

Report of Independent Commissioner

DECISION REPORT ON RESOURCE
CONSENT APPLICATION APP-131372
TO HAWKE'S BAY REGIONAL
COUNCIL AND RMA20250327 TO
HASTINGS DISTRICT COUNCIL

**APPLICATION FROM HAWKE'S
BAY REGIONAL COUNCIL –
SEVERE WEATHER
EMERGENCY RECOVERY
(HAWKE'S BAY FLOOD
PROTECTION WORKS) ORDER
2024**

Works Associated with the
Establishment of Flood Protection
works at Ohiti Road and Taihape
Road, Omahu

TABLE OF CONTENTS

	Overview	1
1.	Introduction	4
	1.1 Delegation	4
	1.2 Procedural Matters	4
	1.3 Material Considered	5
2.	Description of the Proposal & Site	7
3.	Resource Consent Requirements and Activity Status	8
4.	Relevant Statutory Requirements	11
5.	Consideration of the application	11
	5.1 Comments Received	11
	5.2 Assessment of Effects on the Environment WITHN OIC Area	13
	5.3 Specific Consideration of Effects Identified in s42A ReportS	14
	5.4 Non OIC Application Assessment	19
6.	Statutory Instruments	20
	6.1 Assessment Relevant to HBRC as Consent Authority	20
	6.2 Assessment Relevant to HDC as Consent Authority	21
7.	RMA Sections 105, 107 and Part 2	21
8.	Consent Duration	22
9.	Consent Conditions	22
10.	Determination Within OIC Area	53
11.	Determination on Land Outside of OIC Area	53

LIST OF TABLES

Table 1 – Application Summary Details	1
Table 2 – Identification of Rules Requiring Resource Consent	9
Table 3 – Findings on Conditions Proposed for Consent	24

LIST OF APPENDICES

Appendix A: Decision Conditions – Clean Version

OVERVIEW

Decision on a non-notified resource consent application under the Severe Weather Emergency Recovery (Hawke’s Bay Flood Protection Works) Order 2024 (‘the OIC’); and

Recommendation on a non-notified resource consent application under the Resource Management Act 1991 (‘RMA’).

This resource consent is GRANTED subject to conditions for the reasons herein.

Table 1 – Application Summary Details

Application Number:	APP - 131372
Applicant:	Hawke’s Bay Regional Council (‘the Applicant’)
Proposal Summary:	<p>Within the area subject to the OIC:</p> <ul style="list-style-type: none"> ➤ To undertake construction of a flood protection scheme, including associated disturbance of the Ngaruroro River and Ohiwia Stream beds, reclamation of stream bed, erection of structures including a stop bank and culverts, diversion of water and stormwater and discharges of contaminants to land, water and air, including solid contaminants, stormwater and dust. ➤ To disturb contaminated soil and to undertake earthworks. <p>Outside of the OIC area:</p> <ul style="list-style-type: none"> ➤ Disturbance of the bed of the Ohiwia Stream and Ngaruroro River and associated discharge of sediment. ➤ To undertake earthworks.
Site Address:	Various Sites, adjacent to Taihape and Ohiti Roads, within the Ohiwia Stream (culvert/ford) and between the Ohiwia Stream and the Ngaruroro River (true left).
Legal Description:	Fee Simple, 1/1, Lot 2 DP 28250; Fee Simple, 1/1, Lot 10S PT OMAHU 2C1C BLOCK Block Māori Land Plan 585802; Partition Order, 1/1, Omahu 2D5F2B Block; Fee Simple, 1/1, Lot 1 DP 600663 and Lot 2 DP 25428 and Lot 3-4, 6 DP 449565 and Lot 2 DP 523754; Lot 10A Pt Omahu 2C1C Block ML 506974; Fee Simple, 1/1, Lot 5 Pt Omahu 2C1C Block; Part OMAHU 2C1C BLK X HERETAUNGA SD; Lot 1 DP 472466; Lot 1 DP 7904; OMAHU 2D5F2B BLOCK ML 407681 - SUBJ TO

	STOPBANK SMT; OMAHU 2D5F2A BLOCK ML 407681; Fee Simple, 1/1, Lot 1 DPlan 600663 and Lot 2 DPlan 25428 and Lot 3-4, 6 DP 449565 and Lot 2 DP 523754; Fee Simple, 1/1, Lot 10B PT Omahu 2C1C Block; Fee Simple, 1/1, Lot 10F Pt Omahu 2C1C Block; Fee Simple, 1/1, Lot 10G Pt Omahu 2C1C Block; Lot 1 DP 6309; SEC 1 SO 497236; Fee Simple, 1/1, Lot 1 DP 460685, 20,150 m2 Fee Simple, 1/4, Lot 6 DP 460685; Fee Simple, 1/1, Lot 10N PT OMAHU 2C1C BLOCK Block Maori Land Plan 585802; Fee Simple, 1/1, Lot 1 DP 7904; Road Reserve - Taihape Road; and Road Reserve – Ohiti Road.
Date of Application:	4 September 2025
Relevant Regional and District Plans and National Environmental Standards:	<ul style="list-style-type: none"> ➤ Hawke’s Bay Regional Resource Management Plan (‘RRMP’) ➤ Plan Change 9 (Tūtaekurī, Ahuriri, Ngaruroro and Karamū Catchments) to the RRMP (‘TANK’) ➤ Hastings District Plan (‘HDP’) ➤ National Environmental Standard for Freshwater (‘NES-F’) ➤ National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health (‘NESCO’) ➤ National Environmental Standards for Sources of Human Drinking Water (‘NESDW’)
Applicable Regional Plan Spatial Overlays and District Plan Zoning and Overlays:	<p>RRMP (inclusive of TANK):</p> <p>Heretaunga–Ruataniwha Aquifer System – Unconfined area; relatively high Contamination Vulnerability classification; within area excluded from Rule 7(c) (vegetation clearance and soil disturbance); Ngaruroro Surface Water Quality Area – medium priority for managing sediment, medium priority for managing Phosphorus, medium priority for managing Nitrogen, priority area for managing Dissolved Oxygen risk; within Ngaruroro Water Quantity Area and Groundwater Zone 1 area.</p> <p>HDP: Plains Production Zone, Rural Zone, and Open Space Zone; List 1 Riparian Area, River Hazard Overlay; and Heretaunga Plains Unconfined Aquifer.</p>
Nature of Resource Consents Required:	<p>Within the area subject to the OIC:</p> <ul style="list-style-type: none"> ➤ Water Permits, Land Use Consent (riverbed disturbance), Discharge Permits; and Land Use Consent (under HDP & NESCO). <p>Outside the area subject to the OIC:</p>

	<ul style="list-style-type: none"> ➤ Land Use Consent (riverbed disturbance), Discharge Permit; and Land Use Consent (NESCS).
Application Activity Status:	<p>Within the area subject to the OIC:</p> <ul style="list-style-type: none"> ➤ Controlled Activity under clause 8 of OIC. <p>Outside the areas subject to the OIC:</p> <ul style="list-style-type: none"> ➤ Discretionary Activity (bundled) under the RRMP. ➤ Discretionary Activity (bundled) under the HDP. ➤ Restricted Discretionary Activity under the NESCS.

1. INTRODUCTION

1.1 DELEGATION

1. This decision is made on behalf of the Hawke’s Bay Regional Council (‘HBRC’) and Hastings District Council (‘HDC’) by an independent hearing commissioner, Philip McKay,¹ appointed under clause 10 of the OIC and section 34A of the Resource Management Act 1991 (‘RMA’) to decide this application.
2. Delegation from HBRC was given on 28 May 2025, and from HDC on 16 October 2025.

1.2 PROCEDURAL MATTERS

3. The resource consent application by the Applicant for activities within the OIC area is required to be considered as a controlled activity² without public notification or limited notification.³
4. The OIC, in clause 15, sets out the requirements for consultation with specified persons, including the owners and occupiers of affected or adjoining land. Notice is provided to those persons who are invited to make comments, and the consent authority must consider all comments received and make a summary of the comments publicly available. A person who makes written comments does not have the status of a submitter under the RMA and may not appeal or object to the decision on the application.⁴ The nature of the comments received are discussed further below, with the summary of the comments received and response attached to the HBRC s42A Report and full copies of the comments received attached to the HDC s42A Reports⁵.
5. I conducted a visit to the site of the application, off Ohiti and Taihape Roads (“the Site”) on 2 September 2025. I was accompanied by the section 42A reporting officers Mr Simon Moffitt for HBRC and Ms Michelle Hart for HDC. We also met Applicant representatives on site, being: Mr Cameron Drury (Stradegy Planning, who prepared the application), Mr Dugan Weitz (HBRC, who is the Applicant Project Manager), Mr Cameron Burton (Black Bridge Enviro) and Mr Jamie Yule (Tonkin & Taylor Ltd, who prepared the engineering design for the application).
6. Clause 10(2) of the OIC states that the following functions, duties and powers are delegated:

¹ Who is certified with a Charing Endorsement under the Making Good Decisions programme (expires 31/12/26), and who is a planner and resource management practitioner with over 31 years of practice.

² Clause 8 of OIC.

³ Clause 14 of OIC.

⁴ Clause 15(6) of OIC.

⁵ Appendix 1 of both s42A Reports.

- (a) *consideration of an application under section 104 of the RMA (see clause 16):*
- (b) *decision to grant a resource consent under section 104A(a) of the RMA:*
- (c) *imposition of conditions on a resource consent in accordance with clause 17:*
- (d) *giving of notice of its decision under section 114 of the RMA in accordance with clause 18.*

7. As this application has not involved a hearing or notification, the decision is to be made pursuant to section 113(4) of the RMA and is required to state the decision and reasons.

1.3 MATERIAL CONSIDERED

8. The following documentation has been provided to me and reviewed as part of my decision-making process:
- a. *Resource Consent Application for Flood Protection Works – Ohiti Road (Omahu) Flood Protection Stopbank*, HBRC, 4 September 2025, and prepared by Strategy Planning Ltd, and the associated appendices:
 - i *Cultural Impact Assessment - Ohiti Road Stopbank*, Piringa Hapū, (undated) (Appendix 1 of Application) ('CIA') (requested to remain confidential).
 - ii *HBRC Consent Report – Archaeology, Taihape Rd, Archaeology Hawke's Bay*, July 2025 (Appendix 2 of Application) ('Archaeological Report').
 - iii *Ecological Opportunities and Constraints Assessment: Ohiti Road Flood Protection Stopbank Works* Tonkin & Taylor Ltd, September 2025 (Appendix 3 of Application) ('Ecological Assessment').
 - iv *Flood Resilience: Ohiti Road Landscape Scoping Assessment*, Narrative Landscape, 7 August 2025 (Appendix 4 of Application) ('Landscape Assessment').
 - v *Ohiti Road Stopbanks – Preliminary and Detailed Site Investigation*, Tonkin & Taylor Ltd, July 2025 (Appendix 5 of Application) ('PSI & DSI Report').
 - vi *Ohiti Road (Omāhu) Flood Protection Stopbank Works – Summary of Design for Resource Consent Purposes*, Tonkin & Taylor Ltd, September 2025 (Appendix 6 of Application) ('Design Report').
 - vii *OIC Schedule 2: Conditions of Resource Consents – Track Changes as Proposed by the Applicant* (Appendix 7 of Application) ('Applicant's Conditions').
 - viii *Contamination Site Management Plan (CSMP) – Ohiti Road Stopbanks*, Tonkin & Taylor Ltd, August 2025 (Appendix 8) ('CSMP').

- ix *Ohiti Road Flood Protection Stopbank Works – Cut and Fill Plan*, Tonkin & Taylor Ltd, August 2025 (Appendix 9) ('Cut and Fill Plan').
 - x Table of Parties Consulted including Affected and Adjoining Parties (Appendix 10).
 - xi *Consequential Flood Effects on the Omāhu Stopbanks*, Tonkin & Taylor Ltd, 22 July 2025 (Appendix 11 of Application) ('T&T Flood Effects Report').
 - xii *Ohiti Road (Omahu) Flood Protection Stopbank Works – Supplementary Assessment of Upstream Flood Effects for Omāhu Stopbanks*, Tonkin & Taylor Ltd, 4 September 2025 (Appendix 12 of Application) ('T&T Supplementary Upstream Flood Effects Report').
 - xiii *Consequential Flood Assessment – Ohiti – Ohiti Stopbank*, Beca Limited, 1 September 2025 (Appendix 13 of Application) ('Beca Flooding Review').
- b. Ohiti / Omahu OIC Flood protection consent application – Full comments (contacts removed), including comments from:
- i NZTA (via DJ Lamorena).
 - ii Tamatea Pōkai Whenua.
 - iii Heritage New Zealand Pouhere Taonga (via Dean Raymond).
 - iv Shayne & Kerri Nuku, 85 – 179 Ohiti Road.
 - v Hastings District Council (via Dean Fergusson).
 - vi Stephen Cornes, Eastfield Ltd, 400 Taihape Road.
 - vii Director General of Conservation (via Grant Bennett).
 - viii R Renew, 168 Taihape Road.
- c. Additional Comments Received from organisations not invited to make comment:
- i Forest & Bird (via Dr Chantal Pagel), 26 September 2025.
 - ii Community Summary Report on the Ohiti Stopbank Project, September 2025, Community Advisory Group.
- d. Preliminary Summary of Comments and Response – APP-131372- Clause 15(4) prepared by HBRC section 42A Report author, provided 8 October 2025.
- e. Applicant response to Comments Received – word document prepared by HBRC section 42A Report author, provided 13 October 2025, including the following additional attachments:
- i *Ohiti Rd – Flood Model review of Option 2E*, Tonkin & Taylor, 17 January 2025.

- ii *Okawa Stream – Summary of Peer Review and Scour Assessment (of Broughton Bridge)*, WSP, 15 April 2025.
 - iii *Ohiti Road Flood Protection Scheme – Hydraulic Model Peer Review Response*, Tonkin & Taylor, 8 May 2025.
- f. Applicant response to comments regarding Lake Rununga – information provided by Tonkin & Taylor Ltd, via email from C Drury, Stradegy, dated 15 October 2025.
 - g. A report on the Application and comments received prepared under section 42A of the RMA and clauses 8 & 14 of the OIC by Ms Michelle Hart ('the HDC s42A Report'), Senior Environmental Planner (Consents), HDC, dated 20 October 2025.
 - h. A report on the Application and comments received prepared under section 42A of the RMA and clauses 8 & 14 of the OIC by Mr Simon Moffitt, Senior Regulatory Advisor, HBRC titled '*s42A Report for Resource Consent Application APP-131372 – Ohiti (Omahu) Flood Protection Works*' ('the HBRC s42A Report'), dated 16 October 2025.
9. The respective s42A Reports from HBRC and HDC analyse the information received in relation to the Application along with the comments received, and following assessment under sections 104 and 104A of the RMA, and the relevant provisions of the OIC, recommend the conditions to be applied to the consent. Both s42A Reports attach the comments received as Appendix 1, and Conditions of consent as Appendix 2 with track changes showing amendments to the conditions as requested by the Applicant.
 10. Those reports should be read in conjunction with this decision as I generally adopt the descriptions, assessments, and conditions recommended in those s42A Reports, unless I state differently below.

2. DESCRIPTION OF THE PROPOSAL & SITE

11. I adopt the descriptions of the proposal set out in section 2 of the HDC s42A Report⁶, section 2 of the HBRC s42A Report⁷, and section 6 of the Application.⁸
12. In short, the proposal seeks to undertake flood protection works including construction of:
 - a. A new 1,720 m long stop bank (the Ohiti Stopbank) adjacent to Taihape and Ohiti Roads to provide protection to the Ohiti community in up to a 1% AEP flood event (also known as a 1:100-year ARI event).

⁶ Pages 5 - 7.

⁷ Pages 3-5.

⁸ Pages 29 – 45.

- b. A 390 m long stop bank (Chesterhope upper stop bank) is proposed to the north and east of Ohiwia Stream and perpendicular to Taihape Rd.
 - c. Associated works include a swale (Ohiti Road swale) of approximately 320 m in length along the southern boundary of 39 Ohiti Road, the raising of Taihape and Ohiti Roads to accommodate the stop banks passing below, new culverts through the stop bank and stormwater management.
 - d. A ford or culvert crossing across the Ohiwia Stream is required to enable moving of fill material from the borrow site to the stop bank work areas.⁹
13. The Site is in the vicinity of the intersection of Ohiti and Taihape Roads. It is located on the true left bank of the Ngaruroro River, and in and around the Ohiwi Stream, inclusive of Broughton’s Bridge on Taihape Road. The location of the proposed works begins adjacent to 39 Ohiti Road and 18 Ohiti Road and finishes at the Upper Chesterhope Stopbank running between 131 and 170 Taihape Road.¹⁰
14. Both s42A Reports and the Application include helpful aerial photographs identifying the approximate area of the proposed works.¹¹ The following helpful bullet point description of the location of various features in relation to the site of the proposed stopbank is extracted from the Application:¹²
- The Te Awhina Marae and Omahu Marae are located to the east.
 - The Ohiwia Stream flows northwest-southeast through the area of works onto the river berm before discharging to the Ngaruroro River.
 - There are clusters of dwellings in the eastern and western extents of the area of works.
 - An existing stopbank feature runs eastward from the eastern area of the works.

