

Decision on notification of an application for resource consent under the Resource Management Act 1991



Non-complying activity

Application numbers:	BUN60451970 (Council Reference) LUC60451971 (s9 land use consent) LUS60451972 (s13 streamworks consent)
Applicant:	Auckland Council
Site address / legal description / site areas:	30 Tui Street, Oneroa, Waiheke Island 1081 / Lot 430 DP 33180 / 809m ² 32 Tui Street, Oneroa, Waiheke Island 1081 / Lot 431 DP 33180 / 809m ² 36 Tui Street, Oneroa, Waiheke Island 1081 / Lot 455 DP 33180 / 1,118m ² 11 Rata Street, Oneroa, Waiheke Island 1081 / Lot 454 DP 33180 / 1,265m ² 13 Nikau Road, Oneroa, Waiheke Island 1081 / Lot 429 DP 33180 / 809m ² 3 Moa Avenue, Oneroa, Waiheke Island 1081 / Lot 361 DP 22849 / 941m ² 15 Moa Avenue, Oneroa, Waiheke Island 1081 / Lot 385 DP 22849 / 1,032m ² 17 Moa Avenue, Oneroa, Waiheke Island 1081 / Lot 386 DP 22849 / 926m ² 19 Moa Avenue, Oneroa, Waiheke Island 1081 / Lot 414 DP 22849 / 966m ² 166 Ocean View Road, Oneroa, Waiheke Island 1081 / Lot 359 DP 22849 / 908m ² Blackpool Cemetery / Huruhi Urupa Block / 5,868m ² Road Reserve – Moa Avenue, Nikau Road and Tui Street
Proposal:	To replace existing stormwater culverts and pipes, form new open stormwater channels and extend a stream bank by reducing the slope. Planting will be undertaken following the completion of works along riparian margins and along the road reserve.

Resource consents are required for the following reasons:

Land use consent (s9) – LUC60451971

Auckland Council District Plan (Hauraki Gulf Islands Section)

Part 4 General Rules

- To exceed the 4.6.2 permitted 75dB LAeq construction noise threshold is a **non-complying** activity under rule 4.2 for being an activity not otherwise specified within the plan. The proposed works will result in the following construction noise levels:
 - 85dB LAeq for up to one day at the following locations:
 - 13 Moa Avenue
 - 11 Rata Street
 - 40 Nikau Road
 - 80dB LAeq for up to two days at 13 Moa Avenue.
 - 80dB LAeq for up to one day at the following locations:
 - 11 Moa Avenue
 - 32 Tui Street
 - 13 Nikau Road
 - 26 Nikau Road
- To locate site offices, storage sheds, portable toilets, builder's workshops and the storage of construction materials on a site for a period exceeding 12 months is a **restricted discretionary** activity under rule 4.5.4. The proposal involves the use of a construction laydown area involving the above structures at Blackpool Park and 36 Tui Street for a duration of 17 months (72 weeks).

Part 5 Network utility services

- To construct network utility services not otherwise provided for is a **discretionary** activity under rule 5.5.1. The proposal involves the construction of new stormwater channels and the ancillary relocation of power poles.

Part 7 Heritage

- To conduct earthworks and the planting of vegetation within a category A archaeological site is a **discretionary** activity under rule 7.8.5.3. The proposal involves earthworks and the planting of vegetation within the Te Huruhi Urupa site.

Part 8 Natural hazards

- To remove vegetation over 0.5m in height within 5m of the centreline of any permanent stream or the edge of any wetland is a **restricted discretionary** activity under rule 8.5.1(2).

- To remove vegetation over 2m in height within 10m of the centreline of any permanent stream or the edge of any wetland is a **restricted discretionary** activity under rule 8.5.1(3).
- To conduct earthworks within a flood prone area is a **restricted discretionary** activity under rule 8.5.1(5)(i).
- To conduct earthworks at an elevation less than 3m above mean high water springs when located within 20m of mean high water springs is a **restricted discretionary** activity under rule 8.5.1(5)(ii).
- To conduct earthworks at an elevation less than 1m above the edge of any adjacent permanent stream or wetland is a **restricted discretionary** activity under rule 8.5.1(5)(ii).

Part 10c Development controls for land units and settlement areas

- To remove, prune or conduct works within the dripline of any indigenous vegetation over 3m in height on a site is a **restricted discretionary** activity under rule 10c.5.1.2. The proposal involves the removal of:
 - 1x 4m Karo at 36 Tui Street Reserve.
 - 1x 7m Pohutukawa at 11 Rata Street.
 - 4m Karo hedge at 11 Rata Street.

