

6 July 2018

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**Auckland Council
Private Bag 92300
Victoria Street West
Auckland 1140**

Attention: Manager Resource Consents

Dear Sir/Madam,

RE: Application for resource consent to establish a car handling facility at the Port of Auckland, 1-19 Quay Street, Auckland

Please find enclosed an application for resource consent on behalf of Ports of Auckland Limited to establish a car handling facility at the Port of Auckland, 1-19 Quay Street, Auckland.

Included within the application are two copies of the environmental effects and supporting information, together with an electronic copy of the application.

An application deposit fee of \$5,000 is required in respect of the proposal. I would be grateful if you could organise the electronic payment of this fee.

I trust that this is acceptable. Please do not hesitate to contact me on tel. (09) 309 5367 should you require any further information or clarification in respect of the proposal.

Yours faithfully,
BENTLEY & CO. LTD



**Mark Arbuthnot
Director**

Cc Rob Hopkins (Ports of Auckland Limited)

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APPLICATION FOR RESOURCE CONSENT

AND

ASSESSMENT OF ENVIRONMENTAL EFFECTS

TO

ESTABLISH A CAR HANDLING FACILITY

AT

**THE PORT OF AUCKLAND,
1-19 QUAY STREET,
AUCKLAND**

PREPARED BY

BENTLEY & Co

Resource Management Consultants

JULY 2018

TABLE OF CONTENTS

UNITARY PLAN INFORMATION	8
1 SITE DESCRIPTION	9
2 THE PROPOSAL	10
3 REASONS FOR THE APPLICATION	11
AUCKLAND UNITARY PLAN (OPERATIVE IN PART)	11
NATIONAL ENVIRONMENTAL STANDARD FOR ASSESSING AND MANAGING CONTAMINANTS IN SOIL TO PROTECT HUMAN HEALTH	12
4 ASSESSMENT OF EFFECTS ON THE ENVIRONMENT	12
EARTHWORKS	13
CONTAMINATION	17
5 NOTIFICATION ASSESSMENT	18
SECTION 95A PUBLIC NOTIFICATION OF CONSENT APPLICATIONS	18
SECTION 95B LIMITED NOTIFICATION OF CONSENT APPLICATIONS	19
6 ASSESSMENT (SECTION 104)	20
ANY ACTUAL OR POTENTIAL EFFECTS ON THE ENVIRONMENT OF ALLOWING THE ACTIVITY (SECTION 104(1)(A))	20
RELEVANT NATIONAL ENVIRONMENTAL STANDARDS, OTHER REGULATIONS, POLICY STATEMENTS, PLANS OR PROPOSED PLANS (SECTION 104(1)(B))	21
OTHER MATTERS (SECTION 104(1)(C)).....	24
PART 2 MATTERS	24
7 CONCLUSION	25

- Attachment 1:** Certificates of Title
- Attachment 2:** Proposed Plans and Elevations
- Attachment 3:** Draft Contaminated Soils Management Plan prepared by Beca Limited
- Attachment 4:** Detailed Site Investigation Report prepared by Beca Limited
- Attachment 5:** Letter to Ports of Auckland Limited entitled “Ports of Auckland Car Handling Building – Construction Noise Assessment” prepared by Marshall Day Acoustics Limited
- Attachment 6:** Unitary Plan Rule Assessment

RESOURCE CONSENT APPLICATION

Form 9

APPLICATIONS FOR RESOURCE CONSENT UNDER SECTION 88 OF THE RESOURCE MANAGEMENT ACT 1991

TO: Auckland Council
Private Bag 92300
Auckland

1. **PORTS OF AUCKLAND LIMITED**, c/- Bentley & Co. Limited at the address for service listed below, applies for the following types of resource consent:
 - Land use consent.
2. The activity to which the application relates (the proposed activity) is as follows:
 - Restricted discretionary activity consent to undertake earthworks with an area greater than 2,500m² within the Sediment Control Protection Area (E11.4.1(A9)).
 - Restricted discretionary activity consent to undertake earthworks with an area greater than 2,500m² on the site (E12.4.1(A6)).
 - Controlled activity consent to disturb and remove soil from a piece of land that is subject to the National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health that does not meet the requirements of regulation 8(3) (regulation 9(1)).
3. The site at which the proposed activity is to occur is as follows:
 - (a) The Port of Auckland, 1-19 Quay Street, Auckland.
 - (b) The natural and physical characteristics of the site and any adjacent uses that may be relevant to the consideration of the application are detailed within the assessment of environmental effects.
4. The other activities to which this application relates are as follows:
 - (a) Refer to Attachment 6, which describes the other activities that are part of the proposal to which the application relates, and explains how the permitted activities comply with the requirements, conditions, and permissions for the permitted activity so that resource consent is not required for that activity under section 87A(1) of the Resource Management Act 1991.
5. No additional resource consents are needed for the proposal to which this application relates.
6. I attach an assessment of the proposed activity's effect on the environment that-

- (a) includes the information required by clause 6 of Schedule 4 of the Resource Management Act 1991; and
 - (b) addresses the matters specified in clause 7 of Schedule 4 of the Resource Management Act 1991; and
 - (c) includes such detail as corresponds with the scale and significance of the effects that the activity may have on the environment.
7. I attach an assessment of the proposed activity against the matters set out in Part 2 of the Resource Management Act 1991.
8. I attach an assessment of the proposed activity against any relevant provisions of a document referred to in section 104(1)(b) of the Resource Management Act 1991, including the information required by clause 2(2) of Schedule 4 of that Act.
9. No other information is required to be included in this application by the Auckland Unitary Plan, the Resource Management Act 1991, or any regulations made under that Act.