3. RESOURCE CONSENT REQUIREMENTS AND ACTIVITY STATUS

15. The OIC was established to facilitate the timely provision of flood protection works following the severe weather events of February 2023 (Cyclone Gabrielle). The Application provides a helpful summary of the relevant provisions of the OIC.¹³

⁹ HBRC s42A Report (paragraph 2.9) and HDC s42A Report (paragraph 1.6).

¹⁰ HBRC s42A Report (paragraph 2.1).

¹¹ Application Figure 14: Stopbank Project Extent and Alignment; HBRC s42A Report Figure 1 Site of Activity
HDC s42A Report (Figures 1 & 2).

¹² Pages 12 & 13.

¹³ The Application (Section 2.3, Pages 7 – 9).

16. A similarly helpful clause by clause summary is also provided in the HDC s42A Report.¹⁴ I note that Schedule 1 of the OIC identifies the specific land areas in Hawke's Bay to which the enabling flood protection works provisions of the OIC apply. Schedule 1 includes both a description of, and a map of, the land at 'Omahu' (which is inclusive of the Ohiti Road area) in which flood protection works are enabled as a controlled activity under the OIC. This map is reproduced as Figure 4 of the HDC s42A Report.
17. Figure 14 of the Application and Figures 2 and 3 of the HBRC s42A Report identifies the boundaries of the Omahu OIC area in regard to the proposed flood protection works. Several small areas of works are located outside of the OIC area. These are the Smith Swale diversion, the southern tail of the Ohiti stop bank, the raising of the northern end of the Upper Chesterhope stop bank, and the raising of the road to cross over the Upper Chesterhope stop bank.¹⁵
18. The consequences of these works areas beyond that identified for Omahu in Schedule 1 of the OIC is that the normal provisions of the regional and district plan and NES regulations must be applied to those works, while the vast majority of the proposed works, which are within the identified area, are subject to the provisions of the OIC.
19. Accordingly, the application potentially gives rise to four separate categories of assessment, these being resource consents required from HBRC, both within and outside the OIC Schedule 1 works area for Omahu, and similarly resource consents required from HDC, inside and outside of the OIC Omahu works area.
20. Having considered the Application and the respective s42A reports which are in general agreement, my findings of the consents required under these categories are summarised in Table 2 below:

Table 2 – Identification of Rules Requiring Resource Consent

	Inside OIC Works Area	Outside OIC Area
HBRC Jurisdiction	<ul style="list-style-type: none"> ➤ Regulation 71 of the NES-F for the installation of a culvert (which may be temporary) across the Ohiwia Stream bed ➤ Rule 8 of the RRMP for vegetation clearance and soil disturbance ➤ Rule 30 of the RRMP for a discharge of dust 	<p>The rules applying inside of the OIC area would also generally apply to some extent to the rules outside of the OIC</p> <p>Overall Activity Status – Discretionary Activity</p>

¹⁴ HDC s42A Report (Section 3.1, pages 8 – 12).

¹⁵ HBRC s42A Report (paragraph 7.1 page 12).

- Rule 33 Discharge of drainage water (if required as part of construction)
- Rule 52 of the RRMP for the Discharge of Sediment laden water to land or water
- Rule 52 of the RRMP for the discharge of solid contaminants within 20 m of a surface water body (not meeting permitted Rule 47)
- Rule 55 of the RRMP Other takes and uses of groundwater (relating to the take of drainage water if required during construction)
- Rule 59 of the RRMP for the Diversion of floodwaters of the Ohiwia Stream / Ngaruroro River arising from the stop bank and the swale
- Rule 69 of the RRMP for river and lake bed activities (e.g. outlet of the Ohiti swale and fords and crossings)
- Rule TANK 10 of the RRMP (TANK Plan Change) for the take and use of surface or groundwater (relating to the 'take' of drainage water if required as part of construction)
- Rule TANK 22 or 23 of the RRMP (TANK Plan Change) for the diversion and discharge of stormwater into water, or onto land where it may enter water

**Overall Activity Status – Controlled Activity
(pursuant to OIC provisions)**

**HDC
Jurisdiction**

Rules EM6 and EM10 of the HDP for earthworks exceeding the permitted volumes per site.

Regulation 10 of the NESCS for disturbing soil.

The rules applying inside of the OIC area would also generally apply to some extent to the rules outside of the OIC

**Overall Activity Status – Controlled Activity
(pursuant to OIC provisions)**

**Overall Activity Status –
Discretionary Activity**

21. As I have already identified in paragraph 3 above, the resource consents required within the OIC area must be assessed and decided as a controlled activity pursuant to clause 8 of the OIC, hence the conclusion regarding overall status in column 2 of the above table. The Application and the HBRC s42A Report are also in agreement that

the proposed works outside of the OIC area require discretionary activity resource consent.¹⁶

4. RELEVANT STATUTORY REQUIREMENTS

22. In deciding on a controlled activity, section 104A of the RMA requires consent to be granted¹⁷ and that conditions may be imposed only for those matters for which control is reserved. Schedule 3 of the OIC lists the matters for which control is reserved.¹⁸ The respective assessments of effects on the environment in the Application and the s42A reports are appropriately arranged under corresponding headings to the Schedule 3 matters of control.
23. Section 104(1) of the RMA also applies and sets out the mandatory matters to which I must have regard when considering the Application. These include any actual or potential effects on the environment of allowing the activity, and the statutory instruments set out in subsection (1)(b). Those instruments are relevant to the extent that they relate to the matters of control set out in Schedule 3 of the OIC. Consideration under section 104 is also subject to Part 2 of the RMA.
24. As there are discharges involved with the proposed activity, I must also have regard to the matters in sections 105 and 107 of the RMA.¹⁹
25. For the areas outside of the OIC works area, as a discretionary activity I am required to consider those same provisions identified above except for the OIC which does not apply, and section 104B of the RMA applies rather than section 104A. Section 104B states that after considering an application for a discretionary activity, the application may be granted or refused, and if granted conditions may be imposed under s108 of the RMA.

5. CONSIDERATION OF THE APPLICATION

5.1 COMMENTS RECEIVED

26. Clause 15(4) requires all comments received to be considered. The process for inviting comments and a summary of the comments received and a response to each comment are set out in the respective s42A reports.²⁰

¹⁶ Application (page 57) and HBRC s42A Report (page 5).

¹⁷ Unless there is insufficient information to determine that the application is a controlled activity, which I do not find to be the case here.

¹⁸ These matters are also set out in the Application (pages 8 & 9), HBRC s42A Report (pages 10 & 11), and HDC s42A Report (pages 11 & 12 and page 36).

¹⁹ As set out on page 11 of the HBRC s42A Report.

²⁰ HBRC s42A Report (pages 6 – 10 and Appendix 1) and HDC s42A Report (pages 21 - 34).

27. Eight comments were received from parties invited to comment under clause 15(2) of the OIC, these being from:
- a. NZTA Waka Kotahi – no specific concerns with project.
 - b. Tamatea Pōkai Whenua – general support.
 - c. Heritage New Zealand Pouhere Toanga – prefers an Archaeological Authority to be in place prior to works rather than an accidental discovery protocol.
 - d. Kerri Nuku Whanau Trust & KD Partnership Ltd – seeks the relocation of the Ohiti Road / Smith Swale to protect their property on which future housing is proposed.
 - e. Hastings District Council – concerns regarding flooding effects on Taihape Rd as a key lifeline route and early warning systems of flooding.
 - f. Stephen Cornes – concerns regarding the effect of the weir on Lake Runanga.
 - g. Director General of Conservation – concerns with the proposed construction vehicle crossing of Ohiwia Stream and disturbance of the bed and effects on stream ecology.
 - h. Mr R Renew – concerned with flood effects on the access to his property at 168 Taihape Road as well as potential effects on his potable water bore.
28. Comments were also received from two parties who were not invited to comment. These parties being:
- a. Forest & Bird – seeking that HBRC use nature-based solutions such as ‘making room for rivers’ rather than river management and flood protection works.
 - b. Community Advisory Group (“CAG”) – submission in the form of a report titled ‘*Community Summary Report on the Ohiti Stopbank Project*’, September 2025. CAG raise concerns relating to the greater flood effects on Broughton’s Bridge and the need for ongoing removal of sediment and debris in the vicinity of the bridge; seek greater assessment of over design events; seek an early warning system to enable timely evacuation before roads are affected; and representation of upstream landowners, amongst other matters.
29. Of the parties not invited to comment, the concerns raised by Forest & Bird and suggested alternative approach of a ‘room for rivers’ nature-based solution is not available for me to consider given the flood protection works proposed are within the OIC area, for which consent must be granted as a controlled activity. CAG represent some parties who were invited to comment and do raise relevant concerns within the matters of control.
30. Issues raised in the comments received are summarised and responded to in Appendix 1 of the HBRC s42A Reports and in section 4.1 of the HDC s42A Report. I

therefore reference those summaries and do not provide any additional record of the comments received in this decision. I emphasise however, that the comments received and the responses to them are a fundamental part of the OIC process and this decision and I therefore adopt the respective comment summaries and responses provided in the two s42A Report. I also refer to those comments relevant to the OIC matters of control, or to the required resource consents outside of the OIC area, alongside the AEE and s42A recommendations, in my following considerations.

5.2 ASSESSMENT OF EFFECTS ON THE ENVIRONMENT WITHIN OIC AREA

31. The Application sets out a comprehensive assessment of effects on the environment within the OIC area under the heading 'OIC Assessment' and generally using headings corresponding to the matters of control in Schedule 3 of the OIC and includes references to the various technical reports as part of that assessment.²¹ The Application provides the following overall summary to its assessment of effects within the OIC area:²²

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

No additional conditions are required to avoid, remedy or mitigate the effects of the proposal in relation to the matters over which control has been reserved.

32. The HBRC s42A Report generally agrees with the assessment in the Application and adopts it in full for those matters relevant to HBRC jurisdiction, except for those matters relating to Cultural Values, Consequential Flooding, and Effects on Freshwater Ecology, where additional assessment is provided in the s42A Report.²³
33. The HDC s42A Report summarises the assessment of each effect provided in the Application and provides comment on those matters relevant to its jurisdiction, including to the appropriateness of the related conditions.²⁴ The HDC s42A Report does not identify any areas of disagreement with the Application's assessment of effects on the environment, albeit that some minor amendments are recommended to the consent decisions as I discuss further below.
34. I am generally satisfied with the comprehensive assessment of effects provided in the Application and adopt it as part of my decision, except where I undertake further

²¹ Application, Section 7 (pages 61 - 89).

²² Application, Section 8 (page 89).

²³ HBRC s42A Report (page 12).

²⁴ HDC s42A Report (pages 43 – 50).

consideration below. I also note that assessment was made prior to the comments being received and as set out in Table 3 below, I find that additional conditions to those set out in Schedule 2 of the OIC are required to appropriately address relevant matters raised in the comments received.

35. I therefore consider those matters remaining in contention, as assessed by the s42A Reports in further detail below.

5.3 SPECIFIC CONSIDERATION OF EFFECTS IDENTIFIED IN S42A REPORTS

5.3.1 Cultural Values Effects

36. The relevant matter of control to these effects in Schedule 3 of the OIC is:

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.

(e) 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.

37. The AEE refers to the headings in the CIA and acknowledges the request set out in the CIA prepared by Te Piringa Hapū for the reinstatement of the stream name from Okawa to Ohiwia. It also sets out that the Applicant commits to commissioning a Pou and information board to recognise the cultural significance of the Ohiwia awa.

38. The AEE identifies that some of the requests in the CIA relating to enhancement works of the Ohiwia were undertaken in early 2025 and that the recommendation relating to works around Kautuku Lake and wetlands are beyond the scope of this OIC application. The AEE then sets out in Table 8 a response to the remaining recommendations in the CIA, which generally references how the recommendations of the CIA will be addressed by the standard conditions on the OIC consent, referencing in particular, conditions 4 'Māori entities representatives', 5 'Guidance on cultural indicators', 6 'Stakeholder advisory group', and 7 'Operation of stakeholder advisory group'. – 7. Other conditions referenced in response to matters raised in the

CIA include: 9 'Communications plan', 11 'Developing and amending CEMP, 14 'Erosion and sediment control plan', and 28 'Managing ecological loss'.²⁵

39. The HBRC s42A Report does not raise any specific disagreement with the assessment in the AEE and rather documents the nature of Mana Whenua engagement during the project, and summarises some 15 conclusions of the CIA, and concludes with the following summary of the CIA:²⁶

The CIA recommends a range of cultural and environmental restoration strategies for Ohiwia Stream and surrounding areas, including stream clearance, stopbank and ecological rehabilitation, community engagement, ongoing monitoring, and collaboration with local hapū and Māori entities, many of which are reflected in the proposed consent conditions and stakeholder advisory processes. Additional recommendations involve future projects, a memorandum of understanding, and the commissioning of a pou to acknowledge cultural significance.

40. I do not therefore find any significant difference of opinion in the AEE assessment of cultural effects compared to that provided in the HBRC s42A Report. I note there are some minor differences in the recommended wording of Condition 4 which I comment on in section 9 'Consent conditions' of this decision below.
41. The HDC s42A Report also provides an assessment under the heading Cultural Values and concludes that the condition in Schedule 2 of the OIC will ensure that cultural values are maintained.²⁷

Consequential Flooding

42. The relevant matters of control relating to consequential flooding effects in Schedule 3 of the OIC are:

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.*

43. The AEE refers to the technical basis for considering potential consequential flooding effects as follows:²⁸

A Consequential Flood Effects Assessment (CFEA) undertaken by T+T is provided in Appendix 11 with further comment in relation to the duration of flooding on upstream rural land in Appendix 12. The CFEA has been reviewed by Beca – a copy of which is

²⁵ Noting 28(2)(b)(ii) requiring reporting by the Project Ecologist, working with Māori entities representatives.

²⁶ HBRC s42A Report (paragraph 8.3, page 13).

²⁷ HDC s42A Report (page 47).

²⁸ HBRC s42A Report (page 65).

provided in Appendix 13. The following consideration draws on the content of these assessments.

44. The AEE separately considers consequential flooding effects on buildings, public roads including the Ohiwia Stream Bridge on Taihape Road (also known as Broughton's Bridge), horticultural and agricultural land, and goes on to make the following conclusion:²⁹

The Beca review considers this analysis, and in evaluating the identified effects of the proposal against five criteria, concludes that consequences of the proposed stop bank are acceptable.

With reliance on T+T and Beca, beyond the mitigation built into the proposal, no additional mitigation or conditions are proposed by HBRC in respect to consequential flooding.

45. Comments were received from the following parties who raised concerns associated with the effects of consequential flooding: Hastings District Council (as affecting Taihape Road as a key lifeline route), Stephen Cornes (with particular emphasis on the contribution of the Lake Runanga weir to flooding effects), R & R Renew (as affecting their property at 168 Taihape Road), and the Community Advisory Group (various concerns including effects on buildings, roads, and farm land and request for greater consideration of option 2E which had lesser consequential effects).
46. A summary of the concerns identified in the comments is provided in the HBRC s42A Report³⁰ along with response to them, which in summary points out:

- *Only two non-habitable buildings will be subject to increased flooding in a 100 year event scenario.*
- *Horticultural land will be inundated to a greater depth in the 100-year event by 600mm on top of 800mm in the base case. While this is a reasonable increase the observation is that this is unlikely to compound the degree of damage. The T&T report comments that "given the land use and minor incremental effects, no further assessment has been undertaken."*
- *A technical peer review of the consequential flood assessment was undertaken (Appendix 14) which concluded that the consequences of the proposed stop bank are acceptable.*
- *Comments have been made on the relationship between flooding in the project area and upstream management of Lake Runanga. The Applicant has responded that while flood flows do spill out of the Okawa Stream and flow to and through Lake Runanga, the modelling indicates that the majority of water flows down the stream and that function of the weir does not significantly impact the levels or flood risk at the project area.*

²⁹ AEE (page 70).

³⁰ HBRC s42A Report (pages 13-15).

