

# Non-notified resource consent application report and decision

## Summary of decision

<b>File Reference:</b>	WGN190085
<b>Date Granted:</b>	25 October 2028
<b>Applicant:</b>	Wellington City Council
<b>Decision made under:</b>	104B and 108 of the Resource Management Act 1991 (the Act)
<b>Consent Granted:</b>	<p><b>Operative Regional Plans</b> <b>35830: Discretionary Activity</b> To occupy and use the coastal marine area for the purpose of undertaking up to 12 fireworks displays per calendar year within the Wellington Harbour, including any associated emission of noise and disturbance or deposition to the coastal marine area.</p> <p><b>Proposed Natural Resources Plan</b> <b>35830: Restricted Discretionary Activity</b> To occupy and use the coastal marine area for the purpose of undertaking up to 12 fireworks displays per calendar year within the Wellington Harbour, including any associated emission of noise and disturbance or deposition to the coastal marine area.</p>
<b>Activity:</b>	Fireworks displays from floating platforms moored within the Wellington Harbour.
<b>Location:</b>	CMA Wellington Harbour
<b>Map Reference:</b>	At or about map reference NZTM 1749840.5428009 and NZTM: 1749399.5427971
<b>Legal Description:</b>	Coastal Marine Area (CMA)

**Duration of Consent:** 10 years to expire on 25 October 2028

**Consent conditions:** Attachment 1

**Processing timeframes:**

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**Application lodged:** 20/09/18    **Application officially received:** 22/09/18

**Applicant to be notified of decision by:** 25/10/18    **Applicant notified of decision on:** 25/10/18

**Time taken to process application:** 24 working days (including a 4 day s37(4)(a) extension)

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**Decision:**

Decision recommended by:	Nick Pearson	Resource Advisor, Environmental Regulation	
Decision peer reviewed by:	Doug Fletcher	Resource Advisor, Environmental Regulation	
Decision approved by:	Jo Frances	Team Leader, Environmental Regulation	

# Reasons for decision report

## 1. Background and proposal

Wellington City Council (the applicant) applied to the Greater Wellington Regional Council (GW) for a coastal permit to exclusively occupy the coastal marine area (CMA) for various firework events in the Wellington Harbour (the Harbour).

The proposal is to:

- Undertake firework displays from floating firing platforms (barges, fishing boats etc) moored in the Inner Harbour; and
- To occupy up to 28ha of the CMA as an exclusion zone for no more than 2.5 hours during each show; and
- To temporarily moor a barge within the Lambton harbour.
- Scheduled displays are for Matariki (June/July), Diwali (October), New Years Eve and Chinese New Years (February). The applicant has also applied for provisions to add more shows to mark major sports events and significant festivals.
- No more than 12 shows per year will be undertaken (including provisions for 7 separate Matariki shows across one week).

On the morning of the each event, temporary mooring blocks/anchors are to be located on the seabed by a specialist marine services company. The barge is then towed into the pre-designated firing location, and secured to the temporary mooring blocks/anchors. At least an hour out from firing, the appropriate exclusion zones are brought into effect and enforced by the Maritime Police unit with the assistance of GW Harbour Rangers and Coastguard. Assuming the exclusion zone is intact and the wind is at or below the regulation limit, the display will then be fired at the chosen time.

If the wind is in excess of the regulatory limit (currently set at 30km/h, but subject to change) the display will be delayed until such time as it drops. If the show cannot take place on the prescribed day (due to wind), it will generally be delayed until the same time the next day. If then, the conditions are still not favourable, the show may be delayed until the following weekend or cancelled. Following the show, the barge is returned to CentrePort and the temporary moorings are removed.

Smaller shows maybe loaded and prepared at locations other than CentrePort e.g. Seaview Marina or Evans Bay Marina.

