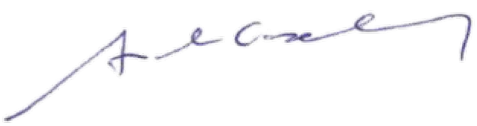
Resource Consent Application For Stopbank Works

Pōrangahau Flood Protection

Signed by – Andrew Caseley
Manager Regional Projects/Programme Director



HAWKE'S BAY REGIONAL COUNCIL
TE KAUNIHERA Ā-ROHE O TE MATAU-A-MĀUI

IRP Infrastructure Resilience Programme
NGĀ MAHI TŪROA

Resource Consent Application for Flood Mitigation Works

Pōrangahau Flood Protection Stopbank and Flood Wall

Hawke's Bay Regional Council

24129AP1
27th November 2025

APPLICATION DETAILS

Consent Authority:	Hawke's Bay Regional Council Central Hawke's Bay District Council
The Applicant:	Hawke's Bay Regional Council
Address for Service:	Stradegy Planning Limited, PO Box 239 Napier 4140
Address for Invoice:	Hawke's Bay Regional Council c/- jp.neethling@hbrc.govt.nz
Site Details:	Various sites in Pōrangahau – refer **Appendix 10**

Activity for which Consent is sought:

Resource consent to:

1. Undertake flood protection works as a **Controlled Activity** under the **Severe Weather Emergency Recovery (Hawke's Bay Flood Protection Works) Order 2024**. The works involve a range of activities otherwise regulated under section 9, 12, 13, 14 and 15 of the Resource Management Act 1991,
2. Undertake soil disturbance as a **Discretionary Activity** under Regulation 11 of the **National Environment Standard for Assessing and Managing Contaminants in Soil to Protect Human Health**,
3. Undertake earthworks as a **Restricted Discretionary Activity** under Rule EW-R7(2) of the **Central Hawke's Bay District Plan**,
4. Undertake activities in the General Rural Zone and Settlement Zone that are not otherwise provided for, as a **Discretionary Activity** under Rules GRUZ-R18 and SETZ-R18 of the **Central Hawke's Bay District Plan**,
5. Undertake the diversion of flood water as a **Discretionary Activity** under Rule 59 of the **Regional Resource Management Plan** and various other activities.

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Reviewed and Approved for Release by:

Cameron Drury BRP(HONS) MNZPI
Principal Planner I Director

TABLE OF CONTENTS

Appendices –

1. Cultural Impact Assessment – to be provided confidentially
2. Archaeological Screening Assessment
3. Ecological Impact Assessment Report
4. Landscape Scoping Study
5. Preliminary Site Investigation
6. Design Report
7. Traffic Impact Assessment
8. Erosion and Sediment Control Concept Plan
9. Borrow Pit Investigation Report
10. Proposed Resource Consent Conditions
11. Affected and Adjoining Parties (Condition 6(2)(a) and (b) Parties) – names and contact details to be provided confidentially
12. Record of consultation
13. List of Māori entities and Section 15(2)(a) Parties – some names and contact details to be provided confidentially
14. Consequential Flooding Effects Assessment (PDP)
15. Consequential Flooding Assessment (Beca)

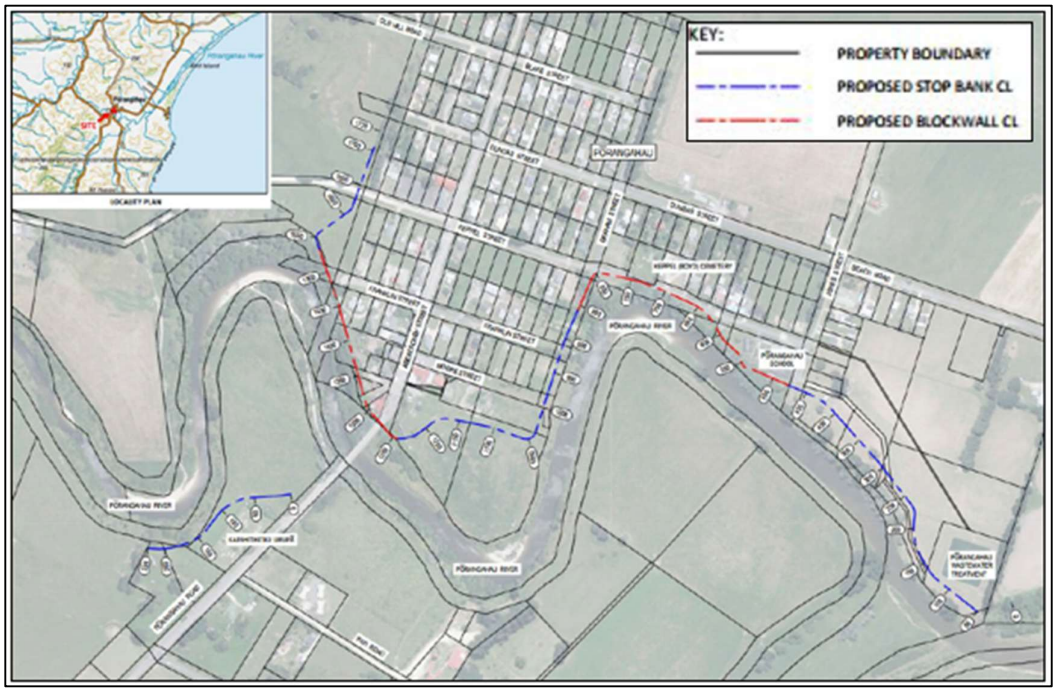
1. INTRODUCTION

The Pōrangahau flood mitigation project is an initiative by Hawke's Bay Regional Council to construct a new stopbank and flood walls that will provide enhanced flood resilience to the Pōrangahau community.

