

# **REPORT OF INDEPENDENT COMMISSIONER**

Decision and Recommendation on Resource Consent  
Application APP-131373 to Hawke's Bay Regional Council and  
Hastings District Council

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Application from Hawke's Bay Regional Council  
Under the Severe Weather Emergency Recovery  
(Hawke's Bay Flood Protection Works) Order 2024  
and the Resource Management Act 1991

Works Associated with the Establishment of Stopbanks for  
the Whirinaki Flood Protection Project

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## Summary of Decision & Recommendation

That, in relation to a:

- Decision on a non-notified resource consent application under the Severe Weather Emergency Recovery (Hawke’s Bay Flood protection Works) Order 2024 (‘OIC’); and
- Recommendation on a non-notified resource consent application under the Resource Management Act 1991.

**Resource Consent Application APP-131373 is GRANTED subject to conditions, for the reasons given in this report.**

## Overview of Application Details

Resource Consent Application Number:	APP-131373
Applicant:	Hawke’s Bay Regional Council Private Bag 6006 Hawke’s Bay Mail Centre Napier 4142
Date of Application:	16 September 2025
Address of Site:	Various sites in the Whirinaki area off State Highway 2 and Northshore Road
Legal Description:	Fee Simple, 1/1, Lot 1 DP 405054 Fee Simple, 1/1, Lot 3-12 DP 506130 Fee Simple, 1/1, Lot 2 DP 24246 Fee Simple, 1/1, Lot 1 DP 562586 Fee Simple, 1/1, Lot 3 DP 562586 Fee Simple, 1/1, Lot 2 DP 23303 Fee Simple, 1/1, Lot 1 DP 344267 and Lot 1 DP 28162 and Lot 1 DP 28357 Fee Simple, 1/1, Section 62 Block XII Puketapu SD Road Reserve – North Shore Road Road Reserve – State Highway 2
Summary of Proposal:	Construction of a new circa 3,000m long stopbank, comprising two main portions. Portion 1, referred to as ‘the Whirinaki Stopbank’, will extend from the north side of the Esk River Mouth to State Highway 2 in the north, at which point it will connect with Portion 2, referred to as the ‘Pan Pac Stopbank’,

	<p>which runs from the gravel barrier south of 162 Whirinaki Road, across the State Highway and around the Transpower and Pan Pac sites along the Whirinaki Stream (“Whirinaki Drain”);</p> <p>Localised raising of State Highway 2 and North Shore Road to allow unimpeded access over the stopbanks where they cross these Road Reserves; and</p> <p>Various drainage solutions to accommodate the existing drainage patterns.</p>
Resource Consents sought under:	<ul style="list-style-type: none"> <li>▪ Severe Weather Emergency Recovery (Hawke’s Bay Flood Protection Works) Order 2024 (OIC); and</li> <li>▪ Hawke’s Bay Regional Resource Management Plan, Regional Coastal Environment Plan, and Hastings District Plan.</li> </ul>
Relevant Regional and District Plans and National Environmental Standards:	<ul style="list-style-type: none"> <li>▪ Resource Management (National Environmental Standards for Freshwater) Regulations 2020 (‘NES-F’).</li> <li>▪ Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011 (‘NESCS’).</li> <li>▪ Hawke’s Bay Regional Resource Management Plan (‘RRMP’)</li> <li>▪ Hawke’s Bay Regional Coastal Environment Plan (‘RCEP’).</li> <li>▪ Operative Hastings District Plan (July 2024) (‘Hastings District Plan’).</li> </ul>
Relevant Regional Plan Overlays:	Coastal Margin area (RCEP)
Relevant District Plan Zoning and Overlays:	<ul style="list-style-type: none"> <li>▪ Rural Zone</li> <li>▪ Whirinaki Industrial Zone</li> <li>▪ List 1 Riparian Area</li> <li>▪ River Hazard Overlay</li> <li>▪ National Grid</li> <li>▪ Archaeological Site V20/69</li> <li>▪ Adjoins the Coastal Environment Boundary</li> <li>▪ Adjoins Designated Site TPR – 2 (Transpower)</li> <li>▪ Is within Scheduled Site S32 – Unison (Power Generation)</li> <li>▪ All roads are designated</li> <li>▪ Land Use Capability Class 2 and Class 2 soils</li> </ul>
Resource Consents Required:	<p>Works within the area to which the OIC applies:</p> <ul style="list-style-type: none"> <li>▪ Land Use Consent (AUTH-132879-01);</li> <li>▪ Water Permit (AUTH-132875-01);</li> <li>▪ Discharge Permit (AUTH-132876-01);</li> <li>▪ Water Permit (AUTH-132877-01);</li> <li>▪ Discharge Permit (AUTH-132878-01); and</li> </ul>

	<ul style="list-style-type: none"> <li>▪ Land use consent (RMA20250336).</li> </ul> <p>Works outside the area to which the OIC applies:</p> <ul style="list-style-type: none"> <li>▪ Land Use Consent (AUTH-132879-01);</li> <li>▪ Water Permit (AUTH-132875-01);</li> <li>▪ Discharge Permit (AUTH-132876-01);</li> <li>▪ Water Permit (AUTH-132877-01);</li> <li>▪ Discharge Permit (AUTH-132878-01); and</li> <li>▪ Land use consent (RMA20250336).</li> </ul>
Resource Consents Activity Status:	<p>Works within the OIC Schedule 1 Delineation:</p> <ul style="list-style-type: none"> <li>▪ Controlled Activity and Non-notified under Clause 8(2) of the OIC.</li> </ul> <p>Works outside the OIC Schedule 1 Delineation:</p> <ul style="list-style-type: none"> <li>▪ Discretionary Activity under the NESCS, RRMP, RCEP and the Hastings District Plan, and Non-notified.</li> </ul>

# 1 Introduction

## 1.1 Appointment

- [001] This decision is made on behalf of the Hawke’s Bay Regional Council (‘HBRC’) and the Hastings District Council (‘HDC’) by an independent hearing commissioner, Janeen Kydd-Smith, appointed under clause 10 of the Severe Weather Emergency Recovery (Hawke’s Bay Flood Protection Works) Order 2024 (‘OIC’) and section 34A of the Resource Management Act 1991 (‘RMA’) to decide this application from the Hawke’s Bay Regional Council (‘the Applicant’).<sup>1</sup>
- [002] Delegation was given by HBRC on 28 May 2025, and by HDC on 21 October 2025, to consider and decide on the application for consent both within and outside the OIC area (under sections 104A and 104C of the RMA), and to decide upon the need for notification under sections 95A-95E of the RMA (for the non-OIC activities).
- [003] The functions, duties and powers that must be delegated are stated in clause 10(2) of the OIC, as follows:
- (a) *consideration of an application under section 104 of the RMA (see clause 16);*
  - (b) *decision to grant a resource consent under section 104A(a) of the RMA;*
  - (c) *imposition of conditions on a resource consent in accordance with clause 17;*
  - (d) *giving notice of its decision under section 114 of the RMA in accordance with clause 18.*

## 1.2 Decision Format

- [004] Section 113(4) of the RMA specifies that every decision on an application that is not notified must be in writing and state the reasons for the decision.
- [005] While section 113(3) of the RMA does not apply to a non-notified resource consent application, I have nevertheless cross-referenced and/or adopted all or part of the assessment of environmental effects provided by the applicant, and the section 42A reports, as appropriate, to avoid repeating material.

## 1.3 Procedural Matters

- [006] Clause 5 states that the OIC applies only in relation to:
- (a) *flood protection works (as defined in clause 6)–*
    - (i) *that are taken to be a controlled activity under clause 8; and*
    - (ii) *in relation to which a resource consent is granted under the RMA as modified by this order; and*
  - (b) *the carrying out of those flood protection works.*
- [007] In clause 6(1) of the OIC, ‘flood protection works’ are defined as works that:
- (a) *are of a kind described in subclause (2); and*

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<sup>1</sup> Janeen is an Accredited Commissioner (with Chair Endorsement) under the Ministry for the Environment ‘Making Good Decisions’ Programme and is an experienced planning practitioner with over 33 years’ professional experience.

- (b) *are carried out–*
  - (i) *on behalf of any 1 or more Hawke’s Bay local authorities; and*
  - (ii) *in any part of the severe weather events affected area that is at a location specified in subclause (3); and*
- (c) *for the purposes of the RMA,–*
  - (i) *would ordinarily require a resource consent; and*
  - (ii) *are not described in any plan or national environmental standard as a permitted activity; and*
  - (iii) *are not a prohibited activity.*

- [008] For the purpose of subclause 6(1)(b)(ii) ‘Whirinaki’ is listed in clause 6(3) as a location described in Schedule 1 of the OIC.
- [009] Clause 14 of the OIC states that a consent authority that receives an application for resource consent for flood protection works must not publicly notify or limited notify the application under section 95 of the RMA and must instead carry out consultation in accordance with clause 15 of the OIC.
- [010] Clause 15 of the OIC sets out the requirements for consultation, including persons who must be notified that an application has been lodged and advise them where they can find a copy of the application (clause 15(2)). Those persons must be invited to make written comments on the application given. A person who makes written comments under clause 15 is not to be treated under the RMA as a person making a submission on an application and may not appeal under Part 6 of the RMA against the consent authority’s decision or object to the decision under Part 14 of the RMA (clauses 15(5) and 15(6)).
- [011] Comments received on the subject application are summarised in the HBRC and HDC s42A reports<sup>2</sup> and are discussed later in this report.
- [012] I conducted a site visit of the Whirinaki application site (‘the site’) on Friday, 5 September 2025. I was accompanied by Mr Paul Barrett (HBRC, Manager Consents), Mr Caleb Sutton (HDC, Environmental Consents Manager), Mr Dylan Stuijt (Pan Pac Forest Products Ltd) and Mr Simon Moffitt (HBRC, Senior Regulatory Advisor). Also, in attendance for the Applicant was Mr Cameron Drury (Stradegy Planning, who prepared the resource consent application), Mr Luke Cahalin (HBRC, Applicant Project Manager) and Mr Josh Orringe (CT Design Limited).

#### 1.4 Documents Considered

- [013] In considering the application for the Whirinaki flood protection works, I have reviewed the following documents provided to me:
- a. *Resource Consent Application for Stopbank Works – Whirinaki*, dated 1 September 2025, and signed by Andrew Caseley, Manager Regional Projects/Programme Director, including the following:

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<sup>2</sup> In Appendix 1 of both s42A reports.

- i. *Resource Consent Application for Flood Mitigation Works: Whirinaki Flood Protection Stopbank, Hawke’s Bay Regional Council*, dated 15 September 2025, prepared by Strategy Planning Limited (Ref. 24091AP1) (‘the application’)
- ii. Land Requirement Plans (Appendix 1)
- iii. *Cultural Impact Assessment for the Hawke’s Bay Regional Council on Behalf of the Trustees of Petane Marae*, prepared by Jaymee Keleher, dated December 2024 (Appendix 2).<sup>3</sup>
- iv. Maungaharuru Tangitu Trust Input (memorandum from Nicola McHaffie to Jack Smith-Ballingall, dated August 2025) (Appendix 3).
- v. *HBRC Consent Report – Archaeology Whirinaki*, August 2025, prepared by Archaeology Hawke’s Bay (Appendix 4).
- vi. *Ecological Impact Assessment for the Proposed Upgrade to the Whirinaki Stopbank, Napier*, prepared for Hawke’s Bay Regional Council by Pattle Delamore Partners Ltd, dated 9 September 2025 (PDP) (Appendix 5).
- vii. *Flood Resilience: Whirinaki Landscape Scoping Assessment*, prepared by Narrative Landscape, dated 25 August 2025 (Appendix 6).
- viii. *Preliminary Site Investigation at Whirinaki Stop Bank*, prepared by Pattle Delamore Partners Ltd, dated 2 July 2025 (Appendix 7).
- ix. Existing Services Plans (Appendix 8).
- x. *Whirinaki Drain Stopbank Upgrade Design Report*, prepared for Hawke’s Bay Regional Council by Pattle Delamore Partners Ltd, dated 9 September 2025 (Appendix 9).
- xi. *Whirinaki Resilience Project State Highway 2 & North Shore Road Raising Preliminary Design Report*, prepared by Civil & Transportation Design Ltd, dated 8 August 2025 (Rev2) (Appendix 10).
- xii. Proposed Resource Consent Conditions (Appendix 11).
- xiii. Whirinaki Stopbank Cross Drainage – Preliminary Design, prepared for Hawke’s Bay Regional Council by Pattle Delamore Partners Ltd, dated 1 August 2025 (Appendix 12).
- xiv. Urupa Plans (Appendix 13).
- xv. Erosion and Sediment Control Plans (Appendix 14).
- xvi. List of Māori entities and Section 15(2)(a) Parties (Appendix 15).
- xvii. *Assessment of Effects of Flooding for Proposed Whirinaki Stopbank*, prepared for Hawke’s Bay Regional Council by Pattle Delamore Partners Ltd, dated 9 September 2025 (Appendix 16).

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<sup>3</sup> This report is **Confidential**

- xviii. *Consequential Flood Assessment Whirinaki*, prepared for Hawke’s Bay Regional Council by Beca Limited, dated 22 August 2025 (Beca) (Appendix 17).
- xix. Affected Party Approvals (Appendix 18).
- b. Comments received from Transpower New Zealand Limited on 7 October 2025, including the following appendix:
  - i. Appendix A: Transpower Asset Map.
- c. Comments received from the Director General of Conservation on 7 October 2025, including the following attachments:
  - ii. Attachment 1 – Director-General’s Comments on Draft Condition.
  - iii. Attachment 2 – Freshwater Effects Management Considerations.
- d. Comments received from Pan Pac Forest Products Ltd on 1 October 2025.
- e. Comments received from Powerco Limited on 3 October 2025, including attached:
  - i. Schedule 1 – minimum requirements for the 150NB steel LIP strategic gas main and associated assets adjacent to the State Highway 2 (‘SH2’) flood protection works.
- f. Comments received from New Zealand Transport Agency Waka Kotahi on 21 October 2025.

[014] I have also reviewed section 42A Reports from HBRC and HDC, which have assessed the application documents and comments received under sections 104 and 104A of the RMA and the relevant clauses of the OIC, and have recommended conditions to be applied to the consent. Each s42A Report has attached to it the comments received as Appendix 1, and the recommended consent conditions (with the amendments requested by the Applicant shown as tracked changes) as Appendix 2. Because the HDC s42A Report was prepared following an initial draft of the HBRC s42A Report, the recommended conditions in its Appendix 2 are provided as a complete overview of the conditions requested by the Applicant, and the changes recommended (with comments) by the s42A reporting officers for both HBRC and HDC. The HBRC recommended changes are shown in red font and the HDC recommended changes are shown in blue font.

[015] The s42A Reports are to be read in conjunction with this decision, as I generally adopt the descriptions, assessments and conditions recommended in the s42A Reports unless I state otherwise below.

## 2 Description of the Proposal

[016] Descriptions of the proposal are provided in Section 6 of the application, Section 2 of the HBRC s42A Report, and Section 1 of the HDC s42A report, which I adopt.

[017] The proposal is helpfully summarised in the HBRC s42A Report<sup>4</sup> as follows:

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<sup>4</sup> Paragraphs 2.10-2.12 (page 5).

*“In summary, the applicant seeks to undertake flood protection works including construction of a new 1,690 m long stop bank (the Pan Pac Stopbank) adjacent to the Whirinaki drain at the rear of the Pan Pac site, including the Transpower site and detouring to cross SH2 and finishing at the gravel barrier at the southern end of Whirinaki Road. This is designed to provide protection to the Industrial site in up to a 1:500-year ARI<sup>5</sup> event.*

*A 390 m long stopbank (Whirinaki stopbank) is also proposed to the north and east of the Esk river mouth adjacent to the Whirinaki Drain and crossing North Shore Rd to meet the Pan Pac stopbank, providing flood protection to a 1:100-year ARI event level. Associated works include road raising of North Shore Road and SH2 to accommodate the stopbanks passing below, new culverts through the stop bank to drain water from behind the stopbanks and new crossings and stormwater management are required to enable moving of fill material from the borrow site to the stopbank construction work areas.*

*The applicant also proposes to protect the Petane Urupa with a 178 m perimeter flood wall to be constructed with either concrete or timber with an earthen embankment to provide protection for a 1:500 ARI event. These works will be managed separately, and it is proposed to be subject to a Petane Urupa Construction Environment Management Plan (PUCEMP). The requirements of the PUCEMP are included in the proposed conditions as condition 10B. The applicant reported that as the area of these works is not characterised by identified ecological values, it is not necessary for the works to be subject to Ecology Management Plan.”*

[018] The majority of the proposed works are located within the OIC Schedule 1 location. The portions of the proposed works that fall outside the OIC Schedule 1 area, and which are subject to the standard RMA process, relate to:

- the ‘Northern Tip’ of the Pan Pac stopbank, which extends around the Pan Pac yard, the ‘Detour’ section past the Transpower site from the Whirinaki Drain to SH2, and the ‘Eastern Extent’ including the SH2 road raising to the beach gravels beside 163 Whirinaki Road; and
- the ‘Roading Tail’ of the road raising works along North Shore Road for the Whirinaki stopbank.

[019] Figure 5 of the application identifies the areas of the project falling outside the OIC Schedule 1 area<sup>6</sup>, which is included as Figure 3 in the HBRC s42A Report, and Figure 3 in the HDC s42A Report.

[020] The Application includes proposed conditions in accordance with Schedule 2 of the OIC and is seeking a number of changes relevant to the subject proposal.<sup>7</sup>

[021] Section 6.5.1 of the Application refers to proposed ‘establishment of construction site works’, as follows:

*“The OIC recognises that the consent holder will need to commence site establishment works as soon as possible following the issue of consent to enable the timely delivery of the flood protection schemes. It is for this reason that works associated with the ‘establishment of the construction site’ are excluded from the definition of ‘construction works’ (refer Condition 3 of the OIC). This has the effect allowing such works to occur ahead of/ separate to a number of ‘pre-commencement’ requirements embedded in the standardised*

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<sup>5</sup> Average Recurrence Interval.

<sup>6</sup> Page 17 of the Application.

<sup>7</sup> Appendix 7 of the Application.

conditions, including preparation of the Construction Environmental Management Plan (CEMP) required under Condition 10.

Provision to undertake the following 'construction site establishment works' is proposed:

- Removal of fencing and vegetation along construction areas,
- Installation of fencing,
- Construction of stabilised exit and entry points onto North Shore Road,
- Potholing for services location,
- Bring in and position site offices and buildings,
- Lay temporary power cables and water supply lines.

It is also proposed to clear the alignment of the temporary bypass alongside State Highway 2 and to complete formation of this area. The same is proposed for the temporary bypass on North Shore Road.

While it is recognised that these works will require erosion and sediment control, rather than including this exercise in the Erosion and Sediment Control Plan for the broader works under Condition 14, it is proposed that this be undertaken according to the Erosion and Sediment Control Plans provided in **Appendix 14**. In respect to the State Highway 2 bypass, this involves formation of drainage channels falling to a centre point within the Pan Pac site and installation of either a silt fence or earth bund. The bypass on North Shore Road will involve installation of a silt fence.

Likewise, with vegetation removal occurring, potential effects on bats needs to be managed. In this regard, a further site inspection has been undertaken, and while it has been determined that the vast majority of the trees do not have any potential roosting features, further surveys are recommended prior to felling. This has been reflected in the proposed conditions.

The areas are not considered to contain any other ecological values to trigger the requirements of the Ecology Management Plan.

*Amendments to the standardised conditions are proposed to this effect."*

- [022] The construction site establishment works are proposed to include the clearing of the alignment of a temporary by-pass alongside (on the western side) of State Highway 2 and to complete formation of this area. It also includes a temporary by-pass on North Shore Road.
- [023] The Applicant proposes that new Conditions 1B and 1C be added to the suite of standard conditions provided for under Schedule 2 of the OIC, to provide for works associated with the 'establishment of the construction site' ahead of/separate to a number of pre-commencement requirements embedded in the standardised conditions, including the preparation of a Construction Management Plan required under Condition 10 of the OIC conditions. Proposed Condition 1C relates specifically to 'Temporary Roving By-passes' and proposed Condition 1B relates to 'Tracking changes in the design process', where changes that occur between preliminary and detailed (final) design must be recorded and reported on as part of the final design report. This report must provide a view as to whether the changes are in accordance with the documents referred to in Condition 1, which requires all activities included in the flood protection works for which consent has been granted to be carried out in accordance with the Application documents.

