	RESOURCE CONSENT APPLICATION – RMA20250346 RESOURCE MANAGEMENT ACT 1991 SEVERE WEATHER EMERGENCY RECOVERY (HAWKES BAY FLOOD PROTECTION WORKS) ORDER 2024 PAKOWHAI FLOOD PROTECTION WORKS
	SECTION 42A PLANNING REPORT Clauses 8 and 14 - Severe Weather Emergency Recovery (Hawkes Bay Flood Protection Works) Order 2024 – Area <u>Inside</u> OiC Footprint Section 95A, 95B and 104 - Resource Management Act 1991 – Areas <u>Outside</u> the OiC Footprint

Summary of Application Details		
Application Received: 3 December 2025	PID: 53646 and numerous others along the alignment of the stopbank.	Schedule 1 <u>Within the OiC area</u> Construction of new stop banks and associated works and structures at Pakowhai and between Links Road and the Ngaruroro River south of Hodgson Road to give effect to a flood protection scheme authorised under the OiC. Activity within a wāhi taonga site identified in the Hastings Operative District Plan <u>Outside the OiC area</u> Undertake earthworks associated with the construction of flood protection stop banks to extend the area of protection at Pakowhai and between Links Road and the Ngaruroro River south of Hodgson Road and in association with works within the OiC area. <u>Other</u> Disturbance of Soil under the NESCS
Applicant:	Hawkes Bay Regional Council Private Bag 6006 Hawkes Bay Mail Centre Napier 4142	
Address of Sites:	Various Sites in the Pakowhai- Chesterhope area between Links Road and the Ngaruroro River south of Hodgson Road.	

<p>Legal Description:</p>	<table border="1"> <thead> <tr> <th>Legal Description</th> </tr> </thead> <tbody> <tr><td>Pt Pakowhai Maori Reserve 1 Blk Maori Land Plan 864 and Section 1-3 SO Plan</td></tr> <tr><td>Lot 14-15 Deeds Plan</td></tr> <tr><td>Lot 2-3 Deposited Plan</td></tr> <tr><td>Part Lot 2 Deeds Plan 376</td></tr> <tr><td>Lot 35 and Lot 40 Deeds Plan 493</td></tr> <tr><td>Lot 3 Deposited Plan 10514</td></tr> <tr><td>Lot 2 Deposited Plan 10514</td></tr> <tr><td>Lot 1 Deposited Plan 10514</td></tr> <tr><td>Lot 2-3 Deposited Plan 6071</td></tr> <tr><td>Lot 2 Deposited Plan 389718</td></tr> <tr><td>Lot 1 Deposited Plan 374026</td></tr> <tr><td>Lot 2 Deposited Plan 374026</td></tr> <tr><td>Lot 39-40 Deeds Plan 80</td></tr> <tr><td>Lot 1-2 Deeds Plan 437</td></tr> <tr><td>Lot 3 Deed Plan 437</td></tr> <tr><td>Section 43 Block XII Heretaunga Survey District</td></tr> <tr><td>Lot 1 Deposited Plan 12698</td></tr> <tr><td>Lot 2 Deposited Plan 512396 and Lot 2 Deposited Plan 20869</td></tr> <tr><td>Lot 6 Deeds Plan 437</td></tr> <tr><td>Lot 2 Deposited Plan 460806</td></tr> <tr><td>Section 15 Block XI Heretaunga Survey District and Lot 2 Deposited Plan 309041</td></tr> <tr><td>Lot 1 Deposited Plan 12546</td></tr> <tr><td>Lot 2 Deposited Plan 12012 and Section 1 Survey Office Plan 9891</td></tr> <tr><td>Lot 1 DP 22965, Lot 2 DP 2721 and Section 2 Survey Office Plan 9891</td></tr> <tr><td>Lot 2 Deposited Plan 16843</td></tr> <tr><td>Lot 1 Deposited Plan 20523</td></tr> <tr><td>Lot 1 Deposited Plan 16843</td></tr> <tr><td>Paper Road Road Reserve</td></tr> <tr><td>State Highway 2 Road Reserve</td></tr> </tbody> </table>	Legal Description	Pt Pakowhai Maori Reserve 1 Blk Maori Land Plan 864 and Section 1-3 SO Plan	Lot 14-15 Deeds Plan	Lot 2-3 Deposited Plan	Part Lot 2 Deeds Plan 376	Lot 35 and Lot 40 Deeds Plan 493	Lot 3 Deposited Plan 10514	Lot 2 Deposited Plan 10514	Lot 1 Deposited Plan 10514	Lot 2-3 Deposited Plan 6071	Lot 2 Deposited Plan 389718	Lot 1 Deposited Plan 374026	Lot 2 Deposited Plan 374026	Lot 39-40 Deeds Plan 80	Lot 1-2 Deeds Plan 437	Lot 3 Deed Plan 437	Section 43 Block XII Heretaunga Survey District	Lot 1 Deposited Plan 12698	Lot 2 Deposited Plan 512396 and Lot 2 Deposited Plan 20869	Lot 6 Deeds Plan 437	Lot 2 Deposited Plan 460806	Section 15 Block XI Heretaunga Survey District and Lot 2 Deposited Plan 309041	Lot 1 Deposited Plan 12546	Lot 2 Deposited Plan 12012 and Section 1 Survey Office Plan 9891	Lot 1 DP 22965, Lot 2 DP 2721 and Section 2 Survey Office Plan 9891	Lot 2 Deposited Plan 16843	Lot 1 Deposited Plan 20523	Lot 1 Deposited Plan 16843	Paper Road Road Reserve	State Highway 2 Road Reserve
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<p>Zoning:</p>	<p>Plains Production Zone – Operative Hastings District Plan (July 2024)</p>																														
<p>District Plan Overlays:</p>	<p>List 2 Riparian Areas River Hazard Overlay National Grid High Power Transmission Lines Archaeological Site V21/549 Wahi taonga W13 State Highway 2 Land Use Capability Class 1 and 2 soils</p>																														

<p>Reasons for Application (note the Order in Council replaces the District Plan rules for works within OiC area):</p> <p>District Plan Provisions:</p> <p>RMA Requirements:</p> <p>Severe Weather Emergency Recovery Legislation (Hawkes Bay Flood Protection Works) Order 2024 Provisions:</p>	<p>Operative Hastings District Plan (July 2024) Areas <u>outside</u> the OIC - Rules EM6 and EM10</p> <p>National Policy Statement for Highly Productive Land – LUC Class 1 and 2 Soils</p> <p>Resource Management (National Environmental Standards for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011 – Regulation 10</p> <p>Clause 8 (2) - Controlled Activity</p>
<p>Assessment of Status:</p>	<p>Controlled Activity – Area <u>inside</u> OiC footprint</p> <p>Discretionary Activity – Operative Hastings District Plan (July 2024) area <u>outside</u> OiC (bundled)</p> <p>Restricted Discretionary Activity - Resource Management (National Environmental Standards for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011</p>
<p>Report Prepared By:</p>	<p>Michelle Hart, Senior Environmental Planner (Consents)</p>

Acronyms used in this report

OiC	Severe Weather Emergency Recovery (Hawkes Bay Flood Protection Works) Order 2024
RMA	Resource Management Act 1991
NESCS	National Environmental Standards for Assessing and Managing Contaminants in Soil
NPS-HPL	National Policy Statement for Highly Productive Land
HDC	Hastings District Council
HBRC	Hawkes Bay Regional Council
RPS	Regional Policy Statement
RRMP	Regional Resource Management Plan
CEMP	Construction Environment Management Plan
CSMP	Contamination Site Management Plan
CTMP	Construction Traffic Management Plan
STAG	Stake Holder Advisory Group
T + T	Tonkin and Taylor Ltd

Appendix 1 – Comments Received

Appendix 2 – Conditions of Consent

1.0 The Proposal

- 1.1 The Pakowhai flood protection works is an initiative by Hawke's Bay Regional Council (the Applicant), to construct a new stopbank, spillway and undertake associated works that will provide enhanced flood resilience to the Pakowhai/Chesterhope community. Regulatory approval for the project is being sought under Severe Weather Emergency Recovery Legislation (Hawkes Bay Flood Protection Works) Order 2024 (“OiC”) and the Hastings District Plan (for earthworks in the areas outside the OiC area).
- 1.2 A description of the Pakowhai location and map of the OiC footprint is included in Schedule 1 of the OiC. The map showing the OiC footprint is below in **Figure 1**.

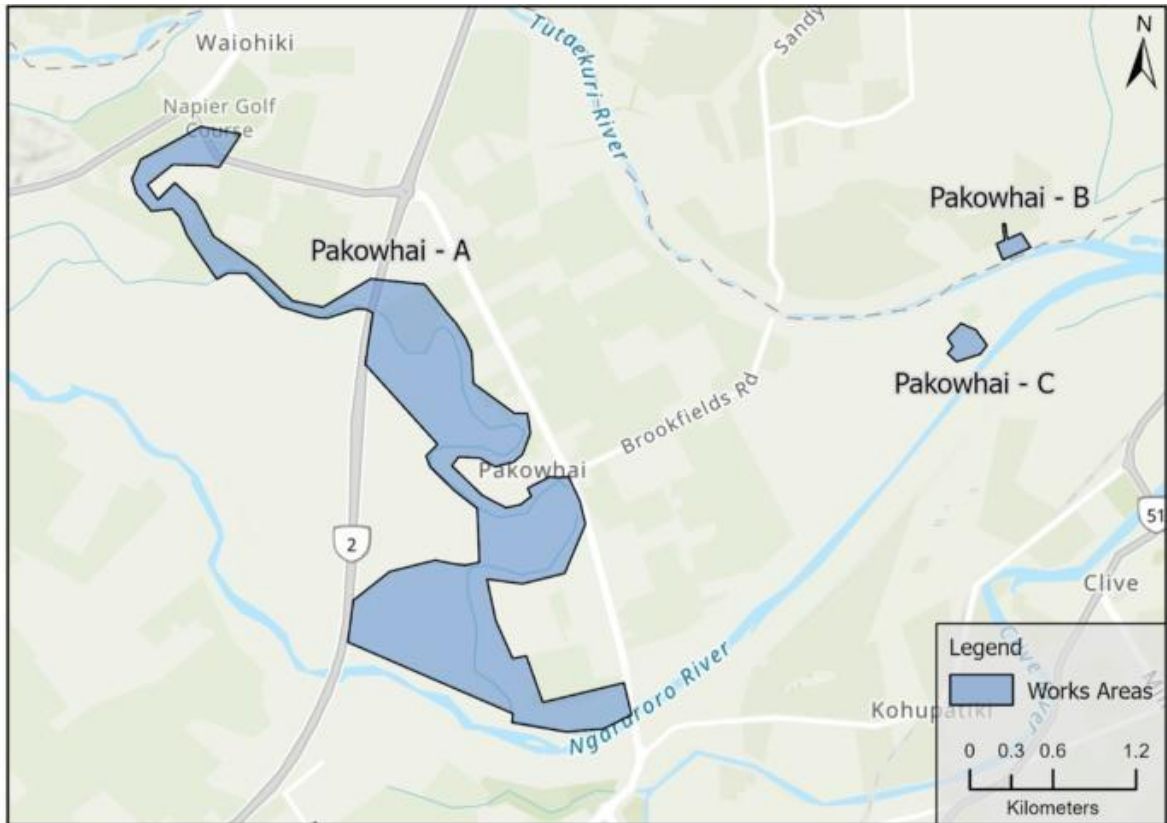


Figure 1: Oic Footprint at Whirinaki

1.3 The preliminary design report provided by Tonkin + Taylor provides a map of the alignment overlain on top of an aerial of the area. This map below shows the extent of the Oic area.

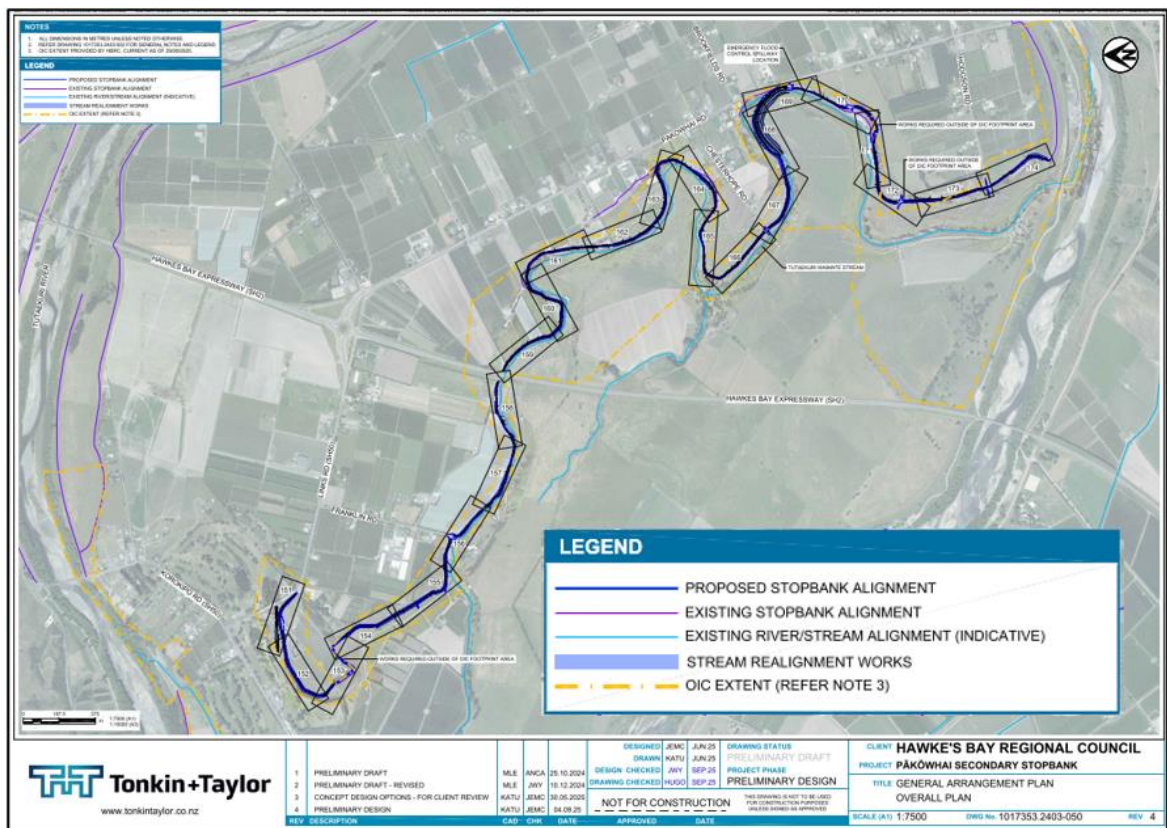


Figure 2: (dashed yellow line shows extent of the Oic footprint)

- 1.4 The proposed stopbank corridor passes through various land parcels which are generally flat and used largely for horticultural purposes and activities supporting land based primary production.
- 1.5 The application¹ provides a full description of the proposal in section 6 of the application report which I adopt for this report. The following is a brief outline.
- 1.6 Pakowhai Flood Protection Works Project involves construction of a new stop bank west and east of the Expressway (SH2) and associated works to provide protection to Category 2C land affected by Cyclone Gabrielle in the Pakowhai area. The new stop bank will be approximately 8,930m long located between Links Road and the Ngaruroro River south of Hodgson Road as shown below in **Figure 4**.
- 1.7 Features such as flood walls, retaining walls, flood control spillway, road crossings, access ramps and stormwater drainage culverts and swales will be included in the construction. A minor diversion of the Tutaekuri-Waimate Stream near the Pakowhai Hall is proposed (blue section below) along with a flood control spillway (yellow section below) which are shown below in **Figure 3**.

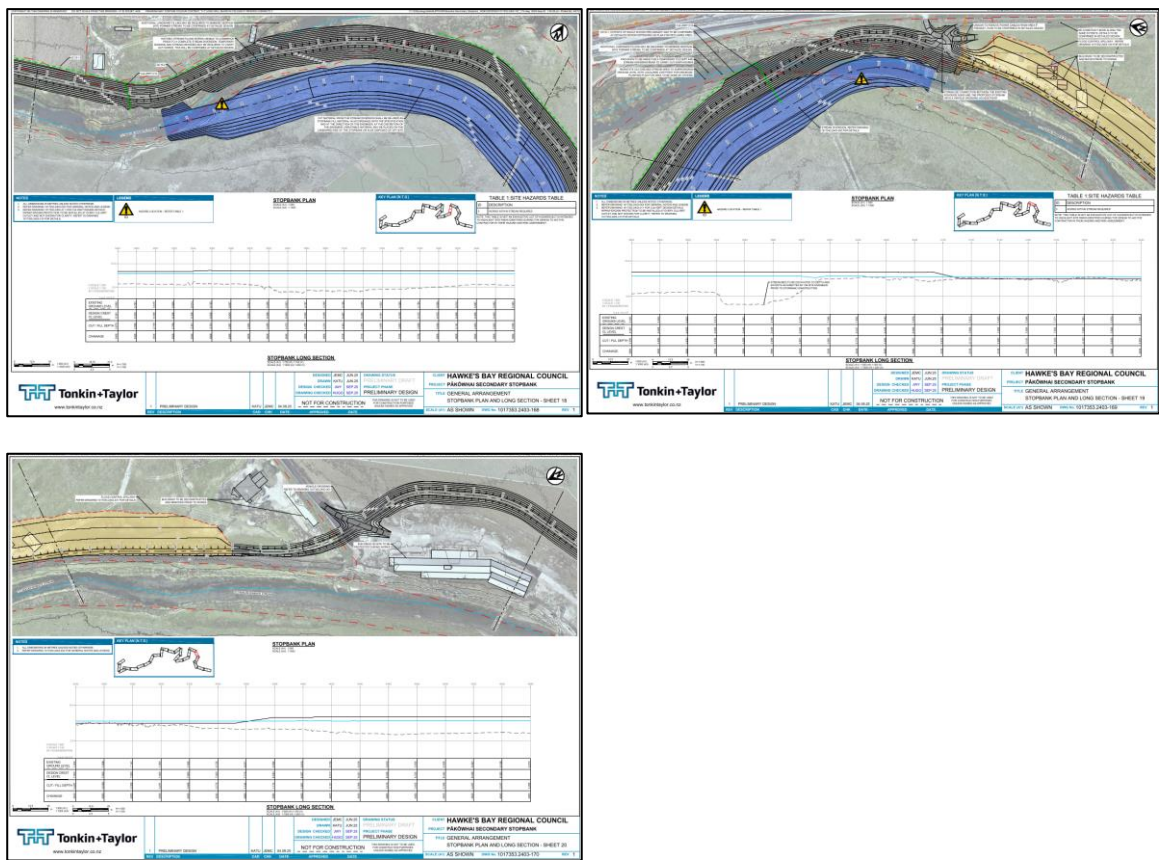


Figure 3: Tutaekuri-Waimate Stream Realignment and Flood Control Spillway

The T+T Preliminary Design Report² states that the purpose of the spillway and the raising of the downstream end of the stopbank is to promote flows in an overdesign event to discharge into the Category 3 land, east of Pakowhai, rather than overtopping into Category 2 homes within the Hodgson Road area of Pakowhai.

The report also refers that the project will be staged with the project being split into two sections; northern stopbank (west of SH2) and the southern stopbank (east of SH2).

¹ Application prepared by Strategy Planning Limited (HDC Ref: RMA20250446#0004)

² Preliminary Design Report T+T Job Number 1017353.2403v1 Dated November 2025 – Appendix 9 of Application (HDC Ref: RMA20250446#0012)

1.8 The majority of the stopbank works are located within OiC footprint area. Four areas of works are located outside OiC footprint, and these are identified in the map below (HDC Ref: RMA20250446#0013).

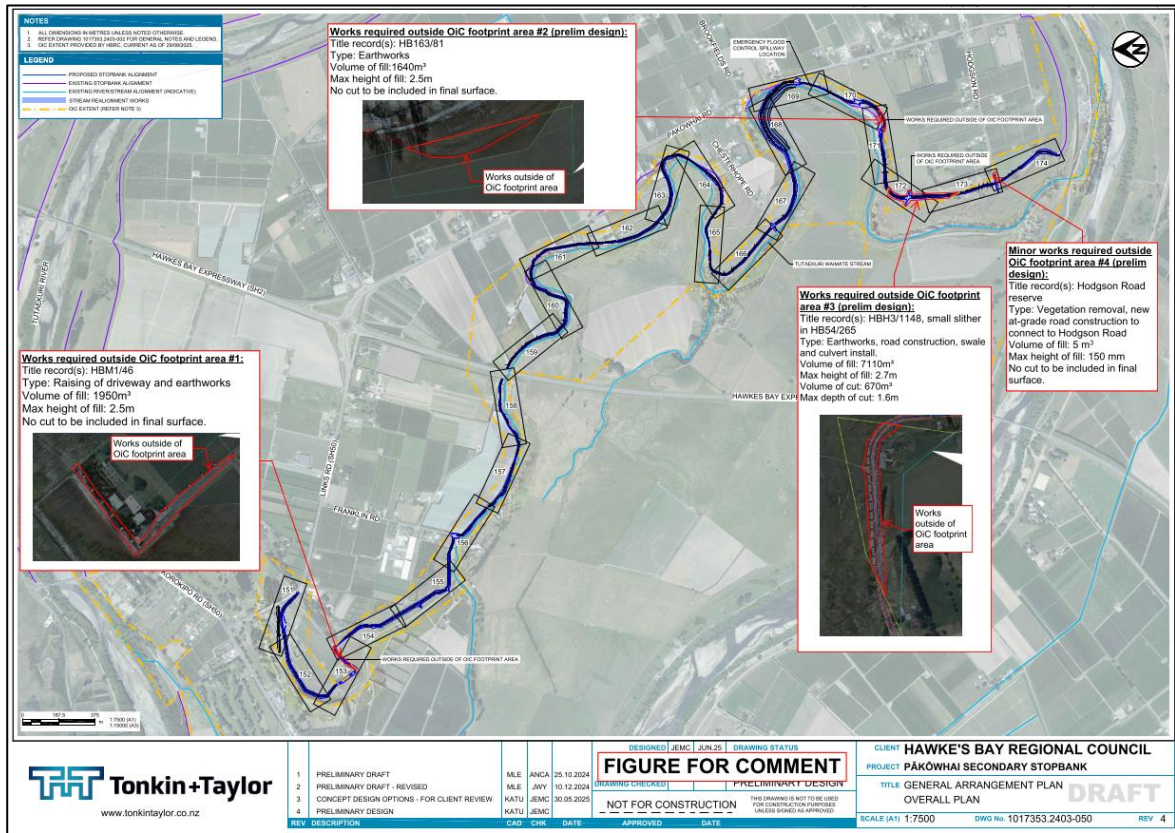


Figure 4: Extent of work inside and outside of the OiC area – Sourced as noted

1.9 The application describes the works required in the areas that sit outside the OiC footprint as being earthworks activities to form stopbanks and stockpile materials some of which are also located within the OiC footprint. Maps³ of these areas can be viewed at HDC Ref: RMA20250446#0013.

1.10 The consenting requirements associated with the works/features outside the OiC footprint will be considered under the standard RMA process and are considered further in this report. The majority of works will be located within the OiC footprint and are subject to the OiC process.

1.11 Supporting Documents

The following reports are provided with the Application in the following Appendices to the Application⁴.

Appendix	Document	Author	HDC File Reference
1	Cultural Impact Assessment	Ngāti Pārau Trust	Confidential
2	Cultural Aspirations and Assessment Report	Ngāti Hinemoa, Ngāti Hawea, Ngāti Hori	Confidential
3	Archaeology Screening Assessment	Archaeology Hawke's Bay	RMA20250446#0006
4	Ecological Scoping Study	Tonkin + Taylor	RMA20250446#0007
5	Landscaping Scoping Assessment	Narrative Landscape	RMA20250446#0008
6	Preliminary Site Investigation	Tonkin + Taylor	RMA20250446#0009
7	Detailed Site Investigation	Tonkin + Taylor	RMA20250446#0010
8	Further Detailed Site Investigation	Tonkin + Taylor	RMA20250446#0011
9	Preliminary Design Report and Plans	Tonkin + Taylor	RMA20250114#0012
10	Works outside OiC - Plans	Tonkin + Taylor	RMA20250446#0013
11	Proposed Conditions	Strategy Planning Limited	RMA20250446#0014

³ T+T Plans of works outside OiC footprint – Appendix 10 of the Application

⁴ HDC File Reference - RMA20250446#0004

12	Section 15(2)(a) Parties	Strategy Planning Limited	Confidential
13	Consequential Flood Assessment	Tonkin + Taylor	RMA20250446#0016
14	Consequential Flood Assessment	BECA	RMA20250446#0017
15	Geotechnical Assessment Report	Tonkin + Taylor	RMA20250446#0018
16	Traffic Impact Assessment	East Cape Consulting Limited	RMA20250446#0005

2.0 The Site and Surrounding Environment

2.1 The application describes the site and neighbouring areas as follows and specifically refers to the key features near the proposed stopbank as follows:

- *Pakowhai Road is defined as an Arterial Road in the Hastings District Council Road Hierarchy, and Links Road as a National Road - being part of the State Highway 50 network. The Hawkes Bay Expressway, also part of the State Highway 2 network runs north-south, west of Pakowhai Road,*
- *The Napier Golf Club adjoins the northern extent,*
- *Pakowhai School is located on Chesterhope Road,*
- *The Pakowhai Memorial Hall is located between the Tutaekuri-Waimate Stream and Pakowhai Road, in close proximity to the stream bank,*
- *Land on the west of the Tutaekuri-Waimate Stream is essentially managed as a single farming unit, while land on the east is comprised of many properties, generally used for horticultural/primary production purposes.*

Figure 5 below, sourced from the application, shows where the main features are located in relation to the proposed alignment (identified as a yellow cross).

