



SAFEGUARDING YOUR ENVIRONMENT + KAITIAKI TUKU IHO



Proposed Regional Coastal Environment Plan

Variation 1

Rivermouth
Hazard Areas

Date Notified: 10 August 2010

**ISBN 1-877405-44-2
HBRC Plan No. 4214**

Proposed Regional Coastal Environment Plan – Variation 1 – Rivermouth Hazard Areas

Adopted by Council: 28 July 2010

Public Notification Date: 10 August 2010

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ISBN 1-877405-44-2
HBRC Plan Number 4214

Resource Management Act 1991

Proposed Hawke's Bay Regional Coastal Environment Plan

Variation under Schedule 1 Clause 16A of the
Resource Management Act 1991



Variation 1 – Rivermouth Hazard Areas

The Hawke's Bay Regional Council has resolved to vary the Proposed Hawke's Bay Regional Coastal Environment Plan ("the RCEP"), and has prepared Variation 1 in accordance with Schedule 1 Clause 16A of the Resource Management Act 1991.

EXPLANATION

1. Variation 1 concurrently removes and reintroduces rivermouth hazard areas as part of Coastal Hazard Zone 1 ("CHZ1") in the RCEP. Each of the rivermouth hazard areas that is being deleted from CHZ1 is being reinstated into CHZ1.
2. The purpose of this Variation is to create a process which provides a clear opportunity for potentially affected landowners to submit and debate the technical reasons for the rivermouth hazard area on their properties.

BACKGROUND

3. The Regional Council publicly notified the RCEP and invited submissions in August 2006. Over 200 submissions were lodged. Hearings were held and the Council issued its decisions on those submissions in July 2008.
4. Rivermouth hazard areas were identified by hazard assessments undertaken on the Council's behalf by Tonkin and Taylor Limited in 2006, but due to an omission, those areas were not identified in the RCEP as originally notified in August 2006.
5. In order to remedy that omission, the Council's own submission requested that CHZ1 be amended to include rivermouth hazard areas as assessed by Tonkin and Taylor Limited in 2006. No maps illustrating the specific location and extent of those rivermouth hazard areas were appended to that submission.
6. In July 2008, Council's decisions on submissions were issued. Amongst 1600+ decisions, Council's decisions amended CHZ1 to include the rivermouth hazard areas as previously identified by Tonkin and Taylor Limited in 2006 and as requested in the Council's own submission. Maps illustrating those amendments were attached to the decisions issued. This particular decision was not appealed. Several other decisions were appealed and have subsequently been settled in part on the basis of amending the location and extent of CHZ1 at Aramoana and the Tutaekuri River mouth.
7. In January 2010, the owner of a property containing a rivermouth hazard area made an enquiry about the location and extent of RCEP coastal hazard zones in the vicinity of that property, and subsequently alleged a potential deficiency in the manner in which the RCEP's CHZ1 was amended by Decisions to include the rivermouth hazard areas.

The Issue

8. The issue arising from the events above is whether or not the owners of properties within the rivermouth hazard areas had sufficient notice of the coastal hazard zone and an opportunity to lodge a submission through the RMA's Schedule 1 process.

9. To address the question of whether or not people had sufficient notice of the rivermouth hazard areas affecting their properties, notification of Variation 1 commences a participatory process and opportunity for people to make submissions – thereby remedying any alleged (but unproven) deficiency in Council’s decisions to incorporate rivermouth hazard areas into CHZ1.
10. There are approximately 390 properties within these rivermouth hazard areas. Based on somewhat dated aerial photography, approximately 70 dwellings exist across those properties.

PROPOSED AMENDMENTS

11. The following amendments are to be made to chapters within the RCEP (July 2008 re-printed version). New text is shown in underlined italics and deleted text as ~~struck out~~. All other text and provisions appearing in this Variation are incidental to the proposed amendments. Consequently, any submissions on these incidental provisions are most likely to be beyond the scope of Variation 1 and will be treated accordingly.
12. Variation 1 proposes the following amendments to the RCEP:

1. **Planning Maps**

- a) Amend planning maps by removing the areas identified in Appendix 1 of this variation from CHZ1.
- b) Amend planning maps by adding the areas identified in Appendix 2 of this variation to CHZ1.

2. **Part I (Glossary)**

- a) Amend the meaning of Coastal Hazard Zone 1 (CHZ1) as follows:
“**Coastal Hazard Zone 1 (CHZ1)**
means an area seaward of the CHZ1 boundary identified on the planning maps which is land assessed as being subject to storm erosion, short-term fluctuations and dune instability ~~and includes rivermouth and stream mouth areas susceptible to both erosion and inundation due to hydraulic forcing of river or estuary systems.~~ For the purposes of this plan, it extends a distance of 200m seaward from its inland boundary.”
- b) Amend the meaning of Coastal Hazard Zone 1 (CHZ1) as follows:
“**Coastal Hazard Zone 1 (CHZ1)**
means an area seaward of the CHZ1 boundary identified on the planning maps which is land assessed as being subject to storm erosion, short-term fluctuations and dune instability and includes rivermouth and stream mouth areas susceptible to both erosion and inundation due to hydraulic forcing of river or estuary systems. For the purposes of this plan, it extends a distance of 200m seaward from its inland boundary.”

3. **Any other necessary consequential amendments.**

APPENDICES

13. Appendix 1 of this variation sets out maps for each of the 38 locations where rivermouth hazard areas are proposed to be removed by Variation 1.
14. Appendix 2 of this variation sets out maps for each of the 38 locations where rivermouth hazard areas are proposed to be added by Variation 1.
15. The areas detailed in Appendix 1 are exactly the same as the areas in Appendix 2. Larger detailed maps can be produced upon request.

FURTHER INFORMATION

16. For further information, contact Hawke’s Bay Regional Council on 06 835-9200, email: info@hbrc.govt.nz, or visit our website: www.hbrc.govt.nz

**Proposed Hawke's Bay
Regional Coastal Environment Plan**

**Variation 1 (Rivermouth Hazard Areas) –
Section 32 Evaluation Summary**



OVERVIEW

1. The following sets out a summary of the evaluation behind Hawke's Bay Regional Council's decision to prepare and notify Variation 1 to the Proposed Hawke's Bay Regional Coastal Environment Plan (RCEP).
2. In preparing and publicly notifying variations, councils have a duty under s32 of the Resource Management Act 1991 (RMA) to evaluate a number of matters and to consider alternative ways to achieve environmental outcomes. An analysis of the benefits and costs in deciding which provisions are the most efficient has to be carried out.
3. Section 32 requires HBRC to:
 - "(3)examine—*
 - (a) the extent to which each objective is the most appropriate way to achieve the purpose of this Act; and*
 - (b) whether, having regard to their efficiency and effectiveness, the policies, rules, or other methods are the most appropriate for achieving the objectives.*
 - ...*
 - (4) For the purposes of the examinations referred to in subsections (3) and (3A), an evaluation must take into account—*
 - (a) the benefits and costs of policies, rules, or other methods; and*
 - (b) the risk of acting or not acting if there is uncertain or insufficient information about the subject matter of the policies, rules, or other methods."*
4. The RMA also requires that a report be prepared that summarises the evaluation and gives reasons for that evaluation. This report has been prepared under that requirement (under s32(5)).
5. This report takes the form of an evaluation summary solely in relation to HBRC's decision to concurrently remove and reintroduce rivermouth hazard areas incorporated into Coastal Hazard Zone 1 (CHZ1) currently identified in the RCEP.
6. This summary report does not purport to be the comprehensive s32 record of all evaluation, council discussions, council decisions, staff workshops and assessment undertaken in the course of identifying and including coastal hazard zones and associated rules in the RCEP, nor the broader content of the RCEP. Detailed evaluation of those broader plan provisions can be found in the numerous reports which made up the various council meeting agendas (and subsequent minutes and decisions), and the technical reports and publications, and other reports prepared for the Regional Council by consultants and staff. In addition, a separate report¹ was produced as a s32 evaluation summary of the RCEP.

¹ HBRC Environmental Management Group Technical Report 'Hawke's Bay Regional Coastal Environment Plan: Section 32 Evaluation Summary June 2006' EMT 06/08 (HBRC Plan 3864).