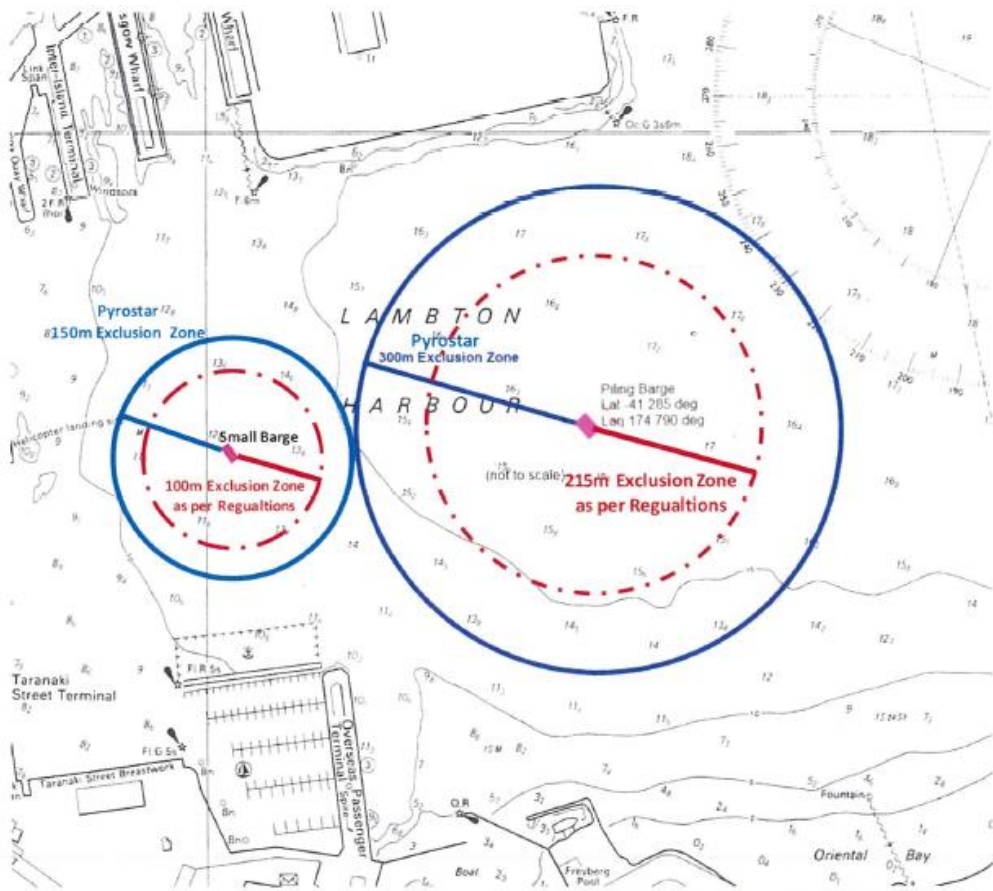


Figure 1: Location of proposed barge and exclusion zones

## 2. Reasons for resource consent

### 2.1 Operative Regional Plans

RMA section	Plan	Rule	Status	Comments
12	Regional Coastal Plan	Rule 78	Permitted	The proposed activity cannot meet the conditions of Rule 78, as the proposal will require exclusive occupation of the CMA which is not expressly allowed by a coastal permit, and is likely to generate a noise exceeding the levels defined in section 14.1, the proposal must be considered under Rule 85. The proposal is there for considered a <b>Discretionary Activity</b> .
		Rule 85	Discretionary Activity	

### 2.2 Proposed Natural Resources Plan

The Proposed Natural Resources Plan (PNRP) was publicly notified by the Council on 31 July 2015. All rules in the PNRP have immediate legal effect under section 86B(3) of the Act. As the application was lodged after 31 July 2015, the PNRP is relevant to determining the resource consents required, activity status, the notification decisions and the substantive assessment of the proposal under section 104 of the Act.

RMA section	Rule	Status	Comments
12	R185	Permitted	The proposal does not meet the conditions of Rule R185, as the area of exclusive occupation is more than 1ha. It therefore reverts to Rule R186 which is considered to be a <b>Restricted Discretionary</b> activity.  Note: the activity can comply with s5.7.2 – Coastal Management General Conditions, including condition (p) noise in the CMA. As standard (x) within condition (p) excludes commercial fireworks displays from having to comply with the stated noise standards.
	R186	Restricted Discretionary	

The proposal activity is located within a site identified in the following Schedules of the PNRP:

- Schedule B; Ngā Taonga Nui a Kiwa
- Schedule F2c; Habitats for indigenous birds in the coastal marine area.

The proposal has been assessed against the aforementioned schedules in section 6.2 of this report.

### 2.3 Overall activity status

The activity must be assessed as a discretionary activity under the operative Regional Coastal Plan and a restricted discretionary activity under the Proposed

Natural Resources Plan. Overall, the activity will be assessed as discretionary as the most stringent rule must apply.