### 3 Description of Site and Surrounding Environment

- [024] A description of the site is provided in Section 5 of the application, Section 2 of the HBRC s42A Report and Section 2 of the HDC s42A Report, which I adopt.
- [025] To summarise, the subject site is located in the Whirinaki area, on land adjacent to the eastern side of the Whirinaki Drain, the western and eastern sides of SH2 and in and around the Pan Pac site and the residential areas of North Shore Road, Pohutukawa Drive and Whirinaki Road. The location of the works begins at the rear of the Pan Pac site and finishes by the mouth of the Esk River. The surrounding environment includes the Petane Marae and the Petane Urupa to the west on Taits Road and the Ararata Urupa at the southern end of North Shore Road/Pohutukawa Drive.

### 4 Resource Consent Requirements and Activity Status

- [026] Section 2.3 of the application provides an overview of the OIC, which was established to facilitate the timely provision of flood protection works following Cyclone Gabrielle in 2023.<sup>8</sup> Section 3.1.1 of the HDC s42A Report also helpfully provides the statutory context under the OIC.<sup>9</sup>
- [027] The OIC streamlines the consenting pathway for major flood protection works located within the areas identified in Schedule 1 of the OIC (which includes a description and map of land at Whirinaki), such that all works subject to the OIC must be assessed as a non-notified Controlled Activity in accordance with clauses 8 and 14 of the OIC, by an independent hearings commissioner, and any conditions imposed must be limited to the matters of control set out in Schedule 3 of the OIC.
- [028] The portions of the proposed works that fall outside the OIC Schedule 1 area are subject to the standard RMA process, such that the normal provisions of the regional and district plans and NES regulations must apply.
- [029] There are, therefore, two different RMA processes under which the application must be assessed (i.e., for works within and outside the OIC Schedule 1 area, and in relation to resource consents required from two different consent authorities (HBRC and HDC)). As advised in the HBRC s42A Report<sup>10</sup>, there is no clear pathway under the OIC to enable a ‘bundled’ consent approach to the two processes, therefore, I consider the two RMA processes separately.
- [030] Having considered the assessment of resource consents required, in Section 7 of the application<sup>11</sup> and in the HBRC and HDC s42A Reports<sup>12</sup>, I find that the following resource consents are required from HBRC and HDC for works located within and outside the OIC Schedule 1 area, as summarised in Table 1 below:

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<sup>8</sup> Pages 12-15 of the Application.

<sup>9</sup> Page 7 of the HDC s42A Report.

<sup>10</sup> Paragraph 2.7, page 5 of the HBRC s42A Report.

<sup>11</sup> Pages 58-71 of the application.

<sup>12</sup> Section 3, pp. 6-7 of the HBRC s42A Report, and Sections 3.2-3.4, pp. 11-17 of the HDC s42A Report.

**Table 1: Resource Consents Required under HBRC and HDC Jurisdictions**

Jurisdiction	Inside OIC Schedule 1 Works Area	Outside OIC Schedule 1 Works Area
HBRC	<p>Regulation 71 of the NES-F for the installation of a culvert(s) (which may be temporary) across the Whirinaki Drain bed.</p> <p>Rule 8 of the RRMP for vegetation clearance and soil disturbance.</p> <p>Rule 30 of the RRMP for a discharge of dust.</p> <p>Rule 33 of the RRMP for the discharge of drainage water (if required as part of construction).</p> <p>Rule 52 of the RRMP for the discharge of sediment laden water to land or water.</p> <p>Rule 52 of the RRMP for the discharge of solid contaminants within 20 m of a surface water body (not meeting permitted Rule 47).</p> <p>Rule 55 of the RRMP for other takes and uses of surface water and groundwater (relating to the take of drainage water if required during construction).</p> <p>Rule 59 of the RRMP for the diversion of floodwaters of the Esk River arising from the stopbank.</p> <p>Rule 69 of the RRMP for river and lake bed activities (e.g. stream crossings).</p> <p>Rule 8 of the RCEP for vegetation clearance and soil disturbance.</p> <p>Rule 9 of the RCEP for the discharge of solid contaminants within 20 m of the Coastal Margin Area or any surface water body (not meeting permitted Rules 18 or 19).</p> <p>Rule 24 of the RCEP for the discharge of drainage water (if required as part of construction).</p> <p>Rule 35 of the RCEP for other takes and uses of surface and ground water (relating to the</p>	<p>The rules applying to the works inside the OIC Schedule 1 area also generally apply to the works outside the OIC Schedule 1 area, which are subject to the standard RMA process.</p> <p>However, the rules under the RCEP only apply to the works at the coastal end of the Whirinaki Stopbank, by the Pohutukawa Drive Urupa, which fall within the Coastal Margin area and are located inside the OIC Schedule 1 works area.<sup>14</sup></p> <p><b>Overall Activity Status – Discretionary Activity</b></p>

<sup>14</sup> See paragraph 3.4, page 7, of the HBRC s42A Report.

	<p>‘take’ of drainage water if required as part of construction).</p> <p>Rule 9 of the RCEP for discharge of sediment laden water to land or water.</p> <p>Rule 39 of the RCEP for diversion of the Esk River and Whirinaki Drain during times of flood arising from the stopbanks.</p> <p><b>Overall Activity Status – Controlled Activity<sup>13</sup></b></p>	
HDC	<p>Rule EM10 of the Hastings District Plan for earthworks</p> <p><b>Overall Activity Status – Controlled Activity<sup>15</sup></b></p>	<p>Regulation 11 of the NESCS in respect of the disturbance of contaminated soil (under the NESCS), earthworks, and the removal of material from the Whirinaki Industrial Zone and Rural Zone.</p> <p>Rule EM10 of the Hastings District Plan for earthworks.</p> <p><b>Overall Activity Status – Discretionary Activity.</b></p>

- [031] I note that the application did not identify the need for resource consent under Regulation 71 of the NES-F, in relation to the installation of a culvert(s) (which may be temporary) across the Whirinaki Drain bed. This need is identified in the HBRC s42A Report, which I find is required in Table 1 above.
- [032] While the application identified the need for resource consents under the RCEP in relation to the coastal end of the Whirinaki Stopbank by the Pohutukawa Drive Urupa, which falls within the Coastal Margin area, they were assessed as being required for activities falling under the standard RMA process in Section 7.2 of the application. However, that part of the Whirinaki Stopbank is located inside the OIC Schedule 1 area. I find that they are appropriately included as works inside the OIC Schedule 1 area, as set out in Column 1 of Table 1 above, which does not change the overall Discretionary Activity status of the works outside the OIC Schedule 1 (under Column 2 of Table 1).
- [033] Otherwise, the application and the HBRC and HDC s42A Reports are in agreement as to the resource consents required for the proposed works inside and outside the OIC Schedule 1 Area.

## 5 Relevant Statutory Requirements

- [034] Under section 104A of the RMA, consent for a Controlled Activity (for the proposed works within the OIC Schedule 1 area) must be granted and conditions may only be imposed on the consent

<sup>13</sup> As required under clause 8 of the OIC.

<sup>15</sup> As required under clause 8 of the OIC.

(under section 108 of the RMA) for those matters over which control is reserved. In this case, the matters of control are specified in Schedule 3 of the OIC.

- [035] Under section 104B of the RMA, consent for a Discretionary Activity (for the proposed works outside the OIC Schedule 1 area) may be granted or refused, and if granted, conditions may be imposed under section 108 of the RMA. There is no restriction as to which matters may be considered.
- [036] In considering the application for resource consents, under section 104(1) of the RMA, I must, subject to Part 2 of the RMA, have regard to any actual and potential effects on the environment of allowing the activity and 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 I consider relevant and reasonably necessary to determine the application.
- [037] Section 104(2) of the RMA is not precluded from being included in an assessment under the OIC. As such, I may disregard an adverse effect of the activity on the environment if a national environmental standard or plan permits an activity with that effect.
- [038] In relation to any discharges proposed, I must, in accordance with section 105 of the RMA, also have regard to the nature of the discharge and the sensitivity of the receiving environment, the applicant's reasons for the proposed choice, and any possible alternative methods of discharge, including discharge to any other receiving environment.<sup>16</sup>
- [039] I must also, under section 107 of the RMA, have regard to effects of discharges on receiving waters.

## 6 Consideration of Applications (s104 RMA)

### 6.1 OIC Application Assessment

#### 6.1.1 Comments Received

- [040] In accordance with clause 15 of the OIC, notice was sent to parties listed under clause 15(2)(a)(i-x) of the OIC, and they were invited to make written comments on the application (clauses 15(2)(b)-(c), with the comment period beginning 19 September 2025 and closing 7 October 2025. Comments were received from the following five parties:
- Transpower New Zealand Limited ('Transpower');
  - Director-General of Conservation ('the D-G');
  - Pan Pac Forest Products Ltd ('Pan Pac'); and
  - Powerco Limited ('Powerco').
  - New Zealand Transport Agency Waka Kotahi (NZTA).
- [041] Comments from NZTA were received late, on 21 October 2025.

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<sup>16</sup> As set out on page 9 of the HBRC s42A Report.

- [042] Clause 15(4) of the OIC requires the consent authority to consider all comments received. The process for inviting comments and a summary of comments received are set out in the HBRC and HDC section 42A Reports.<sup>17</sup> Full copies of the comments received are included as Appendix 1 to the HDC s42A Report.
- [043] Transpower’s comments relate to their interest in ensuring that the operation, maintenance, upgrading and development of the National Grid is not compromised by the proposed works in proximity to Transpower’s National Grid Assets (i.e., land disturbance and stockpiling, mobile plant operation, access, underground fibre cables, Whirinaki Substation access, and dust management and detailed design and construction in proximity to the Substation). They suggested amendments to some proposed conditions, including provision of notice, final design plans and ‘as built’ plans.
- [044] The D-G’s comments relate to the proposed conditions of consent, seeking that: a specialist freshwater ecologist design any fish passage mitigation structures (condition 18); fish passage is provided for in the design of all culverts (in accordance with the NZ Fish Passage Guidelines) (conditions 18 d), 18 e) and 19); the effects management hierarchy be implemented in relation to managing stream loss where threatened or at-risk species are present is carried out in accordance with the effects management hierarchy set out in the National Policy Statement for Freshwater Management 2020 (‘NPS-FM’); and the timeframe for reporting failure of an erosion and sediment control measure be reduced from 7 days to 3 working days (condition 15(a)(iii)). The D-G supports the steps proposed in relation to bats but recommends that the Bat Recovery Group Protocols be referenced in condition 28. The D-G supports the deletion of condition 27 and recommends the addition of advice notes to the conditions regarding the replacement of removed vegetation and noting that other approvals under the Freshwater Fisheries Regulations 1983 may be required in relation to the placement of structures or culverts within a stream.
- [045] Pan Pac’s comments are fully supportive of the project and providing a 1:500-year level of service and protection from future weather events, and they refer to the importance of work being planned in collaboration with the Pan Pac Health, Safety and Environmental team to ensure their staff and contractors are protected from harm along with their environment.
- [046] Powerco’s comments provide a schedule of their minimum requirements for construction in proximity to the 150NB steel LIP strategic gas main and associated assets adjacent to the State Highway 2 flood protection works. They requested that they be contacted if any of those requirements cannot be met once the final design is confirmed.
- [047] NZTA’s comments refer to them engaging with the applicant’s project team and to an agreement being developed between NZTA and the Applicant that will outline NZTA’s responsibilities and scope across the design and planning phase, construction stage, the completion, and handover of works. NZTA’s engineers will continue to engage closely in alignment with that agreement to ensure smooth coordination and delivery. NZTA advises that they received a s176 RMA request

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<sup>17</sup> Section 4 (pp. 7-8) of the HBRC s42A Report, and Section 4.1 (pp. 18-30) of the HDC s42A Report.

from the Applicant to undertake the project works within the State Highway 2 (SH2) designation, which NZTA is currently processing.

[048] As the matters raised in the comments received fall within the Matters of Control in Schedule 3 of the OIC, I can consider them in deciding on the conditions to be imposed on the consent.

[049] The HDC s42A Report<sup>18</sup> and HBRC s42A Report<sup>19</sup> advise that the wider application site adjoins the Esk River which is listed under the Ahuriri Hapu Claims Settlement Act 2021 and the Maungaharuru Tangitū Hapu Claims Settlement Act 2014 as areas subject to both statutory acknowledgement and deed recognition. The OIC footprint adjoins crown land and the Esk River. Therefore, a summary notice of the application was sent by HDC and HBRC and to Mana Ahuriri ('MA') and Maungaharuru Tangitū on 17 September 2025. No comment was received from MA. The Maungaharuru Tangitū Trust ('MTT') provided feedback on the summary notice in a letter to HDC and this has been saved by HDC as a confidential document, at their request, on the application file. Their feedback has been limited to:

1. *Ensuring our cultural input, which we anticipate will likely tautoko several recommendations from the Cultural Impact Assessment by the Hapū of Petane Marae, is included in the application and consent conditions.*
2. *Ensuring the consent conditions are clear and a good representation of what we would expect to see during the works.*
3. *Supporting Petane as the primary entity, which is separate from the Māori Representative Entities, consistent with HBRC's RPC-approved approach of engaging with the closest marae, under which Petane Marae has been identified as the primary Māori entity.*

## 6.1.2 Assessment of Effects on the Environment

### 6.1.2.1 Permitted Baseline

[050] The Application considers the permitted baseline (s104(2) of the RMA) in relation to the proposal and considers that it is useful, as it assists in establishing what the anticipated outcomes of the District and Regional Plans are in respect to environmental effects on the river berm and visual amenity effects.<sup>20</sup>

[051] The HDC s42A Report considers the permitted baseline in respect of proposed works on the river (inside and outside of the River Hazard Overlay) and the visual and amenity effects of the proposed earthworks. As the proposed works within the River Hazard Overlay are permitted under the Hastings District Plan, and given the large scale of the proposed earthworks over the sites to construct the stopbanks, which significantly exceeds the permitted volume of earthworks in the Hastings District Plan, the s42A Report considers that the permitted baseline is not very relevant or of assistance in this case.<sup>21</sup>

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<sup>18</sup> Section 7.2, pp. 34-35 of the HDC s42A Report.

<sup>19</sup> Page 20 of the HBRC s42A Report.

<sup>20</sup> Section 10.1 (pp. 78-79) of the Application.

<sup>21</sup> Section 8.1, page 40 of the HDC s42A Report.

[052] The HBRC s42A Report notes that some aspects of the work do not require consent under the RRMP (or RCEP)<sup>22</sup> but does not consider the permitted baseline.

[053] Given the above, I find that the permitted baseline is not helpful or particularly relevant in this case.

#### 6.1.2.2 Matters of Control – Schedule 3 of the OIC

[054] As I have referred to above, I may only consider the potential effects and proposed mitigation measures that fall within the Matters of Control set out in Schedule 3 of the OIC.

[055] An assessment of the actual and potential effects of the proposal against the matters of control in Schedule 3 is provided in Section 10 of the application<sup>23</sup>, and is supported by comprehensive technical reports provided with the Application. The assessment is summarised in the Application as follows<sup>24</sup>:

*“In summary, with the benefit of a greater degree of design an assessment being undertaken as part of preparing the application than necessarily anticipated by the context of the OIC, many of the outcomes provided for in the standardised conditions have already been met and components of them are not required as conditions of consent. Amendments to the standardised conditions are proposed to enable more effective implementation of the works.*

*Other than the new conditions already proposed by the applicant, no additional conditions are required to avoid, remedy or mitigate the effects of the proposal in relation to the matters over which control has been reserved.”*

[056] The HBRC s42A Report largely agrees with and adopts this assessment in full for matters relevant to HBRC’s jurisdiction, except in relation to potential effects on fish passage from installation of structures to provide crossings over the Whirinaki Drain, which I discuss separately below.<sup>25</sup> The report recommends some amendments to the proposed conditions in response to comments received, which I address in Section 9.1 of this report.

[057] The HDC s42A Report summarises the assessment of each effect provided in the Application in relation to the matters of control in Schedule 3 of the OIC, and provides comments on those matters relevant to its jurisdiction and the appropriateness of the related proposed conditions.<sup>26</sup> The HDC s42A Report does not identify any areas of disagreement with the Applicant’s assessment of effects on the environment but recommends some amendments to the proposed conditions in response to comments received, which I address in Table 3 in Section 10 of this report.

[058] I therefore also agree with, and adopt as part of my decision, the comprehensive assessment of effects provided in the Application.

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<sup>22</sup> Paragraph 3.3, page 6 of the HBRC s42A Report.

<sup>23</sup> Pages 77-105.

<sup>24</sup> Section 10.14 (page 105) of the application.

<sup>25</sup> Paragraph 6.3, page 11 of the HBRC s42A Report.

<sup>26</sup> Section 8, pp. 40-

### 6.1.2.3 Effects on Freshwater Ecology - Fish Passage

[059] The Application indicates<sup>27</sup> that either a temporary bridge or a culvert will be used to enable crossing of the Whirinaki Drain in two places to move material from the borrow pit site to the work areas. While the details of the proposed structures and the length of time they will be in place are not yet known, a temporary bridge is preferred and it is proposed to deal with the effects of temporary culverts in an amendment to the CEMP.<sup>28</sup>

[060] In response to comments received from the D-G in relation to designing structures for fish passage, the HBRC s42A Report recommends that proposed condition 11e) i. and Condition 19b) be amended<sup>29</sup> to refer to an ecologist with fish passage experience (this may be the Project Ecologist), for the following reasons:

*“...changes to the conditions be made to strengthen and clarify the assessment and design requirements for the main area of works where freshwater values can be impacted – the installation and use of temporary river crossing of the stream where material will be moved from the borrow site to the work areas. The changes recommended are to make it clear that permanent crossing, while not seemingly proposed, must provide for fish passage, but allow that temporary crossings may not, provided that a freshwater ecologist assists in the design of these, and that this is considered through the Ecology Plan and CEMP, with guidance from the Ecology Principles. Consideration of when to remove the crossing is also important, and the ecologist may advise against removal during key times of increased sensitivity (e.g., fish spawning periods).”<sup>30</sup>*

[061] Having considered the Application, the D-G comments and the HBRC s42A Report, I find that the consent conditions proposed in the application and the amendments to the conditions recommended by the HBRC s42A Report will appropriately provide for fish passage where any crossings over the Whirinaki Drain are constructed.

## 6.2 Non OIC Application Assessment

[062] I adopt the conclusions of the HBRC s42A Report, that the adverse effects of the non-OIC application will be less than minor<sup>31</sup>. I also adopt the recommendation of the HBRC s42A Report, that neither public notification under s95A of the RMA or limited notification under s95B of the RMA is required, that there are no special circumstances under s95A(9) and s95B(10) that warrant public notification or limited notification, and that the non-OIC application to HBRC be processed on a non-notified basis.<sup>32</sup>

[063] The HDC s42A Report assesses the effects of the proposed works outside the OIC footprint within the notification assessment in Section 7 of that report. The Report concludes that the activity will not have, or is not likely to have, adverse effects on the wider environment that are more than minor, the adverse effects of the proposal are less than minor on any person, and there are no special circumstances that exist that would warrant public notification or limited notification. I

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<sup>27</sup> Figure 19, page 55 of the Application.

<sup>28</sup> Page 14 of the HBRC s42A Report.

<sup>29</sup> As set out in Appendix 2 of the HBRC s42A Report.

<sup>30</sup> Page 15 the HBRC s42A Report.

<sup>31</sup> Page 16 of the HBRC s42A Report.

<sup>32</sup> Pages 22-23 of the HBRC s42A Report.

therefore adopt the recommendation in the HDC s42A Report that neither public notification in accordance with s95A of the RMA or limited notification in accordance with s95B of the RMA is required, and that the non-OIC application to HDC be processed on a non-notified basis.<sup>33</sup>

- [064] As part of the HDC s42A Report’s limited notification assessment (s95B of the RMA), the Report<sup>34</sup> refers to the feedback HDC received from MTT on the summary notice (referred to above) and advises that:

*“MTT are comfortable that the feedback they provided Hawke’s Bay Regional Council, included and assessed as part of the consent and as outlined in the Resource Consent Application.*

*MTT are comfortable that the majority of their suggestions were included in the draft conditions and their inclusion in the Stakeholder Advisory Group.”*

- [065] The HDC s42A Report considers that:

*“The OIC conditions, with the amendments proposed generally address the comments made.”<sup>35</sup>*

*“Given the proposal is of a limited/temporary nature, and the matters of concern for MTT and Archaeology HB (in relation to the archaeological site V20/69), are addressed through condition, it is not considered that there will be any adverse effects on the Esk River catchment area affected by the Statutory Acknowledgement. Ngā Hapū Petane Marae has provided a CIA that provides strong recommendations to HBRC to aid in the design, development, and delivery of the wider project. Ongoing relationships and communication between HBRC and the marae, and local landowners, is proposed throughout the project.”<sup>36</sup>*

- [066] The HBRC s42A Report<sup>37</sup> also refers to the feedback HDC received from MTT in relation to Statutory Acknowledgements, and advises that:

*“MTT remain a Relevant Māori Entity and will have the opportunity to participate in the STAG (condition 6). They will be able to nominate a representative and, with the other entities appoint a team of cultural monitors to assist them and provide advice to the consent holder (condition 4). The terms of reference for the Māori Entities Representatives are to be developed with the Māori Entities including scope, roles, responsibilities, timeframes and remuneration.*

*MTT asked for clarifications to be made to some conditions of consent. It is considered that the process set out in conditions 4 and 6 provides an opportunity for many of these matters to be discussed and resolved through establishment of the terms of reference.*

*Other recommended amendments to the conditions help to address comments, for example concerning the need for ensuring fish passage.”*

- [067] I find the assessments of the HBRC and HDC s42A Reports in relation to the MTT feedback to be appropriate and I adopt them for the purposes of this decision.

