

**From:** Information Management Team

**Sent:** Monday, March 27, 2023 5:57 PM

**To:** [REDACTED]

**Subject:** RE: [EXTERNAL] Re: LGOIMA request for information - LGOIMA2022-0074 -

Kia ora Mary

Thank you for your information request of 27 February 2023.

Rockgas Wellington, at 38 Bouverie Street, is in the General Business Zone.

There are several resource consents under the name On Gas Limited and Incite Limited, not under the business name of Rockgas Wellington.

The resource consent decisions will include detail of conditions of operation. I particularly suggest you check the resource consent decisions for the following resource consents: RM100485, RM120292, and RM160112.

You can access these resource consents on Hutt City Council's public website, at the following address link:

<https://www.huttcity.govt.nz/property-and-building/search-property-and-building?query=38+Bouverie+Street>

A further resource consent was granted in April 2018 – RM180082. The decision associated with this application is attached. On 8 July 2019 a council monitoring officer called at the above address to ascertain if all the conditions of the resource consent granted on 17 April 2018 were being complied with. As at the date of the visit, the activity consent conditions complied with the approved plans.

You have the right to seek an investigation and review by the Ombudsman of this response to your request for official information. Information about how to make a complaint is available at [www.ombudsman.parliament.nz](http://www.ombudsman.parliament.nz) or freephone 0800 802 602.

Please note that this letter may be published on the Council's website.

Nāku noa, nā

Susan Sales

**Susan Sales**

Ringa Āwhina Tāhūhū ki Te Koromatua | Senior Advisor

Te Kaunihera o Te Awa Kairangi | Hutt City Council, [30 Laings Road](https://www.huttcity.govt.nz), Private Bag 31912, Lower Hutt 5040, New Zealand

Paetukutuku: [www.huttcity.govt.nz](http://www.huttcity.govt.nz)

From: Jotform <[noreply@jotform.com](mailto:noreply@jotform.com)>

Sent: Monday, 27 February 2023 4:38 pm

To: WebServices <[web@huttcity.govt.nz](mailto:web@huttcity.govt.nz)>; Information Management Team <[informationmanagementteam@huttcity.govt.nz](mailto:informationmanagementteam@huttcity.govt.nz)>

Subject: [EXTERNAL] Re: LGOIMA request for information - LGOIMA2022-0074 -



## LGOIMA request for information

Submission Timestamp 27 Feb, 2023 at 16:37:59

Request ID LGOIMA2022-0074

Name s 7(2)(a)

Contact Number s 7(2)(a)

Preferred method of response: Email

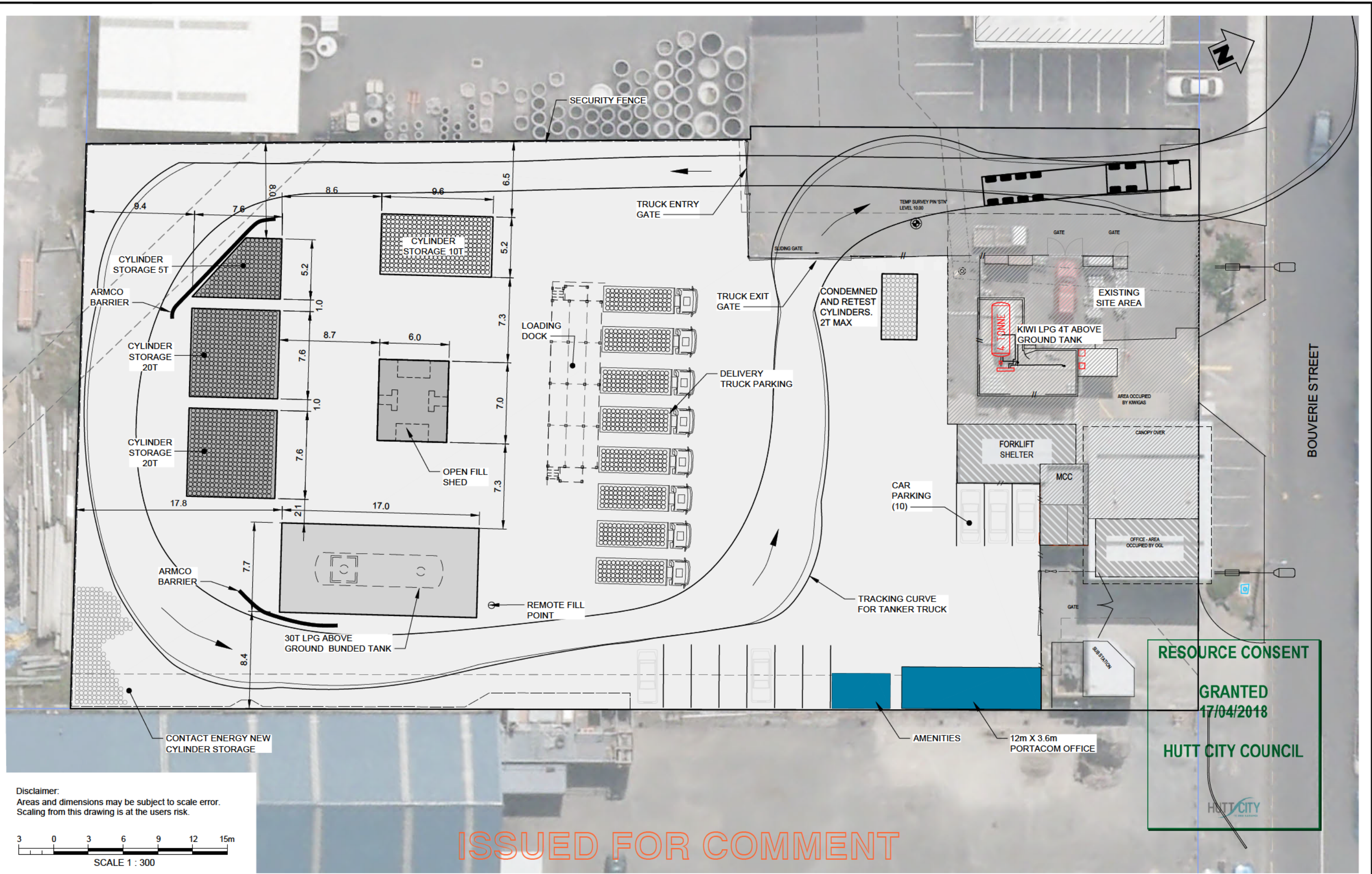
Email s 7(2)(a)

Zoning and resource consent information and any special operating conditions for  
Rockgas Wellington  
38 Bouverie Street  
Petone  
Wellington 5012

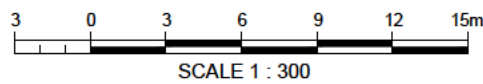
Is your request urgent? No

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You can [view all your submissions](#) easily.