### 3. Consultation

Iwi authority	Comments
Port Nicholson Block Settlement Trust	The applicant contacted Port Nicholson Block Settlement Trust directly about the application, Tracey Betham responded on behalf of Port Nicholson Block Settlement Trust stating that they had no issue for the fireworks consent.
Ngati Toa Rangatira	The applicant contacted Ngati Toa directly with regards to the application, Turi Hippolite responded stating that they had no concerns.
<b>Applicant group(s) under the Marine and Coastal Area (Takutai Moana) Act 2011 (MACA)</b>	<b>Comments</b> In accordance with section 62 of the MACA the applicant has confirmed that they have notified and sought the views of the relevant applicant group(s).
<b>Other parties or persons</b>	<b>Comments</b>
DOC	DOC was consulted as an interested party to the application. A copy of the application was sent but no response was received, so I therefore consider DOC to have no concerns with the proposal.
Grant Nalder, Harbourmaster, GWRC	Mr Nalder was consulted with regards to the application and had no concerns.

### 4. Notification decision

A decision was made to process the application on a non-notified basis on 2 October 2018. Further information on the notification decision is provided in document # WGN190085-274679358-28.

### 5. Environmental effects

The applicant provided an Assessment of Environmental Effects (AEE) with the application.

This section provides an assessment of the effects of the proposed activity on the environment. Information has been drawn from the application provided by the applicant and other information sourced during the processing of the application.

#### 5.1 Existing environment

The Harbour is located on the southern coast of the Greater Wellington region and stretches from Eastbourne to the Wellington CBD. The Inner Harbour includes Lambton Harbour, Oriental Bay and Evans Bay. Due to its sheltered nature, this part of the Harbour is popular with rowers, dragon boats, and other personal water craft users.

The application area is surrounded by the residential areas of Oriental Parade, Roseneath, Mt. Victoria and Kilbirnie. Oriental Parade and Evans Bay Parade

run adjacent to the shore of Oriental Bay and Evans Bay. As such, much of the foreshore of this arm of the Harbour has already been artificially modified with a road and sea walls.

Given their highly urbanised environment and proximity to the airport, these areas will generally have a high level of daytime background noise.

## **5.2 Effects on water quality**

The fireworks events will discharge some contaminants into the air above the water of the Harbour. In the combustion of fireworks, the main component is gunpowder. This combustion results in the release of solid products such as potassium carbonate, potassium sulphate and potassium sulphide, together with unreacted sulphur.

The reaction products from the actual effects mixtures are generally solids and consist of metal oxides and chlorides. However, the effect of the deposition of fireworks related chemicals on the receiving water is negligible due the quantities of fireworks material involved and the height above ground of the display.

Depending on wind conditions, there may also be small amounts of paper and aluminium foil used to weatherproof fireworks deposited into the harbour following firing. Less than 500 grams of material will be discharged into the harbour after each show. Depending on wind conditions at the time and over the ensuing hours after firing, the applicant has stated that a post event sweep of potentially affected beaches (e.g. Oriental Bay) will be undertaken to collect small amounts of paper and aluminium foil that might wash up. A condition of consent will be written to this effect.

Due to the small quantity of material deposited, and the proposed mitigation (beach cleanup), I am satisfied that the environmental effects of the proposal can be appropriately managed through the recommended consent conditions in Attachment 1.

## **5.3 Effects of Noise**

For the duration of the fireworks noise will be emitted from the activity. However, this will be of short duration (15 minutes), and will be of low relative frequency (up to 12 times per year). As such, I consider the noise emission from this event to have an effect on the environment which is no more than minor.

## **5.4 Effects on recreational users**

Recreational users will be restricted from using an area of the CMA approximately 1 hour before and after the shows. The applicant has stated that the shows will be widely publicised (via print, radio advertising, media releases, various websites and social media) well ahead of the show day so the general public are made aware of the noise implications and the brief restrictions to recreational activity on the harbour.

I have consulted the GWRC Harbours Department with regards to the applicants proposal, they did not have any concerns with the proposal effecting recreational (or commercial) activities.

As the activity will occur after dark, and due to the short timeframe in which users will be excluded from the CMA, I consider the effects on recreational users to be less than minor.

## 5.5 Summary of effects

Given the assessment above, it is considered that the proposed activity will not result in any more than minor effects when undertaken in accordance with the recommended consent conditions.