- *Taihape Road upstream of the stopbanks will have higher flood levels. This has led to a request that there is an early warning system. These - community concerns for a flood warning system are addressed in the applicant's proposed condition 30 where a telemetry system is offered to provide continuous water level data during major weather events.*
- *The effect of increased flood water levels on the Taihape Road bridge has been further assessed by the applicant. A copy of the WSP report that assessed scour effects on the bridge has been provided. The assessment found that while the bridge may overtop during floods and experience some scour, the structure is not at risk of failure due to its deep piles, and any damage to barriers or approaches would be minor and easily repairable.*

47. The HBRC s42A Report does not identify any significant concerns with the responses offered by the Applicant to the comments received, although some refinement of the proposed consent conditions is recommended as is discussed further below.
48. The HDC s42A Report in considering consequential flood effects provides a summary of the key points from the Application and the Applicant's response to comments and additional reporting, and accepts the Applicant's following conclusion:³¹

"The key issue with the predominant activities undertaken outside the OiC Footprint (those being the diversion of water during flood flows and earthworks) is the actual or potential effects of consequential flooding. The specific effects identified by T+T on the receiving environment and particular parties have been considered and analysed to determine that, in the context of the existing environment, flooding effects will be less than minor".

49. I have carefully considered the Application, including the technical assessments from Tonkin & Taylor, the Beca peer review, and the WSP bridge assessment, the comments received on the issue of consequential flooding, and the responses set out in the s42A Reports. I find that the Application, with the conditions proposed (and further refined as recommended in the s42A Reports), has appropriately addressed the potential consequential flooding effects in achieving the purpose of the flood protection works of protecting the Ohiti Road community of Category 2C properties from a 1:100 year flood event such that they can be moved to Category 1. In saying this, I note the particular importance of the condition requiring that an early warning system be in place (Condition 30) to enable evacuation in significant flooding events while Taihape Road is still passable to traffic.

Effects on Freshwater Ecology

50. The relevant matters of control relating to effects on Freshwater Ecology in Schedule 3 of the OIC are:

General

³¹ HDC s42A Report (page 46).

- (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.*

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.*
- (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.*

51. The AEE provides an overview of the ecological assessment work already undertaken against the standard conditions and also comments on the provision for a potential temporary ford or culvert in the bed of the Ohiwia Stream again with reference to the standard conditions. The purpose of the ford or culvert is to enable crossing of the stream to move material from the borrow site to the works area. The stream crossing is outside of the OIC area.
52. The submission from the Director General of Conservation has a particular focus on the potential effects of the stream crossing given the likely freshwater fish communities and the potential for Kakahi (freshwater mussels).
53. The HBRC s42A Report provides the following summary of potential freshwater ecology effects:³²

DOC recommended further checks to see if Kākahi are present. If they are found, the Ecological Management Plan should be updated. The comment also talked about issues like disturbing the stream bed, releasing sediment, and changing the areas along the stream. To address these problems, DOC suggested having a freshwater ecologist oversee the work and managing it with an EMP (Ecological Management Plan). Other ideas include rescuing and moving animals, planning work around spawning and migration times, choosing less harmful structure designs, and checking for risks of spreading pests like Gambusia. The proposed changes to the conditions strengthen and clarify the assessment and design requirements for the main area of works where freshwater values can be impacted

³² HBRC s42A Report (paragraph 7.11, page 15).

– the installation and use of river crossing of the stream where material will be moved from the borrow site to the work area.

54. The HBRC s42A report concludes that with the recommended amendments to the conditions the freshwater ecology related effects of the non-OIC application will be less than minor.³³
55. The HDC s42A Report does not comment on matters of freshwater ecology.
56. I find agreement with the HBRC s42A report and further consider the appropriateness of the recommended conditions below.

Adjoining Land Uses

57. Schedule 3 of the OIC includes the following matters of control relating to adjoining land uses:

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.*
58. Concerns raised in the comments about adjoining land uses were more relevant to the issue of consequential flooding effects post the works, which have been discussed above. The HDC s42A Report does however comment and this heading and includes the following conclusions:

Effects on adjoining land uses has 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 have reached a measured conclusion that the benefits of the works have been identified as outweighing the costs.

The Applicant has engaged with the HDC throughout the process, particularly in relation to the Broughton Bridge and road works on Ohiti and Taihape Roads.

59. I agree with those conclusions.

5.4 NON OIC APPLICATION ASSESSMENT

5.4.1 HBRC Matters

60. The HBRC s42A Report adopts the Applicant's AEE which concludes that the adverse effects of the non-OIC application are generally addressed by the OIC conditions and / or will be less than minor.³⁴ The HBRC s42A Report includes an assessment of RMA

³³ HBRC s42A Report (paragraph 7.12, page 15).

³⁴ AEE (pages 93 - 96).

sections 95A and 95B and concludes that neither public nor limited notification is required, and that the non-OIC application be processed on a non-notified basis.³⁵ I also find that to be the case.

5.4.2 HDC Matters

61. An assessment of the effects of the proposed earthworks outside of the OIC area is provided as part of the notification assessment in the HDC s42A report.³⁶ The conclusions made are that the adverse effects on the environment are no more than minor under section 95D of the RMA and that the adverse effects on any person are less than minor under section 95E of the RMA. I have considered the reasons provided for those conclusions and adopt that assessment as part of my decision.
62. The HDC s42A Report includes a decision made under delegated authority that the application (for matters of HDC jurisdiction outside of the OIC area) is to be processed on a non-notified basis.³⁷

6. STATUTORY INSTRUMENTS

6.1 ASSESSMENT RELEVANT TO HBRC AS CONSENT AUTHORITY

63. The HBRC s42A Report provides a comprehensive assessment of the application against the following statutory instruments pursuant to section 104(1)(b) of the RMA:
 - a. National Policy Statement for Freshwater Management 2020 (Amended October 2024).
 - b. National Environmental Standards for Freshwater 2020 (Amended 2023).
 - c. National Environmental Standards for Sources of Human Drinking Water 2007.
 - d. Regional Policy Statement.
 - e. Regional Resource Management Plan.
 - f. TANK Proposed Plan Change 9.
 - g. Outstanding Water Bodies Proposed Plan Change 7.
64. The assessment provided against each of the above instruments considers that the proposal is consistent with the relevant provisions, can be approved subject to those provisions or that the provisions are not relevant to the proposal.³⁸ The assessment against the NES for Sources of Human Drinking water recommends a condition (31) to

³⁵ HBRC s42A Report (page 21).

³⁶ HDC s42A Report (pages 38 – 42).

³⁷ HDC s42A Report (page 42).

³⁸ HBRC s42A Report (pages 15 – 19).

address a local drinking water supply bore at Omaha School³⁹, which I agree is appropriate.

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

6.2 ASSESSMENT RELEVANT TO HDC AS CONSENT AUTHORITY

66. The HDC s42A Report considers various statutory instruments and includes assessment against the following as relevant to the HDC components of the Application:

- a. National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health NESCS 2011.
- b. National Policy Statement for Highly Productive Land 2023 ('NPS-HPL').
- c. Regional Policy Statement.
- d. Hastings District Plan.

67. The assessment in the HDC s42A Report against the NPS-HPL identifies that exemptions under clause 3.9(2)(b), (c), and (j) would apply to the proposed works. It also identifies that clause 3.9(3) will be satisfied given the nature and purpose of the proposed works.⁴⁰ I agree with the assessment provided in the HDC s42A Report and adopt it as part of my decision.

68. The HDC s42A Report identifies that the proposal is consistent with the relevant objectives and policies of the both the RPS and the HDP and the HDP earthworks assessment criteria, with recommended additions made to Condition 23 regarding noise and vibration mitigation.⁴¹ I agree with these conclusions, and I adopt them for the purposes of this decision.

7. RMA SECTIONS 105, 107 AND PART 2

69. The HBRC s42A Report considers the discharges that may result from the proposal against sections 105 and 107 of the RMA. Regarding section 105, the nature of the discharge, sensitivity of the receiving environment and reasons for making the proposed choice are considered and the s42A Report concludes the proposal, including the proposed conditions and recommended amendments to them, are appropriate managing any adverse effects of the activity (inclusive of the discharge).⁴²

³⁹ HBRC s42A Report (pages 17 & 65).

⁴⁰ HDC s42A Report (pages 51 – 53).

⁴¹ HDC s42A Report (pages 53 – 59).

⁴² HBRC s42A Report (page 20).

70. In terms of section 107, the s42A Report concludes that the proposed discharge is unlikely to result in any of the effects referenced in section 107 and will be temporary in nature, occurring over the course of construction, allowing consent to be granted.⁴³
71. I agree with the conclusions of the HBRC s42A Report on sections 105 and 107 of the RMA and adopt them for the purposes of this decision.
72. Both the HBRC and HDC s42A Reports assess the application against Part 2 of the RMA and conclude that consistency is achieved with Part 2.⁴⁴ I agree with these assessments, and I adopt them for the purposes of this decision.

8. CONSENT DURATION

73. I adopt the consent duration and lapse dates as recommended in both the HBRC and HDC s42A Reports of 5 years as is consistent with clause 20 of the OIC.⁴⁵

9. CONSENT CONDITIONS

74. Clause 17 of the OIC sets out that the consent authority may impose 1 or more of the conditions set out in Schedule 2 of the OIC, while also enabling the consent authority to amend any of these conditions, and to add additional conditions, if considered necessary for achieving the authorities' responsibility for a matter of control in Schedule 3. That is, except for the condition in Clause 1 of Schedule 2, which clause 17(3) of the OIC prevents from being amended. That condition being:

1 Compliance with specified documents accompanying consent application

- (1) The consent holder must carry out all activities included in the flood protection works for which consent has been granted in accordance with applicable requirements in the following documents that were provided in the application for consent:*

- (a) [consent authority to complete]:*
- (b) [consent authority to complete]:*
- (c) [consent authority to complete]:*
- (d) [consent authority to complete].*

- (2) However, if there is a conflict between a condition imposed on the resource consent and a requirement in any document referred to in subclause (1), the imposed condition prevails.*

⁴³ HBRC s42A Report (page 20).

⁴⁴ HBRC s42A Report (page 21); and HDC s42A Report (pages 59 & 60).

⁴⁵ HBRC s42A Report (page 23) and HDC s42A Report (page 60).

75. The Application proposes a set of conditions based on Schedule 2, with modifications and deletions that reflect the assessment of effects on the environment undertaken and the matters of control in Schedule 3 of the OIC.
76. Both s42A Reports set out as Appendix 2 a table of conditions as requested by the applicant, and comments and recommended wording changes as appropriate. I am in general agreement with the assessment of the conditions provided in the respective s42A Reports. Rather than repeating those assessments I identify in the following table where changes other than minor typographical edits are recommended and comment on those. I note that I do not include conditions in the table below that have been recommended by the Applicant and agreed with in full by both s42A Reports. The full set of conditions is set out in Appendix A to this decision.

Table 3 – Findings on Conditions Proposed for Consent

Conditions Proposed by Applicant	Amendment Recommended by Consent Authority highlighted in yellow -(additions in bold font, deletions in strike through font)	Finding (decisions on condition wording different to the s42A recommendations are highlighted in green)
<p>Condition numbers and headings only are quoted below:</p> <p><u>1. Compliance with specified documents accompanying consent application</u></p> <p><u>1B. Tracking changes in the design process</u></p>	<p>No changes suggested.</p>	<p>Condition 1 references the following document which includes the design plans for the project: <i>Ohiti Road (Omāhu) Flood Protection Stopbank Works – Summary of Design for Resource Consent Purposes</i>, Tonkin & Taylor Ltd, September 2025.</p> <p>Condition 1B is proposed by the Applicant and is identical to a condition included in the Waiohiki OIC Flood Protection decision to provide scope for minor design changes to be made and documented in a final detailed design report.</p> <p>I find Conditions 1 and 1B to be appropriate.</p>
<p><u>2. Duration of resource consent</u></p> <p>(a) The period for which this resource consent has been granted is <i>[consent authority to insert date that is not more than 5 years]</i> after the date of commencement of the consent.</p> <p>(b) This resource consent lapses on <i>[consent authority to insert date that is no later than 2 years</i></p>	<p>No changes suggested.</p>	<p>The lapse date stated in the application needs to be 2 years after the date of this decision as set out below:</p> <p>...This resource consent lapses on <i>[consent authority to insert date that is no later than 2 years after date of commencement of consent]</i> 22 October 2027.</p>

<p>after date of commencement of consent 15 October 2027.</p>		
<p><u>Condition number and heading only are quoted below:</u></p> <p><u>3. Definitions</u></p> <p>(No changes proposed to the OIC Schedule 2 wording)</p>	<p>No changes suggested.</p>	<p>No comment required.</p>
<p><u>4. Māori entities representatives</u></p> <p>a) The consent holder must invite each relevant Māori entity to appoint a representative to perform, with the representatives appointed by all other relevant Māori entities, the Māori entities representatives' roles and responsibilities set out in this schedule in relation to the flood protection works for which the consent has been granted.</p> <p>b) The consent holder must issue the invitations at least 20 days before the flood protection works begin.</p> <p>c) The relevant Māori entities may appoint an appropriately sized team of cultural monitors to</p> <p>i support the Māori entities representatives; and</p> <p>ii provide advice to those preparing the Communications Plan and Ecology Management Plan, and</p>	<p><i>HBRC recommendation:</i></p> <p><u>4. Māori entities representatives</u></p> <p>a) The consent holder must invite each relevant Māori entity to appoint a representative to perform, with the representatives appointed by all other relevant Māori entities, the Māori entities representatives' roles and responsibilities set out in this schedule in relation to the flood protection works for which the consent has been granted.</p> <p>b) The consent holder must issue the invitations at least 20 days before the flood protection works begin.</p> <p>c) The relevant Māori entities may appoint an appropriately sized a team of cultural monitors to</p> <p>i support the Māori entities representatives; and</p>	<p>The HBRC s42A report makes the following comments:</p> <p><i>“Determining that the team of cultural monitors is ‘appropriately’ sized and compliant with the condition may be challenging for council compliance staff. The OIC wording is silent on the size of the team, and determining what is an ‘appropriate’ size would seem to have been intended to fall into the matters considered in developing the terms of reference (d) to f), with a suggested change to d)ii) to make this a clear consideration when establishing the team.</i></p> <p><i>The applicant’s proposed amendment notes the plans that the Māori Entities representatives are to provide advice on. Condition 10(c)(iii) (CEMP) also provides for development in partnership with the Māori entities representatives and should be referenced here in condition 4(c)(iii).”</i></p> <p>I find that the changes recommended in the HBRC s42A Report are appropriate for the reasons</p>

<p>iii provide the consent holder with on-site guidance to enable effective management of impact on culturally significant land and other natural and physical resources that have cultural value.</p> <p>d) The consent holder must develop terms of reference for the role and responsibilities of the Māori entities representatives, including in relation to the following matters:</p> <p>i the scope of the representatives' role and responsibilities:</p> <p>ii time frames for decisions, advice, and actions:</p> <p>iii support for the representatives:</p> <p>iv remuneration for the representatives. ...</p>	<p>ii provide advice to those preparing the Communications Plan, CEMP and Ecology Management Plan, and</p> <p>iii provide the consent holder with on-site guidance to enable effective management of impact on culturally significant land and other natural and physical resources that have cultural value.</p> <p>d) The consent holder must develop terms of reference for the role and responsibilities of the Māori entities representatives, including in relation to the following matters:</p> <p>i the appropriate number of representatives, the scope of the representatives' role and responsibilities:</p> <p>ii time frames for decisions, advice, and actions:</p> <p>iii support for the representatives:</p> <p>iv remuneration for the representatives. ...</p>	<p>provided and adopt those changes as part of this decision.</p>
<p><u>5. Guidance on Cultural indicators</u></p> <p>a) The guidance provided under condition 4(c)(iii) of this schedule must focus on indicators covering all identified traditional associations,—</p> <p>i including mahinga kai, cultural stream health, wāhi tapu, wāhi tūpuna, protocols, and heritage; and</p>	<p><u>5. Guidance on Cultural indicators</u></p> <p>a) The guidance provided under condition 4(c)(iii) of this schedule consent must focus on indicators covering all identified traditional associations,—</p> <p>i including mahinga kai, cultural stream health, wāhi tapu, wāhi tūpuna, protocols, and heritage; and</p>	<p>The replacement of references to 'this schedule' with 'this consent' are appropriate. This is a typographical correction, and the same change is made in a number of additional conditions. There is no need for me to provide further comment on this matter.</p>