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<sup>33</sup> Page 39 of the HDC s42A Report.

<sup>34</sup> Page 35 of the HDC s42A Report.

<sup>35</sup> Page 35 of the HDC s42A Report.

<sup>36</sup> Page 36 of the HDC s42A Report.

<sup>37</sup> Pages 35-36 of the HDC s42A Report.

### 6.3 Assessment of Relevant Statutory Instruments – HBRC as Consent Authority

[068] The HBRC s42A Report <sup>38</sup>assesses the Application against the relevant plans and policies under section 104(1)(b) of the RMA, identified as being:

- a. National Policy Statement for Freshwater Management 2020 – Amended October 2024 (NPS-FM);
- b. Resource Management (National Environmental Standards for Freshwater) Regulations 2020 – Amended 2023 (NES-F);
- c. Resource Management (National Environmental Standards for Sources of Human Drinking Water) Regulation 2007 (NES-SHDW);
- d. Hawke’s Bay Regional Policy Statement (RPS);
- e. Hawke’s Bay Regional Resource Management Plan (RMMP); and
- f. Hawke’s Bay Regional Coastal Environment Plan (RCEP).

[069] The HBRC s42A Report considers that the proposal is consistent with the relevant provisions of these statutory instruments, including for the following reasons (which I summarise):

- the proposal will not cause degradation of water quality or adverse effects on freshwater ecosystems;
- the proposal will enable people to provide for their social, economic and cultural well-being by improving major flood mitigation protection in Whirinaki and cultural values have been identified and provided for;
- it is unlikely that the proposal will have effects on wetlands and the Council’s indicative natural inland wetland maps do not indicate the presence of any natural inland wetlands within the areas of work; and
- there are no down-gradient drinking water supplies from the project site, the project area is not within Plan Change 9 specified Source Protection Zones, and not within the modelled source water protection extents of the HDC Whirinaki water supply bores. Given the distance, nature of the proposed works and management measures to be employed, the proposed activity is unlikely to increase the concentration of any of the determinants at drinking water abstraction points, which draw water from the confined aquifer. Nor is it likely to introduce or increase the concentration of any aesthetic determinants in the drinking water levels exceeding the drinking water guideline values.

[070] I find the HBRC s42A Report assessment under section 104(1)(b) of the RMA to be appropriate and I adopt it for the purposes of this decision.

### 6.4 Assessment of Relevant Statutory Instruments – HDC as Consent Authority

[071] The HDC s42A Report <sup>39</sup>assesses the Application against the relevant plans and policies under section 104(1)(b) of the RMA, identified as being:

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<sup>38</sup> Section 8 (pp. 16-19) of the HBRC s42A Report.

<sup>39</sup> Section 9 (pp. 51-61) of the HDC s42A Report.

- a. NPS-FM;
- b. National Policy Statement for Highly Productive Land 2022 ('NPS-HPL');
- c. RPS; and
- d. Hastings District Plan.

[072] The HDC s42A Report considers that the proposal is consistent with the relevant provisions of these statutory instruments, including for the following reasons (which I summarise):

- erosion and sediment control measures under Condition 14 of the OIC will ensure sediment runoff is controlled, and ongoing consultation with the community and relevant Iwi has been undertaken by the Applicant throughout the process with significant engagement ongoing;
- with regard to the NPS-HPL, the proposed works fall within the exception under clause 3.9(2), as: the purpose of the works is to address flooding risk which presents a high risk to public safety; section 6(h) of the RMA provides for the management of significant risks from natural hazards as a matter of national importance, which the proposal will address; and the proposed works are 'specified infrastructure' in clause 1.3 NPS-HPL and have a functional need to be located in the specific area. The proposal will also meet clause 3.9(3) as it will avoid further loss of productive soils should a similar event like Cyclone Gabrielle occur in this location, and the construction activity is temporary and accordingly reverse sensitivity will be addressed through the conditions in Schedule 2 of the OIC.
- the Applicant has applied a pre-emptive Archaeological Authority and proposes a condition (Condition 29) to manage the unexpected discovery of archaeological features, artefacts or taonga;
- proposed Condition 24 of the OIC, that will authorise the imposition of a planting plan as mitigation for the owners of the property at 1078 SH2 in accordance with the plan prepared by Narrative Landscape (submitted with the Application), will mitigate potentially significant adverse visual amenity effects;
- proposed Condition 12 a) vi. of the OIC will ensure that areas disturbed by earthworks are reinstated;
- proposed Condition 16 of the OIC specifically addresses dust management, and the HDC s42A Report recommends that Condition 10 c) ix. of the OIC be amended to address potential adverse effects on the National Grid assets;
- the PDP and Beca technical reports submitted with the Application have assessed that the consequences of the stopbank on flooding for adjoining properties are acceptable;
- the HDC s42A Report recommends that Condition 23 of the OIC be amended to include a new c) and d) to protect properties at the beginning of North Shore Road (off SH2) and Pohutukawa Drive from vibration effects, as well as noise effects, associated with the proposed works;
- there are no recreation, conservation or natural areas within or outside the OIC that would be affected by the proposed construction activities;
- effects on human health and safety will be avoided, remedied or mitigated through appropriate management plans required by the conditions of the OIC; and

- the Petane Marae will be protected through the imposition of proposed Condition 10B in response to the consultation undertaken with local Māori Entities.

[073] I find the HDC s42A Report assessment under section 104(1)(b) of the RMA to be appropriate and I adopt it for the purposes of this decision.

## 7 Section 104(c) – Other Matters

[074] The HBRC s42A Report<sup>40</sup> refers to the Hawke’s Bay Independent Flood Review that was commissioned by HBRC Councillors on 24 July 2024 to investigate the circumstances and contributing factors that led to flooding during Cyclone Gabrielle. The Review describes the existing Esk River and Whirinaki Drainage Schemes and highlights that there are no stopbanks within the Esk River Scheme, and once a flood exceeds the 2-year return period the floodplain begins to be inundated. For the Whirinaki Scheme, the Report recommended that a combination of scenarios be considered in the design of the flood protection infrastructure being considered for the Whirinaki Resilience Project, which incorporates the works proposed under this application. I acknowledge that this information supports the purpose of the proposed works, as set out in Section 2.2 of the Application.

[075] The HDC s42A Report considered there were no other matters that had not already been considered in the Report<sup>41</sup> and I adopt it for the purposes of this decision.

## 8 Sections 105, 107 and Part 2 of RMA

[076] With regard to section 105 of the RMA, Section 11 of the HBRC s42A Report addresses the nature of the proposed discharges, and the Applicant’s reasons for the proposed choice are addressed in Section 2 of the Report. The s42A Report concludes that the matters of control and recommended amendments to the conditions set out in Schedule 2 of the OIC proposed by the Applicant are considered appropriate for managing any potential adverse effects of the activity on the receiving environment (being the land and water within the Whirinaki Stream and Esk River catchments).<sup>42</sup>

[077] With regard to section 107 of the RMA, the HBRC s42A Report considers that the proposed discharge is unlikely to result in any of the effects in the receiving waters listed under section 107, and it will be temporary in nature, occurring over the course of construction. The s42A Report considers that consent can therefore be granted.<sup>43</sup>

[078] I concur with the HBRC s42A Report conclusions on sections 105 and 107 of the RMA and adopt them for the purposes of this decision.

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<sup>40</sup> Page 19 of the HBRC s42A Report.

<sup>41</sup> Section 10.0 of the HDC s42A Report.

<sup>42</sup> Page 19 of the HBRC s42A Report.

<sup>43</sup> Page 20 of the HBRC s42A Report.

[079] The HBRC s42A Report<sup>44</sup> and the HDC s42A Report<sup>45</sup> have each assessed the proposal against Part 2 of the RMA and both conclude that the proposal is consistent with Part 2 of the RMA. I concur with those assessments and I adopt them for the purposes of this decision

## 9 Consent Duration

[080] I adopt the HBRC s42A Report recommendation that a consent duration of 5 years be applied to the HBRC consents, in accordance with clause 20 of the OIC (for activities inside the OIC Schedule 1 area) and section 123 of the RMA (for activities outside the OIC Schedule 1 area).<sup>46</sup> The consent durations are set out in Table 2 below.

**Table 2: Consent Durations**

Within OIC	Authorisation No:	Activity Description	Activity Type:	Consent Duration
	AUTH-132879-01	To construct a flood protection scheme, including the erection of stopbanks and the construction, use and removal of structures <sup>47</sup> (including river crossings and outlet pipes) in and within 6 m of the bed of a waterway, and associated activities including soil disturbance and vegetation clearance within 5m of the bed of a river.	Land use Consent	5 years
	AUTH-132875-01	To divert flood water	Water Permit <sup>48</sup>	5 years
	AUTH-132876-01	To divert and discharge stormwater, drainage water and associated contaminants to land and water, and to discharge solid contaminants) to land within 20 m of the bed of a surface water body.	Discharge Permit <sup>49</sup>	5 years
	AUTH-132877-01	To take and use groundwater and surface water (drainage water) for dewatering and	Water Permit	5 years

<sup>44</sup> Ibid.

<sup>45</sup>

<sup>46</sup> Section 11, page 24 of the HBRC s42A Report.

<sup>47</sup> Including under the NES FW (2020)

<sup>48</sup> Including under the RCEP

<sup>49</sup> Including under the RCEP

		other construction related purposes.		
	AUTH-132878-01	The discharge of dust to air.	Discharge Permit <sup>50</sup>	5 years
<b>Outside OIC</b>	AUTH-132879-01	To construct a flood protection scheme, including the erection of stopbanks and the construction, use and removal of structures <sup>51</sup> (including river crossings and outlet pipes) in and within 6 m of the bed of a waterway, and associated activities including soil disturbance and vegetation clearance within 5m of the bed of a river.	Land use Consent	5 years
	AUTH-132875-01	To divert flood water	Water Permit	5 years
	AUTH-132876-01	To divert and discharge stormwater, drainage water and associated contaminants to land and water, and to discharge solid contaminants) to land within 20 m of the bed of a surface water body.	Discharge Permit	5 years
	AUTH-132877-01	To take and use groundwater and surface water (drainage water) for dewatering and other construction related purposes.	Water Permit	5 years
	AUTH-132878-01	The discharge of dust to air.	Discharge Permit	5 years

[081] A consent duration for the HDC land use consents is not required, as there is no limit on duration for such consents under the RMA.

## 10 Consent Conditions

[082] Under clause 17 of the OIC, the consent authority may impose 1 or more conditions set out in Schedule 2 on a consent granted for flood protection works (clause 17(2)). The consent authority may amend any condition it imposes (except the condition in clause 1 in Schedule 2 of the OIC), or impose 1 or more additional conditions, if it considers the amendment/addition necessary for the purposes of the authority's responsibility for a matter of control in Schedule 3 of the OIC (clauses 17(3) and (4)). Clause 17 applies despite anything to the contrary in any requirements in a national

<sup>50</sup> Including under the RCEP

<sup>51</sup> Including under the NES FW (2020) in relation to temporary culverts

environmental standard or a national policy statement, and any rules or assessment criteria in any plan or proposed plan (clause 17(5)).

- [083] Appendix 11 of the Application includes a proposed suite of consent conditions. The Applicant proposes to largely adopt the conditions in Schedule 2 of the OIC, with some variations to account for the specific characteristics of the proposal.
- [084] The Applicant considers that the proposed consent conditions under the OIC are equally suitable for managing the effects of the activities occurring outside the OIC footprint, and that adopting a consistent set of conditions will enable effective monitoring and implementation of the consents.<sup>52</sup>
- [085] The HDC and HBRC section 42A Reports provide a table (in Appendix 2 of the HBRC s42A Report, and Appendix 1 of the HDC s42A Report) that, for ease, sets out the combined conditions for both activities (OIC and non-OIC activities) proposed by the Applicant, and the officers’ combined comments and recommendations (including any wording changes) in relation to each condition. HBRC and HDC have recommended some additional wording and additional conditions to reflect the various nuances of the construction works. I set out below (Table 3) my comments and findings on the substantive changes to conditions recommended in the section 42A reports.

**Table 3 Findings on Proposed Consent Conditions - Combined for Both OIC and non-OIC Activities**

Applicant’s Proposed Condition	Amendment Recommended by s42A Report(s) (additions are shown in bold font and deletions are shown in strikethrough font)	Finding on condition
<p>Proposed new Condition 1B to follow Condition 1:</p> <p><u>1B. Tracking changes in the design process</u></p> <p>a. Changes that occur between preliminary and detailed (final) design shall be recorded and reported on as part of a final design report. The final design report shall record the changes, outline the reasons for them and provide a view as to whether the changes are in accordance with documents referred to in Condition 1.</p> <p>In this context, in accordance means changes that do not introduce a new activity, do not introduce a substantial change in alignment, do not result in a change to outcomes sought under the conditions of this consent, and does not</p>	<p><i>HBRC recommendation &amp; agreed with by HDC</i></p> <p><u>Tracking changes in the design process</u></p> <p>a. Changes that occur between preliminary and detailed (final) design shall be recorded and reported on as part of a final design report. The final design report shall <b>include the final design plans</b>, record the changes, outline the reasons for them and provide a view as to whether the changes are in accordance with documents referred to in Condition 1.</p> <p>In this context, in accordance means changes that do not introduce a new activity, do not introduce a substantial change in alignment, do not result in a change to outcomes sought under the conditions of this consent, and does not</p>	<p>I agree with the HBRC recommended amendments, as they meet Transpower’s request to be kept informed during the detailed design phase of the works in proximity to the Whirinaki Substation and to have the opportunity to provide comment on any works near Transpower’s assets. I agree that it is appropriate that Transpower and other network utility operators (including HDC) that have infrastructure and facilities on land on which flood protection works will be undertaken, or on</p>

<sup>52</sup> Section 11.2.3, page 120 of the application report.

<p>cause any material increase in consequential flooding effects to other properties.</p> <p>The Final Design Report shall be provided to the Hawke’s Bay Regional Council (Manager Compliance) prior to construction commencing.</p>	<p>cause any material increase in consequential flooding effects to other properties.</p> <p>The Final Design Report shall be provided to the Hawke’s Bay Regional Council (Manager Compliance) <b>and network utility operators (includes HDC) with network infrastructure or other facilities on the land on which the flood protection works are carried out or any adjoining land at least 5 working days</b> prior to construction commencing.</p>	<p>adjoining land, be kept informed about any changes that occur between preliminary design and detailed (final) design. The s42A Reports refer to the Powerco gas man that runs alongside SH2 and will be crossed by the temporary by-pass. Proposed Condition 1B will ensure that Powerco is kept informed about any changes.</p> <p>I find that the inclusion of the 5 working days timeframe for the Final Design Report to be provided to the Hawke’s Bay Regional Council (Manager Compliance) and network utility operators is appropriate to align with the Condition 10, which requires the consent holder to submit the CEMP to the consent authority and Stakeholder Advisory Group ‘not less than 5 working days before construction work beginning’.</p>
<p>Proposed new Condition 1C to follow proposed new Condition 1B:</p> <p><u>1C. Temporary Roading By-passes</u></p> <p>a. The temporary roading by-passes (to be undertaken as ‘establishment of construction site’ works) shall be established and managed in accordance with the following erosion and sediment control plans:</p> <p>i. Hawkes Bay Regional Council, Draft Erosion Sediment Control Plan, Temporary Bypass Road, 24-05-04-M101, REV A,</p>	<p><i>No amendments are recommended</i></p>	<p>The proposed new condition is to implement the temporary roading by-passes and the recommendations of the Ecological Assessment Report in relation to identifying and removing bats that may be roosting in trees that are to be felled.</p> <p>Condition 3 a) of the OIC conditions includes a definition of ‘construction works’, which “means activities that are</p>

<p>ii. Temporary Bypass Road ESCP Plan North Shore Road, SK-001, REV A.</p> <p>b. In relation to the State Highway 2 temporary roading by-pass, trees that have the potential for bat roosting shall undergo a tree survey prior to felling. The survey must be undertaken by a suitably qualified person.</p> <p>c. Trees confirmed to be bat free must be removed the same day or as otherwise advised by the person undertaking the survey.</p>		<p><i>authorised by this resource consent in connection with the flood protection works and that consist of directly constructing, reinstating, enhancing, or improving land or infrastructure; “</i></p> <p>Condition 3 b) i. specifies that this definition does not include ancillary activities such as ‘establishment of construction site’.</p> <p>I find that the proposed temporary roading by-passes provided for under Condition 1C do not fall within the definition of ‘construction works’ under Condition 3, as they are ancillary activities associated with the ‘establishment of construction site’ and are not part of the flood protection construction works.</p> <p>No amendments to these definitions under Condition 3 are proposed or recommended (see Condition 3 below).</p> <p>However, I find it appropriate that Condition 1C a. be amended as follows, to provide clarification, that the works for temporary roading by-passes (being the ‘establishment of the construction site’) are not also subject to conditions relating to ‘construction works’ and ‘flood protection works’:</p> <p>a. The temporary roading by-passes (to</p>
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		<p>be undertaken as ‘establishment of construction site’ works <b>which are an ‘ancillary activity’ under Condition 3 b) and therefore excluded from the need to comply with other conditions that apply to ‘construction works’ and ‘flood protection works’, including but not limited to Conditions 1B, 9, 10, 14, 23, 28 and 30 )</b> shall be established and managed in accordance with the following erosion and sediment control plans:”</p>
<p><u>2. Duration of resource consent</u></p> <p>a. The period for which this resource consent has been granted is 5 years after the date of commencement of the consent.</p> <p>b. This resource consent lapses on .</p>	<p><i>HBRC recommendation &amp; agreed with by HDC</i></p> <p><u>2. Duration of resource consent</u></p> <p>a. The period for which this resource consent has been granted is 5 years after the date of commencement of the consent.</p> <p>b. This resource consent lapses on <b>30 October 2027.</b></p>	<p>I find the recommended duration to be appropriate, as discussed in Section 9 above.</p> <p>I find that the date of 30 October 2027, for when the consent would lapse to be appropriate.</p>
<p>Proposed new definition to be added under the definition of ‘CEMP’ in Condition 3:</p> <p><u>3. Definitions</u></p> <p>PUCEMP means the Petane Urupa Construction Environment Management Plan required under condition 10B of this schedule.</p>	<p><i>HBRC recommendation &amp; agreed with by HDC</i></p> <p><u>3. Definitions</u></p> <p>PUCEMP means the Petane Urupa Construction Environment Management Plan required under condition 10B of this <del>schedule</del><b>consent.</b></p> <p>The s42A Reports also recommend a minor change to the definitions of ‘CEMP’, ‘cultural indicator’, ‘cultural monitors’, ‘earthworks principles’, ‘ecology principles’, ‘Erosion and Sediment Control Manager’, ‘ESCP’, and ‘Māori entity representative’, such that</p>	<p>I find that the recommendation to delete the word ‘schedule’ and replace it with the word ‘consent’ is appropriate, as the conditions referred to in the relevant definitions will be in the consent, and not the OIC Schedule.</p> <p>No other changes to the definitions in Condition 3 are proposed or recommended.</p>

	the word 'schedule' is replaced with the word 'consent'.	
<p><u>4. Māori entities representatives</u></p> <p>a) The consent holder must invite each relevant Māori entity to appoint a representative to perform, with the representatives appointed by all other relevant Māori entities, the Māori entities representatives' roles and responsibilities set out in this schedule in relation to the flood protection works for which the consent has been granted.</p> <p>b) The consent holder must issue the invitations at least 20 days before the flood protection works begin.</p> <p>c) The relevant Māori entities may appoint an appropriately sized team of cultural monitors to</p> <ol style="list-style-type: none"> <li>i. support the Māori entities representatives;-</li> <li>ii. provide advice to those preparing the Communications Plan and Ecology Management Plan, and</li> <li>iii. provide the consent holder with on-site guidance to enable effective management of impact on culturally significant land and other natural and physical resources that have cultural value.</li> </ol> <p>d) The consent holder must develop terms of reference for the role and responsibilities of the Māori entities representatives, including in relation to the following matters:</p> <ol style="list-style-type: none"> <li>i. the scope of the representatives' role and responsibilities:</li> <li>ii. time frames for decisions, advice, and actions:</li> <li>iii. support for the representatives:</li> <li>iv. remuneration for the representatives.</li> </ol> <p>e) In developing the terms of reference, the consent holder must—</p>	<p><i>HBRC recommendation &amp; agreed with by HDC</i></p> <p><u>4. Māori entities representatives</u></p> <p>a) The consent holder must invite each relevant Māori entity to appoint a representative to perform, with the representatives appointed by all other relevant Māori entities, the Māori entities representatives' roles and responsibilities set out in this <del>schedule</del><b>consent</b> in relation to the flood protection works for which the consent has been granted.</p> <p>b) The consent holder must issue the invitations at least 20 days before the flood protection works begin.</p> <p>c) The relevant Māori entities may appoint <del>an appropriately sized team</del> of cultural monitors to</p> <ol style="list-style-type: none"> <li>i. support the Māori entities representatives;-</li> <li>ii. provide advice to those preparing the Communications Plan, <b>CEMP, PUCEMP</b> and Ecology Management Plan, and</li> <li>iii. provide the consent holder with on-site guidance to enable effective management of impact on culturally significant land and other natural and physical resources that have cultural value.</li> </ol> <p>d) The consent holder must develop terms of reference for the role and responsibilities of the Māori entities representatives, including in relation to the following matters:</p> <ol style="list-style-type: none"> <li>i. <b>the appropriate number of representatives:</b></li> <li>ii. the scope of the representatives' role and responsibilities:</li> <li>ii. time frames for decisions, advice, and actions:</li> <li>iii. support for the representatives:</li> </ol>	<p>I find that the recommendation to delete the word 'schedule' and replace it with the word 'consent' is appropriate, as the conditions referred to in the relevant definitions will be in the consent, and not the OIC Schedule.</p> <p>I find the recommended amendment to Condition 4 c) and Condition 4 d) i. to be appropriate, as determining what is an 'appropriate' number of members for the team of cultural monitors better falls as one of the matters to be considered in developing the terms of reference under Conditions 4 d) to 4 f).</p> <p>I agree with the s42A Reports that, as Condition 10 c) iii. also provides for development of the CEMP in partnership with Māori entities representatives, it should also be referenced in Condition 4 c) ii. Similarly, the PUCEMP is also required under Condition 10B c) iii. to be development in partnership with the Māori entity representatives, so it is also appropriate to include that in Condition 4 c) ii.</p>