## 6. Statutory assessment

### 6.1 Part 2

Part 2 of the Act outlines the purposes and principles of the Act. Section 5 defines its purpose as the promotion of the sustainable management of natural and physical resources. Sections 6, 7 and 8 of Part 2 define the matters a consent authority shall consider when achieving this purpose.

I am satisfied that the granting of the application is consistent with the purpose and principles in Part 2 of the Act.

### 6.2 Matters to be considered – Section 104-108AA

Section 104-108AA of the Act provides a statutory framework in which to consider resource consent applications. All relevant matters to be considered for this application are summarised in the table below:

RMA section	Matter to consider	Comment
104(1)(a)	Actual or potential effects on environment	See Section 5 of this report.
104(1)(ab)	Measures to offset or compensate for adverse effects on the environment	The applicant has not proposed any measures to offset or compensate for adverse effects on the environment.
104(1)(b)(iv)	New Zealand Coastal Policy Statement	I consider that, with the application of the recommended conditions of consent, the proposed activity is consistent with the NZCPS 2010.
104(1)(b)(v)	Regional Policy Statement	I consider that, with the application of the recommended conditions of consent, the proposed activity is consistent with the RPS.
	<i>Objective/Policy</i>	<i>Comment</i>
	Objective 6	This proposal is not likely to cause any more than minor effects on water quality due to the intermittent nature of events and through the application of consent conditions.
	Objective 8	Public access within the coastal marine area



<b>RMA section</b>	<b>Matter to consider</b>	<b>Comment</b>
		will be limited during event times, this will only occur after dark, and on an intermittent basis.
	Policy 5	This proposal is not likely to cause any more than minor effects on water quality due to the intermittent nature of events and through the application of consent conditions.
	Policy 53	Public access to and along the coastal marine area, lakes and rivers has been taken into consideration when making my recommendations.
104(1)(b)(vi)	<b>Operative Regional Coastal Plan</b>	I consider that, with the application of the recommended conditions of consent, the proposed activity is consistent with the Regional Coastal Plan.
	<i>Objective/Policy</i>	<i>Comment</i>
	Objective 4.1.16 Tangata whenua are consulted on resource consent applications which may affect their interests and values.	Iwi have been consulted with regards to the application, I therefore consider the proposal to be consistent with this objective
	Objective 4.1.23 Conditions placed on resource consents are used as a means of avoiding, mitigating or remedying adverse effects.	I consider that, with the application of the recommended conditions of consent, the proposed activity is consistent with this objective.
	Policy 4.2.17 To recognise that there are circumstances when public access along the coastal marine area is not appropriate and other circumstances where it is not practicable because of the nature of the coastline.	I consider that due to the public safety risk involved with displaying fireworks, an exclusion zone limiting public access within the vicinity of the firing barge is consistent with this policy
	Objective 10.1.1, 10.1.2, 10.1.3 and 10.1.5	The level of discharge associated with this proposal is considered minor, and the volunteered mitigations by the applicant are considered to mitigate the effects of the discharge to protect water quality. I therefore consider the proposal to be consistent with this policy.

<b>RMA section</b>	<b>Matter to consider</b>	<b>Comment</b>
	Objective 13.1.1 People and communities are allowed to carry out activities on the foreshore and on the surface of water in the coastal marine area where such activities have no more than minor adverse effects.	I consider that, with the application of the recommended conditions of consent, the proposed activity is consistent with this objective.
	Objective 13.1.4 Provision is made for appropriate special activities in the coastal marine area.	I consider firework displays to be a special activity within the coastal marine area and therefore consider the proposal to be consistent with this objective
	Policy 13.2.1 and 13.2.2	I consider that, with the application of the recommended conditions of consent, the proposed activity is consistent with these policies.
<b>Proposed Natural Resources Plan</b>		
	<i>Objectives</i> Objective O2 Objective O4 Objective O5	I consider that, with the application of the recommended conditions of consent, the proposed activity is consistent with the Proposed Natural Resources Plan.
	<b>Proposed Natural Resources Plan</b>	I consider that, with the application of the recommended conditions of consent, the proposed activity is consistent with the Proposed Natural Resources Plan.
	<i>Objectives</i>	<i>Comment</i>
	Objective O2 The importance and contribution of land and water to the social, economic and cultural well-being of the community are recognised.	The proposal is consistent with this objective where applicable.
	Objective O4 The intrinsic values of aquatic fresh water and marine ecosystems and the life supporting capacity of water are recognised.	The proposal has taken these aspects into account and minimised its impacts to the smallest practicable amount.
	Objective O5 Fresh water bodies and the	