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ISSUED FOR COMMENT

**BTWCOMPANY**  
SURVEYING | ENGINEERING | PLANNING & ENVIRONMENT

NO	DATE	BY	CHKD	APPR	OPER	DESCRIPTION	NUMBER	TITLE
A6	05.04.18	LV	GJ			PORTACOM OFFICE DIMENSIONS UPDATED		
A5	26.03.18	LV	GJ			REISSUED FOR COMMENT		
A4	14.03.18	LV	GJ			REISSUED FOR COMMENT		
A3	29.03.18	LV	GJ			REISSUED FOR COMMENT		
A2	05.03.18	LV	GJ			REISSUED FOR COMMENT		
A1	27.02.18	LV	GJ			REISSUED FOR COMMENT		
A7	10.04.18	LV	GJ			BACKGROUND IMAGE REMOVED OVER SITE EXTENTS		
NO	DATE	BY	CHKD	APPR	OPER	DESCRIPTION	NUMBER	TITLE
REVISIONS							REFERENCE DRAWINGS	

GENERAL NOTES  
1. Coordinates in terms of :  
2. Elevations in terms of : NA  
3. Contour interval is : -

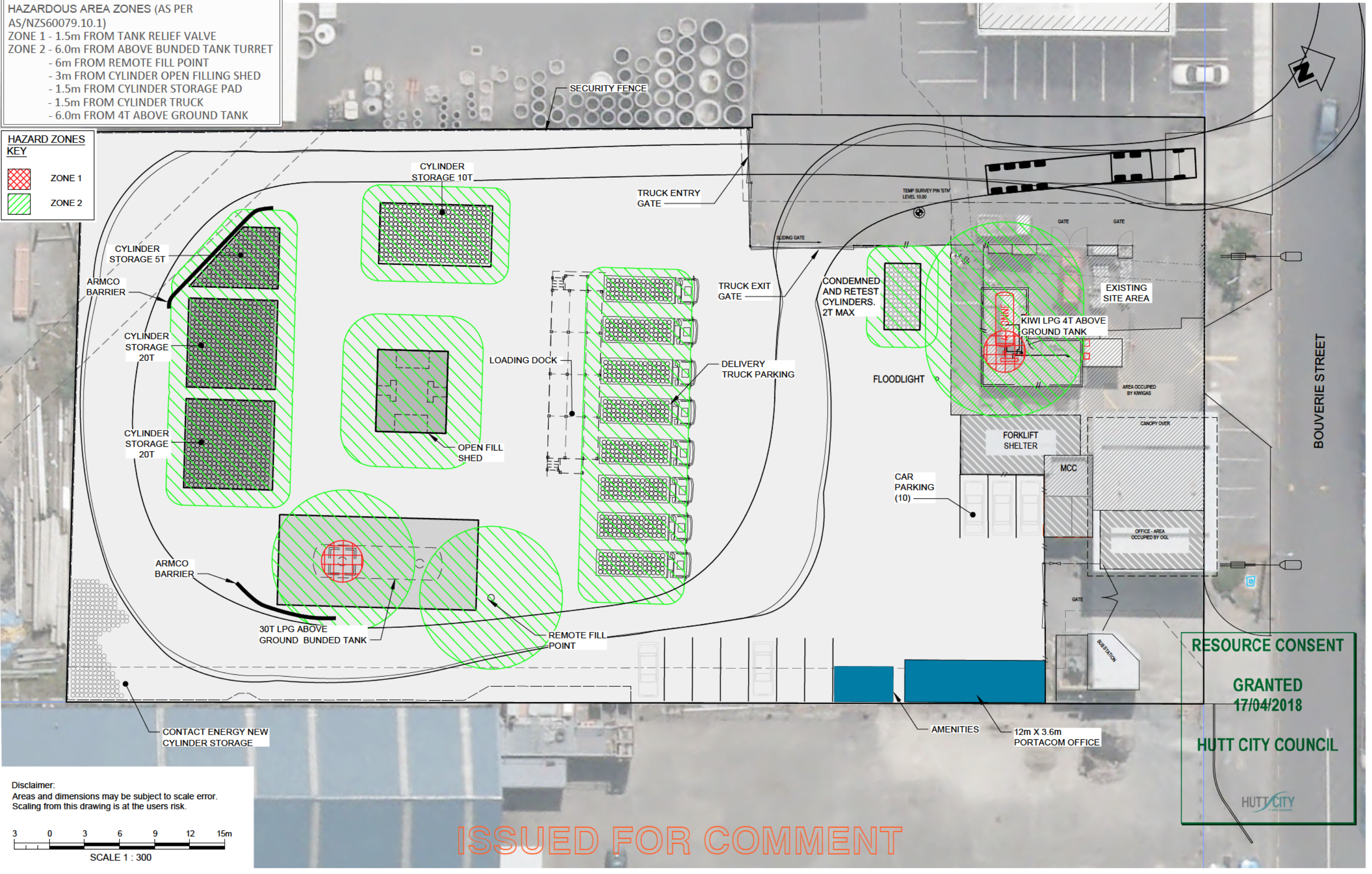
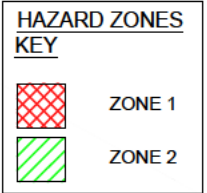
OnGas

LOCATION	38 BOUVERIE ST, PETONE	
PROJECT NO.	171044.03	
A3 SCALE	1:300	
SURVEYED	N/A	N/A
DRAWN	L VASEY	27.02.18
CHECKED	G JOHNSTON	27.02.18

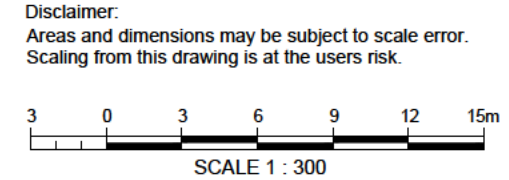
TITLE  
**OnGas**  
PETONE SITE - UPGRADES  
GENERAL LAYOUT

ORIGINAL SIZE	A3	DRAWING NO	171044.03	SHEET	1	REVISION	A7
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**HAZARDOUS AREA ZONES (AS PER AS/NZS60079.10.1)**  
 ZONE 1 - 1.5m FROM TANK RELIEF VALVE  
 ZONE 2 - 6.0m FROM ABOVE BUNDED TANK TURRET  
 - 6m FROM REMOTE FILL POINT  
 - 3m FROM CYLINDER OPEN FILLING SHED  
 - 1.5m FROM CYLINDER STORAGE PAD  
 - 1.5m FROM CYLINDER TRUCK  
 - 6.0m FROM 4T ABOVE GROUND TANK



**RESOURCE CONSENT**  
**GRANTED**  
 17/04/2018  
**HUTT CITY COUNCIL**



**ISSUED FOR COMMENT**

**BTWCOMPANY**  
 SURVEYING | ENGINEERING | PLANNING & ENVIRONMENT

NO	DATE	BY	CHKD	APPR	OPER	DESCRIPTION	NUMBER	TITLE
A6	05.04.18	LV	GJ			PORTACOM OFFICE DIMENSIONS UPDATED		
A5	26.03.18	LV	GJ			REISSUED FOR COMMENT		
A4	14.03.18	LV	GJ			REISSUED FOR COMMENT		
A3	29.03.18	LV	GJ			REISSUED FOR COMMENT		
A2	05.03.18	LV	GJ			REISSUED FOR COMMENT		
A1	27.02.18	LV	GJ			REISSUED FOR COMMENT		
A7	10.04.18	LV	GJ			BACKGROUND IMAGE REMOVED OVER SITE EXTENTS		