<ul style="list-style-type: none"> <li>i. convene discussions with all relevant Māori entities; and</li> <li>ii. use its best endeavours to achieve consensus on all matters.</li> </ul> <p>f) If consensus on all matters is not achieved, the remaining matters must be determined—</p> <ul style="list-style-type: none"> <li>i. by a majority vote; or</li> <li>ii. if votes are tied, by the casting vote of the consent holder.</li> </ul>	<ul style="list-style-type: none"> <li>iv. remuneration for the representatives.</li> </ul> <p>e) In developing the terms of reference, the consent holder must—</p> <ul style="list-style-type: none"> <li>i. convene discussions with all relevant Māori entities; and</li> <li>ii. use its best endeavours to achieve consensus on all matters.</li> </ul> <p>f) If consensus on all matters is not achieved, the remaining matters must be determined—</p> <ul style="list-style-type: none"> <li>i. by a majority vote; or</li> <li>ii. if votes are tied, by the casting vote of the consent holder.</li> </ul>	
<p>Condition number and heading only quoted below:</p> <p><u>5. Guidance on Cultural Indicators</u></p>	<p><i>HBRC recommendation &amp; agreed with by HDC</i></p> <p>The HBRC s42A Report recommends that the word ‘schedule’ under Condition 5 a) be deleted and replaced with the word ‘consent’. It also recommends that Condition 5 b) be amended to include the CEMP and PUCEMP, as per Condition 10 c) ii.</p>	<p>I find that the recommended amendments to Condition 5 are appropriate.</p> <p>I find that including the PUCEMP in Condition 5 b) is supported by Condition 10B c) ii.</p>
<p><u>6. Stakeholder advisory group</u></p> <p>a) The representatives appointed under subconditions (b) and (d) and the Māori entities representatives form the stakeholder advisory group.</p> <p>b) The consent holder must invite the following persons to appoint representatives to be members of the stakeholder advisory group:</p> <ul style="list-style-type: none"> <li>i. the owners and occupiers of land on which the flood protection works are carried out (referred to as ‘immediately affected’ in Schedule 1):</li> <li>ii. all persons listed in clause 15(2)(a)(ii)-(vi) and (viii)-(x) of the OIC and any owner or occupier of land referred to as ‘immediately adjoining’ in Schedule 1 who made comments under clause 15 of the OIC:</li> </ul>	<p><i>HBRC recommendation &amp; agreed with by HDC</i></p> <p><u>6. Stakeholder advisory group</u></p> <p>a) The representatives appointed under subconditions (b) and (d) and the Māori entities representatives form the stakeholder advisory group.</p> <p>b) The consent holder must invite the following persons to appoint representatives to be members of the stakeholder advisory group:</p> <ul style="list-style-type: none"> <li>i. the owners and occupiers of land on which the flood protection works are carried out (referred to as ‘immediately affected’ in Schedule 1):</li> <li>ii. all persons listed in clause 15(2)(a)(ii)-(vi) and (viii)-(x) of the OIC <del>and any owner or occupier of land referred to as ‘immediately adjoining’ in</del></li> </ul>	<p>I find that the HBRC s42A Report’s recommendation to amend proposed Condition 6 b) ii. is appropriate, as no individual landowners or occupiers of land made comments under clause 15 of the OIC. However, they could still be appointed to the stakeholder advisory group under Condition 6 b) viii.</p>

<ul style="list-style-type: none"> <li>iii. all network utility operators with network infrastructure or other facilities on the land on which the flood protection works are carried out or any adjoining land:</li> <li>iv. the Manager Compliance:</li> <li>v. Heritage New Zealand Pouhere Taonga:</li> <li>vi. the Department of Conservation:</li> <li>vii. the Māori entities representatives:</li> <li>viii. One representative from the group of residents along 21 – 35 North Shore Road and one representative from the group of residents along 36 North Shore Road and 5 – 41 Pohutukawa Drive.</li> <li>c) The consent holder must issue the invitations at least 20 days before the flood protection works begin.</li> <li>d) After the flood protection works begin, the consent holder may invite further persons or bodies to appoint representatives to the stakeholder advisory group.</li> <li>e) Each representative appointed must be authorised by the person or body appointing them to make decisions on behalf of the person or body in the consultations taking place in relation to the flood protection works.</li> <li>f) The consent holder must develop terms of reference for the role of the stakeholder advisory group, including in relation to the following:             <ul style="list-style-type: none"> <li>i. frequency of meetings:</li> <li>ii. processes and methods for the performance of the group’s role.</li> </ul> </li> <li>g) In developing the terms of reference, the consent holder must—             <ul style="list-style-type: none"> <li>i. convene discussions with all members of the group; and</li> </ul> </li> </ul>	<p><del>Schedule 1 who made comments under clause 15 of the OIC:</del></p> <ul style="list-style-type: none"> <li>iii. all network utility operators with network infrastructure or other facilities on the land on which the flood protection works are carried out or any adjoining land:</li> <li>iv. the Manager Compliance:</li> <li>v. Heritage New Zealand Pouhere Taonga:</li> <li>vi. the Department of Conservation:</li> <li>vii. the Māori entities representatives:</li> <li>viii. One representative from the group of residents along 21 – 35 North Shore Road and one representative from the group of residents along 36 North Shore Road and 5 – 41 Pohutukawa Drive.</li> <li>c) The consent holder must issue the invitations at least 20 days before the flood protection works begin.</li> <li>d) After the flood protection works begin, the consent holder may invite further persons or bodies to appoint representatives to the stakeholder advisory group.</li> <li>e) Each representative appointed must be authorised by the person or body appointing them to make decisions on behalf of the person or body in the consultations taking place in relation to the flood protection works.</li> <li>f) The consent holder must develop terms of reference for the role of the stakeholder advisory group, including in relation to the following:             <ul style="list-style-type: none"> <li>i. frequency of meetings:</li> <li>ii. processes and methods for the performance of the group’s role.</li> </ul> </li> <li>g) In developing the terms of reference, the consent holder must—</li> </ul>	
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<ul style="list-style-type: none"> <li>ii. use its best endeavours to achieve consensus on all matters at the group’s first meeting.</li> <li>h) If consensus on all matters is not achieved at the first meeting, the remaining matters must be determined— <ul style="list-style-type: none"> <li>i. by a majority vote; or</li> <li>ii. if votes are tied, by the casting vote of the consent holder.</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>i. convene discussions with all members of the group; and</li> <li>ii. use its best endeavours to achieve consensus on all matters at the group’s first meeting.</li> <li>h) If consensus on all matters is not achieved at the first meeting, the remaining matters must be determined— <ul style="list-style-type: none"> <li>i. by a majority vote; or</li> <li>ii. if votes are tied, by the casting vote of the consent holder.</li> </ul> </li> </ul>	
<p>Condition numbers and headings only are quoted below:</p> <p><u>7. Operation of stakeholder advisory group</u></p> <p><u>8. Project Engagement Lead</u></p>	<p>There are no recommended amendments to these conditions.</p>	<p>No amendments to Conditions 7 and 8 in Schedule 2 of the OIC are proposed by the Applicant or recommended by the s42A Reports, which I find to be appropriate.</p>
<p><u>9. Communications plan</u></p> <ul style="list-style-type: none"> <li>a) The consent holder must take account of the advice provided by cultural monitors, develop and implement a communications plan for the duration of construction works.</li> <li>b) The communication plan must contain detailed processes for communications, throughout the construction works, with the following: <ul style="list-style-type: none"> <li>i. the general public;</li> <li>ii. local residents and businesses;</li> <li>iii. the Māori entities representatives;</li> <li>iv. the persons and bodies represented by the stakeholder advisory group;</li> <li>v. all other persons potentially affected by the construction works.</li> </ul> </li> <li>c) The communications plan must include the following: <ul style="list-style-type: none"> <li>i. a description of the flood protection works or details of, or a link to, an internet site maintained by or on</li> </ul> </li> </ul>	<p><i>HBRC recommendation &amp; agreed with by HDC</i></p> <p><u>9. Communications plan</u></p> <ul style="list-style-type: none"> <li>a) The consent holder must, taking account of the advice provided by cultural monitors, develop and implement a communications plan for the duration of construction works.</li> <li>b) The communication plan must contain detailed processes for communications, throughout the construction works, with the following: <ul style="list-style-type: none"> <li>i. the general public;</li> <li>ii. local residents and businesses;</li> <li>iii. the Māori entities representatives;</li> <li>iv. the persons and bodies represented by the stakeholder advisory group;</li> <li>v. all other persons potentially affected by the construction works.</li> </ul> </li> <li>c) The communications plan must include the following:</li> </ul>	<p>The HBRC s42A Report recommends that Condition 9 d) i. be amended to require the consent holder to give the initial communications plan to the Manager Compliance at least 10 working days before construction work begins, to give the Manager Compliance an appropriate timeframe to review the plan.</p> <p>I find that amending the timeframe from 5 to 10 working days to be appropriate.</p>

<p>behalf of the consent holder that describes the construction works:</p> <ul style="list-style-type: none"> <li>ii. the contact details of the Project Engagement Lead:</li> <li>iii. a list of all persons and bodies who will be communicated with under the plan:</li> <li>iv. how any comments or concerns about the construction works should be communicated by those persons and bodies:</li> <li>v. details of proposed communication activities by the Project Engagement Lead, including notifications and other communications with any persons and bodies referred to in paragraph (iii):</li> <li>vi. information about when the communications plan will be reviewed (and amended, if necessary).</li> </ul> <p>d) The consent holder must give to the Manager Compliance—</p> <ul style="list-style-type: none"> <li>i. the initial communications plan at least 5 working days before construction works begin; and</li> <li>ii. any amended plan, as soon as practicable after the amendment.</li> </ul>	<ul style="list-style-type: none"> <li>i. a description of the flood protection works or details of, or a link to, an internet site maintained by or on behalf of the consent holder that describes the construction works:</li> <li>ii. the contact details of the Project Engagement Lead:</li> <li>iii. a list of all persons and bodies who will be communicated with under the plan:</li> <li>iv. how any comments or concerns about the construction works should be communicated by those persons and bodies:</li> <li>v. details of proposed communication activities by the Project Engagement Lead, including notifications and other communications with any persons and bodies referred to in paragraph (iii):</li> <li>vi. information about when the communications plan will be reviewed (and amended, if necessary).</li> </ul> <p>d) The consent holder must give to the Manager Compliance—</p> <ul style="list-style-type: none"> <li>i. the initial communications plan at least <del>5</del><b>10</b> working days before construction works begin; and</li> <li>ii. any amended plan, as soon as practicable after the amendment.</li> </ul>	
<p><u>10. Construction environmental management plan</u></p> <p>a) The consent holder must—</p> <ul style="list-style-type: none"> <li>i. prepare a construction environmental management plan for the construction works (excluding those associated with the Petane Urupa which are to be subject to the Petane Urupa Construction Environmental Management Plan); and</li> </ul>	<p><i>HBRC recommendation &amp; agreed with by HDC</i></p> <p><u>10. Construction environmental management plan</u></p> <p>a) The consent holder must—</p> <ul style="list-style-type: none"> <li>i. prepare a construction environmental management plan for the construction works (excluding those associated with the Petane Urupa which are to be subject to the Petane Urupa Construction</li> </ul>	<p>I find the recommendation to delete the word ‘schedule’ and replace it with the word ‘consent’ to be appropriate, as the conditions referred to in the relevant definitions will be in the consent, and not the OIC Schedule.</p> <p>The remaining amendments recommended by the</p>

<ul style="list-style-type: none"> <li>ii. not less than 5 working days before the construction works begin, submit the CEMP to the consent authority and the stakeholder advisory group.</li> <li>b) The level of detail and the measures proposed in the CEMP must correspond with the nature and scale of the construction works.</li> <li>c) The CEMP must include the following information:             <ul style="list-style-type: none"> <li>i. the roles and responsibilities of construction management staff, including the Erosion and Sediment Control Manager:</li> <li>ii. a description of the training and education programme for workers that will be implemented to ensure compliance with the conditions imposed on the resource consent:</li> <li>iii. procedures, developed in partnership with the Māori Entity Representatives, for—                 <ol style="list-style-type: none"> <li>1. obtaining ongoing guidance on cultural indicators provided by cultural monitors; and</li> <li>2. ongoing reporting to the Māori entities representatives on how the indicators in condition 5(a) have been taken into account, or if not, why not.</li> </ol> </li> <li>iv. indicative timing of all stages of the flood protection works and the location and management of stockpile areas:</li> <li>v. procedures for the management of hazards, including—                 <ol style="list-style-type: none"> <li>1. any risk of flood; and</li> <li>2. the discharge of any contaminant (for example, chemicals or hydrocarbons); and</li> <li>3. working in the proximity of overhead powerlines:</li> </ol> </li> </ul> </li> </ul>	<p>Environmental Management Plan); and</p> <ul style="list-style-type: none"> <li>ii. not less than 5 working days before the construction works begin, submit the CEMP <b>and the final design report</b> to the consent authority and the stakeholder advisory group.</li> <li>b) The level of detail and the measures proposed in the CEMP must correspond with the nature and scale of the construction works.</li> <li>c) The CEMP must include the following information:             <ul style="list-style-type: none"> <li>i. the roles and responsibilities of construction management staff, including the Erosion and Sediment Control Manager:</li> <li>ii. a description of the training and education programme for workers that will be implemented to ensure compliance with the conditions imposed on the resource consent:</li> <li>iii. procedures, developed in partnership with the Māori Entity Representatives, for—                 <ol style="list-style-type: none"> <li>1. obtaining ongoing guidance on cultural indicators provided by cultural monitors; and</li> <li>2. ongoing reporting to the Māori entities representatives on how the indicators in condition 5(a) have been taken into account, or if not, why not.</li> </ol> </li> <li>iv. indicative timing of all stages of the flood protection works and the location and management of stockpile areas:</li> <li>v. procedures for the management of hazards, including—                 <ol style="list-style-type: none"> <li>1. any risk of flood; and</li> <li>2. the discharge of any contaminant (for example,</li> </ol> </li> </ul> </li> </ul>	<p>HBRC s42A Report relate to addressing comments received from Transpower with regard to maintaining access during construction and managing potential adverse effects on Transpower’s assets. The changes also satisfy Transpower’s request to be provided the final design plans.</p> <p>The HBRC s42A Report also recommends the addition of a new advice note that states that all works must comply with the NZECP34:2001 requirements, and that Transpower has a right to access its existing assets under section 23 of the Electricity Act 1992.</p> <p>I find the amendments recommended by the HBRC s42A Report to be appropriate to include.</p> <p>The HDC s42A Report recommends that Condition 10 c) be amended to ensure the 12m setback (in all directions from the transmission poles/towers as required by the Hastings District Plan is required for the duration of the works for protection of the National Grid.</p> <p>I find the amendments recommended by the HDC s42A Report to be appropriate to include.</p>
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<ul style="list-style-type: none"> <li>vi. arrangements for site access and on-site traffic management including haulage routes:</li> <li>vii. procedures for managing public health and safety, including restrictions on public access to work sites and the river:</li> <li>viii. A Contamination Site Management Plan responding to the matters identified in the Preliminary Site Investigation at Whirinaki Stop Bank, 2 July 2025, and including, but not limited to:             <ul style="list-style-type: none"> <li>1. Appropriate management of earthworks,</li> <li>2. Hygiene controls.</li> <li>3. PPE,</li> <li>4. Dust management,</li> <li>5. Stormwater controls,</li> <li>6. Offsite disposal of soils,</li> <li>7. Accidental discovery protocols.</li> </ul> </li> <li>ix. dust management measures (see condition 16 of this schedule):</li> <li>x. procedures for managing de-watering (including avoiding or minimising effects on adjacent buildings), groundwater or surface water takes, and diversions and discharges to land or water:</li> <li>xi. contact details of at least 2 persons or bodies who respond to emergencies and who—             <ul style="list-style-type: none"> <li>1. are contactable 24 hours a day, 7 days a week, throughout the flood protection works; and</li> <li>2. have authority to authorise immediate response actions:</li> </ul> </li> <li>xii. a detailed process for detecting, investigating, and recording incidents:</li> <li>xiii. details (including timing) of arrangements for reporting to the consent authority on the</li> </ul>	<ul style="list-style-type: none"> <li>chemicals or hydrocarbons); and</li> <li>3. working in the proximity of overhead powerlines <b>and National Grid assets:</b></li> <li>vi. arrangements for site access and on-site traffic management including haulage routes:</li> <li>vii. procedures for managing public health and safety, including restrictions on public access to work sites and the river <b>and how a 12m setback control from the outer most visible edge of the National Grid support structure foundations, on the land legally described as INDUSTRIAL PORTION PO 4500025484, for material stockpiles will be managed (demarcation of the 12 metres setback shall be visible on site):</b></li> <li>viii. A Contamination Site Management Plan responding to the matters identified in the Preliminary Site Investigation at Whirinaki Stop Bank, 2 July 2025, and including, but not limited to:             <ul style="list-style-type: none"> <li>1. Appropriate management of earthworks,</li> <li>2. Hygiene controls.</li> <li>3. PPE,</li> <li>4. Dust management,</li> <li>5. Stormwater controls,</li> <li>6. Offsite disposal of soils,</li> <li>7. Accidental discovery protocols.</li> </ul> </li> <li>ix. dust management measures (see condition 16 of this <del>schedule</del> <b>consent schedule) including to mitigate potential adverse effects on the National Grid assets:</b></li> <li>x. procedures for managing de-watering (including avoiding or</li> </ul>	
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<p>outcomes of, and compliance with, the CEMP:</p> <p>xiv. any ESCP (see condition 14 of this schedule):</p> <p>xv. how works in or adjacent to water bodies will be managed:</p> <p>xvi. how any river gravel extraction or land-based borrow sites will be managed:</p> <p>xvii. how noise and vibration generated by the works will be managed:</p> <p>xviii. an outline of key procedures -</p> <ol style="list-style-type: none"> <li>1. from the ecology management plan prepared under condition 28 of this schedule affecting construction.</li> </ol> <p>xix. Details of how the ecology principles will guide environmental outcomes:</p> <p>xx. Cultural and archaeological artefact discovery protocols(see clause 29 of this schedule) or reference to an Authority where applicable):</p> <p>xxi. Methods for responding to queries and complaints:</p> <p>xxii. Procedures for amending the CEMP under condition 11 of this schedule.</p> <p>d) The CEMP must, so far as is practicable, be consistent with the HBRC 'Environmental Code of Practice for River Control Works' (2017 or subsequent version).</p>	<p>minimising effects on adjacent buildings), groundwater or surface water takes, and diversions and discharges to land or water:</p> <p>xi. contact details of at least 2 persons or bodies who respond to emergencies and who—</p> <ol style="list-style-type: none"> <li>1. are contactable 24 hours a day, 7 days a week, throughout the flood protection works; and</li> <li>2. have authority to authorise immediate response actions:</li> </ol> <p>xii. a detailed process for detecting, investigating, and recording incidents:</p> <p>xiii. details (including timing) of arrangements for reporting to the consent authority on the outcomes of, and compliance with, the CEMP:</p> <p>xiv. any ESCP (see condition 14 of this <del>consent schedule</del>):</p> <p>xv. how works in or adjacent to water bodies will be managed:</p> <p>xvi. how any river gravel extraction or land-based borrow sites will be managed:</p> <p>xvii. how noise and vibration generated by the works will be managed:</p> <p>xviii. an outline of key procedures -</p> <ol style="list-style-type: none"> <li>1. from the ecology management plan prepared under condition 28 of this <del>consent schedule</del> affecting construction.</li> </ol> <p>xix. details of how the ecology principles will guide environmental outcomes:</p> <p>xx. cultural and archaeological artefact discovery protocols (see clause 29 of this <del>consent schedule</del>) or reference</p>	
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	<p>to an Authority where applicable):</p> <ul style="list-style-type: none"> <li>xxi. methods for responding to queries and complaints:</li> <li>xxii. procedures for amending the CEMP under condition 11 of this <del>consent schedule</del>, and <b>reporting on any such amendments.</b></li> </ul> <p>d) The CEMP must, so far as is practicable, be consistent with the HBRC ‘Environmental Code of Practice for River Control Works’ (2017 or subsequent version).</p> <p><b><i>Advice note: Proposed works must comply with the NZECP34: 2001 requirements, where relevant. Transpower and other electricity network owners/operators have a right to access its existing assets under section 23 of the Electricity Act 1992. These matters should be discussed and agreed with network operators through the STAG and CEMP finalisation process.</i></b></p>	
<p>Proposed new Condition 10B to be added under Condition 10:</p> <p><u>10B. Petane Urupa Construction environmental management plan</u></p> <ul style="list-style-type: none"> <li>a. The consent holder must— <ul style="list-style-type: none"> <li>i. prepare a construction environmental management plan for the construction works associated with the Petane Urupa; and</li> <li>ii. not less than 5 working days before the construction works begin, submit the PUCEMP to the consent authority and the stakeholder advisory group.</li> </ul> </li> <li>b. The level of detail and the measures proposed in the PUCEMP must correspond with the nature and scale of the construction works.</li> <li>c. The PECEMP must include the following information:</li> </ul>	<p><i>HBRC recommendation &amp; agreed with by HDC</i></p> <p><u>10B. Petane Urupa Construction environmental management plan (PUCEMP)</u></p> <ul style="list-style-type: none"> <li>a. The consent holder must— <ul style="list-style-type: none"> <li>i. prepare a construction environmental management plan for the construction works associated with the Petane Urupa; and</li> <li>ii. not less than 5 working days before the construction works begin <b>at or in the vicinity of the Petane Urupa site</b>, submit the PUCEMP to the consent authority and the stakeholder advisory group.</li> </ul> </li> <li>b. The level of detail and the measures proposed in the PUCEMP must correspond with the nature and scale of the construction works.</li> </ul>	<p>The HBRC s42A Report supports including the new proposed condition and recommends some minor changes in relation to correcting errors, providing clarification, and replacing the word ‘schedule’ with the word ‘consent’.</p> <p>I find the recommended changes to be appropriate.</p>

