Project for the purposes of engagement with the general public.
245. This combined scheme for the Project was accompanied by an online survey for the public to consider and provide feedback. The online survey went live on Council's 'Korero Mai- Let's talk' website on 10 March 2023 and was open for four weeks. To encourage participation in the online survey, links to the survey were shared across social media, through newsletters, and QR codes and emails were sent out to Wellington City residents' groups.
246. More than 2,100 respondents provided feedback on the scheme. A summary report of the feedback received was prepared by Global Research and is available [here](#).
247. Briefings were provided to key stakeholders and community groups at the time including:
- mana whenua;
 - the Youth Council;
 - Inner City Residents Association representatives;
 - the Wellington Civic Trust;
 - representatives of the existing Plaques and memorials in Frank Kitts Park;
 - representatives of the Wellington Dragon Boat Festival;
 - Play and Active recreation representatives;
 - the Wellington Sculpture Trust; and
 - Wellington NZ including event organisers.
248. Further engagement was also undertaken with the following Council Advisory Groups:
- Pacific Advisory Group (PAG) - The role of PAG is to advise Council on how to help grow a great City, where Pasifika peoples thrive and contribute to Council's priorities.
 - TAG - TAG's roles and responsibilities include providing advice and recommendations to the Council on major matters of design and implementation on the Waterfront.
 - Accessibility Advisory Group (AAG) - The role of the AAG group is to advise Council on how to help grow a great and accessible City, where barriers to people with impairments are minimised.

Part 2 Matters

249. Schedule 4 of the RMA requires that all applications for resource consent include an assessment of the activity against the matters in Part 2 of the Act.

250. The purpose of the RMA under Section 5 is to promote the sustainable management of natural and physical resources. Sustainable management involves managing the use, development and protection of these resources in order to enable people and communities to provide for their social, economic and cultural well-being and for their health and safety, while:

- sustaining the potential of natural and physical resources to meet the reasonably foreseeable needs of future generations;
- safeguarding the life supporting capacity of air, water, soil and ecosystems; and
- avoiding, remedying, or mitigating any adverse effects of activities on the environment.

251. The Proposal is well aligned with the relevant matters in Section 6 of the Act as follows:

- the natural character of the coastal environment will be preserved and protected from inappropriate subdivision, use and development⁸⁶;
- public access to and along the coastal marine area will be maintained and enhanced by the Proposal⁸⁷;
- the Proposal has been co-designed with mana whenua and informed by a CIA and CVA to ensure Māori culture and traditions with ancestral land, water sites and other taonga are provided for⁸⁸;
- historic heritage will be protected from inappropriate subdivision, use and development⁸⁹; and
- the Proposal will assist with the avoidance of significant risks from natural hazard events⁹⁰.

252. With regard to Section 7 matters, the Proposal:

- enables the efficient use and development of natural and physical resources for public open space and associated social, cultural and recreational activities⁹¹;
- maintains and enhances amenity values⁹² and the quality of the environment⁹³; and

⁸⁶ S6(a)

⁸⁷ S6(d)

⁸⁸ S6(e)

⁸⁹ S6(f)

⁹⁰ S6(h) & (s7(i))

⁹¹ S7(b)

⁹² S7(c)

⁹³ S7(f)

- has taken account of the effects of climate change including as they relate to the frequency and severity of natural hazard events⁹⁴.
253. Section 8 requires the principles of the Treaty of Waitangi to be taken into account. Again, the Proposal has been informed by consultation with, and co-design by, mana whenua. The CIA and CVA prepared by mana whenua also are supportive of the Proposal and the process adopted by the applicant to date.
254. Overall, it is considered that the Proposal is consistent with the purpose and principles of the RMA.

Conclusion

255. This AEE has been prepared on behalf of Wellington City Council to accompany a resource consent application for subdivision and land use activities associated with the redevelopment of Frank Kitts Park.
256. When all relevant consent requirements are bundled together, the Proposal is to be assessed as a non-complying activity. The assessment of effects has focussed on all relevant matters, with consideration given to corresponding policy direction, matters of discretion and assessment guidance in the relevant planning instruments.
257. In terms of that assessment, the AEE, volunteered conditions and supporting technical reports demonstrate that the Proposal will result in demonstrable positive effects, and any adverse environmental effects will be sufficiently managed such that they are no more than minor.
258. A fair appraisal of the relevant objectives and policies demonstrates that the Proposal is well-aligned with the direction in all relevant national, regional and district planning instruments.
259. The Proposal accordingly passes both limbs of the gateway test for non-complying activities under s104D of the RMA.
260. An assessment under Part 2 of the RMA has found that the Proposal is consistent with the enabling provisions of the RMA while ensuring that sustainable management is upheld.
261. As such, it is considered that the application can be granted, subject to the conditions volunteered by the applicant.
262. The application is to be publicly notified in accordance with the relevant direction of the PODP.
263. The applicant requests for the opportunity to review a draft set of conditions prior to the granting of consent, including any changes to volunteered conditions.

Resource Management Group Limited
May 2025
(Updated 11 June 2025)

⁹⁴ S7(i)

Appendices

Appendices are attached separately