The engineering solution for Pōrangahau includes a combination of a new stopbank and flood walls for a length of approximately 1,700m adjoining the village. The new stopbank on the true left back (north of the river) is generally between 1m and 5m in height, and the flood wall up to 4.8m in height. A separate stopbank is proposed to the south of the river to protect the Kaitiwhitikitiki Urupā, being a maximum of 1.9m in height and for a length of 224m. The extent of the proposed project is shown on **Figure 1** below. Allowance is also sought for bunds (earth embankment and/or flood wall) up to ~1.8m in height around the buildings on Pah Road, including the kaumatua flats and marae, subject to agreement with the landowners.

Funding for the project comes from the integrated package agreed between all five Hawke's Bay Councils and Central Government. Regulatory approval for the project is being sought under Severe Weather Emergency Recovery Legislation (Hawke's Bay Flood Protection Works) Order 2024 ("**the OiC**") – developed to facilitate the timely provision of flood protection works following the severe weather events of February 2023 (Cyclone Gabrielle).

Figure 1: Proposed Flood Protection Project



Resource consents for the Project are being sought under the:

1. Severe Weather Emergency Recovery Legislation (Hawke's Bay Flood Protection Works) Order 2024 ("**the OiC**"), for all aspects of the Project contained within the area to which the OiC applies (**"OiC Footprint"**); and
2. Regional Resource Management Plan (**"RRMP"**) and Central Hawke's Bay District Plan (**"CHBDP"**) as they apply to all aspects of the Project located outside the OiC Footprint.

Reference to 'Māori entities' as opposed to mana whenua is used in this application to maintain consistency with the terms used in the OiC.

Expert assessments have been provided to support this resource consent application. These are detailed below in **Table 1** and included as appendices to this application.

Table 1: Expert Reports

Expert Report	Author	Purpose
Cultural Impact Assessment	Te Tore o Puanga on behalf of Te Mana o Ngāti Kere	To advise on cultural context and cultural values associated with the area.
Archaeological Screening Assessment	HB Archaeology	To determine the risk of encountering archaeology and advise on the appreciate response in regard to progressing the works.
Ecological Impact Assessment	PDP	To determine ecological values and methods to manage ecological effects.
Landscaping Scoping Assessment	Narrative	To determine the need for landscape mitigation.
Preliminary Site Investigation	PDP	To determine the potential for soil contamination and the nature of any management procedures.
Traffic Impact Assessment	CTD	To determine potential effects on the transport network during construction.
Concept Erosion and sediment control plan	PDP	To provide an overview of how erosion and sediment generation will be managed through construction.
Borrow Pit Investigation Report	PDP	To provide an assessment of the suitability of the proposed borrow pit site for stopbank material.
Design Report and Plans	PDP	To provide details of the proposal.
Consequential Flooding Assessment	Beca	To review the consequential flooding effects of the proposal

Expert Report	Author	Purpose
Consequential Flooding Effects Assessment	PDP	To determine any changes in flood impacts as a result of the proposal and the need for mitigation.

Legislative Context for the OiC

The OiC was developed to facilitate the timely provision of flood protection works following the severe weather events of February 2023 - namely Cyclone Gabrielle. In short, the OiC established a streamlined consenting process that allows flood protection works within specified areas, that trigger a need for resource consent, to be processed as a 'controlled activity' through a modified RMA process. Standardised conditions to avoid, remedy or mitigate the effects of the projects are embedded into the OiC, and are of a nature to enable resource consent to be granted in a more timely way, and for initiatives to manage environmental effects and facilitate engagement to be finalised post granting.

In the case of Pōrangahau, the flood protection works are proposed to provide flood protection to private properties within the settlement – particularly those identified in **Figure 2** so they can be moved from provisional Land Category 2C to Category 1. The flood protection works will also improve resilience to the local school, police station, fire station, community hall and wastewater treatment pond. The implication of this change for the Category 2C properties is significant, as Category 1 land is not considered to be subject to any further requirement for flood hazard related interventions before residential activity can safely occur. The protection provided for key community facilities will also improve resilience during civil defence emergencies. The OiC Footprint is shown in in **Figure 2** below

Figure 2: Category 2C Properties *(blue shade)* and the OiC Footprint *(yellow outline)*

The OiC Footprint was developed on the basis of a high-level concept for a new stopbank prior to (1), the OiC legislation being enacted, (2), final modelling, (3), optimised alignment choices based on budget limitations and constructability, and (4), comprehensive community engagement.

