

ASSESSMENT OF EFFECTS ON THE ENVIRONMENT

PROPOSED FALE

FRANK KITTS PARK

WELLINGTON WATERFRONT

1 INTRODUCTION

1.1 BACKGROUND

The **Fale Malae Trust** (the “Applicant” or “Trust”) has applied to the Wellington City Council (the “Council”) for resource consent for the construction and occupation of a new building (Fale) at Frank Kitts Park on the Wellington Waterfront - hereafter the “Proposal”.

The Proposal is part of a wider project involving the redevelopment of Frank Kitts Park (the “Project”). The Trust’s application will authorise part of the joint package of works for the Project for which responsibility is shared with the Wellington City Council (“Council”). The Council will be lodging an application for complementary resource consents that will authorise the remaining parts of the Project. It is the Trust’s and Council’s expectation and request that these joint applications should be considered and evaluated together as different parts of the same Project. This is further explained in Section 2.1 and Section 2.2.

The purpose of this report is to describe the Proposal and provide an assessment of environmental effects (AEE).

1.2 REPORT STRUCTURE

After this introduction, the AEE provides the following information:

- Section 2 provides a description of the “Site and Existing Environment” and the “Proposal”. The section also summarises the “Frank Kitts Park Planning History” and the “Site Selection Process” undertaken by the Trust.
- Section 3 outlines the District Plan objectives, policies and rules applicable to the Proposal and identifies the resource consents required.
- Section 4 describes the consultation undertaken by the Trust in relation to the Proposal.
- Section 5 provides a resource management/District Plan assessment of the Proposal.
- Section 6 provides a conclusion.

This AEE (inclusive of Appendices), plus the Application for Resource Consent (Form 9) and the application drawings, addresses the requirements of Schedule 4 (Clause 2) of the Resource Management Act 1991 (the “Act”), which identifies what information is to be supplied with a resource consent application.

1.3 ASSESSMENT OF EFFECTS ON THE ENVIRONMENT

An assessment of environmental effects (AEE) is required under s88(2)(b) of the Act for an application for resource consent, which provides:

“... an assessment of the actual or potential effect on the environment of the activity”.¹

¹ Clause 6(1)(b) Schedule 4 of the Act.

This AEE has been prepared in response to this requirement.

1.4 SCOPE OF ASSESSMENT OF EFFECTS ON THE ENVIRONMENT

1.4.1 Schedule 4 RMA/Clause 6 - Information Required

Clause 6 of Schedule 4 of the Act lists the information required in an assessment of environmental effects as follows:

1(a) if it is likely that the activity will result in any significant adverse effect on the environment, a description of any possible alternative locations or methods for undertaking the activity

The proposed building (Fale) will not result in any significant adverse environmental effect. Accordingly, it is not considered necessary to evaluate 'possible alternative locations' as part of resource consent application to establish the Fale at Frank Kitts Park.

Nevertheless, during the lead-up to selecting the Frank Kitts Park site as the Trust's preferred site, consideration was given to a number of possible alternative locations, as summarised in Section 2.5 of the AEE.

1(b) an assessment of the actual and potential effect on the environment of the activity

The AEE at Section 5 provides an assessment of the actual and potential effects on the environment in relation to:

- urban design effects
- visual amenity effects (including effects on public viewshafts)
- open space effects
- cultural effects
- historic heritage effects
- effects on sites of significance to Māori
- micro-climatic effects (wind and shading)
- effects associated with coastal hazards
- public safety and security (CPTED) effects
- traffic effects
- three waters effects
- earthworks effects
- contaminated land effects
- construction effects
- positive effects

1(c) if the activity includes the use of hazardous installations, an assessment of any risks to the environment that are likely to arise from such use

Not applicable. No hazardous substances will be stored in the Fale.

1(d) if the activity includes the discharge of any contaminant, a description of –

- (i) the nature of the discharge and the sensitivity of the receiving environment to adverse effects; and***
- (ii) any possible alternative methods of discharge, including discharge into any other receiving environment***

There will be no discharge of contaminants associated with the Fale following construction and occupation of the building. During the construction phase, procedures will be implemented to avoid/mitigate any effects associated with construction activities, including effects associated with site earthworks.

1(e) a description of the mitigation measures (including safeguards and contingency plans where relevant) to be undertaken to help prevent or reduce the actual or potential effect

It is not considered that it will be necessary to implement any mitigation measures (post construction), aside from the preparation and implementation of a flood management plan and a tsunami response plan.

1(f) identification of the persons affected by the activity, any consultation undertaken, and any response to the views of any person consulted

Pre-application consultation with Council planning, traffic and urban design advisors was undertaken, and also with the Council's Waterfront Technical Advisory Group (TAG).

In addition, in the lead-up to lodging the resource consent application, consultation was undertaken with the following parties:

- Wharewaka o Pōneke Charitable Trust
- Taranaki Whānui (including through engagement of a cultural impact assessment report)
- Te Rūnanga o Toa Rangatira - Ngāti Toa (including through engagement of a cultural values assessment report)
- Inner City Wellington Residents' Association
- Wellington Architectural Centre
- Wellington Civic Trust
- Wellington Sculpture Trust
- Cornerstone Properties
- Robert Jones Holdings
- Wellington Dragon Boat Charitable Trust

Refer Section 4 of the AEE.

In addition to the consultation initiated by the Trust, public consultation was undertaken by Council during April-May 2023 as part of the revised development plan for Frank Kitts Park, including the initial stage of landowner approval for the Fale Malae Trust's proposal. A total of 2,143 responses were received.²

1(g) if the scale and significance of the activity's effects are such that monitoring is required, a description of how and by whom the effects will be monitored if the activity is approved

In the Applicant's opinion, post construction no on-going monitoring is required.

1(h) if the activity will, or is likely to, have adverse effects that are more than minor on the exercise of a protected customary right, a description of possible alternative locations or methods for the exercise of the activity (unless written approval for the activity is given by the protected customary rights group)

No protected customary rights will be affected as a consequence of the construction of the Fale. A cultural impact assessment (CIA) report has been prepared on behalf of Taranaki Whānui ki Te Upoko o Te Ika, and a cultural values assessment (CVA) report on behalf of Te Rūnanga o Toa Rangatira, both of which assess the potential effects of the Proposal on cultural values.

1.4.2 Schedule 4 RMA/Clause 7 - Matters to be Addressed

Clause 7 of Schedule 4 of the Act lists the following further matters that must be addressed by the assessment of environmental effects.

1(a) any effect on those in the neighbourhood and, where relevant, the wider community, including any social, economic, or cultural effects

This matter is addressed in Section 5 of the AEE.

1(b) any physical effect on the locality, including any landscape and visual effects

This matter is addressed in Section 5 of the AEE.

1(c) any effect on ecosystems, including effects on plants or animals and any physical disturbance of habitats in the vicinity

Not applicable. Frank Kitts Park was 'developed' as a primary public open space on the waterfront during 1989-1990. Previously the site, following reclamation circa 1967-1970, was tar-sealed and principally used for shipping container storage and assembly by the Wellington Harbour Board. Today, the site does not contain any 'natural' plant or animal ecosystems, notwithstanding some [re]planting, including some significant Pohutukawa trees, which has been undertaken as part of earlier developments along this part of the Wellington waterfront.

² Franks Park Development Plan and Fale Malae, Environment and Infrastructure Committee, 8 June 2023. The results of the public engagement were recorded in the May 2023 report "Frank Kitts Park - Fale Malae Proposal: Public Engagement" prepared by Global Research Ltd.

Today Frank Kitts Park presents as an 'urban waterfront' public open space which has been developed in accordance with previous resource consents - refer Section 2.4 "Recent Planning History".

1(d) any effect on natural and physical resources having aesthetic, recreational, scientific, historical, spiritual, or cultural value, or other special value, for present or future generations

This matter is addressed in Section 5 of the AEE.

1(e) any discharge of contaminants into the environment, including any unreasonable emission of noise, and the options for the treatment and disposal of contaminants

Post construction there will be no discharge of contaminants into the environment associated with the Fale.

During construction of the Fale, including when earthworks are in progress, measures will be implemented to ensure that there is no unreasonable discharge of noise, dust, sediment or construction debris to adjacent public spaces or to the coastal marine area.

1(f) any risk to the neighbourhood, the wider community, or the environment through natural hazards or hazardous installations

The Proposal will appropriately avoid, remedy or mitigate the inherent hazards of being located in the coastal environment. This matter is addressed in Section 5 of the AEE.



FIGURE 2: Lot 2 DP 436892 (Source: TerraNet)

In addition to the existing Park, Lot 2 encompasses:

- part of Te Whanganui a Tara (Wellington Harbour);
- Whairepo Lagoon;
- the extent of Te Ara Moana³ from the Hunter Street extension, down to Taranaki Wharf and the seaward side of Te Papa;
- *Water Whirler*, a kinetic sculpture by Len Lye located off Ara Moana at the end of the Hunter Street extension;
- *Albatross*, a sculpture by Tanya Ashken, a listed heritage item, located adjacent to the Whairepo Lagoon at the south end of the Park;
- the Wellington Rowing Club and Star Boating Club, both listed heritage buildings, located on the harbourside of the Whairepo Lagoon; and
- to the south of the Whairepo Lagoon, Odins Plaza, a portion of the Te Papa forecourt, and - at Taranaki Wharf - the Wellington Free Ambulance Response Station and the popular Jump Platform.

On a separate lot, but 'encompassed' by Lot 2, is the Te Raukura Te Wharewaka o Pōneke building.

Lot 3 to the north of Lot 2 includes the Hunter Street extension, which provides vehicle access to the TSB Arena and buildings on the Queens Wharf Outer T.

³ Te Ara Moana is also known as the Waterfront Promenade and is part of Te Aranui o Pōneke (Greater Harbour Way).

As illustrated on **Figure 3**, the wider Lot 3 curtilage includes:

- Queens Wharf;
- Shed 5, Dockside and the Crab Shak 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 the TSB Arena and other buildings located at Queens Wharf.



FIGURE 3: Lots 1 and 3 DP 436892 (Source TerraNet)

Within the overall project footprint, the site to be occupied by the proposed Fale is located in the south-west corner of the Park. The footprint of the Fale will be approximately 708m².

The proposed redevelopment of the Park will also include works in the Jervis Quay road reserve. These works will affect the kerbline, lane orientation and parking/loading arrangements on the eastern side of Jervois Quay adjacent to the Park; and the airspace above the Quay comprising the existing (to be demolished) pedestrian overbridge at Harris Street.

2.1.2 The Existing Environment

The existing physical characteristics of the Park comprise:

- at the northern end the recently refurbished children's playground which will remain unchanged by the current redevelopment proposal and is excluded from the Project footprint;
- to the immediate south of the playground is a stand of mature vegetation and a landscaped amphitheatre comprising a mix of hard surfaces and grass;

- the area between the amphitheatre and Jervois Quay is relatively flat lawn with mature trees planted at intervals;
- an elevated eastern edge to the amphitheatre which creates a physical barrier between the Park interior and the harbour promenade (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 are marked by internal pathways respectively running parallel to Te Ara Moana and as a pathway extension of Willeston Street;
- at the south end of the ampitheatre at the junction of Ara Moana and the Willeston Street pathway extension is the Wahine Mast, a memorial to those who lost their lives when the Lyttleton-Wellington ferry Wahine foundered at the entrance to Te Whanganui a Tara (Wellington Harbour) on 10 April 1968. The mast is to be retaiend and repositioned as part of the redevelopment;
- a large carpark building is a defining feature of the Parks's southern extent. Ramps and stairs provide access to lawns, paved areas and seating on the building's roof - refer **Photo 1**. The building's elevations fronting Ara Moana and the Whairepo Lagoon contain various commercial tenancies, public toilets and dragon boat storage. The building, which has a 3,692m² footprint, is linked to the western side of Jervois Quay at Harris Steret by an existing pedestrian overbridge.



PHOTO 1: Frank Kitts Park viewed from the City-to-Sea Bridge looking north

Photo 2 shows the 'existing environment' on the roof of the carpark building.



PHOTO 2: carpark building roof - existing environment

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.

In addition to the Site's current physical characteristics summarised above, other relevant aspects of the "existing environment" include the future state of the environment as it may be modified by:

- activities and development proceeding as permitted activities under the partially operative District Plan (2024);⁴ and
- the implementation of resource consents that have been granted.

As further detailed below in Section 2.2 "The Proposal", the wider redevelopment project (the "Project") comprises several activities which are permitted under the applicable rules. For example:

- the demolition of buildings and structures;⁵
- the construction of sculptures, public art, waterfront furniture and other structures;⁶
- permitted activity rules relevant to the Fale application - community facilities, public toilets, dragon boat storage.⁷

Furthermore, the Site is subject to resource consent SR358352 granted in 2018. The consent authorised a previous redevelopment of the Park, aspects of which have been given effect to by the Council over the ensuing period - most notably the children's playground at the northern end.

At the time the 2018 consent was granted, it was anticipated that the redevelopment would have been completed by now. However, external factors have resulted in a delay to the consented redevelopment proceeding to completion.

A key factor following the granting of the 2018 consent was confirmation that the existing carpark building suffered significant damage during the 2016 Kaikoura Earthquake, to the point that it was deemed earthquake prone. As a consequence, the Council resolved to demolish the building which, in turn, required amendments to the 2018 consent.

Table 1 provides a summary of the key elements of the 2018 consent and a description of their adaption in the proposed redevelopment subject to the current application. It does not incorporate detail relating to the proposed Fale as it was not part of the 2018 consent.

Figure 4 is an illustration of the 2018 scheme. More detailed descriptions of the proposed Park elements are provided in Section 2.2 below.

TABLE 1 - Comparison of 2018 and 2024 Park Features

2018 consented features	Description of feature (2018)	Degree of proposed change (2024)
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 at grade.	Negligible Subtle changes in the lawn's geometry and the positioning of perimeter pathways and planting. Location within the Park and overall scale is generally as per consented scheme. There is a modest reduction in grassed area, ⁸ but adjacent 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

⁴ The operative provisions (District Plan 2024) were subject to the intensification streamlined planning process (ISPP) and made operative on 15 April 2024.

⁵ Operative rule WFZ-R13.

⁶ Operative rule WFZ-R15 (Note: also exempted under WFZ-R16).

⁷ Operative rules WF-R2 and WF-R3.

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

2018 consented features	Description of feature (2018)	Degree of proposed change (2024) 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 reimagined 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 currently present.	High In the proposed design, this lawn is relocated to the Te Ara Moana side of 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 space can also serve as the malae for the proposed Fale, subject to the latter being authorised and constructed.
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 carpark 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	New internal lighting poles and low-level lighting were proposed for safety and	Negligible The number, type and positioning of lighting is

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

2018 consented features	Description of feature (2018)	Degree of proposed change (2024)
Not referenced in Figure 4	wayfinding after dark.	modified from the 2018 scheme to reflect changes in good practice and relevant National standards.

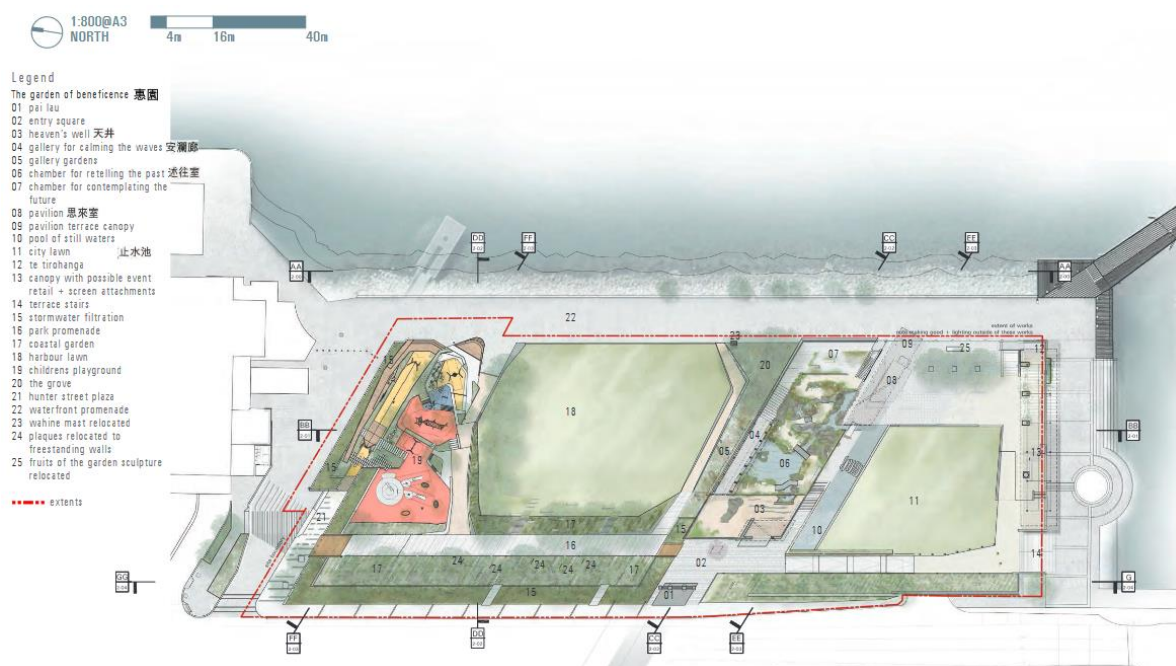


FIGURE 4: Frank Kitts Park - 2018 Development Scheme

Drawing on the detail included in Table 1, it is apparent that the 2024 redevelopment proposal has many common elements to the 2018 consented scheme. The 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; and
- demolition of the earthquake prone carpark building.

The demolition of the carpark building in turn:

- required a reconfiguration of the Garden of Beneficence to integrate the garden with the changed ground levels; and
- provided an opportunity to create more accessible at-grade public open space.

The demolition of the carpark building allows the Fale to be constructed in the south-west corner of the Park, with the building occupying approximately 3.6% of the Park’s public open space area, or 19% of the area currently occupied by the existing carpark building, and, in combination with the public open space provided by the proposed Malae, will add a new dimension to the Park which is expected to make a positive contribution to the waterfront’s public amenity.

In summary, and as detailed in the assessments of environmental effects to follow, the proposed redevelopment of the Park (the “Project”) can be said to alter the existing environment, as it may be modified by the 2018 consent, in the following ways:

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

For the southern extent of the Park, the principal change is two-fold: the location of the proposed Fale and the creation of the associated Malae harbourside of the Fale.

The extent to which the proposed changes/modifications amount to positive, neutral or adverse effects is covered in the subsequent effects assessments.

2.1.3 Surrounding Environment

The surrounding environment is generally of an urban nature to the north, west and south of the Park, with Te Whanganui a Tara (Wellington Harbour) immediately to the east.

On the western side of Jervois Quay, existing commercial buildings are of low to medium-rise, with built form increasing in scale and intensity to 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.

Jervois Quay itself is a 6-lane divided arterial road with a usual day trip rate of more than 40,000 vehicles.¹⁰

The wider site's southern boundary is adjoined by land comprising Te Papa Tongarewa, Circa Theatre, Shed 22, the NZ Stock Exchange (former Odlins building) and the former Wellington Free Ambulance building.

To the north and west of Queens Wharf, the wider area includes the former Wellington Harbour Board Office & Bond Store building, Shed 7 and a number of low-rise buildings including Sheds 11 and 13, the Meridian building, the Bell Gully building and the PWC building, all adjoining Lady Elizabeth Lane.

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.

2.2 FRANK KITTS PARK REDEVELOPMENT (THE PROJECT)

Overall, the Project can be described as consisting of three components:

- redevelopment of the Park and adjoining areas in Jervois Quay and Te Ara Moana;¹¹
- subdivision to formalise new title boundaries; and
- construction and operation of the Fale building

The first two components are covered by the Council's application and the third component by the Trust's application, with each components described in greater detail as follows:

2.2.1 Park Redevelopment Components (Council Application)

The main components of the Park redevelopment are described in detail in the design statement prepared by Wraight & Associates in **Appendix 1**. 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 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.*
- **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.*
- **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 had to link two different gradients between the Jervois Quay / Te Ara Moana level and the rooftop area of the carparking building. *Refer E in Figure 5.*
- **Te papa A Pasifika | Malae | Whairepo Lawn** - the Whairepo Lawn replaces the former 'City Lawn', benefitting from the lower ground level realised with the demolition of the carpark building. The space will double as a Malae for the Fale. Like the Harbour Lawn, the Malae is edged by hard and soft landscaping and slopes gently from west to east to better address Te Ara Moana and the Harbour beyond. *Refer G in Figure 5.*
- **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 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.*

¹⁰ 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>

¹¹ This includes the demolition of the existing Frank Kitts Park carpark building (covered by the Council's application).



Figure 5 - Proposed Landscape Plan.

Existing mature trees will be retained or relocated, with new plantings being established to suit the various functions of each space within the Park.

Existing artwork and monuments will be relocated to suit the new configuration of park elements. New artwork will be established, including the proposed raukura sculptures for example.

Seating, lighting and other park furniture will enhance comfort and safety of the spaces.

2.2.2 Subdivision (Council Application)

A subdivision is proposed for administrative purposes. It includes the creation of a new title around the footprint of the proposed Fale building. Within that footprint, strata titles are proposed to respectively delineate the basement level and the ground floor level.

2.2.3 Fale Building (Trust Application)

A full description of the proposed Fale, and how it will integrate with the adjacent Malae, is provided in the Architect's Design Statement (refer **Appendix 2**).

Principal components of the proposed Fale are:

- Fale: the 'building' with a 708m² footprint and a maximum height (to the roof ridgeline) of 13.130m (measured from the Jervois Quay RL - refer Application Drawing RC-300); and
- Paepae: raised platform around the Fale.

The Fale's ground floor space (Drawing RC-101 - refer **Figure 6**) will be occupied by:

- ceremonial meeting space (the 'Fale') 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 sitting;
- cafe on the northern façade with access to outside seating on the paepae; and
- entry lobbies on the east and west facades.

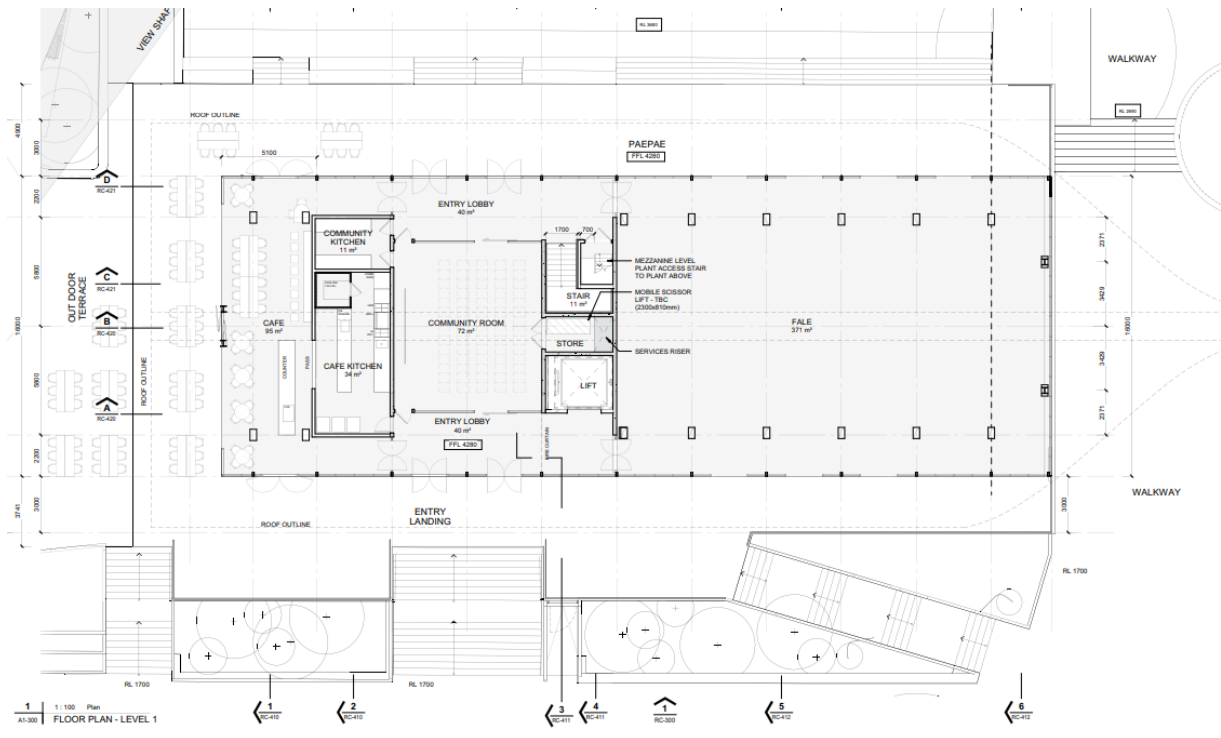


FIGURE 6: Floor Plan (Basement Level) - Application Drawing RC-100 ¹²

The lower (sub-basement) level (Drawing RC-100 - refer **Figure 7**) will accommodate kitchen facilities, toilets and storage space associated with the Fale, together with the dragon boat storage, changing rooms, public toilets and storage space for the Council's facilities management team.

The roof of the Fale is clad in zinc panels.