<p>ii derived from identified cultural values and any cultural assessment conducted by the cultural monitors.</p> <p>b) The consent holder must, in preparing the Communications Plan and Ecology Management Plan all plans the plans required by these conditions;</p> <p>i take all applicable cultural indicators into account; and</p> <p>ii report to the Māori entities representatives how those indicators have been taken into account.</p>	<p>ii derived from identified cultural values and any cultural assessment conducted by the cultural monitors.</p> <p>b) The consent holder must, in preparing the Communications Plan, CEMP and Ecology Management Plan all plans required by these conditions;</p> <p>i take all applicable cultural indicators into account; and</p> <p>ii report to the Māori entities representatives how those indicators have been taken into account.</p>	<p>The HBRC s42A Report provides the following reason for adding reference to the CEMP:</p> <p><i>“Condition 5 b) should also reference the CEMP as per condition 10 c iii) “.</i></p> <p>I find this amendment to be appropriate and is consistent with the same addition made to Condition 4 above.</p>
<p><u>6. Stakeholder advisory group</u></p> <p>a) The representatives appointed under subconditions (b) and (d) and the Māori entities representatives form the stakeholder advisory group.</p> <p>b) The consent holder must invite the following persons to appoint representatives to be members of the stakeholder advisory group:</p> <p>i the owners and occupiers of land on which the flood protection works are carried out (referred to as ‘immediately affected’ in and all adjoining land Schedule 1);</p> <p>ii all persons listed in who made comments under clause 15(2)(a)(ii)-(vi) and (viii)-(x) of the OIC and any owner or occupier of land referred to as ‘immediately adjoining’ in Schedule</p>	<p><u>6. Stakeholder advisory group</u></p> <p>a) The representatives appointed under subconditions (b) and (d) and the Māori entities representatives form the stakeholder advisory group.</p> <p>b) The consent holder must invite the following persons to appoint representatives to be members of the stakeholder advisory group:</p> <p>i the owners and occupiers of land on which the flood protection works are carried out (referred to as ‘immediately affected’) in and all adjoining land Schedule 1);</p> <p>ii all persons listed in who made comments under clause 15(2)(a)(ii)-(vi) and (viii)-(x) of the OIC and any owner or occupier of land referred to as ‘immediately adjoining’ in</p>	<p>The HBRC s42A Report provides the following reason for the amendment proposed:</p> <p><i>“Condition 6.b) represents a change to the standard OIC condition that would act to reduce the number of landowners invited to appoint representatives to the STAG. This may be appropriate, but it is recommended that adjoining land owners on 2C land also be invited, despite not making comments. These landowners are likely to be affected by the works, and may not have commented individually because they believed the CAG comments were on their behalf.”</i></p> <p>HDC advise that they agree with the amendments recommended in the HBRC s42A Report.</p> <p>I also find that those amendments are appropriate for the reasons stated above and on my reading of the CAG submission which has been made on the</p>

<p>1 who made comments under clause 15 of the OiC: ...</p>	<p>Schedule 1 that is classified as 2C land or who made comments under clause 15 of the OiC: ...</p>	<p>basis that it represents such land owners on a collective basis.</p>
<p>Condition numbers and headings only are quoted below:</p> <p><u>7 Operation of stakeholder advisory group,</u></p> <p><u>8 Project Engagement Lead,</u></p> <p>(No changes proposed to the OIC Schedule 2 wording)</p>	<p>No changes suggested.</p>	<p>No comment required.</p>
<p><u>9 Communications Plan</u></p> <p>a) The consent holder must, taking account of the advice provided by cultural monitors, develop and implement a communications plan for the duration of construction works. ...</p> <p>d) The consent holder must give to the Manager Compliance—</p> <p>i) the initial communications plan at least 5 20 working days before construction works begin; and</p> <p>ii) any amended plan, as soon as practicable after the amendment.</p>	<p><u>9 Communications Plan</u></p> <p>a) The consent holder must, taking account of the advice provided by cultural monitors, develop and implement a communications plan for the duration of construction works. ...</p> <p>d) The consent holder must give to the Manager Compliance—</p> <p>i) the initial communications plan at least 10 20 working days before construction works begin; and</p> <p>ii) any amended plan, as soon as practicable after the amendment.</p>	<p>The HBRC s42A Report states that 10 days is considered an appropriate minimum timeframe for the review of the communications plan by the Manager Compliance.</p> <p>I find that it is appropriate to reference advice provided by cultural monitors in Condition 9(a) and that the HBRC s42A Report recommends an appropriate compromise between the 20 working days in the standard wording of condition 9(d)(i) and the 5 days sought by the Applicant.</p>
<p><u>10 Construction Environmental Management Plan</u></p>	<p><u>10 Construction Environmental Management Plan</u></p>	<p>Additions proposed include to implement the recommendations of the CIA, to account for the close proximity of overhead powerlines, to</p>

<p>a) The consent holder must—</p> <p>i) prepare a construction environmental management plan for the flood protection construction works; and</p> <p>ii) not less than 5 working days before the construction works begin, submit the CEMP to the consent authority and the stakeholder advisory group.</p> <p>b) The level of detail and the measures proposed in the CEMP must correspond with the nature and scale of the flood protection construction works.</p> <p>c) The CEMP must include the following information:</p> <p>i) the roles and responsibilities of construction management staff, including the Erosion and Sediment Control Manager:</p> <p>ii) a description of the training and education programme for workers that will be implemented to ensure compliance with the conditions imposed on the resource consent:</p> <p>iii) procedures, developed in partnership with the Māori Entity Representatives, for—</p> <ol style="list-style-type: none"> 1. obtaining ongoing guidance on cultural indicators provided by cultural monitors; and 2. ongoing reporting to the Māori entities representatives on how the indicators in condition 5(a) have been taken into account, or if not, why not. under condition 5(b)(ii) of this schedule: 	<p>a) The consent holder must—</p> <p>i) prepare a construction environmental management plan for the flood protection construction works; and</p> <p>ii) not less than 5 working days before the construction works begin, submit the CEMP to the consent authority and the stakeholder advisory group.</p> <p>b) The level of detail and the measures proposed in the CEMP must correspond with the nature and scale of the flood protection construction works.</p> <p>c) The CEMP must include the following information:</p> <p>i) the roles and responsibilities of construction management staff, including the Erosion and Sediment Control Manager:</p> <p>ii) a description of the training and education programme for workers that will be implemented to ensure compliance with the conditions imposed on the resource consent:</p> <p>iii) procedures, developed in partnership with the Māori Entity Representatives, for—</p> <ol style="list-style-type: none"> 1. obtaining ongoing guidance on cultural indicators provided by cultural monitors; and 2. ongoing reporting to the Māori entities representatives on how the indicators in condition 5(a) have been taken into account, or if not, why not. under condition 5(b)(ii) of this schedule: 	<p>acknowledge the wider construction works involved, to reference the potable water bore raised in comments relating to 168 Taihape Road, to reference the Contamination Site Management Plan, and to accommodate the recommendations of the Archaeological Assessment to obtain an archaeological authority, all of which I find to be entirely appropriate.</p> <p>The HDC s42A Report records its agreement with the amendments proposed to Condition 10.</p> <p>I find the amendments requested to Condition 10, with the typographical amendments recommended in the HBRC s42A Report to be appropriate.</p>
---	---	--

<p>iv) indicative timing of all stages of the flood protection works and the location and management of stockpile areas:</p> <p>v) procedures for the management of hazards, including—</p> <ol style="list-style-type: none"> 1. any risk of flood, including communications with Te Piringa Hapū; and 2. the discharge of any contaminant (for example, chemicals or hydrocarbons), particularly in the proximity of the bore on 170 Taihape Road; and 3. working in the proximity of overhead powerlines: <p>vi) arrangements for site access and on-site traffic management:</p> <p>vii) procedures for managing public health and safety, including restrictions on public access to work sites and the river:</p> <p>viii) A Contamination Site Management Plan according to the Contamination Site Management Plan (CSMP) – Ohiti Stopbank, T&T Project No. 1017353.2402,</p> <p>ix) dust management measures (see condition 16 of this schedule):</p> <p>x) procedures for managing de-watering (including avoiding or minimising effects on adjacent buildings), groundwater or surface water takes, and diversions and discharges to land or water (including the CMA):</p> <p>xi) contact details of at least 2 persons or bodies who respond to emergencies and who—</p>	<p>iv) indicative timing of all stages of the flood protection works and the location and management of stockpile areas:</p> <p>v) procedures for the management of hazards, including—</p> <ol style="list-style-type: none"> 1. any risk of flood, including communications with Te Piringa Hapū; and 2. the discharge of any contaminant (for example, chemicals or hydrocarbons), particularly in the proximity of the bore on 170 Taihape Road; and 3. working in the proximity of overhead powerlines: <p>vi) arrangements for site access and on-site traffic management:</p> <p>vii) procedures for managing public health and safety, including restrictions on public access to work sites and the river:</p> <p>viii) A Contamination Site Management Plan according to the Contamination Site Management Plan (CSMP) – Ohiti Stopbank, T&T Project No. 1017353.2402,</p> <p>ix) dust management measures (see condition 16 of this consent schedule):</p> <p>x) procedures for managing de-watering (including avoiding or minimising effects on adjacent buildings), groundwater or surface water takes, and diversions and discharges to land or water (including the CMA):</p>	
---	---	--

<p>1. are contactable 24 hours a day, 7 days a week, throughout the flood protection works; and</p> <p>2. have authority to authorise immediate response actions:</p> <p>xii) a detailed process for detecting, investigating, and recording incidents:</p> <p>xiii) details (including timing) of arrangements for reporting to the consent authority on the outcomes of, and compliance with, the CEMP:</p> <p>xiv) any ESCP (see condition 14 of this schedule):</p> <p>xv) how works in or adjacent to water bodies will be managed:</p> <p>xvi) how any river gravel extraction or land-based borrow sites will be managed:</p> <p>xvii) how noise and vibration generated by the works will be managed:</p> <p>xviii) the landscaping plan (if any) prepared under condition 24 of this schedule:</p> <p>xviii. an outline of key procedures how potential adverse ecological effects of those works will be avoided, remedied, mitigated, or offset (using biodiversity offset); or from the ecology management plan prepared under condition 28 of this schedule affecting construction:</p> <p>xix) details of how the ecology principles will guide environmental outcomes:</p>	<p>xi) contact details of at least 2 persons or bodies who respond to emergencies and who—</p> <p>1. are contactable 24 hours a day, 7 days a week, throughout the flood protection works; and</p> <p>2. have authority to authorise immediate response actions:</p> <p>xii) a detailed process for detecting, investigating, and recording incidents:</p> <p>xiii) details (including timing) of arrangements for reporting to the consent authority on the outcomes of, and compliance with, the CEMP:</p> <p>xiv) any ESCP (see condition 14 of this consent schedule):</p> <p>xv) how works in or adjacent to water bodies will be managed:</p> <p>xvi) how any river gravel extraction or land-based borrow sites will be managed:</p> <p>xvii) how noise and vibration generated by the works will be managed:</p> <p>xviii) the landscaping plan (if any) prepared under condition 24 of this schedule:</p> <p>xviii. an outline of key procedures how potential adverse ecological effects of those works will be avoided, remedied, mitigated, or offset (using biodiversity offset); or from the ecology management plan prepared under condition 28 of this consent schedule affecting construction:</p>	
--	--	--

<p>xx) cultural and archaeological artefact discovery protocols (see clause 29 of this schedule) or reference to an Authority where applicable:</p> <p>xxi) methods for responding to queries and complaints:</p> <p>xxii) procedures for amending the CEMP under condition 11 of this schedule.</p> <p>d) The CEMP must, so far as is practicable, be consistent with the HBRC River Control Code ‘Environmental Code of Practice for River Control Works’ (2017 or subsequent version).</p>	<p>xix) details of how the ecology principles will guide environmental outcomes:</p> <p>xx) cultural and archaeological artefact discovery protocols (see clause 29 of this consent schedule) or reference to an Authority where applicable:</p> <p>xxi) methods for responding to queries and complaints:</p> <p>xxii) procedures for amending the CEMP under condition 11 of this consent schedule.</p> <p>d) The CEMP must, so far as is practicable, be consistent with the HBRC River Control Code ‘Environmental Code of Practice for River Control Works’ (2017 or subsequent version).</p>	
<p><u>11 Developing and amending the CEMP</u></p> <p>a) Before finalising the CEMP, or any amendment to the CEMP under subcondition (e), the consent holder must invite the consent authority and the stakeholder advisory group to comment on the proposed CEMP or amendment within 10 working days.</p> <p>b) The consent holder must take account of any comments received by the persons invited when finalising the CEMP or the amendment.</p> <p>c) If the consent holder does not receive any comments within 10 working days after inviting them, the consent holder may finalise the CEMP or amendment.</p>	<p><u>11 Developing and amending the CEMP</u></p> <p>a) Before finalising the CEMP, or any amendment to the CEMP under subcondition (e), the consent holder must invite the consent authority and the stakeholder advisory group to comment on the proposed CEMP or amendment within 10 working days.</p> <p>b) The consent holder must take account of any comments received by the persons invited when finalising the CEMP or the amendment.</p> <p>c) If the consent holder does not receive any comments within 10 working days after inviting</p>	<p>The amendments recommended by the HBRC s42A Report respond to the comments from the Director General of Conservation, and note “ <i>that for e), a ford could affect fish passage, and that the ecologist should be experienced in this matter. This ecologist may be the Project Ecologist, if they have necessary expertise.</i>”</p> <p>The HDC s42A Report comments that this condition is relevant to both consent authorities.</p> <p>I find the additions to Condition 11 require an ecologist experienced in fish passage to be appropriate. I also agree that this condition is</p>

<p>d) The consent holder must act in accordance with the CEMP for the duration of the flood protection works.</p> <p>e) The consent holder must amend the CEMP if amendment is necessary to reflect any changes in design, construction methods, maintenance and operations methods, or procedures for managing adverse effects throughout the construction phase of the flood protection works. Specifically, the consent holder must amend the CEMP in the event that a temporary ford is proposed across the Ohiwia Stream. The ford must be:</p> <p>i) designed by a suitably qualified and experienced engineer with input from the Project Ecologist,</p> <p>ii) designed, installed and removed in a way that is, so far as practicable, consistent with the ecology principles set out in Condition 26(b)(i),</p> <p>iii) reported on in respect to (i) and (ii) in amending the CEMP.</p> <p>f) After amending the CEMP, the consent holder must give a copy of the amended CEMP (indicating the amendments) to the consent authority and the stakeholder advisory group within 10 working days.</p>	<p>them, the consent holder may finalise the CEMP or amendment.</p> <p>d) The consent holder must act in accordance with the CEMP for the duration of the flood protection construction works.</p> <p>e) The consent holder must amend the CEMP if amendment is necessary to reflect any changes in design, construction methods, maintenance and operations methods, or procedures for managing adverse effects throughout the construction phase of the flood protection construction works. Specifically, the consent holder must amend the CEMP in the event that a temporary ford is proposed across the Ohiwia Stream. The ford must be:</p> <p>i) designed by a suitably qualified and experienced engineer with input from an ecologist the Project Ecologist, who is suitably qualified and experienced so as to provide advice for ongoing fish passage,</p> <p>ii) designed, installed and removed in a way that is, so far as practicable, consistent with the ecology principles set out in Condition 26(b)(i),</p> <p>iii) reported on in respect to (i) and (ii) in amending the CEMP.</p> <p>f) After amending the CEMP, the consent holder must give a copy of the amended CEMP (indicating the amendments) to the consent authority and the stakeholder advisory group within 10 working days.</p>	<p>relevant to both HBRC and HDC as consent authorities.</p>
---	--	--

<p>Condition numbers and headings only are quoted below:</p> <p><u>12 Earthworks principles,</u></p> <p><u>13 Erosion and Sediment Control Manager and staff,</u></p>	<p>No recommended amendments to the Schedule 2 Conditions.</p>	<p>No comment required.</p>
<p><u>14 Erosion and Sediment Control Plan.</u></p> <p><i>The recommended wording from Schedule 2 is proposed to be retained except for the following changes to c) (i) and (ii):</i></p> <p>c) An ESCP must specify the following matters:</p> <p><i>General</i></p> <p>(i) how the construction works will be carried out in accordance with the ecology principles:</p> <p>(ii) structural and non-structural erosion and sediment control measures (including chemical treatment where necessary) to be in place before and during all construction works, including earthworks, coastal works, and works within watercourses:</p>	<p>No changes suggested.</p>	<p>I find these minor wording changes requested by the Applicant to be appropriate.</p>
<p><u>15 Failure of Erosion and Sediment Control Measure</u></p> <p>a) If the failure of an erosion and sediment control measure during flood protection works results in</p>	<p>The HBRC s42A Report seeks no changes to Condition 15 but the HDC s42A Report seeks the following amendments:</p> <p>a) If the failure of an erosion and sediment control measure during flood protection works</p>	<p>The HBRC s42A Report comments that “DOC suggested condition 15 a) iii), in relation to reporting an incident to council, be amended to three days (from seven days). The conditions require immediate notification of the incident to</p>