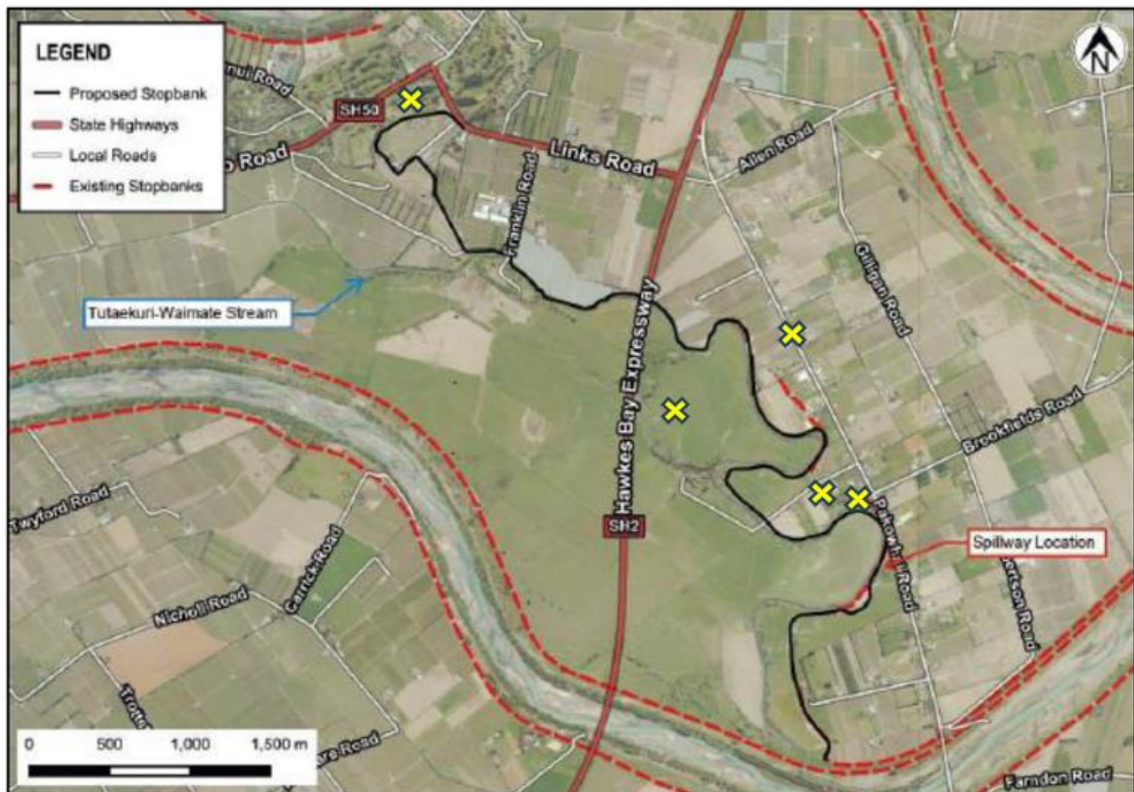


Figure 5:

The application also includes a map showing the relevant parcels where works will be undertaken and the corresponding legal descriptions. I have included these below as **Figure 6** and **Table 1**.

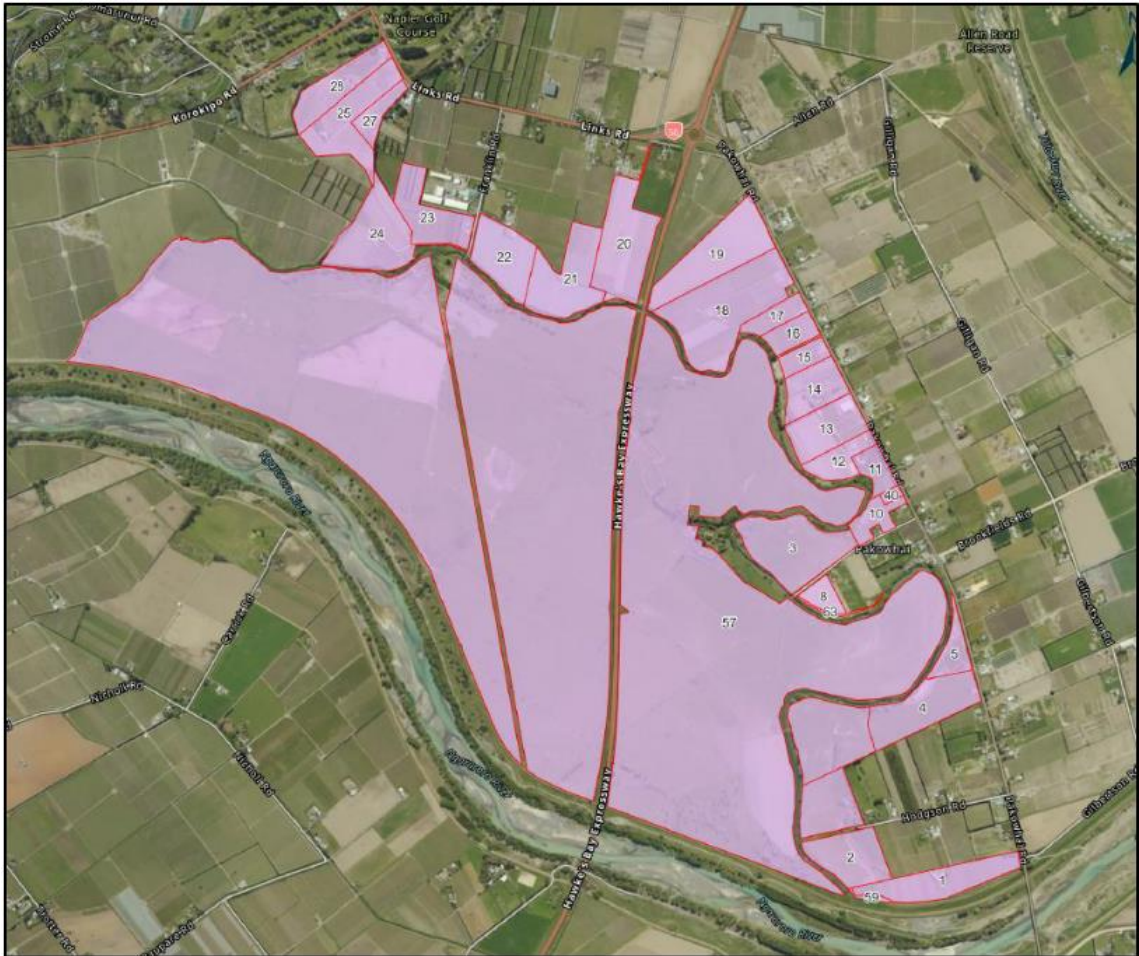


Figure 6: Properties subject of the proposed work (within and outside the OIC)

Map Ref	LINZ Property ID	Legal Description
1	1926287	Pt Pakowhai Maori Reserve 1 Blk Maori Land Plan 864 and Section 1-3 SO Plan
2	2046370	Lot 14-15 Deeds Plan
3	1809407	Lot 2-3 Deposited Plan
4	1848561	Part Lot 2 Deeds Plan 376
5	1982821	Lot 35 and Lot 40 Deeds Plan 493
6	1878419	Lot 3 Deposited Plan 10514
7	1878531	Lot 2 Deposited Plan 10514
8	1878427	Lot 1 Deposited Plan 10514
9	1809407	Lot 2-3 Deposited Plan 6071
10	4439914	Lot 2 Deposited Plan 389718
11	4379112	Lot 1 Deposited Plan 374026
12	4379113	Lot 2 Deposited Plan 374026
13	1806357	Lot 39-40 Deeds Plan 80
14	1976981	Lot 1-2 Deeds Plan 437
15	1926109	Lot 3 Deed Plan 437
16	1881117	Section 43 Block XII Heretaunga Survey District
17	1813203	Lot 1 Deposited Plan 12698

18	4853870	Lot 2 Deposited Plan 512396 and Lot 2 Deposited Plan 20869
19	1814833	Lot 6 Deeds Plan 437
20	4675266	Lot 2 Deposited Plan 460806
21	3401528	Section 15 Block XI Heretaunga Survey District and Lot 2 Deposited Plan 309041
22	1833070	Lot 1 Deposited Plan 12546
23	1778725	Lot 2 Deposited Plan 12012 and Section 1 Survey Office Plan 9891
24	1995515	Lot 1 DP 22965, Lot 2 DP 2721 and Section 2 Survey Office Plan 9891
25	2039276	Lot 2 Deposited Plan 16843
27	1963559	Lot 1 Deposited Plan 20523
28	1941016	Lot 1 Deposited Plan 16843
		Paper Road Road Reserve
		State Highway 2 Road Reserve

Table 1:

2.2 Site photos were taken at the site visit, and these can be viewed at HDC Ref: RMA20250446#0037. Some of these photos may be used throughout this report. The site visit was undertaken on Thursday 27 November 2025. Those present were me and the Environmental Consents Manager on behalf of HDC, relevant HBRC officers and Independent Commissioner, Philip McKay.

3.0 Reason and Background to the Application – Activity Status

The Applicant seeks consent via two consent ‘pathways’. The first being for the majority of the work pursuant to the OiC. Under this legislation the consenting pathway for major flood protection works falls to be a controlled activity provided the works are situated within a delineated footprint prescribed in Schedule 1 of the OiC. The footprint is shown in **Figure 1** in section 1.0 of this report.

The works that fall outside of the OIC footprint are still subject to the relevant provisions and process of the RMA and Operative Hastings District Plan are shown below in **Figure 4** in section 1.8 of this report.

3.1 Severe Weather Emergency Recovery Legislation (Hawkes Bay Flood Protection Works) Order 2024 – Order in Council (OiC)

3.1.1 Statutory Context:

The OiC came into force on the 27 May 2024 and provides for flood protection works and the carrying out of those flood protection works as **controlled activities** under **Clause 8 (2)** of the OiC. A controlled activity must be granted. The relevant clauses are noted below:

Clause 8 provides that flood protection works are **controlled activities** for the purposes of the RMA.

Clause 9 states who may apply for a resource consent for flood protection works. **Clause 9(2)** only applies to a Hawkes Bay local authority. **Clause 9(3)** states that a Hawkes Bay local authority may apply for a resource consent for flood protection works only if it is proposed that flood protection works will be carried out by that authority or on its behalf. Application is being made by Hawkes Bay Regional Council with works to be carried out on its behalf.

Clause 10 relates to functions etc, delegated to hearings commissioner.

Clause 11 requires the applicant to apply to every relevant consent authority at the same time and for those consent authorities to act jointly in performing all their functions, duties and powers in relation to the application.

Clause 12 sets out the procedure and information requirements for an application. Once an application is accepted as meeting all the information requirements in **Clause 12(2)** and all necessary resource consents have been lodged (activities included), **Clause 18** requires the consent authority to give notice of its decision on the application within 30 working days.

Clause 13 relates to incomplete applications – does not apply to this application which has been deemed to be complete.

Clause 14 states that applications are to be assessed on a non-notified basis.

Clause 15 relates to consultation.

Clause 16 refers back to Clause 12 and overrides section 104(5) of the RMA.

Clause 17 states that the consent authority may impose any 1 or more of the conditions set out in Schedule 2 and may impose any 1 or more additional conditions it considers necessary.

Clause 18 relates to giving notice of decision and overrides section 115 of the RMA in favour of section 114 of the RMA.

Schedule 1 provides the location and description for the Whirinaki area as shown in Figure 1 above (map is indicative only – full description provided in the schedule).

Schedule 2 provides the pathway to impose conditions of resource consents.

Schedule 3 lists the matters of control.

In accordance with **Schedule 3**, the application to Hawkes Bay Regional Council and Hastings District Council considers the following matters (described fully in section 10 of the Application⁵ – corresponding sections shown);

- Permitted Baseline – 10.1
- General matters – 10.2
 - Consequential Flooding – 10.2.1
- Cultural values – 10.3
- Freshwater – 10.4
- The coastal environment – 10.5
- Stormwater management – 10.6
- Soil, Land and Ecology – 10.7
- Visual effects, Landscape and amenity – 10.8
- Adjoining land uses – 10.9
 - Effects on the Subject Land and Adjoining Land -10.9.1
 - Effects on Infrastructure Assets - 10.9.2
- Heritage and Archaeology-10.10
- Access and Transport – 10.11
- Contaminated Land (human health) – 10.12
- Construction – 10.13

3.1.2 The application meets the requirements of **Clause 12** of the OiC which sets out the procedure and the information requirements for an application.

A summary of the information provided is shown below.

In addressing the matters for consideration, the table below lists the relevant specialist reports that support the application.

⁵ Strategy Planning Limited (HDC Ref: RMA20250446#0004).

Information Requirements Clause 12 (2)

<p>(a) Detailed description of flood protection works</p>	<p>Information provided and contained in:</p> <p>Appendix 9 – T + T Preliminary Design Report and Plans <i>HDC Ref: RMA20250446# 0012</i></p> <p>Appendix 10 – T + T Works outside OiC <i>HDC Ref: RMA20250446# 0013</i></p> <p>Appendix 13 – T + T Consequential Flooding Assessment <i>HDC Ref: RMA20250446# 0016</i></p> <p>Appendix 14 – BECA Consequential Flooding Assessment - Review <i>HDC Ref: RMA20250446#0017</i></p>
<p>(b) Maps</p>	<p>Information provided in contained in:</p> <p>Appendix 9 – T + T Preliminary Design Report <i>HDC Ref: RMA20250446#0012</i></p> <p>Appendix 10 – T + T General Arrangement Plans <i>HDC Ref: RMA20250446#0013</i></p> <p>Appendix 13 – T+T Consequential Flooding Assessment <i>HDC Ref: RMA20250446# 0016</i></p> <p>Appendix 14 – BECA Consequential Flooding Assessment <i>HDC Ref: RMA20250446# 0017</i></p>
<p>(c) General description of the area</p>	<p>Information provided in Application prepared by Stradegy Planning Limited <i>HDC Ref: RMA20250446#0004</i></p>
<p>(d) (i) Description of identified natural and physical resources that have cultural values identified by relevant iwi</p> <p>(ii) Any cultural significant land in the area</p>	<p>Information provided and contained in: Application prepared by Stradegy Planning Limited <i>HDC Ref: RMA20250446#0004</i></p> <p>Appendix 1(Confidential) <i>HDC Ref: RMA20250336#0002</i></p>
<p>(e) An assessment of all potential effects of the works with input from appropriate experts, including consideration of—</p> <ul style="list-style-type: none"> (i) all information reasonably available to the applicant; and (ii) the potential effects on any cultural values identified by a relevant iwi authority or hapū; and (iii) the potential effects on any culturally significant land within or adjoining the area where the works are to be carried out: 	<p>Information provided in Application prepared by Stradegy Planning Limited <i>HDC Ref: RMA20250446#0004</i></p>
<p>(f) Proposals to avoid, remedy, or mitigate potential adverse effects identified by the assessment described in paragraph (e):</p>	<p>Information provided in Application prepared by Stradegy Planning Limited <i>HDC Ref: RMA20250446#0004</i></p>
<p>(g) Any conditions that the applicant proposes for the resource consent that are a variation of, or additional to, a condition set out in Schedule 2:</p>	<p>Information provided and contained in: Appendix 11 <i>HDC Ref: RMA20250446#0014</i></p>

(h) A description of any consultation undertaken in relation to the works (including with relevant Māori entities) and the names and contact details of all persons consulted:	Summary of consultation provided in the application prepared by Strategy Planning Limited – Section 9 of Application HDC Ref: RMA20250446#0004
(i) A list of all relevant Māori entities:	Information provided and contained in: Appendix 12 HDC Ref: RMA20250446#0021
(j) A list of the names and contact details of all persons the consent authority is required to notify under clause 15(2)(a).	Information provided with the Application prepared by Strategy Planning Limited HDC Ref: RMA20250446#0004 HDC Ref: RMA20250446#0031

Matters of Control

General	Information provided in Application prepared by Strategy Planning Limited HDC Ref: RMA20250446#0004
Cultural Values	Cultural Impact Assessment provided with Application prepared by Strategy Planning Limited HDC Ref: RMA20250446#0004 Appendix 2 (Confidential)
Freshwater	Information provided in Application prepared by Strategy Planning Limited – Section 10.4 HDC Ref: RMA20250446#0004 Appendix 4 – T +T Ecological Scoping Study HDC Ref: RMA20250446#0007
Coastal Environment	Information provided in Application prepared by Strategy Planning Limited – Section 10.5 HDC Ref: RMA20250446#0004
Stormwater	Information provided in Application prepared by Strategy Planning Limited – Section 10.6 HDC Ref: RMA20250446#0004
Soil, land and ecology	Information provided in Application prepared by Strategy Planning Limited – Section 10.7 HDC Ref: RMA20250446#0004 Appendix 4 – T +T Ecological Scoping Study HDC Ref: RMA20250446#0007
Visual effects and amenity	Information provided in Application prepared by Strategy Planning Limited – Section 10.8 HDC Ref: RMA20250446#0004 Appendix 5 – Narrative Landscape Landscape Scoping Assessment HDC Ref: RMA20250446#0008
Adjoining land uses	Information provided in Application prepared by Strategy Planning Limited – Section 10.9, 10.9.1 HDC Ref: RMA20250446#0004
Heritage and Archaeology	Information provided in Application prepared by Strategy Planning Limited – Section 10.10 HDC Ref: RMA20250446#0004

	<p>Appendix 3 -Archaeology HB HDC Ref: RMA20250446#0006</p>
Access and transport	<p>Information provided in Application prepared by Stradegy Planning Limited – Section 10.11 HDC Ref: RMA20250446#0004</p> <p>Appendix 16 – East Cape Consulting Ltd Traffic Impact Assessment HDC Ref: RMA20250446#0005</p>
Contaminated land (human health)	<p>Information provided in Application prepared by Stradegy Planning Limited – Section 10.12 HDC Ref: RMA20250446#0004</p> <p>Appendix 7 - DSI prepared by T + T HDC Ref: RMA20250446#0010</p>
Construction – Additional to Matters under Schedule 3	<p>Information provided in Application prepared by Stradegy Planning Limited – Section 10.13</p> <p>Addresses the following matters in tandem with those listed within Schedule 3</p> <ul style="list-style-type: none"> • Stormwater management and erosion and sediment control • Nuisance effects i.e. noise, vibration and dust • Hours of operation • Public health and safety • Construction traffic <p>Matters covered in conditions such as requirement for CEMP and ESCP. HDC Ref: RMA20250446#0004</p>

3.2 National Environmental Standards

3.2.1 National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health 2011 (NESCS)

The OiC reduces the regulatory pathways for flood mitigation works and for the area inside the OiC replaces the consenting pathway under District Plans. Clause 17 of OiC (Schedule 2 Conditions) is the relevant condition for contaminated land within the OiC area.

17 Works on contaminated land

- (1) *This clause applies if the consent holder undertakes earthworks or any other soil disturbance on contaminated land.*
- (2) *The consent holder must ensure that any soil and other materials that are removed from the site and identified as being contaminated are taken to a facility legally authorised to receive soil and materials of that kind.*
- (3) *The consent holder must take all practicable measures to—*
 - (a) *prevent the discharge of soil and stormwater from contaminated land to watercourses; and*
 - (b) *maintain the integrity of any structure designed to contain contaminated soil or other contaminated materials; and*
 - (c) *replace the soil to an erosion-resistant state at the completion of the relevant works.*

This condition is proposed by the applicant to be amended to specifically provide for sites that have been identified as a piece of land (1023 Links Road and 2008 Pakowhai Road) if the consent holder undertakes earthworks or any other soil disturbance on the identified fill sites (contaminated land). A

new condition (10 c) viii) is proposed that will require the consent holder to prepare and submit a Contaminated Site Management Plan to respond to the matters identified in the DSI.

The areas outside the OiC fall to be assessed in accordance with the Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health 2011) Regulations. In respect of this application this includes;

1. Disturbance of contaminated soil (under the NESCS).

The proposal outside the OiC meets Regulations 8 -10 in that a PSI and DSI has been undertaken over areas and properties within the proposed alignment. The application therefore falls to be assessed as a Restricted Discretionary Activity under **Regulation 10**.

The matters of discretion set out in Regulation 10 can be of assistance to assess the effects of the proposed soil disturbance and these are as follows;

- a) *the adequacy of the detailed site investigation, including-*
 - i. *site sampling:*
 - ii. *laboratory analysis:*
 - iii. *risk assessment:*
- b) *the suitability of the piece of land for the proposed activity, given the amount and kind of soil contamination:*
- c) *the approach to the remediation or ongoing management of the piece of land, including-*
 - i. *the remediation or management methods to address the risk posed by the contaminants to human health:*
 - ii. *the timing of the remediation:*
 - iii. *the standard of the remediation on completion:*
 - iv. *the mitigation methods to address the risk posed by the contaminants to human health:*
 - v. *the mitigation measures for the piece of land, including the frequency and location of monitoring of specified contaminants:*
- d) *the adequacy of the site management plan or the site validation report or both, as applicable:*
- e) *the transport, disposal, and tracking of soil and other materials taken away in the course of the activity:*
- f) *the requirement for and conditions of a financial bond:*
- g) *the timing and nature of the review of the conditions in the resource consent:*
- h) *the duration of the resource consent.*

The application states that the above matters will be addressed in the Contaminated Site Management Plan (CSMP) which is a requirement of proposed Condition 10 c) viii) of the OiC. Rather than duplicate the process for the area outside OiC footprint, HDC can rely on the imposition and implementation of the CSMP as part of the CEMP to address and mitigate any potential effects of contaminated soil on any person(s).

The plan below, taken from the T+T PSI depicts the areas within and outside the OiC footprint where HAIL activities have been identified.