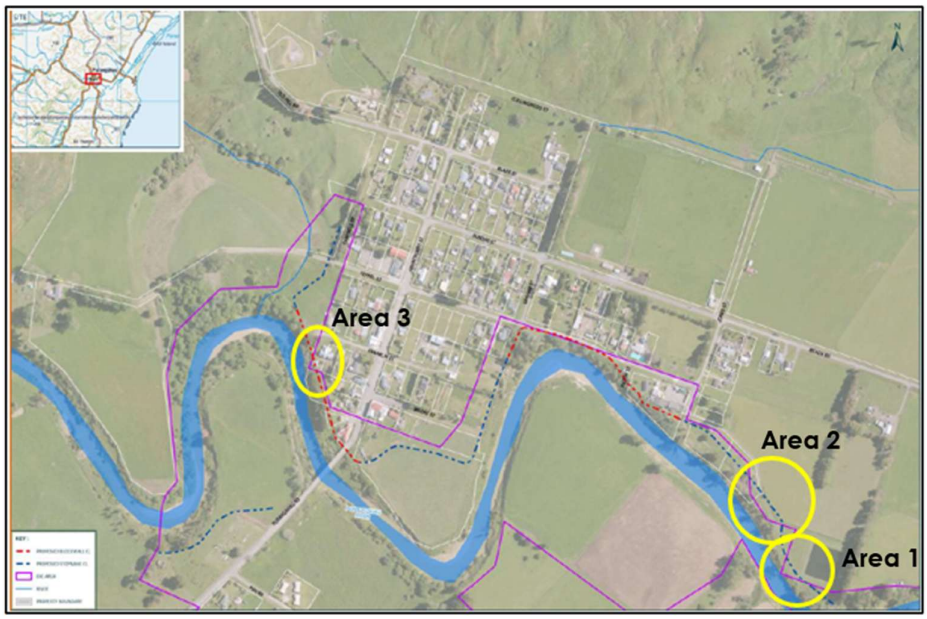
Since then, further analysis to inform the design process has been undertaken. As shown in **Figure 3**, while most of the primary flood protection feature remains within the OiC Footprint, there are three discrete areas where the alignment is slightly outside it. Resource consent is also required for the land-based borrow site and stockpiling area at 18 Jones Street.

The consenting requirements associated with these works are not subject to the OiC process and will need to be considered under the standard RMA process i.e. any applicable rules of National Environmental Standards and District and Regional Plans. Borrow sites outside the OiC area are inherent to the project but also require resource consent under the standard RMA process.

The majority of the stopbank alignment is within the OiC Footprint. The portions of the proposed alignment that sit outside the OiC Footprint are considered to be minor and required to achieve a constructable and integrated flood protection solution while meeting the requirements to move the category 2C properties to category 1. The fact that some components of the alignment need to be considered under the standard RMA process does not, however, detract from the purpose of the OiC and its enabling legislation the Severe Weather Emergency Recovery Legislation Act 2023.

The practical effect of the mixed application of the OiC is that portions of the Project will benefit from the OiC's bespoke process, while others will need to be processed under the RMA, in an orthodox manner.

Figure 3: Works Outside the OiC Footprint



Noting the need to consider the broader proposal under both the OiC and standard RMA process, this application is structured as follows. It is noted that the approach of including all consenting requirements within one application has been discussed with each Consent Authority.

Section 2	Background • Impacts of Cyclone Gabrielle • Project Purpose • OiC – purpose and overview
Section 3	Approach to Assessment of Application • Assessment Approach - OiC with Standard RMA Process
Section 4	Site Context • Site Location and Neighbouring Community • Subject Properties • Planning Context • Site Values and Environmental Context
Section 5	Details of Proposal
Section 6	Resource Consents Needed • OiC • Standard RMA process o National Environmental Standards o Central Hawke's Bay District Plan o Hawkes Bay Regional Council Regional Plans
Section 7	Statutory Considerations • OiC – Clause 12 • Standard RMA process
Section 8	Summary of Consultation
Section 9	OiC Assessment – Activities within the OiC Footprint
Section 10	Standard RMA Process Assessment - Activities outside the OiC Footprint • Planning Context (NPS, NZCPS, RPS, RPs, DP) • Section 104(1)(a) Assessment - Assessment of Environmental Effects • Section 95-95G Assessment - Notification • Section 104(1)(b) Assessment - Policy Assessment (NPS, RPS, RPs, DP) • Section 104(1)(c) Assessment - Other Matters
Section 11	Summary

Overall:

1. The application meets the requirements of Section 12 of the OiC and Section 88 and Schedule 4 of the RMA.
2. Key considerations informing the application included:
    - consideration of consequential flooding arising from the new stopbank;

- identifying an alignment and mix of stopbank and flood walls that provide the level of service while responding to physical constraints, including at Keppel Street and Pōrangahau School;
- accommodating existing drainage patterns;
- accommodating the input of Ngāti Kere in developing the design;
- managing construction effects including source of water for dust suppression; and
- determining the potential impact on wildlife and developing appropriate responses.