<p>an uncontrolled release of sediment to surface water, the consent holder must—</p> <p>(i) as soon as reasonably practicable, engage the Project Ecologist to investigate the affected area; and</p> <p>(ii) immediately notify—</p> <ol style="list-style-type: none"> 1. the HBRC pollution officer (with responsibility for works in or near any affected water bodies); or 2. the territorial authority pollution officer (with responsibility for land-based borrow sites); and <p>(iii) within 7 days, report the incident to the Manager of Compliance. ...</p>	<p>results in an uncontrolled release of sediment to surface water, the consent holder must—</p> <p>(i) as soon as reasonably practicable, engage the Project Ecologist to investigate the affected area; and</p> <p>(ii) immediately notify—</p> <ol style="list-style-type: none"> 1. the HBRC pollution officer (with responsibility for works in or near any affected water bodies); or 2. the territorial authority pollution officer Compliance Manager (with responsibility for land-based borrow sites); and <p>(iii) within 7 days, report the incident to the Hawkes Bay Regional Council and Hastings District Council (Manager of Compliance). ...</p>	<p><i>HBRC Pollution Response staff and remedial measures to be instigated as soon as practicable. This is considered appropriate, and no further changes are recommended.</i></p> <p>The HDC s 42A Report comments: <i>“HDC do not have a dedicated pollution officer so this function will fall to the Compliance Manager in the first instance.”</i></p> <p>I find both comments to be appropriate and amend condition 15 as recommended by the HDC s42A Report.</p>
<p>Condition numbers and headings only quoted below:</p> <p><u>16 Dust Management</u></p> <p><u>17 Works on contaminated land</u></p>	<p>No recommended amendments or comments in the s42A reports.</p>	<p>No changes have been made to condition 16 from Schedule 2 of the OIC, while condition 17 has been sought to be deleted by the Application.</p> <p>The HDC s42A Report comments that: <i>“With the Contaminated Site Management Plan forming part of the application, and addressed in Condition 10 this condition can be removed.”</i></p> <p>On that basis I agree that it is appropriate for condition 17 to be deleted.</p>

<p><u>18 Works and structure in beds of rivers</u></p> <p>a) This condition and conditions 19 and 20 of this schedule apply to all construction works carried out in, or adjacent to, the bed of a river.</p> <p>b) The consent holder must ensure that construction works are, so far as practicable, carried out in accordance with—</p> <p>i. an applicable ESCP; and</p> <p>ii. the ecology management plan principles; and</p> <p>iii. the earthworks principles; and</p> <p>iv. any guidance provided under condition 4(c)(iii) of this schedule (see condition 5 of this schedule) relating to relevant cultural indicators.</p> <p>c) Flood protection works that might affect fish passage in a river must, so far as practicable, be carried out outside peak times for migration and spawning of species of fish identified, in the ecological scoping survey conducted under condition 27 of this schedule, as being present in the river, except in the case of a ford.</p> <p>d) Permanent or other temporary works in or adjacent to the bed of a river that are completed as a part of the construction phase of the flood protection works (for example, sediment and debris removal, bank protection, and capacity increase) must—</p> <p>i. be designed and installed in a way that is, so far as practicable, consistent with the ecology principles; and</p>	<p><u>18 Works and structure in beds of rivers</u></p> <p>a) This condition and conditions 19 and 20 of this schedule apply to all construction works carried out in, or adjacent to, the bed of a river.</p> <p>b) The consent holder must ensure that construction works are, so far as practicable, carried out in accordance with—</p> <p>i. an applicable ESCP; and</p> <p>ii. the ecology management plan principles; and</p> <p>iii. the earthworks principles; and</p> <p>iv. any guidance provided under condition 4(c)(iii) of this consent schedule (see condition 5 of this consent schedule) relating to relevant cultural indicators.</p> <p>c) Flood protection Construction works that might affect fish passage in a river must, so far as practicable, be carried out outside peak times for migration and spawning of species of fish identified, in the ecological scoping survey conducted under condition 27 of this schedule, as being present in the river, except in the case of a temporary ford, which is subject to condition 11.</p> <p>d) Permanent or other temporary works (including river crossings) in or adjacent to the bed of a river that are completed as a part of the construction phase of the flood protection works (for example, river crossings, sediment and debris removal, bank protection, and capacity increase) must—</p>	<p>The AEE advises that it is still to be decided whether a permanent or temporary crossing of the Ohiwia Stream is installed to provide access from the borrow site to works areas.</p> <p>The Director General of Conservation's comments seek provision for fish passage at the stream crossing.</p> <p>The HBRC s42A Report comments as follows:</p> <p><i>"The standard OIC conditions intend that works in the beds of rivers and streams carried out in accordance with the ecology principles, which are set out in condition 26. The applicant's amendment changes this to be in accordance with the ecology management plan, required under condition 28.</i></p> <p><i>The ecology principles refer to the effects management hierarchy, and impacts on habitat connectivity (eg as might occur through creating a barrier to fish movement). The ecological management plan (as proposed) does not include any requirement to consider these matters. It is recommended that the wording of the OIC be retained.</i></p> <p><i>The applicant has added an exclusion for fords under condition c), because the design of this kind of crossing structure is managed under condition 11, which includes reference to the ecology principles and requires guidance from a suitable ecologist. Condition d) covers other kinds of works and a clarification is suggested to make it clear that this includes river crossing structures such as culverts.</i></p> <p><i>Condition v) is an addition that is suggested to make it clear that permanent river crossings should be</i></p>
--	--	--

<p>ii. be designed by an engineer and an ecologist who are suitably qualified and experienced so as to provide for ongoing fish passage in the river; and</p> <p>iii. manage stream loss, where threatened or at-risk species are present, in accordance with the effects management hierarchy; and</p> <p>iv. provide for the maintenance of the river for flood management purposes.</p> <p>e) The design of a temporary or permanent culvert in the bed of a river must—</p> <p>i. allow for the relevant design flood flow event; and</p> <p>ii. address the risks of non-performance (including blockage), taking into account the risk of the flow of soil or debris.</p> <p>f) A permanent spillway or weir must ensure that—</p> <p>i. a secondary flow path is available in the event of a blockage of the watercourse; and</p> <p>ii. discharge from the secondary flow path does not exacerbate flooding of neighbouring or downstream properties.</p> <p>g) All works and structures in, or adjacent to, rivers must, so far as practicable, incorporate energy dissipation measures and erosion and sediment control measures (for example, revegetation of worked sites) to minimise bed scouring and bank erosion in receiving environments.</p>	<p>i. be designed and installed in a way that is, so far as practicable, consistent with the ecology principles; and</p> <p>ii. be designed by an engineer and an ecologist who are suitably qualified and experienced so as to provide for ongoing fish passage in the river; and</p> <p>iii. manage stream loss, where threatened or at-risk species are present, in accordance with the effects management hierarchy; and</p> <p>iv. provide for the maintenance of the river for flood management purposes.</p> <p>v. Any permanent river crossing must be designed and constructed to provide for the passage of fish.</p> <p>e) The design of a temporary or permanent culvert in the bed of a river must—</p> <p>i. allow for the relevant design flood flow event; and</p> <p>ii. address the risks of non-performance (including blockage), taking into account the risk of the flow of soil or debris.</p> <p>f) A permanent spillway or weir must ensure that—</p> <p>i. a secondary flow path is available in the event of a blockage of the watercourse; and</p> <p>ii. discharge from the secondary flow path does not exacerbate flooding of neighbouring or downstream properties.</p>	<p><i>designed and constructed to ensure the ongoing passage of fish.</i></p> <p><i>An advice note is also suggested that reiterates the need for additional approvals from the Department of Conservation in the event that fish passage is to be affected by a structure.</i></p> <p>I find the amendments proposed by the HBRC s42A Report to be appropriate for the reasons set out above and adopt them accordingly.</p>
---	---	---

	<p>g) All works and structures in, or adjacent to, rivers must, so far as practicable, incorporate energy dissipation measures and erosion and sediment control measures (for example, revegetation of worked sites) to minimise bed scouring and bank erosion in receiving environments.</p> <p>Advice note: Additional approvals under the Freshwater Fisheries Regulations 1983 may be required for any culverts or fords to be constructed in the stream bed if they act to restrict fish passage."</p>	
<p>Condition 19 is sought by the Applicant to be retained as per the Schedule 2 wording except for the minor amendment to 19(b) shown below.</p> <p><u>19 Further requirements at watercourses</u></p> <p>a) This condition applies if condition 18 of this schedule applies.</p> <p>b) For the purposes of condition 18(d)(ii) of this schedule, fish passage need not be provided and maintained on all permanent culverts if the Project Ecologist decides, after considering all relevant matters, that it is unnecessary. ...</p>	<p><u>19 Further requirements at watercourses</u></p> <p>a) This condition applies if condition 18 of this schedule consent applies.</p> <p>b) For the purposes of condition 18(d)(ii) of this schedule consent, fish passage need not be provided and maintained on all permanent culverts if the Project Ecologist decides, after considering all relevant matters, that it is unnecessary.</p> <p>c) Instead the consent holder must —</p> <p>i. give the consent authority appropriate data and reasons (supported by relevant design drawings) for not complying with condition 18(4)(b) (d)(ii) of this schedule; and</p> <p>ii. if culverts that do not provide fish passage are necessary, notify the Department of Conservation.</p>	<p>The comments from the Director General of Conservation seek that fish passage be provided for at the proposed stream crossing.</p> <p>The Applicant responded to these comments by stating:</p> <p><i>"The comments provided by DOC will be considered in developing the plans including under Conditions 11(e) and 18. We note that the matter of control (b) requires the provision of fish passage to be a matter for assessment, it does not necessitate fish passage be provided in all circumstances. DOC will have an opportunity to review the management and mitigation plans before finalising, as an invited member of the Stakeholder advisory group (condition #6). No change to the proposed conditions recommended".</i></p> <p>The HBRC s42A Report comments as follows:</p>

	<p>d) For the purposes of condition 18 of this schedule, the consent holder must, at least 10 working days before starting permanent works within a watercourse, give to the consent authority—</p> <p>i. hard copies of the design drawings for permanent culverts (including fish passage), bridges, and permanent stream diversions; and</p> <p>ii. a statement of how those designs comply with condition 18 of this schedule.</p> <p>iii. The information required by Regulation 62 of the NES FW (2020).</p> <p>vi. For culverts, the information required by Regulation 63 of the NES FW (2020).</p> <p>e) All permanent works in the bed of a river must be carried out in accordance with the designs given to the consent authority under subcondition (d). ...</p>	<p><i>“The river crossing will be constructed outside of the OIC area and is a discretionary activity. The T&T Ecological Opportunities and Constraints Assessment (Sept 2025) (Appendix 3) finds that the stream supports migratory species and that: ‘Fish migration (both upstream and downstream) within the Okawa Stream catchment occurs throughout the year, with peak migration occurring between September to November (inclusive).’ Given this finding, it is recommended that any permanent crossing provide for fish passage.</i></p> <p><i>As the river crossing will be constructed outside of the OIC area, it is a discretionary activity and is subject to the requirements of the Regulations. Proposed additions iv) and v) meet the requirements of the NES FW (2020).”</i></p> <p>Given the location outside of the OIC area and the applicability of the NES FW, I adopt the recommendations of the HBRC s42A Report as providing appropriate amendments to Condition 19 for any permanent stream crossing, with the addition of the following typographical amendments:</p> <p>d) b) For the purposes of condition 18 of this consent schedule, the consent holder must, at least 10 working days before starting permanent works within a watercourse, give to the consent authority—</p> <p>i. hard copies of the design drawings for permanent culverts (including fish passage), bridges, and permanent stream diversions; and</p>
--	---	---

		<p>ii. a statement of how those designs comply with condition 18 of this consent schedule.</p> <p>iii. The information required by Regulation 62 of the NES FW (2020).</p> <p>vi. For culverts, the information required by Regulation 63 of the NES FW (2020).</p> <p>e) All permanent works in the bed of a river must be carried out in accordance with the designs given to the consent authority under subcondition (e) (b). ...</p>
<p>Condition number and heading only quoted below:</p> <p><u>20 Extraction activities and river gravel</u></p>	<p>No recommended amendments to the Schedule 2 Conditions.</p>	<p>No comment required.</p>
<p><u>21 Stormwater discharge</u></p> <p>a) If in the event the works involve permanent stormwater treatment devices, the consent holder must, not later than 3 months after the completion of the construction works,—</p> <p>i. document the requirements for the effective operation and maintenance of all stormwater treatment devices (including sediment traps, if practicable); and</p> <p>ii. submit the documents to the consent authority.</p> <p>b) The consent holder must design any new permanent culvert to ensure that any</p>	<p>No recommended amendments or comments in the s42A reports.</p>	<p>Deletions are made to condition 21 from Schedule 2 to remove reference to matters not associated with the proposed works. I find the deletions to be appropriate.</p>

<p>headwater ponding upstream in the relevant design event does not have any significant adverse effect in that area.</p> <p>c) The consent holder must ensure that stormwater discharge from construction works does not cause erosion or scouring of the bed or any bank of any downstream watercourse or receiving drain.</p> <p>d) The consent holder must ensure that the design of culverts and stormwater detention devices is, so far as practicable, in accordance with the HBRC Stormwater Management Guidelines.</p>		
<p><u>22 Design and management of land based borrow sites</u></p> <p>a) This condition applies to excavation of soil or other materials at land-based borrow sites to support construction works.</p> <p>b) The consent holder must ensure that excavation does not take place below the groundwater table.</p> <p>c) The consent holder must ensure that cut slopes do not exceed 45 degrees above the horizontal, unless a cut slope that exceeds that angle is—</p> <ul style="list-style-type: none"> i. operationally necessary; or ii. unavoidable as a matter of practicability. <p>d) The consent holder must ensure that a cut slope that exceeds 45 degrees above the horizontal is</p>	<p>The HBRC s42A Report does not comment on this Condition.</p> <p>The HDC s42A Report records its agreement with the proposed amendment to the standard condition.</p>	<p>I find the amendment to be appropriate and note that the plans referred to by the cross reference to Condition 1 is the Tonkin & Taylor Design Report which includes a description and plans for the borrow site upon the completion of the excavation works.</p>

<p>certified by a suitably qualified and experienced geotechnical engineer.</p> <p>e) The consent holder must ensure that, after excavation work is completed, all land disturbed by the excavation work is restored according to Condition 1 (for example, to pasture or vegetation) to its state before the flood protection works—</p> <p>i. as soon as practicable; but</p> <p>ii. within 6 months</p>		
<p>Condition numbers and headings only quoted below:</p> <p><u>23 Control of construction noise and vibration</u></p>	<p>No recommended amendments or comments in the HBRC s42A report but the HDC report recommends (as the authority with jurisdiction for managing noise effects) the following additions to condition 23:</p> <p>c) The consent holder must submit a Construction Noise and Vibration Management Plan (CNVMP) for certification a minimum of 10 working days prior to commencement of works.</p> <p>d) The construction works must be carried out in accordance with the certified CNVMP and a copy of the CNVMP must be kept onsite during construction hours and must be available to authorised Hastings District Council staff during monitoring inspections.</p>	<p>The HDC s42A Report states: <i>“The proposed amendment reflects the proximity of residential activities to the works sites and the medium liquefaction properties of the soils.”</i></p> <p>As portions of the stopbanks will be very close to existing dwellings, particularly 23 – 37A Ohiti Road, and 203 – 209 and 157 Taihape Road, I agree that the additions recommended by HDC are appropriate.</p>

<p><u>24 Landscape assessment and plan</u></p> <p>a) Before construction works begin, the consent holder must conduct a landscape scoping assessment to identify the potential visual landscape effects of the proposed works, including effects on any adjoining residential properties and any coastal environment.</p> <p>b) If the assessment identifies significant potential adverse effects, The consent holder must prepare and implement a landscaping plan according to the Plan prepared by Narrative Landscape labelled 'Planting Mitigation, Sheet 03, 7/08/2025, Job No. #2415' prior to the completion of works. for the use of planting and fencing as required to avoid, remedy, or mitigate those effects.</p>	<p>The HDC s42A report records agreement with the amendments proposed to Condition 24 by the Applicant.</p>	<p>The OIC Schedule 2 standard condition 24 requires the preparation of a landscape scoping assessment. Such an assessment has already been undertaken by Narrative Landscape with the report provided as Appendix 4 to the AEE.</p> <p>Based on the findings of the Landscape Assessment mitigation is required to avoid the adverse visual effects of headlight glare and visual clutter from the road raising. The Planting Mitigation Plan referred to proposes vegetation as screening.</p> <p>I find the amended condition to be appropriate.</p>
<p>Condition numbers and headings only quoted below:</p> <p><u>25 Project Ecologist</u></p> <p><u>26 Ecology principles</u></p> <p><u>27 Ecological survey and assessment</u></p>	<p>No recommended amendments from the s42A reports</p>	<p>No changes to Schedule 2 is requested to condition 25, and only the removal of references to 'coastal' in condition 26 are proposed given the location outside of the coastal environment. Condition 27 is recommended to be deleted on the basis of the Ecological Assessment which has already undertaken a scoping of ecological values.⁴⁶ This has also resulted in condition 28</p>

⁴⁶ AEE (pages 81 & 82).