<ul style="list-style-type: none"> <li>i. the roles and responsibilities of construction management staff, including the Erosion and Sediment Control Manager:</li> <li>ii. a description of the training and education programme for workers that will be implemented to ensure compliance with the conditions imposed on the resource consent:</li> <li>iii. procedures, developed in partnership with the Māori Entity Representatives, for—             <ul style="list-style-type: none"> <li>1. obtaining ongoing guidance on cultural indicators provided by cultural monitors; and</li> <li>2. ongoing reporting to the Māori entities representatives on how the indicators in condition 5(a) have been taken into account, or if not, why not:</li> </ul> </li> <li>iv. indicative timing of all stages of the works:</li> <li>v. arrangements for site access and on-site traffic management,</li> <li>vi. procedures for managing public health and safety:</li> <li>vii. A Contamination Site Management Plan.</li> <li>viii. dust management measures (see condition 16 of this schedule):</li> <li>ix. contact details of at least 2 persons or bodies who respond to emergencies and who—             <ul style="list-style-type: none"> <li>1. are contactable 24 hours a day, 7 days a week, throughout the flood protection works; and</li> <li>2. have authority to authorise immediate response actions:</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>c. The <b>PUCEMP/PECEMP</b> must include the following information:             <ul style="list-style-type: none"> <li>i. the roles and responsibilities of construction management staff, including the Erosion and Sediment Control Manager:</li> <li>ii. a description of the training and education programme for workers that will be implemented to ensure compliance with the conditions imposed on the resource consent:</li> <li>iii. procedures, developed in partnership with the Māori Entity Representatives, for—                 <ul style="list-style-type: none"> <li>1. obtaining ongoing guidance on cultural indicators provided by cultural monitors; and</li> <li>2. ongoing reporting to the Māori entities representatives on how the indicators in condition 5(a) have been taken into account, or if not, why not:</li> </ul> </li> <li>iv. indicative timing of all stages of the works:</li> <li>v. arrangements for site access and on-site traffic management,</li> <li>vi. procedures for managing public health and safety:</li> <li>vii. A Contamination Site Management Plan.</li> <li>viii. dust management measures (see condition 16 of this <b>consent schedule</b>):</li> <li>ix. contact details of at least 2 persons or bodies who respond to emergencies and who—                 <ul style="list-style-type: none"> <li>1. are contactable 24 hours a day, 7 days a week, throughout the flood protection works; and</li> </ul> </li> </ul> </li> </ul>	
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<ul style="list-style-type: none"> <li>x. a detailed process for detecting, investigating, and recording incidents:</li> <li>xi. details (including timing) of arrangements for reporting to the consent authority on the outcomes of, and compliance with, the PUCEMP:</li> <li>xii. any ESCP (see condition 14 of this schedule):</li> <li>xiii. how noise and vibration generated by the works will be managed:</li> <li>xiv. cultural and archaeological artefact discovery protocols (see clause 29 of this schedule) or reference to an Authority where applicable:</li> <li>xv. methods for responding to queries and complaints:</li> <li>xvi. procedures for amending the PUCEMP under condition 11 of this schedule.</li> </ul>	<ul style="list-style-type: none"> <li>2. have authority to authorise immediate response actions:</li> <li>x. a detailed process for detecting, investigating, and recording incidents:</li> <li>xi. details (including timing) of arrangements for reporting to the consent authority on the outcomes of, and compliance with, the PUCEMP:</li> <li>xii. any ESCP (see condition 14 of this <del>consent schedule</del>):</li> <li>xiii. how noise and vibration generated by the works will be managed:</li> <li>xiv. cultural and archaeological artefact discovery protocols (see clause 29 of this <del>consent schedule</del>) or reference to an Authority where applicable:</li> <li>xv. methods for responding to queries and complaints:</li> <li>xvi. procedures for amending the PUCEMP under condition 11 of this <del>consent schedule</del>.</li> </ul>	
<p><u>11. Developing and amending CEP and PUCEMP</u></p> <ul style="list-style-type: none"> <li>a) Before finalising the CEMP and PUCEMP, or any amendment to the CEMP or PUCEMP under subcondition (e), the consent holder must invite the consent authority and the stakeholder advisory group to comment on the proposed CEMP or PUCEMP or amendment within 10 working days.</li> <li>b) The consent holder must take account of any comments received by the persons invited when finalising the CEMP or PUCEMP or the amendment.</li> <li>c) If the consent holder does not receive any comments within 10 working days after inviting them, the</li> </ul>	<p><i>HBRC recommendation &amp; agreed with by HDC</i></p> <p><u>11. Developing and amending CEP and PUCEMP</u></p> <ul style="list-style-type: none"> <li>a) Before finalising the CEMP and PUCEMP, or any amendment to the CEMP or PUCEMP under subcondition (e), the consent holder must invite the consent authority and the stakeholder advisory group to comment on the proposed CEMP or PUCEMP or amendment within 10 working days.</li> <li>b) The consent holder must take account of any comments received by the persons invited when finalising the CEMP or PUCEMP or the amendment.</li> <li>c) If the consent holder does not receive any comments within 10</li> </ul>	<p>The amendments recommended by the HBRC s42A Report are made in response to comments received from the D-G and Transpower, and to clarify Condition 11 e) iii.</p> <p>In relation to Condition 11 f) the HDC s42A Report recommends that any amended CEMP or PUCEMP and the associated final design plans should be given to both the HBRC and HDC consent authorities.</p> <p>I find the recommended changes to be appropriate.</p>

<p>consent holder may finalise the CEMP or PUCEMP or amendment.</p> <p>d) The consent holder must act in accordance with the CEMP or PUCEMP for the duration of the flood protection works.</p> <p>e) The consent holder must amend the CEMP or PUCEMP if amendment is necessary to reflect any changes in design, construction methods, maintenance and operations methods, or procedures for managing adverse effects throughout the construction phase of the flood protection works. Specifically, the consent holder must amend the CEMP in the event that a temporary crossing is proposed across the Whirinaki Drain. If the crossing involves works within the bed of the water body, it must be:</p> <ol style="list-style-type: none"> <li>i. designed by a suitably qualified and experienced engineer with input from the Project Ecologist,</li> <li>ii. designed, installed and removed in a way that is, so far as practicable, consistent with the ecology principles set out in Condition 26(b)(i),</li> <li>iii. reported on in respect to (i) and (ii) in amending the CEMP.</li> </ol> <p>f) After amending the CEMP or PUCEMP, the consent holder must give a copy of the amended CEMP or PUCEMP (indicating the amendments) to the consent authority and the stakeholder advisory group within 10 working days.</p>	<p>working days after inviting them, the consent holder may finalise the CEMP or PUCEMP or amendment.</p> <p>d) The consent holder must act in accordance with the CEMP or PUCEMP for the duration of the flood protection works.</p> <p>e) The consent holder must amend the CEMP or PUCEMP if amendment is necessary to reflect any changes in design, construction methods, maintenance and operations methods, or procedures for managing adverse effects throughout the construction phase of the flood protection works. Specifically, the consent holder must amend the CEMP in the event that a temporary crossing is proposed across the Whirinaki Drain. If the crossing involves works within the bed of the water body, it must be:</p> <ol style="list-style-type: none"> <li>i. designed by a suitably qualified and experienced engineer with input from <del>the Project Ecologist</del> <b>and ecologist who is suitably qualified and experienced so as to provide advice for ongoing fish passage.</b></li> <li>ii. designed, installed and removed in a way that is, so far as practicable, consistent with the ecology principles set out in Condition 26(b)(i).</li> <li>iii. <b>inclusive of procedures for constructing and removing temporary crossings to reduce impacts on fish passage past the structures and on fish spawning.</b></li> <li>iv. reported on in respect to (i), <del>and (ii)</del> <b>and (iii)</b> in amending the CEMP.</li> </ol> <p>f) After amending the CEMP or PUCEMP, the consent holder must give a copy of the amended CEMP or PUCEMP <b>and the associated final</b></p>	
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	<p><b>design plans</b> (indicating the amendments) to the consent authority and the stakeholder advisory group within 10 working days.</p>	
<p>Condition numbers and headings only are quoted below:</p> <p><u>12. Earthworks principles</u></p> <p><u>13. Erosion and Sediment Control Manager and staff</u></p> <p><u>14. Erosion and sediment control plan</u></p> <p><u>15. Failure of erosion and sediment control measure</u></p> <p><u>16. Dust management</u></p> <p><u>17. Works on contaminated land</u></p>	<p>There are no amendments to standard Schedule 2 OIC Condition 12 and Condition 16 proposed by the Applicant or recommended by the s42A Reports.</p> <p>The Applicant proposes a minor amendment to standard Schedule 2 OIC Condition 13 b) i., so that it refers to the CEMP 'or PUCEMP'. The HBRC s42A Report supports this amendment and recommends an additional minor amendment to Condition 13 b) ii., to replace the word 'schedule' with the word 'consent'.</p> <p>The Applicant proposes a minor amendment to Condition 14 c) i., so that it refers to 'construction' works.</p> <p>The Applicant proposes that standard Condition 15 in Schedule 2 of the OIC apply. The s42A Reports recommend that Condition 15 a) be amended as follows:</p> <ul style="list-style-type: none"> <li>a) If the failure of an erosion and sediment control measure during flood protection works results in an uncontrolled release of sediment to surface water, the consent holder must— <ul style="list-style-type: none"> <li>i. as soon as reasonably practicable, engage the Project Ecologist to investigate the affected area; and</li> <li>ii. immediately notify— <ul style="list-style-type: none"> <li>1. the HBRC pollution officer (with responsibility for works in or near any affected water bodies); or</li> <li>2. the territorial authority <b>pollution officer Compliance Manager</b> (with responsibility for land-based borrow sites); and</li> </ul> </li> </ul> </li> </ul>	<p>I find amending Condition 13 as recommended by the s42A Reports appropriate.</p> <p>I find that amending Condition 14 c) i., as proposed by the Applicant, to refer to 'construction works' is appropriate, as it clarifies that the erosion and sediment control requirements within Condition 14 do not apply to Temporary Roadway Bypasses provided for under Condition 1C, which are for 'establishment of the construction site' works defined as 'ancillary activities' under Condition 3 b) and which are therefore subject to the different erosion and sediment control requirements specified under Condition 1C.</p> <p>I find that it is appropriate to delete the words 'coastal works' from the condition, as proposed by the Applicant, as such works are not required under this Application.</p> <p>The HBRC s42A Report does not support the D-G's request to amend the time for reporting an uncontrolled release of sediment to surface water under Condition 15 a) iii. from 7 days to 3 days. I agree with the s42A</p>

	<p>iii. within 7 days, report the incident to the <b>Hawkes Bay Regional Council and Hastings District Council</b> (Manager of Compliance).</p> <p>The Applicant proposes that Condition 17 be deleted.</p>	<p>Report that the conditions require immediate notification of the incident to HBRC Pollution Response staff and the 7-day incident reporting provides for thorough investigation and consideration of learnings from the incident. I therefore find retaining the 7-day timeframe to be appropriate. I agree that it is appropriate to amend Conditions 15 a) ii. 2. and 15 a) iii. to refer to the correct Council staff managers.</p> <p>I agree with the HDC s42A Report that, Condition 17 can be deleted, as a Contamination Site Management Plan is required to be completed as part of the CEMP under Condition 10.</p>
<p><u>18. Works and structures in beds of rivers</u></p> <p>a) This condition and conditions 19 and 20 of this schedule apply to all construction works carried out in, or adjacent to, the bed of a river.</p> <p>b) The consent holder must ensure that construction works are, so far as practicable, carried out in accordance with—</p> <ul style="list-style-type: none"> <li>i. an applicable ESCP; and</li> <li>ii. the ecology management plan; and</li> <li>iii. the earthworks principles; and</li> <li>iv. any guidance provided under condition 4(c)(iii) of this schedule (see condition 5 of this schedule) relating to relevant cultural indicators.</li> </ul> <p>c) Flood protection works that might affect fish passage in a river must, so far as practicable, be carried out outside peak times for migration and</p>	<p><i>HBRC recommendation &amp; agreed with by HDC</i></p> <p><u>18. Works and structures in and adjacent to beds of rivers</u></p> <p>a) This condition and conditions 19 and 20 of this <del>consent</del><b>schedule</b> apply to all construction works carried out in, or adjacent to, the bed of a river.</p> <p>b) The consent holder must ensure that construction works are, so far as practicable, carried out in accordance with—</p> <ul style="list-style-type: none"> <li>i. an applicable ESCP; and</li> <li>ii. the ecology <del>management plan</del><b>principles</b> and</li> <li>iii. the earthworks principles; and</li> <li>iv. any guidance provided under condition 4(c)(iii) of this <del>schedule</del><b>consent</b> (see condition 5 of this <del>schedule</del><b>consent</b>)</li> </ul>	<p>I find the recommendation to delete the word ‘schedule’ and replace it with the word ‘consent’ to be appropriate, as the conditions referred to in the relevant definitions will be in the consent, and not the OIC Schedule.</p> <p>The HBRC s42A Report considers that the Applicant’s proposal to change Condition 18 b) ii., to refer to ‘the ecology management plan’, is not appropriate, as the ecology management plan does not include any requirement to consider the ecology principles as intended in the standard OIC conditions. I agree</p>

<p>spawning of species of fish identified, in the ecological scoping survey conducted under condition 27 of this schedule, as being present in the river.</p> <p>d) Permanent works in or adjacent to the bed of a river that are completed as a part of the construction phase of the flood protection works (for example, sediment and debris removal, bank protection, and capacity increase) must—</p> <ul style="list-style-type: none"> <li>i. be designed and installed in a way that is, so far as practicable, consistent with the ecology principles; and</li> <li>ii. be designed by an engineer and an ecologist who are suitably qualified and experienced so as to provide for ongoing fish passage in the river; and</li> <li>iii. manage stream loss, where threatened or at-risk species are present, in accordance with the effects management hierarchy; and</li> <li>iv. provide for the maintenance of the river for flood management purposes.</li> </ul> <p>e) The design of a temporary or permanent culvert in the bed of a river must—</p> <ul style="list-style-type: none"> <li>i. allow for the relevant design flood flow event; and</li> <li>ii. address the risks of non-performance (including blockage), taking into account the risk of the flow of soil or debris.</li> </ul> <p>f) [deleted]</p> <p>g) All works and structures in, or adjacent to, rivers must, so far as practicable, incorporate energy dissipation measures and erosion and sediment control measures (for example, revegetation of worked sites) to minimise bed scouring and</p>	<p>relating to relevant cultural indicators.</p> <p>c) <del>Flood protection</del> <b>Construction</b> works that might affect fish passage in a river must, so far as practicable, be carried out outside peak times for migration and spawning of species of fish identified, in the ecological scoping survey conducted under condition 27 of this schedule, as being present in the river.</p> <p>d) Permanent <b>or other temporary</b> works in or adjacent to the bed of a river that are completed as a part of the construction phase of the flood protection works (for example, sediment and debris removal, bank protection, and capacity increase) must—</p> <ul style="list-style-type: none"> <li>i. be designed and installed in a way that is, so far as practicable, consistent with the ecology principles; and</li> <li>ii. be designed by an engineer and an ecologist who are suitably qualified and experienced so as to provide for ongoing fish passage in the river; and</li> <li>iii. manage stream loss, where threatened or at-risk species are present, in accordance with the effects management hierarchy; and</li> <li>iv. provide for the maintenance of the river for flood management purposes.</li> </ul> <p>e) The design of a temporary or permanent culvert in the bed of a river must—</p> <ul style="list-style-type: none"> <li>i. allow for the relevant design flood flow event; and</li> <li>ii. address the risks of non-performance (including blockage), taking into account the risk of the flow of soil or debris.</li> </ul> <p>f) [deleted]</p>	<p>that it is appropriate that works in the beds of rivers and streams be carried out in accordance with the ecology principles, and I find retaining Condition 18 b) ii. to be appropriate.</p> <p>I agree that it is appropriate to amend Condition 18 c) to refer to construction works, as it is those works that might affect fish passage during migration and spawning of species.</p> <p>I agree that amending Condition 18 d) to refer to permanent ‘or other temporary’ works is appropriate, to reflect the proposal that some of the structures that may be installed across the Whirinaki Drain may be permanent or temporary.</p> <p>I agree that the addition of an advice note is appropriate to address comments received from the D-G that additional approvals may be required under the Freshwater Fisheries Regulations 1983 where culverts or fords constructed in the stream bed restrict fish passage.</p>
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<p>bank erosion in receiving environments.</p>	<p>g) All works and structures in, or adjacent to, rivers must, so far as practicable, incorporate energy dissipation measures and erosion and sediment control measures (for example, revegetation of worked sites) to minimise bed scouring and bank erosion in receiving environments.</p> <p><b>Advice note: Additional approvals under the Freshwater Fisheries Regulations 1983 may be required for any culverts or fords to be constructed in the stream bed if they act to restrict fish passage.</b></p>	
<p>Condition number and heading and description of proposed amendment only are provided below:</p> <p><u>19. Further requirements at watercourses</u></p> <p>The Applicant proposes that one amendment be made to Condition 19 b), to delete the words ‘all permanent’.</p>	<p><i>HBRC recommendation &amp; agreed with by HDC</i></p> <p><u>19. Further requirements at watercourses</u></p> <p>a) This condition applies if condition 18 of this <del>schedule</del> <b>consent</b> applies.</p> <p>b) For the purposes of condition 18(d)(ii) of this <del>schedule</del> <b>consent</b>, fish passage need not be provided and maintained on <del>all permanent</del> <b>temporary</b> culverts if the Project an Ecologist <b>who is suitably qualified and experienced so as to provide advice for ongoing fish passage</b> decides, after considering all relevant matters, and <b>with input from an ecologist</b>, that it is unnecessary.</p> <p>c) Instead the consent holder must—</p> <p>i. give the consent authority appropriate data and reasons (supported by relevant design drawings) for not complying with condition 18(4)(b) of this <del>schedule</del> <b>consent</b>; and</p> <p>ii. <b>Provide justification as to why the proposed design of the culvert is the best practicable option; and,</b></p> <p>iii. if culverts that do not provide fish passage are necessary, notify the Department of Conservation.</p> <p>d) For the purposes of condition 18 of this <del>schedule</del> <b>consent</b>, the consent</p>	<p>I agree that it is appropriate to replace ‘schedule’ with ‘consent’, for the reasons I have referred to above.</p> <p>The HBRC s42A Report recommends that subcondition b) be amended so that it does not apply to permanent crossings and refers to temporary crossings only.</p> <p>It is also recommended that subcondition c) be amended to require the consent holder to provide justification as to why not providing for fish passage at a temporary culvert is the best practicable option.</p> <p>I find the recommended amendments to Condition 19 b) and the addition of a new subcondition c) ii. to be appropriate.</p> <p>Recommended new subconditions d) iii. and d) iv reflect information required to be provided under Regulations 62 and 63 of the NES-F, which I find to be appropriate.</p>