Signature:

Ports of Auckland Limited

by its authorised agents Bentley & Co. Limited:



.....
Mark Arbuthnot

Date: 06 July 2018

Address for Service of applicant:

Bentley & Co. Limited
PO Box 4492
Shortland Street
Auckland 1140

Telephone: (09) 309 5367

Email: marbuthnot@bentley.co.nz

Address for Fees/Charges for the application:

Ports of Auckland Limited

PO Box 1281

Auckland 1140

Attn: Rob Hopkins

Email: HopkinsR@poal.co.nz

ASSESSMENT OF ENVIRONMENTAL EFFECTS

UNITARY PLAN INFORMATION

Unitary Plan Zones:	Business – City Centre Zone
Unitary Plan Precincts:	Port Precinct
Unitary Plan Management Layers:	<u>Overlays:</u> None relevant <u>Controls:</u> Arterial Roads – Quay Street Macroinvertebrate Community Index – Urban
Unitary Plan Designations:	None relevant
Overland Flow Paths and Flooding:	None relevant

1 SITE DESCRIPTION

- 1.1 The Port of Auckland is made up of a primary Container Terminal (Fergusson, to the east) and several multi-cargo wharves the to the west (Freyberg, Jellicoe, Bledisloe, Marsden and Captain Cook).
- 1.2 The subject area of this application relates to the southern portion of the Bledisloe Multi-Purpose Terminal (“**Bledisloe Terminal**”), located on land within the Port of Auckland. The Bledisloe Terminal is used for the handling of Ports of Auckland Limited’s (“**POAL**”) considerable roll-on roll-off throughput, which is mainly cars, but includes trucks, buses, trains, tractors, heavy machinery, project cargo, and other freight.
- 1.3 The approximate extent of the subject area is identified in red in **Figure 1** below:



Figure 1 - Locality Plan

- 1.4 The Bledisloe Terminal comprises heavy duty port pavement over reclamation materials. Development within the southern portion of the Bledisloe Terminal currently comprises:
 - (a) Bledisloe B3 Wharf, which is primarily used for the loading and off-loading of roll-on roll-off ships (but can also be used for the loading and off-loading of other ships, if required);
 - (b) Back-up land and pavements for the working wharf, which was reconfigured to increase vehicle handling capacity and transport vehicle manoeuvring efficiency within this area;
 - (c) An 80-metre-long double-height canopy located proximate to the southern boundary with Quay Street providing a covered storage area; and
 - (d) Two freight warehouses and a ‘Z’ service station located proximate to Tinley Street.

- 1.5 Quay Street in the vicinity of the southern portion of the Bledisloe Terminal comprises two lanes of traffic in each direction, together with a segregated cycle lane, and a bus lane.
- 1.6 Directly opposite to the Bledisloe Terminal, on the southern side of Quay Street, is a six-storey building (105 Quay Street) that is occupied by ground floor retail and commercial activities and five levels of public car parking above.
- 1.7 The Detailed Site Investigation prepared by Beca Limited identifies that the subject portion of the Bledisloe Terminal is located on reclaimed land that was constructed utilising demolition fill. Soil sampling of the subject area confirms that:
 - (a) Concentrations of heavy metals in soil samples were below relevant criteria for the protection of human health (commercial/industrial);
 - (b) Concentrations of heavy metals in soil samples were within Auckland background concentrations for volcanic soils, except for minor exceedances in a number of samples for mercury and lead;
 - (c) Multiple samples detected concentrations of nickel and zinc that were above the environmental discharge criteria outlined in the Auckland Unitary Plan (Operative in part), but below the volcanic background levels for the Auckland region; and
 - (d) Loose fibres of chrysotile asbestos were detected in one location, and there is a potential that asbestos is present at additional locations throughout the site.

2 THE PROPOSAL

- 2.1 POAL seeks resource consent to establish a vertical car handling facility within the southern portion of the Bledisloe Terminal to increase the capacity of the existing at-grade facility.
- 2.2 The car handling facility will comprise a five-level structure with a height of approximately 16.3 metres above ground level. The facility will comprise a reinforced concrete frame that will be set on top of the existing asphalt surface and supported by bored concrete piles. The individual floors of the car handling facility will be constructed from concrete and will be accessed via external vehicle ramps to each floor to provide the required level of operational capacity and efficiency.
- 2.3 The facility will have capacity for approximately 1,100 to 1,700 vehicles (depending on the type and orientation of the vehicles), and its southern and western facades will be clad (the precise details of which are subject to a separate design exercise and will be confirmed as part of the building consent process), while the top of the facility will be enclosed by a concrete roof structure, there will be no vehicle access to, or vehicular use of, the roof level of the building.
- 2.4 The proposed car handling facility will be sited approximately 50 metres from Quay Street and 50 metres from the western wharf edge of the Bledisloe Terminal.
- 2.5 Approximately 3,000m² and 2,000m³ of earthworks are required to be undertaken to facilitate the construction of the car handling facility. These earthworks primarily relate to the construction of the footings and piled foundations that are required to support the structure. Further regrading of the existing asphalt surface of the ground floor of the facility may also be required, but this work does not involve the disturbance of soil, earth or substrate at this location.