<b>RMA section</b>	<b>Matter to consider</b>	<b>Comment</b>
	<p>coastal marine area, as a minimum, are managed to safeguard aquatic ecosystem health and mahinga kai, and provide for contact recreation and Māori customary use.</p> <p>Objective O23 The quality of water in the region's rivers, lakes, natural wetlands, groundwater and the coastal marine area is maintained or improved.</p> <p>Objective O35 Ecosystems and habitats with significant indigenous biodiversity values are protected and restored.</p> <p>Objective O39 Ambient air quality is maintained or improved to the acceptable category or better in Schedule L1 (ambient air).</p> <p>Objective O40 Human health, property, and the environment are protected from the adverse effects of point source discharges of air pollutants.</p>	
	<p>Objective O58 Noise, including underwater noise, from activities in the coastal marine area is managed to maintain the health and well-being of marine fauna, and the health and amenity value of users of the coastal marine area.</p>	<p>Due to the short and intermittent nature of events, I consider the proposal to have no more than minor effects on health and well-being of marine fauna, and the health and amenity value of users of the coastal marine area.</p>
	<p>Objective O59 The efficient and safe passage of vessels and aircraft that support the movement of people, goods and services is</p>	<p>Although the proposed activity exclusively occupies the CMA for a short period of time during each event, I consider this to have no effect on the movement of people, goods and services. I therefore consider this objective to be met.</p>

<b>RMA section</b>	<b>Matter to consider</b>	<b>Comment</b>
	provided for in the coastal marine area.	
	<i>Policies</i>	<i>Comment</i>
	Policy P4: Minimising adverse effects	Through the application of the conditions of consent, this policy has been taken into account.
	Policy P7: Uses of land and water	The cultural, social and economic benefits of using land and water for transport along, and access to, water bodies has been recognised
	Policy P18: Mana whenua relationships with Ngā Taonga Nui a Kiwa	The relevant iwi have been consulted and any views expressed have been taken into account when making my recommendations.
	Policy P31: Aquatic ecosystem health and mahinga kai	Through the application of the conditions of consent, all aspects of this policy have been taken into account.
	Policy P32: Adverse effects on aquatic ecosystem health and mahinga kai	This proposal avoids significant adverse effects on mahinga kai. The proposal therefore meets this policy.
	Policy P40: Ecosystems and habitats with significant indigenous biodiversity values	The proposal has been considered with respect to this policy and is not expected to have any noticeable effects on indigenous bird habitat.
	Policy P52 and P55: Managing ambient air quality and amenity	The proposal has been considered with respect to these policies and is expected to have no more than minor, temporary, effects on air quality and amenity.
	Policy P67: Minimising effects of discharges	Through the application of the conditions of consent, all aspects of this policy have been taken into account.
	Policy P150: Noise and lighting	The proposal has been considered with respect to this policy. Although the proposal will result in significant noise, it will meet conditions as set out in section 5.7.2 of the Plan as the proposal is for various commercial firework displays, and is therefore exempt to noise restrictions.
104(1)(c)	Any other matter	There are no other matters relevant to this application.
104(2A)	Value of investment for existing consents	I have considered the value of existing investment associated with this application.
104D	(a) The adverse effects of the activity on the environment will be minor.	The activity is considered to have no more than minor adverse effects and is not contrary to the objectives and policies of operative Regional Coastal Plan and the Proposed

<b>RMA section</b>	<b>Matter to consider</b>	<b>Comment</b>
		Natural Resources Plan
108 – 108AA	Conditions on resource consents	All conditions of consent are compliant with 108-108AA. All conditions are documented in Attachment 1 to this report.

## **7. Main findings**

In conclusion:

1. The proposed activity is consistent with the Purposes and Principles of the Resource Management Act 1991.
2. The proposed activity is consistent with the relevant objectives and policies of the Regional Policy Statement and the Operative Regional Coastal Plan and the Proposed Natural Resources Plan.
3. The actual or potential adverse effects of the proposed activity on the environment will be or are likely to be no more than minor.
4. Conditions of the consent will ensure that the effects of the activity on the environment will be appropriately avoided, remedied or mitigated.
5. The proposal incorporates appropriate mitigation measures, to ensure the adverse effects are or are likely to be no more than minor.