SIGNIFICANCE OF COUNCIL'S DECISION TO ADOPT VARIATION FOR NOTIFICATION

7. Section 23 of RMA states that compliance with the RMA does not remove the need for people to comply with other applicable legislation. In the case of preparing Variation 1, s23 does not absolve the Council of its obligations under s76 of the Local Government Act 2002 (LGA). Section 76 of the LGA states that every decision of a council must be made in accordance with decision making tests and processes specified. Section 79 of the LGA sets out the discretion and judgements to be made by councils for decisions.
8. Prior to adopting Variation 1 for public notification, the Regional Council was required to make a decision in accordance with the provisions of Part 6 subpart 1 of the LGA. Having assessed the requirements contained within those sections in relation to adoption of Variation 1, the following was concluded:
 - 8.1. *“that the decisions [to be] made are significant under the criteria contained in Council's adopted policy on significance, however Council can exercise its discretion under Sections 79(1)(a) and 82(3) of the Local Government Act 2002 and make decisions on this issue without conferring directly with the community and persons likely to be affected by or to have an interest in the decision due to the nature and significance of the issue to be considered and decided and particularly, that those people have had and will have further opportunity to comment and submit on Variation 1 to the proposed Regional Coastal Environment Plan following a decision by Council to publicly notify Variation 1.”*

EVALUATION SUMMARY

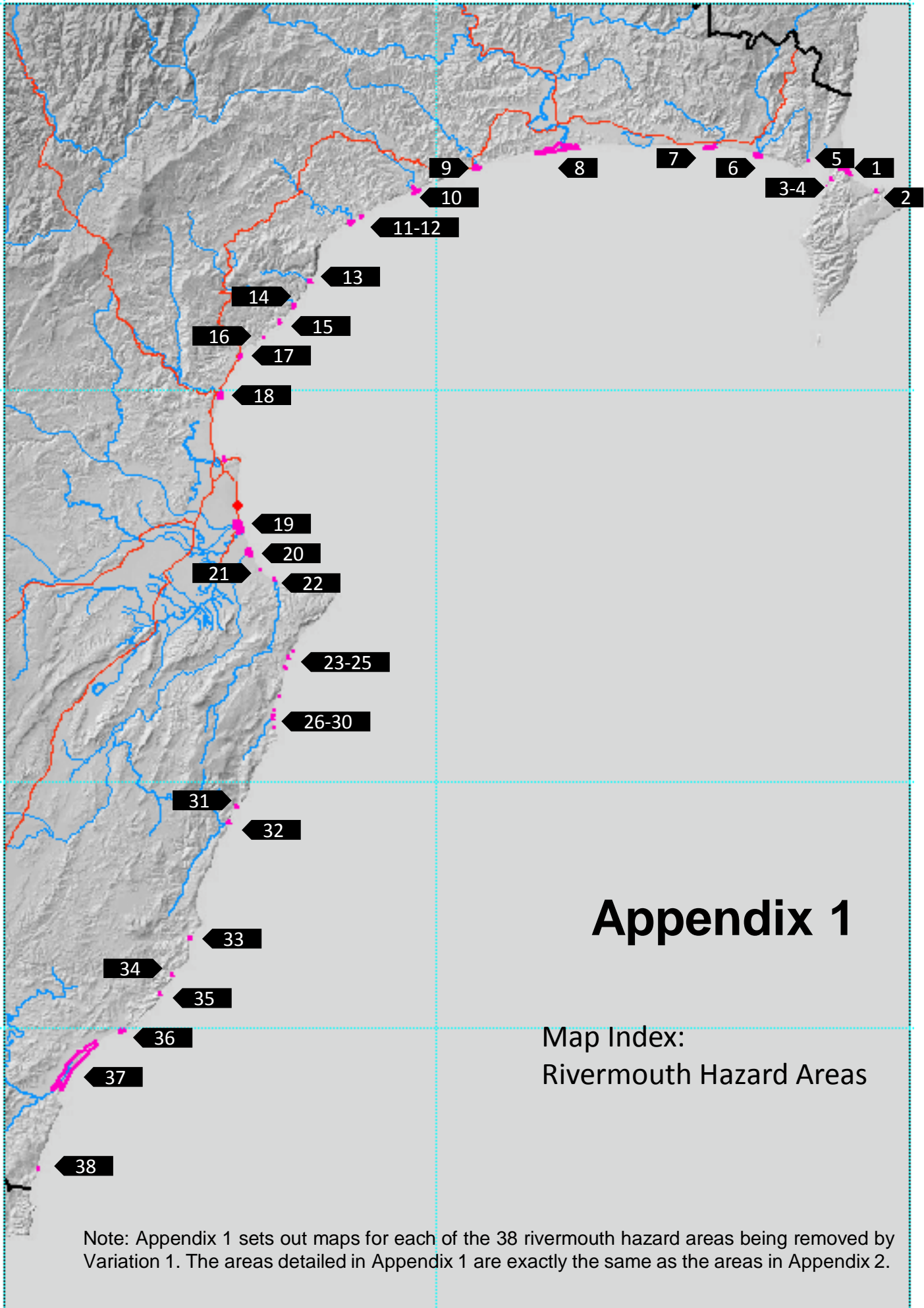
'Problem' definition

9. The 'problem' to be addressed was framed as:
 - 9.1. whether or not the owners of properties within the rivermouth hazard areas had sufficient notice of the rivermouth hazard area part of the coastal hazard zone and an opportunity to lodge a submission on that method through the RMA's Schedule 1 process.

Alternatives Evaluated

10. The Council has considered several broad options for addressing an alleged potential deficiency in the manner in which the RCEP's CHZ1 was amended by Council's decisions to include 'rivermouth hazard areas.' The rivermouth hazard areas had earlier been assessed by consultants (Tonkin and Taylor Limited) commissioned by the Council.
11. Four broad options considered were:
 - 11.1. Option A - do nothing;
 - 11.2. Option B - seek orders/directions from the Environment Court on the validity of the process followed to include rivermouth hazard areas in CHZ1;
 - 11.3. Option C - totally remove rivermouth hazard areas from CHZ1 and not reinstate them;
 - 11.4. Option D - prepare a Variation to the RCEP to concurrently remove and reintroduce rivermouth hazard areas as part of CHZ1.
12. Option D is the preferred option and Variation 1 has subsequently been prepared.
13. Option D is preferred for the following general reasons:
 - 13.1. Rivermouth hazards still exist at the locations identified by Tonkin and Taylor Limited, and these areas need to be managed to ensure activities near rivermouths are undertaken in a manner that takes hazards/erosion/inundation into account; and

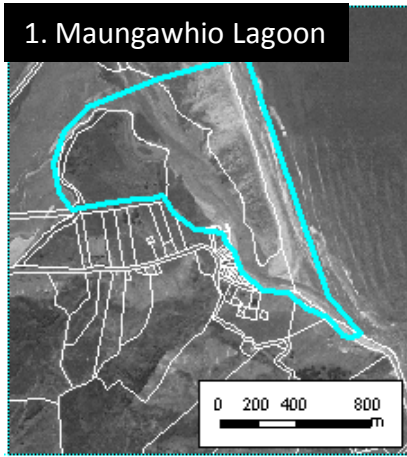
- 13.2. it would create a process that provides a clear opportunity for potentially affected landowners to submit and debate the technical reasons for the rivermouth hazard area on their property; and
- 13.3. it would ensure that there is no period where areas sensitive to hydraulic forcing of rivers or estuary systems are not covered by appropriate proposed coastal hazard provisions.
14. Removing rivermouth hazard areas from CHZ1 and not reinstating them (Option C) was considered, but ultimately dismissed, primarily due to two reasons:
 - 14.1. the technical evidence available to Council has not changed (ie: the regional coastal hazard assessment work by Tonkin and Taylor Limited still identifies rivermouth hazard areas as an issue that needs to be addressed); and
 - 14.2. the Council's intention (ie: as signalled in Council's decisions on RCEP submissions) to incorporate rivermouth hazard areas in RCEP's CHZ1 has not changed.
15. Doing nothing (ie: retaining CHZ1 as amended by Council's decisions rather than creating a new participatory process or opportunity for potentially affected landowners to make submissions) was also an option considered.
16. The 'do nothing' was dismissed as it carried some degree of risk for the Council (ie: risks of not acting). In particular, the risk of a person choosing to challenge the decision to include the rivermouth hazard areas, whether by way of an application for a declaration, judicial review or enforcement order. The outcomes of any such applications are not certain.
17. Similar legal paths could be pursued by the Council, but because outcomes of those paths were again uncertain, the Council did not favour Option B.
18. Having broadly considered the benefits and costs of each option, the risks of acting or not acting, and the efficiency and effectiveness of each option, a Variation concurrently removing and reintroducing rivermouth hazard areas as part of CHZ1 was considered the most appropriate way to achieve the purpose of the RMA and the objectives of the RCEP.