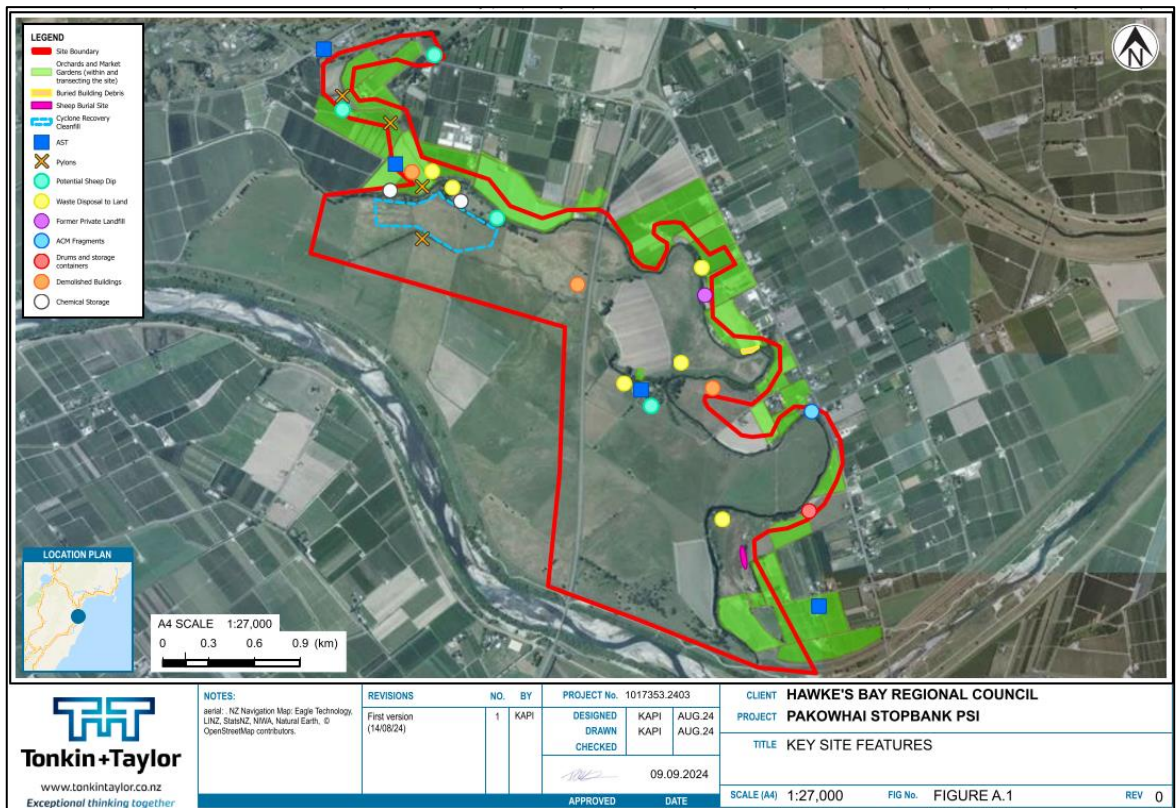


Figure 7: Plan by T+T showing location of HAIL activities

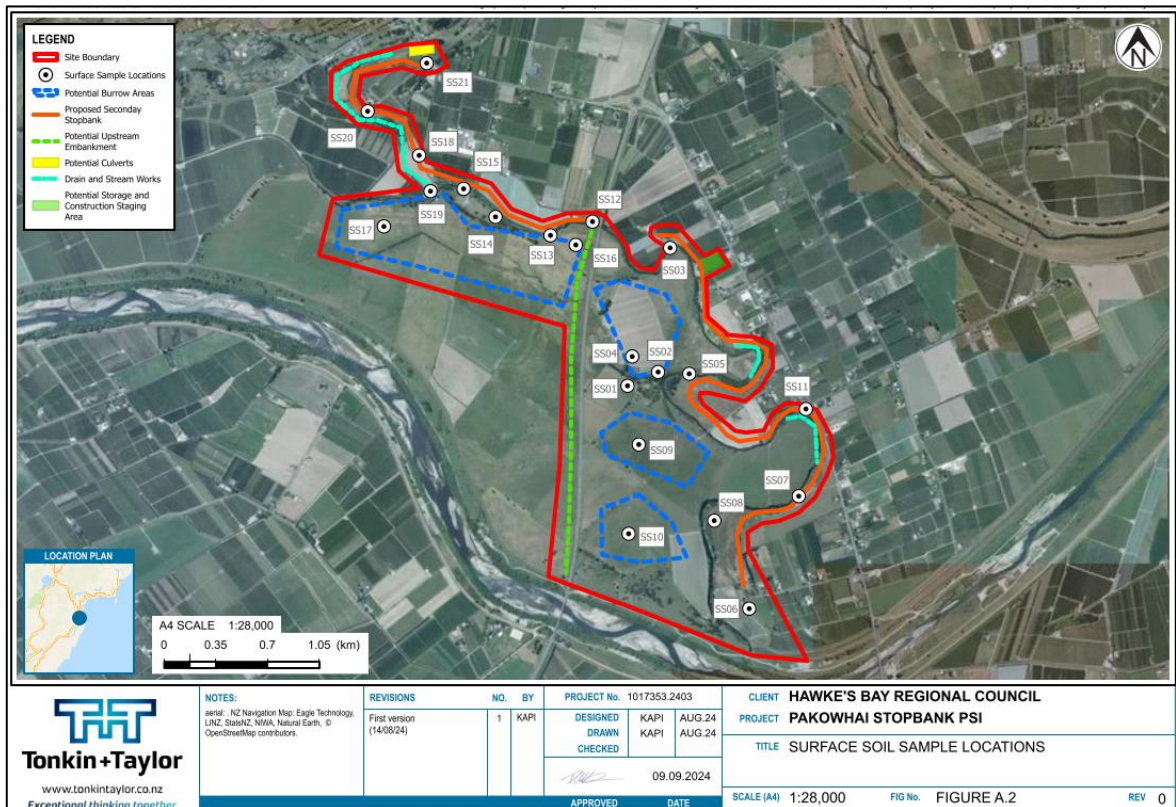


Figure 8: Surface Soil Sample Locations

Given the above, and to avoid duplication between the OiC and RMA processes, the Applicant has recommended that Condition 10 be amended to include the requirement of a CSMP and accordingly delete Condition 17 of the OIC (Works on contaminated land) as this will be covered under the amended

Condition 10. (see Appendix 11 of the Application - HDC Ref: RMA20250446#0014). I concur with this approach.

3.2.2 National Environmental Standard for Sources of Human Drinking Water (2007)

Given the works are not located near a HDC public water supply and is not within a HDC Source Protection Zone, the NES: Sources of Human Drinking Water is not considered relevant.

3.2.3 National Environmental Standard for Freshwater (2020)

Not applicable.

3.3 Operative Hastings District Plan (July 2024) – Consents Required

As shown below, the site is zoned Plains Production. While the OiC overrides the District Plan [Clause17(5)] I consider it appropriate to include the relevant District Plan zone map as a background and overview of the Application site. Ultimately the OiC sets the direction for the proposed flood protection works.

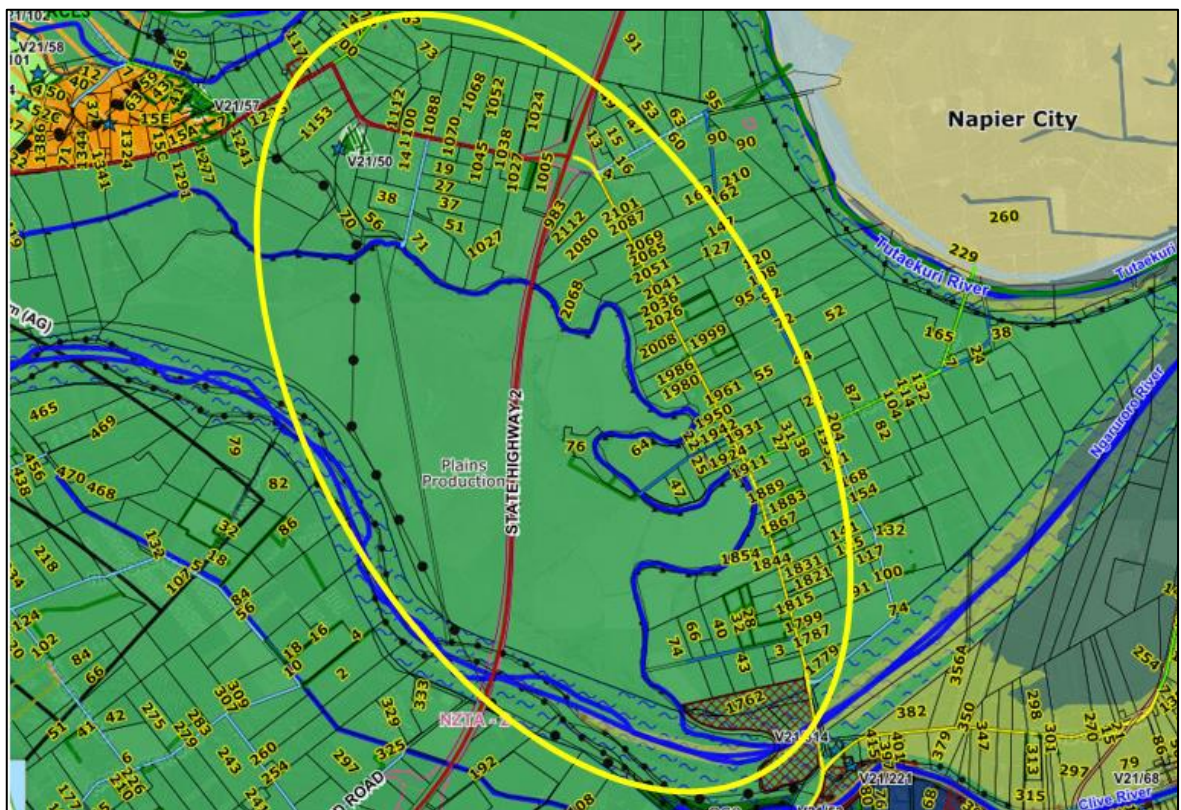


Figure 9: Operative District Plan Zone Map and Overlays – General Area Circled Yellow

The Application site is also subject to the following:

- River Hazard Overlay on parts of the site – see image below

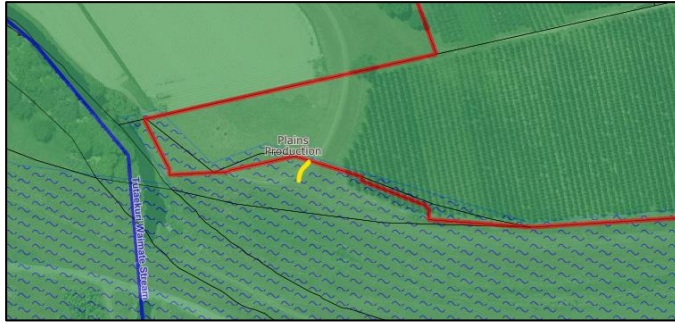


Figure 9a:

- Riparian Management overlay (List 1)
- National Grid – High Transmission Lines
- Is within W13 identified wāhi taonga site

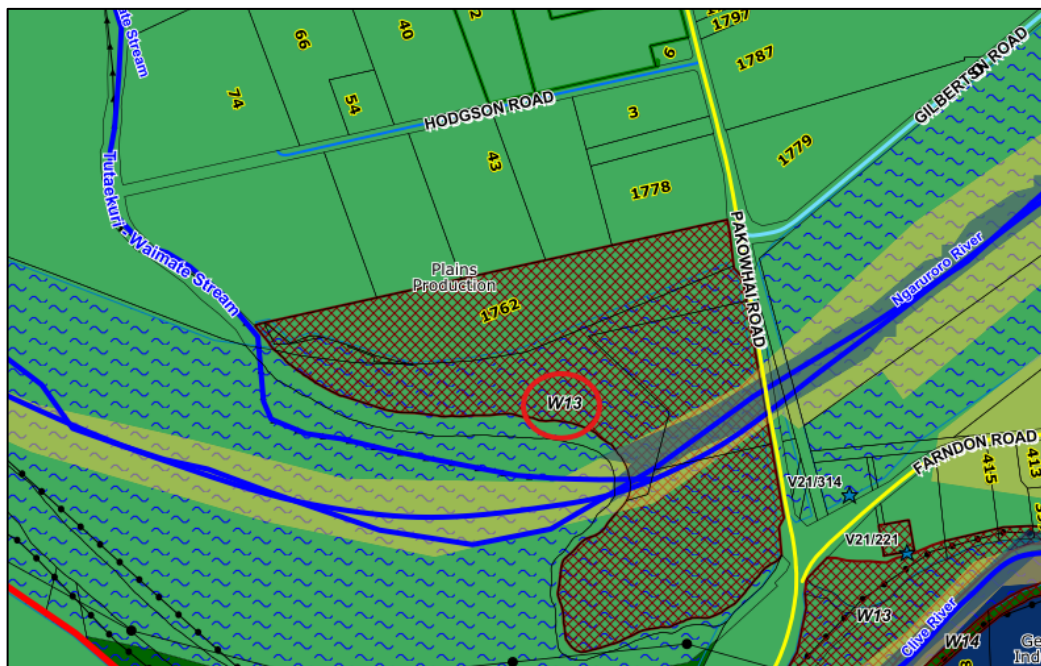


Figure 9b:

- All roads are designated

3.3.1 River Hazard (shown by blue waves): - Section 15.1 applies

The District Plan permits Natural Hazard Mitigation Activities, including stop banks, in the River Hazard Overlay when this is carried out by a Local Authority. Other activities permitted include water intakes, bridge structures, and minor upgrading of existing network utilities.

RULE TABLE 15.1.5 - NATURAL HAZARDS		
RULE	ACTIVITY	ACTIVITY STATUS
NH1	Natural Hazard Mitigation Activities including River Control and Drainage Works in the River Hazard Overlay carried out by or on behalf of a Local Authority, Network Utility Operator or a Requiring Authority Exercising its Powers, Functions and Duties Under the Resource Management Act 1991, Soil Conservation and Rivers Control Act 1941, or Land Drainage Act 1908.	p

3.3.2 Riparian Land Management Area (List 1):- Section 19.1 applies

The Riparian Land Management and Public Access District Wide Activity Chapter identifies those areas in the Rural and Plains Production Zones of the District where the Council has identified the opportunity to provide esplanade reserves and alternative mechanisms for the protection of waterbodies to ensure the sustainable management of them and public access to them. Rules are included in the District Plan to regulate the modification of riparian vegetation; however, it is stated in the Plan that riparian vegetation modification does not include actions undertaken or authorised by the Hawke's Bay Regional Council for the purpose of flood control activities.

RULE TABLE 19.1.5 - RIPARIAN VEGETATION MODIFICATION			
RULE	LAND USE ACTIVITIES	ACTIVITY STATUS	MATTERS FOR CONTROL & RESTRICTING DISCRETION
RULE RM1	Riparian Vegetation Modification	P	

3.3.3 Section 27.1 Earthworks, Mineral, Aggregate and Hydrocarbon Extraction

When assessed under Rule Table 27.1.5, earthworks will be considered a Permitted Activity and not have to comply with the Performance Standards and Terms in Section 27.1.6, provided they are:

- (a) Earthworks assessed with any Subdivision Consent and Designations.
- (b) Earthworks in association with a Building Consent, where the area of earthworks includes no more than 150% of the area of the associated building footprint. Note that Rules and Standards are applied once the 150% threshold is exceeded.
- (c) Earthworks in association with Forestry Activities; Network Utility Operations; and the replacement and /or removal of a fuel storage system as defined by the Resource Management Regulations 2011 (National Environment Standard for Assessing and Managing Contaminants in Soil to Protect Human Health)
- (d) Earthworks in association with the creation of public walk ways and cycleways, except when located within any ONFL area, where the standards relating to ONFL's in 27.1.5 and 27.1.6 shall still apply.

RULE TABLE 27.1.5 - EARTHWORKS, AND MINERAL, AGGREGATE AND HYDROCARBON EXTRACTION		
RULE	ACTIVITIES	ACTIVITY STATUS
EM1	Earthworks	P
EM6	Permitted Activities not meeting the General Performance Standards and Terms in Section 27.1.6	RD
EM10	The removal offsite of more than 100m ³ of earth (including topsoil) per site per year from sites in any Zone (excluding Plains Production Zone)	D

27.1.6A EXTENT OF EARTHWORKS

1. For the purpose of assessing the total volume of earthworks allowed as a Permitted Activity for sites in these sub zones, the volume shall be calculated by multiplying the volume threshold (listed in 27.1.6A) by the total area of the subject site in hectares, over any 12 month period.
2. For the importation of fill or removal of cut to or from an offsite location, the volumes of earthworks specified in the Table in 27.1.6A shall be reduced by 50% in determining the volume permitted in any 12 month period.

TABLE 27.1.6A EXTENT OF EARTHWORKS			
STRATEGIC MANAGEMENT AREA (SMA)	ZONE	VOLUME	CRITERIA (for any 12 Month period)
Plains	Plains Production	100m ³	per hectare of site

The volume of earthworks (cut and fill) required within the OiC footprint has not been quantified in the application and this is likely due to the length and height of the proposed works and the level of materials having to be imported to the application site. Realistically the level of earthworks required to undertake construction of the stopbank will result in a non-compliance with the above standard.

The proposed works in the area outside the OiC footprint will require approximately 11,375m³ being the sum of cut and fill. The material to be used to form the stopbank will be sourced from various borrow sites and stored at the properties shown on the map in Figure 10. More detailed plans of the borrow and stockpile sites can be viewed at HDC Ref: RMA20250446#0013.

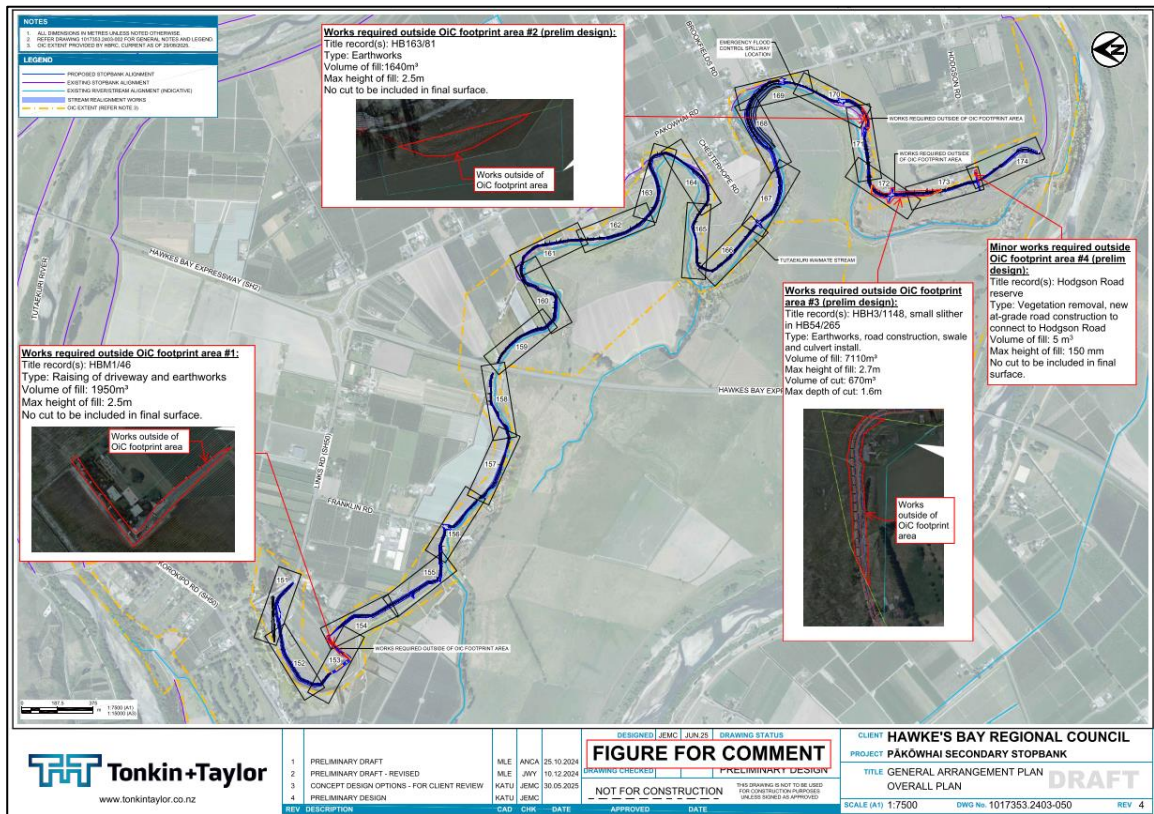
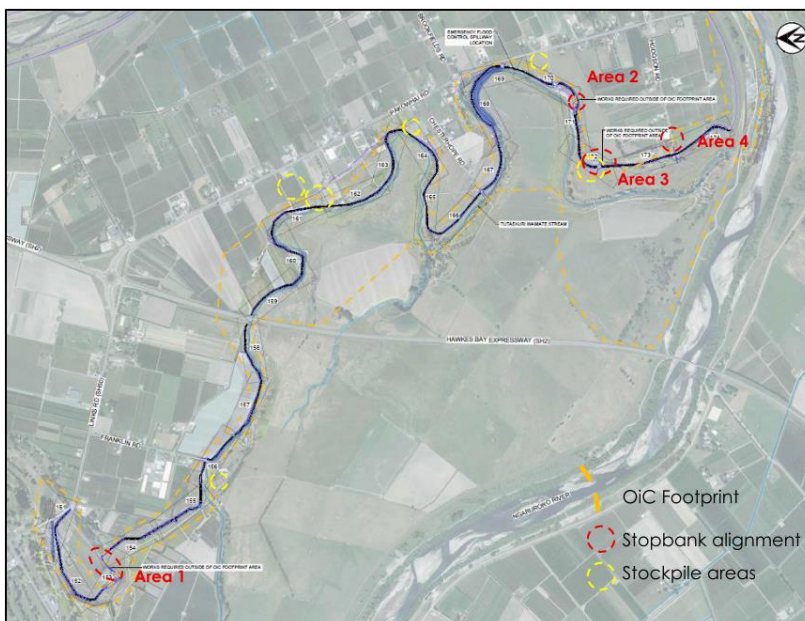


Figure 10: Stockpile areas – Sourced from the application (HDC Ref: RMA20250446#0013).



The application has assessed the properties that lay outside the OiC and has included the following summary table that indicates compliance or otherwise of the earthworks provisions on each individual property.

Property	Area (ha)	Cut (m ³)	Complies	Imported Fill (m ³)	Complies
Area 1					
Lot 2 DP 16843	9.97	-	Yes	1,950	No
Area 2					
Pt Lot 2 Deeds Plan 376	10.58	-	Yes	1,640	No
Area 3					
Lot 3 DP 6071	25.17	670	Yes	7,110	No

The earthworks within the OiC area would therefore (in the absence of the OiC) usually fall to be overall assessed as a **Discretionary Activity** pursuant to Rule **EM10**. This is displaced by the OiC which confirms the status is a **Controlled Activity**.

For the areas that sit outside the area identified in the OiC as referenced in Figure 4 and 10 of this report, the application will be assessed overall as a **Discretionary Activity** under the Operative Hastings District Plan.

3.3.4 Section 16.1 Wāhi Taonga

RULE TABLE 16.1.5 - WĀHI TAONGA		
RULE	ACTIVITY	ACTIVITY STATUS
WT1	<i>Maintenance, and enhancement by Tāngata Whenua (through their recognised representatives), of a Wāhi Taonga identified in Appendix 50.</i>	<i>P</i>
WT2	<i>Any activity which complies with the General Performance Standards and Terms of this section in 16.1.6 below.</i>	<i>P</i>
WT3	<i>Any activity within Wāhi Taonga identified in Part 4 of Appendix 50 that is not subject to Rules WT12-WT14.</i>	<i>P</i>
WT4	<i>Any maintenance, replacement or repair of existing network utilities involving Wāhi Taonga identified in Appendix 50 which complies with the General Performance Standards and Terms of this section in 16.1.6 below.</i>	<i>P</i>
WT15	<i>Any activity within Wāhi Taonga identified in Part 1 of Appendix 50 not provided for as a Permitted Activity or any Permitted Activity which is subject to but cannot meet the General Performance Standards and Terms of this section in 16.1.6 below.</i>	<i>D</i>

Part of the application site within the OIC area falls within W13 which is described in Appendix 50 as a *Battlefield – Urupa*. The site is not within Part 4 of Appendix 50 so WT3 does not apply. While HBRC is a network utility operator, the works being undertaken are not considered to be a network utility, so WT4 does not apply.

Under WT2, there is one relevant performance standard as follows:

16.1.6A GENERAL STANDARDS FOR ACTIVITIES UNDER WT2 AND WT4 ON PROPERTIES CONTAINING WĀHI TAONGA IDENTIFIED IN APPENDIX 50

Any activity involving the excavation, modification or disturbance of the ground containing a Wāhi Taonga site identified in Appendix 50 and shown on the Planning Maps shall not destroy, damage or modify the actual Wāhi Taonga site.

It is accepted that the proposed works, which are located within the OiC footprint, may at least modify the Wāhi Taonga site, and the performance standard is therefore not met. The application would usually fall to be assessed as a Discretionary Activity under WT15. However, as W13 is located within the OiC footprint WT15 does not apply and the application is a Controlled Activity under the OiC.

The applicant has engaged with relevant Maori Entities throughout the project and will continue with this engagement including cultural monitoring. An Archaeology Authority from HNZPT has been applied for by the Applicant in the event that some damage may occur at the site. Accidental Discovery Protocols will apply and is addressed through the conditions of OiC.

3.4 Overall Activity Status

The OiC provides that flood protection works subject to the Order (Clause 5 and 6) are to be assessed as a controlled activity (Clause 7 and 8) for the purposes of the Resource Management Act 1991(RMA), including sections 87A (2) and 104A. Under section 104A of the RMA an application for a Controlled Activity must be granted and any conditions imposed must be limited to those over which control has been reserved. The matters of control are listed in Schedule 3 of the OiC.

The OiC takes precedence over the Hastings District Plan status. Accordingly, the application within the OiC footprint falls to be assessed as a **Controlled Activity** under the Severe Weather Emergency Recovery (Hawkes Bay Flood Protection Works) Order 2024.

For the areas outside the OiC, the application falls to be assessed as a **Discretionary Activity** under the Operative Hastings District Plan.

3.5 Other Approvals

A number of approvals are required within and outside the OiC footprint from HBRC (as consent authority), and these are listed on page 62 and 63 of the application.

4.0 Notification

In accordance with **Clause 15** of the OiC, section 95 of the RMA does not apply, and public and limited notification is precluded.