- 2.6 The Draft Contaminated Soils Management Plan prepared by Beca Limited (refer to **Attachment 3**) sets out the measures that are proposed to manage the potential discharge of sediment-laden material beyond the boundary of the site:
- (a) erosion and sediment controls are to be installed by the Contractor prior to earthworks commencing and shall be designed for the treatment of surface water runoff in accordance with Auckland Council Guideline Document 05 (GD05) “Erosion and Sediment Control Guide for land disturbing activities in the Auckland Region”;
 - (b) where practicable, stormwater runoff should be preferentially maintained on site and allowed to infiltrate wherever possible to reduce the volume of water and material discharged;
 - (c) cesspit protection measures such as filter socks and sand bags will be used where appropriate to trap any sediment from collected runoff; and
 - (d) sediment captured from the excavation of onsite material will be managed in the same manner as soils requiring off-site disposal.
- 2.7 The subject site is also identified as being contaminated, and the Detailed Site Investigation Report prepared by Beca Limited (refer to **Attachment 4**). The Draft Contaminated Soils Management Plan also sets out the measures to manage the effects associated with the disturbance of contaminated soil, including:
- (a) pre-development site set-up procedures;
 - (b) soil excavation/disturbance procedures;
 - (c) groundwater procedures; and
 - (d) health and safety procedures.
- 2.8 For completeness, the analysis that has been undertaken by Marshall Day Acoustics Limited (refer to **Attachment 5**) confirms that compliance will be achieved with the relevant permitted activity construction noise standards of the Unitary Plan.

3 REASONS FOR THE APPLICATION

- 3.1 An analysis of the proposal against the relevant provisions of the Auckland Unitary Plan (Operative in part) (“**Unitary Plan**”) and the Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011 (“**NES**”) has been undertaken and is appended to this application for resource consent as **Attachment 6**. Without limitation, resource consent has been assessed to be required for the following reasons:

Auckland Unitary Plan (Operative in part)

- The proposal involves the undertaking of earthworks with an area greater than 2,500m² within the Sediment Control Protection Area. This is a restricted discretionary activity pursuant to Rule E11.4.1(A9) of the Auckland Unitary Plan (Operative in part).
- The proposal involves the undertaking of earthworks with an area greater than 2,500m². This is a restricted discretionary activity pursuant to Rule E12.4.1(A6) of the Auckland Unitary Plan (Operative in part).

National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health

- The proposal involves soil disturbance and removal from a piece of land that is subject to the Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011 that does not meet the requirements of regulation 8(3). This is a controlled activity pursuant to regulation 9(1) of the Regulations.

3.2 Overall, resource consent is required as a **restricted discretionary** activity.

4 ASSESSMENT OF EFFECTS ON THE ENVIRONMENT

4.1 The matters over which Council has restricted its discretion in relation to the proposed earthworks are set out within clause E11.8.1(1) and clause E12.8.1(1) of the Unitary Plan overlap, and are summarised below as follows:

- (a) compliance with the standards;
- (b) the design and suitability of erosion and sediment control measures to be implemented;
- (c) adverse effects of land disturbance and sediment discharge on water bodies, particularly sensitive receiving environments;
- (d) effects of noise, vibration, odour, dust, lighting and traffic on the surrounding environment;
- (e) effects on the stability and safety of surrounding land, buildings and structures;
- (f) effects on overland flow paths and flooding;
- (g) protocol for the accidental discovery of koiwi, archaeology and artefacts of Maori origin;
- (h) effects on cultural and spiritual values of Mana Whenua including water quality, preservation of wahi tapu, and kaimoana gathering;
- (i) the treatment of stockpiled materials on the site including requirements to remove material if it is not to be reused on the site;
- (j) the proportion of the catchment which is exposed;
- (k) staging of works and progressive stabilisation;
- (l) information and monitoring requirements;
- (m) timing and duration of works;
- (n) term of consent;
- (o) potential effects on significant ecological and indigenous biodiversity values;
- (p) risk that may occur as a result of natural hazards;
- (q) protection of or provision of network utilities and road networks;
- (r) potential effects on the natural character and values of the coastal environment, lakes, rivers and their margins, where works encroach into riparian or coastal yards; and
- (s) positive effects enabled through the land disturbance.

4.2 A range of associated assessment criteria are contained within clauses E11.8.2(1) and E12.8.2(1) of the Unitary Plan and are a useful guide to understanding the type of effects on the environment that are required to be considered.

- 4.3 In addition to the above, the NES has reserved Council's control over the following matters in respect of the soil disturbance works:
- (a) the adequacy of the detailed site investigation, including:
 - (i) site sampling;
 - (ii) laboratory analysis;
 - (iii) risk assessment;
 - (b) how the activity must be:
 - (i) managed, which may include the requirement of a site management plan;
 - (ii) monitored;
 - (iii) reported on;
 - (c) the transport, disposal, and tracking of soil and other materials taken away in the course of the activity;
 - (d) the timing and nature of the review of the conditions in the resource consent; and
 - (e) the duration of the resource consent.
- 4.4 The following analysis is provided in respect of these matters.

Earthworks

Compliance with standards

- 4.5 The proposal achieves compliance with all applicable standards that are contained within E12.6.2 of the Unitary Plan. As set out within Attachment 6 of this application for resource consent:
- (a) the activity is not proposed to be undertaken within a riparian yard or coastal protection yard;
 - (b) the land disturbance works are relatively minor in nature and will not result in any instability of land or structures beyond the boundary of the property where the land disturbance occurs;
 - (c) the land disturbance works will not cause malfunction or result in damage to network utilities;
 - (d) there works are well separated from any publicly accessible spaces, and will not cause an obstruction, or harm, to the public;
 - (e) measures are proposed to be implemented to ensure that any discharge of dust beyond the boundary of the site is avoided or limited such that it does not cause nuisance;
 - (f) there are no Transpower NZ Ltd electricity transmission line poles or transmission lines towers near the site;
 - (g) no material is proposed to be imported onto the site; and
 - (h) no earthworks are proposed within the 100-year AEP flood plain or within an overland flow path (as defined by the Unitary Plan).
- 4.6 With reference to the above standards, it is considered that the proposed earthworks will not generate any significant adverse effects on the environment.