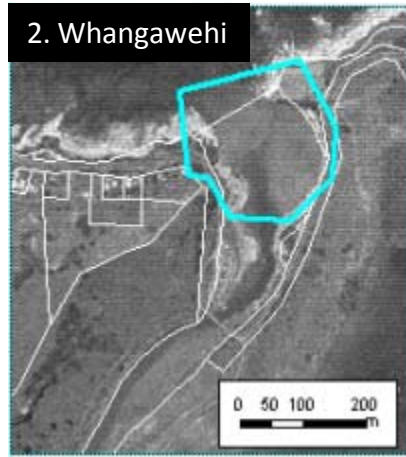
Appendix 1

Map Index:
Rivermouth Hazard Areas

Note: Appendix 1 sets out maps for each of the 38 rivermouth hazard areas being removed by Variation 1. The areas detailed in Appendix 1 are exactly the same as the areas in Appendix 2.



Maps 5, 6, 7, 100



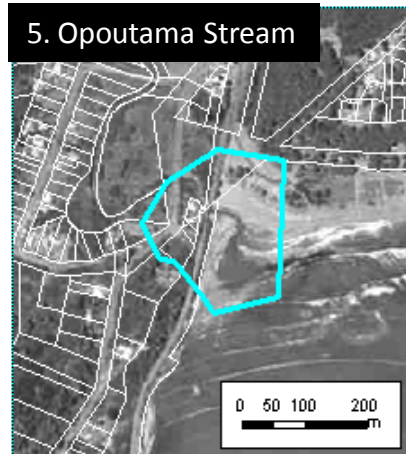
Map 101



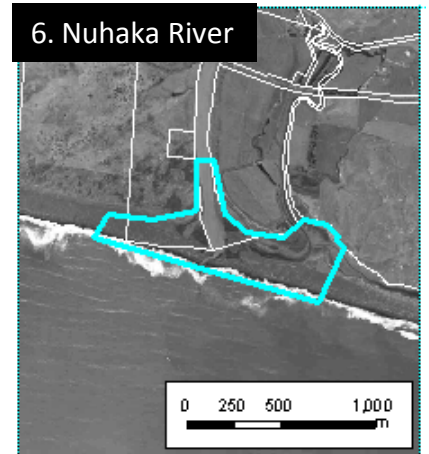
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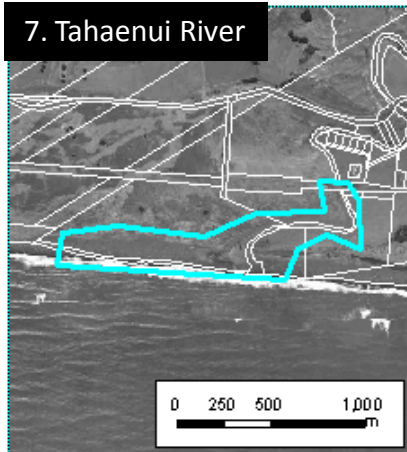
Maps 8, 100



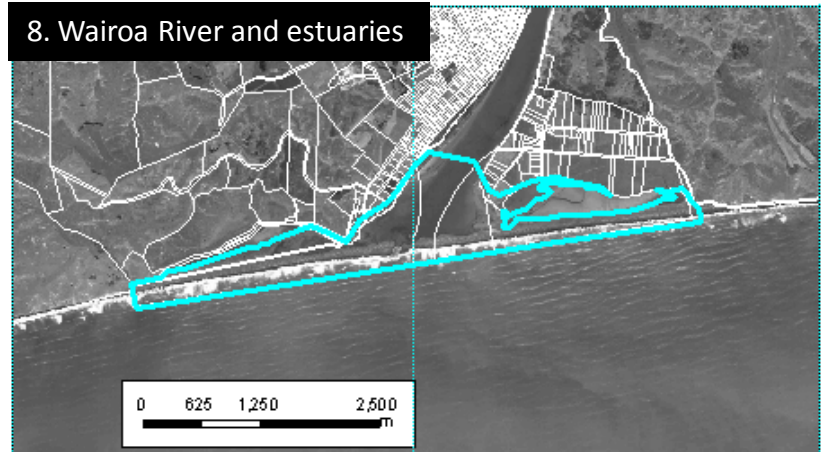
Maps 12, 100



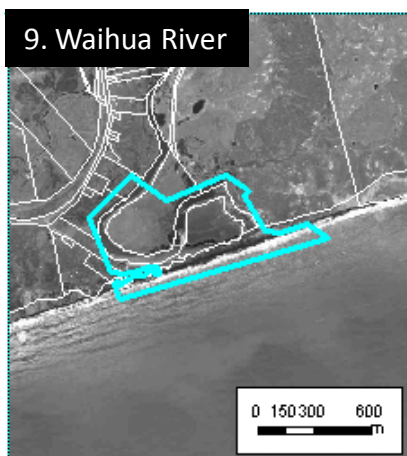
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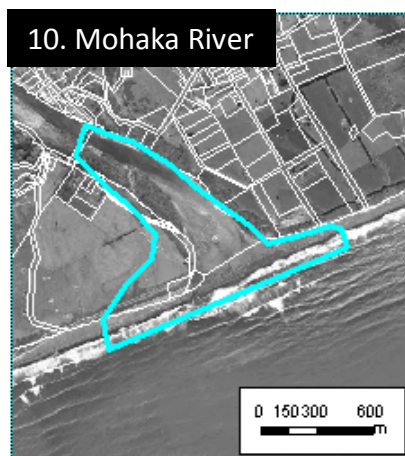
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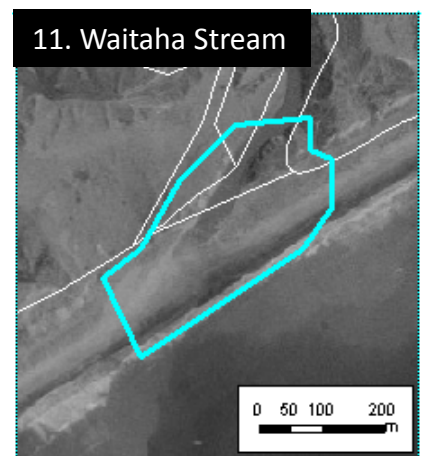
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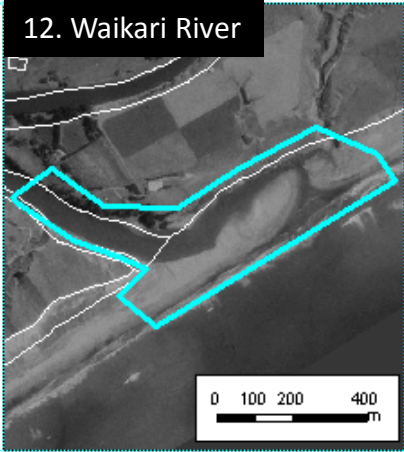
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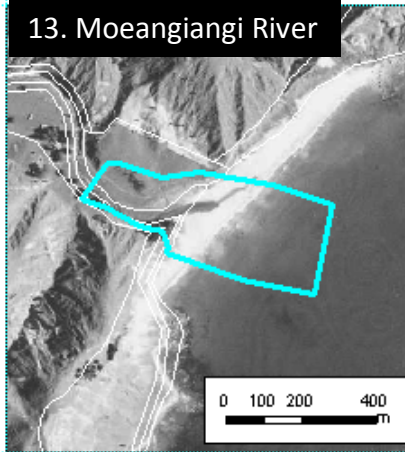


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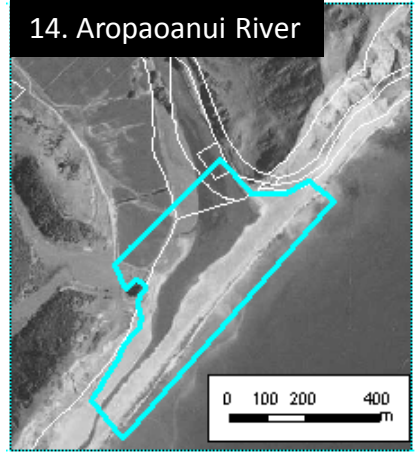
12. Waikari River

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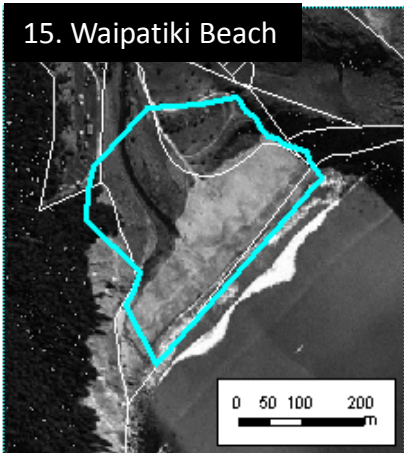
13. Moeangiangi River