The proposal involves works within the dripline of:

- 1x 9m Pohutukawa at 11 Rata Street.
- 3x 8m Karo at 32 Tui Street.
- 2x 5m Pohutukawa at 28 Nikau Road.
- 1x 6m Karo at 9 Moa Avenue.
- To remove or conduct works within the dripline of any indigenous vegetation over 3m in height within the legal road reserve is a **restricted discretionary** activity under rule 10c.5.2.2. The proposal involves the removal of:
 - 1x 7m Pohutukawa within Nikau Road Reserve.
 - 1x 6m Cabbage Tree within Matai Road Reserve.
 - 6m Karo hedge within Moa Avenue Road Reserve.

The proposal involves the transplantation of:

- 6x 4m Nikau within Nikau Road Reserve.

The proposal involves works within the dripline of:

- 1x 5m Totara within Moa Avenue Road Reserve.
- 1x 11m Pohutukawa within Moa Avenue Road Reserve.

- To conduct greater than 400m² of earthworks on slopes less steep than 1 in 6 is a **restricted discretionary** activity under rule 10c.5.5.3(2). The proposal involves 5,500m² of earthworks on slopes up to 1 in 12.
- To transport greater than 200m³ of cleanfill off-site by public road is a **restricted discretionary** activity under rule 10c.5.5.3(3). The proposal involves the transportation of 3,000m³ off-site by public road.
- To conduct earthworks within the 10c.5.6 30m coastal protection and 20m wetland and water body protection yards is a **discretionary** activity under rule 10c.3.1. The proposal involves earthworks within the full depth of these protection yards.

E26 Infrastructure

- To remove vegetation over 6m in height or 600mm in girth within riparian or coastal areas is a **restricted discretionary** activity under rule E26.3.3.1(A77). The proposal involves the removal of 1x 7m Pohutukawa and 1x 6.5m Wattle tree within 20m of a natural wetland (riparian area).
- To conduct greater than 2,500m² of earthworks within the sediment control protection area is a **restricted discretionary** activity under rule E26.5.3.2(A107). The proposal involves 5,500m² of earthworks within 50m of the edge of a stream.

Streamworks consent (s13) – LUS60451972

Auckland Unitary Plan (Operative in Part)

E3 Lakes, rivers, streams and wetlands

- Any activities in the bed of streams and wetlands not otherwise provided for are a **discretionary** activity under rule E3.4.1(A1). The proposal involves the widening of stream and wetland beds to increase stormwater flows.
- Any works on lawfully existing culverts before 30 September 2013 that require greater than 10m of bed disturbance as per standard E3.6.1.10(1)(a) is a **discretionary** activity under rule E3.4.1(A26). The proposed replacement of the lawfully existing culvert under Rata Street will require bed disturbance greater than 10m.
- To construct a new culvert that requires greater than 10m of bed disturbance as per standard E3.6.1.14(2) is a **discretionary** activity under rule E3.4.1(A44). The proposed new culvert at 30 Tui Street will require bed disturbance greater than 10m.

Resource Management (National Environmental Standards for Freshwater) Regulations 2020

Construction of specified infrastructure

- To clear vegetation within a natural inland wetland is a **discretionary** activity under rule 45(1) if it is for the purpose of constructing specified infrastructure. The proposal involves the removal of vegetation within the 36 Tui Street Reserve wetland and the 19 Moa Avenue Reserve wetland for the purposes of drainage works carried out by a local authority (Auckland Council).

- To conduct earthworks within a natural inland wetland is a **discretionary** activity under rule 45(2) if it is for the purpose of constructing specified infrastructure. The proposal involves earthworks within the 36 Tui Street Reserve wetland and the 19 Moa Avenue Reserve wetland for the purposes of drainage works carried out by a local authority (Auckland Council).

Culverts

- To construct culverts within the bed of any river which does not have at least 25% of the culvert's diameter below the level of the bed as per regulation 70(2)(e) is a **discretionary** activity under rule 71(1). The proposed culverts at 30 Tui Street and across Rata Street do not achieve a minimum 25% embedment below the level of the bed.

Decision

I have read the application, read or scanned supporting documents, and read the Notification Report prepared by Mr George Bell¹¹ who recommended that the application proceed on a limited notification basis. I am satisfied that I have sufficient information to consider the matters required by the Resource Management Act 1991 (RMA) and make a decision under delegated authority on notification.