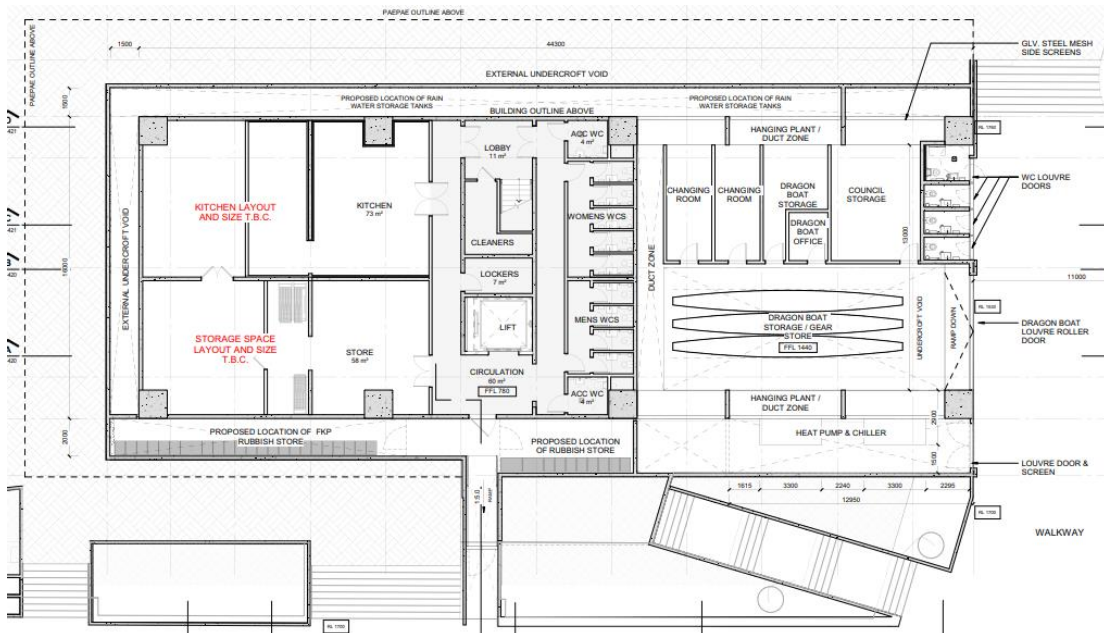


FIGURE 7: Floor Plan (Basement Level) - Application Drawing RC-100

¹² The Fale application drawings are attached at **Appendix 3**.

Figure 8 presents a simulation of the Fale viewed from the waterfront promenade looking north-west to Jervois Quay.



FIGURE 8: Proposed Fale, Frank Kitts Park

2.2.4 Volunteered Conditions of Consent

The Proposal includes various measures to avoid, remedy or mitigate actual and poteNtial effects on the environment, These measures are volunteered as conditions of consent - refer Section 5.11.

These volunteered conditions of consent form part of the application, including for the purposes of decisions under s95 and s104 of the Act.

2.3 PLANNING MAP - ZONING AND OVERLAYS

Under the Partially Operative District Plan (2024) Frank Kitts Park is within the Special Purpose Waterfront Zone and subject to the following and overlays:

- Special Purpose Waterfront Zone / Public Open Space Area;
- Coastal Environment;
- Flood Hazard Inundation Area Overlay;
- Medium Coastal Inundation Overlay;
- High Coastal Tsunami Hazard Overlay; and
- Liquefaction Hazard Overlay.

Three viewshafts cross the Park: Vs10 (Hunter Street) at the north end, Vs11 (Willeston Sreet) towards the south end, and Vs15 (Cable Car Station to St Gerard's Moastery).

2.4 FRANK KITTS PARK - RECENT PLANNING HISTORY

The site of Frank Kitts Park was reclaimed circa 1967-1970 by the Wellington Harbour Board (refer **Figure 9**) and initially accommodated some wharf sheds and areas for container storage. In 1976 a smaller park area than the current Frank Kitts Park was established and known as Maritime Park.¹³

¹³ Wikipedia, "Frank Kitts Park".

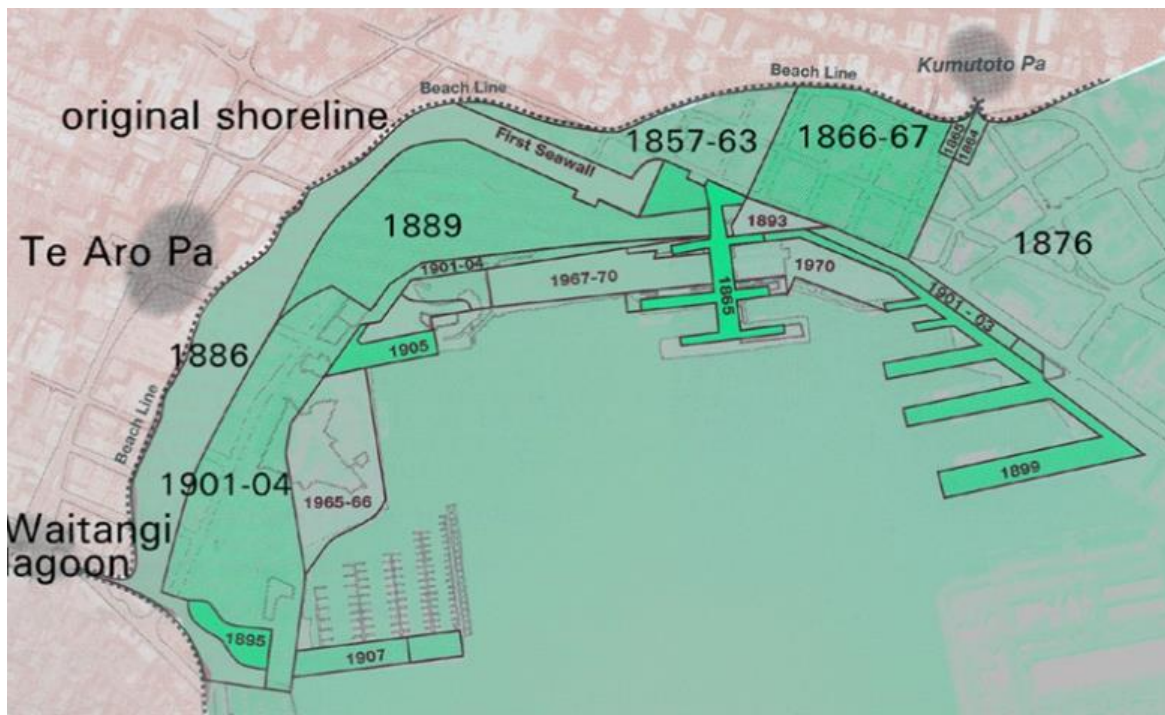


FIGURE 9: Wellington Inner Harbour Reclamations

In June 1988 Lambton Harbour Management Limited applied for planning consent under the Proposed Lambton Harbour Combined Scheme to develop an expanded open space at Frank Kitts Park as part of what was referred to as “Stage 1 of the Lambton Harbour Development Project” and which was intended to signal the revitalisation of the waterfront as an area of high public amenity.

The new expanded Frank Kitts Park opened in 1990.

In 2017 the Wellington City Council applied for resource consent for an upgrade/redevelopment of Frank Kitts Park (refer **Figure 10**), of which the principal components were:

- expansion and enhancement of the children’s playground (at the north end);
- creation of a central lawn (‘harbour lawn’);
- installation of a Garden of Beneficence/Chinese Garden;
- re-establishment of a lawn (‘city lawn’) on the roof of the existing carpark building;
- establishment of a ‘green’ edge to Jervois Quay, including raingardens; and
- Jervois Quay promenade and entrance to the Garden of Beneficence/Chinese Garden.



Figure 10 Frank Kitts Park Redevelopment - 2017 (source: Wraight & Associates)

Consent was initially granted by an independent hearings panel and following appeals to the Environment Court, the Court’s decision confirming consent was issued on 6 April 2018.¹⁴ The relevance of this consent to the existing environment is set out in Section 2.1.2.

2.5 SITE SELECTION

As noted in Section 1.4.1 above, an AEE should include an assessment of alternative locations if a proposed activity, in this case the proposed Fale, will have significant adverse effects on the environment.

Locating the Fale in Frank Kitts Park will not result in significant adverse effects on the environment. Consequently, no assessment of alternative locations is necessary.

Frank Kitts Park is a suitable location for the proposed Fale due to its prominent location, immediate connection to the ‘ocean’, feasibility and viability, and, most importantly, the integration of the Fale within a precinct of ‘cultural diversity’ given the close proximity of Te Wharewaka o Pōneke and the proposed Garden of Beneficence - the Chinese Garden.

The current design of the Fale (and associated Malae) cannot be replicated at a different location. That is why the Trust is seeking resource consent for the Frank Kitts Park location.

A statement prepared by the Fale Malae Trust - the Owner’s Statement - is attached (refer **Appendix 4**).

2.6 THE APPLICATIONS

The proposed redevelopment of Frank Kitts Park as described above in Section 2.2 “Frank Kitts Park Redevelopment (The Project)” is covered by joint applications:

- Application 1 - Wellington City Council: for land use consent and subdivision consent for the redevelopment of the Park and adjoining areas in Jervois Quay and Te Ara Moana; and

¹⁴ ENV-2016-WLG-000062 and 064.

- Application 2 - Fale Malae Trust for land use consent for the proposed Fale building.

Although separate applications they should be considered concurrently given the closely integrated nature of Proposals.

3 DISTRICT PLAN PROVISIONS

This section of the AEE provides an overview of the District Plan objectives, policies and rules that are applicable to the Trust's application for the proposed Fale building.

3.1 CONTEXT

On 18 July 2022 the Council publicly notified the Proposed District Plan (PDP) to replace the Operative District Plan (ODP), first notified in July 1994.

The notified PDP included provisions subject to the intensification streamlined planning process (ISPP) and provisions subject to the RMA Schedule 1, Part 1 process.

The PDP progressed through the public notification, submission, further submission stages, with hearings held by an Independent Hearings Panel (IHP) during 2023 on the PDP provisions subject to the ISPP process.¹⁵ The IHP reported to Council with its recommendations in February-March 2024.

Following the Council's acceptance of the IHP's recommendations at its meeting on 14 March 2024, the majority of the provisions subject to the ISPP process effectively became operative on that date,¹⁶ but with the Council confirming by public notice on 23 March 2024 that:

The PDP Intensification Planning Instrument (IPI) as amended by the accepted recommendations becomes operative on 15 April 2024.

The PDP's Waterfront Zone (WF) provisions replace the previous operative District Plan provisions applicable to the Central Area's Lambton Harbour Area, which were the provisions in place when the existing consent for Frank Kitts Park (refer Section 2.4 above) was granted.

As a preliminary comment, it is noted that the key provisions (objectives, policies, rules and standards) applicable to an assessment of the application for the Fale are part of the Intensified Planning Instrument (IPI) that became operative on 15 April 2024.

3.2 DISTRICT PLAN OVERVIEW¹⁷

As the District Plan records:

Wellington City plays a critical role in the wider region and as the nation's capital.¹⁸

To facilitate and support a well-functioning capital city, the District Plan must enable a wide range of activities that have local, regional and national significance to establish and thrive, including cultural activities [Objective CC-O2].

In turn, as a harbour capital, the city's waterfront has a significant role in establishing its capital city identity and sense of place, as evidenced by the location of the Museum of New Zealand Te Papa Tongarewa on the waterfront.

Reinforcing the importance of this role is the inclusion of a 'new' zone in the District Plan (2024) - the Special Purpose Waterfront Zone.

The Waterfront Zone is described, inter alia, as providing:¹⁹

¹⁵The key point of difference is that those provisions that are part of the Intensification Planning Instrument, following the Council's acceptance of the IHP's recommendations, are not subject to the Environment Court appeal process; whereas the Council's decision on the provisions subject to the RMA Part 1 Schedule 1 process can be appealed to the Environment Court.

¹⁶The Council declined to accept the IHP's recommendations on a limited number of matters relating to housing intensification and heritage building listings, referring those matters to the Minister for RMA Reform and the Minister for the Environment for final decision. The Minister for RMA Reform (Hon Chris Bishop) released his decisions on those matters on 8 May 2024, at which point those provisions also became operative. None of the matters referred to the Ministers related to matters relevant to an assessment of the Trust's application.

¹⁷All of the provisions referred in in this section of the AEE are part of the District Plan (2024) on-line version notated "Appeals" version. None of the appeals (which are limited to matters progressed through the RMA Schedule 1 Part 1 process) are relevant in the context of the Trust's application. Consequently, all relevant provisions are either operative (IPI provisions) or effectively operative (Part 1 Sch 1 provisions).

¹⁸Partially Operative District Plan (2024)- Introduction to the "Capital City" Chapter.

¹⁹These extracts are annotated as effectively operative (P1 Sch1 'have regard').

“... an interface between the city centre and Te Whanganui ā Tara. It contains one of the city’s primary promenades along with two major parks: Frank Kitts Park and Waitangi Park. It caters to a variety of cultural, recreation and entertainment activities and includes buildings such as Te Papa, Te Wharewaka o Pōneke and the Events Centre along with residential apartment living.

...

Development since the 1980s on the land covered by the Waterfront Zone has transformed the area into a space for recreation, events, arts and culture, business, residences, and active transport including walking and cycling. This evolution of the waterfront is in line with the vision of the Wellington Waterfront Framework (2001), which is still relevant and important today.

Wellington’s Waterfront is a special place that welcomes all people to live, work and play in the beautiful and inspiring spaces and architecture that connects our city to the sea and protects our heritage for future generations.

The Council uses the Wellington Waterfront Framework to help manage the waterfront in its role as property owner and manager of the land and public assets. The Framework has also helped inform the Waterfront Zone content of this District Plan.

The additional comment is made in the Introduction to the Waterfront Zone Chapter that:

When constructing new and redeveloped buildings and public spaces, the Waterfront Zone requires public involvement and weighs the public interest very highly as the Zone is predominantly a public area. Applications for significant new development in the Waterfront Zone are publicly notified, as specified in the relevant rules’ notification status.

3.2.1 Waterfront Zone Objectives & Policies

3.2.1.1 Objectives

The following Waterfront Zone objectives are part of the Intensification Planning Instrument (IPI) and are now operative:

WFZ-01 Purpose

Activities and development in the Waterfront Zone contribute to Wellington’s identity and sense of place, with public spaces, buildings and other structures that reflect the unique location and character of the waterfront.

WFZ-02 Ahi Kā

Taranaki Whānui and Ngāti Toa Rangatira are acknowledged as the mana whenua of Te Whanganui ā Tara (Wellington) and their cultural associations and landowner and development interests are recognised in planning and developing the Waterfront Zone.

WFZ-03 Protection of public open spaces

The Waterfront’s public open spaces mapped as specific controls are protected and maintained for temporary activities and recreation activity.

WFZ-07 Managing adverse effects

Adverse effects of activities and development in the Waterfront Zone are managed effectively both:

- 1. Within the zone, including on its role, function and connectivity; and*
- 2. At interfaces with:*
 - a. Heritage buildings, heritage structures and heritage areas;*
 - b. Scheduled sites and areas of significance to Māori;*
 - c. Public open space specific controls;*
 - d. Residential zoned areas; and*
 - e. The coastal marine area.*

The following Waterfront objective is subject to the RMA Part 1 Schedule 1 process:²⁰

WFZ-06 *Vibrant and diverse mix of activities*

The Waterfront Zone has a diverse and vibrant mix of activities that collectively provide and encourage public interest, use and enjoyment of the Zone during the day and night.

3.2.1.2 Policies

The following Waterfront Zone policies are part of the Intensification Planning Instrument (IPI) and are now operative:

WFZ-P5 *Sense of place*

Require development of public spaces, buildings and other structures to maintain or enhance the sense of place and distinctive form, quality and amenity of the Waterfront Zone, where relevant:

1. *A balance of buildings and open space with no more than 35% total building coverage over the whole Waterfront Zone to form a sense of openness and transition between the dense city centre environment and the expansiveness of Te Whanganui a Tara;*
2. *Design relating to the maritime location and activities;*
3. *Rich Māori and tauīwi/non-Māori history;*
4. *Sunlight to parks, plazas and other green spaces where people regularly congregate;*
5. *Visual connections to the City and Te Whanganui a Tara; and*
6. *Accessibility for people of all ages and mobility levels.*

WFZ-P6 *Development of buildings*

Require new and altered buildings to be of a high quality, including:

1. *Building forms and facades, especially those that are visually prominent;*
2. *Bulk, scale and heights that are complementary to and of a scale appropriate to the existing nearby buildings in the Waterfront Zone;*
3. *Heights that are consistent with the low-rise nature of buildings in this zone;*
4. *Active building frontages and publicly-accessible areas on the ground floors of buildings, except for storage and/or service areas;*
5. *Storage and/or service areas screened from public view;*
6. *Sustainable, resilient building design that is adaptable to changes in use over time;*
7. *Buildings that respond to any significant natural hazard risks and climate change effects, including the strengthening and adaptive reuse of existing buildings;*
8. *Design that responds positively to identified historic heritage structures, buildings and areas, including those seaward of mean high water springs and identified in the Regional Natural Resources Plan, that are adjacent to the new or altered building; and.*
9. *Fulfilling the intent of the Centres and Mixed Use Design Guide.*

WFZ-P7 *Protection of public open space*

Protect the Waterfront Zone's mapped public open spaces by avoiding new permanent buildings above-ground on public open space except where they improve the space for public use and enjoyment and do not dominate or cumulatively diminish the public open space.

WFZ-P9 *Sustainable long term use*

Encourage new development and redevelopment in the Waterfront Zone to be sustainable, resilient and adaptable to change in use over time, including enabling sufficient flexibility for ground floor space to be used and converted for a range of activities and responding to future coastal hazards.

The following Waterfront Zone policies are subject to the RMA Part 1 Schedule 1 process:²¹

²⁰ There are no appeals against this objective which, therefore, is effectively operative.

²¹ There are no appeals against these policies which, therefore, are effectively operative.

WFZ-P1 Enabled activities

Enable a range and diversity of activities that support the role and function of the Waterfront Zone and enhance the Zone's vitality, vibrancy and amenity during the day and night, including:

1. *Commercial activities;*
2. *Community activities;*
3. *Recreation activities;*
4. *Emergency service facilities;*
5. *Marae activities;*
6. *Public transport activities on Waterloo Quay, Customhouse Quay, Jervois Quay, Cable Street, Oriental Parade and in the Post Office Square Heritage Area;*
7. *Visitor accommodation; and*
8. *Residential activities above ground floor.*

WFZ-P2 Managed activities

Manage the location and scale of activities which could result in cumulative adverse effects on the vitality, vibrancy and amenity of the Waterfront Zone, including:

1. *Industrial activities;*
2. *Construction of apartments and visitor accommodation;*
3. *New and expanded buildings;*
4. *New and modified public space; and*
5. *Public transport activities on Waterloo Quay, Customhouse Quay, Jervois Quay, Cable Street, Oriental Parade and in the Post Office Square Heritage Area.*

WFZ-P3 Incompatible activities

Avoid activities that are incompatible with the role and functions of the Waterfront Zone.

These incompatible activities include:

1. *Heavy industrial activities;*
2. *Demolition of buildings that results in the creation of unutilised vacant land;*
3. *Ground floor residential activities;*
4. *Significant buildings in mapped public open space; and*
5. *Surface-level carparks, other than car parks for people with mobility issues, for service vehicles, and pick-up/drop-off parking.*

WFZ-P4 Access, connections and public space

Require that the use, development, and operation of the Waterfront Zone:

1. *Provides attractive, safe, efficient, and convenient connections to existing and planned transport networks;*
2. *Promotes and enhances existing and planned pedestrian and cycle access and connections to the City Centre Zone;*
3. *Provides well-designed, connected and safe public space and pedestrian, cycle and micro-mobility access;*
4. *Provides equitable access to and along the edge of the coastal marine area and structures within it; and*
5. *Provides a safe environment for people that promotes a sense of security and allows informal surveillance.*

WFZ-P10 Ahi kā

Recognise and provide for the cultural associations and development interests of Ngāti Toa Rangatira and Taranaki Whānui ki te Upoko o te Ika in the Waterfront Zone by:

1. *Managing new development adjoining sites and areas of significance to Māori; and*
2. *Collaborating on the design and incorporation of Māori cultural elements into public open space within the zone.*

3.2.2 Waterfront Zone Rules

3.2.2.1 Land Use Activities

Community facilities are a permitted activity in the Waterfront Zone (Rule WFZ-R2):

Community Facility: means land and buildings used by members of the community for recreational, sporting, cultural, safety, health, or worship purposes. It includes provision for any ancillary activity that assists with the operation of the community facility.

Comment: the qualification of the Fale as a community facility was discussed at the 11 December 2023 Pre-Application Meeting, with the Council confirming that it did qualify as a community facility.

3.2.2.2 Construction of new buildings and structures

For new buildings in the Waterfront Zone's identified 'public open space areas', Rule WFZ-R15 applies.

Under WFR-R15.1 permitted activity status applies where:

- the new building or structure has a site coverage of less than 30m²;
- is less than 4m high, and
- the aggregate area of all buildings in the contiguous public open space does not exceed 200m² per hectare.

The proposed Fale will have a building footprint of 708m² and at the roof 'ridgeline' will be 13.130m high. Consent is therefore required under either WFZ-R15.2 or WFZ-R15.3.

Under WFR-R15.2 consent is required for a Discretionary Activity where the proposed building footprint is >30m² and/or its height is above 4m, but it does not exceed the 200m² per hectare standard.

Applications under Rule WFZ-R15.2 must be publicly notified.

Where the aggregate area of all buildings (existing and new) in the contiguous public open space exceeds 200m² per hectare, consent is required under Rule WFZ-R15.3 for a Non-Complying activity.

Applications under Rule WFZ-R15.3 must be publicly notified.

Comment:

The contiguous public open space (Frank Kitts Park) has a total area of 1.967 hectares (refer **Figure 1** page 5 above). At present the only building within Frank Kitts Park is the carpark building, which is to be demolished. The carpark building has a 3,692m² footprint.

The carpark building is part of the existing environment.

With its 708m² building footprint, the Fale will 'result' in a 2,984m² reduction in building footprint within the park.²²

However, and notwithstanding the existing environment which includes the existing carpark building, as a new building in Frank Kitts Park the Fale will exceed the 200m² per hectare ratio and therefore require consent for a Non-Complying Activity under Rule WFZ-R15.3.²³

3.2.2.3 Development of Open Space

As previously noted in Section 2.2 above, the Trust's resource consent application does not cover the Malae, being the green open space directly associated with the Fale. This close relationship is illustrated in the 'visualisation' in **Figure 11**.²⁴

²² The Environment Court in past decisions has accepted that the carpark building footprint comprises a component of the 35% building coverage permitted within the Lambton Harbour Area (Operative District Plan) - as illustrated in **Appendix 5**.

²³ The Fale's building footprint would need to be no more than 397m² to come within the 200m² per hectare permitted activity standard.

²⁴ The Malae is covered by the Council's application.



Figure 11: Visualisation of the relationship of the Malae to the Fale (Source: Wraight & Associates)

3.2.3 Natural Hazards ²⁵

The site of the proposed Fale, as does the whole of Frank Kitts Park, lies within the:

- flood hazard inundation overlay area;
- medium coastal inundation hazard overlay area;
- high coastal tsunami hazard overlay area; and
- liquefaction hazard overlay.

Consequently, regard must be had to the applicable objectives, policies and rules relating to Natural Hazards.

3.2.3.1 Natural Hazard Objectives and Policies

The Introduction to the Natural Hazards chapter states, inter alia, that:

Wellington City is susceptible to a wide range of natural hazards, which can result in damage to property and buildings, and lead to a loss of human life. It is therefore important to identify areas susceptible to natural hazards and to avoid or manage subdivision, use, and development, relative to natural hazard risk posed, to reduce the potential for damage to property and the potential for loss of human life.

The District Plan focuses on the following hazards as they are the hazards that present the greatest risk to people, property and infrastructure and their potential effects can be addressed through appropriate land use planning measures:

- *Flooding;*
- *Fault rupture;*
- *Liquefaction;*
- *Coastal inundation, including from sea level rise; and*
- *Tsunami.*

The coastal hazard provisions (coastal inundation, sea level rise, and tsunami) are addressed in the Coastal Environment chapter of the District Plan.

²⁵ The entire Natural Hazards chapter was subject to the Intensification Streamlined Planning Process (ISPP) process. The provisions are now operative.

In relation to Natural Hazards, Policy NH-P6 addresses the location of potentially hazard sensitive activities and hazard sensitive activities within identified inundation areas: ²⁶

NH-P6 Potentially hazard sensitive activities and hazard sensitive activities within the identified inundation areas of the Flood Hazard Overlays.

Manage subdivision, development and use associated with potentially hazard sensitive activities and hazard sensitive activities within inundation areas by:

- 1. Ensuring subdivision, development and use incorporates mitigation to ensure the risk to people and property from the 1% Annual Exceedance Probability flood event is minimised; and*
- 2. Avoiding the construction of new buildings, or the conversion of existing buildings that contain a hazard sensitive activity within identified inundation areas of the Flood Hazard Overlays where the finished floor level is below the 1% Annual Exceedance Probability flood levels.*

Note: Although Frank Kits Park is within the liquefaction Hazard Overlay, the only relevant policy (NH-P9) relates to the location of emergency service facilities within the overlay area. Other activities (including 'community facilities') are not subject to any controls due to their location within the Liquefaction Hazard Overlay.

