

**RM number:** RM190050  
**Date:** 15 July 2019  
**Applicant:** Hutt City Council  
**Agent:** Tonkin and Taylor  
**Address:** PO Box 2083 Wellington 6140  
**Attention:** Alastair Meehan

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Our reference: RM190050

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**NOTIFICATION DECISION PURSUANT TO 95D OF THE RESOURCE MANAGEMENT ACT IN RELATION TO APPLICATION FOR RESOURCE CONSENT FOR THE EXPANSION OF THE WAINUIOMATA CLEANFILL AT 126 AND 130 COAST ROAD, WAINUIOMATA.**

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## **1. PROPOSAL**

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Resource consent is sought to authorise an expansion of the Wainuiomata cleanfill. The existing cleanfill operation accommodates excess fill material associated with the growth and development of both Wainuiomata and the wider Hutt City. Currently the facility is the only area where cleanfill material can be deposited in the lower Hutt Valley. The area consented for cleanfill deposition has limited remaining capacity, and based on current usage, is anticipated to reach that capacity in 2019.

Accordingly, an application for resource consent has been lodged by Hutt City Council in its capacity as both land owner and operator of the existing cleanfill. It is proposed to expand the existing cleanfill into an area of land located adjacent to the south and west of the existing cleanfill towards the Wainuiomata River. Approximately 117,000m<sup>3</sup> of material is sought to be deposited with a 2.5 year duration sought from the date of any approved resource consent. This material equates to an additional 70% increase of material over and above the 167,000m<sup>3</sup> of material already consented. This would be filled in a similar manner with a steep stepping down of the finished fill profile at the edge adjoining the river.

All material proposed to be deposited must be non-polluting materials such as clay, soil, concrete or brick and in accordance with the MfE guidance on the Management of Cleanfills. Hours of operation are proposed being 7.30 am to 5 pm Monday to Friday and 7.30 am to 12pm on Saturdays with no weekend or public holiday usage.

It should be noted that parallel resource consent applications were lodged with Greater Wellington Regional Council for discharges of dust to air, for sediment laden water from cleanfilling activities and the discharge of cleanfill material to land. It is understood that these applications have been granted without notice.

## 2. SITE DESCRIPTION AND SITE HISTORY

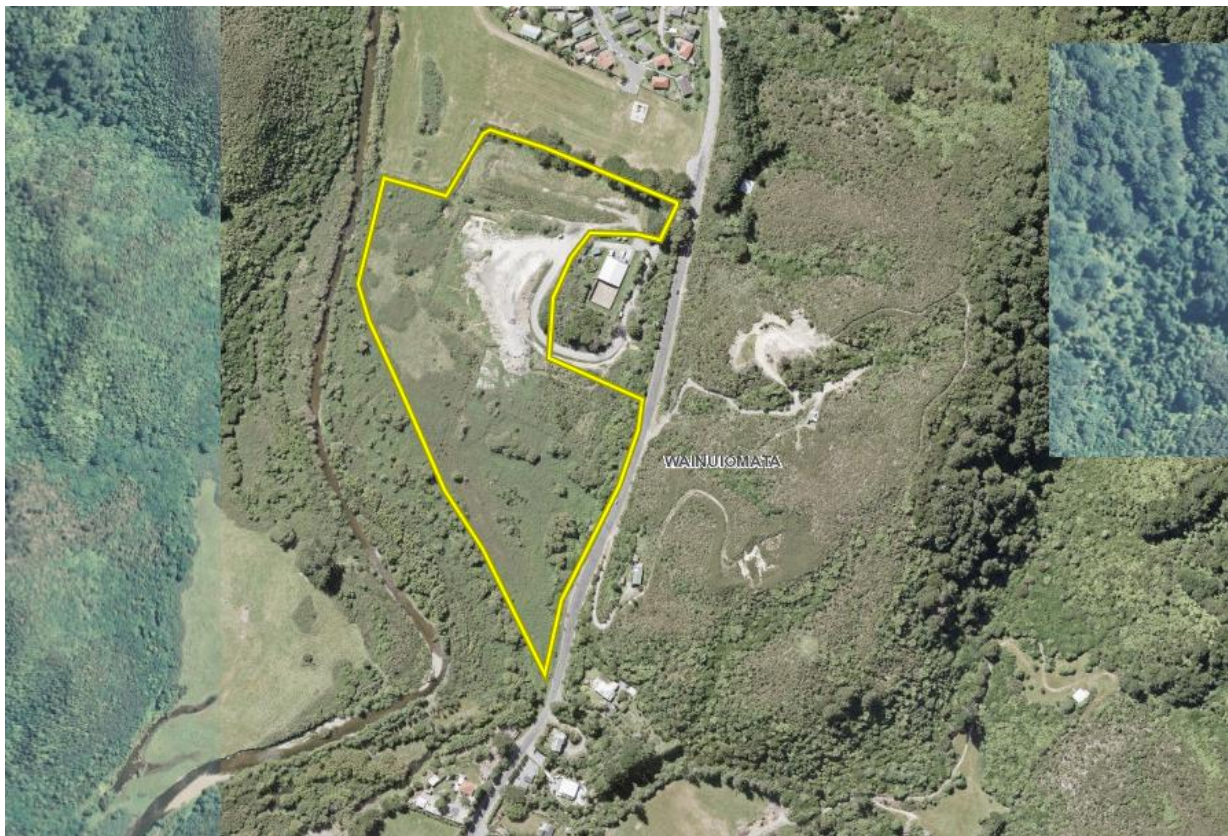
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The application site is located at 130 Coast Road, Wainuiomata, and is legally described as Lot 3 DP 393261 within record of title identifier 373441. The title contains a number of easements and a consent notice which identifies a number of restrictions for development across the site. The site includes that of 126 Coast Road (Lot 2 DP 393261 within record of title 373440) as this property provides access to the cleanfill site.