**OnGas**

GENERAL NOTES  
 1. Coordinates in terms of : NA  
 2. Elevations in terms of : NA  
 3. Contour interval is : -

LOCATION	38 BOUVERIE ST, PETONE		TITLE	OnGas	
PROJECT NO.	171044.03		PETONE SITE - UPGRADES		
A3 SCALE	1:300		HAZARD ZONES		
SURVEYED	NA	NA	ORIGINAL SIZE	DRAWING NO	SHEET
DRAWN	L VASEY	27.02.18	A3	171044.03	2
CHECKED	G JOHNSTON	27.02.18			A7

File Name: J:\171044\171044.03 Lower Hutt\Drawings\171044.03.dwg - HAZARD ZONES Plot Date: 10/04/2018 Plot Time: 11:40

**NOTES:**

- CONTROLLED ZONE MEANS AN AREA ABUTTING A HAZARDOUS SUBSTANCE LOCATION THAT IS REGULATED SO THAT:
  - WITHIN THE ZONE, THE ADVERSE EFFECTS OF A HAZARDOUS SUBSTANCE ARE REDUCED OR PREVENTED; AND
  - BEYOND THE ZONE, MEMBERS OF THE PUBLIC ARE PROVIDED WITH REASONABLE PROTECTION FROM ADVERSE EFFECTS
- THE RELEVANT PUBLIC PLACE SEPARATION DISTANCES ARE:
  - BUNDED LPG TANK FITTING (30,000 KG) IS 3.0m
  - CYLINDER STORAGE PAD (45T) IS 4.9m
  - CYLINDER STORAGE PAD (10T) IS 4m
  - DELIVERY TRUCK 16 STORAGE (8 x 2T) IS 4.15m
  - CYLINDER FILLING SHED IS 5.0m (BASED ON WORKSAFE DISCUSSIONS)
  - VESSEL FILL POINT IS 3.0m
  - KIWI LPG 4T ABOVE GROUND VESSEL IS 6m
  - CONDEMNED AND RETEST CYLINDERS IS 2m
- THE RELEVANT PROTECTED PLACES SEPARATION DISTANCES ARE:
  - BUNDED LPG TANK FITTING (30,000 KG) IS 6.0m
  - CYLINDER STORAGE PAD (45T) IS 7.9m
  - CYLINDER STORAGE PAD (10T) IS 7m
  - DELIVERY TRUCK 16 STORAGE (8 x 2T) IS 7.15m
  - CYLINDER FILLING SHED IS 5.0m (BASED ON WORKSAFE DISCUSSIONS)
  - VESSEL FILL POINT IS 6.0m
  - KIWI LPG 4T ABOVE GROUND VESSEL IS 10m
  - CONDEMNED AND RETEST CYLINDERS IS 3m

**RESOURCE CONSENT**

**GRANTED**  
17/04/2018

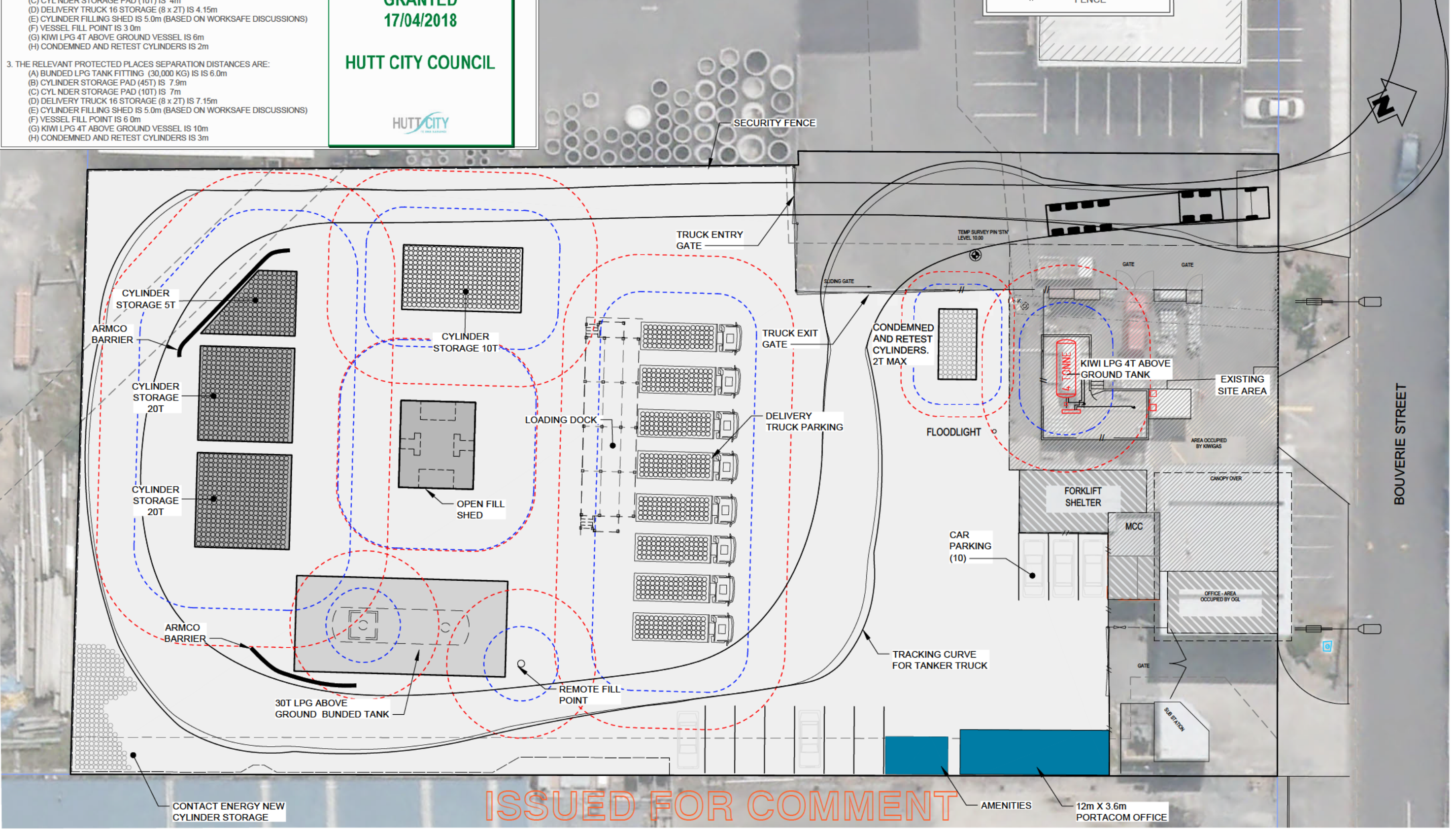
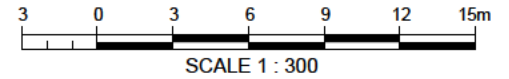
**HUTT CITY COUNCIL**