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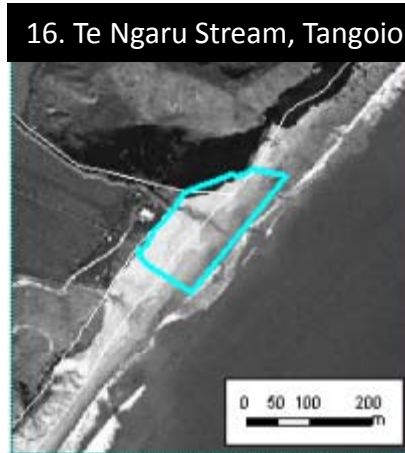
14. Aropaoanui River

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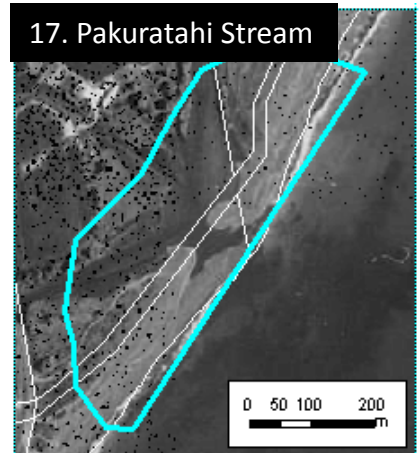
15. Waipatiki Beach

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16. Te Ngaru Stream, Tangoio

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17. Pakuratahi Stream

Maps 41, 114



18. Esk River

Maps 45, 46, 115



19. Tukituki River

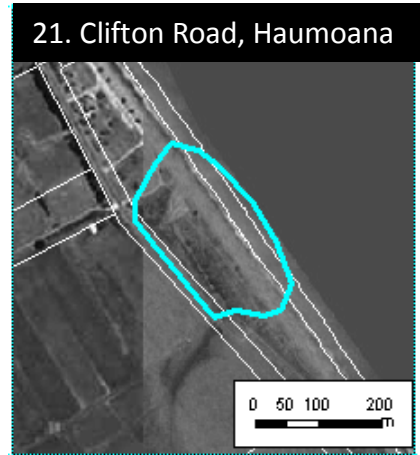
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20. Tutaekuri and Ngaruroro Rivers



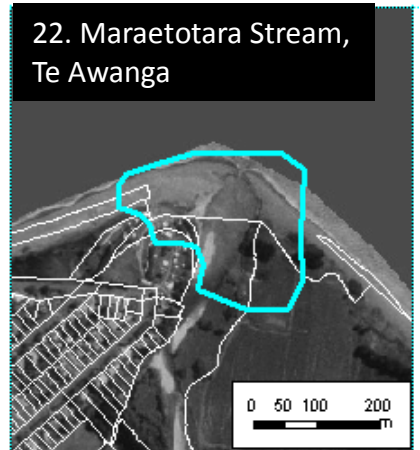
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21. Clifton Road, Haumoana



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22. Maraetotara Stream, Te Awanga



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23. Ocean Beach (north)



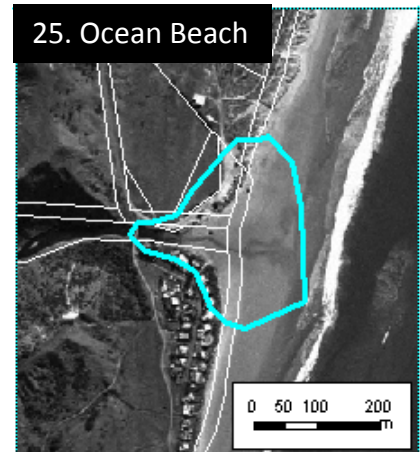
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24. Ocean Beach (Haupouri)

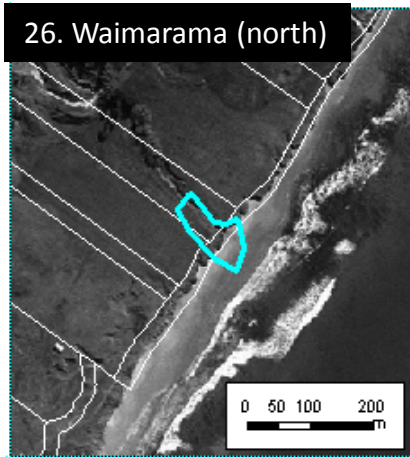


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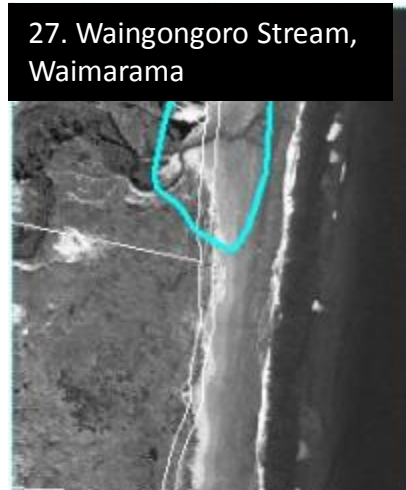
25. Ocean Beach