3.2.3.2 Natural Hazard Rules

Two Natural Hazard rules apply:

NH-R6.1 *The construction of buildings or the conversion of existing buildings that will contain a hazard sensitive activity in the inundation area of the Flood Hazard Overlay*

Activity status: Restricted Discretionary

Where

- a. When located within an Inundation Area of the Flood Hazard Overlay, the finished floor levels of the building for the hazard sensitive activity is located above the 1% Flood Annual Exceedance Probability level:*
 - i. plus the height of the floor joists; or*
 - ii. plus the height of the concrete floor slab.*

Matters of discretion are:

- 1. The impact from the 1% Annual Exceedance Probability flood is low due to either the:*
 - a. Implementation of mitigation measures;*
 - b. The shallow depth of the flood waters within the building; or*
 - c. Type of activity undertaken within the building; and*
- 2. The risk to people and property is not increased from flooding, including displacement of flood waters.*

Note: Technical advice on finished floor levels required to comply with this rule can be sought and obtained from Wellington Water Limited.

Note: Where compliance with the requirements of NH-R6.1 cannot be achieved, the activity status becomes Non-Complying under NH-R6.2.

NH-R8.1 *The construction of buildings or the conversion of existing buildings that will contain a hazard sensitive activity within the overland flowpaths of the Flood Hazard Overlay*

Activity status: Discretionary

Where

- a. When located within an overland flowpath of the Flood Hazard Overlay, the finished floor levels of the building for the hazard sensitive activity is located above the 1% Flood Annual Exceedance Probability level:*
 - i. plus the height of the floor joists; or*

²⁶ Community facilities are listed as a 'hazard sensitive activity'.

II. *plus the height of the concrete floor slab.*

Note: Technical advice on finished floor levels required to comply with this rule can be sought and obtained from Wellington Water Limited.

Note: Where compliance with the requirements of NH-R8.1 cannot be achieved, the activity status becomes Non-Complying under NH-R8.2.

Although Frank Kitts Park is within the Liquefaction Hazard Overlay consent is not required under Rule NH-R15 as the Fale is a Permitted activity under clause R15-1(b):

(b) it involves a hazard sensitive activity that is not an emergency service facility.

3.2.4 Coastal Environment²⁷

As noted in the Introduction to the Natural Hazards chapter, the coastal hazard provisions (coastal inundation, sea level rise and tsunami) are addressed in the District Plan's Coastal Environment chapter.

The introduction to the Coastal Environment chapter, under the heading "Coastal Hazards", states that:

Wellington's City's coastal environment is susceptible to a range of coastal hazards, which are mapped as Coastal Hazard Overlays. These include:

- 1. Tsunami; and*
- 2. Coastal inundation, including sea level rise, storm surges and storm events.*

This Chapter's objectives, policies and rules provide a framework for ensuring that the risks of coastal hazards that threaten people and property are recognised and provided for, while also taking into account climate change effects over time.

Specific objectives and policies that address development within the coastal environment relevant in the context of the Proposal include CE-06, CE-P12 and CE-P18.

CE-06 *Risk from coastal hazards in Low and Medium Hazard Areas of the Coastal Hazard Overlays*

Subdivision, use and development within the Low and Medium Hazard Areas of the Coastal Hazard Overlays minimise the risk from coastal hazards to people, property and infrastructure.

CE-P12 *Levels of risk*

Ensure subdivision, use and development manages the coastal hazard risk to people, property, and infrastructure by:

- 1. Enabling subdivision, use and development that have either low occupancy, risk, or replacement value within the low, medium and high hazard areas of the Coastal Hazard Overlays;*
- 2. Requiring mitigation for subdivision, use and development that minimises the risk resulting from the development from the relevant coastal hazards to people, property, and infrastructure as far as reasonably practicable in the low and medium hazard area and high hazard areas in the City Centre Zone, of the Coastal Hazard Overlays; and*
- 3. Avoiding subdivision, use and development in the high hazard area of the Coastal Hazard Overlays (with the exception of the City Centre Zone) unless there is a functional need and operational need for the building or activity to be located in this area and the building or activity incorporates mitigation measures that minimise the risk to people, property, and infrastructure.*

CE-P18 *Hazard sensitive activities within the medium coastal hazard area*

²⁷ The Coastal Environment chapter was notified using both the Intensification Streamlined Planning Process (ISPP) and the RMA Pt1 Sch 1 process. All of the coastal environment provisions referenced in this section of the AEE were subject to the ISPP process and are now operative, with the exception of Rule CE-R15, which was subject to the RMA Pt 1 Sch 1 process. The Independent Hearings Panel (IHP) hearings on the Coastal Environment Pt1 Sch 1 provisions were held 29 April - 2 May 2024. The IHP is yet to release in recommendations for consideration by Council, anticipated to be no earlier than Q1 2025.

Provide for hazard-sensitive activities in the medium coastal hazard area where, or any subdivision where the building platform for a hazard-sensitive activity will be within the medium coastal hazard area, where it can be demonstrated that:

1. The activity, building, or subdivision incorporates measures that minimise the risk to people and property from the coastal hazard;
2. There is the ability to access safe evacuation routes for occupants of the building from the coastal hazard;
3. If the activity has a post disaster function, mitigation measures are incorporated to allow for the continued operation following a coastal hazard event; and
4. For healthcare facilities, retirement villages, educational facilities and childcare facilities, there is an evacuation plan that allows for the safe removal of all occupants prior to the arrival of the coastal hazard.

3.2.4.1 Coastal Environment / Coastal Hazard Rules

The coastal environment rules that apply are:

Coastal Environment:

CE-R15 Construction of new buildings and structures within the coastal environment and within coastal or riparian margins

*CE-R15.1 Activity status: Permitted*²⁸

Where

- a. The new building or structure is a permitted activity in the underlying zone and compliance is achieved with the ~~rules~~ and relevant standards for buildings and structures in the underlying zones.²⁹

CE-R15.2 Activity status: Restricted Discretionary

Where

- a. Compliance with the requirements of CE-R15.1.a cannot be achieved; or
- b. The addition or alteration is a restricted discretionary activity in the underlying zone.

Matters of Discretion are:

1. The matters in CE-P7. 1 and CE-P7.2, PA-P1, PA-P2 and PA-P3.

Coastal Hazards

CE-R26.1 The construction of buildings or conversion of existing buildings that will contain hazard sensitive activities within the medium coastal hazard area, excluding the City Centre Zone or Airport purposes, operational port activities, passenger transport facilities and rail activities.

Activity status: Discretionary

3.2.5 Heritage

Frank Kitts Park occupies part of current Lot 2 DP 436892 and, although a subdivision resource consent application by the Council is being lodged concurrently with the Trust's application for the Fale, the 'site' for current consenting purposes is Lot 2 DP 436892.

As there are listed heritage buildings and heritage items within Lot 2 DP 436892, the operative District Plan heritage provisions apply.

²⁸ The underlined red text are recommended amendments to the PDP 18 July 2023 notified version (s42A Report to the Independent Hearings Panel). Council decisions on these provisions, following the recommendations from the Independent Hearings Panel on the Tranch 2 provisions, are likely to be made mid-2025.

²⁹ The Fale will not comply with the permitted activity standards for new buildings in the Waterfront Zone (Public Open Space Area).

With reference to **Figure 12**, the heritage items located within Lot 2 DP 436892 to which regard must be had are:

- Heritage Building #284 - Wellington Rowing Club;
- Heritage Building #285 - Star Boating Club; and
- Heritage Structure #57 - Albatross: Tanya Ashken Public Art Feature and Fountain.

In addition, the adjacent Wellington Harbour and Wharepo Lagoon fall within the Mana Whenua Statutory Acknowledgement Area - “Wellington Harbour” - refer further comment under Section 3.2.6 “Sites of Significance to Māori”.



FIGURE 12: location of Scheduled Heritage Items

Heritage Objective HH-02 “Protecting historic heritage” and Policy HH-P8 “New buildings and structures, and modifications to existing non-scheduled buildings, on a site of a heritage building or structure” set the policy framework for assessing if the proposed Fale will have any adverse effects on the historic heritage values attaching to the Wellington Rowing Club and Star Boating Club buildings, or the Tanya Ashken Albatross Sculpture:

HH-02 Protecting historic heritage

Historic heritage is retained and protected from inappropriate use, subdivision and development.

HH-P8 New buildings and structures, and modifications to existing non-scheduled buildings on a site of a heritage building or structure

Provide for new buildings and structures, and modifications to existing non-scheduled buildings or structures on the same site as a heritage building or heritage structure where it can be demonstrated that the work does not detract from the identified heritage values, having regard to:

1 The extent to which the work:

- a. *Is compatible with the scale, form, proportion, design and materials of the heritage building or heritage structure, and*
- b. *Respects the identified relationship of the heritage building or heritage structure with its setting.*

The applicable rule is HH-R8.3:

HH-R8.3 New buildings and structures on the site of heritage buildings and heritage structures

for a Restricted Discretionary Activity, with the matters of discretion being the matters in HH-P2 and HH-P8.³⁰

3.2.6 Sites of Significance to Māori

The current title (Lot 2 DP 36892) which encompasses the site of the proposed Fale extends to the seaward side of mean high water springs, part of which comes with the mapped extent of a “site of significance to Māori”, being Category A Area 167 Te Whanganui-ā-Tara (Wellington Harbour).

Objective SASM-O2 and Policy SASM-P4 set the policy framework for assessing if the proposed Fale will have any adverse effects on the cultural and spiritual values of Te Whanganui-ā-Tara.

Objective SASM-O2 - Protecting sites and areas of significance to Māori

Sites and areas of significance to Māori are retained and protected from inappropriate use, subdivision and development.

SASM-P4 - Construction of buildings and structures within the mapped extent of sites and areas of significance:

Provide for the construction of buildings and structures within sites and areas of significance to Māori where it can be demonstrated that the spiritual and cultural values of the site will be protected and maintained, having regard to:

1. *The cultural and spiritual values of the site or area;*
2. *Consultation undertaken with mana whenua;*
3. *The extent to which the building or structure regards the tikanga of the site or area of significance;*
4. *The extent to which the values of mana whenua are incorporated into the proposal;*
5. *Whether alternative methods, locations or designs are available that would reduce the impact on the identified site or area of significance;*
6. *Any positive effects of the development for mana whenua or opportunities to enhance the cultural values of the site;*
7. *The extent to which mana whenua retain access and use of the site or area;*
8. *The extent to which the building or structure is set back from the boundary with the site or area of significance;*
9. *Where adjacent to a marae complex, the extent to which the new building or structure has been designed or oriented to prevent windows or balconies from looking directly into or over the marae;*
10. *Whether landscaping or screening are proposed to reduce overlooking or provide screening from the site or area of significance;*
11. *The positioning and orientation of the building or structure relative to the site or area of significance; and*
12. *The extent to which the exterior treatment and materials of the new building or structure are compatible with the site of area of significance.*

Note: the status SASM objectives and policies are “Pt1 Sch1 Have regard”

The applicable rule for Category A and B sites or areas of significance is SASM-R4.2:

SASM-R4.2 New buildings of structures within the mapped extent of a site or area of significance to Māori in Category A or B

a Restricted Discretionary activity, with the matters of discretion being the matters in SASM-P4.

³⁰ HH-P2 relates to conservation plans and encourages the “preparation of conservation plans and take them into account when considering the effects of development proposals on the identified heritage values of built heritage”. The policy is not considered relevant in the context of the current application for the Fale.

Note: the activity status of SASM-R4.2 is “Pt1 Sch1 Operative”

Section 5.3.6 assesses the potential for any adverse effects on the spiritual and cultural values associated with Te Whanganui-ā-Tara.

A second site of significance to Māori that falls within the existing title boundary is the Category C site 120 “Te Raukura Te Wharewaka o Pōneke”. However, there is no SASM rule that applies to Category C sites.

3.2.7 Earthworks

Prior to establishing the ‘site’ for the Fale the existing carpark building will be demolished. The demolition of the carpark building and the associated earthworks are covered by the Council’s application.

The subsequent earthworks associated with the construction of the Fale will be principally those associated with establishing the building foundations.

3.2.7.1 Earthworks Objectives and Policies

The single ‘over-arching’ objective for earthworks is EW-O1:

EW-O1 Management of earthworks

Earthworks are undertaken in a manner that:

- 1. Is consistent with the anticipated scale and form of development in the relevant zone;*
- 2. Minimises adverse effects on visual amenity values, including changes to natural landforms;*
- 3. Minimises erosion and sediment effects beyond the site;*
- 4. Minimises risks associated with slope instability; and*
- 5. Protects the safety of people and property.*

Policies relate to:

- Provision for minor earthworks (EW-P2);
- Maintaining stability (EW-P3);
- Erosion, dust and sediment control (EW-P4); and
- Effects of earthworks on landform and visual amenity (EW-P5).

Of particular relevance in the context of the resource consent application for the Fale is Policy EW-P17:

EW-P17 Earthworks within Flood Hazard Overlays

Provide for earthworks within Flood Hazard Overlays only where:

- 1. They would not significantly increase the flooding risk, when compared to the existing situation, to the site or neighbouring properties through the displacement of flood waters; and*
- 2. The ability to convey flood waters along overland flowpaths or stream corridors is not impeded as a result of the earthworks.*

3.2.7.2 Earthworks Rules

General earthworks are covered by Rule EW-R4 and are a permitted activity when: ³¹

- the total area of earthworks do not exceed 250m² per site in any 12 month period (EW-S1);
- any cut or fill does not exceed 2.5m (where the cut or fill is retained by a building authorised by a building consent) (EW-S2);
- the volume of cut material resulting from the earthworks transported from the site does not exceed 200m³ (EW-S4); and
- the earthworks do not create a dust nuisance (EW-S5).

³¹ Only the Earthworks permitted activity standards relevant in the context of the Fale application are listed.

Given that the proposed earthworks associated with the construction of the Fale building will be over an area greater than 250m², consent will be required under Rule EW-R4.2 for a Restricted Discretionary activity.

Earthworks within the Flood Hazard Overlay are subject to Rule EW-R15 and are a permitted activity under EW-R15.1 where:

- a. The earthworks are not located within an Overland Flowpath or a Stream Corridor; or
- b. If the earthworks are located within an Overland Flowpath or a Stream Corridor, the finished ground level on completion of the earthworks is the same as the natural ground level prior to the start of the earthworks.

Note: the south-west corner of the Fale building and the associated site works marginally impinge on the Jervois Quay overland flowpath. Consent will be required under Rule EW-R15.2 for a Restricted Discretionary activity, with the matters of discretion being the matters in EW-P17.

Consent for earthworks is also required under:

- EW-R5.2 for earthworks on the site of scheduled heritage buildings and structures - a Restricted Discretionary activity; and
- Rule EW-R7.1 for earthworks within sites and areas of significance to Māori Category A and Category B - a Restricted Discretionary activity.

3.2.8 Three Waters

The District Plan (2024) includes 'first-time' provisions relating to three waters, provisions which were subject to the intensification streamlined planning process (ISPP) and which were operative from 15 April 2024, including the following objectives and policies to which regard must be had in assessing the Proposal:

- *THW-01 - Protecting water bodies and freshwater ecosystems*

Subdivision and development contribute to an improvement in the health and wellbeing of water bodies and freshwater ecosystems.

- *THW-02 - Infrastructure-enabled urban development*

Enable subdivision, use or development in urban areas where:

1. *Sufficient existing or planned three waters infrastructure capacity and/or level of service is, or will be, available to service the use or development; or*
2. *It can be satisfactorily serviced through an alternative means where existing three waters infrastructure capacity and/or level of service is insufficient.*

- *THW-03 - Hydraulic neutrality*

There is no increase in offsite stormwater peak flows and volumes from current levels as a result of subdivision, use and development in urban areas.

- *THW-P2 - Building materials*

The effects of copper and zinc entering the stormwater system from the use as roofing, guttering and building materials are mitigated through the use of appropriate treatment.

- *THW-P3 - Infrastructure-enabled urban development*

New subdivision, use or development is enabled in urban areas that have existing or planned three waters infrastructure capacity to meet growth demand in the short to medium term.

- *THW-P4 - Three waters infrastructure servicing*

Subdivision or development in urban areas is serviced by three waters infrastructure that:

1. *Meets the Wellington Water Regional Standard for Water Services v3.0 December 2021;*
2. *Has sufficient capacity to accommodate the development; and*
3. *Is in position prior to the commencement of construction.*

Provide for subdivision and development in urban areas where existing three waters capacity and/or level of service is insufficient to service further development if:

- 1. It can be demonstrated there is an alternative solution to avoid or mitigate any adverse effects on the three waters infrastructure network and the health and wellbeing of water bodies and freshwater ecosystems; and*
- 2. The additional demand generated will not necessitate additional unplanned public investment in, or expansion of, the three waters infrastructure network or compromise its ability to service other activities permitted within the zone.*

▪ **THW-P5 - Hydraulic neutrality**

Require new subdivision and development to be designed, constructed and maintained to sustainably manage the volume and rate of discharge of stormwater to the receiving environment so that hydraulic neutrality is achieved.

▪ **THW-P6 - Permeable surface**

Require development to provide permeable surfaces to assist with reducing the rate and volume of stormwater runoff and improve water quality.

Three Waters rule THW-R3 specifically addresses the use of copper and zinc building materials and is relevant in the context of the Proposal given that the Fale's roof is clad in zinc panels.

The activity status is "Permitted" where:

- a. Building materials are sealed or otherwise finished to prevent water runoff which contains copper or zinc; or
- b. Stormwater from copper or zinc surfaces is collected and treated in accordance with Wellington Water Ltd Standard Sensitive Design for Stormwater Treatment Device Guideline (2019).

Where the requirements of Permitted activity status are not achieved, consent is required under Rule THW-R3.2 for a Restricted Discretionary activity, with the matters of discretion limited to building material treatment and stormwater treatment method.

Other applicable three-waters rules that potentially apply are:

- THW-R4.1 in relation to the incorporation of water sensitive design methods - a Restricted Discretionary activity; and
- THW-R6.2 in relation to hydraulic neutrality - a Restricted Discretionary activity.

3.2.9 Transportation

There will be no on-site car parking associated with the Fale, nor will there be any vehicle access onto the site.

Provision is made for short-stay 'drop-off/pick-up' parking within the Jervois Quay road reserve. Service vehicles will also use this drop off/pick-up zone.

The only transport-related resource consent 'trigger' relates to the distance from the Jervois Quay drop-off/pick-up zone to the Fale building lift.³² This is addressed in Section 5.3.11 below.

3.2.10 Contaminated Land

Frank Kitts Park is not identified as a contaminated site on the Greater Wellington Regional Council's selected land use register (SLUR).

Nevertheless, and on a precautionary basis, a Detailed Site Investigation (DSI) report has been prepared, as has an accompanying contamination site management plan (CSMP).

³² The PDP's Transport Chapter provisions were notified using the RMA Part 1 Schedule 1 process and have not been subject to Council decisions. Consequently, the PDP's Transport rules do not have legal effect. The applicable rules are those contained in the Operative District Plan (2000).

Consents under the District Plan and the National Environmental Standard³³ are being sought by the Council's application - refer Section 5.3.14 below.

3.3 DISTRICT PLAN SUMMARY

A full District Plan 'audit' of the Proposal is provided in **Appendix 6**. In summary, the construction of the Fale building requires resource consent under the following District Plan (2024) rules:

1. Rule WFZ-R15.3 for a Non-Complying activity for a new building (Fale) within the Frank Kitts Park Public Open Space Area;
2. Rule NH-R6.1 for a Restricted Discretionary activity for the construction of a building within the inundation area of the Flood Hazard Overlay;
3. Rule NH-R8.1 for a Discretionary activity for the establishment of a hazard sensitive activity within the overland flowpath of the inundation area of the Flood Hazard Overlay;
4. Rule CE-R15.2 for a Restricted Discretionary activity for a new building within the coastal environment;
5. Rule CE-R26.1 for a Discretionary activity for a building containing a hazard sensitive activity within the medium coastal hazard area;
6. Rule HH-R8.3 for a Restricted Discretionary activity for a new building on the site of scheduled heritage buildings and heritage structures;
7. Rule SASM-R4.2 for a Restricted Discretionary activity for a new building within the mapped extent of a Category A or B site or area of significance to Māori;
8. Rule EW-R4.2 for a Restricted Discretionary activity for general earthworks;
9. Rule EW-R5.2 for a Restricted Discretionary activity for earthworks on a site of scheduled heritage buildings and structures;
10. Rule EW-R7.1 for a Restricted Discretionary activity for earthworks within sites and areas of significance to Māori;
11. Rule EW-R15.2 for a Restricted Discretionary activity for earthworks within the Flood Hazard Overlay;
12. Rule THW-R3.2 for a Restricted Discretionary activity for the use of zinc panels on the Fale roof;
13. Rule THW-R4.1 for a Restricted Discretionary activity in relation to water sensitive design; and
14. Rule THW-R6.2 for a Restricted Discretionary activity in relation to hydraulic neutrality.

Overall on a bundled basis, consent is required for a Non-Complying activity under the District Plan (2024).

If the consent authority concludes that consent is required under additional rules of the District Plan (2024) to those listed above, consent is specifically sought under those rules.

3.3.1 Operative District Plan (2000)

As noted above (refer Footnote 30), the PDP's Transport rules do not have legal effect. The applicable rules are those contained in the Operative District Plan (2000).

Consent is required for a Restricted Activity under Rule 13.3.3.3 (vehicle parking, servicing and site access) given the distance from the Jervois Quay 'drop-off/pick-up' zone to the Fale building lift.

³³ Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011.

3.4 PRELIMINARY EVALUATION

Drawing on the relevant objectives, policies and rules a number of questions can be 'framed to assist the consideration of key issues relevant to s104 as part of required matters that must be had regard to. Those questions are:

Question 1: will the Fale be an appropriate new building within Frank Kitts Park and maintain and enhance the 'sense of place' and overall public amenity of the waterfront generally and Frank Kitts Park specifically?

Question 2: what adverse effects, if any, will there be on the 'character' and public amenity of Frank Kitts Park due to the location of the Fale within the park / will Frank Kitts Park retain its role as a unique and special component of the wider Wellington Waterfront?

Question 3: will the Fale result in a diminution of the public open space qualities of Frank Kitts Park?

Question 4: will the Fale result in any unacceptable shading and/or wind effects?

Question 5: will the Fale have any adverse effects on the cultural or spiritual values of sites of significance to Māori?

Question 6: will the Fale have any adverse effects on the historic heritage values of any scheduled heritage building or structure?

Question 7: will the Fale have any adverse effects on any identified viewshaft?

Question 8: will appropriate measures be incorporated in the Fale to address any risks associated with coastal inundation, including sea level rise and tsunami events?

Question 9: will the use of zinc tiles as a roofing material result in any unacceptable stormwater effects?

Question 10: will the proposed servicing arrangements result in any pedestrian and/or traffic effects.

Question 11: what will be the temporary construction-related effects and how will these effects be managed and mitigated?

Answers to these questions are provided in the resource management assessment to follow (refer Section 5).

4 PROJECT CONSULTATION

4.1 Pre Application Meetings

The Applicant consulted the Council planning, urban design and traffic advisors in the lead-up to lodging the resource consent application.

Principal issues discussed/conclusions reached were:

Meeting Held 11 December 2023:

1. Two separate but concurrent land use consent applications would be lodged, one by the Council covering modifications to the 2018 resource consent granted for the redevelopment of Frank Kitts Park and one by the Fale Malae Trust for the new Fale building; and
2. Agreement regarding the scope of the individual expert technical reports to be provided, with the further agreement that some of the reports would address both applications.

Meeting Held 8 April 2024

1. Confirmation of the architectural design of the Fale and associated urban design issues to be addressed in the application; and
2. Confirmation of the transportation-related issues, including the design of the Jervois Quay short-stay drop off/pick up parking area.

In relation to the applicable District Plan provisions generally, and acknowledging that the majority of the Proposed District Plan (2022) provisions were proceeding through the Intensified Streamlined Planning Process (ISPP), it was confirmed that the provisions that would apply would be those 'in force' at the time the applications were lodged with Council.

4.2 Waterfront Technical Advisory Group

Consultation was undertaken with the Waterfront Technical Advisory Group (TAG) over several meetings as the design progressed. A copy of TAG's final assessment report (11 April 2024) is attached - refer **Appendix 7**.³⁴

Among TAG's principal conclusions relating to the Fale were:

- Proposed changes to Frank Kitts Park including the Fale Malae are positive additions to the waterfront. If implemented they will enrich public experience and enhance the cultural responsiveness of Wellington's premier public space.
- The Fale building demonstrates conceptual elegance and clarity of design. The building has a scale and form that is appropriate on this part of the waterfront.
- The new public and community focused activity introduced by the Fale Malae, including gathering space, café and amenities that are part of the Fale, will support public use of the park and the waterfront in general. The publicly accessible interior spaces complement the enhanced open spaces.
- With a commercially operated café and a venue for community-focused events, the Fale helps to activate the park and the wider waterfront. Publicly accessible indoor venues complement outdoor gathering spaces elsewhere.