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**LEGEND**

- PROTECTED PLACE
- PUBLIC PLACE
- GATE
- FENCE



ISSUED FOR COMMENT

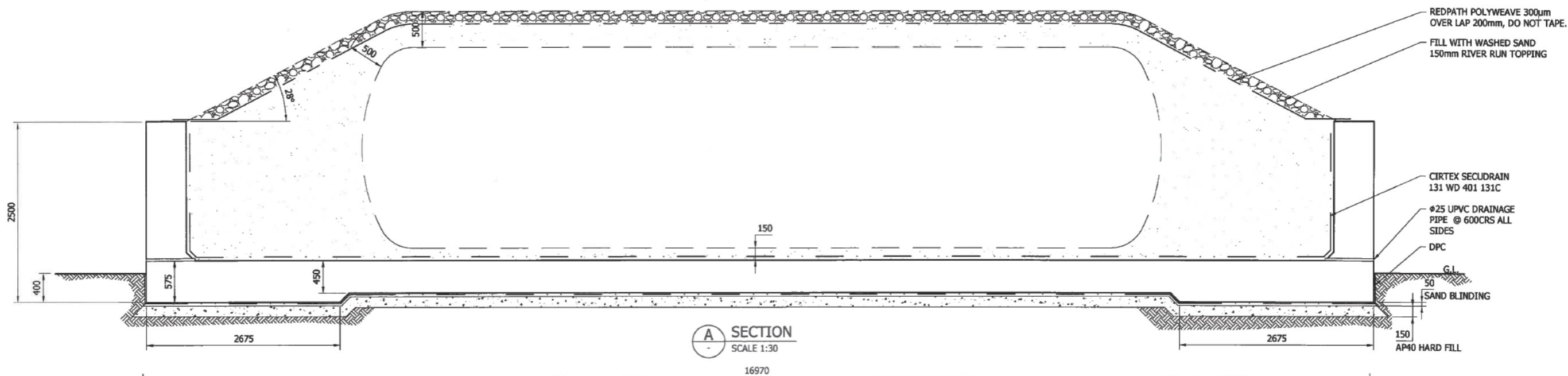
NO	DATE	BY	CHKD	APPR	OPER	DESCRIPTION	NUMBER	TITLE
A6	05.04.18	LV	GJ			PORTACOM OFFICE DIMENSIONS UPDATED		
A5	26.03.18	LV	GJ			REISSUED FOR COMMENT		
A4	14.03.18	LV	GJ			REISSUED FOR COMMENT		
A3	09.03.18	LV	GJ			REISSUED FOR COMMENT		
A2	05.03.18	LV	GJ			REISSUED FOR COMMENT		
A1	27.02.18	LV	GJ			REISSUED FOR COMMENT		
A7	10.04.18	LV	GJ			BACKGROUND IMAGE REMOVED OVER SITE EXTENTS		

**GENERAL NOTES**

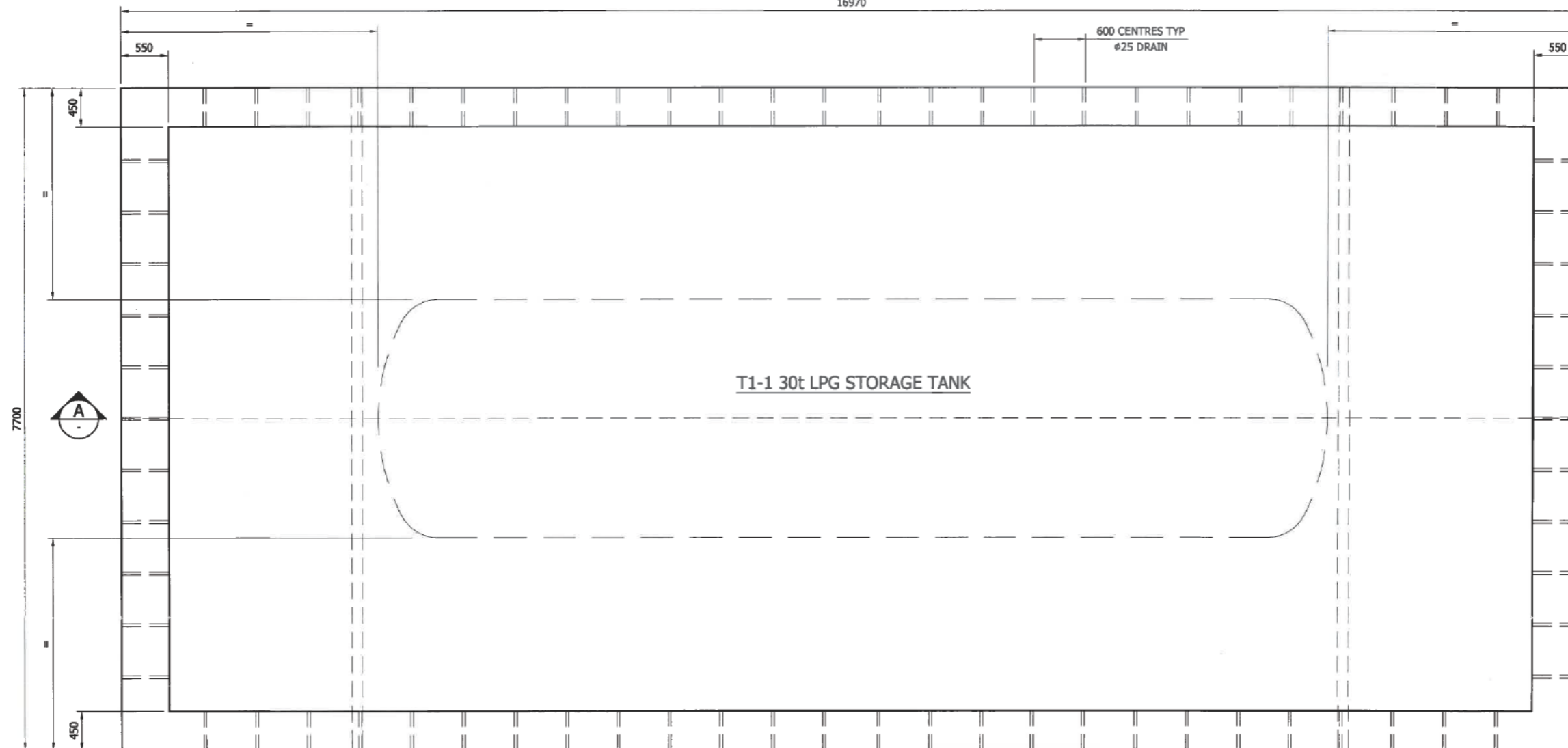
- Coordinates in terms of : NA
- Elevations in terms of : NA
- Contour interval is : -