For the areas outside of the OiC footprint, the application is assessed as a **discretionary activity** that does not preclude public or limited notifications. An assessment under section 95A and 95B of the RMA applies and is set out below.

4.1 CLAUSE 14 & 15 – APPLICATION PROCESSED ON NON NOTIFIED BASIS

4.1.1 **Clause 14 (2)(a)** A consent authority that receives an application for resource consent for flood protections works must not give public notification or limited notification under section 95 of the RMA but under **Clause 14 (2)(b)** must instead carry out consultation in accordance with **Clause 15** of the OiC.

4.1.2 **Clause 15(6)** states that a person who makes a written comments to a consent authority under this clause is not to be treated under the RMA as a person making a submission. Comments have been received from seven parties within the timeframe (NZTA, Hastings District Council, Joan Fernie Charitable Trust, Bostock New Zealand, Ministry of Education, Evan O’Leary and Sheryl and David Mackie), however under **Clause 15(5)** of the OiC, a person invited to make written comments have no appeal rights under Part 6 of the RMA, and they cannot object to the decision under Part 14 of the RMA.

4.1.3 As the issues around the flood protection works fall to be mainly within the responsibility of HBRC under the HBRMP, under **Clause 11 (3)**, that Authority has undertaken the required engagement with

immediately affected or immediately adjoining parties pursuant to **Clause 15(2)(a)** of the OIC. The notice can be viewed on (HDC Ref: RMA20250446#0032) and was notified jointly by HBRC and HDC.

Notice of the Application was sent to all the relevant parties listed in **clause 15(2)⁶**. Clause **15(2)(c)** requires all comments to be received within 10 working days after the date on which the invitation is given. The closing date for comments was **19 December 2025**.

4.1.4 A summary of the comments received, and relief sought is provided below. HDC responses where relevant are additional to HBRC responses and are shown in Blue:

⁶ HBRC acted as 'lead agency' under clause 11(3) and sent the notice to listed parties inviting comments on behalf of both council/consent authorities.

HBRC APP131669 – Clause 15(4) Summary of comments and response- Pakowhai**HDC RMA20250446 - Clause 15(4) Summary of comments and responses - Pakowhai**

In accordance with clause 15 of the OIC 2024, notice was sent to listed parties (clause 15(2)(a)(i-x)) and they were given the opportunity to comment on the application, with the comment period beginning 19 September 2025 and closing 7 October 2025. During that comment window 7 comments were received from invited parties. The comments are summarised below with a comment from HBRC and HDC where appropriate (HDC Comments in Blue).

Comment Number	Comment From	Main Issues Raised	Relief Sought	HDC Response to comment
1	NZTA	<p>Seeks confirmation from the applicant of location of stopbank shown on sheets 8 & 9 of Preliminary Design Report and Plans.</p> <p>Seeks confirmation of height difference between the existing road/bridge and finished level at the end slope of the stopbank on both sides of SH2.</p> <p>Seeking confirmation from the Applicant that the HB Expressway team has been consulted regarding the extent of the proposed location and finished levels.</p>	The final design of the stopbank shall be developed in conjunction with the HB Expressway Project, ensuring consistency in alignment, extent and elevation.	<p>T+T have responded to these matters raised (HDC Ref: RMA20250446#0052).</p> <p>HDC has no further comment.</p>

2	Hastings District Council	<p>Appendix 13 – Consequential Flooding Assessment Report:</p> <p>Impact on SH2 Expressway at the Tutaekuri-Waimate Stream Bridge and its accessibility in terms of the events modelled – has this been considered.</p> <p>Flooding assessment does not provide sufficient assessment of scenario-based analysis for events similar to Cyclone Gabrielle.</p> <p>Absence of resilient planning raises concerns about emergency evacuation and continuity of lifeline routes.</p> <p>Implications of regional connectivity and emergency response has not been fully assessed.</p>	<p>No specific relief sought other than to note following at the strategic level with HBRC and NZTA;</p> <p>The final design should ensure that the SH2 Expressway is accessible with the flood dept duration and velocity minimised a low as possible to provide accessibility. Optimally , the SH2 Expressway should be upgraded to be “flood free” form a resilience perspective; and flood protections works do not compromise network resilience.</p> <p>HDC Transportation has identified that there should be a Construction Traffic Management Plan (CTMP) in addition to the Construction Environment Management Plan (CEMP). The CTMP should be based around the general aspects contained in the Traffic Impact Assessment from East Cape Consulting Limited which provides a good overview of the Construction Traffic and identifies measures to manage traffic impacts. Any such CTMP would need to be reviewed by <u>both HDC and NZTA</u> at their respective network interfaces to ensure that the CTMP provides for safe access and egress for all traffic including the traffic generated as a result of the application.</p>	<p>The matters raised require ongoing communication between the Applicant, HDC and NZTA an through the STAG.</p> <p>T+T have responded to the comments that relate to regional resilience and connectivity and a need for further modelling. T+T state that further monitoring is beyond the level of service directed by HBRC who are taking a broader resilience and scheme review under a different workstream from the Pakowhai stopbank construction of which HDC is involved in.</p> <p>T+T list the current projects that have been and are currently being undertaken to improve connectivity and to provide alternative routes should the expressway be inundated during severe events.</p> <p>There is no further comment from HDC</p>
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		<p>Change in flooding risk on SH2 at Tutaekuri-Waimate Stream from the flood protection works</p> <p>Modelling assessments and increased flooding risks not fully addressed</p>		
3	Joan Fernie Charity Trust	<p>Support of project intent however have questions around the following;</p> <p>Location and height of the spillway,</p> <p>Accessibility on privately owned land,</p> <p>Duration of floodwaters,</p> <p>Evacuation protocols including a warning systems,</p> <p>Impacts on productive land and compensation,</p> <p>Issues of fairness in the location of the stopbank restricting</p>	<p>Conditions of consent should include monitoring requirements.</p> <p>Seeking review conditions – 5 yearly and to focus on any measures or changes to the depth and duration of floodwaters remaining on the Trusts land.</p> <p>Conditions to provide mechanisms for transferable development rights/compensation.</p> <p>Regular monitoring of stopbank integrity</p> <p>Conditions should provide for the reduction in height of spillway over time.</p>	<p>In response to these comments the Applicant has deferred to T+T (RMA20250446#0052).</p> <p>They are not recommending that the height of the spillway be reviewed as <i>the lowering of the spillway would reduce the level of service provided by the scheme and therefore operate more frequently but provide very little reduction (i.e. less than 0.5m reduction) in flood depths on the Trust land.</i></p> <p>The lowering of the spillway is opposed by HDC as the design has been undertaken by expert professionals (T+T) and has undergone a peer review by an independent specialist engineering firm (BECA) who support the design.</p> <p>Monitoring and maintenance of stopbanks is a matter for the HBRC</p> <p>Public access to the stopbank crest is not proposed.</p>

		<p>their use of land while benefitting other landowners in the vicinity.</p>		<p>Compensation is a matter to be addressed under the Public Works Act.</p> <p>The Applicant has confirmed that <i>the proposed works are designed to provide additional evacuation time for 74 Category 2 property owners. The Regional Councils flood warning telemetry system will provide crucial information on river levels in an event of significant size and is currently being upgraded to be more resilient.</i></p> <p><i>Evacuation warnings are being worked on by Civil Defence Hawke's Bay to better forewarn residence of the need to evacuate in large scale flood events that could inundate the Pakowhai catchment.</i></p> <p>Additional conditions relating to early warnings or modelling are not supported as these matters are either covered under the CEMP, standard OiC conditions and form part of the HBRC ongoing food protection mitigation and monitoring processes.</p>
4	Bostock NZ	<p>Impact on productive lands either side of the stopbank</p> <p>Increased flooding risk on land not previously exposed to flooding.</p>	<p>Bostock NZ supports the overall objective of the Pakowhai Flood Mitigation Works but seeks assurance that the increased risks and operational impacts on leased and owned land will be actively managed and mitigated.</p> <p>Bostock NZ seek ongoing involvement throughout the design, construction and operational phases.</p> <p>Seeking robust flood warning and road closure protocol with landowners being included in emergency planning.</p>	<p>This is generally a design / construction matter and will need to be discussed when detailing the works through the STAG group and CEMP finalisation process.</p> <p>If not already, Bostock NZ should be invited on the STAG group.</p> <p>Compensation is a matter to be addressed under the Public Works Act.</p> <p>Matters relating to civil defence response in potential flood events are beyond the scope of this application which relates to the construction</p>

				<p>of the stopbank. HBRC are reviewing telemetry and Civil Defence warning systems through separate workstreams to this consent as referred to in the comment 3 response above.</p> <p>HDC have no further comment other than to recommend that the leaseholders on the Joan Fernie Charitable Trust land (currently leased by Bostock NZ) be invited on the STAG.</p>
5	Ministry of Education	<p>While the Ministry of Education hold a neutral position on the project they have raised the following concerns:</p> <p>Safety concerns on Chesterhope Road with school Traffic and noise management</p>	<p>Amendment to Condition 6 (STAG) – include Ministry of Education and Pakowhai School in STAG group</p> <p>Amendment to Condition 10 (CEMP) – requirement of safety details, heavy vehicle restriction of movements (between specified hours) and education of drivers</p> <p>Ministry of Education wish to be heard in support of their comments.</p>	<p>HDC support the inclusion of Ministry of Education and Pakowhai Scholl in the STAG and CEMP process.</p> <p>The application identifies that there would be no construction traffic that would use Chesterhope Road with the principal access for such activity being via 1856 Pakowhai Road located west of Chesterhope Road. Effects directly relating to the school are construction effects in the vicinity which is noise, vibration and dust. These effects are mitigated through OiC conditions 10 and 16.</p> <p>In looking at the proposed haulage route, consideration may need to be given to the management of noise and dust where the haul route is close to Chesterhope School noting that the comment is related to the construction traffic rather than the haulage traffic.</p> <p>In response to this submission HDC recommend the following new Condition 39 be imposed that will be separate to the CEMP required under Condition 10 of OiC.</p> <p><u>39. Construction Traffic</u></p>

				<p><u>The consent holder shall submit a Construction Traffic Management Plan (CTMP) which shall:</u></p> <ul style="list-style-type: none"> a) <u>be prepared by a suitably qualified traffic management practitioner and certified by Hastings District Council and NZTA prior to the commencement of the relevant phase of construction works</u> b) <u>address but not limited to those matters referred to in the TIA by East Cape Consulting, Ref 25-0181 Stopbank TIA 251030.doc (HDC Ref: RMA20250466#0005) Section 7, pages 24 and 25, dated 30 October 2025, submitted with the application</u> c) <u>be developed in consultation with HDC and NZTA prior to the commencement of the relevant phases on the development</u> d) <u>be prepared in accordance with the Code of Practice for Temporary Traffic Management (CoPTIM); and/or the New Zealand Guide to Temporary Traffic Management (NZGTIM)</u> e) <u>shall address the necessity of reduced traffic speed along local roads for the duration of works, in particular the haulage to stockpile areas</u> <p>The OiC process does not include hearings and only comments are invited, with no appeal rights. The Ministry of Education have been advised.</p>
6	Evan O’Leary	There has been a lack of communication with	Compensation	The Applicant has responding through T+T who note that the O’Leary property is located in the Category 3 area and within the low-lying flood

		landowners about the spill way. Flooding risk for private property . Fairness and compensation.	Communication/consultation with the Applicant.	plain at the eastern end of Pakowhai. The T+T flood effects report identified that the subject property is inundated on both the pre and post development scenarios but that there is a marginal improvement in the peak flow depth at the site. Compensation is a matter to be addressed under the Public Works Act. HDC recommend that ongoing engagement with the O'Leary's who could be invited on to the STAG.
7.	Sheryl and David Mackie	The thrust of the comments from Sheryl and David Mackie relate to – Managing the Detail Design Process Final Design STAG Communications Plan CEMP Stockpiling and Construction Management Hours of Operation Dust	Amendments to Conditions 1B, 10, 11, 6, 9(d), 23(aa), 10(c(ix)), 23, 36B-36D and 41 as outlined in the comments (HDC Ref RMA20250446#0049) including a) Increased timeframes (i.e. 5 working days increased to at least 10 working days) Condition 10 (a) ii) b) Addition of construction noise & vibration management plan (Condition 23) c) Compensation of lost production land d) Decreasing working hours (6.30am – 6pm) e) Some elements of the design to be clarified – access ramps, upstream embankment. f) Suggests formation of two separate stakeholder groups (Condition 6),	Most of the matters raised in these comments will be addressed by HBRC. a) HDC do not support a) Increased timeframes as these will constrain the process and works which are required to be completed with urgency. b) Construction noise and vibration are addressed under the CEMP although the Applicant has suggested the following amendment to Condition 23 (c) and (d) as follows: c) The consent holder must submit a Construction Noise and Vibration Management Plan (CNVMP) prepared by a suitably qualified person taking account of construction activities and sensitive receptors (including structures in respect to vibration) for certification a minimum of 10 working days prior to commencement of works.

		<p>Vibration Effects</p> <p>Franklin Road Preconstruction work and repairs</p>	<p>g) Seeks clarification on stockpile locations and access points, timeframes for stockpiling and dust effects (on fruit) from that.</p> <p>h) S&D Mackie (Cedarwood) seek to add to c) ix: and procedures for avoiding or minimising to the extent practicable the discharge of dust outside the boundary of the works footprint, including wind conditions in which dust generating activities are to cease. Given the potential effects of dust occurring outside 56 Franklin Road from the truck movements, HBRC are recommending including a requirement for a dust management plan (as new condition 41) to reduce the impacts at this location be developed prior to works commencing to ensure offsite dust effects are minimised. HDC agree with this additional condition.</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 construction hours and must be available to authorised Hastings District Council staff during monitoring inspections.</p> <p>HDC support amendment to Condition 23 (c) and (d) as this is consistent with the conditions imposed on previous applications under the OiC process in respect of construction noise and vibration.</p> <p>HDC recommend that the CNVP be prepared by a suitably qualified noise and vibration expert/professional.</p> <p>The HBRC are recommending a localised dust management plan be incorporated in conditions (Condition 41) in response to these comments. This will be specific to the area around their site. HDC agree that this will form part of the mitigation measures in relation to the project.</p> <p>HDC Transportation have commented on the inclusion of the CTMP. <i>The requirement for a CTMP would work to provide for a safe and suitable outcome for all traffic activity on Franklin Road. Important to note here that the Traffic Impact Assessment did not consider the traffic generated or the times of greatest activity of the existing traffic with the current land use activities. Independent of the proposed construction activity, there is more than adequate visibility along Franklin Road to provide for two way traffic flow safely noting that some vehicles may need</i></p>
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				<p><i>to move to the left to achieve that noting that the unsealed shoulders can provide for that. Other matters raised are addressed through the CEMP. Matters such as speed limits is addressed in the TIA submitted with the application (HDC Ref: RMA20250466#0005).</i></p> <p>c) HDC do not support c) - Compensation is a matter to be addressed under the Public Works Act and addressed separate to and outside the OiC process.</p> <p>d) HDC do not support d) – The reduced hours for construction to take place will constrain the process and works which are required to be completed with urgency.</p> <p>e) This is a matter for the HBRC to address.</p> <p>f) HBRC do not support two separate STAG’s and HDC agree with the one STAG approach for the reasons HBRC has stated; ... <i>adequate representation from both ends of the project, will be sufficient to represent the footprint owners and wider community.</i></p> <p>g) Stockpile locations and dust mitigation is a matter for the HBRC to address. However, stockpile areas and haulage routes are included in T+T Overall Layout Plans Drawings 22-007-050-SK001-0030 submitted with the application (HDC ref: RMA20250466#0013). Dust mitigation is</p>
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				addressed in Condition 10(c)ix Condition 16 and proposed condition 41.
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Table 2: Summary of Comments Received

4.1.6 Full copies of comments received are included as **Appendix 1**.

5.0 CONSIDERATION UNDER CLAUSE 16

5.1 **Clause 16** states that Section 104(5) of the RMA, which relates to the activity status of an application, does not apply in relation to the consent authority's consideration of an application referred to in **Clause 12** of the OIC.

6.0 CONSIDERATION UNDER CLAUSE 17

6.1 While the direction in Section 104A(a) to grant consent remains, **Clause 17** of the OIC amends Section 104A(b) in respect to its directions around and references to matters of control and provides:

- The consent authority may impose any 1 or more of the conditions set out in **Schedule 2**;
- The consent authority may amend any condition it imposes under subclause (2) (other than the condition (1) of **Schedule 2**) if it considers the amendment necessary for the purposes of the authority's responsibility for a matter of control;

The Applicant has included proposed conditions in Appendix 11 of the application in accordance with Schedule 2 and is seeking to make a number of changes relevant to this proposal.

Here I note that the Applicant is using a different numbering convention to Schedule 2, but this numbering does not alter the intent of the conditions. This aligns with condition 1 (2) below and where referencing a particular condition, my report will reflect the proposed condition numbering.

Clause 17(3) of the OIC provides that the power to amend conditions does not apply to the condition in clause 1 of Schedule 2. Therefore condition 1 must remain as stated in the OIC.

- The consent authority may impose any 1 or more additional conditions it considers necessary for the purposes of the authority's responsibility for a matter of control.

In accordance with sub clause (2) of Schedule 2, the applicant is proposing amendments to conditions as noted in Appendix 11 of the Application.

HDC are proposing additional conditions that relate specifically to the comments received that relate to HDC interests. The proposed conditions are attached in Appendix 2 of this report.

6.2 **Clause 17 (5)** applies despite anything to the contrary in:

- a) any requirements in a national environmental standard or a national policy statement;
- b) any rules or assessment criteria in any plan or proposed plan.

6.3 **Clause 17 (6)** refers to the matters of control specified in **Schedule 3**, which are matters over which the consent authority is taken to have reserved control. These include matters associated with:

- General matters –
 - o Flooding
 - o Construction management
 - o Effects on ecology
- Cultural values
- Freshwater
- The coastal environment
- Stormwater management

- Visual effects and amenity
- Adjoining landuses
- Heritage and archaeology
- Access and transport
- Contaminated land

6.4 When considering an application for resource consent, section 104 of the RMA requires the decision maker (hearings commissioner) to have regard to:

- any actual and potential effects on the environment of allowing the activity, and
- relevant plans, policies and regulations.

7.0 NOTIFICATION ASSESSMENT (SECTIONS 95A AND 95B) – WORKS OUTSIDE OIC FOOTPRINT ONLY

7.1 Public Notification Assessment Section 95A

Step 1: mandatory public notification in certain circumstances

Has the applicant requested the application be publicly notified? (S95A(3)(a));	No
Has any further information been requested that the applicant has refused to provide to the Council under Section 95C? (S95A(3)(b)).	No
Has the application been made jointly with an application to exchange reserve land? (S95A(3)(c)).	No
Outcome Step 1: Mandatory public notification is NOT required [S95A(2)(b)].	

Step 2: if not required by step 1, public notification precluded in certain circumstances

Is the application for 1 or more activities, and each activity is subject to a rule or national environmental standard that precludes public notification? (S95A(5)(a))	No
Is the application for a Controlled Activity or a Boundary activity of any status? (S95A(5)(b))	No
Outcome Step 2: Public notification is NOT precluded by Step 2. Step 3 therefore applies.	

Step 3: if not precluded by step 2, public notification required in certain circumstances

Is the application for a resource consent for 1 or more activities, and any of those activities is subject to a rule or national environmental standard that requires public notification? (S95A(8)(a))	No
Will the activity have, or is likely to have adverse effects on the environment that are more than minor in accordance with Section 95D? (S95A(8)(b))	In terms of S95A(8)(b) an assessment of whether the effects of the proposal are more than minor is discussed below.
Effects More than Minor Assessment (Section 95D)	
A consent authority that is deciding, for the purpose of section 95A(8)(b), whether an activity will have or is likely to have adverse effects on the environment that are more than minor —	
<p>(a) must disregard any effects on persons who own or occupy—</p> <p style="padding-left: 40px;">(i) the land in, on, or over which the activity will occur; or</p> <p style="padding-left: 40px;">(ii) any land adjacent to that land; and</p> <p>(b) may disregard an adverse effect of the activity if a rule or national environmental standard permits an activity with that effect; and</p>	

(c) in the case of a restricted discretionary activity, must disregard an adverse effect of the activity that does not relate to a matter for which a rule or national environmental standard restricts discretion; and (d) must disregard trade competition and the effects of trade competition; and (e) must disregard any effect on a person who has given written approval to the relevant application.

Section 95D(a)

In accordance with Section 95D(a), I have disregarded effects on persons who own or occupy the adjacent land.

The areas outside the OiC footprint are relatively discrete and are on land owned by the Applicant or land owned by persons already on the STAG and identified as affected under the OiC or part of the road reserve. These areas are shown in **Figure 10** of this report.

Section 95D(b)

No effects have been disregarded.

Section 95D(c)

The activity is not a Restricted Discretionary Activity.

Section 95D(d)

There are no trade competition effects.

Section 95D(e)

Written approvals have not been provided.

Are the Adverse Effects more than Minor?

My assessment of whether there are adverse effects on the wider environment that are more than minor is as follows:

- Safe and efficient access can be provided to the works site via existing crossings;
- The proposal will not have a significant adverse effects on the wider roading network given the measures being put in place for the duration of construction works;
- No reverse sensitivity issues within the wider environment are anticipated;
- Conditions imposed under Schedule 2 of the OiC are suitable for those areas outside of the OiC Footprint. These conditions include provision for relevant management plans to mitigate the effects of the earthworks activity;
- While not relevant to consideration of notification, which focuses on adverse effects on the environment, for completeness I note that the proposal is a positive addition to the environment due to the purpose of providing flood mitigation to protect land and property for the Pakowhai community.

Outcome Step 3: On the basis of the assessment above, I do not consider that the activity will have, or is likely to have, adverse effects on the environment that are more than minor. Public notification is therefore NOT required.

Step 4: public notification in special circumstances

I have considered whether there are special circumstances which exist in relation to the application which would warrant the application being publicly notified. I do not consider there are any such special circumstances given that:

- a) As assessed above, the effects on the wider environment are likely to be no more than minor;

b) The earthworks are specifically anticipated by the Hastings District Plan.

7.1.1 Section 95A Recommendation

I am satisfied the application can be considered **without** full notification to the public in accordance with S95A(9)(b).

7.2 Limited Notification Assessment Section 95B

Step 1: certain affected groups and affected persons must be notified

Are there any affected protected customary rights groups? (S95B(2)(a))	No
Are there any affected customary marine title groups? (S95B(2)(b))	No
Is the proposed activity on or adjacent to, or may affect, land that is the subject of a statutory acknowledgement made in accordance with an Act specified in Schedule 11? (S95B(3)(a))	Yes. The proposal falls within a Statutory Acknowledgement Area of Mana Ahuriri and Tamatea Pōkai Whenua (TPW), formerly Heretaunga Tamatea Settlement Trust.
Is the person to whom the statutory acknowledgement is made an affected person under section 95E? (S95B(3)(b))	<p>The application site adjoins the Tutaekuri-Waimate Stream which is a tributary of the Ngaruroro River which is listed under the Ahuriri Hapu Claims Settlement Act 2021 the Heretaunga Tamatea Claims Settlement Act 2018 as areas subject to both statutory acknowledgement and deed of recognition.</p> <p>The Tutaekuri-Waimate Streams runs through the OiC Footprint. Summary Notice has been sent to Mana Ahuriri and TPW.</p> <p>No response has been received which is not unusual given that the Applicant has fully engaged with the relevant Maori Entities required under the OiC.</p> <p>To be considered an affected person under section 95E, the consent authority must decide that the adverse effects of the activity on persons to whom a statutory acknowledgement is made are minor or more than minor (but not less than minor).</p> <p>A Cultural Impact Assessment (CIA) for the Pakowhai Flood Protection Scheme was prepared by Ngāti Parau Trust and submitted with the application. It provides strong recommendations to HBRC to ensure:</p> <ul style="list-style-type: none"> restoration and ongoing ecological enhancement with a particular focus on restoration and enhancement of the Tutaekuri-Waimate Stream and Waiohiki Drain;

	<ul style="list-style-type: none"> • Provision for cultural monitors in respect of fish relocation efforts throughout the project; • Preservation and respectful treatment of Taonga; • Accidental Discovery Protocols <p>The level of involvement between the HBRC (Applicant) and mana whenua throughout this project is reflected in the conditions and this will ensure Maori interests and archaeological items are protected through management plans and archaeological protocols.</p> <p>The works areas do not impact on the Ngaruroro River and its margins or the Coast.</p> <p>Accordingly, no persons to whom the statutory acknowledgement are made are considered to be affected persons beyond the consultation undertaken throughout this project.</p>
<p>Outcome Step 1: Limited notification is NOT required to the above groups.</p>	

Step 2: if not required by step 1, limited notification precluded in certain circumstances

Is the application for 1 or more activities, and each activity is subject to a rule or national environmental standard that precludes limited notification? (S95B(6)(a))	No
Is the application for a controlled activity (but no other activities) that requires a resource consent under a district plan (other than a subdivision of land)? (S95B(6)(b))	Not outside the OiC footprint.
<p>Outcome Step 2: Limited notification is NOT precluded by Step 2. Step 3 therefore applies.</p>	

Step 3: if not precluded by step 2, certain other affected persons must be notified

<p>Determine whether a person is an affected person in accordance with section 95E (S95B(8))</p> <p>Under Section 95E, a consent authority must decide that a person is an affected person if the activity's effects on them are minor or more than minor (but are not less than minor), subject to the limitations in Sections 95E(2) and (3).</p> <p><u>Section 95E(2)(a)</u> I have not disregarded effects on the environment on the basis that a rule or national environmental standard permits an activity with that effect.</p> <p><u>Section 95E(2)(b)</u> The activity is not being assessed as a restricted discretionary activity.</p> <p><u>Section 95E(2)(c)</u> The Ngaruroro River (and its tributaries) are within a statutory acknowledgement area identified in the Ahuriri Hapu Claims Settlement Act 2021 and Heretaunga Tamatea Claims Settlement Act 2018. Notice has been sent to Tamatea Pōkai Whenua (formerly Heretaunga Tamatea Settlement Trust) under section 28 and Ahuriri Hapu Trust under section 39.</p>
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As stated above, no comments have been received which is not unexpected given that the Applicant has fully engaged with the relevant Maori Entities required under the OiC.