Design and suitability of erosion and sediment control measures to be implemented

- 4.7 The site management procedures that are proposed as part of the Contaminated Soils Management Plan confirms that Erosion and sediment controls will be installed by the appointed Contractor prior to the commencement of earthworks activities on the site and will be designed in accordance with Auckland Council Guideline Document 05 (GD05) “Erosion and Sediment Control Guide for land disturbing activities in the Auckland Region”. This will ensure that the measures to be implemented are suitable for the nature of the works proposed.

Adverse effects of land disturbance and sediment discharge on water bodies

- 4.8 The Contaminated Soils Management Plan confirms that stormwater runoff will be maintained onsite and allowed to infiltrate into the ground wherever possible to reduce the volume of water and material discharged from the site. Furthermore, cesspit protection measures (such as filter socks and sand bags) will be used to trap any sediment from collected runoff, which will be managed in the same manner as the soils that require off-site disposal.
- 4.9 These measures are considered to be sufficient to ensure that the adverse effects of the land disturbance activities on the adjacent coastal waters will be appropriately mitigated.

Effects of noise, vibration, odour, dust, lighting and traffic

- 4.10 The earthworks component of the development will be for a limited period during the overall construction programme (at this stage, the car handling facility is anticipated to take a total of 18 months to construct). The analysis of Marshall Day Acoustics (refer **Attachment 5**) confirms that the construction activities will achieve compliance with the relevant noise and vibration standards of the Unitary Plan.
- 4.11 Having regard to the DSI that has been prepared in relation to the activity, the nature of the ground contaminants that are present within the site are unlikely to produce any noticeable odours during the earthworks stage.
- 4.12 The construction management measures that have been proposed are sufficient to ensure that any discharges of dust beyond the boundary of the site will not cause nuisance, and that any traffic associated with the removal of earth from the site will be managed to ensure that it maintains the safety of the receiving road network.
- 4.13 The Bledisloe Terminal (and the balance of the Port of Auckland) is illuminated 24hrs per day to ensure the safe and efficient operation of the marine and port activities occurring within the Bledisloe Terminal.¹ Any illumination of the construction area will have no discernible adverse effects on the environment relative to the existing operations at the Port of Auckland, or the effects that are otherwise permitted by the Unitary Plan.

Effects on stability and safety of surrounding land, buildings and structures

- 4.14 The extent of the proposed earthworks is limited to the construction of piled foundations, and are sufficiently separated from all neighbouring land, buildings

¹ Standard I208.6.1.3 ‘Lighting’ enables the use of artificial lighting within the Port Precinct to a maximum of 150 lux, measured at any point on the site containing the light source, in a horizontal or vertical plane at ground level.

and structures to ensure that they will not generate any adverse effects in this regard.

Effects on overland flow paths and flooding

- 4.15 No earthworks are proposed within any of the overland flow paths or flood plains identified on Council's records.

Accidental discovery protocol

- 4.16 The proposal will be undertaken in accordance with the accidental discovery protocols that are contained within Standard E12.6.1 of the Unitary Plan. This will ensure that should sensitive material be discovered during the earthworks stage of the development, appropriate procedures will be in place to avoid, remedy or mitigate the adverse effects in this regard.

Effects on cultural and spiritual values

- 4.17 The area of the Bledisloe Terminal that is subject to the land disturbance activities contains no identified areas of special spiritual, historical or cultural significance to Mana Whenua as recorded in the Unitary Plan. Having regard to the limited extent of the proposed ground disturbance works, combined with the erosion and sediment control measures that are to be implemented, the proposal will not generate any significant effects on water quality, and will not adversely affect any identified wahi tapu or kaimoana gathering areas.

Treatment of stockpile materials on the site

- 4.18 As detailed within the DSI prepared by Beca Limited, all excavated material will be required to be disposed of at an appropriately licensed facility. All stockpiling of material will be undertaken in accordance with best practice (for example, ensuring that they are located away from property boundaries) to ensure that they do not generate effects beyond the boundaries of the site, and can be agreed through the implementation of a land management plan.

The proportion of the catchment which is exposed

- 4.19 The limited nature of the development is such that all earthworks will be undertaken in a single stage.

Staging of works and progressive stabilisation

- 4.20 The limited nature of the earthworks (being limited to providing for pile foundations) is such that it is not necessary to progressively stabilise the site.

Timing and duration of works

- 4.21 Having regard to the limited scale of the proposed earthworks, it is not considered necessary to limit the timing and duration of the works.

Term of consent

- 4.22 The nature of the proposed earthworks (being limited to piling works) is such that they are required to be completed to facilitate the construction of the car handling facility and will not endure for a lengthy period. It is therefore not appropriate to limit the 'term' of the consent beyond that which would normally apply.

Potential effects on significant ecological and indigenous biodiversity values

- 4.23 The subject site relates to a commercial port and is not located within any identified area of significant ecology or indigenous biodiversity values with reference to the Unitary Plan Maps. Having regard to the limited nature of the proposed earthworks and the management measures that are proposed to be implemented, any adverse effects on the environment are considered to be less than minor in this regard.