Source: page 22-23 of the TAG 11 April 2024 report.

TAG was of the opinion that the Fale was *"a building of exceptional architectural quality"*.

³⁴ In brief, the role of Technical Advisory Group is to advise the Wellington City Council, as landowner, of proposals for new development on the Wellington Waterfront and the alignment of new development with the values, principles and objectives of the Wellington Waterfront Framework (2001),

4.3 Public Consultation

Wider consultation was undertaken by Council as part of the public consultation process on the proposed Fale (building only) as part of the Council's landowner approval process under the Local Government Act 2002.

At its meeting held on 8 June 2023, Council's Environment and Infrastructure Committee received a report "Frank Kitts Park Development Plan and Fale Malae", which included, inter alia, the results of a public engagement survey undertaken by Council, the results of which were recorded in a report prepared by Global Research Ltd.³⁵

In the Introduction to the report it was stated that:

In March-April 2023 the Wellington public was consulted on their thoughts about the proposed construction of a Fale Malae in Frank Kitts Park. Feedback was received from a total of 2,143 people, mostly comprising of respondents to the online survey. In addition, several submissions were made. Global Research was contracted to independently synthesise, analyse, and report on the content of the feedback.

This report presents summaries of written feedback by theme and topic, and responses to each of the questions asked by the Wellington City Council is presented in chart form.

In the Report's Executive Summary, key findings were recorded as follows:

- *Respondents: 2143 people contributed to the public engagement*
 - *Survey respondents were most likely to live in Wellington City, to have visited Frank Kitts Park more than once a month, to have visited on foot along the waterfront, to visit the Park alone or with a partner, be female, identify as European/pakeha, and be aged 19-40.*
- *Anticipated value: Respondents predicted that the Fale Malae would primarily have cultural value, and that the building would contribute positively to the visual amenity of the area:*
 - *Respondents were positive about the development representing and celebrating Pasifika as well as recognising New Zealand's place in the Pacific.*
 - *A large number of respondents characterised the Fale Malae design as attractive and as potentially contributing positively to the character and amenity of the waterfront.*
- *There were high levels of strong agreement with statements that the Fale Malae would:*
 - *Help contribute to Pacific identity in Wellington and New Zealand;*
 - *Contribute to the waterfront character and quality of design on the waterfront; and*
 - *Contribute to the unique Wellington character of the waterfront.*
- *Concerns: The primary concern was that the development would result in disruption or cessation of use of current users of the park and area:*
 - *This was most often around recreation uses, in particular that dragon boating access and facilities would be impacted by the development.*

Following receipt of the "Frank Kitts Park Development Plan and Fale Malae", which also included a report from the Waterfront Technical Advisory Group, the Committee resolved to:

1. *Receive the Information.*
2. *Agree to the preferred development plan for Frank Kitts Park and request officers to prepare resource consent submission.*
3. *Agree to approve the initial stage of landowner approval for the proposed development plan, ensuring compliance with the Waterfront Framework and the Significance and Engagement Policy. Noting, therefore, this does not trigger the strategic asset transfer process.*
4. *Note that final landowner approval is subject to the following:*
 - *Resource Consent Approval*

³⁵ Global Research Ltd, May 2023, "Frank Kitts Park - Fale Malae Proposal Public Engagement - Engagement Report".

- WCC Funding for Frank Kitts Park integration works through the LTP
 - Commercial Terms approved by Council and the Fale Malae Trust
5. Note that officers will come back to Council to seek the approval of the Key Commercial Terms and Operational Principles that would inform a lease between Council and the Fale Malae Trust, prior to Resource Consent.
 6. Note that funding will be allocated as part of the 2022/23 Year-End Capital Carry Forward and Prioritisation process to support resource consent lodgement.

4.4 Mana Whenua Consultation

In the more immediate lead-up to lodging the resource consent application for the Fale, the Trust had engagement with representatives of the following parties:

4.4.1 Taranaki Whānui ki Te Upoko o Te Ika (Taranaki Whānui)

Consultation with Taranaki Whānui was through engagement with Chief Executive Kara Puketapu-Dentice and the preparation of a Cultural Impact Assessment (CIA) report, a copy of which is attached at **Appendix 11**.

As confirmed below in Section 5.3.4 “Cultural Effects”, Taranaki Whānui are supportive of the Fale Malae and will continue to engage with the Fale Malae Trust (and the Wellington City Council) to ensure that the project’s design and execution continue to align with the cultural priorities and vision of Taranaki Whānui.

4.4.2 Te Rūnanga O Toa Rangatira - Ngāti Toa

A hui was held with Ngāti Toa advisors on 18 December 2024.³⁶

The hui was a follow-up to early engagement with Ngāti Toa during the Trust’s consideration of the Frank Kitts Park site as its preferred site for the Fale. As recorded in a letter dated 18 March 2022, Ngāti Toa confirmed support for the Fale.

A copy of Ngāti Toa’s letter is included in **Appendix 8**.

Following on from the December 2024 hui, Ngāti Toa provided the Trust with a Cultural Values Assessment (CVA) report, a copy of which is included in **Appendix 11A**.

4.4.3 Wharewaka o Pōneke Charitable Trust

The Wharewaka o Pōneke Charitable Trust is the owner of the Te Raukura Te Wharewaka o Pōneke building which is identified as a building of significance to Māori.

An initial hui was held with Liz Mellish MNZM, Chairman of Te Raukura, on 22 April 2024 who confirmed in principle the Trust’s endorsement of the Proposal, subject to the preparation of a cultural impact assessment report and the Trust’s acceptance of the CIA findings.

Te Karanga o Te Tūi Marino, Kaiaratiki Kaupapa Taiao/Environmental Liaison Officer for Hikoikoi Management Limited subsequently confirmed Ms Mellish’s endorsement of the CIA prepared by Taranaki Whānui - refer Section 4.4.1 above.

4.5 Heritage New Zealand Pouhere Taonga

Contact was made with Heritage New Zealand Pouhere Taonga regarding the potential requirement of an archaeological authority under the Heritage New Zealand Pouhere Taonga Act 2014.

On behalf of HNZPT, Senior Archaeologist Kathryn Hurren confirmed that the Fale site:

“... is within the 1967-1970 reclamation area. As such no archaeological authority would be necessary for works within this area”

adding that:

The area is post 1900 and there are no known sites (most likely sites if ever present would have been wharves or jetties) that extend into this area.

³⁶ Ngāti Toa attendees at the hui were Aimee Fisher (Environmental Manager) and Robert McClean (Principal Advisor).

At the recommendation of HNZPT, an accidental discovery protocol consent condition is proposed.

4.6 Third Part Consultation

Preliminary consultation was undertaken with the following parties:

4.6.1 Inner City Wellington Residents' Association

A meeting was held with the Committee Chair (Stephen King) on 7 May 2024. Confirming general support for the proposed Fale, two particular outcomes were highlighted:

- the Fale would provide an attractive facility for residents to use as part of their inner-city living experience; and
- options for everyone to access and use the Fale when it was not being used for specific events.

It was also noted that the Fale would continue to provide public toilet facilities and storage space for the dragon boats.

4.6.2 Wellington Architectural Centre

A meeting was held with Centre representatives on 30 May 2024. Following the meeting the Centre confirmed that:

Overall, we believe the project will greatly improve this area of the waterfront.³⁷

4.6.3 Wellington Sculpture Trust

A meeting was held with Sue Elliot the Chair of the Wellington Sculpture Trust on 16 May 2024. The focus of the discussion was on the relationship of the proposed Fale to the Tanya Ashken Albatross Sculpture, the Trust's first sponsored public artwork. Installed in 1986, the sculpture is now a District Plan (2024) scheduled heritage structure.

Following the meeting, Ms Elliot advised:

I just wanted to thank you for meeting with me as Chair of the Wellington Sculpture Trust and outlining the positioning of the proposed fale malae, and in particular its placement near 'Albatross' our work by Tanya Ashken.

The Wellington Sculpture Trust is happy with the revised location and consider that it now has a respectful relationship with the work, with space for both to breathe. In fact, I think the new positioning of the building will enable the work to have greater visibility and engagement.

4.6.4 Wellington Civic Trust

A meeting was held with Trust representatives on 26 June 2024. The Trust's Chair (Helene Ritchie) confirmed that the Trust was generally not supportive of new waterfront buildings. Following a presentation by the project architect, Trust members reflected on the building's architecture, which they considered to be of a high quality.

4.6.5 Cornerstone Partners

Cornerstone Properties is the owner of 68 Jervois Quay located on the western side of Jervois Quay opposite the proposed Fale.

A meeting was held on Tuesday 2 July 2024 with the Group Chief Executive Officer John Yiappos, who considered that *"The Fale Malae Project will be a wonderful and striking addition to the Wellington waterfront, and a treasure for the country"*.

4.6.6 Robt. Jones Holdings Ltd

Robt. Jones Holdings Limited is the owner of 58 Jervois Quay which occupies the corner site (Jervois Quay / Willeston Street).

A meeting was held on 23 May 2024 with the New Zealand General Manager Aaron Leech, who confirmed that he considered that the Fale *"will have a positive effect for our city"*.

³⁷ Architecture Centre, 31 May 2024, Fale Malae Consultation - refer **Appendix 8**.

4.6.7 Wellington Dragon Boat Charitable Trust / Wellington Dragon Boat Festival

A meeting was held on 24 June 2024 with Trust representative Joshua Mossman. Following the meeting, confirmation was received advising that:

Dragon Boating is wholeheartedly supportive of the Fale. We are passionate about the need for a space such as this on the waterfront, and we look forward to making it our home for years to come.

5 RESOURCE MANAGEMENT ASSESSMENT

This section of the AEE presents an assessment of the proposed Fale in relation to:

- the District Plan provisions; and
- the statutory requirements of the RMA.

5.1 SECTION 104 OF THE RMA

Section 104(1) of the Act states that, subject to Part 2 and any submissions, when considering an application for resource consent the consent authority must have regard to:

- (a) any actual and potential effects on the environment of allowing the activity; and
- (b) any relevant provisions of a national policy statement, other regulations, New Zealand coastal policy statement, a regional policy statement or proposed regional policy statement, and a plan or proposed plan; and
- (c) any other matter the consent authority considers relevant and reasonably necessary to determine the application.

Each of these s104 matters is addressed in turn.

5.2 ASSESSMENT APPROACH

In view of the above matters under s104(1), the approach taken in this AEE report is as follows:

- assess the environmental effects of the proposal (5.3 below)
- address District Plan objectives and policies (5.4 below)
- address s104D (5.5 below)
- address Part 2 (5.6 below)
- assess any s104(1)(c) "Other Matters" (5.7 below)
- assess national and regional policy considerations (5.8 below)
- provide a summary of required resource consents (5.9 below)
- provide a summary s104 assessment (5.10 below)
- outline potential consent conditions (5.11 below).

5.3 ENVIRONMENTAL EFFECTS OF THE PROPOSAL

In terms of actual and potential effects, it is considered that the following matters are relevant and require assessment:

- urban design effects
- visual amenity effects (including effects on public viewshafts)
- open space effects
- cultural effects
- historic heritage effects
- effects on sites of significance to Māori
- micro-climatic effects (wind and shading)
- effects associated with natural hazards
- coastal environment effects
- public safety and security (CPTED) effects
- traffic effects
- three-waters effects
- earthworks effects
- contaminated land effects
- construction effects
- positive effects

Sustainability considerations and initiatives are also summarised.

5.3.1 Urban Design Effects

In relation to urban design, the key policy is WFZ-P6:

WFZ-P6 Development of buildings

Require new and altered buildings to be of a high quality, including:

- 1. Building forms and facades, especially those that are visually prominent;*
- 2. Bulk, scale and heights that are complementary to and of a scale appropriate to the existing nearby buildings in the Waterfront Zone;*
- 3. Heights that are consistent with the low-rise nature of buildings in the Waterfront Zone;*
- 4. Active building frontages and publicly accessible areas on the ground floors of buildings, except for storage and/or service areas;*
- 5. Storage and/or service areas screened from public view;*
- 6. Sustainable, resilient building design that is adaptable to changes in use over time;*
- 7. Buildings that respond positively to any identified significant natural hazard risks and climate change effects, including the strengthening and adaptive re-use of existing buildings;*
- 8. Design that responds positively to identified historic heritage structures, buildings and areas, including those seaward of mean high water springs and identified in the Regional Natural Resources Plan, that are adjacent to the new or altered building; and*
- 9. Fulfilling the intent of the Centres and Mixed Use Design Guide.*

An urban design assessment has been prepared by urban designer Deyana Popova. The assessment:

- identifies the relevant assessment criteria; and
- provides an assessment of the proposed Fale against:
 - the Centres & Mixed Use Design Guide;
 - the relevant District Plan objectives and policies; and
 - the Wellington Waterfront Framework.

Section 5 “Summary of Conclusions” records the following:

An assessment of the urban design outcomes of the Proposal against the relevant District Plan provisions was carried out including: (a) assessment against the Centres & Mixed Use Design Guide, (b) the relevant District Plan objectives and policies of the Waterfront Zone; and (c) the Wellington Waterfront Framework. The key assessment findings are summarised below.

Centres & Mixed Use Design Guide

- *The Proposal is an integrated development that is coherently resolved - it is both site-specific and concept driven. This is illustrated in the coordinated way the Proposal balances the building form and façade composition with contextual considerations while addressing the specific cultural aspects and unique function of the Fale.*
- *The siting, form and architectural treatment of the Fale and the design response to the varied context and character of adjacent spaces, along with the integrated approach to the internal planning and external building design, all contribute to the coherence of the overall design. The distinctive building form inspired by the cultural aspects of the Fale will create positive and visually interesting 360-transparent frontages that will generate activity and improve the quality and safety of adjacent spaces.*
- *The distinctive form and high-quality architectural design of the Fale will integrate well to and enhance the Park’s modified design, while contributing positively to the adjacent promenades and Jervois Quay in both spatial and activity terms. Along with the adjacent Chinese Garden, the Proposal will create a high-profile destination of national significance that expresses the cultural makeup of Wellington, while contributing positively to the vibrancy, overall quality and activity of the waterfront as a whole.*
- *The proposed Fale supports and will deliver the outcomes sought by the Design Guide by providing a balanced ‘in-the-round’ response to the relevant guidance points, while creating a high quality/well-functioning and well-connected cultural building of memorable form - a building that is suitably situated and conceived as a constituent element of the wider Park setting. At the same time, the Fale will provide spatial opportunities for a range of activities including casual uses, community activities and formal public events, as well as a café at the interface with the Chinese Garden supporting its use, while enhancing the vibrancy of the Park as a whole.*

District Plan Objectives and Policies / Waterfront Zone

- *The assessment of the relevant District Plan provisions for the Waterfront Zone established that the Proposal is consistent with the relevant objectives and supports the associated policies through its urban design characteristics and architectural quality.*
- *Situated within the context of the redesigned FKP where the existing carpark building and associated level changes will be removed, the Proposal will enhance connectivity and improve the overall character and quality of the adjacent promenades and Jervois Quay, while enhancing the relationship to the harbour. Consequently, it will become a positive addition to the Park and the waterfront as a whole without compromising in any way the open character of one of Wellington's premier open spaces.*

Wellington Waterfront Framework

- *The Proposal is consistent with the Framework themes and values and supports its objectives and the site-specific characteristics and outcomes sought for Frank Kitts Park.*

The full assessment report is attached - refer **Appendix 9**.

Conclusion: drawing on the comprehensive urban design assessment summarised above, the overall conclusion is that from an urban design perspective the Proposal to establish a Fale (new building) at Frank Kitts Park is consistent with:

- the relevant Design Guide objectives and guidelines (Centres and Mixed Used Design Guide);
- the relevant District Plan objectives and policies for the Waterfront Zone; and
- the Wellington Waterfront Framework.

Accordingly, from an urban design perspective it is concluded that the proposed Fale is a positive addition to the Wellington waterfront and that any adverse effects on the public amenity of Frank Kitts Park as a public open space area will not be more than minor.

5.3.2 Visual Amenity Effects

In terms of visual amenities, a key consideration is the degree of any intrusion into identified public viewshafts.

Two viewshafts 'cross' the southern part of Frank Kitts Park where the Fale is proposed:

- Viewshaft 11 (Willeston Street): the viewpoint location is at Stewart Dawson's Corner - refer **Figure 13**. The viewshaft is one of eight views from the Golden Mile (Lambton Quay/Willis Street) to the harbour and its wider setting - refer **Figure 13**. The focal elements are St Gerard's Monastery and Frank Kitts Park. The Context elements are Oriental Bay, Roseneath and Te Ranga a Hiwi Precinct; and
- Viewshaft 15 (Cable Car Station to St Gerard's Monastery): VS15 is one of three elevated viewshafts offering views of the harbour from the west, all of which originate from the same viewpoint at the Cable Car Station viewing platform. They complement the ground level viewshafts from the Golden Mile.³⁸

A drawing confirming the 'path' of the viewshaft VS11 across Frank Kitts Park is included in the Architect's Design Statement at pages 51 and 52 (refer **Appendix 2** to the AEE).

³⁸ Viewshaft Vs15 crosses Frank Kitts Park at an elevated level well above the one-storey Fale. There will be no intrusion.



FIGURE 13 - Viewshaft VS11 (Willeston Street)

Application Drawing RC-016 along with the illustration at page 51 of the Architect's Design Statement confirms that the Fale will not intrude into VS11 - refer **Figure 14**.

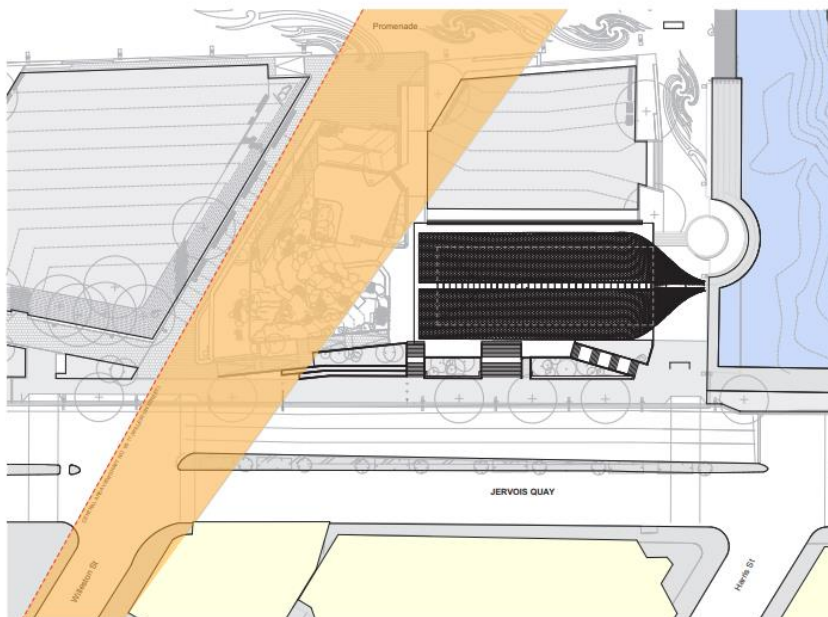


FIGURE 14: Viewshaft VS11 and the location of the proposed Fale (Source Architect's Design Statement, page 51)

Conclusion: given that there is no intrusion into VS11, in relation to the “protecting public views” from the city centre to the harbour, hills, landmarks (including St Gerard’s Monastery) and wider setting, the construction of the Fale can proceed as a permitted activity under Rule VIEW-R2.3.

5.3.3 Open Space Effects

The Frank Kitts Park public open space area comprises 1.967ha. The Fale building footprint is 708m² or 3.6% of the total public open space area of Frank Kitts Park.

Located in the south-west corner of Frank Kitts Park, the Fale will not prevent the public experiencing a wide range of open space activities throughout Frank Kitts Park, including the use of the associated alae, for both active and passive recreation.

Any loss of open space 'opportunity' consequent upon the location of the Fale in the southwest corner of Frank Kitts Park will not be significant. Any adverse effects associated with the Fale occupying 3.6% of the public open space area will be compensated/off-set by the level of activation that the Fale will provide and which will draw residents and visitors alike to visit and enjoy a range of public open space opportunities available at Frank Kitts Park. The Fale has been designed to provide a 360° active building frontage, and the Malae will reduce the level of the main park space that is currently above the Frank Kitts carpark, thus becoming a more readily acceptable public space.

As the Waterfront Technical Advisory Group (TAG) opined:

*The new public and community focused activity introduced by the Fale Malae, including the gathering spaces, café and amenities that are part of the Fale, will support public use of the park and the waterfront in general.*³⁹

Conclusion: any actual or perceived adverse effects on the public open space area will be less than minor.

5.3.4 Cultural Effects

The Waterfront Zone provisions emphasise the importance of engagement with mana whenua:

Objective WFZ-O2 Ahi Kā

Taranaki Whānui and Ngāti Toa Rangatira are acknowledged as the mana whenua of Te Whanganui ā Tara (Wellington) and their cultural associations and landowner and development interests are recognised in planning and developing the Waterfront Zone.

Policy WFZ-P10 Ahi Ka

Recognise and provide for the cultural associations and development interests of Ngāti Toa Rangatira and Taranaki Whānui ki Te Upoko o Te Ika in the Waterfront Zone by:

- 1. Managing new development adjoining sites and areas of significance to Māori; and*
- 2. Collaborating on the design and incorporation of Māori cultural elements into public open space within the zone.*

In accordance with policy directive, and as confirmed in Section 4 of this AEE, engagement was undertaken with both iwi.

5.3.4.1 Taranaki Whānui ki Te Upoko o Te Ika

A cultural impact assessment (CIA) of the proposed Fale Malae and the wider Frank Kitts Park redevelopment has been prepared on behalf of Taranaki Whānui ki Te Upoko o Te Ika (Taranaki Whānui) for the benefit of the Fale Malae Trust and Wellington City Council - refer **Appendix 11**.

The Introduction to the CIA records that:

*This Cultural Impact Assessment (CIA) evaluates the potential effects of the proposed Fale Malae and the redevelopment of Frank Kitts Park on the cultural values and traditions of mana whenua. It provides a historical overview of the site and offers recommendations to ensure the project is developed in a way that upholds and reflects the cultural integrity of Taranaki Whānui and other iwi connected to the area.*⁴⁰

It explains that the Purpose of the CIA is:

³⁹ WCC Waterfront Technical Advisory Group, Assessment of Proposed Fale Malae and Revised Frank Kitts Park Design", page 23 - refer **Appendix 7**.

⁴⁰ Fale Malae & Frank Kitts Park Redevelopment, Cultural Impact Assessment, page 3.

... to assess the potential cultural impacts of the development project on tangata whenua, with a focus on the Fale Malae initiative which will be introduced in the first stage of the park redevelopment.

This CIA evaluates how the development can best serve the interests of mana whenua and protect their cultural values. This assessment aligns with the Taranaki Whānui Strategic Plan to 2040, emphasising the principles of mana motuhake, cultural revitalisation, and environmental stewardship.⁴¹

The CIA's overall conclusions and recommendations are that:

The Fale Malae and wider Frank Kitts Park development has the potential to significantly influence the cultural landscape of Te Whanganui-a-Tara and the relationship of mana whenua to their ancestral sites.

Frank Kitts Park was an area of high significance to Taranaki Whānui as one of their early settlements around Te Whanganui-a-Tara. As with all the Pā and kāinga in Wellington City, iwi influence and land ownership dwindled in the 19th century.

Te Whanganui-a-Tara was highly important as it was a mahinga kai providing kaimoana (food from the sea) including a wide variety of finfish along with shellfish. The development site is part of a broader cultural landscape that includes historical tracks, traditional mahinga kai areas, and former kāinga that were once interconnected.

The project must be mindful of these invisible but culturally significant connections, ensuring that the development does not sever these traditional linkages or reduce the continuity of mana whenua presence within the urban environment. By acknowledging and reflecting these connections in the design and narrative of the site, the project can support a cohesive narrative that enhances, rather than disrupts, the sense of place for mana whenua.

*This CIA and appended design statement provides a series of recommendations, and a framework to address these issues, focusing on mitigating and managing the potential impacts on tangata whenua values, while also creating opportunities to achieve cultural and kaitiakitanga (guardianship) outcomes for iwi. The current proposal responds appropriately, and mana whenua are supportive of this project, particularly the Fale Malae. While there are no impending issues on these recommendations, it is encouraged that they are considered accordingly as the development progresses.*⁴²

[emphasis added]

The CIA's recommendations that are considered to be specifically and directly applicable to the Fale are in relation to:

- visual and cultural landscape integration; and
- architectural design and cultural expression.

Other recommendations are more applicable to the wider redevelopment of Frank Kitts Park subject to the Wellington City Council's application.

Visual and cultural landscape integration: the CIA records that the visual and cultural integration of the Fale Malae into the urban fabric of Te Whanganui-a-Tara is essential to creating a complementary relationship between the Fale Malae and other significant sites in the area, particularly Wharawaka o Pōneke.

The Fale Malae is a pacific focused development that will provide a unique space for cultural expression, dialogue, and engagement, reflecting the aspiration of the broader Pacific peoples' communities. However, given its proximity to the Wharewaka o Pōneke - a building that holds considerable cultural significance for Taranaki Whānui - it is important that the Fale Malae respects and acknowledges the precedence of the Wharewaka within this shared cultural landscape.