3. Engagement with mana whenua, local authorities and key stakeholders, together with technical assessments and careful consideration of conditions has ensured the development of a robust flood protection proposal that will achieve significant benefits to Category 2C land and community facilities.
4. The standardised conditions of the OiC have been largely adopted - and applied to activities outside the OiC Footprint to avoid, remedy or mitigate the actual or potential adverse effects of the proposal.

2. BACKGROUND

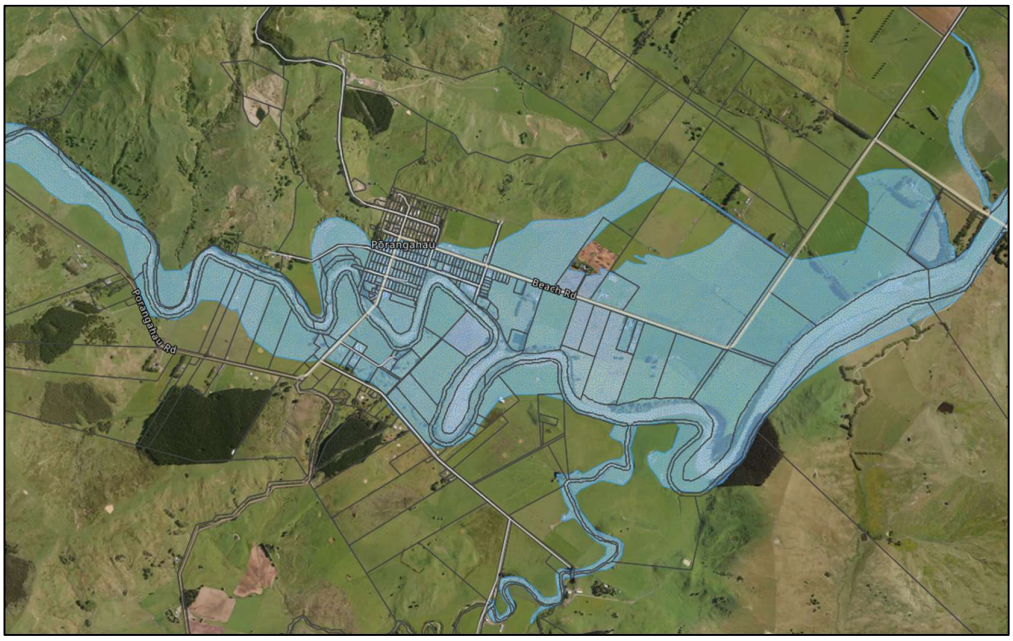
2.1 Impacts of Cyclone Gabrielle

Cyclone Gabrielle caused widespread flooding in Pōrangahau on February 14, 2023, as a result of the river bursting its banks. The floodwaters submerged more than 30 homes in silt, mud, and debris. Slips and road closures resulting in Pōrangahau being isolated from the wider Hawkes Bay. The cyclone also caused silt inundation to Rongomaraeroa Marae (including its urupā and ablution block).

Following the cyclone, some 91 properties were categorized as 2A under the government's land categorization process, indicating a high risk of future flooding and uncertainty about the ability to provide for a flood mitigation scheme. By November 2024, Pōrangahau was reclassified from Category 2A to 2C, signalling a progression toward viable future flood mitigation.

Figure 4: Flooding in Pōrangahau during Cyclone Gabrielle

Figure 5: Spatial extent of flooding in Pōrangahau during Cyclone Gabrielle



2.2 Project Purpose

The purpose of the flood protection works/Project is to provide flood protection to the identified Category 2C properties to move to Category 1. It will also provide flood protection

to the wider community facilities including the local school, police station, fire station, community hall and wastewater treatment pond.

In terms of background context, shortly after Cyclone Gabrielle, on the 1st of May 2023, the Government released a series of risk categories and their definitions. These were developed to support the local authorities affected by Cyclone Gabrielle and the Auckland severe-weather events to complete risk assessments of the properties affected by the weather events.

Hawke's Bay Regional Council developed both a process and a technical framework to assess affected properties. In short:

- Where the future risk from flooding is determined to be intolerably high, and where that risk cannot be sufficiently mitigated, those properties were identified as Category 3,
- Where future flood risk can be mitigated by community or property level interventions, those properties were identified as Category 2 (being either 2P and 2C),
- Where there was a tolerable risk, those properties were identified as Category 1.

As outlined above, Category 2C is where community-level interventions are required to sufficiently reduce the risk to life from future flooding. Being re-categorised from Category 2C to Category 1 allows repair or rebuild of affected dwellings/property and land development according to Regional and District Plans. It also serves to remove potential for insurance related uncertainty.

Category 1 does not mean that there is no risk of flooding at the property however, and landowners are still encouraged to find out more about planning for an emergency including flooding. Indeed, the target Level of Service for Category 1 land is protection during a 1:100 year event[1].