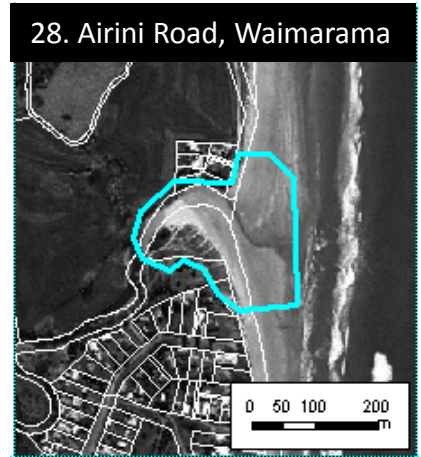
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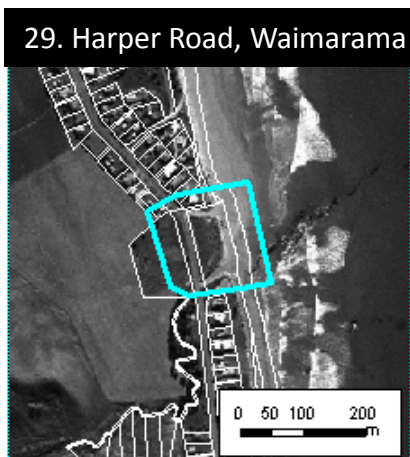
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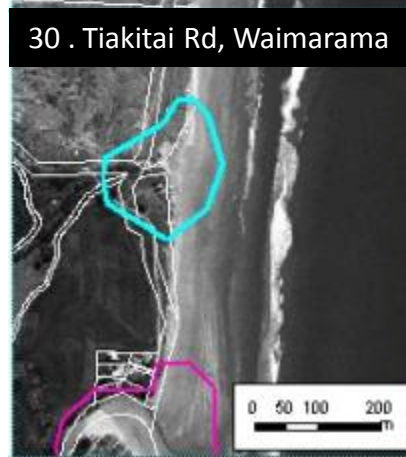
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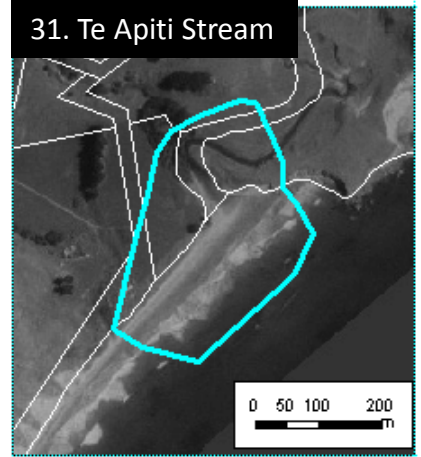
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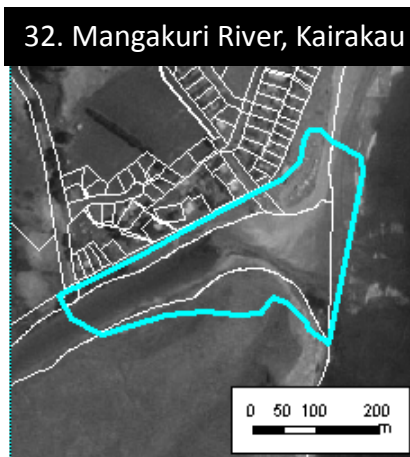
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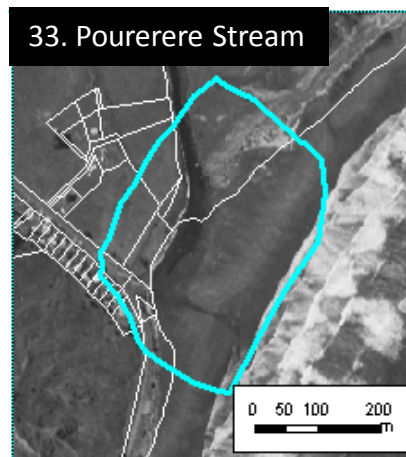
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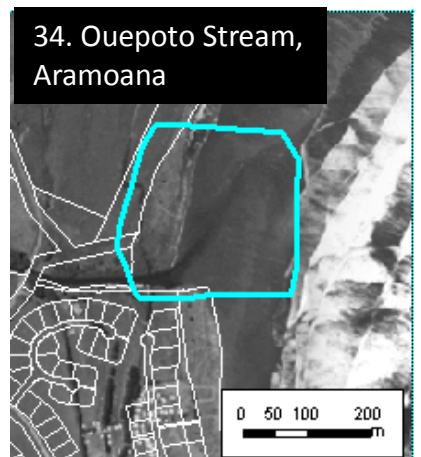
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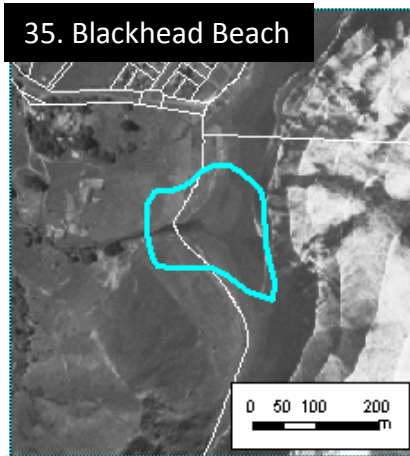
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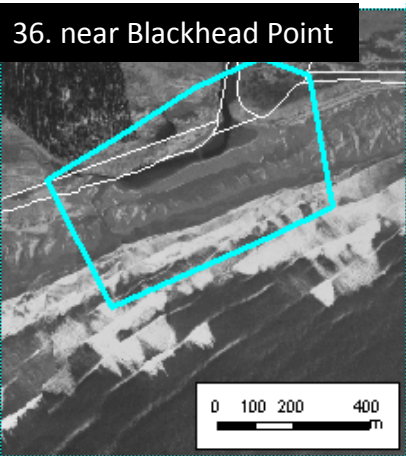
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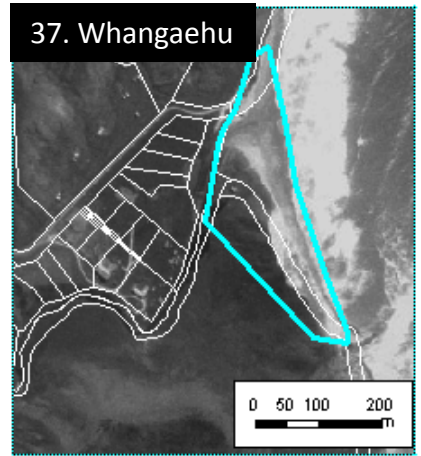
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Maps 97, 122