OnGas

LOCATION	38 BOUVERIE ST, PETONE		TITLE	OnGas PETONE SITE - UPGRADES CONTROLLED ZONES	
PROJECT NO.	171044.03		ORIGINAL SIZE	A3	DRAWING NO
A3 SCALE	1:300				171044.03
SURVEYED	N/A	N/A			
DRAWN	L VASEY	27.02.18			
CHECKED	G JOHNSTON	27.02.18			
			SHEET	3	REVISION
					A7



**A SECTION**  
SCALE 1:30  
16970



**LPG VESSEL CONTAINER PLAN**  
SCALE 1:30

**RESOURCE CONSENT**  
  
**GRANTED**  
**17/04/2018**  
  
**HUTT CITY COUNCIL**




PROJECT No. 11-00606.07	DESCRIPTION	REV No.	ISSUED FOR REVIEW	DRN	CHK'D	DSG'D	APPR'D	CLIENT	DATE
		A							03/18

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LogiCamms New Zealand Ltd  
435 Devon St East - P.O.Box 7170  
New Plymouth - New Zealand  
Phone +64 6 758 1223 - Fax +64 6 758 9370  
www.logicamms.com.au

SCALE:	1:25
DRAWN	C.JAMIESON 03/2018
CHECKED	J.SINCLAIR 03/2018
DESIGNED	T.COSTELLOE 03/2018
APPROVED	A.SMITH 03/2018
CLIENT	M.MURRY 03/2018
CLIENT	

**ON GAS**  
**BOUVERIE STREET REDEVELOPMENT**  
**T1-1 30 t LPG STORAGE TANK**  
**TANK CONTAINMENT PLAN & ELEVATION**

DRG. No.	11-00606.07-04-D04-0001	Rev	A
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**RM number:** RM180082

**Date:** 17 April 2018

**Applicant:** On Gas Ltd

**Agent:** BTW Company Ltd C/- Nicola Laurenson

**Address:** PO Box 551, New Plymouth

Peter McDonald

Environmental Consents

T 04 570 6745

[peter.mcdonald@huttcity.govt.nz](mailto:peter.mcdonald@huttcity.govt.nz)

Our reference:RM180082

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**APPROVAL OF CHANGE AND CANCELLATION OF CONDITIONS FOR  
RESOURCE CONSENT RM160112 TO RAISE AND BUND THE PROPOSED LPG  
TANK AND TO MODIFY THE PROPOSED ACCESS, MANOUEVRING AND  
PARKING ARRANGEMENTS AT 38 BOUVERIE STREET (LOT 1 DP 410202)**

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**Council granted consent for the following reasons:**

- The proposed number of car parking spaces and the revised manoeuvring and access arrangements will comply with the District Plan transport standards.
- The proposed change to the 30 tonne LPG tank will not affect the effects ratio when assessed against the provisions of Chapter 14D of the District Plan.
- Conditions imposed on the consent under section 108 of the Resource Management Act 1991 will control, mitigate and remedy any environment effects caused by the subdivision.
- The proposal is consistent with the policies and objectives of the city's District Plan.
- Council has given due regard to the New Zealand Coastal Policy Statement, any national, regional or proposed regional policy statement and any other regulations in reaching its decision. Council considers there are no other relevant matters that need to be dealt with.
- The proposal is consistent with the purposes and principles of Part II of the Resource Management Act 1991.

## 1. PROPOSAL

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The applicant is seeking to cancel and change conditions of resource consent RM160112, which was issued on 3 August 2016. The resource consent approval was for the installation of a 30 tonne underground LPG tank at 38 Bouverie Street, Petone. A condition of the consent was for a minimum of 12 on-site car parking spaces, which was consistent with the District Plan rules at the time. The approved plans indicated a loading dock with parking for eight delivery tracks and separate site ingress and egress to allow one-way manoeuvring on-site.

The applicant is proposing the following changes to the approved development:

- That the approved 30 tonne underground tank be located above ground and bunded.
- A reduction of earthworks from a cut depth of 4.5m to 700m. Sheet piling would no longer be required. Earthworks volume would be reduced from a total of 390m<sup>3</sup> to 100m<sup>3</sup>.
- A reduction of on-site car parking spaces from 12 to 10, in line with the current District Plan transport standards.
- A modified layout rearranging the position of the various on-site facilities including the 30 tonne tank, loading dock, truck parking and car parking areas, cylinder storage, staff office and toilet.
- Modified site access and manoeuvring with a single vehicle crossing proposed for ingress and egress.

## 2. SITE DESCRIPTION

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The application site is located at 38 Bouverie Street, Petone. The site was originally a gasworks which closed in 1961, and has continued to be used for energy related purposes. The site has an area of 4,775m<sup>2</sup> and is legally described as Lot 1 DP 410202 contained within title identifier 437611.

The site is listed as a contaminated site in the Greater Wellington Regional Council Selected Land Use Register (ref: SN/03/003/02). There are two consent notices which relate to contaminated soil:

- B679705.1 registered 13/8/1998 – for the purpose of drawing owner’s attention to the following matters:
  - a) *“The concentration of tar related chemicals high enough to be of concern to human health if regular contact with soil is made. In this respect, the report concludes that the site is considered suitable for the current use of office building and warehouse complex, workshops and gas installations, provided the soil is not exposed. However, remediation work will be required should the site be redeveloped for a more sensitive use.”*
  - b) *“No wells may be drilled on the site”*
  - c) *“Excavation may expose workers to health risks particular in the tarry parts of the site. Appropriate measures must be taken to protect workers if excavation is undertaken.”*



The proposed change does not include any conversion of the land to a more sensitive use, and involves a lesser level of land disturbance than was previously approved.

- 8105797.1 registered 14/7/2009 – requiring the owners to comply with the following:
  - a) *“There are tar related chemicals in the soils on these allotment that is of high enough concentration to be of concern to human health if regular contact with the soil is made. Use of this site for commercial/industrial purposes shall be in accordance with the restrictions listed in page 5 of the Pattle Delamore Partners Ltd Environmental Management Plan, dated August 2008, and held on Hutt City Council File RM20-B40-38.”*
  - b) *“The Hutt City Council will not be liable for the construction, maintenance or costs involved in any shared fencing along areas bordering Council reserve land.”*

The original consent made appropriate provision for the handling of contaminated soil. There is no proposed change to the relevant consent conditions.

The site is within the General Business Activity Area. Surrounding properties include the Mitre 10 Mega to the north, Humes Concrete to the west, Petone Rugby club to the east and Petone Working Men’s Club to the south.