		<p>being requested to be amended to give effect to the proposed ecological mitigation, and recommendations of the CIA. Given the above, and the full explanation provided in the Application and associated technical reports I agree that the requested deletion of condition 27 and the modification of condition 28 are appropriate as requested.</p>
<p><u>28 Managing ecological loss</u></p> <p>a) If any indigenous ecosystems, flora, or fauna (including taonga species) are identified by the ecological scoping survey under condition 27 of this schedule, the consent holder must ensure that the Project Ecologist and a suitably qualified and experienced person nominated by the Māori entities representatives work in partnership and take account of advice provided by cultural monitors to prepare an Ecology Management Plan which must include, in association with the Māori entities representatives,</p> <p>i. Procedures for undertaking a pre-felling native bird nest survey no earlier than 48hrs prior to the felling of identified riparian vegetation and management of any identified native bird nests to facilitate natural abandonment prior to felling,</p>	<p>No amendments or comments are offered in either s42A Report to Condition 28 as proposed by the Applicant.</p>	<p>The AEE outlines that “<i>Condition 28 has been amended to focus on the preparation and delivery of an Ecology Management Plan that responds to the findings and recommendations of the Ecological Scoping Assessment - with the key matters being:</i></p> <ul style="list-style-type: none"> <i>o Developing procedures for managing native bird species prior to vegetation removal,</i> <i>o Preparing a site preparation methodology to reduce the risk lizards occupying the site during construction.”⁴⁷</i> <p>The AEE also identifies some of the additions proposed to condition 28 respond to the recommendations of the CIA.⁴⁸</p>

⁴⁷ AEE (page 82).

⁴⁸ AEE (Table 8, pages 73 – 77).

<p>ii. Site preparation methodology to reduce the risk of lizards occupying the site during construction.</p> <p>iii. applies the effects management hierarchy to the management of all direct or indirect adverse effects on those ecological values (including, where relevant, kauri dieback disease), taking the ecology principles into account; and</p> <p>iv. prepares an ecology management plan.</p> <p>b) The consent holder must,—</p> <p style="padding-left: 40px;">i — at regular intervals throughout construction, record all measures taken under subcondition (a)(i); and</p> <p style="padding-left: 40px;">ii — report to the stakeholder advisory group every 2 months—</p> <p>1. the measures taken; and</p> <p style="padding-left: 40px;">2. any recommendations made by the Project Ecologist, working with the Māori entities representatives, to change those measures.</p> <p>c) The consent holder must implement the ecology management plan prepared under subcondition (a)(ii) throughout the construction works and report to the Stakeholder Advisory Group every 2 months on:</p> <p>i. work undertaken according to the Ecology Management Plan,</p>		<p>Given the above, I find the amendments proposed to the OIC Schedule 2 wording of Condition 28 to be appropriate.</p>
--	--	---

<p>ii. any other works deemed necessary by the Project Ecologist, working with the Māori Entities representatives.</p> <p>d) The consent holder must keep a record of any habitat identified in the ecological scoping survey that is lost as a result of the construction works.</p> <p>e) When the construction works and any ecological mitigation works carried out under subcondition (a)(i) are both completed, the consent holder must give the stakeholder advisory group—</p> <p>i. a copy of the ecological effects assessment prepared under condition 27 of this schedule; and</p> <p>a report that describes the ecological mitigation works to be carried out by the consent holder.</p> <p>f) The consent holder must establish, and contribute to, a fund called the Ecological Enhancement Fund to ensure that compensation is available when compliance with the effects management hierarchy requires compensation for adverse ecological effects that cannot be offset (using biodiversity offset).</p> <p>g) The Ecological Enhancement Fund—</p> <p>i. applies throughout the Hawke’s Bay region; and</p> <p>ii. must be used by the consent holder to provide compensation in relation to—</p> <p>1. making space available for a river (for example, by acquiring adjacent land); and</p> <p>2. rehabilitating or enhancing areas of vegetation in the river corridor with high biodiversity values (for example, by planting appropriate species); and</p>		
---	--	--

<p>3. in stream ecological values; and</p> <p>4. any other area of important in river or riparian habitat.</p>		
<p><u>29 Archaeological discovery protocol</u></p> <p>a) Unless or until an Authority under the Heritage New Zealand Pouhere Taonga Act 2014 is in place for the area of the works,the consent authority must prepare an accidental archaeological discovery protocol—</p> <ul style="list-style-type: none"> i. at least 10 working days before construction works begin; and ii. in collaboration with the Māori entities representatives; and iii. in consultation with Heritage New Zealand Pouhere Taonga. <p>b) The protocol applies if –</p> <ul style="list-style-type: none"> i. a worker or any other person associated with flood protection works discovers any cultural or archaeological artefacts or features on a work site; and ii. an authority in relation to the location is not required under the Heritage New Zealand Pouhere Taonga Act 2014. 	<p>The HDC s42A Report comments that they agree with the change requested to the Schedule 2 condition 29, stating that the changes align with the consultation undertaken.</p>	<p>The HBRC s42A Report response to the comments received from Heritage New Zealand Pouhere Taonga⁴⁹ point out that the archaeological authority applied for will not be in place at the time of granting the resource consent but likely will be to meet precommencement requirements. That report states it is appropriate to retain the condition and add an advice note confirming the authority will take precedence over the AADP rather than to delete this condition from the resource consent.</p> <p>I find that the amended condition 29 is appropriate in accepting the above comments, but that the following advice note is required to allay the concerns of Heritage New Zealand Pouhere Taonga:</p> <p>Advice Note: An Authority under the Heritage New Zealand Pouhere Taonga Act 2014 has been applied for by the consent holder and will take precedence over Condition 29 as soon as it is granted. Accordingly, works will be required to</p>

⁴⁹ Who have sought the deletion of Condition 29 and requested full reliance on an Archaeological Authority.

<p>c) The consent holder must –</p> <ul style="list-style-type: none"> i. follow the protocol; and ii. ensure that workers and other persons on site are aware of the protocol. <p>d) In subcondition (1)(b)(ii), authority has the same meaning as in section 6 of the Heritage New Zealand Pouhere Taonga Act 2014.</p>		<p>be undertaken in accordance with the conditions of that Authority.</p>
<p>The Application proposes the following additional condition:</p> <p><u>30. Early Warning System</u></p> <p>(a) A telemetry system shall be installed in the Upper Ohiwia Stream to provide continuous water level data for the purposes of enhancing early warning capabilities during major weather events.</p>	<p>Both the HBRC and HDC s42A Reports agree with the need for an early warning system condition but also recommend an additional clause relating to consultation on the design and location of the system as set out below.</p> <p><u>30. Early Warning System</u></p> <p>(a) A telemetry system shall be installed in the Upper Ohiwia Stream to provide continuous water level data for the purposes of enhancing early warning capabilities during major weather events.</p> <p>(b) The consent holder shall consult with HDC (Group Manager Infrastructure) and HBRC (Group Manager Environmental Information) in confirming the design and location of the early warning system.</p>	<p>The HBRC s42A Report provides the following comment:</p> <p>“The design of the early warning system should involve consultation with the council responsible for its maintenance and operation and use of its data.”</p> <p>The HDC s42A Report recommended the reference to the HDC Group Manager Infrastructure in the condition, which would address the concern raised in the HDC comments to the application. Those comments raised concern with the consequential flooding effects on Taihape Road as a key lifeline route and the need for an early warning system as mitigation. I therefore find the additional early warning system condition recommended by the Applicant and the addition to it recommended in the respective s42A Reports to be appropriate, with the addition of the following time bound condition:</p> <p>(c) The early warning system required by this condition shall be implemented and operational</p>

		<p>prior to the completion of the flood protection works.</p> <p>I also record that I find this condition to be an essential mitigation for the overall project, including to matters raised in the CAG comments, given the modelled effects of overdesign flood events in which it will also be necessary to evacuate people from the area protected for a 100 year event, prior to Taihape Road becoming impassable.</p>
<p>No further conditions were proposed by the Applicant.</p>	<p>The HBRC s42A Report recommends an additional condition relating to drinking water supply be added to the consent as follows (which is also agreed with by the HDC s42A Report):</p> <p>31. Drinking Water Supply</p> <p>If an event occurs on-site that may lead to contamination of groundwater, the Consent Holder shall notify the Hastings District Council Drinking Water Supply Manager, Omahu School, and the Hawke’s Bay Regional Council (Manager Compliance) of the event as soon as reasonably practicable after the event occurs.</p>	<p>The condition has been proposed by HBRC and HDC to address the NES Sources of Human Drinking Water and matters of control relating to adverse effect on public health and safety and potential effects on infrastructure assets and facilities. The site is located within the modelled drinking water source protection area for the Omahu community supply operated by Hastings District Council. It is also likely to be upgradient from the Omahu School supply, which is also a registered drinking water supply. Accordingly, HBRC identify in their s42A Report that their proposed addition is to address the protection of these two water supplies serving more than 25 people, in accordance with regulation 12 of the NES Sources of Human Drinking Water. I find that the recommended new condition is appropriate.</p>

	<p>The HBRC s42A Report recommends that an additional condition to protect the security of water bore Well 2146 at 168 Taihape Road be added to the consent as follows (which is also agreed with by the HDC s42A Report):</p> <p>32. Bore Security Well 2146</p> <p>To minimise the risk of contaminants entering groundwater, the consent holder shall:</p> <p>a) Ensure that well headworks are constructed to prevent any leakage and/or movement of water or contaminants between the ground surface and groundwater and shall ensure that there are no openings through which contaminants might enter the well. This shall include (but not be limited to) ensuring that there are no gaps around any pipework and/or cables at the wellhead.</p> <p>b) The consent holder shall engage a suitably qualified and experienced person at their cost to inspect Well 2146, to produce a bore security report. This report shall be provided to the Hawkes Bay Regional Council (Manager Compliance) within 3 months of the completion of the construction works. The report(s) shall be provided to Hawkes Bay</p>	<p>The respective comments in the s42A Reports note that as this drinking water bore will be subject to increased inundation it is considered appropriate to confirm the security of the bore via a Bore Head Security Report completed by a suitable qualified person. Further to this the recommended condition addressed a concern raised in the comments from R & R Renew of 168 Taihape Road.</p> <p>Given the above, and that the security of the bore is subject to the consequential flooding effects of the project, I find that it is appropriate to add this conditions with some minor amendments as set out below.</p> <p>32. Bore Security Well 2146</p> <p>To minimise the risk of contaminants entering groundwater, the consent holder shall:</p> <p>a) Ensure that...</p> <p>b) The consent holder shall Engage a suitably qualified and experienced person at their cost to inspect Well 2146, to produce a bore security report. This report shall be provided to the Hawkes Bay Regional Council (Manager Compliance) within 3 months of the completion of the construction works. The report(s) shall be provided to Hawkes Bay Regional Council</p>
--	--	---

	<p>Regional Council (Manager Compliance) within 2 months of the date of the bore security inspection.</p> <p><i>Advice Note: For the purposes of this condition, an acceptable “suitably qualified and experienced person” is a blue tick accredited provider (i.e. a person who holds New Zealand Qualification Authority (NZQA) Unit Standard 27556: Carry out a full pipe water measurement system verification) or a qualified well driller.</i></p>	<p>(Manager Compliance) within 2 months of the date of the bore security inspection.</p> <p>c) Undertake any additional works to secure the well recommended in the report required under b) above, within 2 months of the date of the bore security inspection.</p>
--	--	--

79. I have carefully considered the conditions proposed in the Application alongside the comments received, as well as the recommended amendments set out in the s42A Reports.

80. I set out the conditions to be applied to this consent in Appendix A to this decision.

10. DETERMINATION WITHIN OIC AREA

81. Pursuant to the powers delegated to me by the Hawke's Bay Regional Council and Hastings District Council respectively, under Clause 10 of the Severe Weather Emergency Recovery (Hawke's Bay Flood Protection Works) Order 2024, I record that having considered the application documents, the comments received, the respective Section 42A Reports, and having considered the various requirements of the OIC and RMA, I find that:
- a. The actual and potential adverse effects of the application, can be suitably avoided, remedied or mitigated by the imposition of the Conditions in Appendix A that are consistent with the matters of control listed in Schedule 3 of the OIC; and
 - b. The application as a controlled activity must be granted under section 104A of the RMA.
82. I therefore **grant** the application lodged by Hawke's Bay Regional Council (APP – 131028 & RMA20250327) for resource consent to undertake construction of a flood protection scheme and associated works, including associated disturbance of the Ngaruroro River and Ohiwia Stream beds, reclamation of stream bed, erection of structures including a stop bank and culverts, diversion of water and stormwater and discharges of contaminants to land, water and air, including solid contaminants, stormwater and dust, to disturb contaminated soil and to undertake earthworks..
83. The application is granted subject to the conditions set out in Appendix A.
84. The reasons for this decision and the relevant statutory provisions considered are set out in the body of this report.

11. DETERMINATION ON LAND OUTSIDE OF OIC AREA

85. Pursuant to sections 104 and 104B of the RMA consent is granted to the application lodged by Hawke's Bay Regional Council (AUTH-132154-01 & RMA20250327) for resource consent for disturbance of the bed of the Ohiwia Stream and Ngaruroro River and associated discharge of sediment, to disturb contaminated soil and to undertake earthworks.

86. The application is granted subject to the conditions set out in Appendix A.
87. The reasons for this decision and the relevant statutory provisions considered are set out in the body of this report.

Signed by Independent Commissioner

A handwritten signature in blue ink, appearing to read 'Philip McKay', is written over a light blue horizontal line.

Philip McKay

Dated: 22 October 2025



APPENDIX A

Conditions of Consent

APPENDIX A – DECISION CONDITIONS

1. Conditions – OIC Consent

Condition # and responsible consent authority	Condition
1. HBRC	<p style="text-align: center;">1. Compliance with specified documents accompanying consent application</p> <p>a) The consent holder must carry out all activities included in the flood protection works for which consent has been granted in accordance with applicable requirements in the following documents that were provided in the application for consent:</p> <ul style="list-style-type: none"> i. <i>Ohiti Road (Omāhu) Flood Protection Stopbank Works – Summary of Design for Resource Consent Purposes</i>, Tonkin & Taylor Ltd, September 2025, Job Ref 1017353.2402. <p>b) However, if there is a conflict between a condition imposed on the resource consent and a requirement in any document referenced to in subclause (1), the imposed condition prevails.</p>
1A. HBRC	<p style="text-align: center;">1A. Tracking changes in the design process</p> <p>Changes that occur between preliminary and detailed (final) design shall be recorded and reported on as part of a final design report. The final design report shall record the changes, outline the reasons for them and provide a view as to whether the changes are in accordance with documents referred to in Condition 1.</p> <p>In this context, in accordance means changes that do not introduce a new activity, do not introduce a substantial change in alignment, do not result in a change to outcomes sought under the conditions of this consent, and does not cause any material increase in consequential flooding effects to other properties.</p> <p>The Final Design Report shall be provided to the Hawke’s Bay Regional Council (Manager Compliance) prior to construction commencing.</p>
2. HBRC & HDC	<p style="text-align: center;">2. Duration of resource consent</p> <p>a) The period for which this resource consent has been granted is 5 years after the date of commencement of the consent.</p> <p>b) This resource consent lapses on 22 October 2027.</p>
3. HBRC	<p style="text-align: center;">3. Definitions</p> <p>CEMP means the Construction Environment Management Plan required by condition 10 of this schedule</p> <p>construction works—</p>

	<p>a) means activities that are authorised by this resource consent in connection with the flood protection works and that consist of directly constructing, reinstating, enhancing, or improving land or infrastructure; but</p> <p>b) does not include ancillary activities such as—</p> <ul style="list-style-type: none"> i. preliminary activities such as planning, recruitment, site investigation, establishment of construction site, soil sampling; and ii. subsequent activities such as site clean-up and ongoing maintenance of infrastructure, plant, and landscaping until the flood protection works are completed; and iii. ongoing administrative and operational activities such as monitoring and reporting until the flood protection works are completed. <p>contaminated land means land to which the Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011 apply (see regulation 5(1) of those regulations)</p> <p>cultural indicator means an indicator of an identified cultural association in guidance referred to in clause 5 of this schedule</p> <p>cultural monitors means the cultural monitors appointed by relevant Māori entities under clause 4(3) of this schedule</p> <p>earthworks principles means the principles set out in clause 12 of this schedule</p> <p>ecology principles means the principles set out in clause 26 of this schedule</p> <p>erosion and sediment control device includes a bund and a gully trap fitted into a drain</p> <p>Erosion and Sediment Control Manager means the person appointed under clause 13(1) of this schedule</p> <p>ESCP means an erosion and sediment control plan prepared under clause 14 of this schedule</p> <p>HBRC means Hawke’s Bay Regional Council</p> <p>HBRC Erosion and Sediment Guidelines means the Hawke’s Bay Regional Council Waterway Guidelines: Erosion and Sediment Control, published by HBRC in April 2009</p> <p>HBRC Pest Management Plan means the Hawke’s Bay Regional Council Regional Pest Management Plan 2018-2038, published by HBRC in February 2023</p> <p>HBRC River Control Code means the Hawke’s Bay Regional Council Environmental Code of Practice for River Control and Waterway Works, published by HBRC in February 2017</p> <p>HBRC Stormwater Management Guidelines means the Hawke’s Bay Regional Council Waterway Guidelines: Stormwater Management, published by HBRC in May 2009</p> <p>Manager Compliance means the person employed by HBRC as manager of compliance</p> <p>Māori entity representative means a person appointed as a representative under clause 4 of this schedule</p> <p>NZS 6803:1999 means New Zealand Standard 6803:1999: Acoustics—Construction noise, published by Standards New Zealand on 8 February 2000</p>
--	--