Risk that may occur as a result of natural hazards

- 4.24 The proposed earthworks are located outside of any identified overland flow paths, flood plain, or coastal inundation area. To this end, it is considered that any potential ‘risk’ that may occur as a result of natural hazards will be less than minor in nature.

Protection or provision of network utilities and road networks

- 4.25 Care has been taken to ensure that the proposed piling works avoids existing network utility services within this portion of the Bledisloe Terminal.

Potential effects on the natural character and values of the coastal environment

- 4.26 The proposed earthworks will not result in any appreciable changes to the landform of the Bledisloe Terminal and will therefore not result in any discernible adverse effects on the natural character and values of the coastal environment in this regard.

Positive effects enabled through the land disturbance

- 4.27 The proposed earthworks are necessary to facilitate the construction of a car handling facility, as forecast within the 30-year Master Plan that was approved by Auckland Council’s Planning Committee in May 2018. The purpose of the car handling facility is to provide sufficient medium-term capacity within the Bledisloe Terminal for the car trade. As explained within the NZIER report to Auckland Council Investments Limited:²

Large and increasing numbers of vehicles are landed at the Auckland port, but the yard space devoted to it (mainly Bledisloe, Captain Cook and Marsden wharves) is limited. At present, the yard space devoted to vehicles is congested for five or six days a month, a phenomenon which will only intensify as the volume of imported vehicles grows. Minimising the time that vehicles spend on the wharves is a commercial and operational imperative for the Port, and the constrained yard space and associated berth space has knock-on effects for other port operations, including berth availability for cruise vessels.

- 4.28 The NZIER report confirms that Auckland is currently the port of entry for more than two-thirds of New Zealand’s vehicle imports (76% of light vehicles and 68% of heavy vehicles), and that the total value of light vehicle imports was \$4.8 billion in 2016, which was about 9% of New Zealand’s total imports.³
- 4.29 The proposed car handling facility will increase the capacity of the Bledisloe Terminal to accommodate the growth in imported vehicles and will improve the efficient use, operation, and management of marine and port activities at the Port of Auckland, which will have positive flow-on economic effects.

² Pg. iv; *Future of New Zealand’s vehicle supply chain. The role of the Ports of Auckland*; NZIER report to Auckland Council Investments Limited; 7th September 2017.

³ Ibid.

Contamination

Adequacy of the detailed site investigation

- 4.30 The DSI has been undertaken and reported in general accordance with the Ministry for the Environment (MfE) Contaminated Land Management Guidelines No. 1 – Reporting on Contaminated Sites in New Zealand (2011) and MfE Contaminated Land Management Guidelines No. 5 – Site Investigation and Analysis (2011). It is specific to the proposal, and adequately characterises the contaminants located on the site to enable an assessment of the effects on human health to be undertaken.

How the activity must be managed, monitored, and reported on

- 4.31 The DSI identifies three potentially complete exposure pathways which can be mitigated through the implementation of specialist controls (via the implementation of the Draft Contaminated Soils Management Plan) during the proposed land disturbance works, including:
- (a) a summary of human health controls for health and safety planning/training requirements, personal protective equipment, and personal monitoring;
 - (b) a summary of responsible parties to the land disposal works;
 - (c) a summary of environmental controls for odour, dust, noise, spoil stockpiling, and spoil disposal; and
 - (d) procedures for encountering unknown contamination.
- 4.32 In addition to the above, the Contractor will be required to actively monitor the earthworks for contamination indicators or hazardous materials, and implement the actions set out within the Draft Contaminated Soils Management Plan in consultation with a suitably qualified and experienced practitioner should such material be identified.
- 4.33 These measures are considered to be sufficient to ensure the protection of human health for the duration of the ground disturbance works.

Transport, disposal, and tracking of soil and other materials

- 4.34 The Draft Contaminated Soils Management Plan confirms that soils will be required to be disposed of at appropriately licensed landfills. Landfill acceptance of excavated material will be obtained prior to works commencing, and the Contractor will retain copies of all disposal receipts/documentation.
- 4.35 The excavation, handling and off-site removal of the material is proposed to be managed as follows:
- (a) materials requiring excavation for disposal to a licensed landfill or reuse at another commercial location shall be excavated and loaded directly into trucks where possible (limiting stockpiling);
 - (b) all trucks will be covered before leaving the site and any soils brushed off wheels to avoid tracking onto public roads; and
 - (c) the Contractor shall maintain a register of soil movements and records such as location of excavation, disposal location, quantity of material and off site weighbridge documents.
- 4.36 These measures are considered to be sufficient to ensure that the transport, disposal, and tracing of soil and other materials will be appropriately managed to protect human health.

Timing and nature of the review of the conditions in the resource consent

- 4.37 The limited scale of the proposed earthworks, combined with the fact that they are to be undertaken in a single stage, is such that it is not considered necessary to impose any review conditions in the resource consent.

Duration of the resource consent

- 4.38 Similarly, the works limited to facilitating the construction of piled foundations and are planned to occur for a limited duration. For this reason, it is not appropriate to limit the duration of the consent beyond that which would normally apply.

5 NOTIFICATION ASSESSMENT

Section 95A Public Notification of Consent Applications

- 5.1 Section 95A of the RMA prescribes the steps in order to determine whether to publicly notify an application for a resource consent.