### 3. RELEVANT PLANNING RULES AND REGULATIONS

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I consider the proposed change to be a discretionary activity under section 127 of the Resource Management Act 1991, which states:

*Change or cancellation of consent condition on application by consent holder -*

*(3) Sections 88 to 121 apply, with all necessary modifications, as if –*

- (a) the application were an application for a resource consent for a **discretionary** activity; and*
  - (b) the references to a resource consent and to the activity were references only to the change or cancellation of a condition and the effects of the change or cancellation respectively.*
- (4) For the purposes of determining who is adversely affected by the change or cancellation, the local authority must consider, in particular, every person who -*
- (a) made a submission on the original application; and*
  - (b) may be affected by the change or cancellation.”*

The relevant rules of the District Plan breached by the proposal are:

- Rule 14D2.2 (a) specifies that a hazardous facility within a General Business activity area with an effects ratio trigger in excess of 1 is a discretionary activity. The original proposal had an effects ratio of 19.67. The modified proposal will not result in a change to this effects ratio.
- Rule 14I 2.1.1 (b) allows a maximum volume of 50m<sup>3</sup> (solid measure) per site and up to 1.2m height. The earthworks approved by the original approval were for excavation 4.5m deep with a total volume of 390m<sup>3</sup>. In the modified proposal, the required earthworks will have a cut depth of 700mm and a total volume of 100m<sup>3</sup>.

## **National Environmental Standards**

### *NES Regulation 9 - Controlled activities*

#### *Removing or replacing fuel storage system, sampling soil, or disturbing soil*

*(1) If a requirement described in any of regulation 8(1) to (3) is not met, the activity is a controlled activity while the following requirements are met:*

- *(a) a detailed site investigation of the piece of land must exist:*
- *(b) the report on the detailed site investigation must state that the soil contamination does not exceed the applicable standard in regulation 7:*
- *(c) the consent authority must have the report:*
- *(d) conditions arising from the application of subclause (2), if there are any, must be complied with.*

*(2) The matters over which control is reserved are as follows:*

- *(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:*
- *(e) the duration of the resource consent.*

In order to be considered as controlled activity under the NES, a detailed site investigation must exist. The original application was considered to be a controlled activity under regulation 9(1) as previous site investigations undertaken by PDP in 2008 and 2015 were considered to be relevant for purposes of applying the NES. These site investigations are still considered relevant when considering the appropriate activity status for the modified proposal. Accordingly the proposal is considered to be a controlled activity under regulation 9(1) of the NES.

Notwithstanding the above, the application to change and cancel conditions of approval RM160112 will be assessed as a discretionary activity in accordance with section 127 (3) (a) of the RMA.

## **4. PERMITTED BASELINE**

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The permitted baseline allows a consent authority to disregard environmental effects that are the same as could arise from a permitted development. The resource consent assessment for the original approval identified the relevant permitted baseline as follows:

*“The permitted baseline for earthworks within the general business activity area which is also subject to the NES allows for a maximum of 25m<sup>3</sup> of soil disturbance per 500m<sup>3</sup>, of which 5m<sup>3</sup> can be taken away from the site, provided that other permitted activity conditions regarding minimising the risk to human health are undertaken. This is considered to be of limited relevance to the assessment as the amount of soil disturbance and removal exceeds this baseline.*

*“A commercial and/or industrial use could occur on the site that did not require soil disturbance or a change of use that complied with the permitted activity conditions of the general business activity area. Such a use could include buildings that complied with the relevant bulk and location permitted activity conditions i.e. a maximum height of 12m, maximum site coverage of 100% subject to compliance with yards, screening requirements, compliance with off-street parking and loading/unloading rules. The permitted baseline for the proposed activity is considered to provide a suitable frame of reference against which the effects of the proposed use can be compared.”*

I consider this permitted baseline to still be relevant for the purpose of assessing the effects of the proposed change.

## 5. NOTIFICATION ASSESSMENT

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
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<p>Is the application for one or more of the following (but no other) activities?</p> <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) precluding public notification (if any)</li> </ul>	No
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Public notification is precluded under step 2; therefore step 3 does not apply.

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

If public notification is not 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, the effects on persons who own or occupy the land in, on, or over which the activity will occur; or any land adjacent to that land must be disregarded. I have therefore disregarded the effects on the persons who own or occupy properties at 25-31, 36, 40, and 52 Bouverie Street, Petone.

The potential adverse effects are:

#### *Visual amenity effects*

The proposed change to the approval will result in the proposed 30 tonne tank being above ground and bunded rather than underground. The proposed modifications to the arrangement of activities on site will increase the visibility of the tank from the street. However these visual effects are not considered to be inconsistent with the General Business character of the area or beyond the permitted baseline. The visual effects of the proposed change are considered no more than minor.

#### *Traffic effects*

The proposed change will reduce the number parking spaces to 10, down from the previously conditioned 12 spaces. The approved access and manoeuvring arrangements are proposed to be modified so that vehicles (including delivery trucks) enter and depart the site from a single vehicle crossing instead of separate crossings for ingress and egress. The proposed

number of car parking spaces and the revised manoeuvring and access arrangements comply with the District Plan transport standards. The modified proposal has also been reviewed by Council's consultant traffic engineer Bill Barclay who is satisfied the proposal is consistent with Council standards.

*Temporary construction effects*

The proposed change will result in a reduction of temporary construction effects compared to the original approval as there will be less extensive earthworks and no sheet piling.

*Hazardous substances, earthworks and contaminated soil*

The modified proposal will result in the rearrangement of potentially hazardous facilities including the proposed 30 tonne tank, the cylinder storage areas and loading dock and delivery truck parking area. These facilities will be appropriately sited with regard to controlled zones and separation distances in accordance with relevant hazardous substances and health and safety at work regulations, to minimise the potential for adverse effects. The above ground tank will be covered by a minimum of 600mm sand inside a mound structure made up of reinforced concrete with a 450mm slab and 550mm wide walls. It is noted that the bunded structure will meet the definition of an underground tank as defined by the Health and Safety at Work (Hazardous Substances) Regulations 2017.

The original consent approved a greater extent of earthworks than is now required for the aboveground tank. The associated adverse effects including amenity values for earthworks, and disturbance of contaminated soil, are therefore considered less than for those approved in the original consent. The existing consent conditions include appropriate conditions to manage the handling of contaminated soil.

The adverse effects on the environment are considered no more than minor. Public notification is not required under Step 3.

**Step 4 – Public notification is required in special circumstances**

If public notification is not required under step 3 public notification may still be warranted where there are special circumstances

Do special circumstances exist that warrant public notification?	No
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**Conclusion**

Public notification is not required.

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

As determined in section 5.1, public notification is not required. 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	No

activities)?	
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 prescribed person in respect of the proposed activity.</li> </ul>	No (see below assessment)
For all other activities, are there any affected persons in accordance with s95E?	No (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 party". No persons have provided their written approval.

Section 127(4)(a) states that in determining who is affected by a change or cancellation, consideration must be given to every person who made a submission on the original application. The original application was not notified and there were therefore no submissions received.

In accordance with section 95E, I have considered whether the proposal could adversely affect any other persons. I consider there to be no affected persons as the potential environmental effects will be less than minor for the following reasons:

- The proposed change does not involve an intensification or a substantially different use of the site than what was originally approved.