Given that the proposal is of a limited/temporary nature, an Archaeological Authority is being applied for and Accidental Discovery Protocol, are addressed through conditions, it is not considered that there will be any adverse effects on the Tutaekuri -Waimate Stream or Ngaruroro and Tutaekuri River catchments. Ngāti Parau Trust 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 Mana Whenua, and local landowners, is proposed throughout the project.

Accordingly, no persons to whom the statutory acknowledgement are made are considered to be affected persons.

Section 95E(3)

Where written consent is obtained Council must disregard any effect on a person who has given written approval to the relevant application. In this case no written approvals have been provided, however there is land affected which is owned by HBRC as applicant, and its written approval to the works has been assumed. I have therefore disregarded effects on HBRC.

Are there any Affected Persons?

My assessment as to whether there are any affected persons in the areas outside the OiC footprint is as follows:

- The proposed construction activity will be for a limited duration while the stopbank, spillway, culverts, swales are being undertaken. Therefore, effects on persons will be temporary and overall will have a less than minor effect;
- The areas where proposed works will sit outside the OiC footprint are relatively small in the context of the overall project. The following properties will be subject to these minor works;

- Land owned by Joan Fernie Charitable Trust (on the STAG)

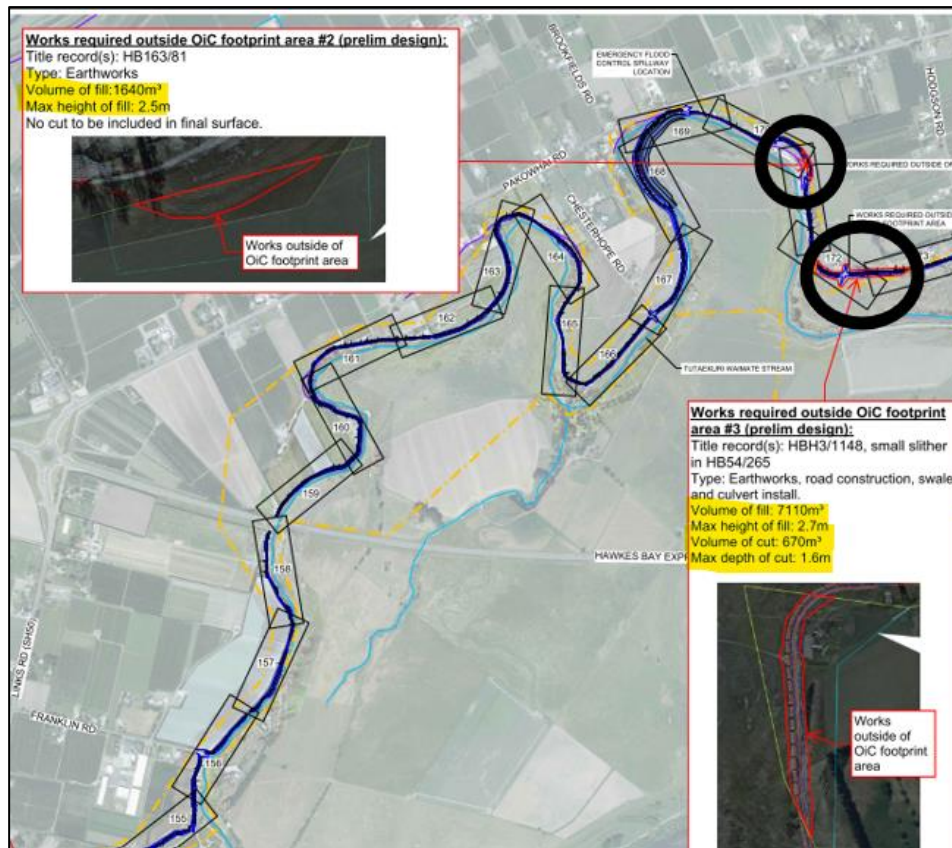
This relates to two small areas where the new alignment has been designed to cater for a slipway, to go around existing buildings as well as in response to the realignment of the Tutaekuri-Waimate Stream. The new alignment also increases the curvature and setback from the stream to provide a greater level of protection to land on the western side. The effects on the production land in each case is minimal in relation to the balance land.

A series of buildings located in the northern area in the map below are referred to in the application as an old potato storage shed. I am however aware that this may now being renovated after the cyclone and may be being used as an unconsented stock truck depot by one of the leases on the property. The buildings are located between the stream and the new stopbank and are potentially vulnerable. I reiterate that any such activity has not been legally established and therefore cannot be considered a permanent activity that would require Council to assess.

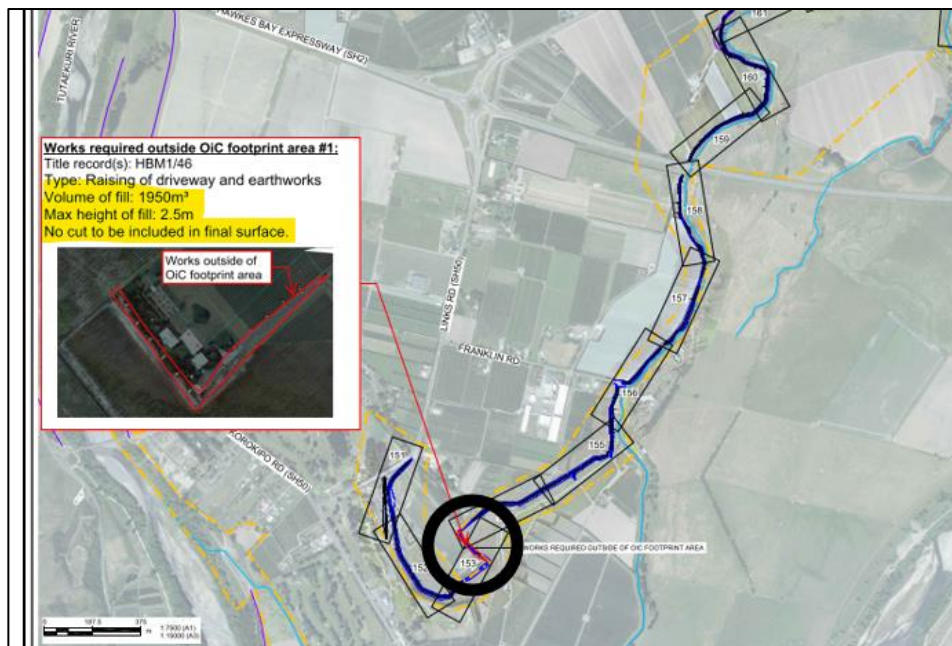
The engineering reports provided with the application show there will be an increase in flooding to the area west of the stopbank (referred to as the ‘detention area’), between the stopbank and SH2. The risks have been addressed in the application⁷ noting that in respect of the farmland there is already the potential for significant flooding in this area. I also note in the application that HBRC are working with the landowner to reach a land access agreement that will take account of the effects identified. I am satisfied that such arrangements will appropriately address any residual adverse effects, and I consider effects on the owners / occupiers of this property to be less than minor.

⁷ Pages 72 -78 Application – HDC Ref: RMA20250466#0004

The relevant areas are shown circled below;

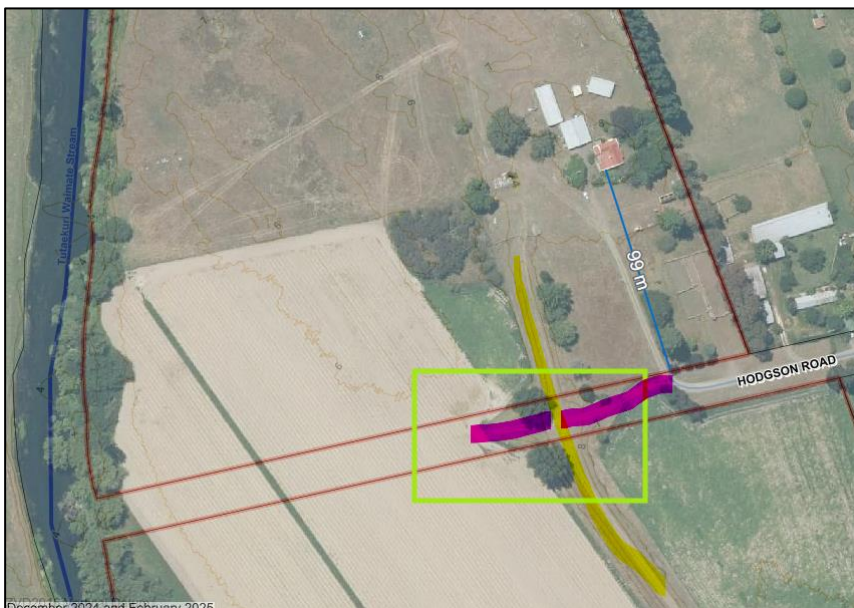
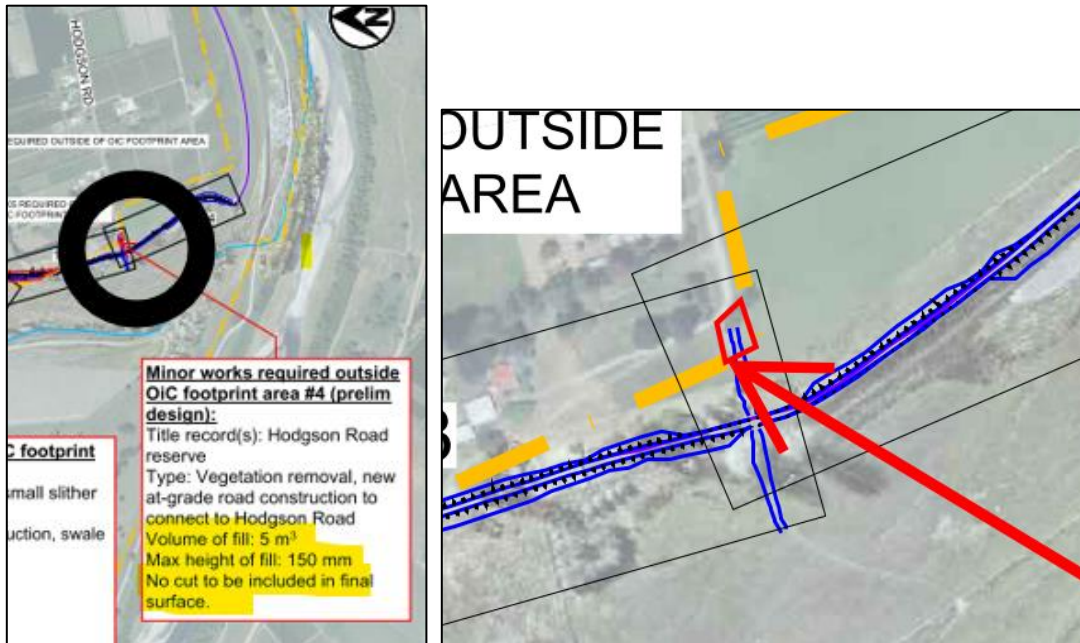


- Land owned by HBRC (Applicant). Written approval from HBRC is assumed.



- Road Reserve (unformed)
 This portion of Hodgson Road is currently not formed but is legal road reserve that runs through farmland owned by AD and GJ Chittock. This unformed road provides access to the Tutaekuri-Waimate Stream. The proposed works will provide access for HBRC for

maintenance of the stopbank in the future. There is no residential building within close proximity to this section of legal road with the nearest dwelling at 74 Hodgson Road being 100 metres from the formed section of the road (see map below):



Existing stopbank shown yellow
 Hodgson Road extent either side in pink

- Overall, I consider the adverse environmental effects on the above persons are less than minor and for the reasons stated.
- Visual impacts on adjoining properties cannot be avoided due to the scale of works however these works will be temporary and of limited duration. Overall visual effects on relevant persons are considered to be less than minor;

- Earthworks are short term projects, and the duration will result in temporary effects for some persons. This will be mitigated through the CEMP, CNVMP, ESCP and CTMP and the mitigation stated in these plans will result in less than minor effects.
- Truck movements will have an impact on residential properties nearby creating noise and vibration. These effects will however be managed through the CEMP and CNVMP authorised by the consent authority and through Conditions 10, 11, 23 (with proposed amendments) of Schedule 2 of the OiC and with that mitigation in place, effects are considered less than minor;
- Condition 9 of Schedule 2 of the OiC, which apply equally to works outside the OIC area, ensures open communication between the following:
 - i. the general public:*
 - ii. local residents and businesses:*
 - iii. the Māori entities representatives:*
 - iv. the persons and bodies represented by the stakeholder advisory group:*
 - v. all other persons potentially affected by the construction works.*
- Flood protection works are a permitted in the District Plan within the River Hazard Overlay and therefore are anticipated to occur;
- The application includes specialist engineering reports that provide a robust assessment of the consequential flooding effects on properties following construction of the stopbanks. This concludes that there will be no **[less than minor]** flooding effects on the relevant persons.
- The peer review of the T+T engineering reports found these reports and analyses to be robust.
- Noise associated with the activity will be temporary but will be required to meet the NZ Standards for Construction Noise. Condition 23 of Schedule 2 (with proposed amendments) of the OiC is considered sufficient to address these temporary effects;
- Other potential adverse effects of the construction works are mitigated through conditions set down in the OiC. These conditions are considered appropriate and suitably robust to address the works outside the OiC footprint;
- Consequential flooding occurring outside the OiC footprint will only occur due to the new stopbank within the OiC footprint and are therefore effects of works covered by the OIC for which a notification assessment is not required.
- While not strictly relevant for the purposes of assessing affected persons, I note that the proposal is a positive addition to the environment due to the purpose of the stopbanks providing flood mitigation to protect residential properties, particularly properties classified as 2C, and rural land from future 1 in 100 year flood events.

Overall, it is considered that the adverse effects of the proposal that requires works in the areas outside the OiC footprint will be less than minor on any person.

Outcome Step 3: I am satisfied that no persons in terms of Section 95E will be adversely affected as a result of this proposal under Section 95B(8).

Step 4: Special Circumstances

It is considered that there are no special circumstances that exist in relation to the application that would warrant notification of the application to any other persons not already determined to be eligible

for limited notification (excluding persons assessed under Section 95E as not being affected persons). All relevant matters and persons are sufficiently addressed above in this report. Thus, no limited notification to any other affected persons is deemed necessary in accordance with Section 95B(10).

7.2.1 **Section 95B Recommendation**

I am satisfied the application for earthworks and construction works in the areas outside the OiC footprint can be considered **without** notification on a limited basis to any person in accordance with Section 95B(10)(b).

7.3 Summary of Notification Recommendations

Having assessed the application in accordance with the steps contained within Sections 95A and 95B of the Resource Management Act 1991, and for the reasons provided within sections 4.1 and 4.2 of this report, it is recommended that this application be considered on a **non-notified** basis.

7.4 Decision on Notification

Accordingly, and for the reasons set out in the above assessment and recommendations, the application can be processed on a **non-notified** basis.

Notification Decision made under delegated authority by:



Michelle Hart
Senior Environmental Planner (Consents)

Date: 26/01/2026

8.0 Assessment of Environmental Effects

8.1 Permitted Baseline

Section 104(2) of the RMA is not precluded from being included in an assessment under the OiC. Consequently, when forming an opinion for the purposes of subsection (1)(a), considering an application for resource consent, a consent authority may disregard an adverse effect of the activity on the environment if a national environmental standard or the plan permits an activity with that effect.

In regard to this proposal, it is the effects on the river (inside and outside of the River Hazard Overlay) and the visual and amenity effects of the proposed earthworks on the environment that need to be considered. The District Plan prescribes the volume of earthworks permitted in the Plains Production Zone as being 100m³ per hectare of site for any twelve month period. Given the scale of earthworks over the sites required to construct the stopbank, the permitted baseline is not of particular assistance.

8.2 Matters of Control - Schedule 3

Schedule 3 of the OiC lists the matters of control for assessing the application insofar as the land is within the OIC footprint. The applicant has provided a detailed analysis of these matters and provided comprehensive technical reports to support the proposal. These are listed in section 1.11 of this report.

Here I note that the purpose of the OiC and this Application is to endeavour to ensure that a pathway in which to ensure the best possible protection from future flood events to communities located alongside river features is achieved without delay and for works to commence without a complicated process. Provision of the relevant design reports and modelling upfront is relevant and useful in achieving this.

8.2.1 **General**

- (a) ***The risk (likelihood and severity) of flooding upstream or downstream of the proposed flood protection works as a result of the works, and measures to avoid or minimise that risk.***
- (b) ***The risk (likelihood and severity) of erosion resulting from the proposed works, and measures to avoid or minimise that risk.***
- (c) ***Potential adverse effects on fisheries, and measures to avoid or minimise that risk.***
- (d) ***Potential adverse effects on wildlife, habitat and ecosystems, and the application of the effects management hierarchy.***
- (e) ***The management of construction works to avoid, remedy, or mitigate potential adverse effects on receiving environments, including adverse effects of hazardous substances, spills, and stormwater run-off.***

The application addresses (a) on its own but assesses (b) through to (e) under separate headings where it is more appropriate to do so. I agree with this approach and on this basis, I will take a similar approach.

- (a) ***The risk (likelihood and severity) of flooding upstream or downstream of the proposed flood protection works as a result of the works, and measures to avoid or minimise that risk.***

The Application addresses the effects of the new stopbank on key features; buildings, spillway, roads, bridges and transmission lines. The following is a summary only as the full assessment is taken as read.

For context, the images below show the flood hazard overlay in the HDC GIS before (left) and following Cyclone Gabrielle (right).

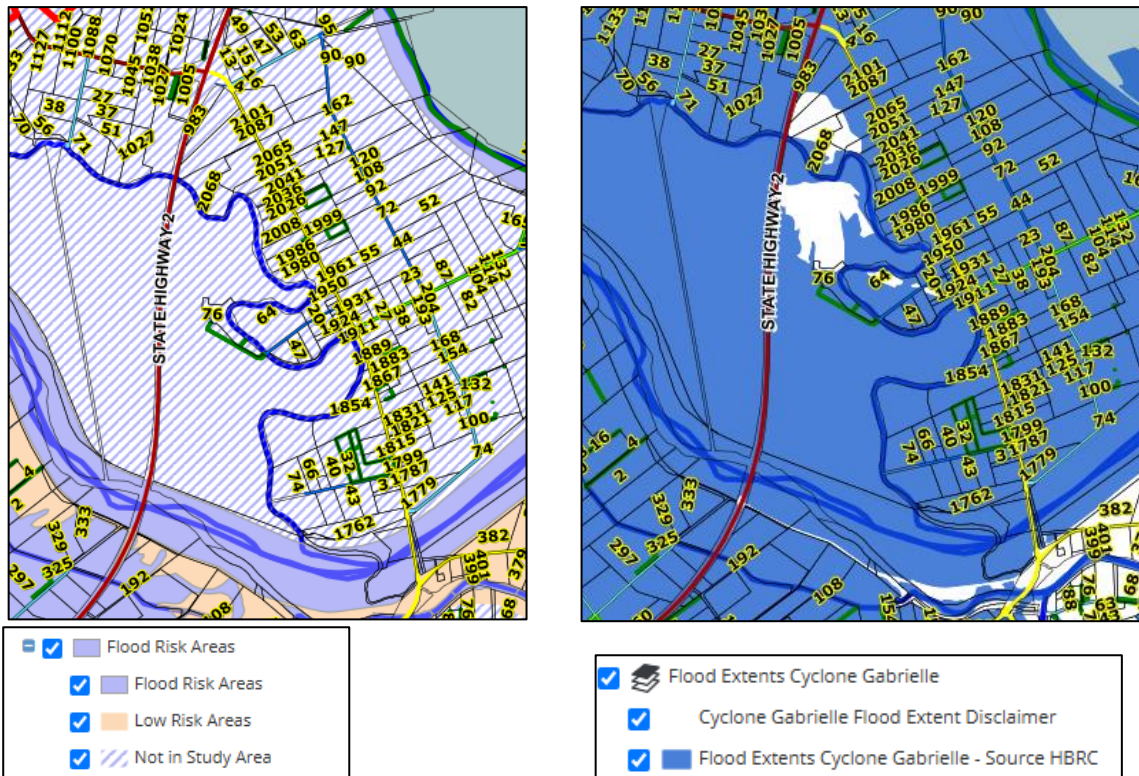


Figure 11: Flood Hazard – Before and following Cyclone Gabrielle

The application was lodged with key engineering reports in Appendices 9, 10,13,14, and 15. Appendix 14 is a peer view from BECA to various reports presented by T+T. These reports are referred to in section 1.11 where the HDC files are registered against each report. The Applicant has drawn from these engineering reports and their assessment of the effects of the new stopbank and spillway in particular at section 10.2.1 of the application where the risks of consequential flooding after the stopbank construction is completed has been analysed. The Application addresses the effects of the new stopbank on key features; buildings, spillway, roads, bridges and transmission lines.

The following is a brief summary only as the full assessment is taken as read. The full assessment can be viewed at HDC Ref: RMA20250446#0004.

- 841 buildings identified in the modelling, 23 of which are classified Land Category 2C and 259 within Land Category 3. The application explains that (LC3) is defined as *Future severe weather event risk cannot be sufficiently mitigated. In some cases, some current land uses may remain acceptable, while for others there is intolerable risk of injury or death.* Land access agreements are currently being canvassed by HBRC to alleviate risk for LC3 areas.
- The new stopbank will significantly increase overall flood protection.
- The detention area which is mainly farmland is already subject to flooding with the unlikelihood of people or vehicles being present on this land during a significant flood event.
- Flooding on that part of SH2 located across the OiC footprint is still likely to occur as a result of the stopbank and as stated in the application will extend further along the alignment. Also stated, while a greater length of SH2 may flood, the change in duration of flooding will be limited, and the flood waters may take longer to drain, they will still drain within the time it takes for low areas that are flooded under the base scenario to drain.
- HBRC are working with landowners to reach a land access agreement that will take into account the effects identified in the application documents and on this basis no further mitigation is proposed.

- HBRC have purchased land within LC3 that could be affected by the spillway noting that these areas are already subject to flooding in a severe event. Production land within this area is already vulnerable to flooding and therefore the new works, while improving the situation in some areas is not able to provide full protection in a severe event.
- In terms of roads affected, the report identifies that flooding has been eliminated along Pakowhai Road above the spillway and some flooding may occur south of the spillway but is not considered unsafe for vehicles.
- The T+T report identifies a significant reduction in the length of roads subject to flooding such that these would be unsafe for vehicles. While there will be additional flooding at the end of Chesterhope Road, this section of road is not within the public road reserve but is on private property. The application notes that this section of road will be within the detention area on the stream side of the stopbank and is already subject to flooding.
- Flood depth remains unchanged in respect of the SH2 and Franklin Road bridges.
- Transmission lines will experience a minor change in depth and velocity at some towers, however the modelling undertaken by T+T identifies that the flood velocities are very low and not expected to cause any scour issues. Here I note that Transpower has not commented on the proposal.
- Evacuation of residents is also a consideration and in this regard T+T and BECA conclude that the ability for residents to evacuate is not adversely affected by the proposed stopbank.