Step 1: Mandatory public notification in certain circumstances

- 5.2 The application does not meet any of the criteria within section 95A(3) that would otherwise require public notification of the application pursuant to section 95A(1), specifically:
- (a) the applicant does not request that the application be publicly notified;
 - (b) public notification is not required under section 95C; and
 - (c) the application is not jointly made with application to exchange reserve land under the Reserves Act 1977.

Step 2: If not required by step 1, public notification precluded in certain circumstances

- 5.3 Step 2 determines whether any part(s) of the proposal are to be precluded from public notification.
- 5.4 With reference to section 95(5)(a), regulation 9(5) of the NES precludes public notification of the controlled activity element of the application. However, there are no relevant rules in the Unitary Plan that precludes public notification of the restricted discretionary element of the activity.
- 5.5 The activity is not otherwise an activity that is precluded from public notification pursuant to section 95A(5)(b).

Step 3: If not required by step 2, public notification required in certain circumstances

- 5.6 The application does not meet any of the criteria within section 95A(8) that would otherwise require public notification of the application pursuant to section 95A(1), specifically:
- (a) there are no relevant rules in the Unitary Plan which require the application to be publicly notified; and
 - (b) having regard to the preceding analysis it is considered that the actual or potential adverse effects of the activity on the environment will be less than minor.

Step 4: Public notification in special circumstances

- 5.7 There are no special circumstances in relation to the application that warrant the application being publicly notified.
- 5.8 “Special circumstances” are those that are unusual or exceptional, but they may be less than extraordinary or unique. If the plan specifically envisages what is proposed, it cannot be described as being out of the ordinary and giving rise to special circumstances.
- 5.9 Circumstances which are “special” will be those which make notification desirable, notwithstanding the general provisions excluding the need for notification. In determining what may amount to “special circumstances” it is necessary to consider the matters relevant to the merits of the application as a whole, not merely those considerations stipulated in the tests for notification and service.
- 5.10 Having regard to the matters over which discretion is restricted and/or controlled under the Unitary Plan and NES, it is considered that the effects of the activity on the environment and the management measures that are proposed will not result in a situation that can be described as out of the ordinary or giving rise to special circumstances under section 95A(9) that would justify notification of the application.

Section 95B Limited notification of consent applications

- 5.11 Section 95B of the RMA prescribes the steps in order to determine whether to give limited notification of the application.

Step 1: Certain affected groups and affected persons must be notified

- 5.12 Pursuant to section 95B(2), there are no affected protected customary rights groups or marine title groups, and pursuant to section 95B(3) the proposed activity is not on or adjacent to, or may affect land that is the subject of a statutory acknowledgement.

Step 2: If not required by Step 1, limited notification precluded in certain circumstances

- 5.13 The application does not meet any of the criteria within section 95B(6) that would otherwise require limited notification of the application pursuant to section 95A(1), specifically:
- (a) there are no relevant rules in the Unitary Plan which require the application to be limited notified; and
 - (b) the application is not for a controlled activity (overall) or a prescribed activity, and is therefore not precluded from limited notification pursuant to section 95B(6)(b).

Step 3: If not precluded by Step 2, certain other affected persons must be notified

- 5.14 The proposal does not involve a boundary activity or prescribed activity in respect of section 95B(7).
- 5.15 With reference to section 95B(8), having regard to the preceding analysis it is considered that the potential adverse effects generated by the proposal will be less than minor to adjoining properties.

Step 4: Further notification in special circumstances

5.16 For the reasons discussed above, there are no special circumstances that exist in relation to the application that warrants notification of the application to any other persons not already determined to be eligible for limited notification under section 92B(10).

6 ASSESSMENT (SECTION 104)

6.1 Subject to Part 2 of the RMA, when considering an application for resource consent the Council must, in accordance with section 104(1), have regard to the following:

- (a) any actual and potential effects on the environment of allowing the activity;
and
- (ab) any measure proposed or agreed to by the applicant for the purpose of ensuring positive effects on the environment to offset or compensate for any adverse effects on the environment that will or may result from allowing the activity; and
- (b) any relevant provision of –
 - (i) a national environmental standard;
 - (ii) other regulations;
 - (iii) a national policy statement;
 - (iv) a New Zealand coastal policy statement;
 - (v) a regional policy statement or proposed regional policy statement;
- (c) any other matter the consent authority considers relevant and reasonably necessary to determine the application.

6.2 With reference to the controlled activity consent that is required under the NES, section 104A of the RMA requires that after considering an application for a resource consent for a controlled activity, a consent authority:

- (a) must grant the resource consent, unless it has insufficient information to determine whether or not the activity is a controlled activity; and
- (b) may impose conditions on the consent under section 108 only for those matters over which control is reserved in national environmental standards or other regulations.

6.3 In terms of the restricted discretionary activity consent that is required under the Unitary Plan, section 104C of the RMA prescribes that a consent authority must only consider those matters over which it has restricted the exercise of its discretion in its plan. The consent authority may grant or refuse the application, however, if it grants the application, the consent authority may impose conditions under section 108 only for those matters over which it has restricted the exercise of its discretion in its plan or proposed plan.

Any actual or potential effects on the environment of allowing the activity (section 104(1)(a))

6.4 The actual and potential effects on the environment have been addressed within sections 4 and 5, where it was concluded that any adverse effects on the environment would be less than minor, and that the proposal will have the positive effect of improving the efficient use, operation, and management of marine and port activities at the Port of Auckland, which will have positive flow-on economic effects.

Relevant National Environmental Standards, Other Regulations, Policy Statements, Plans or Proposed Plans (section 104(1)(b))

- 6.5 Section 104(1)(b) of the RMA sets out that when considering an application for resource consent, the Council shall have regard to any relevant provisions of National Environmental Standards, Other Regulations, Policy Statements, Plans or Proposed Plans.

Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011 (section 104(1)(b)(i))

- 6.6 The proposal involves the disturbance and disposal of soil on the site in a manner that does not comply with the permitted standards of Regulation 8(3) of the NES. A DSI report has been prepared by Beca Limited, and having regard to the preceding analysis, the measures that are to be implemented by the application are considered to be sufficient to ensure that the potential adverse effects of the proposal on human health can be mitigated to the extent that they are less than minor in nature.

Other Regulations (section 104(1)(b)(ii))

- 6.7 There are no other Regulations relevant to the consideration of the application for resource consent.

National Policy Statements (section 104(1)(b)(iii))

- 6.8 There are no national policy statements directly relevant to the consideration of this application for resource consent.

New Zealand Coastal Policy Statement and Hauraki Gulf Marine Park Act 2000 (section 104(1)(b)(iv))

- 6.9 To the extent that it is relevant to the consideration of this application, the 2010 New Zealand Coastal Policy Statement (“**NZCPS**”) contains 7 objectives and 29 policies. The proposal is considered to give effect to Policy 9 of the NZCPS, which recognises that a sustainable national transport system requires an efficient national network of safe ports, servicing national and international shipping, with efficient connections with other transport modes, including by considering where, how and when to provide in regional policy statements and in plans for the efficient and safe operation of ports, the development of their capacity for shipping, and their connections with other transport modes.
- 6.10 Consistent with Policy 9(b) of the NZCPS, the proposal is considered to provide for the efficient and safe operation of the Port of Auckland; developing its capacity for shipping.

Hauraki Gulf Marine Park Act 2000

- 6.11 The Hauraki Gulf Marine Park Act (“**HGMPA**”) integrates the management of the Hauraki Gulf’s islands and catchments across land and sea so that the effects of urban and rural land use are given proper attention, and its life supporting capacity is protected. The HGMPA also promotes the conservation and sustainable management of the natural, historic and physical resources of the Hauraki Gulf for the benefit and enjoyment of the people and communities of the Hauraki Gulf and New Zealand.

- 6.12 The proposal is consistent with the provisions of the HGMPA. In particular, the proposal will not affect the life supporting capacity or environmental amenity of the Hauraki Gulf, and will promote the sustainable management of a physical resource and will not affect the ability of people and communities to benefit from and enjoy the amenity of the Hauraki Gulf.

Regional Policy Statement or Proposed Regional Policy Statement (section 104(1)(b)(v))

- 6.13 In respect of the restricted discretionary activity consent requirement under the Unitary Plan, Rule C1.8(1) does not require consideration to be given to the objectives and policies of the Regional Policy Statement section.

A Plan or Proposed Plan (section 104(1)(b)(vi))

- 6.14 Rule C1.8(1) provides that when considering an application for resource consent for an activity that is classed as a restricted discretionary activity, the Council will consider all relevant overlay, zone, Auckland-wide and precinct objectives and policies that apply to the activity or to the site or sites where that activity will occur.
- 6.15 The proposal involves the undertaking of earthworks with an area greater than 2,500m², which requires resource consent as a restricted discretionary activity pursuant to Rule E11.4.1(9) and Rule E12.4.1(A6) of the Unitary Plan. The relevant matters of discretion do not require consideration to be given to the objectives and policies of the Business – City Centre Zone or the Port Precinct. Therefore, the relevant objectives and policies for the activity are considered to relate to those contained within Chapter E11 (Land disturbance – Regional) and Chapter E12 (Land disturbance – District) of the Unitary Plan.
- 6.16 The objectives of the Unitary Plan that relate to land disturbance provide for land disturbance which is undertaken in a manner that protects the safety of people and avoids, remedies and mitigates adverse effects on the environment (Objectives E11.2(1) and E12.2(1)), and which minimises sediment runoff (Objective E11.2(2)) and achieves soil conservation (Objective E11.2(3)).
- 6.17 The policies that implement this objective require that:
- (a) land disturbance is avoided where practicable (or otherwise remedied or mitigated) on areas where the natural and physical resources have been scheduled in the Plan in relation to natural heritage, Mana Whenua, natural resources, coastal environment, historic heritage and special character (policy E11.3(1) and E12.3(1));
 - (b) land disturbance is managed to (policy E11.3(2)):
 - a. retain soil and sediment on the land by the use of best practicable options for sediment and erosion control appropriate to the nature and scale of the activity;
 - b. manage the amount of land being disturbed at any one time, particularly where the soil type, topography and location is likely to result in increased sediment runoff or discharge;
 - c. avoid, remedy and mitigate adverse effects on accidentally discovered sensitive material; and
 - d. maintain the cultural and spiritual values of Mana Whenua in terms of land and water quality, preservation of wāhi tapu, and kaimoana gathering.