2.3 Severe Weather Emergency Recovery Legislation (Hawke's Bay Flood Protection Works) Order 2024

The OiC was established/enabled under the Severe Weather Emergency Recovery Legislation Act 2023 (**"SWERLA"**).

The purpose of SWERLA was to assist communities and local authorities to respond to and recover from the impacts of recent severe weather events in New Zealand, particularly Cyclones Hale and Gabrielle and the early 2023 floods. Specifically, the Act aimed to:

- Provide for the planning, rebuilding, and recovery of affected communities and persons, including rebuilding land, infrastructure, and property,
- Facilitate coordinated short-term, medium-term, and long-term recovery efforts,
- Restore and improve the economic, social, cultural well-being, and resilience of affected communities,

[1] The peak 100 yr flows are advised by NIWA following their post Cyclone Gabrielle Flood Frequency assessment.

- Support safety enhancements and improve the resilience of infrastructure,
- Ensure an adequate regulatory framework to speed up recovery while minimising burdens on those affected,
- Enable government agencies, Crown entities, and local authorities to operate flexibly and efficiently in the recovery process by modifying or relaxing legislative requirements through Orders in Council when necessary.

In summary, the Act supports and expedites recovery from severe weather damage by removing regulatory barriers, coordinating efforts, and enhancing resilience for affected communities and infrastructure across impacted regions. Key to its theme is enabling other legislation it to be relaxed or operate more flexibly.

Turning to the OiC, this was established to facilitate the timely provision of flood protection works following Cyclone Gabrielle. In short:

- Clause 6 sets out the meaning of 'flood protection works', which is

  '*activities that involve or are concerned with the construction or reinstatement of, making safety enhancements to, or improving the resilience of land and flood protection infrastructure, including stopbanks, spillways, retaining walls, bridges, pump stations, stream realignments, and earthworks; and any incidental or subsidiary activity*'.
- The OiC framework applies to flood protection works that are carried out within the affected areas identified in Schedule 2 of the Order,
- The OiC sets out that all flood protection works subject to the Order (in Clauses 5 and 6) are to be assessed as a Controlled Activity (Clauses 7 and 8). Under Section 104A of the RMA an application for a Controlled Activity must be granted, and any conditions imposed must be limited to those over which control has been reserved.
- Only a Hawke's Bay local authority may apply for a resource consent under the Order (Clause 9),
- Clause 10 essentially requires an application made under the order to be considered and decided by a hearings commissioner,
- Where the proposed flood protection works require resource consent from more than 1 consent authority, Clause 11 requires the applicant to apply to every relevant consent authority at the same time and for those consent authorities to act jointly in performing all their functions, duties, and powers in relation to the application,
- Instead of complying with section 88(2)(b) of the RMA, Clause 12 sets out what must be included in an application under the Order. In short, this includes:
  - a detailed description of the works,
  - a map showing the area of the works and description of that area,
  - identification of the cultural values associated with the area and where applicable any culturally significant land within the area,
  - an assessment of all potential effects of the works – including any potential effects on any cultural values / culturally significant land identified – recognising the limitations in Section 104A,
  - proposals to avoid, remedy, or mitigate potential adverse effects identified,
  - any conditions proposed that are a variation of, or additional to the standard conditions in Schedule 2 of the Order (refer Clause 17 below),

- a description of any consultation undertaken in relation to the works and the names and contact details of all persons consulted – or an explanation as to why consultation has not been carried out,
- a list of all relevant Māori entities, and
- a list of the names and contact details of all persons the consent authority is required to notify under clause 15(2)(a) of the Order,

- Clause 14 requires the application to be assessed on a non-notified basis. Clause 15 nevertheless sets out the parties from whom the consent authority must invite written comment. The consent authority must consider all comments received. A person invited to make written comments on an application may not:
  - appeal under Part 6 of the RMA against the consent authority's decision on the application; or
  - object to the decision under Part 14 of the RMA.
- While the direction in Section 104A(a) to grant consent remains, Clause 17 of the Order amends Section 104A(b) in respect to its directions around and references to matters of control and states:
  - The consent authority may impose any 1 or more of the conditions set out in Schedule 2,
  - The consent authority may amend any condition it imposes under subclause (2) (other than the condition in clause 1 of Schedule 2) if it considers the amendment necessary for the purposes of the authority's responsibility for a matter of control,
  - The consent authority may impose any 1 or more additional conditions it considers necessary for the purposes of the authority's responsibility for a matter of control. Of note:
    - This clause applies despite anything to the contrary in:
      a) any requirements in a national environmental standard or a national policy statement:
      b) any rules or assessment criteria in any plan or proposed plan.
    - Matter of control means any of the matters specified in Schedule 3, which are matters over which the consent authority is taken to have reserved control. These include matters associated with:
      - General matters –
        - Flooding
        - Construction management
        - Effects on ecology
      - Cultural values
      - Freshwater
      - The coastal environment
      - Stormwater management
      - Visual effects and amenity
      - Adjoining landuses
      - Heritage and archaeology
      - Access and transport
      - Contaminated land

- Once an application is accepted as meeting all the information requirements in Clause 12(2) and all necessary resource consents have been lodged (activities included), Clause 18 requires the consent authority to give notice of its decision on the application within 30 working days. There is no provision in the OiC for the consent authority to request further information, and the 30 working day deadline may not be extended, deferred, or altered in any way.