*The Wharewaka, as a symbol of Taranaki Whānui's presence and identity in Te Whanganui-a-Tara, carries a depth of meaning that is intrinsically tied to the whakapapa and historical connections of the iwi to the region. Therefore, it is essential that the design and integration of the Fale Malae are undertaken in a way that supports and enhances, rather than competes with, the mana of the Wharewaka. This requires a thoughtful approach that recognises the Wharewaka's status and ensures that the Fale Malae complements rather than overshadows it. The two buildings should co-exist in a relationship that fosters mutual respect, cultural harmony and shared storytelling, each fulfilling its own unique purpose while contributing to the cultural vibrancy of the waterfront.*⁴³

[emphasis added]

⁴¹ Op cit, page 9

⁴² Op cit, pages 17.

⁴³ Op cit, page 18.

Architectural design and cultural expression: the CIA records that the design of the Fale Malae should reflect the diverse Pacific cultures it represents, incorporating elements that speak to the rich heritage and narratives of the many Pacific communities involved. While the focus will be on Pacific cultural expression:

... it is important that the design acknowledges and respects the cultural context of the Wharewaka o Pōneke. This can be achieved using shared design languages, such as the incorporation of symbolic motifs that honour the connections between Taranaki Whānui and the Pacific community.

Architectural features should highlight the distinct identity of the Fale Malae while maintaining a sense of unity with the Wharewaka Design elements such as pathways, sightlines, and visual cues should subtly guide visitors' attention to and between the two spaces. By incorporating these design considerations, the Fale Malae can contribute to a cohesive cultural precinct that celebrates both Māori and Pacific cultures in a balanced and respectful manner.⁴⁴

The CIA also records that to address these cultural impacts:

... the project must be approached collaboratively with Taranaki Whānui taking a leadership role in defining the cultural narratives, tikanga, and design elements that will shape the development. This ensures that the project does not compete with or obscure the iwi's heritage but instead complements and amplifies their presence as kaitiaki of the rohe. Having Taranaki Whānui continue to work alongside the project, the Fale Malae can become a meaningful addition to the cultural fabric of Te Whanganui-a-Tara, upholding and respecting the mana and legacy of the iwi.

To ensure the primacy of Taranaki Whānui is upheld in the Fale Malae project and Frank Kitts Park redevelopment, it must be understood that:

- **Taranaki Whānui will continue to reaffirm Ahi Kā** - as the kaitiaki of Te Whanganui-a-Tara, focusing on the enduring presence and cultural leadership that extends back to the earliest migrations.
- **Taranaki Whānui tikanga and leadership** - insist on Taranaki Whānui-led tikanga for any cultural elements within the project, including karakia, pou, and interpretative signage, ensuring the overarching narrative honours the iwi's mana and direct connection to the land.
- **Collaborative design** - continue to engage directly with the Fale Malae Trust and Wellington City Council to ensure the project's design and execution align with the cultural priorities and vision of Taranaki Whānui. The current proposal responds appropriately.

[emphasis added]

- **Legislative and Treaty-based assertions** - Taranaki Whānui will reinforce the iwi's statutory and Treaty-based rights, ensuring these are reflected in any resource consent decisions and public communications about the project as well as our ahi kā.⁴⁵

The CIA concludes by stating that:

The proximity to areas of significant historical and cultural importance requires a sensitive approach to ensure the project supports and complements, rather than detracts from the cultural values and narratives of Taranaki Whānui.

Applicant's Commitment

The Fale Malae Trust, appreciates the statement that mana whenua (Taranaki Whānui) are supportive of the project "particularly the Fale Malae" and confirms its commitment to continue to engage with Taranaki Whānui as the Proposal advances through the resource consent process and subsequent detailed design phase.

5.3.4.2 Te Rūnanga a Toa Rangatira

As noted in Section 4 "Consultation", as part of the Trust's consultation a hui was held with Te Rūnanga o Toa Rangatira (Ngati Toa), following which, Ngati Toa provided the Trust with a cultural values assessment (CVA) report ⁴⁶ - refer **Appendix 11A**.

⁴⁴ Op cit, page 18.

⁴⁵ Op cit, page 20.

⁴⁶ Te Rūnanga o Toa Rangatira, Cultural Values Assessment, Fale Malae & Frank Kitts Park Redevelopment, 19 December 2024.

In the Timatanga (Introduction) to the CVA it is recorded that:

Te Whanganui a Tara is a highly significant cultural landscape for Ngāti Toa. The landscape, which includes Frank Kitts park and Wairepo, has many important values which are connected to the history and identity of Ngāti Toa.

This Cultural Values Assessment (CVA) has been prepared for the proposed Fale Malae and Frank Kitts Park Development at the Wellington Waterfront for the Fale Malae Trust and Wellington City Council (the proposal).

The proposal involves a Fale Malae and the redevelopment of Frank Kitts Park. This will involve the construction of a pavilion within Frank Kitts Park as a place of talanoa and Pacific culture and heritage. The Fale Malae will form a part of the cultural landscape for the area including Wairepo, Te Papa Whenua, Te Papa Aroha (Garden of Beneficence) and Te Whanganui a Tara.

This CVA provides a summary of the principles and values of Te Whanganui a Tara for Ngāti Toa and provides guidance to ensure the proposal is compatible with the principles and values of the iwi, especially in relation to Pacific whakapapa, navigation and seafaring traditions.

This assessment is designed to complement and support the Cultural Impact Assessment prepared by Taranaki Whānui for the proposal.

After describing the cultural landscape of Te Whanganui a Tara and its significance for Ngāti Toa, the CVA records that the:

Fale Malae and the redevelopment of Frank Kitts Park is a significant opportunity for Te Whanganui a Tara and Te Upoko o Te Ika a Māui. The proposal aligns strongly with the principles and values of Ngāti Toa especially mana whenua, mātauranga, kaitiakitanga and manaakitanga.

As outlined by Callum Kātene, Tumuaki of Te Rūnanga o Toa Rangatira (18 March 2022), Ngāti Toa supports the establishment of the Fale Malae to provide a prominent place where our collective Pacific identity can be expressed and celebrated. This support highlighted the importance of the cultural roots, history and connections between Aotearoa and the Pacific:

All Māori have strong cultural roots in the Pacific and Ngāti Toa Rangatira is no exception. Our whare tupuna at Takapūwāhia is ornately decorated with the likenesses of many of our prominent ancestors, including the captains of many of the great ocean-going canoes that brought Māori to these islands. All those captains, of course, were born in the Pacific, so we are reminded every day of our connections to those far off islands. Their stories are woven through the very fabric of our culture.

A cultural landscape approach for the design of the Fale Malae and Frank Kitts Park is an important way to express these cultural roots and connections. As outlined above, the histories and stories associated with Kupe can provide foundations for recognising the Pacific connections and the values of Ngāti Toa and all Māori.⁴⁷

The CVA concludes by suggesting design details and procedures directed at respecting the cultural landscape of Te Whanganui a Tara, including cultural protocols and collaboration in the design process beyond the resource consent stage.

The Trust is supportive of this ongoing engagement with mana whenua.

Conclusion

Drawing on the detail provided in the Landscape Design Statement (refer Appendix 1), Architect's Design Statement (refer Appendix 2) any effects on the cultural values and significance of the site and adjoining areas, including the site of Te Wharewaka o Pōneke, are considered to have been appropriately managed or suitably addressed given:

1. acknowledgement by the Fale design team (Jasmax Architects) of the importance of cultural engagement, as evidenced by the following statement:

⁴⁷ Op cit, pages 7-8.

*Through this design process we are aware that Mana Whenua have been, and are under, pressure to provide cultural narrative, advise, support and kōrero for projects in and across Te Whanganui-a-Tara. We have proactively sought to support Manawa Whenua in having efficient and fulsome discussions that whakamana (empower) their connection to this location.*⁴⁸

This collaborative approach has strongly underpinned the redesign of the wider Frank Kitts Park as the setting for the Fale, as evidenced by the following statement:

*From previous discussions, we see Frank Kitts Park redevelopment as an important and unique opportunity to partner with others and to create a coherent design platform that recognises the importance of Māori cultural values as part of the foundations for the project;*⁴⁹

2. the design teams responsible for the Fale and the Frank Kitts Park redevelopment, through participation in co-design workshops, acknowledging the importance of Māori cultural values, while, at the same time, accepting that the Fale should recognise and respond to Pasifika cultural values in an appropriate symbiotic manner which would not undermine existing mana whenua relationships with the site and adjoining cultural landscape;
3. the acknowledgement (as further evidenced in Section 5.3.5 “Historic Heritage Effects”) that the Fale, given its design and setting within the surrounding cultural landscape, will not ‘challenge’ the cultural significance of Wharewaka o Pōneke. As the cultural impact assessment notes:

*The visual and cultural integration of the Fale Malae into the urban fabric of Whanganui-a-Tara is crucial for creating a complementary relationship between the Fale Malae and other significant cultural sites in the area, particularly the Wharewaka o Pōneke. The Fale Malae is a Pacific focused development that will provide a unique space for cultural expression, dialogue, and engagement, reflecting the aspirations of the broader Pacific communities. However, given its proximity to Wharewaka o Pōneke - a building that holds considerable cultural significance for Taranaki Whānui - it is important that the Fale Malae respects and acknowledges the precedence of the Wharewaka within this shared cultural landscape.*⁵⁰

Assisted by the physical (distance) separation, and the design narrative developed through the co-design process, it is considered that the Fale does not physically dominate or visually undermine the cultural significance and stature of Wharewaka o Pōneke. As noted in the urban design report, through projecting a distinctive architectural identity the Fale relates well to the scale and arrangement of nearby buildings and works in synergy with Te Wharewaka.⁵¹

Accordingly, it is concluded that any effects on the values and significance of the established cultural landscape, of which Frank Kitts Park is part, will be less than minor. Importantly, Wharewaka o Pōneke will maintain a dominant position in the Wellington waterfront cultural landscape.

Following the preparation of the cultural impact assessment (CIA) report by Taranaki Whānui and the cultural values assessment (CVA) report by Ngāti Toa, both iwi have agreed that Len Hetet the author of the Mana Whenua design statement for Taranaki Whānui will continue to lead the design work for mana whenua, with Taranaki Whānui sharing the information with Ngāti Toa and providing updates. The Fale Malae Trust expects this arrangement will ensure the project’s design and execution continue to align with mana whenua’s cultural priorities.

As recorded in Section 5.11 “Section 104B Considerations - Consent Conditions”, the Fale Malae Trust is committed to ongoing engagement with Taranaki Whānui following resource consent approval to ensure continued collaboration as the Fale Malae Project proceeds through the developed design and construction stages, subject to resource consent being granted for the project.

5.3.5 Historic Heritage Effects

Within the current title (Lot 2 DP 436892 / Record of Title 536983) there are two scheduled heritage buildings (#284 Wellington Rowing Club and #285 Star Boating Club) and a scheduled heritage structure (#57 Albatross -Tanya Ashken Public Art Sculpture and Fountain). This results in the requirement for consent for a new building on a site containing heritage buildings and heritage structures under Rule HH-R8.2 - for a Restricted Discretionary activity.

⁴⁸ Architect’s Design Statement, Appendix 3, page 11.

⁴⁹ Mana Whenua Design Statement, Appendix 1 to the CIA, page 1.

⁵⁰ Fale Malae & Frank Kitts Park Redevelopment Cultural Impact Assessment, page 18.

⁵¹ Urban Design Assessment, **Appendix 9**, pages 25-32.

The matters of discretion are the matters in HH-P2 and HH-P8:

HP-P2 Conservation Plans

Encourage the preparation of conservation plans and take them into account when considering the effects of development proposals on the identified heritage values of built heritage.

HH-P8 New buildings and structures, and modifications to existing non-scheduled buildings on the site of a heritage building or structure

Provide for new buildings and structures, and modifications to existing non-scheduled buildings and structures on the same site as heritage buildings or structures where it can be demonstrated that the work does not detract from the identified heritage values, having regard to:

1. *The extent to which the work:*
 - a. *Is compatible with the scale, form, proportion, design and materials of the heritage building or heritage structure; and*
 - b. *Respects the identified relationship of the heritage building or heritage structure with its setting.*

5.3.5.1 Star Boating Club

The historic heritage significance of the Star Boating Club building relates to:

- its architectural and technological significance (architect William Chatfield);
- its historical significance given its continuous association with the Star Boating Club; and
- its distinctive contribution to the waterfront streetscape (in association with the Wellington Rowing Club building) given its occupation of a prominent place on the waterfront.⁵²

Given the distance separation (in the order of 150m-200m) between the proposed Fale and the Star Boating Club building, there will be no detracting from the building's identified heritage values, including its setting and contribution to the waterfront's streetscape.

5.3.5.2 Wellington Rowing Club

The historic heritage significance of the Wellington Rowing Club building relates to:

- being a fine example of a Victoria military building, including the distinctive octagonal tower;
- being designed by a prominent local architect (Frederick de Jersey Clere); and
- its distinctive contribution to the waterfront streetscape (in association with the Star Boating Club building) given its occupation of a prominent place on the waterfront.⁵³

As for the Star Boating Club building, given the distance separation between the proposed Fale and the Wellington Rowing Club building there will be no detracting from the building's identified heritage values, including its setting and contribution to the waterfront's streetscape

5.3.5.3 Albatross Sculpture

The historic heritage significance of the Albatross Sculpture relates to:

- its high artistic value;
- being the work of acclaimed sculptor Tanya Ashken; and
- being the catalyst for the establishment of the Wellington Sculpture Trust spearheading the installation of public art on the waterfront.

Installed in 1986, the sculpture is significant piece of public art.

⁵² Wellington City Council Heritage Inventory (January 2012).

⁵³ Wellington City Council Heritage Inventory (January 2012).



PHOTO 3: Tanya Ashken Albatross Sculpture

Throughout the design process a significant consideration has been the relationship between the Fale and the Albatross Sculpture, with a key issue being the degree of separation between the Fale roof's prow and the sculpture. As noted in the Architect's Design Statement:

The Tanya Ashken Albatross sculpture has always been regarded as a key piece of context in which the building sits. The Albatross has strong links to the Pasifika community in the symbolic association with navigation and therefore [was] always considered as a very appropriate neighbour for the Fale. The building form in plan mirrors the sculpture's curves, whilst also sitting approximately 4 metres clear of the sculpture to ensure the sculpture remains prominent.⁵⁴

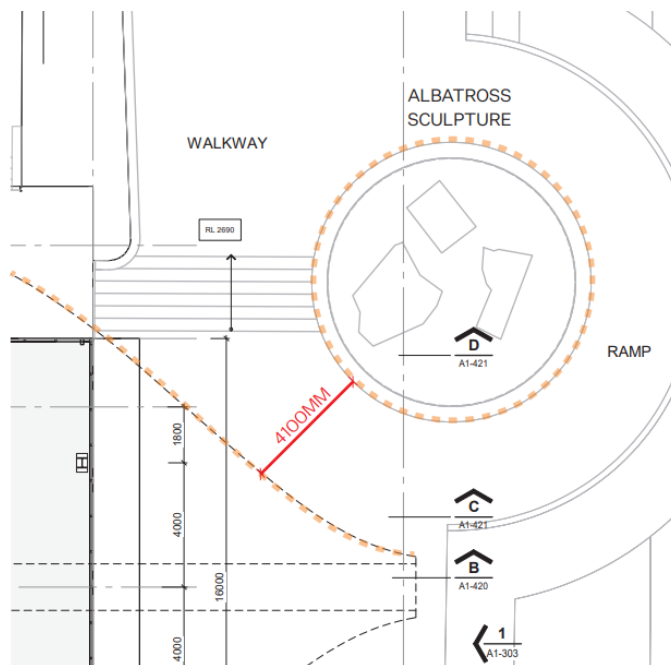


FIGURE 15: Position of the Albatross Sculpture vis-à-vis the Fale roof's prow

⁵⁴ Architect's Design Statement, **Appendix 1**, page 39.

As noted above in Section 4, consultation was undertaken with the Wellington Sculpture Trust (Chair Sue Elliot). The Trust advised that it was pleased with the location of the Fale vis-à-vis the sculpture, noting that in the Trust's opinion the Fale has "a respectful relationship with the work, with space for both to breathe"

and that it would:

"enable the work to have greater visibility and engagement".

Conclusion: drawing on the analysis summarised above, it is concluded that there will be no adverse effects the historic heritage values of the two scheduled heritage buildings (Star Boating Club and Wellington Rowing Club) located within Lot 2 DP 436892; and any adverse effects on the significance of the Albatross Sculpture will not be significant, with the symbolic relationship between the Albatross Sculpture and the Fale considered to be a positive relationship.

5.3.6 Effects on Sites of Significance to Māori

Within the current title (Lot 2 DP 436892 / Record of Title 536983) there are two sites of significance to Māori:

- Category Area A 167 - Te Whanganui-ā-Tara (Wellington Harbour and Whairepo Lagoon); ⁵⁵ and
- Category Area C 130 - Te Raukura Wharewaka o Pōneke.

In turn, this results in the requirement for consent for a new building on a site of significance to Māori (Category A or B).

Consent is required for a Restricted Discretionary activity under Rule SASM-R4.2. The matters of discretion are:

1. *The matters in SASM-P5;* ⁵⁶
2. *Consultation undertaken with mana whenua; and*
3. *The extent to which the values of mana whenua have been incorporated into the proposal.*

SASM-P4 Construction of buildings and structures within the mapped extent of sites and areas of significance

Provide for the construction of buildings and structures within sites and areas of significance to Māori where it can be demonstrated that the spiritual and cultural values of the site will be protected and maintained, having regard to:

1. *The cultural and spiritual values of the site or area;*
2. *Consultation undertaken with mana whenua;*
3. *The extent to which the building or structure regards the tikanga of the site or area of significance;*
4. *The extent to which the values of mana whenua incorporated into the proposal;*
5. *Whether alternative methods, locations or designs are available that would reduce the impact on the identified site or area of significance;*
6. *Any positive effects of the development for mana whenua or opportunities to enhance the cultural values of the site;*
7. *The extent to which mana whenua retain access and use of the site or area;*
8. *The extent to which the building or structure is set back from the boundary with the site or area of significance;*
9. *Where adjacent to a marae complex, the extent to which the new building or structure has been designed or oriented to prevent windows or balconies from looking directly into or over the marae;*
10. *Whether landscaping or screening are proposed to reduce overlooking or provide screening from the site or area of significance;*
11. *The positioning and orientation of the building or structure relative to the site or area of significance; and*
12. *The extent to which the exterior treatment and materials of the new building or structure are compatible with the site or area of significance.*

5.3.6.1 Category Area A 167 - Te Whanganui-ā-Tara

The Fale building is not within the mapped extent of Area 167. Consequently, there are no specific cultural and/or spiritual values of Te Whanganui-ā-Tara or Whairepo Lagoon that need to be considered as a result of this mapping. Cultural values and effects are considered more broadly in the cultural Impact Assessment (CIA) report - refer **Appendix 11**.

⁵⁵ It is noted that Lot 2 DP 43892 extends out into the harbour and incorporates the Whairepo Lagoon.

⁵⁶ It is understood that the correct reference should be to SASM-P4.

5.3.6.2 Category Area C 130 - Te Raukura Wharewaka o Pōneke

In relation to Category Area C 130 - Te Raukura Wharewaka o Pōneke, while consent is not required under Rule SASM-R5.1, as noted in Section 4 “Consultation”, consultation was undertaken with the Wharewaka o Pōneke Charitable Trust as owners of the building.

5.3.7 Microclimatic Effects

5.3.7.1 Wind Effects

Objective WIND-01 ‘sets the scene’ for an assessment of wind conditions:

WIND-01 - Purpose

The adverse impact of wind from new developments, additions and alterations is managed to:

- 1. Ensure that new developments, additions and alterations do not generate unsafe wind conditions in public spaces and, where possible, ameliorate existing wind conditions;*
- 2. Prevent the gradual degradation of Wellington’s pedestrian wind environment over time; and*
- 3. Ensure a comfortable wind environment in Wellington’s public spaces listed in Appendix 9 - City Centre Zone and Special Purpose Waterfront Zone - Minimum Sunlight Access and Wind Comfort Control - Public Space Requirements, while acknowledging that not all wind effects can be mitigated.*

In relation to public open space areas, policies WIND-P3 and WIND-P4 are directly relevant:

WIND-P3 - Comfort and safety in listed public spaces.

Require building design and wind mitigation measures to maintain and where possible enhance pedestrian safety and the comfort of the wind environment for users on the public spaces listed in Appendix 9 - City Centre Zone and Special Purpose Waterfront Zone - Minimum Sunlight Access and Wind Comfort Control - Public Space Requirements.

WIND-P4 - Comfort and safety in public spaces created through new development.

Encourage new public spaces created through new development to have wind conditions that are appropriate for the expected public use of the space.

For new buildings in the Special Purpose Waterfront Zone Rule, WIND-R1 applies. This confirms permitted activity status where:

New or altered buildings or structures are less than or equal to 20m in height above ground level.

The need or otherwise for a wind assessment report was discussed at the Pre-Application Meeting held on 11 December 2023. In the Pre-Application Meeting Record it is recorded that:

- 1. Is a wind assessment required?*

Although the provisions under the Wind Chapter, in particular standard WIND-R1.1(a), where new buildings or structures less than or equal to 20m in height above ground level within the Waterfront Zone are permitted, given its proximity to a highly pedestrianised and windy location, it is likely a wind assessment will be required as the (likely) overall activity status will be Discretionary (potentially Non-Complying) and publicly notified based on Rule WFZ-R15.2 where new buildings and structures, particularly as the Fale is unlikely to be less than 4 metres in height.

To fully understand the ‘wind environment’ to result from the construction of the Fale, a wind assessment report was commissioned.

The conclusions drawn from the wind assessment undertaken by WSP (refer **Appendix 12**) were:

- (1) Existing wind conditions in the area near the development site range from low to very high. They are largely dictated by the exposure of the site and surrounding area to the prevailing winds.*
- (2) At around 10m to 11m in height, of which 7.5m constitutes the curved and pointed roof, the proposed Fale is modest in height and much lower than many other recently developed waterfront buildings. The combination of the building alignment parallel to the prevailing wind directions, the roof design, and the large roof overhangs, mean that the overall effects on pedestrian wind conditions will be relatively small.*

- (3) *The development design is not expected to increase gust speeds above the 20m/s District Plan Safety Criteria. Wind conditions in some areas will be improved because of the shelter afforded by the proposed building.*
- (4) *The local pedestrian wind environment around the Fale will be influenced by the design and placement of the landscaping around it. Further improvements in wind conditions could be achieved through appropriate design and placement of additional hard landscaping and planting elements.*
- (5) *It is expected that the proposed Fale will generally comply with the District Plan standards WIND-S1, WIND-S2, and WIND-S3.*

Conclusion: drawing on the findings of the WSP wind assessment, it is concluded that any wind effects on the adjoining public open spaces, including the Malae, the Chinese Garden and the waterfront and lagoon promenades, will not be significant to the point where the amenity of the Frank Kitts Park public open space area is adversely affected.

5.3.7.2 Shading Effects

In relation to potential shading on public open spaces, the District Plan (2024) requirement is that:

1. *All buildings or structures within the Waterfront Zone must be designed and located to maintain sunlight access to any area mapped with the specific control “Minimum Sunlight Access - Public Space Requirements”, during the time periods specified in Table 1 of Appendix 9.*
2. *For areas in Appendix 9 with a specified time period:*
 - a. *1.30am - 1.30pm*
 - b. *12.00pm - 2.00pm*
 - c. *1.30pm - 3.00pm*

sunlight access must be maintained in the entire area during this period

3. *For areas in Appendix 9 with a specified time period:*
 - a. *10.00am - 3.00pm*
 - b. *10.00am - 4.00pm*

sunlight access must be maintained in a minimum of 70% of the area during this period.

The shading drawings prepared by the project architect (are contained in the Architect’s Design Statement (refer “Sunlight Protection” at pages 49-50).

The drawings confirm that for Frank Kitts Park the sunlight ‘protected’ hours are 10.00am - 4.00pm.⁵⁷ The area subject to WFZ-S2 “Minimum Sunlight Access - Public Space” is illustrated (green outline) in **Figure 16**.

⁵⁷ The time period to be calculated using New Zealand Standard Time at 23 September 2023.



FIGURE 16: Frank Kitts Park - Public Open Space Area

Over the six hours 10.00am - 4.00pm the sunlight access must be maintained across 70% of the public open space area identified in Figure 16.

The Architect's Design Statement (page 50) provides the detail of the shading caused by the Fale. In summary:

- at 10.00am the shading is to the west (Jervois Quay) side of the building and at the north-western end of the Wharepo Lagoon promenade;
- at 11.00am and 12 noon the shading extends across the promenade onto a small portion of the lagoon itself;
- at 1.00pm and 2.00pm the Fale's roof prow results in a small amount of shading on the promenade and the lagoon, and on the pedestrian ramp around the Albatross Sculpture (Tanya Ashken Sculpture);
- at 3.00pm the shading from the roof prow starts encroaching onto the Tanya Ashken Sculpture and onto the paepae on the eastern side of the Fale building; and
- at 4.00pm the shading is across the Tanya Ashken Sculpture and the paepae on the eastern side of the Fale building. This shading does not encroach onto the Malae.