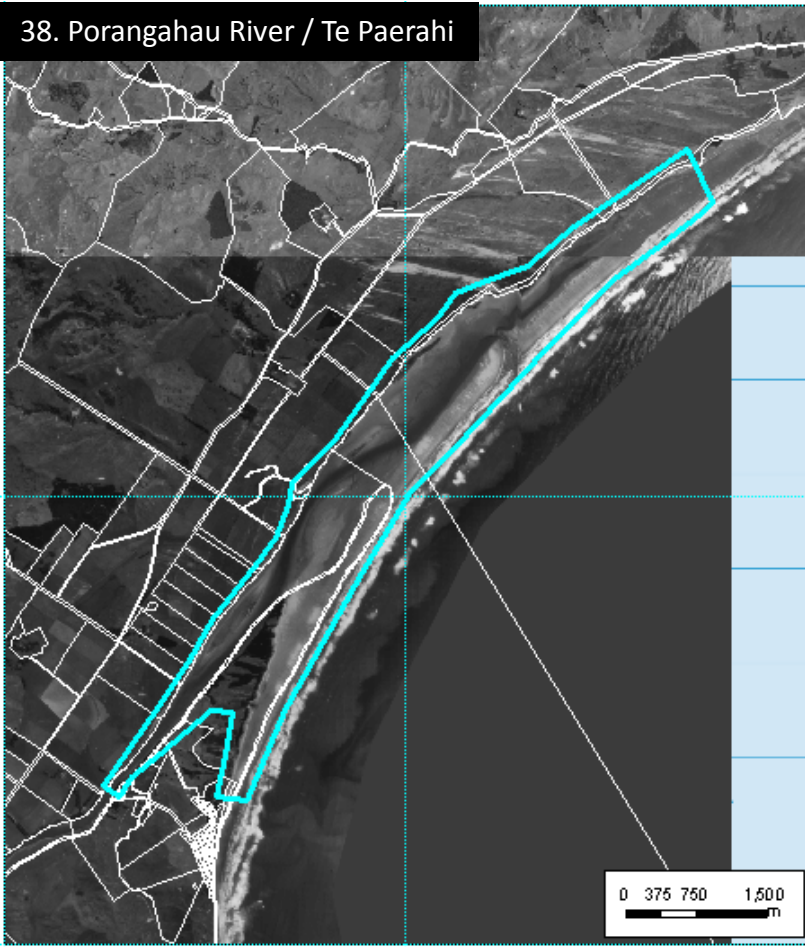


Map 123

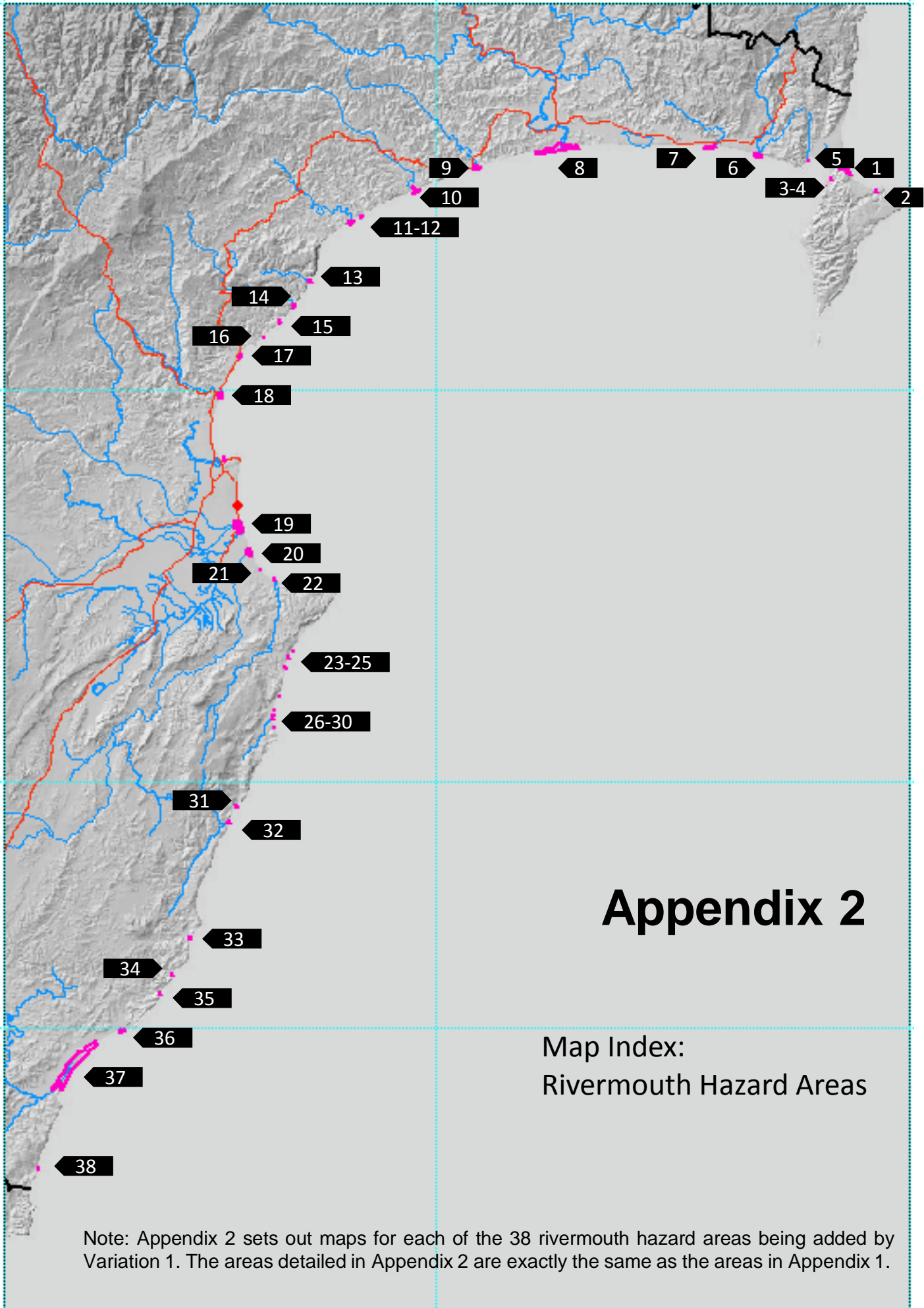


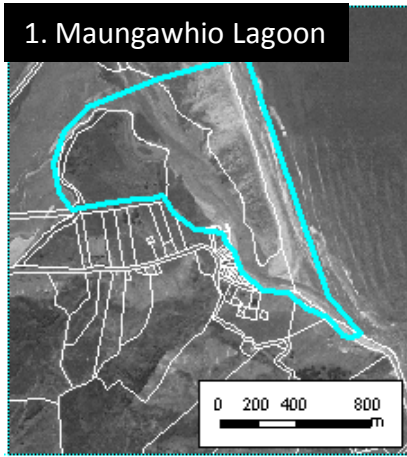
Map 125

38. Porangahau River / Te Paerahi

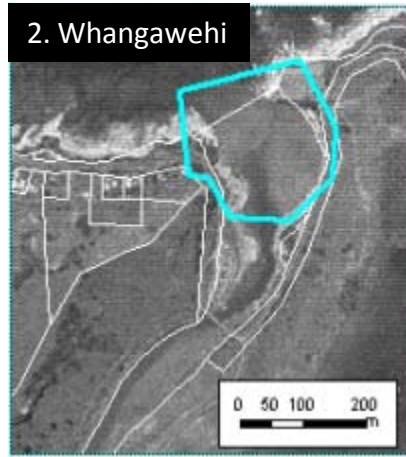


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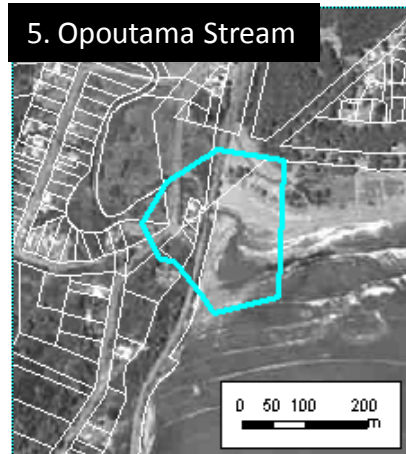
Map 101



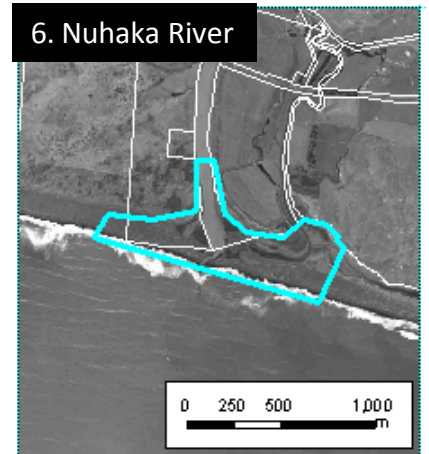
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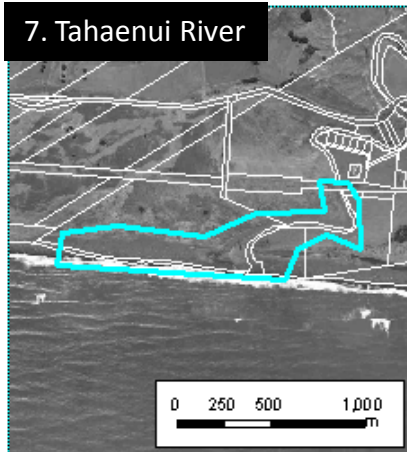
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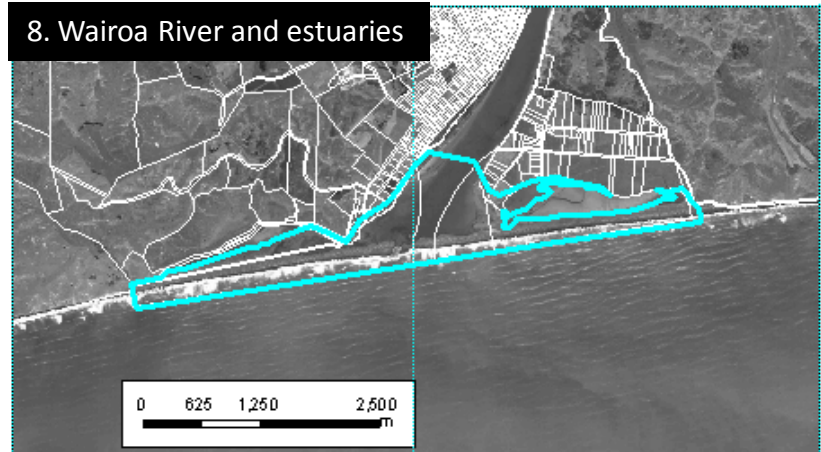
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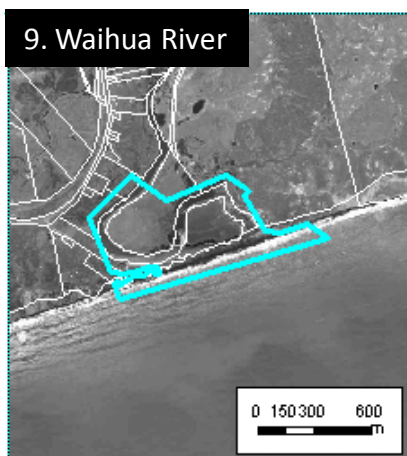
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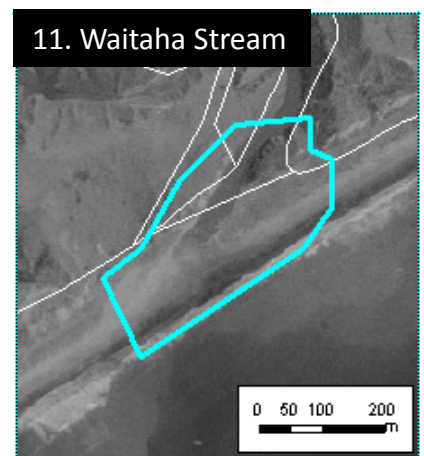
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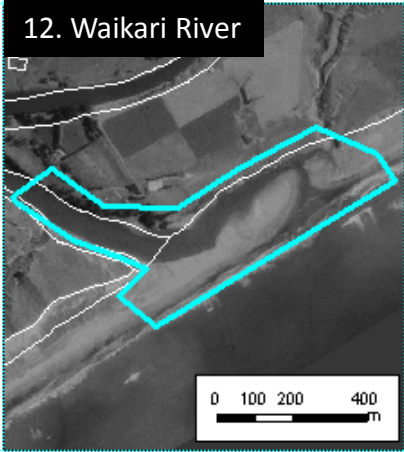
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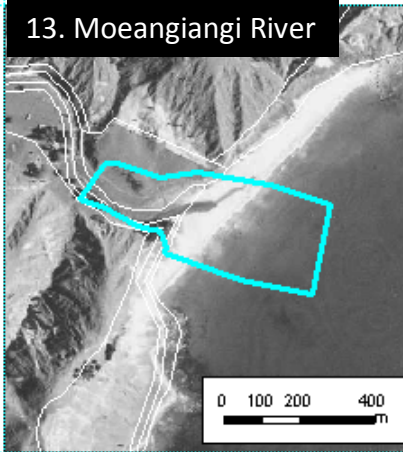