## **8. Duration of consent**

The applicant has not requested a specific duration of consent. I consider 10 years to be an appropriate duration for this consent.

## **9. Monitoring**

The following compliance monitoring programme will be undertaken during the consent term:

No scheduled inspections

Reporting requirements under conditions 2 and 3 and 6.

Charges relating to this monitoring programme are outlined in the cover letter enclosed with this report.

## Attachment 1: Consent conditions

### General condition

1. The activity shall be in accordance with the consent application and its associated plans and documents lodged with the Wellington Regional Council on 20 September 2018 and the further information lodged on:

- 2 October 2018 (via email, relating to wind speed)

Where there may be contradiction or inconsistencies between the applications and further information provided by the applicant, the most recent information applies. In addition, where there may be inconsistencies between information provided by the applicant and conditions of the consent, the conditions apply.

*Note: Any change from the location, design concepts and parameters, implementation and/or operation may require a new resource consent or a change of consent conditions pursuant to section 127 of the Resource Management Act 1991.*

2. The consent holder shall submit annually, prior to 1 November, a schedule of all events in the following year to the Manager, Environmental Regulation, Wellington Regional Council annually.

*Note: the required schedule can be emailed to [notifications@gw.govt.nz](mailto:notifications@gw.govt.nz). Please include the consent number WGN190085.*

3. The consent holder shall provide the Harbour Master, Wellington Regional Council a minimum of 24 hours written notice prior to each event authorised by this permit.
4. The consent holder shall provide a copy of this consent and any documents and plans referred to in this consent to each operator or contractor undertaking works authorised by this consent, prior to the works commencing.

*Note: It is recommended that the contractors be verbally briefed on the requirements of the conditions of this consent prior to works commencing.*

5. The consent holder shall ensure that a copy of this consent and all documents and plans referred to in this consent, are kept on site at all times and presented to any Wellington Regional Council officer on request.

### Complaints

6. The consent holder shall keep a record of any complaints that are received. The complaints record shall contain the following where practicable:
  - The name and address of the complainant, if supplied
  - Identification of the nature of the complaint
  - Date and time of the complaint and alleged event

- Weather conditions at the time of the alleged event, and
- Any mitigation measures adopted

In the case of receiving any complaints, the consent holder shall notify the Wellington Regional Council immediately.

The consent holder shall also notify the Manager, Environmental Regulation, Wellington Regional Council, in writing of any complaints relating to the exercise of this permit within 24 hours of being received by the consent holder or the next working day.

*Note: complaints can be emailed to [notifications@gw.govt.nz](mailto:notifications@gw.govt.nz). Please include the consent number WGN190085.*

### **Operational conditions**

7. The consent holder shall take all practicable measures to ensure that the safety of the public is not compromised during the exercise of the permit.
8. All activities affecting the coastal marine area, including tidy up on completion of activity, shall be to the satisfaction of the Manager, Environmental Regulation, Wellington Regional Council.

### **Review condition**

9. Wellington Regional Council may review any or all conditions of this consent by giving notice of its intention to do so pursuant to section 128 of the Resource Management Act 1991, within one month of each anniversary of the commencement of this consent, for any of the following reasons:
  - a) To review the adequacy of any plan and/or monitoring requirements, and if necessary, amend these requirements outlined in this consent
  - b) To deal with any adverse effects on the environment that may arise from the exercise of this consent; and which are appropriate to deal with at a later stage
  - c) To require the implementation of Best Practicable Options, in respect to new methodologies for the undertaking of the works to avoid, remedy or mitigate any significant adverse effect on the environment arising from the works
  - d) To enable consistency with any relevant Regional Plans or any National Environmental Standards or Regulations

The review of conditions shall allow for the deletion or amendment of conditions of this consent; and the addition of such new conditions as are shown to be necessary to avoid, remedy or mitigate any significant adverse effects on the environment.

*Note: For the purposes of this condition the “exercise of the consent” is deemed to be once the works authorised by this consent have commenced.*

10. The Wellington Regional Council shall be entitled to recover from the consent holder the costs of any review, calculated in accordance with and limited to the Council’s scale of charges in force and applicable at that time pursuant to section 36 of the Resource Management Act 1991.