Given that the Fale building only occupies some 3.6% of the Frank Kitts Park public open space area, at all times the shading is well below the 30% threshold. Importantly, there is no shading from the Fale on the Malae/Wharepo lawn during the protected hours.

Conclusion

The shading from the Fale during the protected hours is 'de minimis' when measured against the requirements of WFZ-S2.

5.3.8 Natural Hazard Effects

The site for the proposed Fale lies (either wholly or partly) within the following Natural Hazard overlays:

- Flood Hazard (Inundation Area);

- Overland Flowpath (Medium Hazard Area);
- Liquefaction Hazard (Low Hazard Area);
- Existing Coastal Inundation Extent - with 1.43m sea level rise and 1:100 year storm (Medium Hazard Area); and
- Tsunami Hazard Overlay.

To address the potential natural hazard risk, Aurecon were commissioned to:

"... collate information and address the natural hazard provisions included in the Partially Operative Wellington City Council (WCC) 2024 District Plan (Plan) to support resource consents associated with the redevelopment of Frank Kitts Park and the development of the National Fale building".

The full report is attached - refer **Appendix 13**.

In relation to the Fale building, the report records as follows:

Flood and Coastal Inundation Hazard

The building incorporates measures that reduce or not increase the existing risk to people, and property from the coastal hazard and the building does not involve the removal or modification of a natural system or feature that provides protection to other properties from the natural hazard.

Despite the presence of more hazard sensitive activities associated with the development, the risk to people and property from the 1% Annual Exceedance Probability flood and coastal inundation events (as defined in the Plan) are minimised as:

- *The area affected in those events is reduced with removal of the underground carpark (this included a large entrance onto Jervois Quay and hence the flow path).*
- *Direct risk associated with the flow path is mitigated due to removal of the underground carpark (this included large entrance onto Jervois Quay and hence the flow path), better assisting an unimpeded flow path.*
- *The proposed building will be protected from the flow path thereby assisting an unimpeded and unobstructed flowpath.*
- *All key sensitive and potentially sensitive activities occupy the ground floor (RL 4,280mm), 1,610mm above modelled 100yr ARI flood level (Figure 3.3).*
- *The proposed consent conditions will require basement design to prevent water entering including sealed penetrations and basement entrance from street level including submarine door. Safe internal egress will be provided to the basement. Design details and consent conditions will require no key plant is located at basement level (e.g. ventilation and electrical systems).*
- *Key plant is located in the mezzanine at RL 7,280mm (over 4,000mm above the 100yr ARI flood level - see Figure 3.3).*
- *The proposed consent conditions will require a flood response plan to be developed before occupation to include consideration for evacuation during 100yr ARI flood or coastal inundation events (as defined in the Plan). This will include clear directives to evacuate when extreme events are predicted so safe evacuation can be undertaken before access is reduced by overland flow path.*

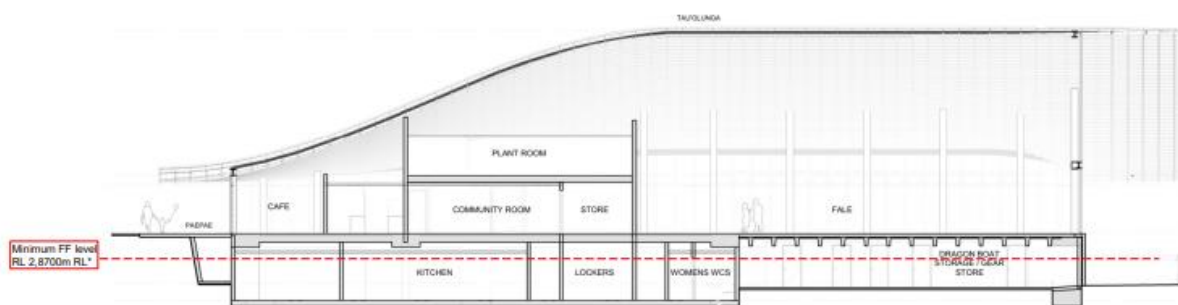


FIGURE 17: Aurecon Figure 3.3 - refer AEE Appendix 14, page 18

Tsunami

The Fale building has been designed to have its ground floor level at RL 4,280mm and be positioned 40m away from the direct harbour side edge. These decisions have been made to reduce and minimise the effect of tsunami to the building in a higher probability event 1:100 and 1:500-year tsunami event overlay (Figure 2-3).

In a lower probability event, the focus is life preservation rather than post disaster functionality, so the focus will be on effective evacuation. Consent conditions will require a tsunami evacuation plan to be developed establishing a suitable evacuation route to a safe zone which will be displayed on the building and made familiar to facilities management staff.

Earthworks

Earthworks involved in the development of this building would not significantly increase the flooding risk, when compared to the existing situation, to the site or neighbouring properties through the displacement of flood waters. These works will principally be for establishing building foundations.

The ability to convey flood waters along overland flow paths or stream corridors is not impeded as a result of the earthworks.

Liquefaction

In relation to seismic (liquefaction) risk, this is addressed in two reports:

- Tonkin + Taylor “Summary Geotechnical Assessment Report” (refer **Appendix 14**); and
- Dunning Thornton “Fale Development: Structural Engineering Statement” (refer **Appendix 15**).

Tonkin + Taylor conclude:

Liquefaction and lateral spread have been identified as hazards impacting on the site. Foundation concept designs have been developed to respond to these hazards.

Dunning Thornton confirm:

The basement structure is of reinforced concrete construction and is to be designed to remain elastic in a design level seismic event.

The foundations are designed to accommodate the seismic actions of the building and the soil movements calculated by Tonkin & Taylor while maintaining vertical load carrying capacity.

Conclusion: drawing on the information included in the Aurecon, Tonkin + Taylor and Dunning Thornton reports, and with the imposition of consent conditions requiring the preparation and approval of a ‘flood management plan’ and a ‘tsunami evacuation plan’ prior to occupation of the Fale, if consent is granted, any adverse effects associated with natural hazards will be appropriately avoided, remedied or mitigated.

5.3.9 Coastal Environment Effects

The Introduction to the Coastal Environment Chapter includes the statement that:

Wellington’s coastline contributes to the character and identity of the City, and while exposed to natural hazards it also provides amenity, recreation opportunities, cultural and social value to the community, and is a place of importance to tangata whenua.

This statement is 100 percent valid in relation to the inner harbour coastline - the Waterfront Zone.

The Introduction to the Chapter also includes the statement that:

Public access is to be encouraged and managing activities within the coastal margin allows for the consideration of the effects of proposals on existing or future public access.

The proposed Fale will contribute to the character and identity of the Waterfront Zone and be of significant cultural and social value, while, at the same time, not detracting from the ‘urban nature’ of this part of the coastal environment.

Public access to and along the coastline via the waterfront promenade and the Whairepo Lagoon promenade is not affected.

Buildings that comply with the rules and standards for buildings in the underlying zone (in the case of the Fale the Waterfront Zone) are permitted under Rule CE-R15.1. However, where the building does not comply with the applicable standards consent is required for a Restricted Discretionary activity under Rule CE-R15.2::

CE-R15.2 Construction of new buildings within the coastal environment and within the coastal or riparian margins

with the matters of discretion being the matters in CE-P7, PA-P1, PA-P2 and PA-P3.

In relation to CE-P7, there will be no adverse effects on the natural character of the coastal environment.

Policies PA-P1, PA-P2 and PA-P3 focus on public access. Policy PA-P1 concerns appropriate activities, activities that do not limit or prevent public access. Policy PA-P2 seeks to ensure the maintenance and enhancement of public access, while Policy PA-P3 identifies reasons/circumstances that may justify restriction on public access.

The circumstances of the Fale do not result in any inconsistency with the outcomes sought, being the maintenance and enhancement of public access to and along the (inner harbour) coastline.

Conclusion: given the nature, scale and purpose of the Fale, and the highly modified ‘urban’ nature of this part of the City’s coastal environment, there will be no adverse effects on natural character; nor will the Fale prevent public access to, along or adjacent to the inner harbour coastline.

5.3.10 Public Safety and Security Effects

Given the importance of addressing public safety and security, the Council commissioned Dr Frank Stoks to undertake a ‘crime prevention through environmental design (CPTED)’ assessment of the proposed modifications to Frank Kitts Park consequent upon the proposed demolition of the existing carpark building and the need to review/amend the 2018 resource consent for the redevelopment of the park.

Dr Stok’s review and assessment addressed the proposed Fale as its own well-defined, yet spatially connected zone.⁵⁸

Among the principal findings reached by Dr Stoks was finding “p”:

*q. The Fale and Malae are considered highly positive features of the design proposal. The design is very supportive of CPTED requirements of itself and its contribution and placement within FKP. Servicing and storage is dealt with well. Enhancing the existing public toilets are a key consideration for alignment with the new qualitative values of the Park and the Fale.*⁵⁹

Specific points highlighted by Dr Stoks included:

- the building’s perimeter visual transparency helps with through-site views rather than creating visual obstructions;
- natural supervision inside and out;
- connecting the Fale to the immediate outdoor curtilage, terraces and Malae for the purposes of care and stewardship;
- the Fale’s immediate edges supporting high levels of activation; and
- the building is clear and legible around the perimeter with flush doorways and without recesses, including the southern lower-level.⁶⁰

Conclusion: for the reasons summarised in Dr Stoks’ CPTED assessment, it is concluded that locating the proposed Fale building in Frank Kitts Park will make a positive contribution to public safety and security in the park.

5.3.11 Traffic Effects

A traffic report was jointly commissioned by the Wellington City Council and the Fale Malae Trust to address any traffic/transportation effects associated with the proposed modifications to Frank Kitts Park and the construction of the Fale building.

The report prepared by Traffic Concepts Ltd set out and described:

⁵⁸ Stoks Limited, Frank Kitts Park Redevelopment, 4 June 2024 - refer **Appendix 16**.

⁵⁹ Op cit, page 3.

⁶⁰ Op cit, pages 12-13.

- the existing transport environment;
- the crash history;
- the joint proposal;
- an assessment of the development against the provisions of the District Plan; and
- an assessment of the proposed layout, parking and servicing provisions of the joint proposal.

The full report is attached - refer **Appendix 17**.

The report's overall conclusion is:

The proposed redevelopment of Frank Kitts Park will see the demolition of the existing car park building and associated structures. The northern and central parts of the site will be reconfigured to provide large green spaces and a reconfigured Chinese Garden. The southern part consists of a new Fale building and adjacent lawn which doubles as a Malae.

Changes are proposed to the road frontage along Jervois Quay to provide a wider footpath along with a short-term parking area and loading zone. The changes will provide a positive effect to the redevelopment of Frank Kitts Park.

Generally, all of the District Plan requirements are met. The Fale cannot meet the distance to lift and level grade requirements of the District Plan due to existing structures that will remain. While loading could occur within the site, the vehicle use of the waterfront promenade is not consistent with the Waterfront Framework. It is proposed to provide this loading from Jervois Quay. The effects of this are less than minor. The balance of the redevelopment can comply with relevant operative rules for transportation matters.

Construction effects will need to be managed through a Construction Management Plan (CMP). Conditions of consent should be volunteered to require the preparation and certification of the CMP after the granting of consent.

Overall the effects of the redevelopment proposal on the safety and efficiency of the transport network are considered to be positive.

As the report notes, the Fale has no vehicle access or on-site parking. Rather, following the demolition of the existing carpark building it is proposed to modify the Jervois Quay road frontage and provide a short-term drop-off/pick-up parking layby, which will also act as a convenient loading area for servicing the Fale (and café). As the report notes:

This is preferred instead of using the waterfront pedestrian promenade for these vehicles. While the latter may be a viable option, it would not align with the Waterfront Framework which seeks to make this a non-vehicular area to the extent possible.⁶¹

Servicing the Fale from the Jervois Quay parking layby does however result in a non-compliance with the Operative District Plan (2020) servicing standards 13.6.1.3.9 and 13.6.1.3.10 relating to the location of the loading area, level access and distance to a building lift(s), which should be no more than 15m.

Addressing this aspect of non-compliance with the District Plan's standards, the report records that:

Due to the location of the café to the northern side of the Fale building it is not possible to have the loading (if on site) within 15 metres of the lift. Due to the existing various structures to the south of the Fale it is not possible to have a level access to the service area. While these particular standards cannot be met, the effect of the proposed solution is less than minor. Having loading vehicles for the Fale use the promenade for service access is not preferred and would have some effect on the users of the Waterfront area. The proposed short-term parking and loading area on Jervois Quay will prevent those effects arising.⁶²

The proposed arrangement described in the Traffic Concepts Ltd report, which has been endorsed by the Council's traffic/transport advisors, is shown in **Figure 18**.

⁶¹ Traffic Impact Assessment Report, Appendix 14, page 18.

⁶² Op cit, page 19.

Addressing each of the three waters, the report at Section 9.2 (pps. 36-41) records as follows:

Water Supply

The current potable water supply is insufficient for the higher demands of the Fale. The proposed solution is to 're-purpose' an existing private wastewater line as water supply once the existing carpark building is demolished. An alternative solution is to connect to the existing pressured main on the west side of Jervois Quay.

Decisions on which available solution is implemented would be made during the post-resource consent detailed design phase and be subject to Council approval prior to the lodgement of building consent applications.

Wastewater

The existing wastewater network does not have the capacity for the design flow of the Fale. The proposed solution is to reline an existing 100Ø gravity main that is currently lined with a 50Ø pipe and burst it with a new 100Ø pipe. Given that the Fale's basement level is lower than the existing network, pumping will be required to get wastewater to be gravity fed into the existing network.

Stormwater

At present the 'existing environment' (i.e. the roof of the existing carpark building) is split approximately 40/60 between permeable and impermeable surfaces - refer **Figure 19** and page 53 of the Architect's Design Statement.

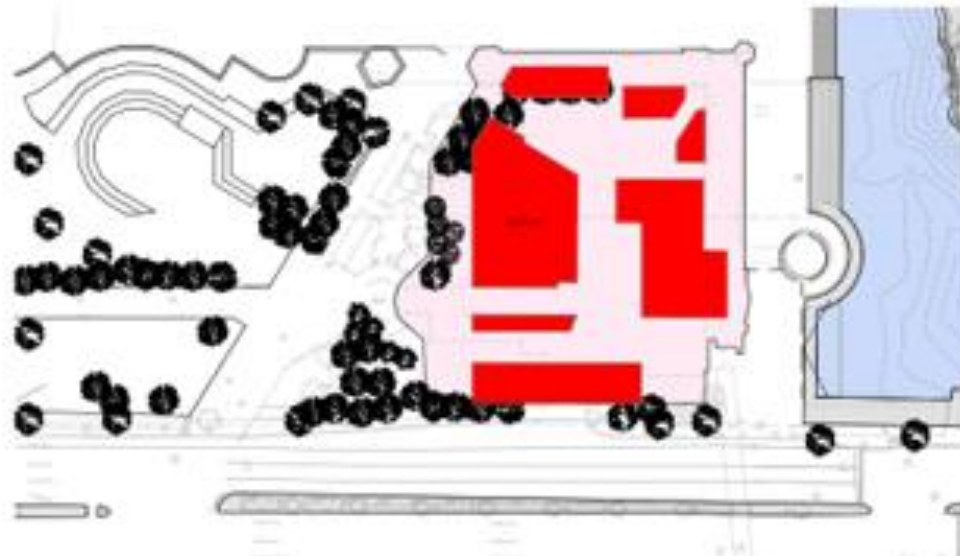


FIGURE 19: existing environment - permeable surfaces shaded red (Source: Jasmax)

With the proposed modifications to Frank Kitts Park, the extent of permeable surface over the area currently occupied by the existing carpark building (3,692m²) will increase from 1,471m² to 1,521m², with the Fale building occupying 708m² - refer **Figure 20** and page 53 of the Architect's Design Statement.

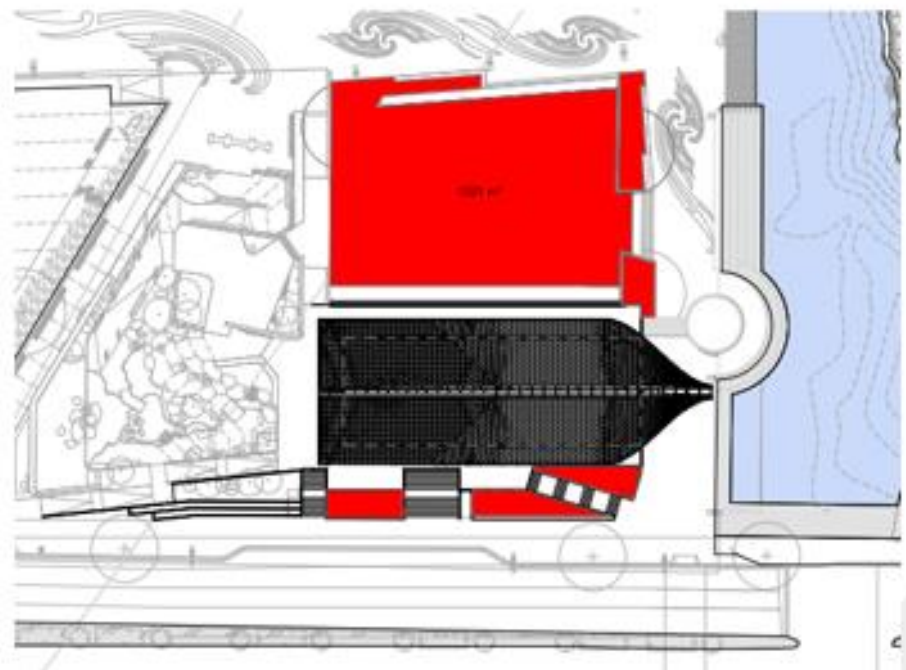


FIGURE 20: future environment - permeable surfaces shaded red (Source: Jasmax)

In relation to the Fale, the proposal is to collect the stormwater from the Fale roof to on-site storage tanks and for the stored water to be used on site for the flushing of toilets and (potentially) for 'transfer' to the water features in the Chinese Garden and/or irrigation of the Malae and Whairepo Lawn, pending the extraction of any residual zinc contaminants. Overflow from the on-site storage tanks would be to an existing manhole on the eastern side of Jervois Quay for connection to the large outfall pipes.

Conclusion: as is frequently the case, at the resource consent stage the detailed design work to confirm connections to the three waters network is still to be undertaken and completed. To this end, a consent condition along the following lines is recommended:

Prior to lodging applications for building consent, the consent holder shall provide the Council's compliance monitoring officer (CMO) with final engineering plans and specifications in relation to water supply, stormwater and wastewater, along with written confirmation from the Wellington Water Land Development Team that the engineering plans and specifications are acceptable.

Drawing on the preliminary investigations undertaken by Aurecon, in line with Objective THW-O2, sufficient existing or planned three waters infrastructure capacity and/or level of service will be available to service the proposed Fale.

In relation to three-waters rule THW-R3, and the requirement for new buildings using copper or zinc cladding or roofing material to demonstrate stormwater from those surfaces (in the case of the Fale, the zinc roofing material) is collected and treated in accordance with the Wellington Water Ltd "Water Sensitive Design by Stormwater Treatment Device Guideline (2019)", further investigations during the developed design phase need to be concluded to confirm the 'acceptable' level of any residual zinc contamination and how it is proposed to achieve that standard. As with the three-water infrastructure design and specifications, this matter is again appropriately addressed by way of a consent condition along the following lines:

Prior to lodging applications for building consent the consent holder shall provide the Council's compliance monitoring officer (CMO) with a certificate from a suitably qualified expert confirming that the level of any residual zinc particulate in the stormwater from the Fale site complies with the Water Sensitive Design by Stormwater Treatment Device Guideline (2019), along with written confirmation from the Wellington Water Land Development Team that appropriate mitigation has been achieved.

Note: the objective should be to remove at least 90% of zinc particulate from the first flush of roof runoff.

5.3.13 Earthworks Effects

The earthworks associated with the demolition of the existing carpark building and the establishment of the new ground level (to basement level) for the Fale are covered in the Council's application.

The technical reports addressing site earthworks are:

- Tonkin & Taylor "Frank Kitts Park Redevelopment: Preliminary Civil Engineering Report (April 2024)" - refer to **Appendix 19** and
- Tonkin & Taylor "Erosion and Sediment Control Plan (December 2023)" - refer **Appendix 20**.

Following the creation of the Fale site to basement level, as part of the construction of the Fale building there will be further earthworks associated with the installation of the Fale building foundations.

It is these earthworks that are covered by the Trust's application.

The relevant District Plan (2024) rule under which consent for the earthworks will be required is Rule EW-R4.2 for a Restricted Discretionary activity. The matters over which discretion is restricted (summarised) are the matters in:

- EW-P1 - co-ordination and integration with development and subdivision;
- EW-P3 - maintaining stability;
- EW-P4 - erosion, dust and sediment control;
- EW-P5 - effects of earthworks on landform and visual amenity; and
- EW-P6 - earthworks and the transport network.

Referring to each of the matters, the following points are noted:

- (a) co-ordination and integration with development and subdivision: the earthworks associated with installing the Fale's building foundations would be an integral part of the building construction and build on the initial earthworks authorised by the Council's application;
- (b) maintaining stability: the earthworks associated with installing the Fale's foundations would be undertaken at the time of the building's construction, with the building, including the basement walls, being assessed and approved during the building consent application process, which would assess any issues regarding earthworks and building stability;
- (c) erosion, dust and sediment control: given that the earthworks associated with installing the Fale's foundations will be below basement level, erosion and dust control will not be a significant issue, which, in any case, will be addressed (mitigated) through the implementation of an erosion and sediment control plan, as will sediment control;
- (d) effects of earthworks on landform and visual amenity: there will be no natural landform or visual amenity effects; and
- (e) earthworks and the transport network: given the relatively small amount of earthworks associated with the building foundation works, and subject to on-site measures to ensure that no material, including water-borne sediment, being transport off site is deposited on the road network; any effects on the roading network will be minimal.

Matters ((c) and (e) can be appropriately mitigated through the imposition of an earthworks and sediment control management plan (E&SCMP) to be secured by a consent condition.

Note: in addition to the required consent under the District Plan, as summarised above, given that the earthworks associated with installing the building foundations and associated piling will result in a discharge of ground water, regional consent for a discharge permit under the Regional Natural Resources Plan will be required.

Conclusion: with the implementation of an earthworks and sediment control management plan (E&SCMP), to be secured by a consent condition, to address the earthworks associated with the installation of the Fale's building foundations, any adverse effects will be appropriately avoided, remedied or mitigated.

5.3.14 Contaminated Land Effects

Tonkin +Taylor were commissioned by the Wellington City Council to undertake a detailed site investigation (DSI) of the proposed area of the Frank Kitts Park redevelopment, including the site of the proposed Fale, to:

... characterise potential contaminant concentrations in soils and groundwater.

Potentially contaminating previous land use was identified within the investigation area, including reclamation filling and port activities.

The key findings (summarised) of the investigation were:

1. The soil profile observed was generally consistent across the investigation area and comprised topsoil and medium to coarse gravel fill with some silty clay towards the base of the test pits.
2. No visual or olfactory evidence of contamination or evidence of asbestos was observed.
3. All soil samples returned concentrations below the applicable soil contaminant standards for commercial /industrial outdoor workers and recreational land use. Consequently, no significant health risk to future site workers and recreational users is indicated from contaminated soil.
4. Asbestos was not identified within the soil samples analysed.

It was noted that:

The site investigations do not indicate an unacceptable risk to human health or the environment for on or off site receptors. Therefore, we conclude that the presence of the contaminated soil at the site is a permitted activity under Rule R82(a and b) of the Natural Resources Plan, provided this report is submitted to the Wellington Regional Council (GWRC).⁶⁴

Nevertheless, Tonkin + Taylor recommended that a Contaminated Site Management Plan (CSMP) should be prepared prior to earthworks commencing to mitigate soil contamination effects during the proposed earthworks, and to particularly provide procedures for unexpected contamination should it be encountered during the works.⁶⁵

Tonkin + Taylor also recommended that once the existing carpark building has been demolished, a site walkover and further testing should be undertaken to confirm the conclusions of the DSI; and that prior to that further testing the management protocols outlined in the CSMP should be adhered to.

Note: in relation to the “Applicability” of the CSMP, Tonkin + Taylor recorded that:

We acknowledge that the Fale Malae Trust will also submit this report as part of an application for resource consent in accordance with the Reliance Statement, and that Wellington City Council and Greater Wellington Regional Council as the consenting authority will use this report for the purpose of assessing that application.⁶⁶

Conclusion: subject to the further Tonkin + Taylor recommended further investigation to be undertaken following the demolition of the existing car park building confirming the findings of the DSI, and with the implementation of a final approved contaminated site management plan (CSMP), there will be no risk to public safety or to the environment as a consequence of any site contamination.

A consent condition requiring the preparation and approval of a Final CSMP prior to any earthworks being undertaken, aside from any earthworks directly associated with the demolition of the carpark building, would be appropriate.