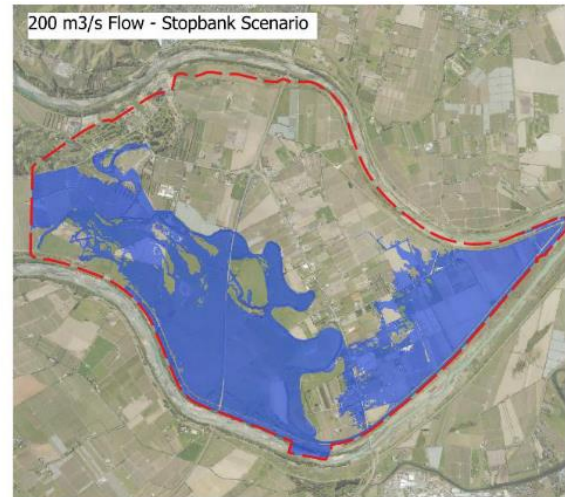
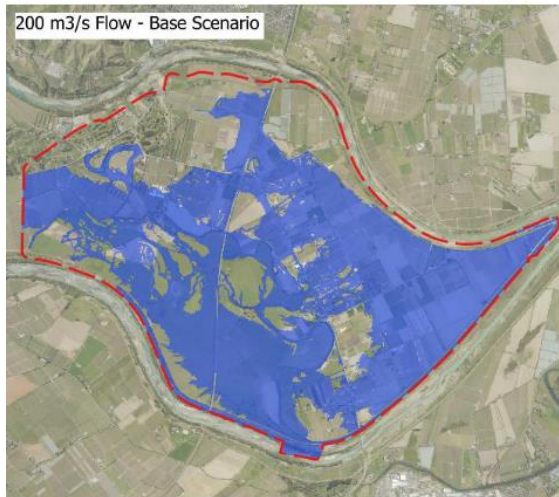
Specialist Reporting

HBRC appointed T+T to undertake the flood modelling and design of the stopbank and spillway. The key potential effects have been recognised as being the effects of consequential flooding that may occur following construction of the stopbank and spillway. To address this, extensive modelling through a range of predicted events to inform the assessment undertaken of flood hazard risks was undertaken.

The applicant identifies⁸ that “*within the Regional Policy Statement (RPS) there is widespread potential for flooding within Hawke’s Bay, and that individual rainfall events causing flooding can range from localised downpours affecting particular catchments, to cyclonic storms causing general flooding over large parts of the region*”, and notes that HBRC has undertaken considerable flood protection works and while these works have significantly reduced the risk from most flood events, very large events exceeding flood protection design standards can impact normally protected areas as was the case in Cyclone Gabrielle. The risk of flooding cannot therefore be totally avoided.

The Applicant also engaged T+T to assess the flood effects for the proposed Pakowhai Secondary Stopbank. The stopbank currently provides protection against a 20m³/s flow and a 500mm of freeboard, with allowance for some overtopping of the spillway. The modelling results indicate that the flood effects increase to the west of the stopbank, particularly along SH2 and within the adjacent horticultural land, while flood effects decrease to the north and east of the stopbank, where the stopbank effectively blocks and redirects floodwaters. The modelling also shows a significant reduction in the number of building footprints affected by flooding in the stopbank scenario while there are some buildings and infrastructure west of the stopbank that will experience more severe flood impacts. The images below explain these differences.

⁸ Application Report - Section 10.2.1



T + T has identified 841 buildings within their model domain. The modelling shows changes in flood hazard under a 200m³/s flow event and that the proposed stopbank:

- . removes the flood hazard for almost 300 buildings;
- . reduces the flood hazard for a further 66 buildings; and,
- . An increase in hazard classification for 54 buildings (30 of which are in LC3 areas).

The application⁹ is a controlled activity within the OiC footprint for the majority of the works. and in accordance with Schedule 3, where consider the risk of flooding upstream or downstream of proposed flood protection works as result of the works and measures to avoid or minimise that risk. The application provides a robust assessment to address the flooding risk reaching the conclusion that while some properties will experience additional flooding as a result of the flood mitigation works these effects have been appropriately mitigated through the provision of specific management plans (standard conditions of the OiC with amendments specific to this project), property acquisitions and community and lwi engagement.

Peer Review

A risk assessment undertaken by T+T (referenced at section 10.2.1 of the Application) is supported by BECA. BECA was engaged to:

- Review and provide comment on the T + T (2025) "Consequential Flood Effects - Pākōwhai Stopbank" report.
- Report on the consequences of the proposed works on the local community. This includes the areas and numbers of buildings where the risk of flooding will change due to the works, with the information drawn from the T + T report.

The scope of the peer review by BECA was to weigh the benefits of protecting the residential area of Pakowhai against the adverse effects on other areas. The report states; *“Based on the flood consequences evaluation undertaken by BECA the proposed scheme passes four of the five criteria with an unclear result for the remaining criterion. This would indicate that, subject to suitable mitigations or management strategies being agreed for the specific assets with increased risk (such as SH2, Transpower assets, and properties in the spillway path), the consequences of the proposed stopbank are considered acceptable although it is noted that the operation window in which the benefits of the stopbank will be seen is limited to between a 100 and 200-year event.”*

Overall, the analysis undertaken by BECA evaluated the consequences of the stopbank as being acceptable. It is my view that HDC can rely on the detail provided in the application and supporting engineering reports to inform the assessment and come to the same conclusion.

⁹ Pages 73-78 Application – HDC Ref: RMA20250446#0004

8.2.2 Cultural Values

- (a) **Potential adverse effects on cultural values, including effects on the relationship of tangata whenua with the land on which the works are carried out and receiving environments.**
- (b) **Whether the works will affect wāhi tapu or wāhi taonga.**
- (c) **Measures proposed to monitor adverse effects on cultural values throughout flood protection works.**
- (d) **Whether the values of kaitiakitanga, manaakitanga, and whanaungatanga will be provided for.**

Clause 12(2)(e) (ii) and (iii) also requires consideration of the potential effects on any cultural values identified by a relevant iwi authority or hapu; and the potential effects on any culturally significant land within or adjoining the area where the works are to be carried out.

I note that the physical works do not impact any identified archaeological sites, however a small portion at the southern tail of the new stopbank falls within wāhi taonga site **W13** listed on the Hastings District Plan Planning Maps.

The application includes details of the level of engagement with mana whenua throughout the proposal. Cultural Impact Assessment (CIA) is provided at Appendix 1 of the Application (prepared by Ngāti Pārau Hapu Trust), and a Cultural Aspirations and Assessment Report (CAAR) is provided in Appendix 2 of the Application (prepared by Ngāti Hinemoa, Ngāti Hawea, Ngāti Hori). These reports have been provided confidentially and therefore these shall be as read. Table 6¹⁰ in the Application sets out clearly the recommendations of the CIA and CAAR and the Applicants response to those which indicate an ongoing partnership between the Applicant (HBRC) and the Maori entities throughout the project construction.

The CIA and CAAR include a number of recommendations that have been included in Table 6 of the Application¹¹.

The list is extensive and requires a level of consideration with mana whenua that sits both within and outside of the OiC and RMA processes. Conditions 4 to 7 of Schedule 2 establishes the framework for a Stakeholder Advisory Group, which includes Māori Entity representatives and cultural monitors. Following extensive consultation by the Applicant with Ngāti Parau Hapu Trust, Ngāti Hinemoa, Ngāti Hawea, Ngāti Hori and other Maori entities, Table 6 provides the relevant responses to the recommendations. The conditions, including amendments following the consultative process, are included within Appendix 11 of the Application.

Clause 17 (3) allows amendment to the standard conditions apart from Condition 1.

The conditions in Schedule 2 of the OiC will ensure that cultural values are maintained, and archaeology is protected through the appropriate mechanisms. An Archaeological Authority has been applied for, and Condition 29 of the OiC requires that an accidental discovery protocol be prepared in collaboration with the Maori entities representatives and Heritage NZ Pouhere Taonga prior to construction works beginning. The protection of W13 is therefore implicit.

8.2.3 Freshwater

- (a) **Potential adverse effects on the values of any natural inland wetland and hydrological regime.**
- (b) **Provision for the passage of fish.**
- (c) **Application of the effects management hierarchy to works affecting any natural inland wetland.**

¹⁰ Page 82 – 89 Application (HDC Ref: RMA20250446#0004)

¹¹ Page 82 – 89 Application (HDC Ref: RMA20250446#0004)

- (d) The use of reclamation and diversion to facilitate flood protection works.**
- (e) The management of flood protection works to avoid, remedy, or mitigate potential sedimentation or contamination effects on any receiving environment.**

The matters of control listed in 8.2.3 above fall to be addressed under the HBRRMP and will be addressed by HBRC.

HDC has no comment to make in respect to this Matter of Control.

8.2.4 Coastal environment

- (a) The methods to be used to avoid, remedy, or mitigate the effects of any identified coastal hazard on the flood protection works.**
- (b) Potential adverse effects of the flood protection works on landscape values of the coastal environment, and measures to avoid, remedy, or mitigate those effects.**

The Application site is not located within the coastal environment. The application includes a Landscape Scoping Assessment in Appendix 5 (HDC Ref: RMA20250446#0008) which does not consider the coastal environment which is anticipated given that the stopbank will not be visible from any coastal vantage point.

HDC has no further comment to make in respect to this Matter of Control.

8.2.5 Stormwater

- (a) The quality of stormwater discharged from the area where flood protection works are carried out, including the concentration of any hazardous substances in the stormwater, and measures to avoid, remedy, or mitigate contamination and the sediment loading.**
- (b) Potential adverse effects (including potential cumulative effects) on water quality in any receiving freshwater or coastal environment, and measures to avoid, remedy, or mitigate those effects.**

The matters of control listed in 8.2.5 above fall to be addressed under the HBRRMP and will be addressed by HBRC. I note however that the conditions in the OiC address this issue through conditions 10 to 15.

HDC has no further comment to make in respect to this Matter of Control.

8.2.6 Soil, land, and ecology

- (a) Potential soil erosion and other adverse effects on soil stability, and measures to avoid, remedy, or mitigate those effects.**
- (b) Potential soil run-off and sedimentation, and measures to avoid, remedy, or mitigate those effects.**
- (c) Potential adverse effects on natural landforms and contours, and measures to avoid, remedy, or mitigate those effects.**
- (d) Potential adverse effects on terrestrial ecology, and measures to avoid, remedy, or mitigate those effects.**

The application includes an Ecological Scoping Study (Appendix 4 of the Application) prepared by T+T. As Condition 27 of Schedule 2 of the OiC requires this and it has already been prepared, the Applicant has shown this condition deleted. The matters listed above have been addressed by the Applicant and in the Ecological Impact Assessment. HBRC will likely comment on the proposed amendments to Conditions 18 and 28 in relation to these matters (Appendix 2 of this report includes draft conditions that have or have not been amended).

The Ecological Scoping Study is taken as read and as the matters fall to be within the jurisdiction of HBRC, HDC have no further comment in respect to this Matter of Control.

8.2.7 **Visual effects and amenity**

- (a) **Potential adverse visual effects on the following:**
 - (i) **the residential or recreational (including tourism) use of land in the vicinity of the flood protection works:**
 - (ii) **the existing character of the locality and amenity values:**
 - (iii) **outstanding or significant landscape areas.**
- (b) **Potential adverse amenity effects on adjoining land.**
- (c) **Construction noise, vibration, and dust generation, including having regard to the noise sensitivity of the receiving environment.**
- (d) **Potential adverse effects of the hours of operation of flood protection works.**
- (e) **Potential adverse effects on identified recreation areas.**
- (f) **Potential adverse effects on public health and safety during works.**
- (g) **Measures to avoid, remedy, or mitigate the effects described in paragraphs (a) to (f), including post-completion reinstatement and landscaping in relation to the effects described in paragraph (a).**

A landscape assessment plan is listed as being required under Condition 24 of the OiC.

The Application in Appendix 4, includes a Landscape Scoping Assessment (LSA), prepared by Narrative Landscape. The LSA addresses potential adverse amenity effects and provides an assessment of potential effects on the following properties:

1153 Links Road – Potential adverse effects considered LOW
1135 Links Road - Potential adverse effects considered LOW
1133 Links Road - Potential adverse effects considered VERY LOW
56 Franklin Road - Potential adverse effects considered VERY LOW
76 Franklin Road - Potential adverse effects considered MODERATE
1856 and 1854 Pakowhai Road - Potential adverse effects NEGLIGIBLE
1972 Pakowhai Road - Potential adverse effects VERY LOW
1914 Pakowhai Road - Potential adverse effects VERY LOW
22 Chesterhope Road - Potential adverse effects considered LOW
65 Chesterhope Road - Potential adverse effects considered VERY LOW
74 Hodgson Road – Potential adverse effects considered VERY LOW

The LSA concludes that;

While the Pakowhai Flood Resilience Project will alter parts of the local landscape through introducing new stopbanks and undertaking two localised stream realignments, these works are necessary and beneficial in terms of flood protection, and *“despite the proximity of some dwellings to this proposed flood protection work, it is considered that the adverse effect on residential properties will predominantly be 'Very Low' or 'low', with only one dwelling identified as experiencing a 'Moderate' adverse effect, and no dwellings approaching a 'Significant' degree”.*

The Applicant has recommended deletion of Condition 24 on the basis that a landscaping assessment has been undertaken and submitted with the application and identifies no visual adverse effects on properties that would be more than minor. I agree with the deletion of Condition 24 as it has already been met.

Matters such construction noise, hours and vibration are addressed in the CEMP of Condition 10 and specific Condition 23 noting that proposed amendments to Condition 23 are being recommended to address specific concerns of the owners of 56 Franklin Road (refer Appendix 2 of this report).

8.2.8 **Adjoining land uses**

- (a) **Potential adverse effects on the use of land on which works are carried out and adjoining land, and measures to avoid, remedy, or mitigate those effects.**
- (b) **Potential adverse effects on infrastructure assets and facilities (including those of network utility operators), and measures to avoid, remedy, or mitigate those effects.**

Effects on adjoining land uses and infrastructure assets and facilities have been addressed throughout the Application, in particular the sections that relate to consequential flooding. I concur with these assessments in relation to potential risk of flooding upstream and downstream of the proposed stopbanks and I am satisfied that the specialist reports submitted with the application and the application report has considered this risk. The reports provide confidence that appropriate measures have been undertaken to minimise those risks where possible in accordance with Schedule 3 of the OiC.

The Applicant has engaged with the community, network utilities and HDC throughout the process. The Application states that landowners are generally supportive of the intent of the proposal. The comments received from Joan Fernie Charitable Trust, Bostock NZ, Sheryl and David Mackie, Ministry of Education, Evan O'Leary and HDC and NZTA raise concerns around various matters, such as effects on productive land, compensation, dust mitigation, construction traffic, noise and vibration effects, effect on resilience and connectivity in respect of SH2 Expressway and the proposed spillway and consequential flooding with a lack of consultation with the properties east of Pakowhai Road. HDC responses are noted in section 4.1.4 above in this report. Some of the concerns raised can be mitigated through the CEMP, CTMP, CNVMP and through amendments to some of the conditions. The matters relating to compensation on the other hand must be addressed through other private agreements.

To conclude, the effects from the earthworks can be appropriately mitigated through the conditions (with amendments) in Schedule 2 of the OiC.

8.2.9 **Heritage and archaeology**

- (a) **Potential adverse effects on identified heritage values, and measures to avoid, remedy, or mitigate adverse effects.**
- (b) **Accidental discovery protocols to reduce risk to unidentified archaeological sites.**

Condition 29 of Schedule 2 specifies that an Archaeological Discovery Protocol must be prepared before construction works commence.

The Archaeological Assessment by Archaeology HB however has recommended that further archaeological inputs are required for the north and south sections of the stopbank to better assess the actual risks posed to archaeological items that may be present at up to 500mm depth. The report states that the Expressway and Ngaruroro areas are considered relatively low risk due to the pre-existing modifications from the road and river works. Notwithstanding this, any archaeological item uncovered during construction works is protected under the HNZPTA 2014 and there is a requirement to report any finding and deal with these item appropriately.

The Archaeology Hawke's Bay Ltd report included the following disclaimer:

It should be noted that even where the archaeological risk posed by this project is ultimately determined as low, this does not guarantee that archaeological features or materials will not be encountered.

In order to be able to proceed with works without delay, HBRC have been advised to consider completing an Archaeological Authority application prior to works commencing as a risk management measure. My understanding is that HBRC have made application. The Applicant has addressed this matter in section 10.10 of the Application.

No changes to Condition 29 are therefore proposed.

Condition 29 is not dissimilar to the standard condition that would be imposed by HDC on an earthworks consent where there may be historic and cultural value.

8.2.10 **Access and transport**

- (a) Potential adverse effects on access to and along or around watercourses and water bodies, and measures to avoid, remedy, or mitigate those effects.**
- (b) Potential adverse effects on the safe and efficient operation of the transport network during flood protection works, and measures to avoid, remedy, or mitigate those effects.**

The Application at section 10.11 addresses (a) and states “*although much of the alignment will be within private property, the location and form of the proposed stop bank itself will not prevent opportunities for access to the Tutaekuri-Waimate Stream if this was to be considered in the future. As such, no specific measures/conditions to avoid, remedy, or mitigate effects associated with access to and along or around watercourses and water bodies are considered necessary*”.

In terms of (b) the application is supported by a TIA undertaken by East Cape Consulting¹² who have assessed the traffic impacts of the construction works on the road network and access to the stockpile areas. The report states that the most intense phase of the project in terms of vehicle movements will in relation to the stockpile areas to enable the construction works on the stopbank proper.

The effects considered in the TIA relate to increased traffic generation, pavement condition and intersection/vehicle crossing performance and sight distance safety at the intersections. The TIA concludes;

- that there is sufficient capacity within the road network to accommodate traffic associated with the construction of the stopbank.
- Due to physical constraints on some local roads, a CTMP is recommended. In light of this ,HDC are recommending a separate condition (Condition 39) be imposed to address this issue.
- On Franklin Road and Gilbertson Road, the relatively large number of heavy vehicle movements associated with the construction process may accelerate pavement aging (and subsequent failure). It is recommended that this risk be managed by a pavement condition survey (PCS) condition. In light of this, new conditions have been included (conditions 36-38). HDC are also recommending a new condition (condition 40) to prevent a right hand turn from Gilbertson Road on to Pakowhai Road by haulage traffic from the silt borrow areas along the Ngaruroro River (see plan below).

¹² Appendix 16 to the Application Report – East Cape Consulting (HDC Ref: RMA20250446#0005)

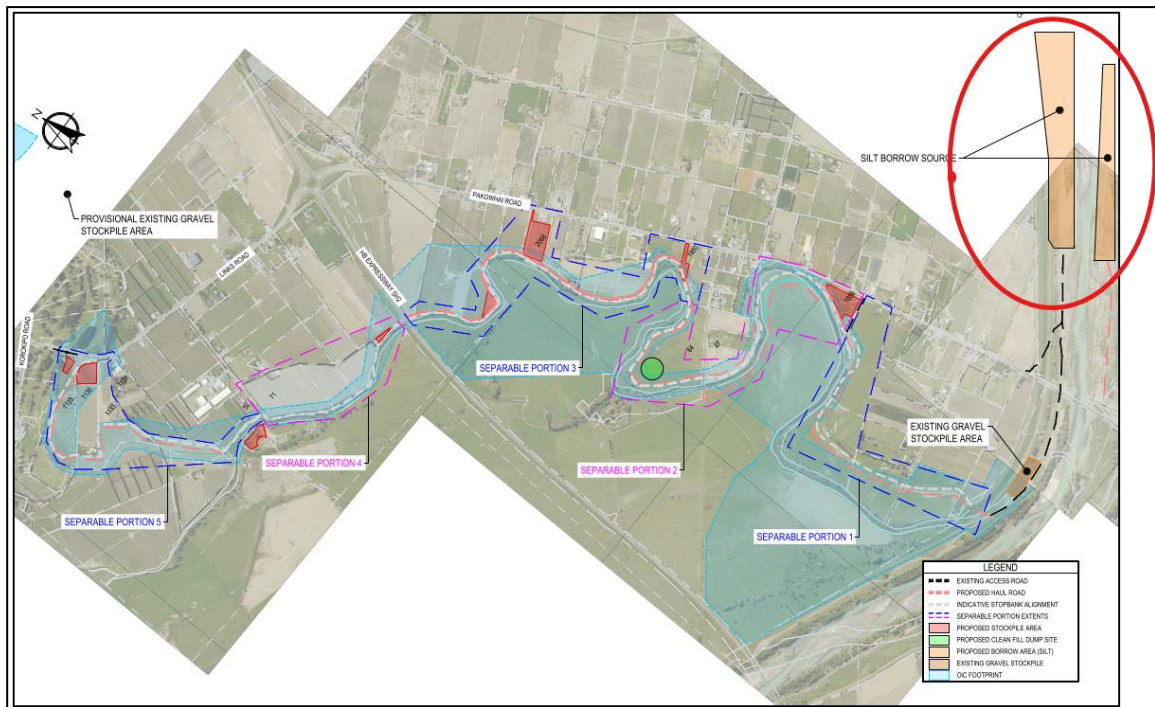


Figure 12: Silt Borrow Source Areas – Source: T+T

The construction works will however be temporary, and any potential effects will be temporary, if not necessary.

The Applicant is seeking a number of changes to Condition 10 (provision for CEMP), however these changes do not in my view diminish the strength or applicability of the condition but rather strengthens these and addresses some of the comments received.

The Applicant is also required to meet Condition 9 of the OIC which emphasises that a communication plan be developed and that this is enforced for the duration of constructions works.

8.2.11 Contaminated land (human health)

- (a) **Potential adverse effects on human health from disturbance or use of contaminated soil.**
- (b) **Measures to avoid, remedy, or mitigate those effects, including—**
 - (i) **remediation or management methods proposed to reduce risk posed by contaminants; and**
 - (ii) **timing of remediation; and**
 - (iii) **standard of remediation on completion of works.**

The Application included a PSI¹³ prepared by T+T and a DSI¹⁴ also prepared by T+T. T+T identified in the PSI that a number of potentially contaminated areas, and this is due to historical land use activities over the land within the construction area. Based on the review of historic information for the site, T+T identified a number of activities associated with the site that have the potential to cause ground contamination. These activities are noted as; waste disposal to land, farm pits, stock burial, horticultural use and orchards, pastoral weed control, above ground fuel storage tanks, closed landfill site, sheep dips, demolished pre2000 buildings, pylons.

These activities are identified in **Figure 13** below (taken from the PSI).

¹³ Appendix 6 of the Application – HDC Ref: RMA20250446#0009

¹⁴ Appendix 7 of the Application – HDC Ref: RMA20250446#0010

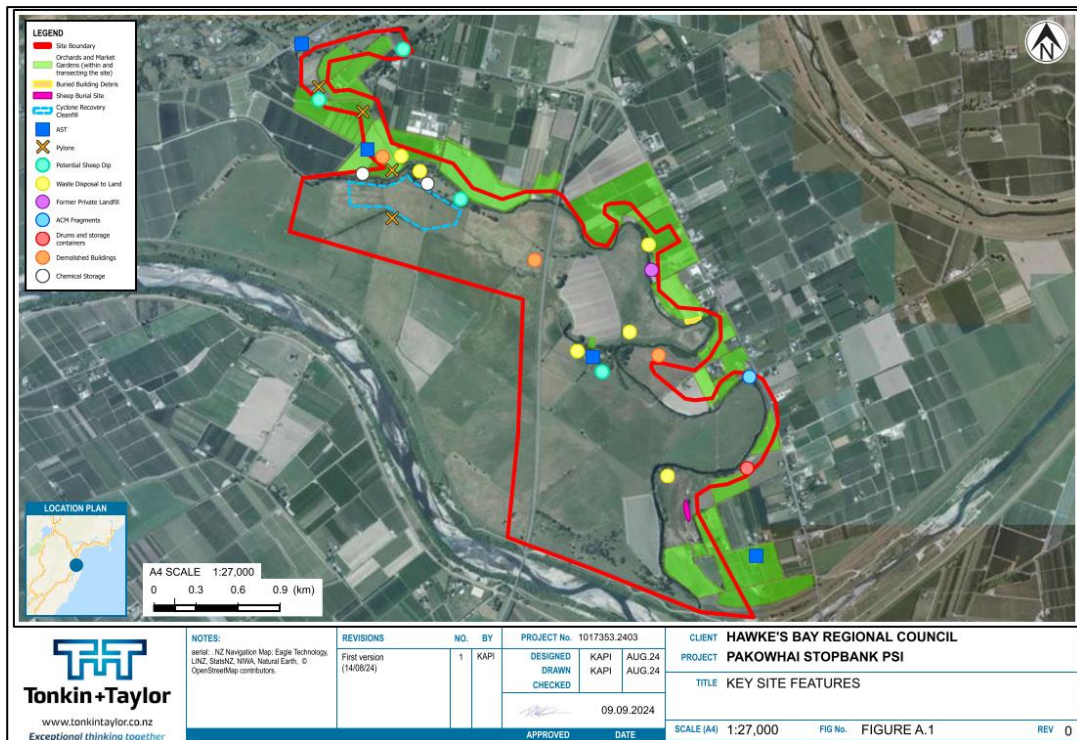


Figure 13: Activities identified – Source T+T PSI

T+T undertook limited soil sampling to target some of the potential HAIL activities and areas where soil disturbance is proposed.