Central to the OiC's approach is that an application can be lodged on the basis of only concept level project design information – with the standardised conditions containing earthworks and ecology principals in particular, and other directions, to develop mitigation of effects through further design development/refinement post granting of the resource consent. This approach is quite different to the standard RMA process which typically requires these matters to be resolved at the application stage.

Where a greater degree of assessment and design has occurred as part of preparing the application than what the OiC may have anticipated, it follows that components of the standardised conditions to require and guide mitigation post granting may not be necessary. Amendments to the standardised conditions are discussed in various sections of this report in response.

3. APPROACH TO ASSESSMENT OF APPLICATION

As noted above, the bespoke streamlined consent process provided under the OiC applies to flood protection works within the OiC Footprint.

Since then, further analysis to inform the design process and significant community engagement has been undertaken, and as explained above, the proposed Project now involves works within and outside of the OiC Footprint.

The alignment requires discrete sections of the stopbank and flood wall to be located outside the OiC footprint, however, these areas are minimal and are required to achieve an integrated flood protection structure that achieves the proposed level of service. A borrow site for stopbank material is now also sought outside the OiC footprint as the original sites being considered at the time of mapping the OiC extent were deemed not suitable. The potential need for additional resource consents to be obtained under the standard RMA process, to enable activities associated with the flood protection works (including for activities outside the OiC Footprint), is expressly provided for and contemplated in Clause 13(3)(b) of the OiC. As a result, the OiC was not anticipated to provide for all aspects of a flood protection works project, with the potential that other consents may be required.

For the Project, the majority of the stopbank and flood protection wall remains within the OiC Footprint. For those aspects, it is appropriate to complete the necessary consent assessment using the bespoke framework provided by the OiC.

A minority of the Project, and the associated borrow site and stockpile areas, are located outside the OiC Footprint and will need to be considered under the standard RMA process

i.e. any against any applicable rules of National Environmental Standards and District and Regional Plans.

We have considered whether the different aspects should be applied for in different applications, and also the matter of bundling if they are sought together.

In this case, the applications for works within and outside of the OiC Footprint have been made together, however this does not prevent the consents being assessed and issued according to the frameworks in the separate legislation.

Bundling applications / activity statuses across consent applications is not mandatory. When deciding whether to adopt a bundling approach a consent authority will usually consider whether there is sufficient overlap between the activities such that the applications for each class of activity should be considered together under the most restrictive activity classification.

While it is acknowledged that the different components of the Project are connected and give rise to similar considerations/effects, the unique context of the OiC strongly suggests that bundling would not be appropriate, as it would undermine the purpose of the OiC, which is to provide a bespoke, streamlined consenting process for flood protection works within the OiC Footprint. The Minister's Statement of Reasons for the OiC explains:

> The order seeks to ensure that people and communities in Hawke's Bay can recover from the effects of Cyclone Gabrielle and are protected against future events through the construction of flood protection works at specified locations in the region.
>
> It is necessary to reclassify those flood protection works under the RMA and create a bespoke streamlined consent process.
>
> Unless modified by this order, the activities associated with those works would otherwise be classified as discretionary or non-complying activities under the relevant district and regional plans with the potential for the consent applications to be publicly notified. If public notification occurred, the consent applications would be subject to lengthy public notification, submissions, and hearings requirements in accordance with Part 6 of the RMA. The RMA also provides for a right of appeal to the Environment Court. Using those existing processes to consent the flood protection works could threaten their effectiveness by generating significant delay. Streamlining the process is necessary to ensure that the works can progress by restoring land, safeguarding property, and building resilience in affected communities.
>
> Similarly, the streamlined consent process also makes it possible to complete necessary flood protection works in an expedient way, allowing work to begin quickly on long-term safety improvements. This approach reflects the purposes of the SWERLA as the flood protection works are necessary safety enhancements to address dangers posed by flooding in future severe weather events.

If the OiC and non-OiC applications were bundled, this would have the effect of eliminating the controlled activity status allocated under the OiC for the primary flood protection feature to a discretionary activity status (as per the more minor component and mitigation

measures). This would undermine the purpose of the OiC and SWERLA as described above and subvert the Minister's intentions. Aside from making the activity status more stringent, the application would then be subject to the usual RMA process steps and right of appeal, which would further remove the efficiency gains provided by the OiC.

The Minister's Statement of Reasons evidences an intention that the consideration of applications under the OiC will not be subject to the ordinary practice of bundling under the RMA and will instead be considered under this bespoke framework. A case specific view of bundling is also supported by the theme of SWERLA to enable other legislation, or what could be considered usually adopted regulatory approaches, to be relaxed or operate more flexibly.