Maps 32, 110



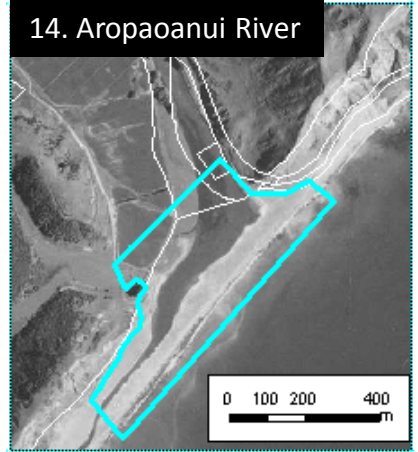
12. Waikari River

Maps 33, 34, 112



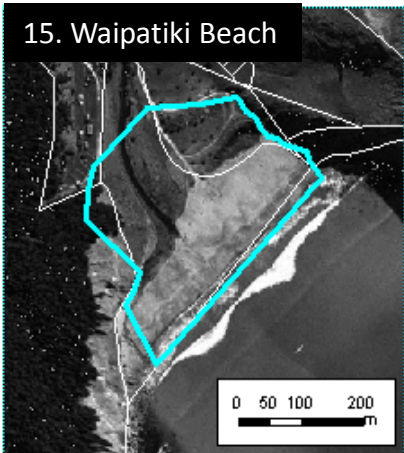
13. Moeangiangi River

Maps 35, 112



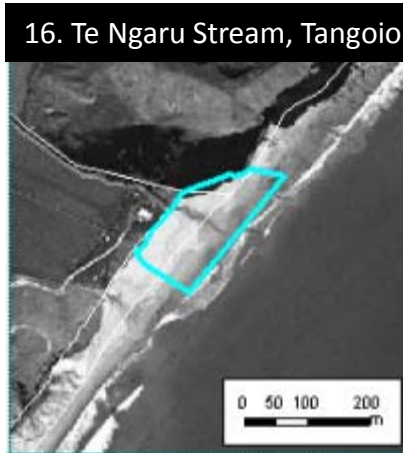
14. Aropaoanui River

Maps 36, 114



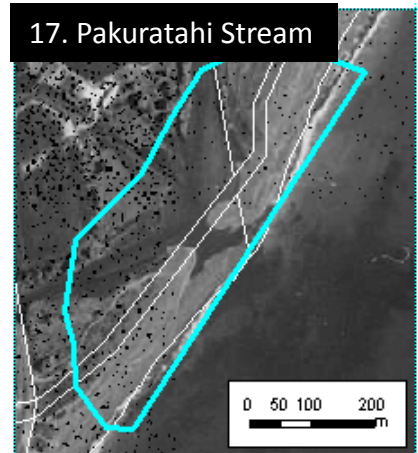
15. Waipatiki Beach

Maps 37, 114



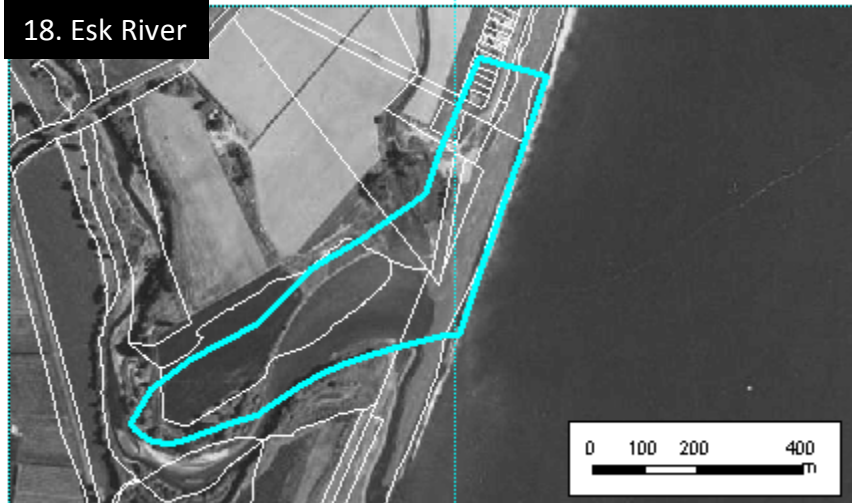
16. Te Ngaru Stream, Tangoio

Maps 38, 114



17. Pakuratahi Stream

Maps 41, 114



18. Esk River

Maps 45, 46, 115



19. Tukituki River

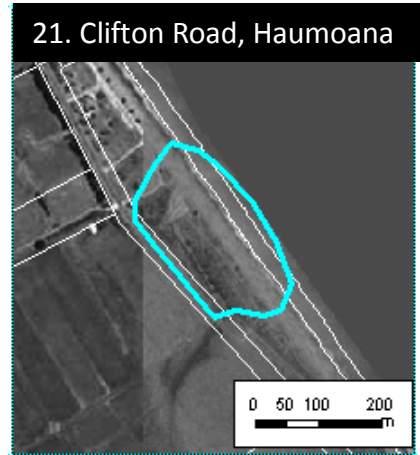
Maps 71, 72, 117

20. Tutaekuri and Ngaruroro Rivers



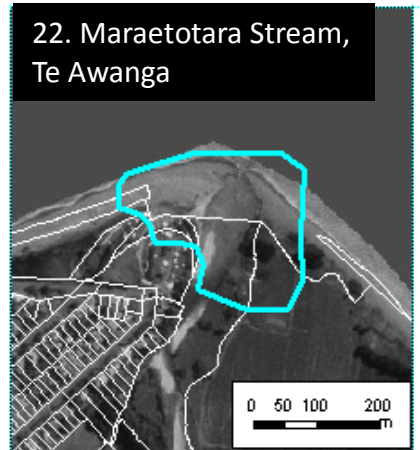
Maps 66, 67, 68, 69, 117

21. Clifton Road, Haumoana



Maps 74, 117

22. Maraetotara Stream, Te Awanga



Maps 77, 117

23. Ocean Beach (north)



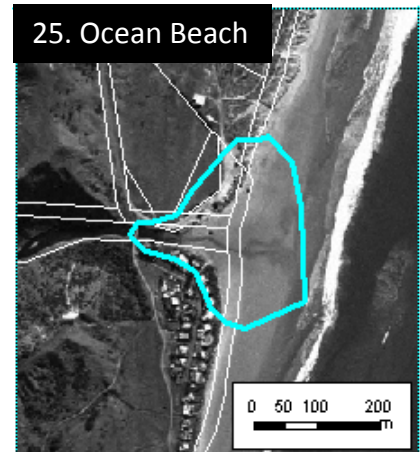
Maps 80, 118

24. Ocean Beach (Haupouri)

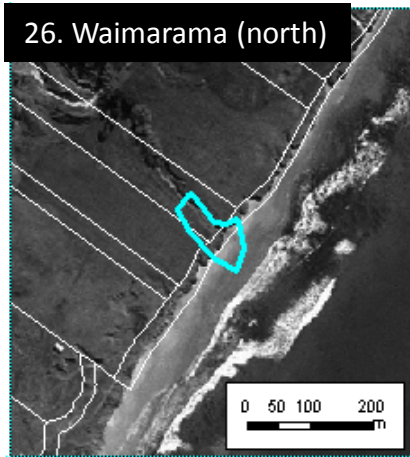


Maps 81, 119

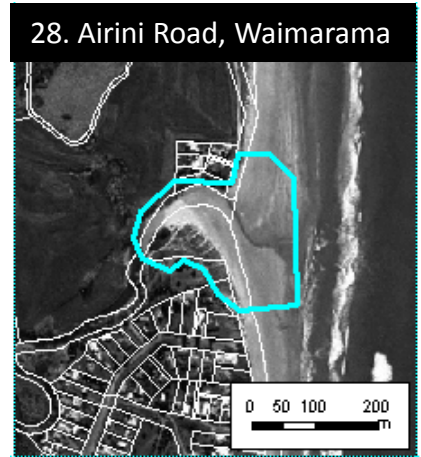
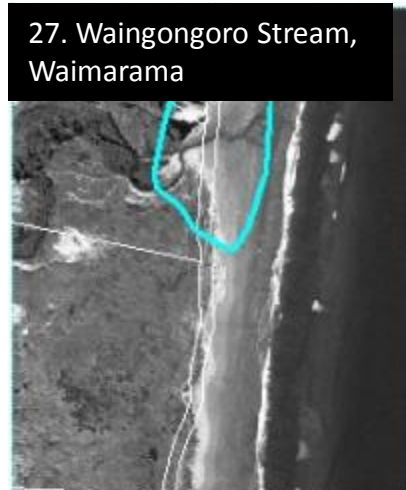
25. Ocean Beach