Public notification

Under section 95A of the RMA, this application shall proceed without public notification because:

1. Under step 1, public notification is not mandatory as:
 - a. the applicant has not requested it;
 - b. there are no outstanding or refused requests for further information; and
 - c. the application does not involve any exchange of recreation reserve land under s15AA of the Reserves Act 1977.
2. Under step 2, public notification is not precluded as:
 - a. there is no plan rule or regulation in an NES that specifically precludes public notification of the application; and
 - b. the application is for activities other than those specified in s95A(5)(b).
3. Under step 3, public notification is not required as:
 - a. the application is for activities that are not subject to a plan rule or regulation in an NES that specifically requires it; and
 - b. the activities will have or are likely to have adverse effects on the environment that are no more than minor because:

¹¹ Intermediate Planner, Resource Consents, Auckland Council

Landscape and amenity

- The proposed stormwater channels will be located below ground and screened by comprehensive riparian planting. The natural appearance of the new channels including features such as rocks and logs will ensure it does not detract from the residential and landscape amenity of the surrounds. The progressive methodology of construction will minimise the visual disturbance to the surrounding residential amenity.
- Views from the coast will remain largely unchanged while a short construction timeframe of 2 weeks for works undertaken in visual proximity to the coast will ensure visual effects from construction will be limited.
- The use of the construction laydown areas for up to 17 months will not detract from the residential amenity of the surrounds due to their separation from residential areas and limits on operating hours. The additional time beyond the permitted 12-month period will be limited to planting work which will be small in scale and low in intensity.

Public access

- The use of the 36 Tui Street Reserve for up to 17 months will not result in a notable reduction in recreational opportunity due to its small size and lack of facilities.
- The use of a 12% portion of Blackpool Park for up to 17 months will not result in a notable reduction in recreational opportunity due to the retention of large portions of the park. Key recreational facilities such as the old Blackpool School and basketball hoop area will be retained throughout works.

Streamworks and wetlands

- Council's streamworks specialist considers that the proposed erosion and sediment control plan is suitable to ensure that the risk of sediment and contaminants being discharged to the coast is low. The staged manner of works and restoration of the stream will minimise adverse effects on fish passage. The proposed culverts will be of a suitable size and embedment to ensure suitable fish passage and flow of the stream is achieved.
- Council's streamworks specialist considers that the temporary loss of vegetation within the Tui Street riverine wetland will be suitably mitigated by the comprehensive planting of wetland vegetation within the next planting season.

Heritage and archaeology

- Council's historic heritage specialist considers that impacts on archaeological and heritage sites are negligible and suitably mitigated through archaeological monitoring, recording, and reporting. The likelihood of encountering burials within the works area is considered distinctly low given the presence of shifting stream banks adjacent to the urupā.

Arboriculture

- Council's arborist considers that the removal of 4x generally protected trees and 2x Karo hedges will be suitably mitigated by the planting of 65x 45L specimen trees. Works within the dripline of trees to be retained will be mitigated by protective fencing and arboricultural supervision.

Noise

- Council's noise specialist considers the proposed noisy works to be suitably mitigated by limitations on construction hours, acoustic screening, and restricting machinery sizes.
- The progressive construction methodology will minimise the length of noisy works being undertaken at each stage and therefore not detract from the residential amenity of the surrounds.

Traffic

- Council's development engineer considers that the proposed trucking movements will avoid any excessive burden on the existing roading infrastructure and landfill facilities by offering a limit of 20 return trips per day, a maximum load weight of 20-tonnes, and restricting trips to be undertaken outside of peak hours and weekends.
- The proposed road closures will have a negligible impact on surrounding traffic noting that closures will be isolated to individual roads at a time with short detours due to the grid-like road layout of the Blackpool area.

Geotechnical

- Council's development engineer considers that the risk of significant instability is very low due to the works consisting of trenching and backfilling only.

Natural hazards

- The risk of flooding during construction will be minimised by the use of clean water diversions with sandbags that enable overtopping during storm events. The likelihood of flooding to occur is considered to be very low and effects on public safety and property are considered to be negligible.

Cultural

- The applicant has undertaken sufficient consultation with all relevant mana whenua groups with only Ngāti Pāoa Iwi Trust expressing interests or concerns. I defer the assessment on on adverse cultural effects on Ngāti Pāoa Iwi Trust to the s95b assessment below. In terms of wider mana whenua values, the proposed erosion

and sedimentation controls will be sufficient to ensure that the mauri (lifeforce) of the stream and coast are maintained.

4. Under step 4, there are no special circumstances that warrant the application being publicly notified because there is nothing exceptional, abnormal or unusual about the application, and the proposal has nothing out of the ordinary run of things to suggest that public notification should occur.