	<p>holder must, at least 10 working days before starting permanent works within a watercourse, give to the consent authority—</p> <ul style="list-style-type: none"> <li>i. hard copies of the design drawings for permanent culverts (including fish passage), bridges, and permanent stream diversions; and</li> <li>ii. a statement of how those designs comply condition 18 of this <del>schedule</del> <b>consent</b>.</li> <li>iii. <b>The information required by Regulation 62 of the NES FW (2020).</b></li> <li>iv. <b>For culverts, the information required by Regulation 63 of the NES FW (2020)</b></li> </ul> <p>[Conditions 19 e) to 19 k) are recommended to be retained as they are in the standard Schedule 2 OIC condition]</p> <p><b><i>Advice note: Additional approvals under the Freshwater Fisheries Regulations 1983 may be required for any culverts or fords to be constructed in the stream bed if they act to restrict fish passage.</i></b></p>	<p>I agree that the addition of an advice note is appropriate to address comments received from the D-G (as referred to above under Condition 18).</p>
<p>Condition number and heading only are quoted below:</p> <p><u>20. Extraction activities and river gravel</u></p>	<p><i>There are no amendments to the standard Condition 20 in Schedule 2 of the OIA proposed by the Applicant or recommended by HBRC or HDC s42A Reports.</i></p>	
<p><u>21. Stormwater discharge</u></p> <ul style="list-style-type: none"> <li>a) If in the event the works involve permanent stormwater treatment devices, the consent holder must, not later than 3 months after the completion of the construction works,—             <ul style="list-style-type: none"> <li>i. document the requirements for the effective operation and maintenance of all stormwater treatment devices (including sediment traps, if practicable); and</li> </ul> </li> </ul>	<p><i>There are no changes recommended in the HBRC and HDC s42A Reports</i></p>	<p>As the s42A Reports consider that the proposed amendments to Condition 21 are appropriate, and no further changes are recommended, I find the proposed amendments to the condition to be appropriate.</p>

<ul style="list-style-type: none"> <li>ii. submit the documents to the consent authority.</li> <li>b) [deleted]</li> <li>c) The consent holder must ensure that stormwater discharge from construction works does not cause erosion or scouring of the bed or any bank of any downstream watercourse or receiving drain.</li> <li>d) [deleted]</li> </ul>		
<p>Condition number and heading only are quoted below:</p> <p><u>22. Design and management of land based borrow sites</u></p>	<p><i>The Applicant proposes that Condition 22 be deleted.</i></p>	<p>The HDC s42A Report comments that no borrow sites are being used in the areas inside or outside of the OIC. Materials will be imported to the application site and will largely be temporarily deposited on the property at 996 SH2, being Lot 1 DP 5625586. Conditions 10, 12, 13 and 14 address the location and management of stockpile areas.</p> <p>I find the proposed deletion of Condition 22 to be appropriate.</p>
<p><u>23. Control of construction noise and vibration</u></p> <ul style="list-style-type: none"> <li>a) The consent holder must ensure that noise from construction, maintenance, and demolition work complies, so far as practicable, with the long-term duration limits set out in Table 2 and Table 3 of NZS 6803:1999.</li> <li>b) The consent holder must take all practicable steps to reduce levels of noise and vibration from plant and equipment operating on site during construction works.</li> </ul>	<p><i>HDC recommendation</i></p> <p><u>23. Control of construction noise and vibration</u></p> <ul style="list-style-type: none"> <li>a) The consent holder must ensure that noise from construction, maintenance, and demolition work complies, so far as practicable, with the long-term duration limits set out in Table 2 and Table 3 of NZS 6803:1999.</li> <li>b) The consent holder must take all practicable steps to reduce levels of noise and vibration from plant and equipment operating on site during construction works.</li> <li><b>c) The consent holder must submit a Construction Noise and Vibration</b></li> </ul>	<p>The HDC s42A Report comments that the proposed amendment to include two new subconditions c) and d) reflects the proximity of residential activities to the works sites and the medium liquefaction properties of the soils.</p> <p>I find the recommended amendment to Condition 23 to be appropriate.</p>

	<p><b>Management Plan (CNVMP) for certification a minimum of 10 working days prior to commencement of works.</b></p> <p><b>d) The construction works must be carried out in accordance with the certified CNVMP and a copy of the CNVMP must be kept onsite during construction hours and must be available to authorised Hastings District Council staff during monitoring inspections.</b></p>	
<p><u>24. Landscape assessment and plan</u></p> <p>a) [deleted].</p> <p>b) The consent holder must prepare, and subject to the permission of the landowner, implement a landscaping plan according to Figure 5 of the Whirinaki Landscape Scoping Assessment, 25 August 2025 prepared by Narrative Landscape prior to the completion of works, so that planting, upon maturity, will reduce the visibility of the stopbank and traffic on State Highway 2 from the dwelling identified in Figure 5 of the Whirinaki Landscape Scoping Assessment.</p>	<p><i>There are no HDC s42A recommended amendments</i></p>	<p>I find the proposed amendments to Condition 24 to be appropriate.</p> <p>However, I consider that, for certainty, it would be appropriate to include the address of the property where the dwelling is located, being 1078 State Highway 2.</p>
<p>Condition numbers and headings only are quoted below:</p> <p><u>25. Project Ecologist</u></p> <p><u>26. Ecology principles</u></p> <p><u>27. Ecological survey and assessment</u></p>	<p><i>There are no changes to Conditions 25 and 26 proposed by the Applicant or recommended in the HBRC s42A Report.</i></p> <p><i>The Applicant proposes to delete Condition 27. There are no comments or recommendations in the HBRC s42A Report relating to this.</i></p>	<p>I find retaining Conditions 25 and 26 as standard conditions in Schedule 2 of the OIC to be appropriate.</p> <p>As an ecological survey and assessment has been completed by PDP and reported in the Ecological Assessment submitted with the Application, I find that Condition 27 is not required and deleting it is appropriate.</p>
<p><u>28. Managing ecological loss</u></p> <p>a) The consent holder must ensure that the Project Ecologist and a suitably qualified and experienced person</p>	<p><i>HBRC recommendation &amp; agreed with by HDC</i></p> <p><u>28. Managing ecological loss</u></p>	<p>The HBRC s42A Report recommends that Condition 28 be amended to address comments</p>

<p>nominated by the Māori entities representatives work in partnership and take account of advice provided by cultural monitors to prepare an Ecology Management Plan which must include,—</p> <ul style="list-style-type: none"> <li>i. Procedures for managing bats prior to felling trees that have potential bat roosting features,</li> <li>ii. Procedures for managing native bird species prior to vegetation removal to facilitate natural abandonment prior to felling,</li> <li>iii. Procedures (applying to areas of rank grasses and wood debris that will be affected by construction) to reduce the risk to lizards occupying the site during construction,</li> <li>iv. Identification of areas of indigenous vegetation removal,</li> <li>v. A planting plan for replacement of indigenous vegetation.</li> <li>vi. applies the effects management hierarchy to the management of all direct or indirect adverse effects on those ecological values (including, where relevant, kauri dieback disease), taking the ecology principles into account.</li> </ul> <p>b) [deleted]</p> <p>c) The consent holder must implement the ecology management plan prepared under subcondition (a) throughout the construction works (except in relation to the Petane Urupa) and report to the Stakeholder Advisory Group every 2 months on:</p> <ul style="list-style-type: none"> <li>i. work undertaken according to the Ecology Management Plan,</li> <li>ii. any other works deemed necessary by the Project</li> </ul>	<ul style="list-style-type: none"> <li>a) The consent holder must ensure that the Project Ecologist and a suitably qualified and experienced person nominated by the Māori entities representatives work in partnership and take account of advice provided by cultural monitors to prepare an Ecology Management Plan which must include,— <ul style="list-style-type: none"> <li>i. Procedures for managing bats prior to felling trees that have potential bat roosting features, <b>that are consistent with the Bat Recovery Group Protocols.</b></li> <li>ii. Procedures for managing native bird species prior to vegetation removal to facilitate natural abandonment prior to felling,</li> <li>iii. Procedures (applying to areas of rank grasses and wood debris that will be affected by construction) to reduce the risk to lizards occupying the site during construction,</li> <li>iv. Identification of areas of indigenous vegetation removal,</li> <li>v. A planting plan for replacement of indigenous vegetation.</li> <li>vi. <b>Procedures for constructing and removing temporary crossings to reduce impacts on fish passage past the structures and on fish spawning.</b></li> <li>vii. applies the effects management hierarchy to the management of all direct or indirect adverse effects on those ecological values, taking the ecology principles into account.</li> </ul> </li> <li>b) [deleted]</li> <li>c) The consent holder must implement the ecology management plan prepared under subcondition (a) throughout the construction works (except in relation to the Petane</li> </ul>	<p>received from D-G in relation to fish passage management for temporary crossings, their removal, and effects on spawning.</p> <p>I find the recommended amendments to be appropriate.</p>
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<p>Ecologist, working with the Māori Entities representatives.</p> <p>d) [deleted]</p> <p>e) When the construction works and any ecological mitigation works carried out under subcondition (a) are both completed, the consent holder must give the stakeholder advisory group—</p> <p>i. a report that describes the ecological mitigation works to be carried out by the consent holder.</p> <p>f) [deleted]</p> <p>g) [deleted]</p>	<p>Urupa) and report to the Stakeholder Advisory Group every 2 months on:</p> <p>i. work undertaken according to the Ecology Management Plan,</p> <p>ii. any other works deemed necessary by the Project Ecologist, working with the Māori Entities representatives.</p> <p>d) [deleted]</p> <p>e) When the construction works and any ecological mitigation works carried out under subcondition (a) are both completed, the consent holder must give the stakeholder advisory group—</p> <p>i. a report that describes the ecological mitigation works to be carried out by the consent holder.</p> <p>f) [deleted]</p> <p>g) [deleted]</p> <p><b><i>Advice note: in deciding the replacement vegetation the New Zealand Bat Recovery Group Advice Note – “Planting to provide roosts for bats” should be considered.</i></b></p>	
<p>Condition number and heading only are quoted below:</p> <p><u>29. Archaeological discovery protocol</u></p>	<p><i>There are no amendments to the standard Condition 29 in Schedule 2 of the OIA proposed by the Applicant or recommended by HBRC or HDC s42A Reports.</i></p>	
	<p><i>New consent condition recommended by HBRC &amp; agreed with by HDC</i></p> <p><b>30. The consent holder shall provide the Hawke’s Bay Regional Council and Hastings District Council (Manager Compliance) and all network utility providers and network utility operators with network infrastructure or other facilities on the land on which the flood protection works are carried out or any adjoining land, notice in writing of intention to commence works, at least 10 working days and not more</b></p>	<p>This new condition is recommended by the s42A Reports to provide for Transpower’s request that they be notified prior to the works commencing.</p> <p>I find adding the new condition to be appropriate.</p>

	<p>than 20 working days prior to commencing the proposed works.</p>	
	<p><i>New consent condition recommended by HBRC &amp; agreed with by HDC</i></p> <p><b>31. Within three months of the completion of construction works, the consent holder shall provide the Council (Manager Compliance) and all network utility providers all network utility operators with network infrastructure or other facilities on the land on which the flood protection works are carried out or any adjoining land:</b></p> <p>a) an ‘as built’ plan of the completed works that clearly shows their location and layout in relation to the network utility providers assets, in particular the plan shall show any distances and depths in proximity to Transpower’s WHI_FOC_TR511 and WHL_WRA_TR320 underground cables in relation to the stopbank and road raising.</p>	<p>This new condition is recommended by the s42A Reports to provide for Transpower’s request to be provided as-built plans.</p> <p>I find adding the new condition to be appropriate.</p>

[086] The conditions to be applied to the consent for works both within and outside the OIC are set out in Appendix A to this decision.

## 11 Decision - OIC

[087] Pursuant to the powers delegated to me by the Hawke’s Bay Regional Council and Hastings District Council respectively, under clause 10 of the Severe Weather Emergency Recovery (Hawke’s Bay Flood Protection Works) Order 2024, and having considered the application documents, the comments received, the respective section 42A Reports and the various requirements of the OIC and RMA, I find that:

- a. The actual and potential adverse effects of the activity can be appropriately avoided, remedied or mitigated by the imposition of the consent conditions in Appendix A, which are consistent with the matters of control listed in Schedule 3 of the OIC; and
- b. The application as a Controlled Activity must be granted under section 104A(a) of the RMA.

[088] Therefore, I **grant** resource consent to Hawke’s Bay Regional Council (APP-131373) to undertake construction of a flood protection scheme, including the erection of stopbanks and the construction, use and removal of structures (including river crossings and outlet pipes) in and within 6 m of the bed of a waterway and associated activities including soil disturbance and vegetation clearance within 5m of the bed of a river, diversion flood water, diversion and discharge of stormwater, drainage water and associated contaminants to land and water, the discharge of solid contaminants to land within 20 m of the bed of a surface water body, the take and use groundwater and surface water (drainage water) for dewatering and other construction related purposes, the discharge dust to air, associated earthworks and the disturbance of soil under the NESCS.

[089] The consent is granted subject to the conditions set out in Appendix A.

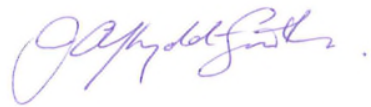
## 12 Recommendation - Land Outside OIC

[090] Pursuant to sections 104, 104B, 105, 107 and 108 of the RMA, I recommend that resource consent be **granted** to the applications lodged by Hawke’s Bay Regional Council (APP-131373) for resource consent to undertake construction of a flood protection scheme, including the erection of stopbanks and the construction, use and removal of structures (including river crossings and outlet pipes) in and within 6 m of the bed of a waterway and associated activities including soil disturbance and vegetation clearance within 5m of the bed of a river, diversion flood water, diversion and discharge of stormwater, drainage water and associated contaminants to land and water, the discharge solid contaminants to land within 20 m of the bed of a surface water body, the take and use groundwater and surface water (drainage water) for dewatering and other construction related purposes, the discharge dust to air, associated earthworks and the disturbance of soil under the NESCS, subject to the conditions set out in Appendix A, for the following reasons:

- a. the actual and potential adverse effects of the activities can be appropriately avoided, remedied or mitigated by the imposition of the consent conditions in Appendix A;
- b. the proposal is consistent with the relevant provisions of the NPS-FM, NPS-HPL, NES-F, NES-SHDW, RPS, RRMP, RCEP and the Hastings District Plan; and

- c. the proposal is consistent with Part 2 of the RMA.

Signed by Independent Commissioner



Janeen Kydd-Smith

Dated: 30 October 2025

## Appendix A – Decision Conditions

### Combined OIC and Non-OIC Consent Conditions

Condition No. and Responsible Consent Authority	Condition
<p>1. HBRC</p>	<p><b>1. Compliance with specified documents accompanying consent application</b></p> <p>a. The consent holder must carry out all activities included in the flood protection works for which consent has been granted in accordance with applicable requirements in the following documents that were provided in the application for consent:</p> <ul style="list-style-type: none"> <li>i. <i>Resource Consent Application for Flood Mitigation Works, 15 September 2025, Stradegy (24091AP1)</i></li> <li>ii. <i>Whirinaki Drain Stopbank Upgrade Design Report, 9 September 2025, PDP, Job Ref HB010500006</i></li> </ul> <p>b. However, if there is a conflict between a condition imposed on the resource consent and a requirement in any document referred to in subclause (1), the imposed condition prevails.</p>
<p>1B. HBRC</p>	<p><b>1B. Tracking changes in the design process</b></p> <p>a. Changes that occur between preliminary and detailed (final) design shall be recorded and reported on as part of a final design report. The final design report shall include the final design plans, record the changes, outline the reasons for them and provide a view as to whether the changes are in accordance with documents referred to in Condition 1.</p> <p>In this context, in accordance means changes that do not introduce a new activity, do not introduce a substantial change in alignment, do not result in a change to outcomes sought under the conditions of this consent, and does not cause any material increase in consequential flooding effects to other properties.</p> <p>The Final Design Report shall be provided to the Hawke’s Bay Regional Council (Manager Compliance) and network utility operators (includes HDC) with network infrastructure or other facilities on the land on which the flood protection works are carried out or any adjoining land at least 5 working days prior to construction commencing.</p>
<p>1C. HBRC</p>	<p><b>1C. Temporary Roading By-passes</b></p> <p>a. The temporary roading by-passes (to be undertaken as ‘establishment of construction site’ works which are an ‘ancillary activity’ under Condition 3 b) and therefore excluded from the need to comply with other</p>

	<p>conditions that apply to ‘ construction works’ and ‘flood protection works’, including but not limited to Conditions 1B, 9, 10, 14, 23, 28 and 30) shall be established and managed in accordance with the following erosion and sediment control plans:</p> <ul style="list-style-type: none"> <li>ii. Hawkes Bay Regional Council, Draft Erosion Sediment Control Plan, Temporary Bypass Road, 24-05-04-M101, REV A,</li> <li>iii. Temporary Bypass Road ESCP Plan North Shore Road, SK-001, REV A.</li> </ul> <p>b. In relation to the State Highway 2 temporary roading by-pass, trees that have the potential for bat roosting shall undergo a tree survey prior to felling. The survey must be undertaken by a suitably qualified person.</p> <p>c. Trees confirmed to be bat free must be removed the same day or as otherwise advised by the person undertaking the survey.</p>
<p>2. HBRC &amp; HDC</p>	<p><b>2. Duration of resource consent</b></p> <ul style="list-style-type: none"> <li>a. The period for which this resource consent has been granted is 5 years after the date of commencement of the consent</li> <li>b. This resource consent lapses on <b>30 October 2027</b>.</li> </ul>
<p>3. HBRC</p>	<p><b>3. Definitions</b></p> <p><b>CEMP</b> means the Construction Environment Management Plan required by clause 10 of this consent</p> <p><b>PUCEMP</b> means the Petane Urupa Construction Environment Management Plan required under condition 10B of this consent</p> <p><b>construction works—</b></p> <ul style="list-style-type: none"> <li>a) means activities that are authorised by this resource consent in connection with the flood protection works and that consist of directly constructing, reinstating, enhancing, or improving land or infrastructure; but</li> <li>b) does not include ancillary activities such as— <ul style="list-style-type: none"> <li>i. preliminary activities such as planning, recruitment, site investigation, establishment of construction site, soil sampling; and</li> <li>ii. subsequent activities such as site clean-up and ongoing maintenance of infrastructure, plant, and landscaping until the flood protection works are completed; and</li> </ul> </li> </ul>