Finally, taking an un-bundled approach does not prevent proper consideration of activities outside the OiC Footprint under the standard RMA process.

The following application is therefore presented on the basis that the consent for the works/features within the OiC Footprint will be assessed under the OiC, and the works/features outside the OiC Footprint under the standard RMA process in an un-bundled manner. To be clear however, those activities to be considered solely under the standard RMA process have been bundled.

4. SITE DESCRIPTION

The following sets out:

- Site location and neighbouring community,
- The subject properties,
- Planning context:
    - Central Hawke's Bay District Plan,
    - Designations,
    - Hawkes Bay Regional Council Regional Planning Documents,
- Site values and environmental context:
    - Cultural context,
    - Archaeology,
    - Water bodies and ecological values,
    - Flood hazard management,
    - Landscape and amenity values,
    - Land contamination,
    - Productive capacity of land,
    - Network Utility Operators and other infrastructure and services.

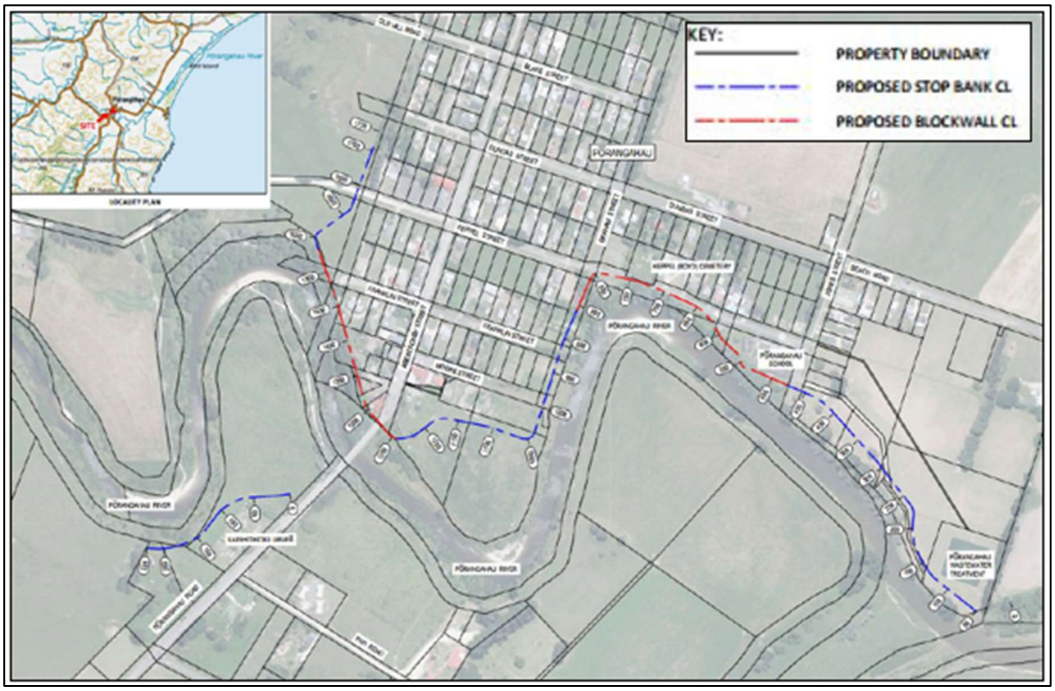
4.1 Site Location and Neighbouring Community

The subject sites are located alongside the Pōrangahau River in the vicinity of the Pōrangahau settlement to the north, and the Kaiwhitikitiki Urupa to the south, as shown in **Figure 6** below. Of particular note:

- The northern stopbank & flood-wall runs along the northern bank of the Pōrangahau River, immediately adjacent to the main village area
- Around 35-40 homes are located in close proximity to the proposed works
- The works also extend to the wastewater treatment plant at the south-east of the village
- The southern bund is located around the Kaiwhitikitiki Urupā cemetery and its immediate surrounds on the southern bank
- The river flows to the east towards the coast
- Although impacted by Cyclone Gabrielle, the riparian margin is relatively well vegetated.

These and other key features are discussed below.

Figure 6: Location of works



4.2 Subject Properties

The properties on which the proposed works are to be carried out are illustrated in **Figure 7** and detailed in **Table 2** below.

Agreements to acquire or access the relevant land are currently being worked through with the relevant landowners.