5.3.14 Demolition and Construction Effects

As with any land development and construction project there will be some adverse effects, including, in this case, disruption to public access and enjoyment of the existing park. There will also be noise effects, construction traffic effects, in addition to the effects associated with the earthworks.

However, these effects will be relatively localised and limited to the construction period (which is anticipated to be in the order of 21-24 months), including ‘fitout’.⁶⁷

The focus of the assessment (and the recommended consent conditions) is on mitigation measures which are directed toward minimising the scale, extent and duration of the construction effects, to the greatest extent practicable.

⁶⁴ Tonkin + Taylor, April 2024, Detailed Site Investigation - Frank Kitts Park Redevelopment, page 12 - refer **Appendix 21**.

⁶⁵ Tonkin + Taylor have prepared a contamination site management plan (CSMP) - refer **Appendix 22**.

⁶⁶ The Reliance Statement is attached - refer **Appendix 23**.

⁶⁷ Subject to Contractor’s confirmation following appointment of the contractor.

The key 'method' through which the construction effects will be managed will be the preparation and approval of a construction management plan (CMP), which, in addition to overall construction management, will also address construction noise and construction traffic. This CMP will be in addition to the 'Erosion and Sediment Control Management Plan (E&SCMP) referred to in the section 5.3.13.

Matters to be covered in the CMP, which will be submitted to the Wellington City Council for approval prior to any site works associated with the construction of the Fale building commencing, will include, but not be limited to:

- contact (mobile) telephone number(s) for the on-site manager where contact could be made 24 hours a day / 7 days a week;
- details of appropriate local signage/information of the proposed work including the location of a minimum of two large (greater than 1m²) noticeboards on the site that clearly identify the name, telephone number and address for service of the site manager, including cell-phone and after-hours contact details;
- a communication and complaints procedure;
- safety fencing and associated signage for the construction site;
- details of the locations of any temporary construction hoardings to be erected;
- specific consideration for loading areas, truck waiting areas and access to the site;
- measures to ensure dirt, mud or debris or other materials are not left on the road;
- measures to control dust, silt and sediment and to minimise the associated nuisance effects of earthworks (including potential sediment discharge to the Council's stormwater system); and
- the covering of soil and other material to be trucked off the site.

A key consideration will be the retention of safe, unimpeded public access at all times along the Whairepo Lagoon promenade linking the 'city to sea' bridge with the waterfront promenade.

5.3.15 Construction Noise

In addition to the CMP, a construction noise management plan (CNMP) will be prepared by a suitably qualified person experienced in acoustic engineering or construction management practices. The CNMP will be prepared and submitted to Council for approval prior to any works commencing on site and must describe the methods by which noise associated with the construction of the Fale will comply in all respects with the controls set out in NZS 6803:999 and how all persons undertaking day-to-day activity management will adopt the best practical option at all times to ensure emission of noise from the Fale site does not exceed a reasonable level in accordance with s16 of the Resource Management Act 1991.

5.3.16 Positive Effects

Under the RMA there tends to be a focus on the avoidance, remediation or mitigation of adverse effects, given the requirement of s5(1)(c). However, the RMA definition of effect includes 'any positive effect'.

In Elderslie Park v Timaru District Council the High Court stated that:

"To ignore real benefits that an activity for which resource consent is sought would bring necessarily produces an artificial and unbalanced picture of the real effect of the activity".⁶⁸

The proposed Fale will deliver a number of positive effects, including:

- a building of outstanding architectural quality;
- a strengthening of the diversity and cultural identity of the Wellington waterfront;
- a publicly accessible venue that will add to the activation of Frank Kitts Park and the wider waterfront; and
- being the 'catalyst' to the removal of an earthquake-prone building.

5.3.17 Sustainability Considerations and Initiatives

As recorded in Section 3.11 of the Architect's Design Statement (**Appendix 2**), sustainability has been a key consideration on two levels:

- in relation to climate change and the effect this will have on the building and surrounding landscape and how to best address these challenges; and

⁶⁸ Elderslie Park Ltd v Timaru District Council [1995] NZRMA 433

- in relation to how the building itself can be designed to minimise its impact.

To this end, the Trust commissioned Aurecon to prepare a Preliminary Design ESD Report which identified a number of design initiatives to be incorporated into the design of the building to address, in the broadest sense, the building's sustainability - refer **Appendix 24**.

As the report notes:

During Developed Design Aurecon will continue to confirm that the sustainability strategies are being captured in the design and are documented and designed accordingly.

Figure 21 (sourced from the Aurecon report) highlights some of the key sustainability strategies captured in the Sustainability principles that are intended to be implemented in the design of the Fale.

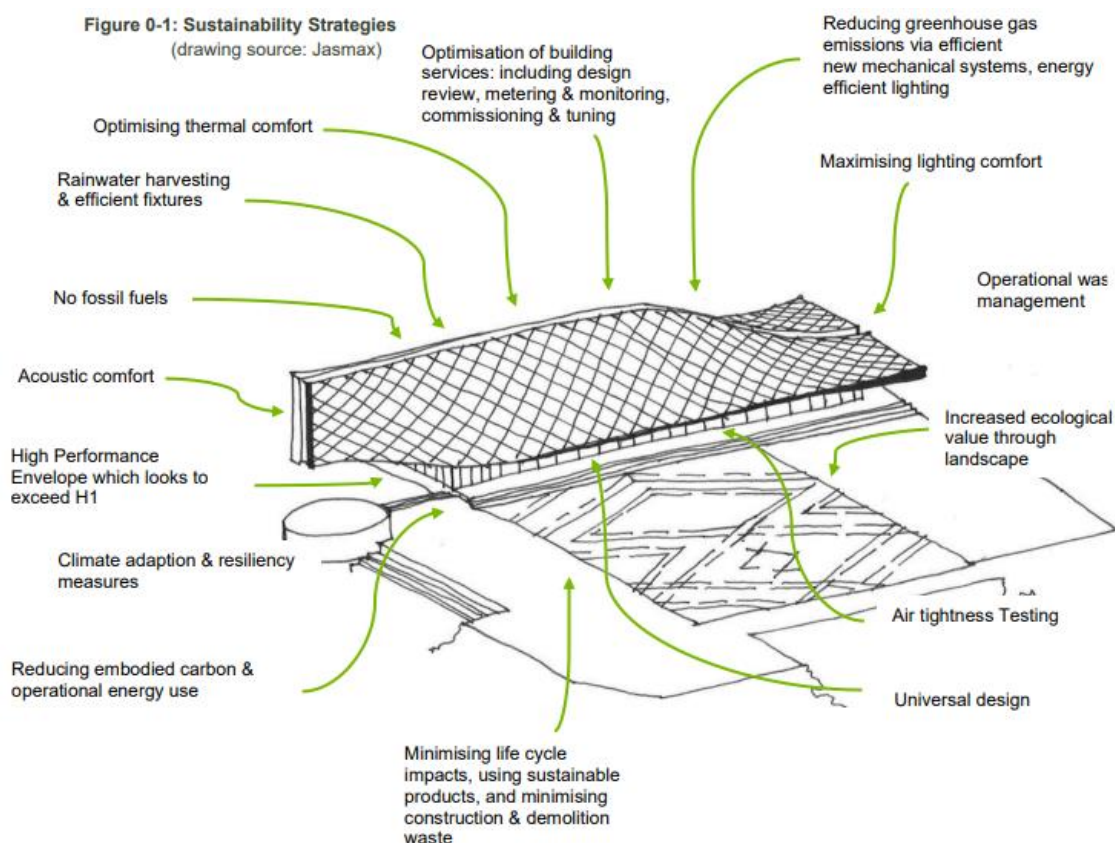


FIGURE 21: Sustainability Strategies

5.3.18 Environmental Effects Conclusion

The overall conclusion is that in terms of actual or potential effects on the environment associated with the construction and occupation of the Fale building, where they are potentially adverse, they will be temporary effects (e.g. earthwork effects and construction effects) and be subject to appropriate management plans to ensure that they are appropriately avoided, remedied or mitigated.

Any permanent adverse effects relating to such matters as:

- loss of green open space
- visual amenities
- wind and shading
- traffic
- natural hazards
- coastal environment
- historic heritage
- sites of significance to Māori
- three-waters
- earthworks

will be less than minor and therefore not be significant.

On the other hand, the Fale will facilitate a high level of activation which will add to Frank Kitts Park's role as an important part of Wellington's public waterfront.

5.4 DISTRICT PLAN OBJECTIVES AND POLICIES

Appendix 26 to the AEE lists all of the District Plan objectives and policies to which regard should be had under s104(1)(1)(b)(vi) of the Act. They are drawn from the following District Plan (2024) chapters:

- Special Purpose Waterfront Zone
- Natural Hazards
- Coastal Environment
- Public Access
- Historic Heritage
- Sites of Significance to Māori
- Earthworks
- Wind
- Views
- Three Waters

Given the number and scope of the objectives and policies identified as relevant to an assessment of the proposed Fale, the approach to the assessment follows the 'thematic approach' endorsed by the Court of Appeal in Living Earth Matters v Auckland Regional Council.⁶⁹ This assessment has reviewed the objectives and policies in context, on their own terms and as they relate to one another in the District Plan, so a fair appraisal is made of the objectives and policies as a whole.⁷⁰

For the more detailed assessment of the objectives and policies, reference should be made to Appendix 26.

Drawing on the detailed assessment recorded in Appendix 26, the following principal themes have been identified. These themes collectively establish the overall planning framework against which the proposed Fale to be established in Frank Kitts Park can be assessed.

Special Purpose Waterfront Zone

- activities and development that contribute to the sense of place and character of the waterfront [*purpose*]
- a waterfront zone with a diverse and vibrant mix of activities that collectively provide and encourage public interest and use [*vibrant and diverse mix of activities*]
- adverse effects of activities and development are managed effectively [*managing adverse effects*]
- avoid activities that are incompatible with the role and function of the waterfront [*incompatible activities*]
- new buildings to be of a high quality [*development of buildings*]
- protect the waterfront's public open space by avoiding new buildings except where they improve public use and enjoyment and do not dominate or cumulatively diminish the public open space [*protection of public open space*]

Comment: the Fale will add to the waterfront's vibrant and diverse mix of activities, notably cultural activities, which will encourage greater public use of this part of the waterfront. The Fale building exhibits architectural design excellence. Although located within the public open space area of Frank Kitts Park, it will not dominate or cumulatively diminish the quality of the (future) public open space; but it will be a positive attraction adding to public use and enjoyment.

In association with the nearby Te Raukura Wharewaka o Pōneke and the adjacent Garden of Beneficence - the Chinese Garden, it will create a significant 'cultural precinct' which will contribute positively to the waterfront's character and sense of place.

Natural Hazards

- minimise risk associated with development in medium hazard areas [*risk from natural hazards*]

⁶⁹ Living Earth Ltd v Auckland Regional Council [CA651/2007], with the Court of Appeal recording that:

"... dealing with the planning instruments on a thematic basis seems to us to have been entirely sensible and desirable ...".

⁷⁰ Royal Forest and Bird Protection Society of New Zealand Inc v New Zealand Transport Agency [2024] NSC 16 at [79] to [80] - the 'East-West Link' Decision.

Comment: measures have been incorporated in the design of the Fale, including setting the ground floor level above the 1% Annual Exceedance Probability level, to mitigate potential effects associated with coastal inundation, including from sea level rise, and flooding from the Jervois Quay overland flowpath.

Coastal Environment

- provide for use and development within coastal margins in the coastal environment - located inside the Waterfront Zone [*coastal environment/appropriate development*]
- provide for hazard sensitive activities in the medium coastal hazard area where it can be demonstrated that the activity/building incorporates measures that minimise risk to people and property from the coastal hazard (*coastal hazards*)

Comment: the inner harbour coastal environment is not characterised by natural character. Rather it is an urban waterfront. In relation to coastal environment hazard risk, measures have been included in the design of the Fale, including setting the ground floor level above the 1% Annual Exceedance Probability level, to mitigate potential effects associated with coastal inundation, including from sea level rise.

Public Access

- maintain and enhance public access to, along or adjacent to the coast [*public access*]

Comment: the Fale will not impede public access within the Waterfront Zone generally; nor will it impede access to and along the waterfront promenade or the Whairepo Lagoon promenade. Rather, the Project will generally activate and improve public access by reducing the height of the public open space adjacent to the coast

Historic Heritage

- protect historic heritage from inappropriate use, subdivision and development [*protect historic heritage*]

Comment: the Fale will not result in any diminution of the historic heritage values associated with the Star Boating Club or Wellington Rowing Club buildings.

The physical and symbolic relationship between the Fale and the Tanya Ashken Albatross Sculpture is appropriate.

Sites of Significance to Māori

- protect cultural and spiritual values of sites of significance to Māori [*protection of sites of significance to Māori*]

Comment: the Fale will not result in any diminution in the cultural or spiritual values associated with Te Whanganui-ā Tara (Wellington Harbour and Whairepo Lagoon) or Te Raukura Wharewaka o Pōneke.

Earthworks

- undertake earthworks in a manner that will not increase flooding risk [*earthworks within flood hazard overlays*]
- ensure that there is no sediment discharge beyond the site to the coastal marine area [*earthworks/sediment control*]

Comment: the site earthworks associated with installing building foundations will not increase any flooding risk. Sediment control measures, secured through an approved earthworks and sediment control management plan (E&SCMP), will ensure that sediment does not enter the waters of the coastal marine area.

Wind

- ensure a comfortable wind environment is maintained in public spaces [*comfort and safety in public spaces*]

Comment: as confirmed by the wind assessment report, any wind effects on public/pedestrian comfort and safety will be relatively small and not at a level requiring any mitigation.

Viewshafts

- maintain identified viewshafts by avoiding development that will intrude on public viewshafts [*maintaining identified viewshafts*]

Comment: the Fale will not intrude on any identified viewshaft. Accordingly, there will be no effect on the townscape features and visual amenities protected by any of the District Plan listed public viewshafts.

Three Waters

- three waters infrastructure servicing [*enabled development*]
- avoid effects of building material contamination of stormwater [*building materials*]

Comment: although some upgrade of the existing three waters infrastructure serving the site will be necessary, appropriate levels of service can be provided. Measures will be implemented to ensure there is no unacceptable level of zinc particulates entering the stormwater.

5.5 SECTION 104D - NON-COMPLYING ACTIVITY

Under Rule WFZ-R15.3 the Fale, as a new building in the Frank Kitts Park's public open space area, requires resource consent for a Non-Complying activity.

Section 104D of the Act states that resource consent can only be granted for a Non-Complying Activity if the consent authority is satisfied that either:

- (a) *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*
- (b) *the application is for an activity that will not be contrary to the objectives and policies of:*
 - (i) *the relevant plan, if there is a plan but no proposed plan in respect of the activity; or*
 - (ii) *the relevant proposed plan, if there is a proposed plan but no relevant plan in respect of the activity; or*
 - (iii) *both the relevant plan and the relevant proposed plan, if there is both a plan and a proposed plan in respect of the activity.*

Often referred to as the s104D 'gateway' or 'threshold' test, a proposal must pass through at least one of the 'limbs' before it can be considered under s104B of the Act.

In summary, based on the assessments that have been undertaken and are recorded in Sections 5.3 and 5.4 of this AEE, it is the Applicant's position that the proposed Fale can pass both of the gateway tests based on the conclusions recorded in Sections 5.5.1 and 5.5.2.

5.5.1 104D(1)(a) - Effects on the Environment

In section 5.3, potential effects on the environment were assessed under the following headings:

- urban design effects
- visual amenity effects (including effects on public viewshafts)
- open space effects
- historic heritage effects
- effects on sites of significance to Māori
- micro-climatic effects (wind and shading)
- cultural effects
- traffic effects
- effects associated with coastal hazards (natural hazards and coastal environment)
- public safety and security (CPTED) effects
- three waters effects
- earthworks effects
- contaminated land effects
- construction effects

Drawing on the individual technical assessments that have been undertaken, it is concluded that actual and potential adverse effects on the waterfront's environment will be no more than minor, and, in several cases, will be less than minor. This includes any adverse effects on the public amenity of Frank Kitts Parks' public open space area.

No adverse effect associated with the proposed activity (the Fale) will be more than minor.

5.5.2 104D(1)(b) - District Plan Objectives and Policies

A detailed assessment of the Proposal against the relevant District Plan objectives and policies is presented in **Appendix 26**. Drawing on the assessment(s), it is concluded that the Proposal is not contrary to the objectives and policies for each of the following:

- Waterfront Zone
- Coastal Environment

- Natural Hazards
- Historic Heritage
- Sites of Significance to Māori
- Public Access
- Views
- Wind
- Three Waters
- Earthworks

The following specific points are noted.

5.5.2.1 Waterfront Zone

The following Waterfront Zone objectives and policies are relevant to the Proposal:

WFZ - 01 Purpose
 WFZ - 02 Ahi Kā
 WFZ - 03 Protection of public open spaces
 WFZ - 06 Vibrant and diverse mix of activities
 WFZ - 07 Managing adverse effects
 WFZ - P1 Enabled activities
 WFZ - P2 Managed activities
 WFZ - P3 Incompatible activities
 WFZ- P5 Sense of Place
 WFZ- P6 Development of buildings
 WFZ- P7 Protection of public open space
 WFZ- P9 Sustainable long term use
 WFZ- P10 Ahi Kā

With the exception of WFZ-06, WFZ-P1, WFZ-P2, WFZ-P3 and WFZ-P10, all of the above objectives and policies are operative under the District Plan (2024). The objective and four policies that are not yet operative (as at 15 April 2024) are subject to the RMA Pt Sch 1 process. However, regard should be had to them.

The assessment(s) recorded in **Appendix 26** concluded that the Proposal was:

- (a) consistent with WFZ- 01, WFZ-02, WFZ-06, WFZ 07, WFZ-P1, WFZ-P5, WFZ-P6, WFZ-P9 and WFZ-P10; and
- (b) not fully consistent with but not contrary to WFZ-03, WFZ-P2, WFZ-P3, WFZ-P7.

With the trigger for Non-Complying activity status deriving from the Fale being a new building in the Public Open Space Area of the Waterfront Zone, the following further comment is made in relation to the objectives and policies where it was concluded that the proposed activity (the Fale) was not fully consistent with but not contrary to the objective or policy.

WFZ-03

The Waterfront's public open spaces mapped as specific controls are protected and maintained for temporary activities and recreation activity.

WFZ-P2

Manage the location and scale of activities which could result in cumulative adverse effects on the vitality, vibrancy and amenity of the Waterfront Zone, including:

1. *Industrial activities;*
2. *Construction of apartments and visitor accommodation;*
3. *New and expanded buildings;*
4. *New and modified public space; and*
5. *Public transport activities on Waterloo Quay, Customhouse Quay, Jervois Quay, Cable Street, Oriental Parade and in the Post Office Square Heritage Area.*

WFZ-P3

Avoid activities that are incompatible with the role and functions of the Waterfront Zone. These incompatible activities include:

...

4. *Significant buildings in managed public open spaces*

WFZ-P7

Protect the Waterfront Zone's mapped public open spaces by avoiding new permanent buildings above-ground on public space except where they improve the space for public use and enjoyment and do not dominate or cumulatively diminish the public open space.

Comment:

The 'theme' running through WFZ-03, WFZ-P2, WFZ-P3 and WFZ-P7 is one of the protection of the waterfront's public open space areas from activities and buildings that would adversely affect the vitality, vibrancy and amenity of the waterfront. It is also acknowledged that WFZ-P3 identifies significant new buildings in the public open space areas as an incompatible activity with the role and function of the Waterfront Zone, and that such activities should be avoided.

However, it is also important to acknowledge that WFZ-P7 specifically accepts that there may be exceptions to this general 'theme' of protection, in situations where the new building will:

... Improve the space for public use and enjoyment and not dominate or cumulatively diminish the open space.

WFZ-P7 specifically anticipates the possibility of appropriate new buildings (and associated activities) being located in the public open space area. Accordingly, if it is concluded that if the proposed Fale facilitates an improvement of the public open space area (Frank Kitts Park) for public use and enjoyment and does not dominate or cumulatively diminish the public open space area, then under those circumstances the proposed Fale is not fully consistent with but not contrary to the potential outcomes for Frank Kitts Park.

Policy WFZ-P7 is specific in intent and can be taken as foreshadowing that it might be appropriate, and under what circumstances it might appropriate for a new building to be constructed in the public open space area.

The conclusion that the Fale is an appropriate exception within the context of WFZ-P7 is supported by answers to the following questions:

1. will the establishment of the Fale in Frank Kitts Park facilitate improved public use and enjoyment of the public open space area?; and
2. will the Fale dominate the public open space area and/or cumulatively diminish the public open space area?

In relation to the first question, it is considered that the Fale, and the activities that it will accommodate, will result in a significant new opportunity for public use and enjoyment.

In relation to the second question, the Urban Design Assessment specifically considered the application of WFZ-P7 and concluded that although the Fale will be a new permanent building it will improve the public frontages of the site in spatial, visual and activity terms. The form and scale of the Fale relates positively to its setting without diminishing in any way the surrounding open space. Rather, it will complement and enrich the open space experience within the Wellington waterfront.

Conclusion

The proposed Fale is consistent with the exception provided in WFZ-P7 and therefore is not contrary to the Waterfront Zone objectives and policies when read as a whole.

Even if it was considered that the Fale was not entirely consistent with Policies WFZ-P3 and WFZ-P7, given that the activities associated with the Fale are compatible with the role and function of Frank Kitts Park, the Fale is not contrary to the objectives and policies of the Waterfront Zone when read as a whole

Accordingly, the proposal to establish a new building (Fale) at Frank Kitts Park can pass the second gateway test of s.104D,

5.5.2.2 Coastal Environment

Features are incorporated into the design of the Fale to minimise risk from coastal environment natural hazards. The Fale will not result in any loss of natural character.

Consistent with Objective CE-06 and Policies CE-P12 and CE-P18.

5.5.2.3 Natural Hazards

Features are incorporated into the design of the Fale to minimise risk from natural hazards.

Consistent with Objective NH-02 and Policies NH-P2 and NH-P6.

5.5.2.4 Earthworks

The limited earthworks associated with the installation of associated building foundations will not give rise to any slope stability issues or present a risk to the safety of people or property. Sediment control measures will be in place to ensure there are no sediment discharges beyond the site boundary.

The earthworks associated with the installation of the building foundations will not adversely affect any historic heritage values, or increase any flooding risk.

Consistent with Objective EW-01 and Policies EW-P2, EW-P3, EW-P4, EW-P5, EW-P7 and EW-P17.

5.5.2.5 Wind

The Proposal will not result in any adverse wind effects, including effects in relation to pedestrian safety and comfort.

Consistent with Objective WIND-01 and Policy WIND-P3.

5.5.2.6 Viewshafts

The Proposal will not intrude into any public viewshaft.

Consistent with Objective VIEW-01 and Policy VIEW-P2.

5.5.2.7 Historic Heritage

The Proposal will not adversely affect the historic heritage values associated with any listed heritage building or structure, including the Tanya Ashken Albatross Sculpture.

Consistent with Objective HH-02 and Policy HH-P8.

5.5.2.8 Sites of Significance to Māori

The Proposal will not adversely affect any site or area of significance to Māori, including Category Area A 167 Te Whanganui-ā-Tara (Wellington Harbour).

Consistent with Objective SASM-02 and Policy SASM-P4.

5.5.2.9 Three Waters

As confirmed in the Aurecon report addressing three waters, subject to the recommended works to be undertaken to enable connection to the existing three waters infrastructure, appropriate servicing of the Fale can be achieved.

Measures will be implemented to mitigate unacceptable levels of zinc particulate entering stormwater.

Consistent with Objectives THW-01, THW-02 and THW-03 and Policies THW-P2, THW-P3, THW-P4 and THW-P5.

5.5.3 Overall Conclusion s104D

Drawing the conclusions reached above in Sections 5.5.1 and 5.5.2 in relation to actual and potential effects and the relevant District Plan (2024) objectives and policies, it is concluded that the Proposal can pass both limbs of the s104D gateway test and therefore be assessed for consent under s.104B of the Act.

5.6 PART 2 RMA

Direction on the need to undertake a Part 2 assessment has been provided by the High Court in RJ Davidson Family Trust v Marlborough District Council which confirmed that decision makers need only to refer to Part 2 matters when considering resource consent applications where it can be shown that there is some uncertainty or 'incompleteness' in

the applicable statutory instrument, in this case the Wellington City District Plan (2024); with the High Court noting that it should “*incorporate a coherent set of policies designed to achieve clear environmental outcomes*”.⁷¹

As noted in Section 3 of this AEE, the provisions applicable to an assessment of the Fale have recently been made operative (15 April 2024) as part of the District Plan review process advanced through the intensification streamline planning process (ISPP) and now form part of Wellington’s operative Intensification Planning Instrument (IPI).

Therefore, the operative provisions relating to the Special Purpose Waterfront Zone, alongside those relating to Natural Hazards and the Coastal Environment, can be taken as incorporating a “*clear set of policies designed to achieve clear environmental outcomes*” such that it is not necessary to undertake a Part 2 analysis.

Nevertheless, if an assessment was undertaken the conclusion would have been that the proposed Fale is consistent with Part 2 in that it will promote social, economic and cultural wellbeing in a manner that will not result in adverse effects on the public amenity of Frank Kitts Park.