The site originally was the location of the Wainuiomata Sewage Treatment Plant and as such remains designated for that purpose in the District Plan (designation reference HC11). However, the designation does not authorise the use of the site for cleanfilling purposes.

Resource consent was lodged in August 2009 for what is now known as Stages 1 and 2 of the Wainuiomata Cleanfill. Stage 1 which has been completed comprised of some 28,000 m<sup>3</sup> while Stage 2 which is currently been completed comprises approximately 137,000 m<sup>3</sup>. After limited notification to adjoining property owners and a hearing of submissions, resource consent was granted in April 2011. A replacement consent was granted in 2017 that extended the time that cleanfilling could occur to 2027.

The expansion of the cleanfill is proposed immediately south of the existing consented cleanfill area, adjacent to both Coast Road and the Wainuiomata River. It is stated that Flood Hazard modelling for the Wainuiomata River has been updated and as such more of the available land within the current ownership of Council can be available for cleanfilling. The land proposed to be filled generally appears overgrown with some weed species and this has been confirmed by the applicant in a response to a request for further information under s92 of the Act. To help provide context to the site in relation to surrounding properties the aerial photograph below shows the location of neighbouring properties in relation to the site.



To the north of the overall site but opposite where the Stage 3 filling is proposed is Ngaturi Park with residential properties in Ngaturi Grove further to the north. The completed stage 1 acts as a visual bund from stage 2 and proposed stage 3.

To the east but located much higher above Coast Road are 119 and 199 Coast Road while there are a cluster of residential properties located to the south being 200 to 205 Coast Road that are approximately at the same or at a lower level.

### **3. RELEVANT PLANNING RULES AND REGULATIONS**

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#### **District Plan**

The District Plan is the appropriate planning instrument with which to assess the proposal. Rules relating to the Rural Activity Area, which this proposal falls within, are contained in chapters 8 and the general rules in Chapter 14.

The proposal requires resource consent for the following District Plan non-compliances.

- An activity (cleanfill) which does not comply with the relevant requirements of Chapter 14 – General Rules, as a discretionary activity under General Rural Activity Area Rule 8B 2.3 (a);
- The generation of noise by machinery and/or vehicles exceeding 50dBA beyond the site between 7am and 10pm, as a discretionary activity under General Rules (Noise) Rule 14C 2.1.10;
- Earthworks exceeding permitted activity height and quantity thresholds of 1.2 m and 50 m<sup>3</sup> under Rule 14I 2.1.1, as a restricted discretionary activity under General Rules (Earthworks) Rule 14I 2.2.

I agree that the proposal is a discretionary activity under the above rules

### **National Environmental Standards**

The proposal does not require assessment under any National Environmental Standards.