- The nearest residential properties are located approximately 80m to the east of the site. The proposed change to 30 tonne tank and site layout will not result in any adverse effects on these properties beyond what was originally approved and these effects are considered less than minor.
- The raised 30 tonne tank will be more visually prominent than what was originally approved, however not more so than the other on-site activities subject to the original approval including the truck parking and cylinder storage. These visual effects are consistent with what can be expected from a site within the General Business Activity Area and are no worse than structures which could be accommodated within the permitted baseline.
- The Petone Rugby Grounds have a car parking area and club rooms arranged along the shared boundary. The club rooms screen much of the view towards the application site, and there are no overlooking windows within the building.
- The use of the rugby grounds is expected to be infrequent and most commonly on weekends and evenings when the application site is less likely to be used. Under the proposed change trucks will no longer exit the site from the crossing located nearest the club grounds, which is regarded as a positive effect in terms of reducing potential traffic conflicts compared to what was previously approved.
- The adjoining properties to north, west and south are similarly zoned General Business and have uses consistent with his zoning. The use of the application site is also consistent with the zoning. There will not be adverse effects associated with the proposed change which will detract from the use of adjoining properties.

Limited notification is not required under step 3.

#### **Step 4 – Limited notification is required under special circumstances**

If limited notification is not required under step 3, limited notification may still be warranted where there are special circumstances.

Do special circumstances exist that warrant notification of any persons to whom limited notification would otherwise be precluded?	No
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#### **Conclusion**

Limited notification is not required.

### **5.3 - NOTIFICATION DECISION**

The application shall proceed on a non-notified basis

## **6. DETERMINING THE APPLICATION**

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Section 104 requires, when considering a resource consent application, that Council must, subject to Part 2, have regard to any actual or potential effects on the environment; any measure agreed or proposed by the applicant for the purpose of ensuring positive effects on the environment to offset or compensate for any negative effects; any relevant provisions of a national environmental standard; other regulations; a national policy statement; a New Zealand coastal policy statement; a regional policy statement or proposed regional policy

statement; a plan or proposed plan; and any other matter the consent authority considers relevant and reasonably necessary to determine the application.

## **6.1 - ASSESSMENT OF ACTUAL OR POTENTIAL EFFECTS ON THE ENVIRONMENT UNDER S104(A)**

In accordance with section 104(2), when forming an opinion on the actual and potential effects on the environment, the council may disregard the adverse environmental effect of an activity if the District Plan or a regional plan, policy statement or national environmental standard permits an activity with that effect. I have already identified the permitted baseline for the proposal and its relevance and the existing use of the site. I have taken these factors into account when determining the application.

As discussed in section 5.2, I consider the effects on persons on adjoining properties to be less than minor, and other adverse effects on the environment to be no more than minor.

I consider the actual or potential effects of the proposed change to be acceptable for the following reasons:

- The revised proposal will not result in a substantially different activity than what was originally approved and will not result in an intensification of the use. The associated adverse effects are therefore substantially the same.
- The proposed changes do not result in any additional breaches of relevant District Plan provisions.
- The proposed use is consistent with the General Business zoning of the site. Adverse visual amenity and traffic effects associated with the proposal are considered to be within the permitted baseline for the site.
- All adjoining properties are non-residential in nature and are not considered sensitive to any adverse effects which may be generated from the proposal.
- The proposed revised site access and manoeuvring arrangements have been reviewed by Council's consultant traffic engineer Bill Barclay, who supports the proposal.
- There will be a reduction in temporary construction effects due to the raised tank compared to the originally approved underground tank.
- Adverse effects associated with disturbing contaminated soil will be no worse than those identified and assessed as part of the original consent. Appropriate conditions are in place to manage the handling of contaminated material.
- Although the proposed 30 tonne tank will now be aboveground rather than underground as originally approved, the proposed bunding is sufficient for the tank to still meet the definition of an 'underground tank' as defined by the Health and Safety at Work (Hazardous Substances) Regulations 2017.
- The 30 tonne tank is now proposed to be located closer to the shared boundary with the Petone rugby grounds and the proposed location of other facilities including cylinder storage areas, the loading dock and truck parking, have also been modified to what was originally approved. These facilities have been appropriately sited with regard to controlled zones and separation distances to manage the potential for adverse effects. The potential for adverse effects are not considered worse than what was originally approved and will be managed through compliance with the relevant hazardous substances and health and safety standards.



## **Conclusion**

I consider the actual or potential effects on the environment to be acceptable for the reasons outlined above.

## **6.2 - ASSESSMENT OF THE RELEVANT PROVISIONS OF THE DISTRICT PLAN UNDER S104(B)**

### **Objectives and policies of the District Plan**

I consider the proposal is consistent with the relevant District Plan objectives and policies identified below:

#### **Chapter 6A General Business Activity Area**

##### *Objective 6A 1.1.3 – Environmental effects*

*To avoid or mitigate adverse effects on the amenity values of the area and neighbouring areas, and the receiving environment.*

##### *Policies 6A 1.1.3:*

- a) That effects likely to be generated by each activity, such as noise, dust, odour and traffic, are managed to avoid or mitigate adverse effects on the amenity values and character of both the General Business Activity Area and interface areas.*
- b) That effects likely to be generated by each activity are managed to avoid or mitigate any adverse effects causing harm or damage to the receiving environment.*

##### *Objective 6A 1.2.1 – Effects on the amenity values of the area*

*To maintain and enhance the amenity values of the activity area and the neighbouring areas.*

##### *Policy 6A 1.2.1 (a)*

*That each site, structure and building is designed and maintained to enhance the amenity values and character of both the General Business Activity Area and adjacent activity areas.*

#### **Chapter 14A Transport**

##### *Objective 14A 3.5*

*Adverse effects on the safety and efficiency of the transport network from on-site transport facilities (vehicle access, parking, manoeuvring and loading facilities) are managed.*

##### *Policy 14A 4.4*

*Land use, subdivision or development containing noise sensitive activities should be designed and located to avoid, remedy or mitigate adverse effects which may arise from the transport network.*

##### *Policy 14A 4.6*

*Vehicle access, parking, manoeuvring and loading facilities should be designed to standards that ensure they do not compromise the safety and efficiency of the transport network.*

#### **Chapter 14D Hazardous Facilities**

**Objective 14D 1.1.1 – Risk associated with hazardous facilities**

*To protect the community and the receiving environment from the risk associated with the location and operation of hazardous facilities.*

*Policies 14D 1.1.1:*

- a) That the location of hazardous facilities be managed to avoid or mitigate an unacceptable level of risk to the community and the receiving environment.*
- c) That effects likely to be generated by hazardous facilities are managed to avoid adverse effects from creating an unacceptable level of risk to the community and/or causing irreversible damage to the receiving environment.*
- d) That appropriate safety measures be adopted by activities using, handling and storing hazardous substances and hazardous wastes to avoid or mitigate any adverse effects on human health and the receiving environment.*
- e) That appropriate measures be taken during transportation of hazardous substances and wastes to ensure the safety of the general public and the environment.*
- f) That the disposal of hazardous wastes be undertaken in an environmentally safe manner and where codisposal is necessary, in compliance with the requirements of the Silverstream landfill to protect human health and the receiving environment.*