5.7 SECTION 104(1)(C) OF THE ACT - OTHER MATTERS

One matter to which regard should be had under s104(1)(c) is the Wellington Waterfront Framework (2001) (the “Framework”), the Council’s strategic policy for waterfront development.⁷²

The urban design assessment (refer Appendix 9) concluded that the Proposal to establish the Fale in Frank Kitts Park was:
... consistent with the Framework themes and values and supports its objectives and the site-specific characteristics and outcomes sought for Frank Kitts Park.

This conclusion was supported by the Council’s independent Waterfront Technical Advisory Group (TAG) who opined that:

*The Fale Malae and associated changes to the design of Frank Kitts Park are consistent with the Waterfront Framework themes, values and objectives, including aspirations for Frank Kitts Park.*⁷³

In the Trust’s opinion, it would be appropriate for the consent authority to have regard to the Wellington Waterfront Framework under s104(1)(c) as a ‘relevant other matter’, noting that the proposed Fale is considered to be consistent with the Framework’s themes, values and objectives.

5.8 NATIONAL AND REGIONAL POLICY

While it is considered that the proposal to establish a Fale in Frank Kitts Park principally requires assessment against the recently revised District Plan (2024) provisions as the primary (relevant) statutory instrument, s104(1) of the Act also requires that a consent authority, when considering an application for resource consent, must have regard to:

- a national policy statement;
- a New Zealand coastal policy statement; and
- a regional policy statement.

The two policy statements that the Applicant considers to be relevant to development on the Wellington waterfront are:

- New Zealand Coastal Policy Statement (2010); and
- Regional Policy Statement for the Wellington Region (2013).

5.8.1 New Zealand Coastal Policy Statement (2010)

The purpose of the NZCPS is to state policies in order to achieve the purpose of the Act in relation to the coastal environment. In the Preamble it is noted that New Zealand’s coastal environment is facing a number of key issues, including:

⁷¹ RJ Davidson Family Trust v Marlborough District Council [2017] NZHC 52.

⁷² In the District Plan’s Waterfront Zone Chapter, it is recorded that:

The Council uses the Wellington Waterfront Framework to help manage the waterfront in its role as property owner and manager of the land and public assets. The Framework has also helped inform the Waterfront Zone content in this District Plan.

⁷³ WCC Waterfront Technical Advisory Group, “Assessment of Proposed Fale Malae and Revised Frank Kitts Park Design”, 11 April 2024 - refer **Appendix 7**.

- *loss of natural, built and cultural heritage from subdivision, use and development; and*
- *compromising of the open space and recreational values of the coastal environment, including the potential for permanent and physically accessible walking public access to and along the coastal marine area.*⁷⁴

The District Plan (2024) includes a specific chapter addressing the Coastal Environment. The chapter commences with the statement that:

The purpose of this chapter is to manage the effects of activities and development on the landward extent of the coastal environment.

The Introduction to the chapter also includes the following statement:

The New Zealand Coastal Policy Statement 2010 also requires development to be set back from the coastal marine area and other water bodies, where practicable and reasonable (Policy 6). For this reason, within the landward extent of the coastal environment, riparian margin setbacks and a coastal margin setback are applied. Within these coastal margins and riparian margins within the coastal environment, activities are restricted to ensure these sensitive areas are managed in a way that protects the natural character, open space, public access and amenity values of the coastal environment. Activities are still able to be undertaken within these areas, however activities such as new buildings will require consent to ensure the effects are minor and consider the character of the area.

As noted in Section 3.2.4 above, consent is required under the District Plan's coastal environment rules. In the Applicant's opinion this confirms that:

1. the District Plan (2024) is consistent with the national policy direction set by the NZCPS; and
2. the proposed Fale can be found to appropriate in the coastal environment given the conclusion reached that the open space and recreational values of this part of the Waterfront Zone will not be adversely affected.

The Fale will not restrict public access to or along the coastal marine area (NZCPS Policy 19 "Walking Access") given the setback of the Fale from both the waterfront promenade and the Whairepo Lagoon promenade. Rather, the Project will improve overall access to and from public space adjacent to the coastal marine area.

The District Plan (2024) establishes the Waterfront Zone and applies the public open space area overlay to Frank Kitts Park. Policy WFZ-P7 anticipates situations where new buildings in the public open space area may be appropriate, with the appropriateness of a specific building being scrutinised through the processing of a publicly notified resource consent application.

It is the Applicant's assessment that Policy WFZ-P7 is consistent with the direction set by Policy 18 of the NZCPS "Public Open Space".

Conclusion: for the reasons summarised above, and given the specific provisions in the District Plan (2024) relating to the coastal environment, it is concluded that the proposed Fale is not inconsistent with the national policy directions set by the New Zealand Coastal Policy Statement (2010).

Neither the NZCPS nor the District Plan (2024) seek to preclude appropriate buildings from being located within the coastal environment.

5.8.2 Regional Policy Statement for the Wellington Region (2013)

The Regional Policy Statement for the Wellington Region (RPS) was made operative on 24 April 2013. Under the heading "Integrating management of natural and physical resources" in Section 2.4 it is stated that:

"This Regional Policy Statement for the Wellington region has a key role in integrating the management of natural and physical resources. It identifies the resource management issues of regional significance, recognising the shared responsibility and the need for a common understanding of issues. It then sets out objectives, policies and methods that recognise the interaction and connection between different resources, the range of scales in which an issue can be addressed and the need to consider the social, economic, cultural and environmental factors alongside one another.

⁷⁴ New Zealand Coastal Policy Statement 2010, page 6.

Ultimately, the Regional Policy Statement focuses on the matters that it can influence to make progress towards a sustainable region".⁷⁵

In turn, the RPS organises the Region's resource management issues, objectives, policies and methods under eleven topic headings or themes, including:

- Coastal environment, including public access;
- Historic heritage;
- Natural hazards;
- Regional form, design and function; and
- Resource management with tangata whenua.

The RPS objectives and policies for the coastal environment which are considered to be relevant to an assessment of the proposed Fale are:

Coastal Environment (including public access)

Objective 8: Public access to and along the coastal marine area, lakes and rivers is enhanced.

Policy 53 Public access to and along the coastal marine area, lakes and rivers - consideration.

Comment: the location of the Fale in the southwest corner of Frank Kitts Park will not diminish public access to or along the coastal marine area.

Historic Heritage

Objective 15 Historic heritage is identified and protected from inappropriate modification, use and development.

Policy 22 Protecting historic heritage values - district and regional plans.

Policy 46 Managing effects on historic heritage values - consideration.

Comment: the location of the Fale in the southwest corner of Frank Kitts Park will not affect the historic heritage values of the two listed heritage buildings - the Star Boating Club and the Wellington Rowing Club; nor, given the proposed setback, will the Fale adversely affect the symbolism or 'streetscape' significance of the Tanya Ashken Albatross Sculpture.

Natural Hazards

Objective 20 Hazard mitigation measures, structural works and other activities do not increase the risk and consequences of natural hazard events.

Policy 29 Avoiding inappropriate subdivision and development in areas at high risk from natural hazards - district and regional plans.

Policy 51 Minimising the risks and consequences of natural hazards - consideration

Comment: the District Plan (2024) incorporates specific provisions addressing natural hazards. The proposed Fale has been assessed against those provisions and measures incorporated into the Fale to minimise the risks and consequences of the natural hazards associated with flooding, coastal inundation, including from sea level rise and tsunamis, as outlined in Section 5.3.8 of this AEE.

Regional Form, Design and Function

Policy 54 Achieving the region's urban design principles - consideration

Comment: District Plan Policy WFZ-P5 requires that new buildings in the Waterfront Zone fulfil the intent of the Centres and Mixed Use Design Guide. A detailed urban design assessment has been prepared (refer **Appendix 10**). Additionally, an independent report prepared by the Waterfront Technical Advisory Group (TAG) opining that the Fale has a scale and form that is appropriate to this part of the waterfront.

⁷⁵ Regional Policy Statement for the Wellington Region, 24 April 2013, page 12

The proposed redevelopment of Frank Kitts Park, including the construction and occupation of the Fale, is consistent with the regional urban design principles (Appendix 2 to the Regional Policy Statement).

Resource Management with Tangata Whenua

Objective 28 The cultural relationship of Māori with their ancestral lands, water, sites, wāhi tapu and other taonga is maintained.

Policy 49 Recognising and providing for matters of significance to tangata whenua - consideration

Comment: in addition to the preparation of a cultural impact assessment (CIA) report - refer **Appendix 12**, separate consultation has been undertaken with mana whenua - refer Section 4 of this AEE.

Conclusion: for the reasons summarised above, given the specific provisions in the District Plan (2024) relating to the coastal environment, natural hazards, historic heritage and sites of significance to Māori, and given the assessment(s) undertaken in relation to these matters as recorded in Section 5 of this AEE, it is concluded that the proposed Fale is consistent with the policy directions set by the Regional Policy Statement for the Wellington Region.

5.9 SUMMARY - REQUIRED CONSENTS

Section 3.3 above provided an 'audit' of the Proposal and listed the applicable District Plan (2024) rules, fourteen in total, and the single applicable Operative District Plan (2000) rule.

Drawing on the detailed s104(1) assessment(s) undertaken and recorded in Section 5.3 "Environmental Effects", Section 5.4 "District Plan Objectives and Policies", Section 5.5 "Non-Complying Activity", Section 5.6 "Part 2 RMA", Section 5.7 "Other Matters" and Section 5.8 "National and Regional Policy", it is concluded that consent can be granted under each of the rules for the following reasons:

1. Rule WFZ-R15.3 for a Non-Complying activity for a new building (Fale) in the Frank Kitts Park Public Open Space Area.

Comment: Although new buildings are restricted in the public open space area(s) of the Waterfront Zone, including Frank Kitts Park, Policy WF-P7 specifically acknowledges that appropriate new buildings may be located in the public open space areas.

WFZ-P7 Protection of public open space

Protect the Waterfront Zone's mapped public open spaces by avoiding permanent buildings above-ground on public open space except where they improve the space for public use and enjoyment and do not dominate or cumulatively diminish the public open space.

[emphasis added].

The Fale will meet both requirements:

- (a) it will add significantly to the public use and enjoyment of Frank Kitts Park; and
- (b) it will not dominate or cumulatively diminish the public open space area.

2. Rule NH-R6.1 for a Restricted Discretionary activity of the construction of a building in the inundation area of the Flood Hazard Overlay.

Comment: as discussed in the Natural Hazards Report (refer **Appendix 14**), the Fale will have a minimum ground floor level of RL4,280mm which is 1,610mm above the modelled 100yr ARI flood level. While the basement level is below the 1% Annual Exceedance Probability flood level, the basement design will prevent water entering, including sealed penetrations and a flood proof basement entrance. All key plant will be located in the mezzanine level at RL 7.250mm, which is 4.000mm above the 100yr ARI flood level.

A consent condition requiring the preparation and approval of a Flood Management Plan prior to the occupation of the Fale is recommended.

3. Rule NH-R8.1 for a Discretionary activity for the establishment of a hazard sensitive activity within the overland flow path of the inundation area of the Flood Hazard Overlay.

Comment: a small section of Fale site (far southwest corner) may impinge very slightly on the overland flow-path and be within the inundation area - refer **Figure 22**.



FIGURE 22: Overland Flowpath and Inundation Area

However, as the Natural Hazard Report notes:

- *Direct risk associated with the flow path is mitigated due to the removal of the underground carpark (this included a large entrance onto Jervois Quay and hence the flow path).*
- *The proposed building will be protected from the flow path thereby assisting an unimpeded and unobstructed flow path.* ⁷⁶

The conclusion is that the Fale will not have any measurable effect on either the inundation area or the overland flowpath. There will be no displacement of flood waters, nor risk to people or property from flooding.

4. Rule CE-R15.2 for a Restricted Discretionary activity for a new building in the coastal environment.

Comment: the location of the Fale in the southwest corner of Frank Kitts Park will not be inconsistent with the ‘urban’ nature of the inner harbour coastline, a coastline devoid of any significant natural character (CE-P7); nor will the Fale place any restrictions on access to and along the inner harbour coastline (PA-P1, PA-P2 and PA-P3).

5. Rule CE-R26.1 for a Discretionary activity for a building containing a hazard sensitive activity within the medium coastal hazard area.

Comment: the hazard sensitivity activity in question is the *community activity* to occupy the ground floor of the Fale. The activities in the basement are not hazard sensitive activities. The ground floor of the Fale has been set at a level in excess of the 1% Annual Exceedance Probability flood level, thus providing appropriate mitigation from the risk of coastal inundation.

6. Rule HH-R8.3 for a Restricted Discretionary activity for a new building on the site of scheduled heritage buildings and heritage structures.

Comment: the Fale is some 150m-200m plus from the two listed heritage buildings - the Star Boating Club and the Wellington Rowing Club. There will be no adverse effects on the historic heritage values associated with either building, including their contribution to the waterfront’s streetscape. The Fale will not result in an inappropriate relationship with the Tanya Ashken Albatross Sculpture. Indeed, the Wellington Sculpture Trust opined that it could be seen as a positive relationship.

7. Rule SASM-R4.2 for a Restricted Discretionary activity for a new building within the mapped extent of a site or area of significance to Māori in Category A or B.

⁷⁶ “Frank Kitts Park: Natural Hazard Report” (refer Appendix 14, page 11).

Comment: the Fale is not within the mapped extent of Area 167 Te Whanganui-ā-Tara (Wellington Harbour) and will not impact the cultural and spiritual values associated with the harbour.

8. Rule EW-R4.2 for a Restricted Discretionary activity for general earthworks.

Comment: given scale and nature of the earthworks associated with the installation of the building foundations, and with the imposition of a consent condition requiring the preparation and approval of an earthworks and sediment control management plan (E&SCMP), any potential effects associated with the earthworks, including potential discharge to the coastal marine area, will be avoided.

9. Rule EW-R5.2 for a Restricted Discretionary activity for earthworks on a site of scheduled heritage buildings and structures.

Comment: the limited earthworks associated with the installation of the building foundations will not affect the sites of the Star Boating Club and Wellington Rowing Club buildings, or the Tanya Ashken Albatross Sculpture.

10. Rule EW-R7.1 for a Restricted Discretionary activity for earthworks within sites and areas of significance to Māori.

Comment: the earthworks associated with the installation of the building foundations are outside the mapped extent of Area 167 Te Whanganui-ā-Tara (Wellington Harbour) and will not impact the cultural and spiritual values associated with the harbour. With the imposition of a consent condition requiring the preparation and approval of an earthworks and sediment control management plan (E&SCMP) any potential effects associated with the earthworks, including potential discharge to the coastal marine area, will be avoided.

11. Rule EW-R15.2 for a Restricted Discretionary activity for earthworks within the Flood Hazard Overlay.

Comment: the minor earthworks associated with the installation of the building foundations will not give rise to any flooding risk when compared to the existing situation, to the site, adjacent public spaces or neighbouring properties through the displacement or diversion of flood waters. The ability to convey flood waters along the Jervois Quay overland flowpath will not be impeded as a result of the earthworks.

12. Rule THW-R3.2 for a Restricted Discretionary activity for the use of zinc panels on the Fale roof.

Comment: a consent condition requiring certification that potential zinc based contamination of rainwater collected from the Fale roof will be treated/removed prior to discharge to the on-site water storage tanks will ensure that any off-site stormwater discharge does not include harmful levels of zinc particulates.

13. Rule THW-R4.1 for a Restricted Discretionary activity in relation to water sensitive design.

Comment: the proposal involves the collection of roof rainwater for storage in underground storage tanks and not direct discharge to stormwater.

14. Rule THW-R6.2 for a Restricted Discretionary activity in relation to hydraulic neutrality.

Comment: with the collection and storage of the roof rainwater in the underground storage tanks, and the opportunity to use the water for flushing the toilets and irrigation in the Chinese Garden and adjacent Malae, hydraulic neutrality is achieved.

15. ODP Central Area Rule 13.3.3.3 for a Restricted Discretionary Activity in relation to servicing.

Comment: servicing of the Fale from the Jervois Quay short-stay parking zone requires consent due to the distance to the lift being more than 15 metres. However, as the traffic report concludes:

*The Fale cannot meet the distance to lift and level grade requirements of the District Plan due to existing structures that will remain. While loading could occur within the site, the vehicle use of the waterfront promenade is not consistent with the Waterfront Framework. It is proposed to provide this loading from Jervois Quay. The effects of this are less than minor.*⁷⁷

⁷⁷ Traffic Impact Report, page 21 - refer Appendix 17.

5.10 SUMMARY - S104 ASSESSMENT

In Section 3.4 of this AEE eleven questions were posed. Those questions were in turn derived from the relevant District Plan (2024) objectives, policies and rules.

It was noted that ‘answers’ would be provided as part of the overall summary of the s104 assessment.

The questions were:

Question 1: will the Fale be an appropriate new building within Frank Kitts Park and maintain and enhance the sense of place and overall public amenity of the waterfront generally and Frank Kitts Park specifically?

The Fale will add a significant new facility and activity focusing on Pasifika cultural activities. In combination with Te Raukura Wharewaka o Pōneke and the Garden of Beneficence - the Chinese Garden, it will broaden and strengthen the cultural identity and attractiveness of the Wellington waterfront adding to its sense of place and overall public amenity.

Question 2: what adverse effects, if any, will there be on the character and public amenity of Frank Kitts Park due to the location of the Fale within the park / will Frank Kitts Park retain its role as a unique and special component of the wider Wellington Waterfront?

The addition of the Fale will add a new dimension to Frank Kitts Park which will not detract from the park’s role as one of two major public open spaces areas on the Wellington waterfront. The Fale will occupy only 3.6% of Frank Kitts Park, it will not dominate the public open space.

Question 3: will the Fale result in a diminution of the public open space qualities of Frank Kitts Park?

The Fale, and the activities it will accommodate, including the café, will make a positive contribution to the public amenity of Frank Kitts Park. The presence of the Fale will not result in an unacceptable loss of opportunities for public enjoyment of Frank Kitts Park’s public open space, opportunities which will be spread across the extensive remaining public open space area, including a new public open space (Malae) immediately adjacent to the Fale and readily accessible from the waterfront and Whairepo Lagoon promenades,

Question 4: will the Fale result in any unacceptable shading and/or wind effects?

The assessments that have been undertaken confirm that any wind and shading effects associated with the Fale will not adversely affect the public amenity of Frank Kitts Park

Question 5: will the Fale have any adverse effects on the spiritual or cultural values of sites of significance to Māori?

No. There will be no physical impact on Te Whanganui-ā-Tara (Wellington Harbour and Whairepo Lagoon). Nor will there be any diminution in the harbour’s cultural and spiritual values.

The distance separation between the Fale and the Te Raukura Wharewaka Ō Pōneke will ensure there is no diminution in the building’s waterfront streetscape presence, or its cultural and spiritual values.

Question 6: will the Fale Malae have any adverse effects on the historic heritage values of any scheduled heritage building or structure?

The distance separation between the two listed heritage buildings (Star Boating Club and Wellington Rowing Club), in the order of 150m-200m, will ensure there are no adverse effects on the contribution of the scheduled buildings to the waterfront’s streetscape.

In relation to the Tanya Ashken Albatross Sculpture, the Fale will not adversely affect to visual presence of the sculpture, as confirmed by the Wellington Sculpture Trust’s support of the Fale.

Question 7: will the Fale have any adverse effects on any identified viewshaft?

The Fale building will not intrude into any identified public viewshaft.

Question 8: will appropriate measures be incorporated in the Fale to address any risks associated with coastal inundation including sea level rise and tsunami events?

The ground floor of the Fale has been set at a level 1,610mm above the modelled 100yr ARI flood level; and key plant will be located in the mezzanine level at RL 7,280mm, which is over 4,000m above the 100yr ARI flood level.

Consent conditions requiring the preparation and approval of a Flood Management Plan and a Tsunami Response Plan are recommended.

Given the measures incorporated in the building design and the preparation of the management plans, any risks associated with coastal inundation will be avoided or mitigated.

Question 9: will the use of zinc tiles as a roofing material result in any unacceptable stormwater effects?

With the installation of an approved treatment system to remove any zinc particulates to an acceptable level, to be secured by a consent condition, any effects associated with zinc contaminated water entering the stormwater system will be avoided.

Question 10: will the proposed servicing arrangements result in any pedestrian and/or traffic effects.

As the traffic impact report concludes, the proposed servicing of the Fale from the short-stay drop-off/pick-up parking area on Jervois Quay will not result in any adverse traffic effects.

The alternative arrangement of servicing access via the Aitken Street vehicle entry and the waterfront promenade would be contrary to the overarching objective of reducing vehicle movements within the Waterfront Zone, including reducing pedestrian/vehicle conflicts within and adjacent to Frank Kitts Park.

Question 11: what will be the temporary construction-related effects and how will these effects be managed and mitigated?

It is acknowledged that the construction of the Fale and upgrade/redevelopment of the wider Frank Kitts Park will result in some disruption to public access through the park. However public access to the waterfront promenades will be protected.

Through the implementation of a comprehensive construction management plan, including a construction noise management plan, temporary construction-related effects will be mitigated to the greatest practicable extent.

5.11 SECTION 104B CONSIDERATIONS

Section 104B of the Act states that:

After considering an application for a resource consent for a discretionary activity or a non-complying activity, a consent authority -

- (a) may grant or refuse consent; and*
- (b) if it grants consent, may impose conditions under section 108.*

Comment:

In the Applicant's opinion, the proposed Fale building to be established in Frank Kitts Park is consistent with the District Plan's provisions for new buildings in the public open space area of the Waterfront Zone.

Consequently, consent can be granted in the knowledge that any adverse effects on the environment, including any adverse effects on the public amenity of Frank Kitts Park specifically, or the Wellington waterfront generally, will be acceptable given the imposition of appropriate consent conditions, which in the case of the present application can be limited to:

1. the proposal proceeding in general accordance with the supporting information and plans supplied with the application;
2. the consent holder providing details of Wellington Water Limited approved connections to the three waters infrastructure (water supply, stormwater and wastewater) for approval by the Council's compliance monitoring officer (CMO) prior to lodging building consent applications for the Fale;
3. the consent holder providing details confirming the reduction of zinc particulates to an acceptable level prior to any discharge to stormwater;
4. the consent holder providing final 'developed design' details prior to applying for a building consent;
5. an accidental discovery protocol;

6. the consent holder committing to collaboration with Taranaki Whānui as mana whenua as the Fale Malae project proceeds through the developed design and construction phases;
7. the consent holder preparing for Council's approval the following management plans:
 - construction management plan, incorporating a construction noise management plan and a construction traffic management plan;
 - earthworks and sediment control management plan;
 - flood management plan;
 - tsunami response plan; and
 - contaminated site management plan
8. the standard review and monitoring conditions.

5.12 LAPSING OF CONSENT

Pursuant to s125 of the Act, the Applicant requests a 10 year lapse period for the resource consent for the Fale building.

6 CONCLUSION

The **Fale Malae Trust** has applied for resource consent to construct and occupy a new building (Fale) at Frank Kitts Park on the Wellington waterfront.

Under the District Plan (2024) resource consent is required for a building within the public open space area of Frank Kitts Park, a Non-Complying Activity in the Waterfront Zone.

As a Non-Complying activity consent is required under sections 104, 104B and 104D of the Resource Management Act 1991.

The overall conclusion is that where there is potential for adverse effects, including effects on the public amenity of Frank Kitts Park, such effects will not be significant, and indeed are assessed as being less than minor and therefore being acceptable.

Viewed 'in the round', the proposed Fale will add significantly to the public amenity of Frank Kitts Park.

Accordingly, this assessment concludes that the proposal to establish a Fale in the south-west corner of Frank Kitts Park, as an integral part of the Park's overall redevelopment, is consistent with:

1. the District Plan (2024) objectives and policies;
2. the Wellington Waterfront Framework; and
3. the purpose and principles of the Resource Management Act 1991.

In these circumstances, the overall assessment is that the proposed Fale can be appropriately granted resource consent.

Public Notification of Application

Pursuant to s95A(2)(b) the Applicant has requested public notification of the application. The conclusion(s) reached in this assessment of environmental effects (AEE) report will therefore be reviewed and evaluated through the submission and hearing process to follow.



Alistair Aburn
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Director
Urban Perspectives Ltd

1 May 2025

APPENDICES

1. Landscape Design Statement
2. Architect's Design Statement
3. Application Drawings
4. Owner's Statement (Fale Malae Trust)
5. Building Coverage - Wellington Waterfront
6. District Plan Audit
7. Waterfront Technical Advisory Group (TAG) Report
8. Consultation - Written Confirmation
9. Urban Design Assessment
10. View Photomontages
11. Cultural Impact Assessment Report (Taranaki Whānui)
- 11A Cultural Values Assessment Report (Ngāti Toa)
12. Wind Report
13. Natural Hazard Report
14. Summary Geotechnical Assessment Report
15. Structural Engineering Statement
16. CPTED Report
17. Traffic Impact Report
18. Preliminary Building Services Design Features Report
19. Preliminary Civil Engineering Report
20. Erosion and Sediment Control Plan
21. Detailed Site Investigation
22. Contamination Site Management Plan
23. Reliance Statement
24. Preliminary Design ESD Report
25. District Plan Objectives and Policies Assessment