## **4. ASSESSMENT OF ADVERSE EFFECTS**

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Pursuant to sections 95D(b) and 95E(2)(a), in determining whether adverse effects on the environment will be more than minor and who is an affected person, I may disregard and adverse effect of an activity if a rule or national environmental standard permits an activity with that effect (permitted baseline). There is no permitted baseline applicable as the cleanfilling operation of the scale proposed triggers the need for resource consent.

However it is appropriate to consider the effects of the proposal compared to those generated by the existing rural environment and the existing resource consent. The District Plan has very limited quantities in relation to earthworks or the deposition of cleanfill material and as such the deposition of cleanfill material of the quantities proposed has the potential to create adverse effects.

### **Potential Adverse Effects**

The proposed cleanfilling has the potential to create adverse effects particularly on the residential and rural amenity of nearby properties. Potential adverse effects in this case can be broken down into the following components.

- a) Visual effects as a number of the properties at 201 to 205 Coast Road will have a significant change to the aspect that these properties have. This is both during cleanfilling and once cleanfilling is completed. It is also noted that the fill face for Stage 3 is approximately 160 metres closer to these properties than Stage 2 and that the finished land form post cleanfilling will be approximately 12 metres at the highest point above existing ground level.
- b) Noise effects. This is from the truck movements bringing material onto the site and from machinery used on the site itself. The applicant has submitted a noise assessment as part of the application and that has been peer reviewed. Hours of operation are proposed to continue as they are under the 2017 consent (7.30am to 5.00pm Monday to Friday and 7.30am to 12.00pm Saturday).
- c) Dust effects related to the deposition of material noting that consent for discharges to air have been sought from Greater Wellington Regional Council.
- d) Ecological effects noting that a detailed description of the ecological values of the site has been provided in response to a request for further information. This states that the site has low ecological values.



- e) Traffic effects noting that the site entrance and exit would remain the same. The applicant has provided a traffic assessment that has been peer reviewed stating that traffic effects onto and off Coast Road are less than minor.
- f) Material being tracked out onto the road. A wheel wash has been installed and it has been noticed that there is at times material on the road. The applicant has proposed improved management methods to avoid such occurrences from happening.
- g) Erosion and sediment control. The applicant has provided detail on methods for the minimisation of these effects. In addition this is a matter that is also subject to Greater Wellington Consents.

## 5. NOTIFICATION ASSESSMENT

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Council must assess any resource consent application under section 95 of the Resource Management Act 1991 to determine whether a resource consent application should be notified. The Resource Management Act 1991 details a four step process that must be followed, and triggers or precludes notification of applications in certain circumstances. The sections below follow the four step process for public notification (under section 95A) and limited notification (under section 95E).

### 5.1 - PUBLIC NOTIFICATION STEPS – SECTION 95A

Pursuant to section 95A of the Resource Management Act, this section follows the 4 step process to determine if public notification is required.

#### Step 1 - Public notification is mandatory in certain circumstances

Public notification is mandatory in certain circumstances

Has the applicant requested public notification?	No
Is public notification required under s95C?	No
Is the application made jointly with an application to exchange recreation reserve land under s15AA of the Reserves Act?	No

Public notification is not mandatory under step 1.

#### Step 2 - Public notification is precluded in certain circumstances

If public notification is not required under step 1 it may be precluded in certain circumstances (unless special circumstances apply under step 4).

Are all activities in the application subject to a rule in a Plan or National Environmental Standard precluding public notification?	No
Is the application for one or more of the following (but no other) activities? <ul style="list-style-type: none"> <li>▪ A controlled activity</li> <li>▪ A residential activity with a restricted discretionary or discretionary activity status</li> <li>▪ A subdivision of land with a restricted discretionary or discretionary activity status</li> <li>▪ A boundary activity with a restricted discretionary, discretionary or non-complying activity status</li> <li>▪ An activity prescribed by regulation made under s360H(1)(a)(i)</li> </ul>	No

precluding public notification (if any)	
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Public notification is not precluded under step 2.

**Step 3 - Public notification is required in certain circumstances**

If public notification precluded under step 2, public notification may be required in certain circumstances.