Figure 14 below identifies the sample areas.

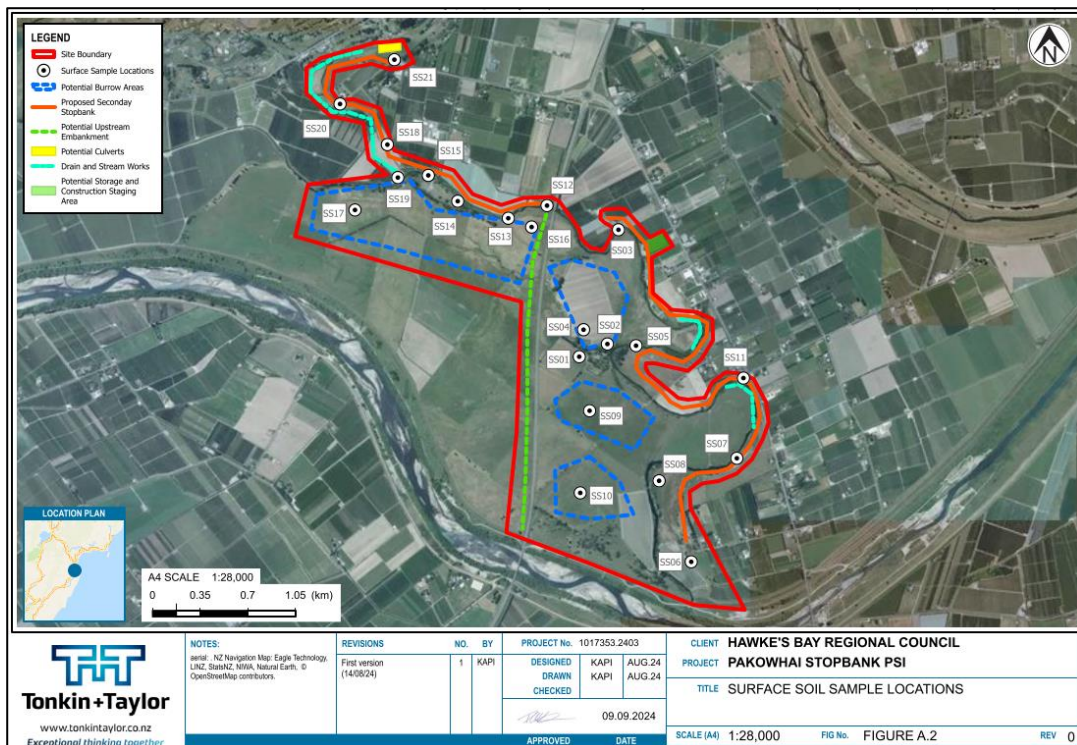


Figure 14: Surface Soil Sample Locations – Source T+T PSI

There were no exceedances of human health or environmental criteria in any of the 21 analysed samples, with one exception. One sample immediately adjacent to a farm waste pit contained asbestos

above the risk-based criteria. The extent of asbestos in soils in an around the waste pit has not been assessed and it is possible that asbestos may be present in higher concentrations. As a minimum, works in this area would need to be undertaken under 'Asbestos-related works' controls.

T+T have recommended that further investigation is required prior to the development of the stopbank to further assess risks and implications associated with potential contamination in particular parts of the site where soil disturbance is proposed.

Subsequent to the PSI, T+T was commissioned by HBRC to undertake additional investigations. The DSI provided in Appendix 7 of the application builds on the preliminary investigation results and assesses the nature and extent of contamination at the site and informs management of contaminated land for works. Additional sampling (addendum to DSI) along the Tutaekuri-Waimate Stream was undertaken by T+T to address a revised alignment of the of the stopbank where geotechnical investigations revealed a previously unidentified areas of potential ground contamination.

The DSI recommends that a Contamination Site Management Plan (CSMP) be prepared to respond to the matters raised at specific identified sites. In addition to the standard practice for managing contamination, capping of the existing fill sites identified at 1023 Links Road and 2008 Pakowhai Road has been identified as needing to be undertaken. **Condition 17** of the OiC prescribes how this is to be achieved and has been amended to specifically identify these two sites. The CSMP has been specifically added to matters to be addressed in the CEMP under **Condition 10** (new condition 10 c) viii) of the OiC.

Rather than duplicate the process for the area outside OiC footprint, HDC can rely on the imposition and implementation of the CSMP as part of the CEMP to address and mitigate any potential effects of contaminated soil on any person(s).

9.0 Relevant Statutory Documents - s104(1)(b)

9.1 National Environmental Standards - s104(1)(b)(i)

9.1.1 National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health (NESCS) 2011

Refer to assessment in section 3.2 and 7.2.11 of this report.

9.1.2 National Environmental Standard for Sources of Human Drinking Water 2007

The Sources of Human Drinking Water NES is not considered relevant to this proposal given there is no registered drinking water supplier in the immediate vicinity of the proposed earthworks, notwithstanding that a ESCP is a requirement of Condition 14 of the OiC.

9.2 National Policy Statements - s104(1)(b)(iii)

9.2.1 National Policy Statement on Urban Development 2020

As this is for an earthworks activity not associated with urban development, the NPS-UD 2020 is not relevant.

9.2.2 National Policy Statement for Freshwater Management 2020

The objective of this National Policy Statement is to ensure that natural and physical resources are managed in a way that prioritises:

- (a) the health and well-being of water bodies and freshwater ecosystems*
- (b) the health needs of people (such as drinking water)*

(c) the ability of people and communities to provide for their social, economic, and cultural well-being, now and in the future.

While the consideration under this NPS is largely a function of the HBRC who will address this particular NPS in their consideration of the application, sediment control measures required under Condition 14 of the OIC will ensure sediment runoff is controlled. In terms of prioritising the community, ongoing consultation with the community and relevant Iwi has been undertaken by the Applicant and throughout this process with significant engagement ongoing.

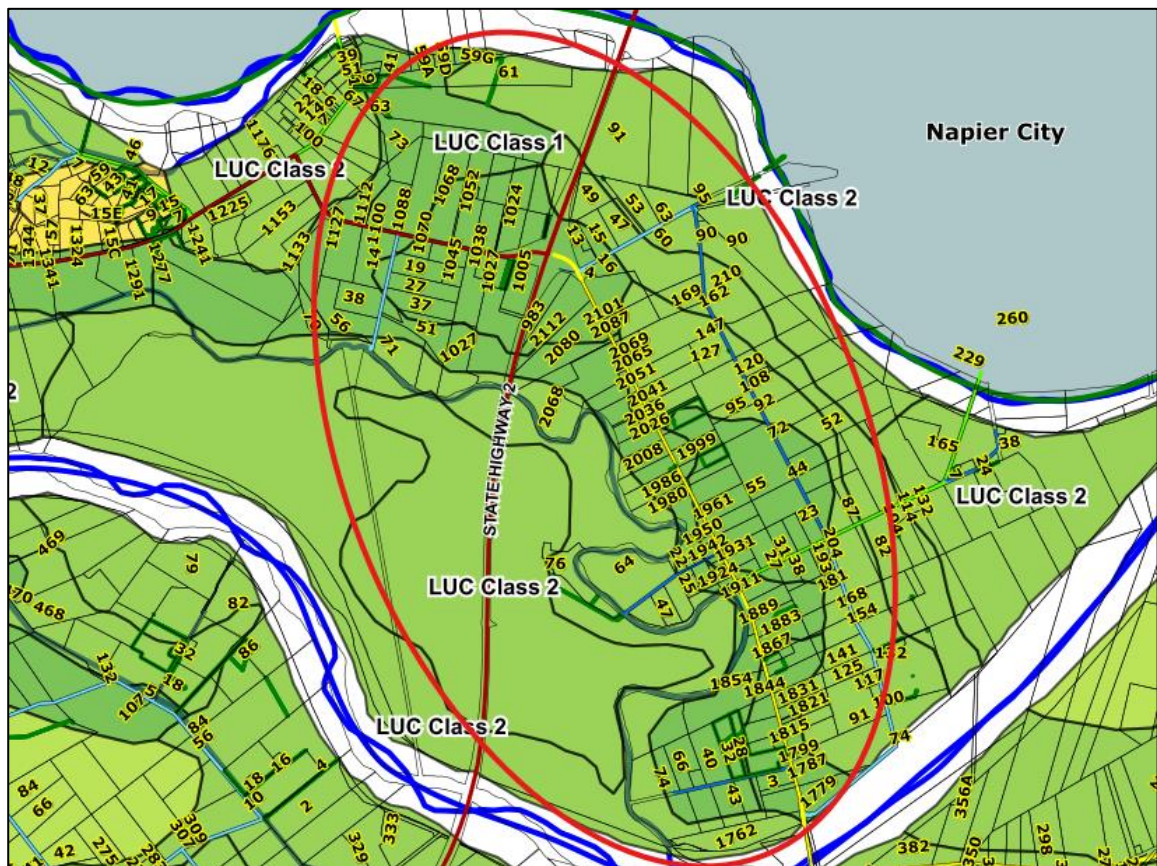
9.2.3 National Policy Statement for Highly Productive Land 2022 (amended December 2025)

The National Policy Statement for Highly Productive Land (NPS-HPL) is about ensuring the availability of New Zealand’s most favourable soils for food and fibre production, now and for future generations.

The Policy provides direction to improve the way highly productive land is managed under the Resource Management Act 1991 (RMA) and came into effect on 17 October 2022.

This is achieved through obligations on councils to map and zone highly productive land, and manage the subdivision, use and development of this non-renewable resource. This relates to soils that are classified as LUC Class 1, 2 and 3 as mapped by the New Zealand Land Resource Inventory or by any more detailed mapping that uses the Land Use Capability classification.

An assessment against the NPS-HPL must now be undertaken for this current application given that some of the land within the area of works is identified in the NPS-HPL as being LUC Class 1 and LUC Class 2. These soils are within the areas that fall inside of the OIC area. See **Figure 15** below.



3.9 Protecting highly productive land from inappropriate use and development

- (1) **Territorial authorities must avoid the inappropriate use or development of highly productive land that is not land-based primary production.**
- (2) **A use or development of highly productive land is inappropriate except where at least one of the following applies to the use or development, and the measures in subclause (3) are applied:**
- (b) **it addresses a high risk to public health and safety:**
 - (c) **it is, or is for a purpose associated with, a matter of national importance under section 6 of the Act:**
 - (j) **it is associated with one of the following, and there is a functional or operational need for the use or development to be on the highly productive land:**
 - (i) **the development, operation of specified infrastructure, including (but not limited to) its construction, maintenance, upgrade, expansion, replacement, or removal;**

The NPS-HPL defines “specified infrastructure” as including “any public flood control, flood protection, or drainage works carried out...by or on behalf of a local authority...”. I consider the proposed works to be specified infrastructure under this definition.

I make the following comments in relation to these matters:

- The purpose of the works are to address flooding risk, which present a high risk to public safety;
- Section 6(h) RMA provides that the management of significant risks from natural hazards is a matter of national importance. The proposed works will address such significant risk;
- In terms of (j)(i) the sole purpose of the application is to construct a stopbank which constitutes public flood control and flood protection. As noted, such works are defined as “specified infrastructure” in cl 1.3 NPS-HPL. The works have a functional need to be located in the specific area.

In addition to an exception under cl 3.9(2), there is a requirement to take measures noted in cl 3.9(3):

- (3) **Territorial authorities must take measures to ensure that any use or development on highly productive land:**
- (a) **minimises or mitigates any actual loss or potential cumulative loss of the availability and productive capacity of highly productive land in their district; and**
 - (b) **avoids if possible, or otherwise mitigates, any actual or potential reverse sensitivity effects on land-based primary production activities from the use or development.**

In this case, I have particularly focused on the aspects which require consent from HDC which is for earthworks. As stated above, the earthworks are required to allow soil to be borrowed and stockpiled in the area within and outside the OiC footprint for use to construct a new stopbank to protect the Pakowhai/Chesterhope communities and key network utilities from future flooding events. The proposal meets (3) (a) in that the new stopbank will avoid further loss of productive soils should a similar event like Cyclone Gabrielle occur in this location. In terms of (3) (b) the construction activity is temporary and accordingly reverse sensitivity issue will be addressed through the conditions in Schedule 2 of the OiC.

I therefore consider that the proposal is consistent with Policy 7 in that highly productive land is protected from inappropriate use and development, the proposed use not being “inappropriate” in accordance with cl 3.9. Overall, I find the proposal is consistent with the NPS-HPL.

9.2.4 National Policy Statement for Natural Hazards

The National Policy Statement for Natural Hazards (NPS-NH), which came into effect on 15 January 2026, seeks to ensure that potential natural hazard risks to people and property associated with subdivision, use, and development are managed using a risk-based, proportionate approach. Clause 1.3(1) of the NPS-NH specifies that the following natural hazards are subject to the NPS:

- Flooding;
- landslips;
- coastal erosion;
- coastal inundation;
- active faults;
- liquefaction; and
- tsunami.

NPS-NH does not apply to infrastructure and primary production activities (Clause 1.3(2)), and activities subject to existing use rights under Section of the RMA (Clause 1.3(5)).

The NPS uses the definition of infrastructure from the RMA, and this does not refer to flood works, meaning the exclusion for infrastructure in the NPS-NH does not apply. In this case the activity relates solely to earthworks associated with flood protection works.

The NPS-NH requires all natural hazard risks to be assessed based on the likelihood of the hazard occurring and its potential consequences, using the risk matrix in Appendix 1 of the NPS-NH. The risk matrix is reproduced below.

		Likelihood Level						
		Almost Certain	Very Likely	Likely	Possible	Unlikely	Rare	Very Rare
ARI (years)	up to 10	10-20	20-50	50-100	100-500	500-5000	> 5000	
AEP	10% or more	10% to 5%	5% to 2%	2% to 1%	1% to 0.2%	0.2% to 0.02%	< 0.02%	
Consequence Level	Catastrophic	Very High	Very High	Very High	High	Medium	Medium	Medium
	Major	Very High	Very High	High	High	Medium	Medium	Medium
	Moderate	High	High	High	Medium	Medium	Low	Low
	Minor	Medium	Medium	Medium	Medium	Low	Low	Low
	Negligible	Low	Low	Low	Low	Low	Low	Low

Clause 3.3(2) of the NPS-NH requires that, where the risk is assessed as “very high”, the risk must be avoided. For significant natural hazard risks, defined as “high” or “medium” risk, that risk must be either avoided or mitigated proportionate to the level of risk.

The application was made before the NPS-NH took effect and does not include an assessment against the risk matrix. The works do not easily fall within this matrix given their purpose is to mitigate natural hazard risk. In my assessment, the works would likely fall to be considered in the medium risk category, but I am satisfied that the risk has been mitigated to an appropriate level, as discussed elsewhere in this report and the application.

The application provides robust engineering reports and flood modelling and while some flooding will still occur as a result of the flood protection works, overall, the area where flooding will occur is reduced. The report recognises that flooding from a large event is unavoidable, however the risks of large scale flooding are appropriately mitigated through the OiC conditions.

I therefore consider that the proposal meets the objective and policies of the NPS-NH.

9.2.5 National Policy Statement for Infrastructure

The National Policy Statement for Infrastructure 2025 (NPS-I), which came into effect on 15 January 2026, seeks to ensure the national, regional and local benefits of infrastructure are provided for, and otherwise to enable infrastructure.

Under this NPS flood control and protection works carried out by or on behalf of a local authority are included as “additional infrastructure”. The NPS-I also specifically provides for “*replacement, or renewal of, existing infrastructure with the modern equivalent equipment of asset, which may not be like for like* and upgrading infrastructure to increase “*the capacity, level of service, efficiency, safety, security, resilience, effectiveness or longevity of existing infrastructure and includes the replacement, renewal, addition, expansion and intensification of existing infrastructure*.”

The relevant policies are as follows:

Policy 1: Providing for the benefits of infrastructure

Decision-makers must recognise that the benefits of infrastructure include:

...

- g. reducing the risks from, and improving resilience to, natural hazards and climate change.*

Policy 2: Operational need or functional need of infrastructure to be in particular locations and environments

- 1. Decision-makers must recognise that infrastructure may have an operational need or functional need to operate in, be located in, or traverse particular locations and environments.*
- 2. Decision-makers must recognise that the operational need or functional need of infrastructure includes, but is not limited to, the need to:*

...

- f. manage risks from natural hazards.*

Policy 4: Enabling the efficient and timely operation and delivery of infrastructure activities

- 1. Decision-makers must:*

- f. enable the upgrading of infrastructure where this will:*

- i. improve the resilience of infrastructure to the risks from natural hazards and effects of climate change;*

Policy 6: Recognising and providing for Māori interests

- 1. Decision-makers must recognise and provide for Māori interests in relation to infrastructure activities and infrastructure supporting activities, including by:*

...

- c. local authorities:*

- i. providing opportunities for tangata whenua involvement where infrastructure and infrastructure supporting activities may affect a site of significance or issue of cultural significance to Māori; and*
- ii. operating in a way that is consistent with any relevant iwi participation legislation or Mana Whakahono ā Rohe.*

Policy 7: Assessing and managing the effects of proposed infrastructure activities

- 1. When assessing and managing the effects of infrastructure activities, decision-makers must:*
 - a. have regard to the extent to which adverse effects have been avoided, remedied or mitigated through the selection of the route, site or method of undertaking the work;*

...

- b. *ensure that the mitigation measures and consent conditions are proportionate to the scale of adverse effects generated by the activity.*

Policy 9: Managing the effects of new infrastructure and major upgrades

1. *Decision-makers must enable new infrastructure or major upgrades of existing infrastructure activities in all environments.*
2. *Where infrastructure activities are proposed to locate in or are likely to have adverse effects on environments and values provided for in section 6 of the Act, the provisions of this policy must be read alongside other relevant national direction, regional policy statements and regional and district plans.*
3. *Where (2) does not apply, the adverse effects of new infrastructure and major upgrades must be, where practicable, avoided, remedied or mitigated.*

Policy 10: Planning for and managing the interface and compatibility of infrastructure with other activities

1. *Decision-makers on planning instruments must manage the interface between existing and planned infrastructure and other activities to ensure:*
 - a. *infrastructure and other activities are as compatible as practicable;*
 - b. *the safe, efficient and effective operation, maintenance and minor upgrades, and major upgrades of existing or planned infrastructure are not compromised by the adverse effects of other activities; and*
 - c. *infrastructure activities that are compatible with each other are co-located, while recognising that some types of infrastructure are not compatible.*
2. *Decision-makers on planning instruments must:*
 - a. *engage with infrastructure providers to:*
 - i. *understand their existing and planned infrastructure activities and medium to long-term plans;*
 - ii. *identify appropriate buffers and other methods to protect existing and planned infrastructure from the adverse effects of new or intensified sensitive and incompatible activities, including direct effects, reverse sensitivity effects, and risks to health and safety;*
 - iii. *support the strategic integration of infrastructure with land use activities;*
 - b. *identify:*
 - i. *activities that are particularly sensitive to the effects of infrastructure;*
 - ii. *activities that are compatible with infrastructure, or potentially compatible with appropriate buffers, design standards or mitigation measures;*
 - iii. *infrastructure activities that are sensitive to the effects of other infrastructure;*
 - c. *apply a range of methods, including, where appropriate:*
 - i. *the use of buffers in plans to manage sensitive activities, including new or intensified sensitive activities, and incompatible activities near infrastructure;*
 - ii. *design standards to manage the effects of infrastructure on other activities;*
 - iii. *special purpose zoning and other spatial-planning layers; and*
 - d. *ensure that measures to avoid, remedy or mitigate the effects of other activities on infrastructure are consistent with relevant international standards (that are recognised or used in New Zealand), national standards and recognised best practice standards and methodologies.*

Policy 11: Assessing and managing the interface between infrastructure and other activities

1. *When assessing and managing the interface between existing and planned infrastructure with other activities, including new or intensified sensitive activities, through planning instruments, decision-makers must:*

- a. *recognise that noise, vibration, dust and visual effects are all typical effects associated with infrastructure activities that can be managed where practicable but not completely avoided;*
- b. *recognise that:*
 - i. *amenity values change due to a range of factors;*
 - ii. *changes in amenity values from infrastructure activities can be necessary to achieve well-functioning urban and rural environments; and*
- c. *apply the general principle that the primary responsibility for managing adverse effects is on the new activity (including infrastructure) while allowing flexibility for site- and project-specific circumstances.*

The application did not address the NPS-I as it was prepared and submitted before this statement came into force. For completeness the relevant policies are included in this report. I have reached a conclusion that the proposal has addressed the matters referred to above and is not inconsistent with the above policies. In reaching this conclusion I find that the infrastructure is in direct response to climate change and will provide greater resilience for the Pakowhai and Chesterhope communities.

9.2.6 **New Zealand Coastal Policy Statement - s104(1)(b)(iv)**

The purpose of the New Zealand Coastal Policy Statement (NZCPS) is to state policies in order to achieve the purpose of the RMA in relation to the coastal environment of New Zealand. In this instance, the site does not directly connect to the coast, therefore the NZCPS is not relevant.

9.2.7 **Hawke's Bay Regional Policy Statement – s104(1)(b)(v)**

The Hawke's Bay Regional Resource Management Plan 2006 (RRMP) includes the regional policy statement (RPS) for the Hawke's Bay Region.

The Applicant has provided a relevant assessment under both documents and in particular references those Objectives and Policies that relate to water quality and quantity, natural hazards, economic outcomes and recognising the importance of tikanga Maori in respect of the broader proposal. A detailed analysis will be undertaken in the HBRC Officer Report and need not be repeated in this report.

Overall, it is considered that the proposal is not contrary to the relevant objectives and policies of the Hawke's Bay Regional Policy Statement and other relevant regional documents.

9.3 **Hastings District Plan – Assessment Criteria - s104(1)(b)(vi) – Areas outside the OiC Footprint**

9.3.1 Applicable Earthworks Assessment Criteria – Section 27.1.7

27.1.7A LAND DISTURBANCE AND VEGETATION CLEARANCE

(a) *The effects of land disturbance and vegetation clearance will be assessed in terms of their effects on:*

- (i) *The life-supporting capacity of soils.*
- (ii) *Soil erosion and stability.*
- (iii) *Soil Runoff and Sedimentation.*
- (iv) *Natural landforms and contours.*
- (v) *Flora and fauna.*
- (vi) *Significant cultural, ecological and historic heritage sites*
- (vii) *Composition and characterises of any fill used.*

(b) *In making an assessment, regard will be had to the following:*

- (i) *The extent of removal of vegetation, topsoil and subsoils at any one time.*
- (ii) *Methods to separate soil horizons during stripping.*
- (iii) *Measures to safeguard the life supporting capacity of stockpiled soils.*

- (iv) The potential or increased risk of hazards from the activity, including potential risk to people or the community.
- (v) Sediment control measures
- (vi) Rehabilitation of site
- (vii) Land capability and potential end uses of the site
- (viii) Information on any relocation of fill on or offsite.
- (ix) Siting, construction and maintenance of internal access roads.
- (x) Effect on flow paths and floodways.
- (xi) Measures to avoid disturbance of archaeological sites

Assessment:

The Applicant has provided an assessment in respect of earthworks required to form the stopbank and associated activities that are located outside the OiC Footprint but not within the designated road corridors where earthworks are permitted.

In terms of criterial 27.1.7A (a) these criteria seek to manage the effects of land disturbance and vegetation clearance and the potential effects these such as erosion and stability of land, soil runoff activities could have on soils. Effects on flora and fauna, fill characteristics and any cultural, heritage and ecological values are also a consideration.

In terms of effects on the life-supporting capacity of soils, the proposed stopbank will not only protect people and land they will in effect form a barrier to contain these soils from being washed away during any new flood events should they occur. The soil to form the stopbanks will be bought in to various parts of the site which means that there will be no borrow within the Application site but rather soils will be stockpiled in the areas shown in **Figure 16** below.