	<p>iii. ongoing administrative and operational activities such as monitoring and reporting until the flood protection works are completed</p> <p><b>contaminated land</b> means land to which the Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011 apply (see regulation 5(1) of those regulations)</p> <p><b>cultural indicator</b> means an indicator of an identified cultural association in guidance referred to in clause 5 of this consent</p> <p><b>cultural monitors</b> means the cultural monitors appointed by relevant Māori entities under clause 4(3) of this consent</p> <p><b>earthworks principles</b> means the principles set out in clause 12 of this consent</p> <p><b>ecology principles</b> means the principles set out in clause 26 of this consent</p> <p><b>erosion and sediment control device</b> includes a bund and a gully trap fitted into a drain</p> <p><b>Erosion and Sediment Control Manager</b> means the person appointed under clause 13(1) of this consent</p> <p><b>ESCP</b> means an erosion and sediment control plan prepared under clause 14 of this consent</p> <p><b>HBRC</b> means Hawke’s Bay Regional Council</p> <p><b>HBRC Erosion and Sediment Guidelines</b> means the <i>Hawke’s Bay Regional Council Water Guidelines: Erosion and Sediment Control</i>, published by HBRC in April 2009</p> <p><b>HBRC Pest Management Plan</b> means the <i>Hawke’s Bay Regional Council Pest Management Plan 2018-2038</i>, published by HBRC in February 2023</p> <p><b>HBRC River Control Code</b> means the <i>Hawke’s Bay Regional Council Environmental Code of Practice for River Control and Waterway Works</i>, published by HBRC in February 2017</p> <p><b>HBRC Stormwater Management Guidelines</b> means the <i>Hawke’s Bay Regional Council Water Guidelines: Stormwater Management</i>, published by HBRC in May 2009</p> <p><b>Manager Compliance</b> means the person employed by HBRC as manager of compliance</p>
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	<p><b>Māori entity representative</b> means a person appointed as a representative under clause 4 of this consent</p> <p><b>NZS 6803:1999</b> means New Zealand Standard 6803:1999: Acoustics– Construction noise, published by Standards New Zealand on 8 February 2000</p> <p><b>OiC</b> means the Severe Weather Emergency Recovery (Hawke’s Bay Flood Protection Works) Order 2024</p> <p><b>Project Ecologist</b> means a suitably qualified and experienced ecologist appointed by the consent holder.</p>
<b>Engagement And Communications</b>	
<p>4. HBRC</p>	<p><b>4. Māori entities representatives</b></p> <p>a) The consent holder must invite each relevant Māori entity to appoint a representative to perform, with the representatives appointed by all other relevant Māori entities, the Māori entities representatives’ roles and responsibilities set out in this consent in relation to the flood protection works for which the consent has been granted.</p> <p>b) The consent holder must issue the invitations at least 20 days before the flood protection works begin.</p> <p>c) The relevant Māori entities may appoint a team of cultural monitors to–</p> <ul style="list-style-type: none"> <li>i. support the Māori entities representatives;</li> <li>ii. provide advice to those preparing the Communications Plan, CEMP, PUCEMP and Ecology Management Plan, and</li> <li>ii. provide the consent holder with on-site guidance to enable effective management of impact on culturally significant land and other natural and physical resources that have cultural value.</li> </ul> <p>d) The consent holder must develop terms of reference for the role and responsibilities of the Māori entities representatives, including in relation to the following matters:</p> <ul style="list-style-type: none"> <li>i. the appropriate number of representatives:</li> <li>ii. the scope of the representatives’ role and responsibilities:</li> <li>iii. time frames for decisions, advice, and actions:</li> <li>iv. support for the representatives:</li> <li>v. remuneration for the representatives.</li> </ul> <p>e) In developing the terms of reference, the consent holder must–</p>

	<ul style="list-style-type: none"> <li>i. convene discussions with all relevant Māori entities; and</li> <li>ii. use its best endeavours to achieve consensus on all matters.</li> </ul> <p>f) If consensus on all matters is not achieved, the remaining matters must be determined–</p> <ul style="list-style-type: none"> <li>i. by a majority vote; or</li> <li>ii. if votes are tied, by the casting vote of the consent holder.</li> </ul>
<p>5. HBRC</p>	<p><b>5. Guidance on Cultural indicators</b></p> <p>a) The guidance provided under condition 4(c)(iii) of this consent must focus on indicators covering all identified traditional associations,—</p> <ul style="list-style-type: none"> <li>i. including mahinga kai, cultural stream health, wāhi tapu, wāhi tūpuna, protocols, and heritage; and</li> <li>ii. derived from identified cultural values and any cultural assessment conducted by the cultural monitors.</li> </ul> <p>b) The consent holder must, in preparing the Communications Plan, CEMP, PUCEMP and Ecology Management Plan required by these conditions;</p> <ul style="list-style-type: none"> <li>i. take all applicable cultural indicators into account; and</li> <li>ii. report to the Māori entities representatives how those indicators have been taken into account.</li> </ul>
<p>6. HBRC</p>	<p><b>6. Stakeholder advisory group</b></p> <p>a) The representatives appointed under subconditions (b) and (d) and the Māori entities representatives form the <b>stakeholder advisory group</b>.</p> <p>b) The consent holder must invite the following persons to appoint representatives to be members of the stakeholder advisory group:</p> <ul style="list-style-type: none"> <li>i. the owners and occupiers of land on which the flood protection works are carried out (referred to as ‘immediately affected’) in and all adjoining land Schedule 1);</li> <li>ii. all persons listed in clause 15(2)(a)(ii)-(vi) and (viii)-(x) of the OiC;</li> <li>iii. all network utility operators with network infrastructure or other facilities on the land on which the flood protection works are carried out or any adjoining land;</li> <li>iv. the Manager Compliance;</li> <li>v. Heritage New Zealand Pouhere Taonga;</li> <li>vi. the Department of Conservation;</li> </ul>

	<ul style="list-style-type: none"> <li>vii. the Māori entities representatives:</li> <li>viii. One representative from the group of residents along 21 – 35 North Shore Road and one representative from the group of residents along 36 North Shore Road and 5 – 41 Pohutukawa Drive:</li> <li>c) The consent holder must issue the invitations at least 20 days before the flood protection works begin.</li> <li>d) After the flood protection works begin, the consent holder may invite further persons or bodies to appoint representatives to the stakeholder advisory group.</li> <li>e) Each representative appointed must be authorised by the person or body appointing them to make decisions on behalf of the person or body in the consultations taking place in relation to the flood protection works.</li> <li>f) The consent holder must develop terms of reference for the role of the stakeholder advisory group, including in relation to the following:             <ul style="list-style-type: none"> <li>i. frequency of meetings:</li> <li>ii. processes and methods for the performance of the group’s role.</li> </ul> </li> <li>g) In developing the terms of reference, the consent holder must—             <ul style="list-style-type: none"> <li>i. convene discussions with all members of the group; and</li> <li>ii. use its best endeavours to achieve consensus on all matters at the group’s first meeting.</li> </ul> </li> <li>h) If consensus on all matters is not achieved at the first meeting, the remaining matters must be determined—             <ul style="list-style-type: none"> <li>i. by a majority vote; or</li> <li>ii. if votes are tied, by the casting vote of the consent holder.</li> </ul> </li> </ul>
<p>7. HBRC</p>	<p><b>7. Operation of stakeholder advisory group</b></p> <ul style="list-style-type: none"> <li>a) The role of the stakeholder advisory group is to inform and advise the consent holder about managing and monitoring the flood protection works.</li> <li>b) The consent holder must—             <ul style="list-style-type: none"> <li>i. record all information and advice provided by the stakeholder advisory group; and</li> <li>ii. report to the group how the information and advice have been taken into account in the carrying out of the flood protection works.</li> </ul> </li> </ul>

<p>8. HBRC</p>	<p><b>8. Project Engagement Lead</b></p> <ul style="list-style-type: none"> <li>a) The consent holder must appoint a person as Project Engagement Lead to act as the consent holder’s main point of contact with— <ul style="list-style-type: none"> <li>i. the Māori entities representatives; and</li> <li>ii. the stakeholder advisory group.</li> </ul> </li> <li>b) The consent holder must ensure that the Project Engagement Lead is reasonably available to perform their role under this condition.</li> <li>c) The consent holder must also ensure that the contact details of the Project Engagement Lead are posted on an internet site maintained by or on behalf of the consent holder.</li> </ul>
<p>9. HBRC</p>	<p><b>9. Communications plan</b></p> <ul style="list-style-type: none"> <li>a) The consent holder must, taking account of the advice provided by cultural monitors, develop and implement a communications plan for the duration of construction works.</li> <li>b) The communication plan must contain detailed processes for communications, throughout the construction works, with the following: <ul style="list-style-type: none"> <li>i. the general public:</li> <li>ii. local residents and businesses:</li> <li>iii. the Māori entities representatives:</li> <li>iv. the persons and bodies represented by the stakeholder advisory group:</li> <li>v. all other persons potentially affected by the construction works.</li> </ul> </li> <li>c) The communications plan must include the following: <ul style="list-style-type: none"> <li>i. a description of the flood protection works or details of, or a link to, an internet site maintained by or on behalf of the consent holder that describes the construction works:</li> <li>ii. the contact details of the Project Engagement Lead:</li> <li>iii. a list of all persons and bodies who will be communicated with under the plan:</li> <li>iv. how any comments or concerns about the construction works should be communicated by those persons and bodies:</li> </ul> </li> </ul>

	<ul style="list-style-type: none"> <li>v. details of proposed communication activities by the Project Engagement Lead, including notifications and other communications with any persons and bodies referred to in paragraph (iii):</li> <li>vi. information about when the communications plan will be reviewed (and amended, if necessary).</li> </ul> <p>d) The consent holder must give to the Manager Compliance—</p> <ul style="list-style-type: none"> <li>i. the initial communications plan at least <b>10 working days</b> before construction works begin; and</li> <li>ii. any amended plan, as soon as practicable after the amendment.</li> </ul>
<b>CONSTRUCTION ENVIRONMENTAL MANAGEMENT PLAN</b>	
<p>10. HBRC &amp; HDC</p>	<p><b>10. Construction environmental management plan</b></p> <ul style="list-style-type: none"> <li>a) The consent holder must— <ul style="list-style-type: none"> <li>i. prepare a construction environmental management plan for the construction works (excluding those associated with the Petane Urupa which are to be subject to the Petane Urupa Construction Environmental Management Plan); and</li> <li>ii. not less than <b>5 working days</b> before the construction works begin, submit the CEMP and the final design report to the consent authority and the stakeholder advisory group.</li> </ul> </li> <li>b) The level of detail and the measures proposed in the CEMP must correspond with the nature and scale of the construction works.</li> <li>c) The CEMP must include the following information: <ul style="list-style-type: none"> <li>i. the roles and responsibilities of construction management staff, including the Erosion and Sediment Control Manager:</li> <li>ii. a description of the training and education programme for workers that will be implemented to ensure compliance with the conditions imposed on the resource consent:</li> <li>iii. procedures, developed in partnership with the Māori Entity Representatives, for— <ul style="list-style-type: none"> <li>1. obtaining ongoing guidance on cultural indicators provided by cultural monitors; and</li> <li>2. ongoing reporting to the Māori entities representatives <u>on how</u> the indicators in condition 5(a) have been taken into account, or if not, why not.</li> </ul> </li> </ul> </li> </ul>

	<ul style="list-style-type: none"> <li>iv. indicative timing of all stages of the flood protection works and the location and management of stockpile areas</li> <li>v. procedures for the management of hazards, including—             <ul style="list-style-type: none"> <li>1. any risk of flood; and</li> <li>2. the discharge of any contaminant (for example, chemicals or hydrocarbons); and</li> <li>3. working in the proximity of overhead powerlines and National Grid assets:</li> </ul> </li> <li>vi. arrangements for site access and on-site traffic management, including haulage routes,</li> <li>vii. procedures for managing public health and safety, including restrictions on public access to work sites and the river and how a 12m setback control from the outer most visible edge of the National Grid support structure foundations, on the land legally described as INDUSTRIAL PORTION PO 4500025484, for material stockpiles will be managed (demarcation of the 12m setback shall be visible on site).</li> <li>viii. A Contamination Site Management Plan responding to the matters identified in the Preliminary Site Investigation at Whirinaki Stop Bank, 2 July 2025, and including, but not limited to:             <ul style="list-style-type: none"> <li>1. Appropriate management of earthworks,</li> <li>2. Hygiene controls.</li> <li>3. PPE,</li> <li>4. Dust management,</li> <li>5. Stormwater controls,</li> <li>6. Offsite disposal of soils,</li> <li>7. Accidental discovery protocols.</li> </ul> </li> <li>ix. dust management measures (see condition 16 of this consent) including to mitigate potential adverse effects on the National Grid assets:</li> <li>x. procedures for managing de-watering (including avoiding or minimising effects on adjacent buildings), groundwater or surface water takes, and diversions and discharges to land or water:</li> <li>xi. contact details of at least 2 persons or bodies who respond to emergencies and who—</li> </ul>
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	<ol style="list-style-type: none"> <li>1. are contactable 24 hours a day, 7 days a week, throughout the flood protection works; and</li> <li>2. have authority to authorise immediate response actions:             <ol style="list-style-type: none"> <li>xii. a detailed process for detecting, investigating, and recording incidents:</li> <li>xiii. details (including timing) of arrangements for reporting to the consent authority on the outcomes of, and compliance with, the CEMP:</li> <li>xiv. any ESCP (<i>see</i> condition 14 of this consent):</li> <li>xv. how works in or adjacent to water bodies will be managed:</li> <li>xvi. how any river gravel extraction or land-based borrow sites will be managed:</li> <li>xvii. how noise and vibration generated by the works will be managed:</li> <li>xviii. an outline of key procedures <u>from</u> the ecology management plan prepared under condition 28 of this consent schedule affecting construction:</li> <li>xix. details of how the ecology principles will guide environmental outcomes:</li> <li>xx. cultural and archaeological artefact discovery protocols (see clause 29 of this consent schedule) or reference to an Authority where applicable:</li> <li>xxi. methods for responding to queries and complaints:</li> <li>xxii. procedures for amending the CEMP under condition 11 of this consent, and reporting on any such amendments.</li> </ol> </li> </ol> <p>d) The CEMP must, so far as is practicable, be consistent with the HBRC ‘Environmental Code of Practice for River Control Works’ (2017 or subsequent version).</p> <p><i>Advice note: Proposed works must comply with the NZECP34: 2001 requirements, where relevant. Transpower and other electricity network owners/operators have a right to access its existing assets under section 23 of the Electricity Act 1992. These matters should be discussed and agreed with network operators through the STAG and CEMP finalisation process.</i></p>
<p>10B. HBRC &amp; HDC</p>	<p><b>10B. Petane Urupa Construction Environmental Management Plan (PUCEMP)</b></p> <ol style="list-style-type: none"> <li>a. The consent holder must—</li> </ol>

	<ul style="list-style-type: none"> <li>i. prepare a construction environmental management plan for the construction works associated with the Petane Urupa; and</li> <li>ii. not less than <b>5 working days</b> before the construction works begin at or in the vicinity of the Petane Urupa site; submit the PUCEMP to the consent authority and the stakeholder advisory group.</li> </ul> <p>b) The level of detail and the measures proposed in the PUCEMP must correspond with the nature and scale of the construction works.</p> <p>c) The PUCEMP must include the following information:</p> <ul style="list-style-type: none"> <li>i. the roles and responsibilities of construction management staff, including the Erosion and Sediment Control Manager:</li> <li>ii. a description of the training and education programme for workers that will be implemented to ensure compliance with the conditions imposed on the resource consent:</li> <li>iii. procedures, developed in partnership with the Māori Entity Representatives, for—             <ul style="list-style-type: none"> <li>1. obtaining ongoing guidance on cultural indicators provided by cultural monitors; and</li> <li>2. ongoing reporting to the Māori entities representatives on how the indicators in condition 5(a) have been taken into account, or if not, why not:</li> </ul> </li> <li>iv. indicative timing of all stages of the works:</li> <li>v. arrangements for site access and on-site traffic management,</li> <li>vi. procedures for managing public health and safety:</li> <li>vii. A Contamination Site Management Plan.</li> <li>viii. dust management measures (see condition 16 of this consent):</li> <li>ix. contact details of at least 2 persons or bodies who respond to emergencies and who—             <ul style="list-style-type: none"> <li>1. are contactable 24 hours a day, 7 days a week, throughout the flood protection works; and</li> <li>2. have authority to authorise immediate response actions:</li> </ul> </li> <li>x. a detailed process for detecting, investigating, and recording incidents:</li> </ul>
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	<ul style="list-style-type: none"> <li>xi. details (including timing) of arrangements for reporting to the consent authority on the outcomes of, and compliance with, the PUCEMP:</li> <li>xii. any ESCP (<i>see</i> condition 14 of this consent):</li> <li>xiii. how noise and vibration generated by the works will be managed:</li> <li>xiv. cultural and archaeological artefact discovery protocols (<i>see</i> clause 29 of this consent) or reference to an Authority where applicable:</li> <li>xv. methods for responding to queries and complaints:</li> <li>xvi. procedures for amending the PUCEMP under condition 11 of this schedule consent.</li> </ul>
<p>11. HBRC &amp; HDC</p>	<p><b>11. Developing and amending CEMP and PUCEMP</b></p> <ul style="list-style-type: none"> <li>a) Before finalising the CEMP and PUCEMP, or any amendment to the CEMP or PUCEMP under subcondition (e), the consent holder must invite the consent authority and the stakeholder advisory group to comment on the proposed CEMP or PUCEMP or amendment within 10 working days.</li> <li>b) The consent holder must take account of any comments received by the persons invited when finalising the CEMP or PUCEMP or the amendment.</li> <li>c) If the consent holder does not receive any comments within 10 working days after inviting them, the consent holder may finalise the CEMP or PUCEMP or amendment.</li> <li>d) The consent holder must act in accordance with the CEMP or PUCEMP for the duration of the flood protection works.</li> <li>e) The consent holder must amend the CEMP or PUCEMP if amendment is necessary to reflect any changes in design, construction methods, maintenance and operations methods, or procedures for managing adverse effects throughout the construction phase of the flood protection works. Specifically, the consent holder must amend the CEMP in the event that a temporary crossing is proposed across the Whirinaki Drain. If the crossing involves works within the bed of the water body, it must be: <ul style="list-style-type: none"> <li>i. designed by a suitably qualified and experienced engineer with input from an ecologist, who is suitably qualified and experienced so as to provide advice for ongoing fish passage.</li> </ul> </li> </ul>

	<ul style="list-style-type: none"> <li>ii. designed, installed and removed in a way that is, so far as practicable, consistent with the ecology principles set out in Condition 26(b)(i),</li> <li>iii. Inclusive of procedures for constructing and removing temporary crossings to reduce impacts on fish passage past the structures and on fish spawning.</li> <li>iv. reported on in respect to (i) (ii) and (iii) in amending the CEMP.</li> </ul> <p>f) After amending the CEMP or PUCEMP, the consent holder must give a copy of the amended CEMP or PUCEMP and the associated final design plans (indicating the amendments) to the consent authority and the stakeholder advisory group within 10 working days.</p>
<b>EARTHWORKS</b>	
<p>12. HBRC &amp; HDC</p>	<p><b>12. Earthworks principles</b></p> <ul style="list-style-type: none"> <li>a) The consent holder must carry out all works in a manner that— <ul style="list-style-type: none"> <li>i. minimises the volume, area, and duration of the proposed earthworks required through methodologies, including the design of batter slopes, appropriate to expected soil types and geology; and</li> <li>ii. maximises the effectiveness of erosion and sediment control measures associated with earthworks by minimising potential for sediment generation and sediment yield; and</li> <li>iii. avoids if practicable, or minimises so far as practicable, adverse effects on freshwater and marine water environments within or beyond the works boundary, with particular regard to reducing opportunities for the works to generate sediment; and</li> <li>iv. avoids if practicable, or minimises so far as practicable, adverse effects on outstanding natural features, outstanding natural landscapes, and areas of outstanding natural character (as specified in a regional plan or policy statement for the relevant area); and</li> <li>v. avoids if practicable, or minimises so far as practicable, adverse effects on culturally significant land; and</li> <li>vi. stabilises disturbed land as soon as reasonably practicable in accordance with an ESCP.</li> </ul> </li> <li>b) The consent holder must, as far as practicable, ensure that earthworks are carried out in accordance with the ecology principles.</li> </ul>
<p>13. HBRC &amp; HDC</p>	<p><b>13. Erosion and Sediment Control Manager and staff</b></p>