Is any activity in the application subject to a rule in a Plan or National Environmental Standard that requires public notification?	No
Does the activity have, or is likely to have, adverse environmental effects that are more than minor in accordance with s95D?	No (see assessment below)

**Does the activity have, or is likely to have, adverse environmental effects that are more than minor in accordance with s95D?**

Public notification is required under step 3 if the activity will have or is likely to have adverse effects on the environment that are more than minor. In considering if the adverse effects on the environment are more than minor, in accordance with s95D, the effects on persons who own or occupy the land in, on, or over which the activity will occur' or any land adjacent to the that land must be disregarded. For the purposes of this assessment under s95D I have therefore disregarded the effects on the following persons who own or occupy properties at:

- 115B, 119, 122 (Ngaturi Park), 122N, 124, 126, 160, 199, 200, 201, 205 Coast Road, Wainuiomata.

**Traffic effects**

The traffic assessment submitted by the applicant has been peer reviewed for the Council by Kristin Louw a Project Transportation Engineer at Stantec.

- Crash history within proximity to the site led to improvements to the road layout in 2011 and a reduction in speed limit; this is considered to be appropriate mitigation as crash data from 2009 to 2018 demonstrates the access has operated without any known safety issues since the improvements were made.
- There are turning restrictions for the site access, which are supported by the traffic assessment. These restrictions in combination with the reduced speed limit ensure traffic safety effects, upon all road users, remain less than minor for the continued use of the site.
- There have been a number of enforcement complaints regarding material being tracked onto the road, which has implications for road safety especially for motorcyclists and cyclists using the road. The applicant recommends the continued use of the wheel wash facility as mitigation, which is supported by the Stantec review. Therefore, the effect upon general road user safety is considered to be minor.
- The location of the maintenance gate 7m from Coast Road means some rigid trucks or emergency vehicles may protrude onto Coast Road, given this is a maintenance gate and not to be used regularly by depositing trucks the effects on the road users safety is at most minor, especially considering the visibility on this section of road is extensive. Vegetation maintenance programme proffered by the applicant will maintain

site lines at maintenance access reducing the effect upon road user safety to less than minor.

- The applicant proffers that the continued use of the clean fill operation will keep the level of vehicle movements relatively consistent with previous years, while the volume of proposed fill (117,000m<sup>3</sup>) over a 2.5 year period suggests an intensification above the period of 2011-2019, where 195,368m<sup>3</sup> was consented to be deposited on the site, the applicant has confirmed this will be achieved with an average of 40 trucks per day. Stantec conclude that Coast Road is able to accommodate the increased traffic generated by the site while maintaining a good level of service; as such the effects are considered to be less than minor.

### **Noise and dust effects**

- Noise effects from the increase in vehicle movements will primarily be focused to the north, whereas the operational noise effects are generally to the southern end of the site, thereby reducing the overall, cumulative, effect in regards to noise upon the wider environment.
- Noise effects associated with the extended use of the clean fill will be focused on the immediate environment, to the north and south, assessed in the following s95E assessment and will not create effects that are more than minor on the wider environment.

### **Visual amenity effects**

- The proposal includes significant changes to the natural topography of the site with a proposed 12m change to the existing ground level. However, the southern end of the site is currently below the level of the adjacent section of Coast Road and therefore visual amenity effects to passing road users will be no more than minor. Furthermore, in support of this, there is no significant mature vegetation on this section of the site which might have formed an integral part of the local character. Effects in this regard remain less than minor.

### **Flooding and natural hazard effects**

- Clean fill operation will reduce floodplain storage however this area of the site is, on the whole, outside of the 1 in 100 year flood extent and makes up a small proportion of the overall flood plain.
- The area of fill is sufficiently removed from the river corridor so as not to increase backwater effect ensuring potential adverse effects will be less than minor.

Do special circumstances exist that warrant public notification?	No
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Special circumstances have been defined by the courts as those that are outside the common run of things which are exceptional or unusual but they may be less than extraordinary or unique. There is an existing clean fill site, which was lawfully commenced, and the applicant proposes to extend the scale of operations. While the current proposal presents several District Plan non-compliances this does not qualify as special circumstances. Furthermore the District Plan provides clear policy direction and assessment matters, and it is considered that

public notification of the proposal will not reveal any new information relevant to the determination of this consent.

It is noted there has been a number of complaints relating to the site, with the majority focused on sediment being carried onto the carriageway. However, considering the scale of activity is relatively large and the level of interest has been generally limited to properties in the immediate vicinity I do not consider this to be sufficient to warrant public notification. Furthermore s95E provides a clear assessment framework for effects upon individual properties and persons.