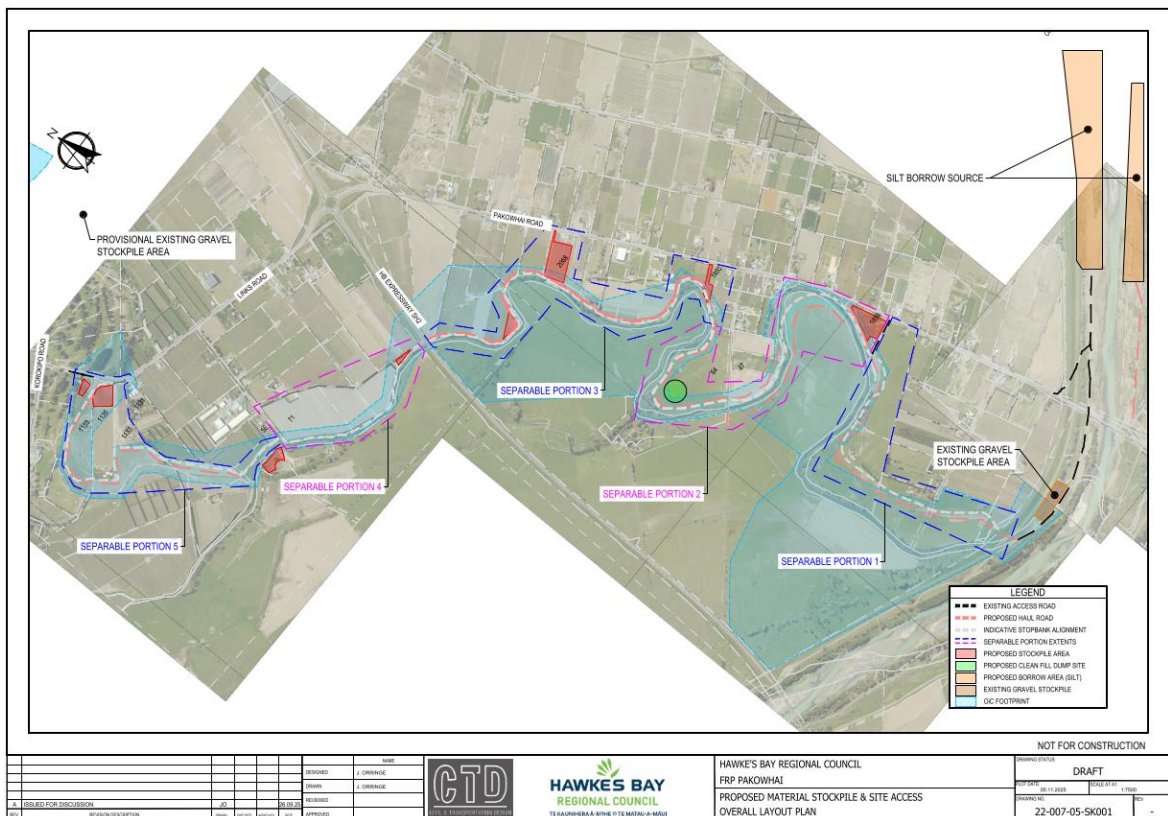


Figure 16: Stockpile and Borrow Areas

Soil erosion and sediment control are matters to be addressed under the HBRRMP and HBRC will address this in their assessment of the Application. The conditions of the OiC address this through Condition 10 (CEMP), Condition 13 which requires the consent holder to appoint a suitably qualified erosion and sediment control manager to oversee the works and Condition 14 which requires an Erosion

and Sediment Control Plan for the duration of works. Condition 14 (as amended by HDC) also provides the mechanism that authorise monitoring by HBRC and HDC.

In terms of stability, T+T have addressed this through the Geotechnical Assessment Report¹⁵ which addresses;

- Seismic hazards along the alignment,
- Static settlement,
- Stability under static, seismic and rapid drawdown conditions,
- Seepage,
- The proposed retaining structures.

The Application states that the specific areas identified in the geotechnical assessment that will require additional design works, such as the retaining wall along the Tutaekuri-Waimate Stream at 71 Franklin Road¹⁶, can be addressed through the detail design process.

The geotechnical report concludes that the Pakowhai Stopbank is generally feasible against HBRC static and transient flood performance criteria across most of the alignment however the report notes that there are four areas that will require special consideration as part of the stopbank design. As stated above this could be addressed as part of the detail design.

The T+T Preliminary Design Report is very thorough and addresses all matter considered appropriate for HDC to assess the proposed construction within and outside the OiC footprint. There is nothing further that could be added to the T+T assessment other than to acknowledge that erosion and sediment control measures will be employed to manage sediment laden stormwater runoff, and that these will need to be in accordance with HBRC guidelines. The relevant conditions (referred to above) imposed under the OiC are considered relevant to apply to those areas of works outside the OiC footprint.

In terms of effects on flow paths and foodways, the assessment applied by the Applicant in their assessment in Section 11.2.1 of the application¹⁷ provides a detailed assessment relating to discharge and dewatering activities and diversion of water. While any discharge or diversion of water in the excise of an activity falls to be largely a responsibility of the HBRC, HDC must remain consistent in its approach to these activities and the application must be assessed in accordance with the assessment criteria listed above in 27.1.7A (b) (x) *Effect on flow paths and floodways*.

For this reason, HDC supports the imposition of erosion and sediment control measures for the duration of the works. This is covered in Conditions 10 and 14 of the OiC and is considered an appropriate approach in managing potential for sediment discharge in the areas inside and outside the OiC footprint.

In terms of measures to avoid disturbance of any archaeological sites the Applicant has applied a pre-emptive Archaeology Authority be put in place in relation to construction management and a condition (Condition 29) is proposed to manage the unexpected discovery of archaeological features, artefacts or taonga, as is common for development projects.

27.1.7B VISUAL IMPACT

(a) *The visual effects of the activity will be assessed in terms of its potential effect on:*

- (i) *The residential or recreational (including tourism) use of land in the vicinity of the activity.*
- (ii) *The existing character of the locality and amenity values.*

¹⁵ Appendix 15 of the Application – Geotechnical Assessment Report – Pakowhai Secondary Stopbank September 2025 HDC Ref: RMA20250446#0018

¹⁶ Figure 6.1, Page 21, T+T – Geotechnical Assessment Report – Pakowhai Secondary Stopbank September 2025 HDC Ref: RMA20250446#0018

¹⁷ Page 106-107 Application (HDC Ref: RMA20250446#0004)

- (b) In making that assessment regard shall be had to:
- (i) Planting, screening and other amenity treatment to minimise visual impact.
 - (ii) Site location including locality, topography, geographical features, adjoining land uses.
 - (iii) Height of soil stockpiles and cuttings.
 - (iv) Rehabilitation of the site, including contouring, landscaping and re-vegetation.
 - (v) Duration, rate and extent of extraction.
 - (vi) Lighting – intensity, direction and positioning of lighting in relation to the effects of glare on the surrounding environment and adjacent land uses.

Assessment:

The sites are not located within or near an area of Outstanding Natural Value or an Outstanding Natural Feature and therefore effects on these features are not applicable.

Stopbanks are already a feature on the Heretaunga Plains and these already inform the character of the existing environment. I consider that the new stopbanks works will not result in a significant change in the existing character of the wider locality and will not have a significant visual impact on most of the surrounding properties. These also includes areas where diversions, realignments and new support structures are proposed as these will largely be on private property and to a large extent, away from public view.

A landscape assessment plan is listed as being required under Condition 24 of the OiC. As stated earlier in this report, the Application, in Appendix 5, includes a Landscape Scoping Assessment (LSA), prepared by Narrative Landscape. The LSA provides an assessment of the following key components:

- Stopbank Raising and Realignment
- Ancillary Infrastructure
- Finish Treatment

The report assesses the visual effects of the stopbank along its length and identifies a number of properties that could be potentially affected. These are listed in section 8.2.7 above. Here I note that

Features such as swales will not be visually incompatible within a rural context due to the low impact design of these features.

The LSA concludes;

“The Pakowhai Flood Resilience Project will alter parts of the local landscape through introducing new stopbanks and undertaking two localised stream realignments. These works are necessary and beneficial in terms of flood protection, and despite the proximity of some dwellings to this proposed flood protection work, it is considered that the adverse effect on residential properties will predominantly be 'Very Low' or 'low', with only one dwelling identified as experiencing a 'Moderate' adverse effect, and no dwellings approaching a 'Significant' degree.”

The Applicant has recommended deletion of Condition 24 on the basis that a landscaping assessment has been undertaken and submitted with the application and identifies no visual adverse effects on properties that would be greater than moderate. I agree with the deletion of Condition 24 as it has already been met.

Earthworks are generally short term projects where the disturbed areas are required to be reinstated upon completion. Proposed Condition 12(a) vi. of the OiC covers this reinstatement.

27.1.7C EFFECTS ON OTHER LAND USES AND ADJOINING PROPERTIES.

The extent to which the activity will interfere with, or adversely affect, the current use of the land on which the activity is sited, or adjoining land uses. Consideration will be given to any potential effects of the proposed activity on adjoining properties and land uses, such as effects on surface drainage patterns, dust nuisance, or adverse effects on adjoining buildings. Permanent effects will be given more weight than temporary effects. Consideration will also

be given to methods to avoid adverse effects on land use activities which are allowed in the zone where the activity is located, such as distance of activities from boundaries, and methods to avoid disturbance to adjoining properties, including livestock, particularly during birthing, and dust on fruit, particularly during harvesting season.

Assessment:

The most significant effect from earthworks on adjoining land uses and adjoining properties is noise, vibration created by the use of machinery and dust and from wind blowing particulates in the air. This can be mitigated through appropriate dust suppression measures. The Application lists measures such as water carts and sprinkler systems or similar to mitigate the effects of dust while construction activities are being undertaken. Condition 16 of the OiC specifically addresses dust management, also noting that Condition 10 c) ix. requires dust management to be addressed in the CEMP. Dust in relation to 56 Franklin Road has been addressed by HBRC by addition of a specific new condition to mitigate an potential effects on that property. Given that the areas outside the OiC footprint are relatively discrete and considered small in scale, they do not directly affect adjoining land in terms of the overall context of the stopbank construction works.

Final detailed designs will address any potential impact of any new structures forming part of the stopbank works adjoining private land.

The key issue for adjoining properties would likely be the actual or potential effects of consequential flooding following construction stopbank and the spillway along a small section of the new alignment. The application is reliant on the specialist reports and designs prepared by T+T that address any surface drainage issues from the new stopbank and any consequential flooding upon completion of construction of the stopbank and spillway. These reports have been peer reviewed by BECA who have concluded that the T+T reports are robust as discussed in section 8.2.1 above.

27.1.7D NOISE

In assessing the impact of noise, regard shall be had to the noise sensitivity of the receiving environment, including adjacent land uses, where it is proposed to undertake the activity. Consideration will also be given to hours of operation of the activity.

Assessment:

Noise associated with construction works is considered to create temporary effects only and while the works are being undertaken. Standard 25.1.6l of the Operative Hastings District Plan specifies the level of construction noise permitted, stating that this shall be in accordance with NZS6803:1999 Acoustics - Construction Noise. The Application states that noise will be controlled within these limits. Condition 23 of the OiC requires these limits not be exceeded.

In terms of the properties with buildings close to the proposed works, I consider these persons should be protected from vibration effects associated with the proposed works. To this effect I am recommending a change to Condition 23 to include c) and d) as follows:

c) The consent holder must submit a Construction Noise and Vibration Management Plan (CNVMP) prepared by a suitably qualified person taking account of construction activities and sensitive receptors (including structures in respect to vibration) a minimum of 10 working days prior to commencement of works.

d) The construction works must be carried out in accordance with the 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.

The proposed amendment to this condition reflects the proximity of residential activities to the works sites and the medium liquefaction properties of the soils. The changes are also reflective of comments receive from the persons at 56 Franklin Road.

The comments from the persons at 56 Franklin Road relating to reduced hours of operation are not supported by HDC due to the overriding need to expedite the flood protections works without delay in order to protect the wider Pakowhai community for future major flood events.

27.1.7E EFFECTS ON SPECIFIC DISTRICT WIDE ACTIVITIES AND LOCATIONS

The extent to which the activity will interfere with, or adversely affect:

(a) Access to and along watercourses and waterbodies.

(b) Recreation, Conservation or Natural Areas (see District Plan Section 13.1 Open Space Environments).

Assessment:

The location and form of the proposed stopbank features will not impede access to and along the water bodies or for access to these from being established following construction of the stopbanks.

In terms of (b) there are no recreation, conservation or natural areas within or outside the OiC that would be affected by the proposed construction activities.

27.1.7F EARTHWORKS WITHIN OUTSTANDING NATURAL LANDSCAPES (ONFL)

Earthworks within an ONFL will be designed and located to minimise adverse visual effects. In particular, the extent to which any such development will:

(a) Where practicable, minimise the location of large scale earthworks on prominent rural ridgelines, hill faces and spurs.

(b) Be designed to minimise cuttings across hill faces and spurs.

(c) Where practicable, minimise the number of finished contours that are out of character with the natural contour.

(d) Demonstrate what visual mitigation is proposed to minimise the visual intrusion of the work, including proposals to ensure the successful establishment of any plantings.

Assessment:

Not applicable to this activity

27.1.7G ADDITIONAL SPECIFIC ASSESSMENT CRITERION FOR MINING AND EXPLORATION ACTIVITIES ONLY

The activities are not considered to be mining activities in terms of the District Plan.

9.4 Hastings District Plan Objectives and Policies

The Application is being assessed as a controlled activity for the areas within the OiC footprint and a discretionary activity under the Hastings District Plan in the areas outside the OiC footprint. For the areas outside the OiC footprint the application is being assessed as a Discretionary Activity and therefore it is relevant to consider objectives and policies of the Hastings District Plan. I consider the proposal to be consistent with key objectives and policies of the Hastings District Plan, particularly the following:

Section 15.1 Natural Hazards

Objective NHO1 - Minimisation of the effects of natural hazards on the community and the built environment.

Objective NHO2 - To avoid increasing the risk to people, property, infrastructure and the environment from the effects of natural hazards.

NHP2 - Manage land use activities in identified natural hazard areas where communities and resources are potentially at risk.

POLICY NHP3 - Adopt and promote the best practicable options (including mitigation or the 'do nothing' option) in the management of areas of existing development actually or potentially at risk from natural hazards.

POLICY NHP6 - Ensure that subdivision, land use activities or other new development is located and designed so as to avoid the need for further natural hazard mitigation activities.

Policy NHP8 - Allow Public Bodies exercising their statutory powers to carry out natural hazard mitigation activities.

Assessment:

The District Plan notes that some areas where there is a known risk from natural hazards will have District Plan controls to ensure that the effects of natural hazards are avoided or mitigated where appropriate. A small section of works is located within the River Hazard Overlay and on land subject to a flood hazard having been affected by Cyclone Gabrielle in 2023 and updated on the Councils GIS. The District Plan also states that where relevant, discretionary activities requiring resource consent will be assessed against the most 'up to date' and contemporary natural hazard information available to Council, not only those hazards identified in District Plan maps or appendices.

The application is supported by specialist flood assessments by T+T, and these have undergone a peer view by BECA. I consider that these reports which include flood modelling and flood effects assessments represent the most 'up to date' information that Council has upon which to base its decision on the potential natural hazard effects. The works are being undertaken by HBRC (public body) who are exercising their power to carry out natural hazard mitigation activities. HBRC have a statutory obligation as part of their functions and powers to carry out mitigation work for some hazards. The District Plan enables these Authorities to carry out these functions where they follow the provisions of the relevant statute, and they have expertise in this field. Flood mitigation works are permitted activities in the District Plan.

Objective NH02 seeks to avoid increasing the risk to people, property, infrastructure and the environment from the effects of natural hazards. As stated earlier in this report, the area of potential flooding is reduced as a result of the flood protection works, however there will still be some properties that could be vulnerable to this hazard as the flooding is not completely avoided. These properties site within and outside the OiC footprint are already vulnerable to flooding in the existing scenario. The actual works sit within the OiC footprint, and the application has been assessed accordingly. The conditions that will be imposed (standard and modified) will mitigate the effects such that overall, these will be minor on the areas outside the OiC footprint.

Section 27.1 Earthworks:

Objective EMO1 - To enable earthworks within the Hastings District while ensuring that the life-supporting capacity of soils and ecosystems are safeguarded and adverse effects on landscapes and human health and safety are avoided, remedied or mitigated.

POLICY EMP1 - Require the repasture or revegetation of land where vegetation is cleared in association with earthworks, prospecting and extraction of aggregates or other minerals.

POLICY EMP3 - Protection of productive soils within the District from large-scale stripping, stockpiling, alteration and removal to ensure the land can still support a range of productive land uses.

POLICY EMP4 - Allow earthworks and the prospecting of minerals where the adverse effects on the environment will be minor.

POLICY EMP5 - Control earthworks, exploration and mining activities to ensure that any adverse effects on the natural and physical environment, and the amenity of the community, adjoining land uses and culturally sensitive sites are avoided, remedied and mitigated.

POLICY EMP13 - Permanent visual scars resulting from earthworks and mineral extraction and the impact that they may have on cultural values will be restricted on identified Cultural Landscapes and Outstanding Natural Landscapes throughout the District.

POLICY EMP14 - Historic Heritage Features will be protected from the effects of earthworks and mining activities.

Assessment:

The matters raised in these objectives and policies have largely been addressed under the earthworks assessment criteria in Section 8.3.1 above. The application has demonstrated that:

- The proposed flood mitigation works will not threaten the life-supporting capacity of soils;
- Ecosystems are safeguarded through the requirement under the OiC to install erosion and sediment controls for the duration of works;
- Visual effects on the landscape and wider environment will be less than minor due to the nature of works being consistent with the character of the surrounding rural environment;
- Effects on human health and safety are avoided, remedied or mitigated through appropriate management plans required by the conditions of the OiC;
- The works will be undertaken / managed both within and outside of the OiC in a manner consistent with standard and recommended conditions;
- Conditions will be imposed in accordance with Schedule 2 of the OiC to manage any potential adverse environmental effects from the proposed works on the environment.
- Accidental Discovery Protocols in accordance with Condition 29 of the OiC will be enacted should any item/artefact be discovered during construction noting that the Applicant has stated that an Archaeological Authority has been applied for, adding further strength to protect any historic heritage features.

10.0 Other Matters:

Section 104(1)(c) provides for any other matter the consent authority considers relevant and reasonably necessary to determine the application to be given regard. There are no other matters that have not already been considered in this report.

Section 106A Resource Management Act 1991

Section 106A provides the consent authority may refuse to grant a land use consent if it considers that there is significant risk from natural hazards. This is outlined below:

106A Consent authority may refuse land use consent in certain circumstances

- (1) A consent authority may refuse to grant a land use consent, or may grant the consent subject to conditions, if it considers that there is a significant risk from natural hazards.
- (2) For the purposes of subsection (1), an assessment of the risk from natural hazards requires a combined assessment of all of the following taken together:
 - (a) the likelihood of natural hazards occurring (whether individually or in combination);
 - (b) the material damage to land in respect of which the consent is sought, other land, or structures that would result from natural hazards;
 - (c) whether the proposed use of the land would accelerate, worsen, or result in material damage of the kind referred to in paragraph (b);
 - (d) whether the proposed use of the land would result in adverse effects on the health or safety of people.
- (3) Conditions imposed under subsection (1) must be—
 - (a) for the purposes of avoiding or mitigating the effects referred to in subsection (1); and
 - (b) of a type that could be imposed under section 108.
- (4) This section does not apply to land use consents if the use of the land for which the consent is sought is—
 - (a) construction, upgrade, maintenance, or operation of infrastructure; or

(b) *primary production activities, as described in the national planning standards.*

The purpose of constructing new stopbanks at Pakowhai is to mitigate effects of flooding for the Pakowhai and Chesterhope communities. This is in response to Cyclone Gabrielle, classified as a 1 in 500 year event. The flood assessments provided with the application address the existing flood hazard and consequential flood hazard of constructing the new stopbank on properties that either have or have not been subject to flooding in the past. The reports (including the BECA peer review) refer that while it is difficult to predict where flooding will occur, the degree of flooding and that total avoidance is difficult to predict, the stopbank works will provide greater protection overall to most residents in the area. On this point, the modelling undertaken by T+T shows a reduction in the number of building footprints affected by flooding in the stopbank scenario while there are some buildings and infrastructure west of the stopbank that will experience more severe flood impacts in a large event, particularly along SH2 and within the adjacent horticultural land (Section 106 (4) (b) does not apply to primary production activities), while flood effects decrease to the north and east of the stopbank, where the stopbank effectively blocks and redirects floodwaters. The areas east of the spillway are classified as category 3 land following Cyclone Gabrielle and deemed not suitable for habitation. Notwithstanding, early warning systems and evacuation procedures should be in place following construction of the stopbank to provide sufficient time for residents to be evacuated.

I therefore consider that the proposal is consistent with section 106A as the purpose of the proposed stopbank is to provide flood mitigation that will provide greater protection for the Pakowhai and Chesterhope communities from future large events. There is no reason therefore to refuse land use consent in this instance.

11.0 Part 2 of the Resource Management Act 1991

The proposed earthworks and construction activities are considered to be consistent with Part 2 of the RMA in that;

- The flood protection works are being undertaken to sustainably manage the effects from natural hazards on the Pakowhai/Chesterhope communities;
- Section 6(h) provides for the management of significant risks for natural hazards as a matter of national importance, and the works will assist in achieving that for the Pakowhai/Chesterhope communities;
- The relevant consultation has been undertaken with all stakeholders and appropriate Maori entities;
- On going engagement with mana whenua is promoted through the conditions listed in Schedule 2 of the OIC;
- Sections 6(e), 7(a) and 8 of Part 2 state that Council should recognise the relationship of Maori and their culture and traditions with their ancestral lands, water, sites, wāhi tapu, and other taonga, have regard to kaitiakitanga, and take into account the Principles of the Treaty of Waitangi. As discussed earlier, the conditions in the OIC address the management of works near areas of significance to Maori and wāhi taonga sites, in this case W13. The applicant has sought an archaeological authority from HNZPT and an accidental discovery protocol will apply in accordance with Condition 29. Ongoing relationship between the Applicant and the relevant Maori entities will ensure continued respect and protection of these sites. The Applicant has stated their commitment to continue this engagement for the duration of the project and have invited the relevant representatives on to the STAG group. A CIA prepared by Ngāti Parau Trust and a CAAR prepared by Ngāti Hinemoa, Ngāti Hawea, Ngāti Hori directs and supports the project.

12.0 Conditions of Consent

- 12.1 The applicant has proposed conditions of consent (as amended and those additional) that relate to works both within the OiC footprint (subject to the conditions set out in Schedule 2 of the OiC 2024) and for those outside the OiC footprint (not restricted to the matters set out in Schedule 2 of the OiC 2024).
- 12.2 The proposed conditions agreed with have been included as Appendix 1 attached to this report and separated into the individual activities (OIC and non-OIC activities). Additionally, a suggestion has been made as to which consent authority each condition relates to, for compliance purposes. HBRC and HDC have recommended some additional wording and additional conditions to reflect the various nuances of the construction works.

13.0 Consent Duration and Lapse

Clause 20 of the OiC relates to the duration of consent for works in the area inside the OiC. For land use consent, the usual position applies in that there is no limitation on duration.

Clause 21 of the OiC provides that a consent granted under the OiC must lapse no later than 2 years after the date of commencement (i.e. the usual 5 year period under the RMA does not apply).

For areas outside the OiC area, I am content for the default 5 year period under s 125 RMA to apply.

14.0 Conclusion

It is recommended that consent to this application be **granted**, to HBRC to undertake flood protection mitigation works within and outside of the OiC footprint at Whirinaki as defined in Schedule 1 and subject to conditions imposed pursuant to Schedule 2 of the Severe Weather Emergency Recovery (Hawkes Bay Flood Protection Works) Order 2024 and section 108 of the Resource Management Act 1991.

15.0 Recommendation

- 15.1 In accordance with **Clause 8** of OiC, application for works within the OiC footprint shall be assessed as a controlled activity and in accordance with the section 104A of the RMA and must be granted.
- 15.2 In accordance with **Clause 10(1)** of the OiC, only a hearings commissioner with delegated authority may grant consent for an activity lodged in accordance with the Severe Weather Emergency Recovery (Hawkes Bay Flood Protection Works) Order 2024.
- 15.3 Accordingly, the above comments and recommendations are made to the hearings commissioner in accordance with **Clause 10(1)** of the Severe Weather Emergency Recovery (Hawkes Bay Flood Protection Works) Order 2024.
- 15.4 For the above reasons, I also recommend that for the area outside the OiC Footprint, application be **granted** for a **discretionary activity**, on a non-notified basis, in accordance with section 104B of the RMA 1991, subject to the conditions imposed under Schedule 2 of the OiC as recommended and shown in Appendix 2.

Recommended by:



Michelle Hart
Senior Environmental Planner (Consents)
Planning and Regulatory Services

Reviewed by:

Caleb Sutton
Environmental Consents Manager
Planning and Regulatory Services

Date:

APPENDIX 1: COMMENTS RECEIVED

APPENDIX 2: CONDITIONS OF CONSENT – RMA20250336