	<p>OiC means the Severe Weather Emergency Recovery (Hawke’s Bay Flood Protection Works) Order 2024</p> <p>Project Ecologist means suitably qualified and experienced ecologist appointed by the consent holder.</p>
4. HBRC	<p style="text-align: center;">4. Māori entities representatives</p> <p>a) The consent holder must invite each relevant Māori entity to appoint a representative to perform, with the representatives appointed by all other relevant Māori entities, the Māori entities representatives’ roles and responsibilities set out in this schedule in relation to the flood protection works for which the consent has been granted.</p> <p>b) The consent holder must issue the invitations at least 20 days before the flood protection works begin.</p> <p>c) The relevant Māori entities may appoint a team of cultural monitors to—</p> <ul style="list-style-type: none"> i. support the Māori entities representatives; and ii. provide advice to those preparing the Communications Plan, CEMP and Ecology Management Plan, and iii. provide the consent holder with on-site guidance to enable effective management of impact on culturally significant land and other natural and physical resources that have cultural value. <p>d) The consent holder must develop terms of reference for the role and responsibilities of the Māori entities representatives, including in relation to the following matters:</p> <ul style="list-style-type: none"> i. the appropriate number of representatives, the scope of the representatives’ role and responsibilities; ii. time frames for decisions, advice, and actions; iii. support for the representatives; iv. remuneration for the representatives. <p>e) In developing the terms of reference, the consent holder must—</p> <ul style="list-style-type: none"> i. convene discussions with all relevant Māori entities; and ii. use its best endeavours to achieve consensus on all matters. <p>f) If consensus on all matters is not achieved, the remaining matters must be determined—</p> <ul style="list-style-type: none"> i. by a majority vote; or ii. if votes are tied, by the casting vote of the consent holder.
5. HBRC	<p style="text-align: center;">5. Guidance on Cultural indicators</p> <p>a) The guidance provided under clause 4(3)(b)-(d) of this consent must focus on indicators covering all identified traditional associations,—</p> <ul style="list-style-type: none"> i. including mahinga kai, cultural stream health, wāhi tapu, wāhi tūpuna, protocols, and heritage; and ii. derived from identified cultural values and any cultural assessment conducted by the cultural monitors. <p>b) The consent holder must, in preparing the Communications Plan, CEMP and Ecology Management Plan required by these conditions,—</p> <ul style="list-style-type: none"> i. take all applicable cultural indicators into account; and ii. report to the Māori entities representatives how those indicators have been taken into account.

6. HBRC	<p style="text-align: center;">6. Stakeholder advisory group</p> <p>a) The representatives appointed under subclauses (2) and (4) and the Māori entities representatives from the stakeholder advisory group.</p> <p>b) The consent holder must invite the following persons to appoint representatives to be members of the stakeholder advisory group:</p> <ul style="list-style-type: none"> i. the owners and occupiers of land on which the flood protection works are carried out (referred to as ‘immediately affected’) in Schedule 1); ii. all persons listed in clause 15(2)(a)(ii)-(vi) and (viii)-(x) of the OIC and any owner or occupier of land referred to as ‘immediately adjoining’ in Schedule 1 that is classified as 2C land or who made comments under clause 15 of the OIC; iii. all network utility operators with network infrastructure or other facilities on the land on which the flood protection works are carried out or any adjoining land; iv. the Manager Compliance; v. Heritage New Zealand Pouhere Taonga; vi. the Department of Conservation; vii. the Māori entities representatives. <p>c) The consent holder must issue the invitations at least 20 days before the flood protection works begin.</p> <p>d) After the flood protection works begin, the consent holder may invite further persons or bodies to appoint representatives to the stakeholder advisory group.</p> <p>e) Each representative appointed must be authorised by the person or body appointing them to make decisions on behalf of the person or body in the consultations taking place in relation to the flood protection works.</p> <p>f) The consent holder must develop terms of reference for the role of the stakeholder advisory group, including in relation to the following:</p> <ul style="list-style-type: none"> i. frequency of meetings; ii. processes and methods for the performance of the group’s role. <p>g) In developing the terms of reference, the consent holder must—</p> <ul style="list-style-type: none"> i. convene discussions with all members of the group; and ii. use its best endeavours to achieve consensus on all matters at the group’s first meeting. <p>h) If consensus on all matters is not achieved at the first meeting, the remaining matters must be determined—</p> <ul style="list-style-type: none"> i. by a majority vote; or ii. if votes are tied, by the casting vote of the consent holder.
7. HBRC	<p style="text-align: center;">7. Operation of stakeholder advisory group</p> <p>a) The role of the stakeholder advisory group is to inform and advise the consent holder about managing and monitoring the flood protection works.</p> <p>b) The consent holder must—</p> <ul style="list-style-type: none"> i. record all information and advice provided by the stakeholder advisory group; and ii. report to the group how the information and advice have been taken into account in the carrying out of the flood protection works.

8. HBRC	<p style="text-align: center;">8. Project Engagement Lead</p> <p>a) The consent holder must appoint a person as Project Engagement Lead to act as the consent holder's main point of contact with—</p> <ol style="list-style-type: none"> i. the Māori entities representatives; and ii. the stakeholder advisory group. <p>b) The consent holder must ensure that the Project Engagement Lead is reasonably available to perform their role under this clause.</p> <p>c) The consent holder must also ensure that the contact details of the Project Engagement Lead are posted on an internet site maintained by or on behalf of the consent holder.</p>
9. HBRC	<p style="text-align: center;">9. Communications plan</p> <p>a) The consent holder must, taking account of advice provided by cultural monitors, develop and implement a communications plan for the duration of construction works.</p> <p>b) The communication plan must contain detailed processes for communications, throughout the construction works, with the following:</p> <ol style="list-style-type: none"> 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. <p>c) The communications plan must include the following:</p> <ol style="list-style-type: none"> i. a description of the flood protection works or details of, or a link to, an internet site maintained by or on behalf of the consent holder that describes the construction works: ii. the contact details of the Project Engagement Lead: iii. a list of all persons and bodies who will be communicated with under the plan: iv. how any comments or concerns about the construction works should be communicated by those persons and bodies: v. details of proposed communication activities by the Project Engagement Lead, including notifications and other communications with any persons and bodies referred to in paragraph (iii): vi. information about when the communications plan will be reviewed (and amended, if necessary). <p>d) The consent holder must give to the Manager Compliance—</p> <ol style="list-style-type: none"> i. the initial communications plan at least 10 working days before construction works begin; and ii. any amended plan, as soon as practicable after the amendment.
10. HBRC & HDC	<p style="text-align: center;">10. Construction environmental management plan</p> <p>a) The consent holder must—</p> <ol style="list-style-type: none"> i. prepare a construction environmental management plan for the construction works; and ii. not less than 5 working days before the construction works begin, submit the CEMP to the consent authority and the stakeholder advisory group.

	<p>b) The level of detail and the measures proposed in the CEMP must correspond with the nature and scale of the construction works.</p> <p>c) The CEMP must include the following information:</p> <ul style="list-style-type: none"> i. the roles and responsibilities of construction management staff, including the Erosion and Sediment Control Manager: ii. a description of the training and education programme for workers that will be implemented to ensure compliance with the conditions imposed on the resource consent: iii. procedures, developed in partnership with the Māori Entity Representatives, for— <ul style="list-style-type: none"> 1. obtaining ongoing guidance on cultural indicators provided by cultural monitors; and 2. ongoing reporting to the Māori entities representatives how the indicators in condition 5(a) have been taken into account, or if not, why not: iv. indicative timing of all stages of the flood protection works and the location and management of stockpile areas: v. procedures for the management of hazards, including— <ul style="list-style-type: none"> 1. any risk of flood, including communications with Te Piringa Hapū; and 2. the discharge of any contaminant (for example, chemicals or hydrocarbons), particularly in the proximity of the bore on 168 Taihape Road; and: 3. working in the proximity of overhead powerlines: vi. arrangements for site access and on-site traffic management: vii. procedures for managing public health and safety, including restrictions on public access to work sites and the river: viii. A Contamination Site Management Plan according to the Contamination Site Management Plan (CSMP) – Ohiti Stopbank, T&T Project No. 1017353.2402, ix. dust management measures (see condition 16 of this consent): x. procedures for managing de-watering (including avoiding or minimising effects on adjacent buildings), groundwater or surface water takes, and diversions and discharges to land or water: xi. contact details of at least 2 persons or bodies who respond to emergencies and who— <ul style="list-style-type: none"> 1. are contactable 24 hours a day, 7 days a week, throughout the flood protection works; and 2. have authority to authorise immediate response actions: xii. a detailed process for detecting, investigating, and recording incidents: xiii. details (including timing) of arrangements for reporting to the consent authority on the outcomes of, and compliance with, the CEMP: xiv. any ESCP (see condition 14 of this consent): xv. how works in or adjacent to water bodies will be managed: xvi. how any river gravel extraction or land-based borrow sites will be managed: xvii. how noise and vibration generated by the works will be managed: xviii. an outline of key procedures from the ecology management plan prepared under clause 28 of this consent affecting construction: xix. details of how the ecology principles will guide environmental outcomes: xx. cultural and archaeological artefact discovery protocols (see condition 29 of this consent) or reference to an Authority where applicable: xxi. methods for responding to queries and complaints: xxii. procedures for amending the CEMP under condition 11 of this consent. <p>d) The CEMP must, so far as is practicable, be consistent with the HBRC 'Environmental Code of Practice for River Control Works' (2017 or subsequent version).</p>
11. HBRC & HDC	11. Developing and amending CEMP

	<ul style="list-style-type: none"> a) Before finalising the CEMP, or any amendment to the CEMP under subcondition (e), the consent holder must invite the consent authority and the stakeholder advisory group to comment on the proposed CEMP or amendment within 10 working days. b) The consent holder must take account of any comments received by the persons invited when finalising the CEMP or the amendment. c) If the consent holder does not receive any comments within 10 working days after inviting them, the consent holder may finalise the CEMP or amendment. d) The consent holder must act in accordance with the CEMP for the duration of the construction works. e) The consent holder must amend the CEMP if amendment is necessary to reflect any changes in design, construction methods, maintenance and operations methods, or procedures for managing adverse effects throughout the construction phase of the construction works. Specifically, the consent holder must amend the CEMP in the event that a temporary ford is proposed across the Ohiwia Stream. The ford must be: <ul style="list-style-type: none"> i. designed by a suitably qualified and experienced engineer with input from an ecologist, who is suitably qualified and experienced so as to provide advice for ongoing fish passage, ii. designed, installed and removed in a way that is, so far as practicable, consistent with the ecology principles set out in Condition 26(b)(i), iii. reported on in respect to (i) and (ii) in amending the CEMP. f) After amending the CEMP, the consent holder must give a copy of the amended CEMP (indicating the amendments) to the consent authority and the stakeholder advisory group within 10 working days.
12. HBRC & HDC	<p style="text-align: center;">12. Earthworks principles</p> <ul style="list-style-type: none"> a) The consent holder must carry out all works in a manner that— <ul style="list-style-type: none"> i. minimises the volume, area, and duration of the proposed earthworks required through methodologies, including the design of batter slopes, appropriate to expected soil types and geology; and ii. maximises the effectiveness of erosion and sediment control measures associated with earthworks by minimising potential for sediment generation and sediment yield; and iii. avoids if practicable, or minimises so far as practicable, adverse effects on freshwater and marine water environments within or beyond the works boundary, with particular regard to reducing opportunities for the works to generate sediment; and iv. avoids if practicable, or minimises so far as practicable, adverse effects on outstanding natural features, outstanding natural landscapes, and areas of outstanding natural character (as specified in a regional plan or policy statement for the relevant area); and v. avoids if practicable, or minimises so far as practicable, adverse effects on culturally significant land; and vi. stabilises disturbed land as soon as reasonably practicable in accordance with an ESCP. b) The consent holder must, as far as practicable, ensure that earthworks are carried out in accordance with the ecology principles.
13. HBRC	<p style="text-align: center;">13. Erosion and Sediment Control Manager and staff</p>

	<p>a) The consent holder must appoint a suitably qualified and experienced person as the Erosion and Sediment Control Manager for the duration of the flood protection works.</p> <p>b) The role of the Erosion and Sediment Control Manager is to—</p> <ul style="list-style-type: none"> i. ensure compliance with the CEMP and ESCP; and ii. subject to any amendments made to the ESCP under condition 14(c)(x) of this schedule, liaise with any Erosion and Sediment Control Manager appointed in respect of any other flood protection works; and iii. liaise with the consent authority in respect of the implementation of the ESCP, including in respect of any incident relating to erosion and sediment control. <p>c) An Erosion and Sediment Control Manager appointed under this clause may perform the same role in relation to any flood protection works at any other location specified in clause 6(3) of the OiC if the relevant consent holder considers it appropriate.</p> <p>d) The consent holder must also appoint suitably qualified and experienced staff to assist in erosion and sediment control, including—</p> <ul style="list-style-type: none"> i. managing the operation, maintenance, and monitoring of erosion and sediment control devices; and ii. supervising the installation and decommissioning of those devices and associated equipment and arrangements.
14. HBRC	<p style="text-align: center;">14. Erosion and sediment control plan</p> <p>a) The consent holder must prepare 1 or more erosion and sediment control plans for the works to identify how the earthworks principles will be applied.</p> <p>b) The consent holder must engage a suitably qualified and experienced person to prepare an ESCP.</p> <p>c) An ESCP must specify the following matters:</p> <p style="padding-left: 40px;"><i>General</i></p> <ul style="list-style-type: none"> i. how the construction works will be carried out in accordance with the ecology principles: ii. structural and non-structural erosion and sediment control measures (including chemical treatment where necessary) to be in place before and during all construction works, including earthworks, and works within watercourses: iii. key environmental risks, particularly in relation to topography, soil type and form, and the receiving environment, including proximity to any sensitive receivers (for example, watercourses): iv. procedures for ensuring advance warning of a rainfall event: v. procedures for decommissioning the erosion and sediment control measures: vi. procedures for determining the staging and sequencing of earthworks: vii. methods adopted, for the purpose of reducing sediment loss and erosion, to stabilise— <ul style="list-style-type: none"> 1. any excavated area; and 2. any watercourse bed; and 3. any banks of a watercourse that have been disturbed by the works: viii. details of maintenance, including actions and frequency: ix. supporting information about the size of erosion and sediment control devices: x. methods for amending and updating the ESCP as required: <p style="text-align: center;"><i>Erosion and Sediment Control Manager and staff</i></p>

	<ul style="list-style-type: none"> xi. the name and contact details of the Erosion and Sediment Control Manager: xii. the names and contact details of other staff appointed to assist with the management of erosion and sediment control (see clause 13(4) of the OIC schedule): <p style="text-align: center;"><i>Incident management</i></p> <ul style="list-style-type: none"> xiii. the process for detecting, investigating, and recording, and for notifying the consent authority of, incidents that result in the discharge of contaminants or material into any watercourse due to the structural failure of any erosion and sediment control measures: <p style="text-align: center;"><i>Monitoring</i></p> <ul style="list-style-type: none"> xiv. procedures for— <ul style="list-style-type: none"> 1. ongoing visual inspection, and where necessary quantitative monitoring, of all erosion and sediment control measures; and 2. detailed analysis of trends in erosion and sediment control effectiveness and performance; and 3. amendments to any ESCP resulting from the activities under subparagraphs (i) and (ii): <p style="text-align: center;"><i>Reporting to consent authority</i></p> <ul style="list-style-type: none"> xv. details (including timing) of reporting to the consent authority on the outcomes of, and compliance with, the ESCP. <p>d) The level of detail and the measures proposed in the ESCP must correspond to the nature and scale of the relevant works.</p> <p>e) The ESCP must include a site-specific risk-based approach that allows for the Erosion and Sediment Control Manager to determine the level of information and design that must be provided for specific activities.</p> <p>f) For works in or adjacent to a watercourse, an ESCP must, so far as is practicable, be consistent with the HBRC Erosion and Sediment Guidelines.</p> <p>g) The consent holder must implement an ESCP for the duration of the flood protection works.</p> <p>h) The consent holder must, for the duration of the construction works,— <ul style="list-style-type: none"> i. keep an ESCP; and ii. make it readily available to the consent authority. </p>
<p>15. HBRC and HDC (a)(ii)(2) & (a)(iii)</p>	<p style="text-align: center;">15. Failure of erosion and sediment control measure</p> <p>a) If the failure of an erosion and sediment control measure during flood protection works results in an uncontrolled release of sediment to surface water, the consent holder must— <ul style="list-style-type: none"> i. as soon as reasonably practicable, engage the Project Ecologist to investigate the affected area; and ii. immediately notify— <ul style="list-style-type: none"> 1. the HBRC pollution (0800 108 838); or 2. the Hastings District Council Compliance Manager (with responsibility for land-based borrow sites); and iii. within 7 days, report the incident to both the Hawke’s Bay Regional Council and Hastings District Council (Managers of Compliance). </p> <p>b) The Project Ecologist must investigate the affected area as soon as practicable.</p>