**Conclusion**

Public notification is not required.

**5.2 - LIMITED NOTIFICATION STEPS - SECTION 95B**

Pursuant to section 95B of the Resource Management Act, a 4 step process must therefore be followed to determine if limited notification is required.

**Step 1 – Certain affected groups/persons must be notified**

Limited notification is mandatory for certain groups/persons.

Are there affected customary rights groups?	No
Are there affected customary marine title groups (for accommodated activities)?	No
Is the proposal on or adjacent to, or may affect, land that is subject to a statutory acknowledgement and whether the person to whom the statutory acknowledgement is made affected under section 95E?	No

Limited notification is not required under step 1.

**Step 2 – Limited notification is precluded in certain circumstances**

Limited notification to any other persons not referenced in step 1 is precluded in certain circumstances (unless special circumstances apply under step 4).

Are all activities in the application subject to a rule in a Plan or National Environmental Standard precluding limited notification?	No
Is the application for either or both of the following, but no other activities: <ul style="list-style-type: none"> <li>• A controlled activity (other than a subdivision) under the District Plan</li> <li>• An activity prescribed by regulations made under s360H(1)(a)(ii) precluding limited notification (if any)</li> </ul>	No

Limited notification is not precluded under step 2.

**Step 3 – Certain other persons must be notified**

If limited notification is not precluded under step 2, limited notification is required for any persons found affected under s95E.

Are any of the following persons ‘affected’ under s95E? <ul style="list-style-type: none"> <li>• For ‘boundary activities’ an owner of an allotment with an ‘infringed boundary’</li> <li>• In the case of any activity prescribed under s360H(1)(b), a</li> </ul>	No
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prescribed person in respect of the proposed activity.	
For all other activities, are there any affected persons in accordance with s95E?	Yes (see below assessment)

**In accordance with s95E are there any affected persons?**

Section 95E(3)(a) stipulates that those individuals who give written approval to a proposal cannot be considered to be an “affected person”. No persons have given written approval.

In accordance with section 95E, I have considered whether the proposal could adversely affect any other persons. Adjacent properties for the purpose of this assessment are considered to include:

- 115B 119,122 (Ngaturi Park), 122N, 124, 126, 160, 199, 200, 201, 201A, 202, 204, 205 Coast Road
- 4, 6, 8, 10, 11 and 13 Ngaturi Grove

I consider there to be potential environmental effects for the following reasons:

**4, 6, 8, 10, 11 and 13 Ngaturi Grove**

I have considered the following effects in relation to these properties:

- Visual amenity effects - These properties are well removed from the proposed area of clean fill to the southern end of the application site and screened by the vegetated stage 1 area of the site, as such visual amenity effects are considered less than minor.
- Traffic effects – With respect to sediment being tracked onto the carriageway these properties are located to the north of the application site and therefore do not need to pass the site for access to services. As such the effect of sediment on the road is limited and the effective use of the wheel wash is considered appropriate to address the safety effects of the proposal, effects are therefore less than minor.
- Traffic effects (noise and nuisance) – The site entrance is located to the south of these properties and therefore all truck movements to and from the site pass these properties and there is the potential for noise and nuisance effects associated with these movements, however the applicant states that truck movements are not to increase beyond 40 trucks on average per day, this forms part of the resource consent proposal and is considered an acceptable level whereby effects associated with the truck movements will be less than minor on the properties listed above as concluded within the updated Tonkin + Taylor Noise Assessment dated August 2018.
- Noise effects – There is no breach of the District Plan noise standards according to the applicant’s noise report and these properties are sufficiently separated from the ongoing use of the site for effects to remain less than minor. The completed stage 1 filling also provides a vegetated bund in between these properties and the proposed filling for stage 3.
- Dust effects – can be sufficiently managed on site and properties listed are well separated from the area of stage 3 works.
- Flooding – Proposed stage 3 is sufficiently removed from the river flow area so as not to increase backwater effect upon the above properties.

**122 (Ngaturi Park), 122N and 124 Coast Road**

- Use of these sites are less sensitive than residential uses given the intermittent nature of visitors and the recreational use of the site.