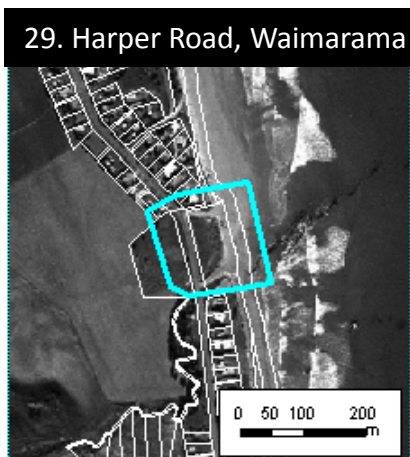
Maps 82, 119



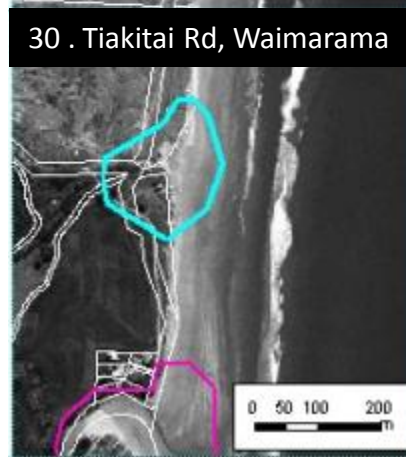
Maps 83, 119



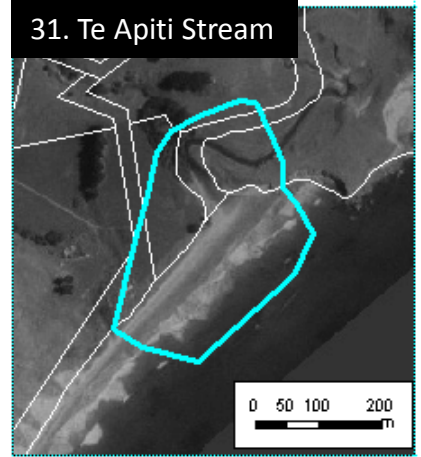
Maps 85, 119



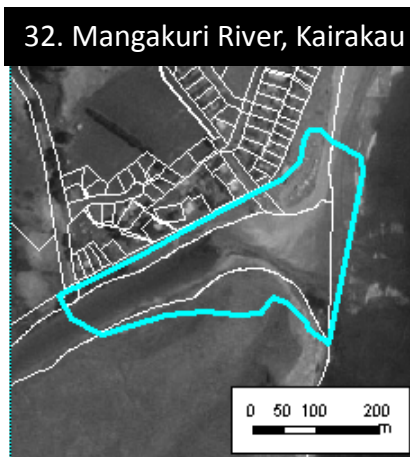
Maps 86, 119



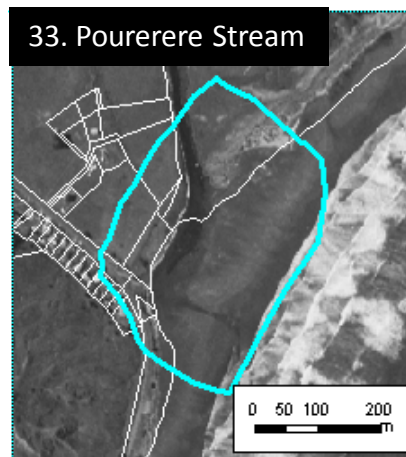
Maps 84, 85, 119



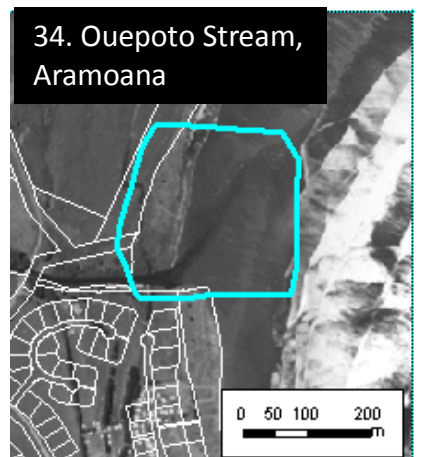
Maps 88, 120



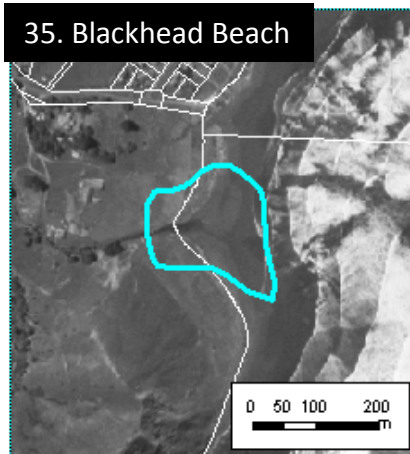
Maps 98, 120



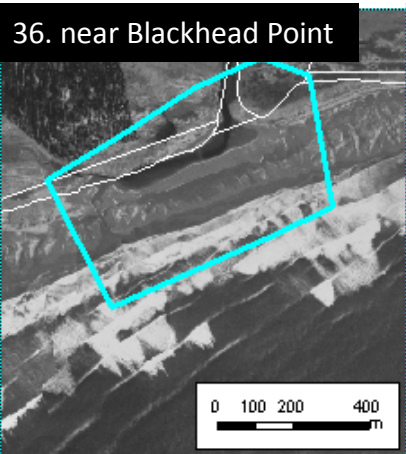
Maps 92, 122



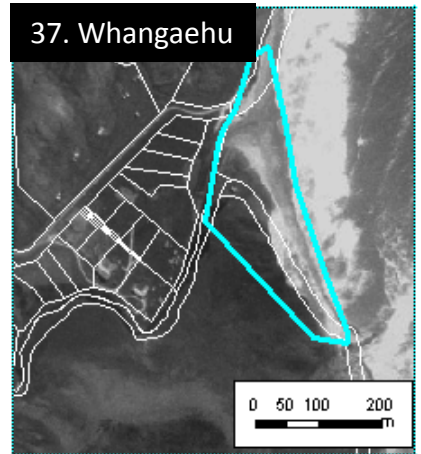
Maps 95, 96, 122



Maps 97, 122

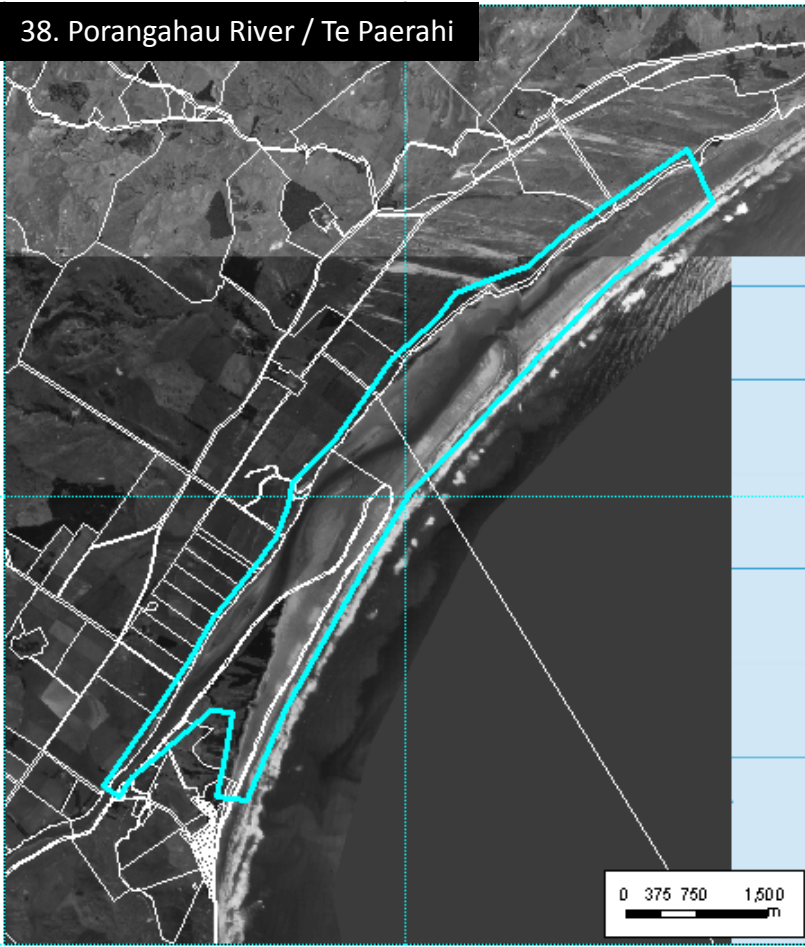


Map 123



Map 125

38. Porangahau River / Te Paerahi



Maps 98, 124