	<p>c) If the investigation identifies significant adverse effects, the consent holder, in consultation with the consent authority, must, as soon as practicable, develop and implement appropriate remedial measures (which may include biodiversity offsets) appropriate to the scale of the adverse effects.</p> <p>d) The report to the Manager Compliance under subclause (a)(iii) must—</p> <ul style="list-style-type: none"> i. describe the control failure and its cause; and ii. specify the steps that have so far been taken to <ul style="list-style-type: none"> 1. control the released sediment and any resulting erosion; and 2. prevent any recurrence of the control failure.
16. HBRC	<p style="text-align: center;">16. Dust management</p> <p>a) The consent holder must, as far as practicable, ensure that dust arising from construction works (including earthworks and related activities) does not spread beyond the boundary of the work sites.</p>
18. HBRC	<p style="text-align: center;">18. Works and structures in beds of rivers</p> <p>a) This condition and conditions 19 and 20 of this consent apply to all construction works carried out in, or adjacent to, the bed of a river.</p> <p>b) The consent holder must ensure that construction works are, so far as practicable, carried out in accordance with</p> <ul style="list-style-type: none"> i. an applicable ESCP; and ii. the Ecology Management Plan; and iii. the earthworks principles; and iv. any guidance provided under clause 4(c)(iii) of this consent (see condition 5 of this consent) relating to relevant cultural indicators. <p>c) Construction works that might affect fish passage in a river must, so far as practicable, be carried out outside peak times for migration and spawning of species of fish identified, in the ecological scoping survey conducted under condition 27 of this consent, as being present in the river, except in the case of a temporary ford, which is subject to condition 11.</p> <p>d) Permanent or other temporary works (including river crossings) in or adjacent to the bed of a river that are completed as a part of the construction phase of the flood protection works (for example, river crossings, sediment and debris removal, bank protection, and capacity increase) must—</p> <ul style="list-style-type: none"> i. be designed and installed in a way that is, so far as practicable, consistent with the ecology principles; and ii. be designed by an engineer and an ecologist who are suitably qualified and experienced so as to provide for ongoing fish passage in the river; and iii. manage stream loss, where threatened or at-risk species are present, in accordance with the effects management hierarchy; and iv. provide for the maintenance of the river for flood management purposes. v. Any permanent river crossing must be designed and constructed to provide for the passage of fish. <p>e) The design of a temporary or permanent culvert in the bed of a river must—</p> <ul style="list-style-type: none"> i. allow for the relevant design flood flow event; and ii. address the risks of non-performance (including blockage), taking into account the risk of the flow of soil or debris.

	<p>f) All works and structures in, or adjacent to, rivers must, so far as practicable, incorporate energy dissipation measures and erosion and sediment control measures (for example, revegetation of worked sites) to minimise bed scouring and bank erosion in receiving environments.</p> <p><i>Advice note: Additional approvals under the Freshwater Fisheries Regulations 1983 may be required for any culverts or fords to be constructed in the stream bed if they act to restrict fish passage.</i></p>
19. HBRC	<p style="text-align: center;">19. Further requirements at watercourses</p> <p>a) This condition applies if clause 18 of this consent applies.</p> <p>b) For the purposes of condition 18 of this consent, the consent holder must, at least 10 working days before starting permanent works within a watercourse, give to the consent authority—</p> <ul style="list-style-type: none"> i. hard copies of the design drawings for permanent culverts (including fish passage), bridges, and permanent stream diversions; and ii. a statement of how those designs comply with condition 18 of this consent; and iii. the information required by Regulation 62 of the NES FW (2020); and iv. for culverts, the information required by Regulation 63 of the NES FW (2020). <p>c) All permanent works in the bed of a river must be carried out in accordance with the designs given to the consent authority under subcondition (b).</p> <p>d) The consent holder must ensure that any machinery or equipment used in the activities authorised by the consent is not stored in or on the bed or banks of the watercourse.</p> <p>e) The consent holder must ensure all of the following:</p> <ul style="list-style-type: none"> i. no machinery leaking fuel, lubricants, hydraulic fluids, or solvents is operated within or near a watercourse in circumstances where runoff might enter water: ii. no vehicles, machinery, or equipment are refuelled within the bed of a watercourse or in any other location where spills might enter water: iii. the storage of fuel or contaminants adjacent to a watercourse does not result in any fuel or contaminants entering water: iv. other fuels and lubricants are not released into water: v. the Ministry for Primary Industries’ requirements and clean dry protocols relating to didymo and freshwater pests are followed in relation to all equipment: vi. machinery is operated in a way that minimises the transfer of organisms or pest plants from one catchment to another: vii. the use of wet concrete is avoided in flowing water. <p>f) The consent holder, on becoming aware that any contaminant has been discharged into a watercourse in a way that contravenes the conditions of the resource consent, must immediately—</p> <ul style="list-style-type: none"> i. take all necessary steps to stop or contain the discharge; and ii. notify— <ul style="list-style-type: none"> 1. the Hawke’s Bay Regional Council (Manager Compliance); and 2. the Department of Conservation, if there is imminent risk of the discharge adversely affecting any at-risk or threatened species; and iii. take all practicable steps to remedy or mitigate any ongoing adverse effects of the discharge on the environment.

	<p>g) The consent holder must take the actions set out in subclause (h) in relation to construction material, demolition material, and any materials from repair and maintenance activities that are—</p> <ul style="list-style-type: none"> i. authorised by the consent; and ii. no longer required as part of the construction works. <p>h) The consent holder must ensure that the materials are—</p> <ul style="list-style-type: none"> i. removed on completion of the construction works; and ii. reused, repurposed, or disposed of in an appropriate manner and in a place where they will not affect surface water levels and watercourses. <p>i) The consent holder must comply with all notices and guidelines issued by Biosecurity New Zealand that relate to the ongoing prevention of the spread of freshwater pests.</p>
20. HBRC	<p style="text-align: center;">20. Extraction activities and river gravel</p> <p>a) The consent holder must ensure that, during construction works, extraction does not take place—</p> <ul style="list-style-type: none"> i. within any actively flowing channel; or ii. within 6 metres of any river bank. <p>b) In addition, the consent holder must ensure that extraction activities are carried out in accordance with the HBRC River Control Code.</p>
21. HBRC	<p style="text-align: center;">21. Stormwater discharge</p> <p>a) If in the event the works involve permanent stormwater treatment devices, the consent holder must, not later than 3 months after the completion of the construction works,—</p> <ul style="list-style-type: none"> i. document the requirements for the effective operation and maintenance of all stormwater treatment devices (including sediment traps, if practicable); and ii. submit the documents to the consent authority. <p>b) The consent holder must ensure that stormwater discharge from construction works does not cause erosion or scouring of the bed or any bank of any downstream watercourse or receiving drain.</p>
22. HDC	<p style="text-align: center;">22. Design and management of land based borrow sites</p> <p>a) This condition applies to excavation of soil or other materials at land-based borrow sites to support construction works.</p> <p>b) The consent holder must ensure that excavation does not take place below the groundwater table.</p> <p>c) The consent holder must ensure that cut slopes do not exceed 45 degrees above the horizontal, unless a cut slope that exceeds that angle is—</p> <ul style="list-style-type: none"> i. operationally necessary; or ii. unavoidable as a matter of practicability. <p>d) The consent holder must ensure that a cut slope that exceeds 45 degrees above the horizontal is certified by a suitably qualified and experienced geotechnical engineer.</p>

	<p>e) The consent holder must ensure that, after excavation work is completed, all land disturbed by the excavation work is restored according to Condition 1—</p> <ul style="list-style-type: none"> i. as soon as practicable; but ii. within 6 months.
23. HDC	<p style="text-align: center;">23. Control of construction noise and vibration</p> <p>a) The consent holder must ensure that noise from construction, maintenance, and demolition work complies, so far as practicable, with the long-term duration limits set out in Table 2 and Table 3 of NZS 6803:1999.</p> <p>b) The consent holder must take all practicable steps to reduce levels of noise and vibration from plant and equipment operating on site during construction works.</p> <p>c) The consent holder must submit a Construction Noise and Vibration Management Plan (CNVMP) for certification a minimum of 10 working days prior to commencement of works.</p> <p>d) The construction works must be carried out in accordance with the certified CNVMP and a copy of the CNVMP must be kept onsite during construction hours and must be available to authorised Hastings District Council staff during monitoring inspections.</p>
24. HDC	<p style="text-align: center;">24. Landscape assessment and plan</p> <p>a) The consent holder must prepare and implement a landscaping plan according to the Plan prepared by Narrative Landscape labelled 'Planting Mitigation, Sheet 3, 7/08/2025, Job No. #2415' prior to the completion of works.</p>
25. HBRC	<p style="text-align: center;">25. Project Ecologist</p> <p>a) The consent holder must appoint a suitably qualified and experienced ecologist as the Project Ecologist for the duration of the flood protection works.</p> <p>b) The role of the Project Ecologist is to inform, in accordance with the ecology principles, the design, management, and monitoring of all construction works in relation to ecological effects and measures to avoid, remedy, or mitigate those effects.</p>
26. HBRC	<p style="text-align: center;">26. Ecology principles</p> <p>a) The consent holder must apply the ecology principles set out in subclause (2) in—</p> <ul style="list-style-type: none"> i. designing all aspects of the flood protection works; and ii. carrying out all aspects of construction works. <p>b) The ecology principles are as follows:</p> <ul style="list-style-type: none"> i. to apply the effects management hierarchy to the following potential adverse effects: <ol style="list-style-type: none"> 1. permanent habitat loss (including in terrestrial, and freshwater habitats): 2. loss of naturally uncommon and highly depleted ecosystem types, significant indigenous vegetation, significant habitats of indigenous fauna, and habitats for at-risk or threatened species and taonga species: 3. habitat fragmentation or habitat barriers (including in terrestrial, and freshwater habitats):

	<ol style="list-style-type: none"> 4. impacts on habitat connectivity (including terrestrial, and freshwater habitats): 5. impacts on at-risk or threatened species and taonga species: 6. effects on water quality (including on kaimoana and mauri) from sediment: 7. alteration of natural hydrology patterns, except as necessary to facilitate the flood protection works: 8. spread or establishment, or both, of pest plants or animals: 9. impacts on habitats that play an important role in the life cycle and ecology of native species: <ol style="list-style-type: none"> ii. as far as practicable, to create safe habitats, especially for at-risk or threatened species and taonga species: iii. to avoid, remedy, mitigate, or offset (using biodiversity offset) adverse ecological effects in order to achieve, as far as practicable, a net positive ecological outcome: iv. to enhance the positive ecological role of the works area in the wider ecological context, including its role as a buffer that protects or enhances other areas with ecological significance.
28. HBRC	<p style="text-align: center;">28. Managing ecological loss</p> <ol style="list-style-type: none"> a) The consent holder must ensure that the Project Ecologist and a suitably qualified and experienced person nominated by the Māori entities representatives work in partnership and take account of advice provided by cultural monitors to prepare an Ecology Management Plan which must include,— <ol style="list-style-type: none"> i. Procedures for undertaking a pre-felling native bird nest survey no earlier than 48hrs prior to the felling of identified riparian vegetation and management of any identified native bird nests to facilitate natural abandonment prior to felling, ii. Site preparation methodology to reduce the risk of lizards occupying the site during construction. b) The consent holder must implement the ecology management plan prepared under subcondition (a) throughout the construction works and report to the Stakeholder Advisory Group every 2 months on: <ol style="list-style-type: none"> i. work undertaken according to the Ecology Management Plan, ii. any other works deemed necessary by the Project Ecologist, working with the Māori Entities representatives. c) When the construction works and ecological mitigation works carried out under subclause (a) are both completed, the consent holder must give the stakeholder advisory group a report that describes the ecological mitigation works carried out by the consent holder.
29. HBRC & HDC	<p style="text-align: center;">29. Archaeological discovery protocol</p> <ol style="list-style-type: none"> a) Unless or until an Authority under the Heritage New Zealand Pouhere Taonga Act 2014 is in place for the area of the works, the consent holder must prepare an accidental archaeological discovery protocol— <ol style="list-style-type: none"> i. at least 10 working days before construction works begin; and ii. in collaboration with the Māori entities representatives; and iii. in consultation with Heritage New Zealand Pouhere Taonga. b) The protocol applies if—

	<ul style="list-style-type: none"> i. a worker or any other person associated with flood protection works discovers any cultural or archaeological artefacts or features on a work site. <p>c) The consent holder must—</p> <ul style="list-style-type: none"> i. follow the protocol; and ii. ensure that workers and other persons on site are aware of the protocol. <p>d) In subclause (a), authority has the same meaning as in section 6 of the Heritage New Zealand Pouhere Taonga Act 2014.</p> <p><i>Advice Note: An Authority under the Heritage New Zealand Pouhere Taonga Act 2014 has been applied for by the consent holder and will take precedence over Condition 29 as soon as it is granted. Accordingly, works will be required to be undertaken in accordance with the conditions of that Authority.</i></p>
30. HBRC & HDC	<p style="text-align: center;">30. Early Warning System</p> <ul style="list-style-type: none"> a) A telemetry system shall be installed in the Upper Ohiwia Stream to provide continuous water level data for the purposes of enhancing early warning capabilities during major weather events. b) The consent holder shall consult with HDC (Group Manager Infrastructure) and HBRC (Group Manager Environmental Information) in confirming the design and location of the early warning system. c) The early warning system required by this condition shall be implemented and operational prior to the completion of the flood protection works.
31. HBRC & HDC	<p style="text-align: center;">31. Drinking Water Supply</p> <ul style="list-style-type: none"> a) If an event occurs on-site that may lead to contamination of groundwater, the Consent Holder shall notify the Hastings District Council Drinking Water Supply Manager, Omahu School and the Hawke’s Bay Regional Council (Manager Compliance) of the event as soon as reasonably practicable after the event occurs.
32 HBRC	<p style="text-align: center;">32. Bore Security Well 2146</p> <ul style="list-style-type: none"> a) To minimise the risk of contaminants entering groundwater, the consent holder shall: <ul style="list-style-type: none"> i. Ensure that well headworks are constructed to prevent any leakage and/or movement of water or contaminants between the ground surface and groundwater and shall ensure that there are no openings through which contaminants might enter the well. This shall include (but not be limited to) ensuring that there are no gaps around any pipework and/or cables at the wellhead. ii. Engage a suitably qualified and experienced person at their cost to inspect Well 2146, to produce a bore security report. This report shall be provided to the Hawkes Bay Regional Council (Manager Compliance) within 3 months of the completion of the construction works. The report(s) shall be provided to Hawkes Bay Regional Council (Manager Compliance) within 2 months of the date of the bore security inspection. iii. Undertake any additional works to secure the well recommended in the report required under (ii) above, within 2 months of the date of the bore security inspection.

	<p><i>Advice Note: For the purposes of this condition, an acceptable “suitably qualified and experienced person” is a blue tick accredited provider (i.e. a person who holds New Zealand Qualification Authority (NZQA) Unit Standard 27556: Carry out a full pipe water measurement system verification) or a qualified well driller</i></p>
<p><u>Additional Explanation</u></p> <p>For the avoidance of doubt there are no conditions numbered: 17 and 27. The condition numbers used above align with the equivalent conditions in Schedule 2 of the OIC. Due to the nature of the proposed works and the assessment of effects on the environment completed in the application the following conditions from Schedule 2 have not been applied to this consent:</p> <p><u>17 Works on contaminated land</u></p> <p><u>27 Ecological survey and assessment</u></p> <p>Conditions 30 - 32 are additional to the conditions set out in Schedule 2 and seek to ensure that all relevant potential effects are appropriately mitigated.</p>	