**Chapter 14I Earthworks**

**Objective 14I 1.1 – Natural Character**

*To ensure that earthworks are designed to maintain the natural features that contribute to the City's landscape.*

*Policy 14I 1.1 (a)*

*To ensure that earthworks are designed to be sympathetic to the natural topography.*

**Objective 14I 1.2 – Amenity, Cultural and Historical Values**

*To ensure earthworks do not affect adversely the visual amenity values, cultural values or historical significance of an area, natural feature or site.*

*Policies 14I 1.2:*

- b) That rehabilitation measures be undertaken to mitigate adverse effects of earthworks upon the visual amenity values.*
- d) To recognise the importance of cultural and spiritual values to the mana whenua associated with any cultural material that may be disinterred through earthworks and to ensure that these values are protected from inappropriate earthworks.*

Following my assessment above (Section 6.1 of this report), the proposal is considered to be consistent with the above objectives and policies. Despite the modified proposal, the proposed industrial use of the site will continue to be consistent with the intent of the General Business Activity Area. The proposed facilities are appropriately located with consideration to requirements for hazardous substances and health and safety at work. The proposed access

and manoeuvring arrangements meet Council standards. The proposed earthworks will be sympathetic to the natural typography and will not be visually prominent.

### **6.3 - ASSESSMENT OF THE RELEVANT PROVISIONS OF OTHER STATUTORY PLANNING DOCUMENTS UNDER S104(B)**

I consider that there are no other relevant provisions of national environmental standard, other regulations, national policy statement, New Zealand Coastal Policy Statement or regional policy statement or proposed regional policy statement that regard must be had.

### **6.4 – PURSUANT TO S104(1)(C) ARE THERE ANY OTHER MATTERS RELEVANT AND REASONABLY NECESSARY TO DETERMINE THE APPLICATION?**

I consider there are no other matters relevant and reasonably necessary to determine the application.

### **6.5 - PART 2 OF THE RESOURCE MANAGEMENT ACT**

I consider the proposal meets Part 2 matters of the Resource Management Act 1991.

### **6.6 - SUBSTANTIVE DECISION**

I consider the environmental effects of the proposed changes to be no more than minor and that no persons will be adversely affected by the changes. I also consider the proposed changes to be consistent with the objectives and policies of the District Plan. I therefore grant approval to this change of condition under section 127 of the Resource Management Act.

## **7. CONDITIONS OF S127**

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The original and revised conditions are:

Original:

1. That the proposal is carried out substantially in accordance with the information and approved plans by BD Group Design Ltd submitted with the application and held on file at the council:
  - TC03 rev A
  - 45002078438/250 rev D
  - 100-01 rev A
  - 100-02 rev A
  - 200-01 rev A
  - 200-02 rev B
  - 200-03 rev A
  - 4001-01 rev B
  - 400-02 rev A
  - 400-003 rev A
  - E006 rev B
  - E007 rev B

6. Construction work including sheet piling is restricted to the following hours:
  - Monday to Friday 6.30am to 6.00pm
  - Saturdays 7.30am to 6.00pm
  - Sunday and public holidays 9am to 4pm
  
17. That the consent holder ensures a minimum of 12 of on-site parking spaces are marked and provided on the site.

Revised (as agreed with applicant):

1. That the proposal is carried out substantially in accordance with the information and approved plans by ~~BD Group Design Ltd~~ submitted with the application and held on file at the council:
  - ~~TC03 rev A~~
  - ~~45002078438/250 rev D~~
  - ~~100-01 rev A~~
  - ~~100-02 rev A~~
  - ~~200-01 rev A~~
  - ~~200-02 rev B~~
  - ~~200-03 rev A~~
  - ~~4001-01 rev B~~
  - ~~400-02 rev A~~
  - ~~400-003 rev A~~
  - ~~E006 rev B~~
  - ~~E007 rev B~~
  - 'OnGas Petone Site – Upgrades, General Layout', Location 38 Bouverie Street, Petone, Project No 171044.03, Sheets 1-3, Revision A7, dated 10/4/18, prepared by BTW Company
  - 'On Gas – Tank Containment Plan & Elevation', Drawing No. 11-00606.07-04-D04-0001, Revision A, dated 3/18, prepared by LogiCamms
  
6. Construction work including ~~sheet piling~~ is restricted to the following hours:
  - Monday to Friday 6.30am to 6.00pm
  - Saturdays 7.30am to 6.00pm
  - Sunday and public holidays 9am to 4pm
  
17. That the consent holder ensures a minimum of 10 ~~12~~ of on-site parking spaces are marked and provided on the site.

Processing Planner:



Peter McDonald

## Resource Consents Planner

Peer reviewer:



Tim Johnstone  
Team Leader Resource Consents

Application lodged: 16 March 2018  
Application approved: 17 April 2018  
No of working days taken to process the application: 18

### 8. NOTES:

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- In accordance with section 357 of the Resource Management Act 1991, the consent holder is able to object to the conditions of the consent. The consent holder must submit reasons in writing to Council within 15 working days of the date of this decision.
- The consent lapses, in accordance with section 125 of the Resource Management Act 1991, if the proposal is not given effect to within five years from the date of the original approval, that is, by 3 August 2021.
- The consent applies to the application as approved by Council. The consent holder should notify Council if there are changes to any part of the plans. Council may require that the consent holder submits a new resource consent application.
- The proposal has been assessed against the requirements of the city's District Plan. Bylaws may apply to the proposal that may require separate approval from Council before starting any site works. See [huttcity.govt.nz](http://huttcity.govt.nz) for a full list of bylaws.
- The proposal has not been checked for compliance with the Building Act 2004. No associated building work should start without first getting a building consent.
- The consent is not a licence to create adverse effects such as unwarranted dust, noise or disruption. It does not change the legal duty to avoid, remedy or minimise such effects. Council may enforce the provisions of the Resource Management Act 1991 if the consent holder fails to meet this obligation.
- Failure to comply with an abatement notice may result in Council imposing an infringement fine or initiating prosecution.

- Advice note from Heritage New Zealand: The property has, or is likely to have been occupied prior to 1900. Any disturbance of land or damage or destruction of any building or structure associated with human activity prior to 1900, may require an archaeological authority from Heritage New Zealand under the Heritage New Zealand Pouhere Taonga Act 2014. Please contact Heritage New Zealand for further information.
  
- The installation and operation of the proposed 30 tonne LPG tank and associated facilities is subject to certification of compliance with the Major Hazard Facilities controls and the Health and Safety at Work (Hazardous Substances) Regulations. The emergency response plan should be updated to reflect the modified proposal and submitted to Fire and Emergency New Zealand for approval.