- These properties are well separated from the activity for all other effects to be less than minor. Further it is noted that the noise bund created as part of the current clean fill operation aids in mitigation of noise, dust and visual amenity effects.

### **160 Coast Road**

- Use of these rural and undeveloped lots is less sensitive than residential uses in terms of the adverse effects caused by the clean fill operation. As such I consider the effects to be less than minor.

### **115B, 119, 199, 200, 201, 201A, 202, 204 and 205 Coast Road**

#### Traffic effects

- Vehicle movements and the associated noise and nuisance effects will be concentrated to the north of the site as vehicles are limited to a right turn entering the site and left turn exiting the site, thereby reducing the effect of the additional movements proposed on 119, 199, 200, 201, 201A, 202, 204 and 205 Coast Road to an extent. However, 115B Coast Road is located adjacent to the site entrance and will be the main receptor for the additional vehicle movements in and out of the site. As such effects upon this property will be at least minor in regards to noise and nuisance associated with the additional vehicle movements.
- Trucks bringing sediment onto the road poses safety risk for these dwellings as they must pass the site entrance to access basic services, with the exception of 115B which joins Coast Road north of the site entrance. The proposed mitigation through better management and operation of the wheel wash as proposed by the applicant can avoid safety effects caused by sediment tracking onto the road.

#### Noise

- Noise assessment identifies 119, 199, 200 and 205 Coast Road as having the maximum predicted noise level breached as a result of the clean fill operation. The applicant has assessed the effects on the notional boundary 20m from each dwelling rather than the established site boundaries. Furthermore, the applicant asserts that road noise will contribute to noise more than the clean fill.
- Works will be expanded in terms of timeframe and scope (the extent of works) from what has previously been consented and closer to these properties than the consented cleanfill operations. As such activity and works will be evident across the site in a location closer to the majority of these properties (in contrast to the current location of works).
- The noise assessment has been peer reviewed by Marshall Day. It has been concluded that:
  - o Dwellings to the south of the proposed site may experience a significant increase in noise level. However, with the exception of the 199 Coast Road, the T+T predictions show the noise level to be within reasonable noise limits (as established in the assessment);
  - o To avoid any ambiguity for future compliance concerns, activities classified as construction should be clearly identified and included within the application. This should include the locations of the proposed access roads, flood defences or other works.
  - o If any compaction of fill on site is required (excluding the construction of access roads), this should be classified as an operational activity. If the pad foot roller is used for this activity, then the noise assessment would need to reflect this.

## Dust

- While the area has a High Wind Zone Rating, which will increase the likelihood of sediment blowing beyond the site boundaries, on-site management is considered to be appropriate and sufficient to mitigate the potential dust effects whereby they would be less than minor.

## Visual amenity

- Level of works proposed will result in significant changes to the topography of the site, all properties listed are level with or elevated above the current ground level of the southern end of the site as such all works will be visible to varying degrees.
- The proposal will leave excavated areas exposed for long periods of time.
- 115B Coast Road is partially screened by way of separation distance and stage 2 of the clean fill. While the scale of effects will range for the above properties I consider the visual amenity effects to be at least minor.

## Flooding and natural hazards

- As concluded under the s95D assessment the clean fill operation will reduce floodplain storage however it is a small proportion of the overall flood plain and therefore effects will be less than minor on 204, 205 and 206, as these are the downstream properties.

The assessment so far has focused on individual effects. When the noise, dust and visual/general amenity effects are considered cumulatively the environmental effects on 115B, 119, 199, 200, 201, 201A, 202, 204 and 205 Coast Road are considered to be at least minor.

All other persons and properties are considered to sufficiently separated from the application site whereby any potential adverse effects will be less than minor.

Limited notification is therefore required under step 3 unless written approvals can be obtained from these owners/occupiers.

## Conclusion

Limited notification of the application is required to the following owners and occupiers. 115B, 119, 199, 200, 201, 201A, 202, 204 and 205 Coast Road Wainuiomata.

## 5.3 - NOTIFICATION DECISION

In accordance with the notification steps identified in section 95E the application shall proceed on a limited notification basis.

I am also satisfied that there is sufficient information in respect of s92 of the Act.



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Peer reviewer:

A handwritten signature in blue ink, appearing to read "D Gosset". The signature is stylized and somewhat cursive.

David Gosset  
Intermediate Resource Consents Planner