- (c) the amount of land being disturbed at any one time in managed to (policy E12.3(2)):
 - a. avoid, remedy or mitigate adverse construction noise, vibration, odour, dust, lighting and traffic effects;
 - b. avoid, remedy and mitigate adverse effects on accidentally discovered sensitive material; and
 - c. maintain the cultural and spiritual values of Mana Whenua in terms of land and water quality, preservation of wahi tapu, and kaimoana gathering;
- (d) land disturbance is enabled for a range of activities undertaken to provide for people and communities social, economic and cultural well-being, and their health and safety (policy E11.3(4) and E12.3(3));
- (e) the impact on Mana Whenua cultural heritage that is discovered by land disturbance is managed by (policy E11.3(3) and E12.3(4)):
 - a. requiring a protocol for the accidental discovery of koiwi, archaeology and artefacts of Maori origin;
 - b. undertaking appropriate actions in accordance with matauranga and tikanga Maori; and
 - c. undertaking appropriate measures to avoid adverse effects, or where adverse effects cannot be avoided, effects are remedied or mitigated;
- (f) earthworks are designed and implemented with recognition of existing environmental site constraints and opportunities, specific engineering requirements, and implementation of integrated water principles (policy E11.3(5) and E12.3(5));
- (g) earthworks are designed and undertaken in a manner that ensures the stability and safety of surrounding land, buildings and structures (policy E11.3(6) and E12.3(6));
- (h) demonstrate where the land disturbance is likely to result in the discharge of sediment laden water to a surface water body or to coastal water to demonstrate that sediment discharge has been minimised to the extent practicable, having regard to the quality of the environment; with (policy E11.3(7)):
 - a. any significant adverse effects avoided, and other effects avoided, remedied or mitigated, particularly in areas where there is:
 - (i) high recreational use;
 - (ii) relevant initiatives by Mana Whenua, established under regulations relating to the conservation or management of fisheries, including taiapure, rahui or whakatapu areas;
 - (iii) the collection fish and shellfish for consumption;
 - (iv) maintenance dredging; or
 - (v) a downstream receiving environment that is sensitive to sediment accumulation;
 - b. adverse effects avoided as far as practicable within areas identified as sensitive because of their ecological values, including terrestrial, freshwater and coastal ecological values; and
 - c. the receiving environment's ability to assimilate the discharged sediment being taken into account.

- (i) the quality of fresh and coastal water bodies across the region and the effects of land disturbance on water quality and receiving environments are monitored (policy E11.3(8)).
- 6.18 The proposal is consistent with the objectives and policies of the Unitary Plan as they relate to (district) land disturbance activities. The land disturbance activities:
- (a) are not located within an area that has been scheduled under the provisions of the Unitary Plan;
 - (b) are of a limited scale, and relates to soils that are not suitable for retention or reuse due to their potential contamination;
 - (c) have been minimised to the extent that it primarily relates to piling activities;
 - (d) will facilitate the construction of a car handling facility that will provide for the economic wellbeing of Auckland;
 - (e) will not be undertaken within any identified wahi tapu or kaimoana gathering areas, and will contain procedures in terms of protocols for accidental discovery;
 - (f) recognise the nature of the ground conditions (historic reclamation) and the design of the car handling facility has taken into account the engineering requirements in this regard;
 - (g) will ensure the stability and safety of surrounding land, buildings and structure;
 - (h) will be managed to ensure that significant adverse effects are avoided in terms of the discharge of sediment laden water from the site; and
 - (i) will be managed to ensure that significant adverse effects on water quality will be avoided.
- 6.19 The Unitary Plan also contains matters of discretion and associated assessment criteria that are specific to the land disturbance activities. These have informed the preceding analysis, and it is considered that the proposal will be consistent with the environmental outcomes that the matters of discretion and assessment criteria are concerned with.
- 6.20 Having regard to the above matters, it is considered that the land disturbance activities will be undertaken in a manner consistent with the outcomes that are envisaged by the relevant objectives and policies of the Unitary Plan.

Other matters (section 104(1)(c))

- 6.21 There are no “other matters” relevant to the consideration of this application for resource consent.

Part 2 Matters

- 6.22 The preceding analysis has taken section 5 of the RMA into consideration, and it can be summarised that the proposal represents the sustainable management of the natural and physical resources that will appropriately avoid, remedy, or mitigate the adverse effects on the surrounding environment. The purpose of section 5 of the RMA is therefore achieved.
- 6.23 With reference to matters of national importance in section 6 of the RMA, the following comments are made:
- (a) the proposal will not adversely affect the natural character of the subject site or surrounding environment (section 6(a));

- (b) the subject site is not identified as containing any “outstanding” natural features or landscapes (section 6(b));
 - (c) the subject site is not identified as containing any “significant” indigenous vegetation and significant habitats of indigenous fauna (section 6(c));
 - (d) the proposal does not seek to alter the extent to which the public can access the coastal marine area at the Port of Auckland, which is necessarily restricted for safety and security reasons (section 6(d));
 - (e) the proposal will not adversely affect any identified ancestral lands, water, sites, waahi tapu, and other taonga (section 6(e)); and
 - (f) the proposal will protect identified historic heritage from inappropriate subdivision, use, and development (section 6(f)).
- 6.24 With reference to section 7 of the RMA, the proposal is considered to represent the efficient use, development and management of natural and physical resources (section 7(b)) and will not detract from the quality of the environment (section 7(f)).
- 6.25 There are no specific Treaty of Waitangi matters requiring consideration in accordance with Section 8 of the RMA in respect of this application for resource consent.

7 CONCLUSION

- 7.1 The applicant seeks resource consent to establish a car handling facility within the southern portion of the Bledisloe Terminal at the Port of Auckland.
- 7.2 The adverse effects of the activity on the environment or on any person has been assessed to be less than minor.
- 7.3 The proposal is consistent with the relevant objectives and policies of the Auckland Unitary Plan (Operative in Part), as well as the purpose and principles of the Resource Management Act 1991.
- 7.4 It is therefore considered appropriate that Council grant consent to the proposed car handling facility as sought on a non-notified basis.

Mark Arbuthnot
Bentley & Co Limited
06 July 2018