	<ul style="list-style-type: none"> <li>a) The consent holder must appoint a suitably qualified and experienced person as the Erosion and Sediment Control Manager for the duration of the flood protection works.</li> <li>b) The role of the Erosion and Sediment Control Manager is to— <ul style="list-style-type: none"> <li>i. ensure compliance with the CEMP or PUCEMP and ESCP; and</li> <li>ii. subject to any amendments made to the ESCP under condition 14(c)(x) of this consent, liaise with any Erosion and Sediment Control Manager appointed in respect of any other flood protection works; and</li> <li>iii. liaise with the consent authority in respect of the implementation of the ESCP, including in respect of any incident relating to erosion and sediment control.</li> </ul> </li> <li>c) An Erosion and Sediment Control Manager appointed under this condition may perform the same role in relation to any flood protection works at any other location specified in clause 6(3) of the OiC if the relevant consent holder considers it appropriate.</li> <li>d) The consent holder must also appoint suitably qualified and experienced staff to assist in erosion and sediment control, including— <ul style="list-style-type: none"> <li>i. managing the operation, maintenance, and monitoring of erosion and sediment control devices; and</li> <li>ii. supervising the installation and decommissioning of those devices and associated equipment and arrangements.</li> </ul> </li> </ul>
<p>14. HBRC &amp; HDC</p>	<p><b>14. Erosion and sediment control plan</b></p> <ul style="list-style-type: none"> <li>a) The consent holder must prepare 1 or more erosion and sediment control plans for the works to identify how the earthworks principles will be applied.</li> <li>b) The consent holder must engage a suitably qualified and experienced person to prepare an ESCP.</li> <li>c) An ESCP must specify the following matters: <p><i>General</i></p> <ul style="list-style-type: none"> <li>i. how the construction works will be carried out in accordance with the ecology principles:</li> <li>ii. structural and non-structural erosion and sediment control measures (including chemical treatment where necessary) to be in place before</li> </ul> </li> </ul>

	<p>and during all construction works, including earthworks, and works within watercourses:</p> <ul style="list-style-type: none"> <li>iii. key environmental risks, particularly in relation to topography, soil type and form, and the receiving environment, including proximity to any sensitive receivers (for example, watercourses):</li> <li>iv. procedures for ensuring advance warning of a rainfall event:</li> <li>v. procedures for decommissioning the erosion and sediment control measures:</li> <li>vi. procedures for determining the staging and sequencing of earthworks:</li> <li>vii. methods adopted, for the purpose of reducing sediment loss and erosion, to stabilise—             <ul style="list-style-type: none"> <li>1. any excavated area; and</li> <li>2. any watercourse bed; and</li> <li>3. any banks of a watercourse that have been disturbed by the works:</li> </ul> </li> <li>viii. details of maintenance, including actions and frequency:</li> <li>ix. supporting information about the size of erosion and sediment control devices:</li> <li>x. methods for amending and updating the ESCP as required:</li> </ul> <p><i>Erosion and Sediment Control Manager and Staff</i></p> <ul style="list-style-type: none"> <li>xi. the name and contact details of the Erosion and Sediment Control Manager:</li> <li>xii. the names and contact details of other staff appointed to assist with the management of erosion and sediment control (see condition 13(d) of this schedule):</li> </ul> <p><i>Incident management</i></p> <ul style="list-style-type: none"> <li>xiii. the process for detecting, investigating, and recording, and for notifying the consent authority of, incidents that result in the discharge of contaminants or material into any watercourse due to the structural failure of any erosion and sediment control measures:</li> </ul> <p><i>Monitoring</i></p> <ul style="list-style-type: none"> <li>xiv. procedures for—</li> </ul>
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	<ol style="list-style-type: none"> <li>1. ongoing visual inspection, and where necessary quantitative monitoring, of all erosion and sediment control measures; and</li> <li>2. detailed analysis of trends in erosion and sediment control effectiveness and performance; and</li> <li>3. amendments to any ESCP resulting from the activities under subparagraphs (1) and (2):</li> </ol> <p><i>Reporting to consent authority</i></p> <ol style="list-style-type: none"> <li>xv. details (including timing) of reporting to the consent authority on the outcomes of, and compliance with, the ESCP.</li> <li>d) The level of detail and the measures proposed in the ESCP must correspond to the nature and scale of the relevant works.</li> <li>e) The ESCP must include a site-specific risk-based approach that allows for the Erosion and Sediment Control Manager to determine the level of information and design that must be provided for specific activities.</li> <li>f) For works in or adjacent to a watercourse, an ESCP must, so far as is practicable, be consistent with the HBRC Erosion and Sediment Guidelines.</li> <li>h) The consent holder must implement an ESCP for the duration of the flood protection works.</li> <li>i) The consent holder must, for the duration of the construction works             <ol style="list-style-type: none"> <li>i. keep an ESCP; and</li> <li>ii. make it readily available to the consent authority.</li> </ol> </li> </ol>
<p>15. HBRC &amp; HDC</p>	<p><b>15. Failure of erosion and sediment control measure</b></p> <ol style="list-style-type: none"> <li>a) If the failure of an erosion and sediment control measure during flood protection works results in an uncontrolled release of sediment to surface water, the consent holder must—             <ol style="list-style-type: none"> <li>ii. as soon as reasonably practicable, engage the Project Ecologist to investigate the affected area; and</li> <li>iii. immediately notify—                 <ol style="list-style-type: none"> <li>1. the HBRC pollution officer (with responsibility for works in or near any affected water bodies); or</li> <li>2. the territorial authority Compliance Manager (with responsibility for land-based borrow sites); and</li> </ol> </li> </ol> </li> </ol>

	<ul style="list-style-type: none"> <li>iv. within 7 days, report the incident to the Hawkes Bay Regional Council and Hastings District Council (Manager of Compliance).</li> <li>b) The Project Ecologist must investigate the affected area as soon as practicable.</li> <li>c) If the investigation identifies significant adverse effects, the consent holder, in consultation with the consent authority, must, as soon as practicable, develop and implement appropriate remedial measures (which may include biodiversity offsets) appropriate to the scale of the adverse effects.</li> <li>d) The report to the Manager Compliance under subcondition (a)(iii) must –             <ul style="list-style-type: none"> <li>i. describe the control failure and its cause; and</li> <li>ii. specify the steps that have so far been taken to                 <ul style="list-style-type: none"> <li>1. control the released sediment and any resulting erosion; and</li> <li>2. prevent any recurrence of the control failure.</li> </ul> </li> </ul> </li> </ul>
16. HBRC	<p><b>16. Dust management</b></p> <p>The consent holder must, as far as practicable, ensure that dust arising from construction works (including earthworks and related activities) does not spread beyond the boundary of the work sites.</p>
17.	[Omitted]
<b>WATERCOURSES</b>	
18. HBRC	<p><b>18. Works and structures in and adjacent to the beds of rivers</b></p> <ul style="list-style-type: none"> <li>a) This condition and conditions 19 and 20 of this consent apply to all construction works carried out in, or adjacent to, the bed of a river.</li> <li>b) The consent holder must ensure that construction works are, so far as practicable, carried out in accordance with—             <ul style="list-style-type: none"> <li>i. an applicable ESCP; and</li> <li>ii. the ecology principles; and</li> <li>iii. the earthworks principles; and</li> <li>iv. any guidance provided under condition 4(c)(iii) of this consent (see condition 5 of this consent) relating to relevant cultural indicators.</li> </ul> </li> </ul>

	<p>c) Construction works that might affect fish passage in a river must, so far as practicable, be carried out outside peak times for migration and spawning of species of fish identified as being in the river.</p> <p>d) Permanent or other temporary works in or adjacent to the bed of a river that are completed as a part of the construction phase of the flood protection works (for example, river crossings, sediment and debris removal, bank protection, and capacity increase) must—</p> <ul style="list-style-type: none"> <li>i. be designed and installed in a way that is, so far as practicable, consistent with the ecology principles; and</li> <li>ii. be designed by an engineer and an ecologist who are suitably qualified and experienced so as to provide for ongoing fish passage in the river; and</li> <li>iii. manage stream loss, where threatened or at-risk species are present, in accordance with the effects management hierarchy; and</li> <li>iv. provide for the maintenance of the river for flood management purposes.</li> </ul> <p>e) The design of a temporary or permanent culvert in the bed of a river must—</p> <ul style="list-style-type: none"> <li>i. allow for the relevant design flood flow event; and</li> <li>ii. address the risks of non-performance (including blockage), taking into account the risk of the flow of soil or debris.</li> </ul> <p>f) All works and structures in, or adjacent to, rivers must, so far as practicable, incorporate energy dissipation measures and erosion and sediment control measures (for example, revegetation of worked sites) to minimise bed scouring and bank erosion in receiving environments.</p> <p><u>Advice note: Additional approvals under the Freshwater Fisheries Regulations 1983 may be required for any culverts or fords to be constructed in the stream bed if they act to restrict fish passage.</u></p>
<p>19. HBRC</p>	<p><b>19. Further requirements at watercourses</b></p> <ul style="list-style-type: none"> <li>a) This condition applies if condition 18 of this schedule consent applies.</li> <li>b) For the purposes of condition 18(d)(ii) of this schedule consent, fish passage need not be provided and maintained on temporary culverts if an Ecologist who is suitably qualified and experienced so as to provide advice for ongoing fish passage decides, after considering all relevant matters, that it is unnecessary.</li> </ul>

	<p>c) Instead the consent holder must—</p> <ul style="list-style-type: none"> <li>i. give the consent authority appropriate data and reasons (supported by relevant design drawings) for not complying with condition 18(d)(ii) of this consent; and</li> <li>ii. Provide justification as to why the proposed design of the culvert is the best practicable option; and,</li> <li>iii. if culverts that do not provide fish passage are necessary, notify the Department of Conservation and the Stakeholder Advisory Group.</li> </ul> <p>d) For the purposes of condition 18 of this consent, the consent holder must, at least 10 working days before starting permanent works within a watercourse, give to the consent authority—</p> <ul style="list-style-type: none"> <li>i. hard copies of the design drawings for permanent culverts (including fish passage), bridges, and permanent stream diversions; and</li> <li>ii. a statement of how those designs comply condition 18 of this consent.</li> <li>iii. The information required by Regulation 62 of the NES FW (2020).</li> <li>iv. For culverts, the information required by Regulation 63 of the NES FW (2020)</li> </ul> <p>e) All permanent works in the bed of a river must be carried out in accordance with the designs given to the consent authority under subcondition (d).</p> <p>f) The consent holder must ensure that any machinery or equipment used in the activities authorised by the consent is not stored in or on the bed or banks of the watercourse.</p> <p>g) The consent holder must ensure all of the following:</p> <ul style="list-style-type: none"> <li>i. no machinery leaking fuel, lubricants, hydraulic fluids, or solvents is operated within or near a watercourse in circumstances where run-off might enter water:</li> <li>ii. no vehicles, machinery, or equipment are refuelled within the bed of a watercourse or in any other location where spills might enter water:</li> <li>iii. the storage of fuel or contaminants adjacent to a watercourse does not result in any fuel or contaminants entering water:</li> <li>iv. other fuels and lubricants are not released into water:</li> </ul>
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	<ul style="list-style-type: none"> <li>v. the Ministry for Primary Industries’ requirements and clean dry protocols relating to didymo and freshwater pests are followed in relation to all equipment:</li> <li>vi. machinery is operated in a way that minimises the transfer of organisms or pest plants from one catchment to another:</li> <li>vii. the use of wet concrete is avoided in flowing water.</li> </ul> <p>h) The consent holder, on becoming aware that any contaminant has been discharged into a watercourse in a way that contravenes the conditions of the resource consent, must immediately—</p> <ul style="list-style-type: none"> <li>i. take all necessary steps to stop or contain the discharge; and</li> <li>ii. notify—             <ul style="list-style-type: none"> <li>1. the Manager Compliance; and</li> <li>2. the Department of Conservation, if there is imminent risk of the discharge adversely affecting any at-risk or threatened species; and</li> </ul> </li> <li>iii. take all practicable steps to remedy or mitigate any ongoing adverse effects of the discharge on the environment.</li> </ul> <p>i) The consent holder must take the actions set out in subcondition (j) in relation to construction material, demolition material, and any materials from repair and maintenance activities that are—</p> <ul style="list-style-type: none"> <li>i. authorised by the consent; and</li> <li>iii. no longer required as part of the construction works.</li> </ul> <p>j) The consent holder must ensure that the materials are—</p> <ul style="list-style-type: none"> <li>i. removed on completion of the construction works; and</li> <li>ii. reused, repurposed, or disposed of in an appropriate manner and in a place where they will not affect surface water levels and watercourses.</li> </ul> <p>k) The consent holder must comply with all notices and guidelines issued by Biosecurity New Zealand that relate to the ongoing prevention of the spread of freshwater pests.</p> <p><i>Advice note: Additional approvals under the Freshwater Fisheries Regulations 1983 may be required for any culverts or fords to be constructed in the stream bed if they act to restrict fish passage.</i></p>
20.	<b>20. Extraction activities and river gravel</b>

HBRC	<p>a) The consent holder must ensure that, during construction works, extraction does not take place—</p> <ul style="list-style-type: none"> <li>i. within any actively flowing channel; or</li> <li>ii. within 6 metres of any river bank.</li> </ul> <p>b) In addition, the consent holder must ensure that extraction activities are carried out in accordance with the HBRC River Control Code.</p>
<b><i>STORMWATER DISCHARGE</i></b>	
21. HBRC	<p><b>21. Stormwater discharge</b></p> <p>a) If in the event the works involve permanent stormwater treatment devices, the consent holder must, <b>not later than 3 months</b> after the completion of the construction works,—</p> <ul style="list-style-type: none"> <li>i. document the requirements for the effective operation and maintenance of all stormwater treatment devices (including sediment traps, if practicable); and</li> <li>ii. submit the documents to the consent authority.</li> </ul> <p>b) The consent holder must ensure that stormwater discharge from construction works does not cause erosion or scouring of the bed or any bank of any downstream watercourse or receiving drain.</p>
<b><i>LAND-BASED BORROW SITES</i></b>	
22.	[Omitted]
<b><i>CONSTRUCTION NOISE AND VIBRATION</i></b>	
23. HDC	<p><b>23. Control of construction noise and vibration</b></p> <p>a) The consent holder must ensure that noise from construction, maintenance, and demolition work complies, so far as practicable, with the long-term duration limits set out in Table 2 and Table 3 of NZS 6803:1999.</p> <p>b) The consent holder must take all practicable steps to reduce levels of noise and vibration from plant and equipment operating on site during construction <u>works</u>.</p> <p>c) The consent holder must submit a Construction Noise and Vibration Management Plan (CNVMP) for certification a minimum of 10 working days prior to commencement of works.</p> <p>d) The construction works must be carried out in accordance with the certified CNVMP and a copy of the CNVMP must be kept onsite during</p>

	construction hours and must be available to authorised Hastings District Council staff during monitoring inspections.
<b>LANDSCAPING</b>	
24. HDC	<p><b>24. Landscape assessment and plan</b></p> <p>a) The consent holder must prepare and implement a landscaping plan according to Figure 5 of the Whirinaki Landscape Scoping Assessment, 25 August 2025 prepared by Narrative Landscape prior to the completion of works, so that planting, upon maturity, will reduce the visibility of the stopbank and traffic on State Highway 2 from the dwelling at 1078 State Highway 2 identified in Figure 5 of the Whirinaki Landscape Scoping Assessment.</p>
<b>ECOLOGY</b>	
25. HBRC	<p><b>25. Project Ecologist</b></p> <p>a) The consent holder must appoint a suitably qualified and experienced ecologist as the Project Ecologist for the duration of the flood protection works.</p> <p>b) The role of the Project Ecologist is to inform, in accordance with the ecology principles, the design, management, and monitoring of all construction works in relation to ecological effects and measures to avoid, remedy, or mitigate those effects.</p>
26. HBRC	<p><b>26. Ecology principles</b></p> <p>a) The consent holder must apply the ecology principles set out in subcondition (b) in—</p> <ol style="list-style-type: none"> <li>i. designing all aspects of the flood protection works; and</li> <li>ii. carrying out all aspects of construction works.</li> </ol> <p>b) The ecology principles are as follows:</p> <ol style="list-style-type: none"> <li>i. to apply the effects management hierarchy to the following potential adverse effects: <ol style="list-style-type: none"> <li>1. permanent habitat loss (including in terrestrial, and freshwater habitats):</li> <li>2. loss of naturally uncommon and highly depleted ecosystem types, significant indigenous vegetation, significant habitats of indigenous fauna, and habitats for at-risk or threatened species and taonga species:</li> </ol> </li> </ol>

	<ol style="list-style-type: none"> <li>3. habitat fragmentation or habitat barriers (including in coastal, terrestrial, and freshwater habitats):</li> <li>4. impacts on habitat connectivity (including terrestrial, and freshwater habitats):</li> <li>5. impacts on at-risk or threatened species and taonga species;</li> <li>6. effects on water quality (including on kaimoana and mauri) from sediment;</li> <li>7. alteration of natural hydrology patterns, except as necessary to facilitate the flood protection works:</li> <li>8. spread or establishment, or both, of pest plants or animals:</li> <li>9. impacts on habitats that play an important role in the life cycle and ecology of native species;</li> </ol> <ol style="list-style-type: none"> <li>ii. as far as practicable, to create safe habitats, especially for at-risk or threatened species and taonga species:</li> <li>iii. to avoid, remedy, mitigate, or offset (using biodiversity offset) adverse ecological effects in order to achieve, as far as practicable, a net positive ecological outcome:</li> <li>iv. to enhance the positive ecological role of the works area in the wider ecological context, including its role as a buffer that protects or enhances other areas with ecological significance.</li> </ol>
27.	[Omitted]
28. HBRC & HDC	<p><b>28. Managing ecological loss</b></p> <ol style="list-style-type: none"> <li>a) The consent holder must ensure that the Project Ecologist and a suitably qualified and experienced person nominated by the Māori entities representatives work in partnership and take account of advice provided by cultural monitors to prepare an Ecology Management Plan which must include,—             <ol style="list-style-type: none"> <li>i. Procedures for managing bats prior to felling trees that have potential bat roosting features, that are consistent with the Bat Recovery Group Protocols.</li> <li>ii. Procedures for managing native bird species prior to vegetation removal to facilitate natural abandonment prior to felling,</li> <li>iii. Procedures (applying to areas of rank grasses and wood debris that will be affected by construction) to reduce the risk to lizards occupying the site during construction,</li> </ol> </li> </ol>

	<ul style="list-style-type: none"> <li>iv. Identification of areas of indigenous vegetation removal,</li> <li>v. A planting plan for replacement of indigenous vegetation.</li> <li>vi. applies the effects management hierarchy to the management of all direct or indirect adverse effects on those ecological values, taking the ecology principles into account.</li> </ul> <p>c) The consent holder must implement the ecology management plan prepared under subcondition (a) throughout the construction works (except in relation to the Petane Urupa) and report to the Stakeholder Advisory Group every 2 months on:</p> <ul style="list-style-type: none"> <li>i. work undertaken according to the Ecology Management Plan,</li> <li>ii. any other works deemed necessary by the Project Ecologist, working with the Māori Entities representatives.</li> </ul> <p>d) When the construction works and any ecological mitigation works carried out under subcondition (a)(i) are both completed, the consent holder must give the stakeholder advisory group—</p> <ul style="list-style-type: none"> <li>i. a report that describes the ecological mitigation works to be carried out by the consent holder.</li> </ul> <p><u>Advice note: in deciding the replacement vegetation the New Zealand Bat Recovery Group Advice Note – “Planting to provide roosts for bats” should be considered.</u></p>
<p>29. HBRC &amp; HDC</p>	<p><b>29. Archaeological discovery protocol</b></p> <p>a) The consent authority must prepare an accidental archaeological discovery protocol—</p> <ul style="list-style-type: none"> <li>i. at least <b>10 working days</b> before construction works begin; and</li> <li>ii. in collaboration with the Māori entities representatives; and</li> <li>iii. in consultation with Heritage New Zealand Pouhere Taonga.</li> </ul> <p>b) The protocol applies if—</p> <ul style="list-style-type: none"> <li>i. a worker or any other person associated with flood protection works discovers any cultural or archaeological artefacts or features on a work site; and</li> <li>ii. an authority in relation to the location is not required under the Heritage New Zealand Pouhere Taonga Act 2014</li> </ul> <p>c) The consent holder must—</p> <ul style="list-style-type: none"> <li>i. follow the protocol; and</li> </ul>

	<p>ii. ensure that workers and other persons on site are aware of the protocol.</p> <p>In subcondition (b)(ii) authority has the same meaning as in section 6 of the Heritage New Zealand Pouhere Taonga Act 2014.</p>
30. HBRC & HDC	<p>The consent holder shall provide the Hawke’s Bay Regional Council and Hastings District Council (Manager Compliance) and all network utility providers and network utility operators with network infrastructure or other facilities on the land on which the flood protection works are carried out or any adjoining land, notice in writing of intention to commence works, at least 10 working days and not more than 20 working days prior to commencing the proposed works.</p>
31. HBRC	<p>Within three months of the completion of construction works, the consent holder shall provide the Council (Manager Compliance) and all network utility providers all network utility operators with network infrastructure or other facilities on the land on which the flood protection works are carried out or any adjoining land.</p> <p>a) an ‘as built’ plan of the completed works that clearly shows their location and layout in relation to the network utility providers assets, in particular the plan shall show any distances and depths in proximity to Transpower’s WHI_FOC_TR511 and WHL_WRA_TR320 underground cables in relation to the stop bank and road raising.</p>