Limited notification

Under section 95B of the RMA this application shall proceed with limited notification because:

1. Under step 1, limited notification is not mandatory as:
 - a. there are no protected customary rights groups or customary marine title groups affected by this proposal; and
 - b. no person to whom a statutory acknowledgement is made is adversely affected by this proposal as the proposed erosion and sedimentation controls will ensure that the risk of sediment or contaminants reaching the coast will be low. As such, the proposal will not detract from the quality of water nor its life supporting capacity for the coastal area which Ngāi Tai Ki Tāmaki have statutory acknowledgement over.
2. Under step 2, limited notification is not precluded as:
 - a. there is no plan rule or regulation in an NES that specifically precludes limited notification of the application; and
 - b. the application is for activities other than that specified in s95B(6)(b).
3. Under step 3, limited notification is required as the following persons are found to be adversely affected by the proposal:

Persons at Blackpool Cemetery Reserve and Ngāti Pāoa Iwi Trust

- The proposed works will result in the permanent modification of the westernmost portion of the Urupā site. I consider this to adversely affect the owner's peaceful enjoyment of their own land and restrict their ability to use a portion of their site.
- Given Ngāti Pāoa Iwi Trust have a cultural connection to the Urupā site, I consider them to be adversely affected by the permanent modifications. In addition, Ngāti Pāoa Iwi Trust have stated that there are discrepancies between various historical maps of the Urupā and its extent may be greater than that outlined within the lodged archaeological report. Ngāti Pāoa Iwi Trust's recommended conditions have also not been fully offered by the applicant.

Persons at 11 Rata Street, 30 and 32 Tui Street, 13 Nikau Road, and 17 Moa Avenue.

- The proposed works will result in the permanent modification of the site frontages of these sites. I consider this to adversely affect the owner's peaceful enjoyment of their own land and restrict their ability to use a portion of their site.

Persons at 15 Moa Avenue

- I consider that the proposed two-week period of open excavations to install the underground pipe on this site will adversely affect the owner and occupier's peaceful enjoyment of their own land and restrict their ability to use the lawn area during the construction period.

No other persons are considered to be adversely affected by the proposal because:

- The proposed stormwater channels will be comprehensively planted such that they do not detract from the residential and natural visual amenity anticipated within the remaining adjacent sites.
- The proposed construction of new culverts within vehicle crossings to adjacent sites will result in temporary access restrictions for these sites for up to 3-4 days. The proposed mitigation options include providing alternative vehicle access or parking within the berm or lifting a temporary bridge over the excavations. These measures will be sufficient to ensure that persons on these sites will be able to access their site throughout the construction works period.
- Council's noise specialist considers that the proposed noise exceedances at the remaining adjacent sites will be intermittent and for a short duration of up to two days. The proposed mitigation measures offered through a construction noise and vibration management plan will feasibly minimise construction noise to a reasonable level.
- The applicant has offered to implement a construction and traffic management plan requiring a maximum of 20 return truck trips per day to only occur outside of peak hours and weekends.
- Road closures for adjacent persons will be isolated to individual roads at a time with detours anticipated to be small due to the grid-like road layout of the Blackpool area.
- The proposed erosion and sediment control plan will ensure that the quality of streams for adjacent sites is maintained throughout construction. The proposed comprehensive riparian planting will enhance the ecological values of the stream for adjacent sites in the long-term.
- The temporary loss of wetland vegetation will be suitably mitigated by the comprehensive planting of further wetland vegetation restoring wetland functions for adjacent sites.
- The removal of generally protected vegetation will be suitably mitigated by the comprehensive planting of 65x specimen trees to maintain the vegetated and landscaped amenity of adjacent sites.
- The proposed works are not anticipated to increase or exacerbate the risk of flooding to adjacent sites. The proposed riparian planting will also minimise the risk of erosion and instability for adjacent sites.
- The progressive construction methodology will ensure that any adjacent sites do not experience the full duration of construction work. In addition, the proposed

construction laydown areas are well separated from adjacent residential sites and will only operate within standard daytime hours.

4. Under step 4, there are no special circumstances that warrant the application being limited notified to any other persons because there is nothing exceptional, abnormal or unusual about the application, and the proposal has nothing out of the ordinary run of things to suggest that notification to any other persons should occur.

Accordingly, I agree with Mr Bell's recommendation that this application shall proceed with **LIMITED NOTIFICATION**. Notice of this application shall be served on the owners and occupiers of the following properties, and mana whenua groups, unless their written approval is otherwise obtained:

- 11 Rata Street
- 30 Tui Street
- 32 Tui Street
- 13 Nikau Road
- 17 Moa Avenue
- 15 Moa Avenue
- Blackpool Cemetery – Huruhi Urupa Block
- Ngāti Pāoa Iwi Trust



Mark C Farnsworth MNZM

Duty Commissioner

6 January 2026