Figure 7: Land on which the works will be undertaken

Table 2: Land on which the works will be undertaken

Map Ref	LINZ Property ID or Parcel ID	Description
1	1940953	Lot 1 DP 20711 BLK XII PORANGAHAU SD
2	5051985	Fee Simple, 1/1, Lot 6 DP 562529 and Lot 7 DP 562529
3	5051984	Fee Simple, 1/1, Lot 5 Deposited Plan 562529
4	5051983	Fee Simple, 1/1, Lot 4 Deposited Plan 562529
5	4212500	BALANCE-PORANGAHAU SCHOOL- Part SECS 48 72 187-194 211 212 BLK XII PORANGAHAU SD
6	1835014	Fee Simple, 1/1, Town Section 158 Porangahau
8	1992696	Fee Simple, 1/1, Section 170-172 Survey Office Plan 5185,
9	1998616	Fee Simple, 1/1, Town Section 183-186 Town of Porangahau
10	4472668	Fee Simple, 1/1, Lot 1 Deposited
11	4472669	Fee Simple, 1/1, Town Section 183-186
12	1812847	Fee Simple, 1/1, Town Section 215
13	1866248	Fee Simple, 1/1, Town Section 182

Map Ref	LINZ Property ID or Parcel ID	Description
14	4328725	Fee Simple, 1/1, Town Section 181
15	1825419	Fee Simple, 1/1, Town Section 173
16	1815969	Fee Simple, 1/1, Town Section 174
17	1772255	Fee Simple, 1/1, Part Section 1-2 Survey Office Plan 10194
18	1928278	Fee Simple, 1/1, Section 8 Survey Office Plan 6143
19	4546599	Fee Simple, 1/1, Lot 2 Deposited Plan 410062
26	4527878	Fee Simple, 1/1, Porangahau No.2 B. No. 11 Block
27	2230137	Fee Simple, 1/1, Porangahau 2B9B13 Block Maori Land Plan 1295
29	2210445	Fee Simple, 1/1, Porangahau 2B9B12 Block Maori Land Plan 1295
30	4541395	Fee Simple, 1/1, Porangahau 2B 9B Sec 14 Block
32	2211252	Fee Simple, 1/1, Porangahau 2B9B5A Block
34	2304150	Fee Simple, 1/1, Porangahau 2B9B18 Block
37	4527889	Fee Simple, 1/1, Porangahau No.2 B. No. 10 (Runanga) Block
38	2146170	Fee Simple, 1/1, Porangahau 2B 9B Section 2A Block
39	2230135	Fee Simple, 1/1, Porangahau 2B9B20 Block
40	4551601	Fee Simple, 1/1, Porangahau 2B 9B Sec 19 Block
41	4556924	Porangahau No 2 B No 8 Block
42	4172479	BALANCE-PORANGAHAU SCHOOL-Part SECS 48 72 187-194 211 212 BLK XII PORANGAHAU SD
45	DOC land	Crown Land, Survey Office Plan 6143
46	1814994	Fee Simple, 1/1, Lot 2 Deposited Plan 11593

4.3 Planning Context

The works will be undertaken within the district and region of the Central Hawke's Bay District Council ("**CHBDC**") and Hawke's Bay Regional Council ("**HBRC**").

The following provides an outline of the planning context in regard to:

- The Central Hawke's Bay District Plan ("**CHBDP**") including Designations,
- The Regional Resource Management Plan ("**RRMP**").

4.3.1 Central Hawkes Bay District Plan

The flood protection works will be undertaken on land zoned General Rural Zone and Settlement Zone in the Central Hawkes Bay District Plan as generally shown in **Figure 8** below.

Other notations on the planning maps include:

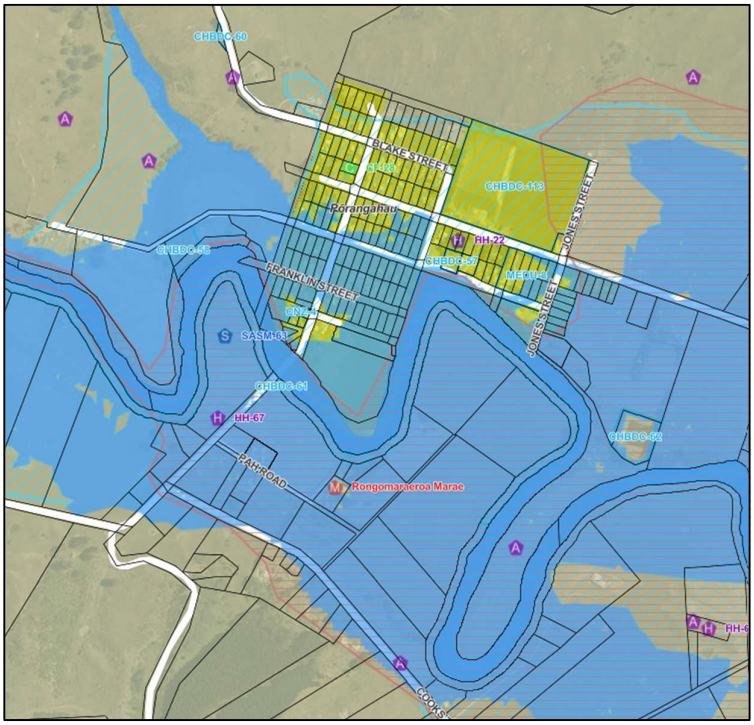
- Natural Hazard - Flood Risk Area (shown by blue solid for Area 1 and blue diagonal hatch for Area 2 in **Figure 9**): The District Plan enables Natural Hazard Mitigation Activities, including stop banks, in the Flood Risk Overlay when this is carried out by a Local Authority.
- Natural Hazard – Tsunami Hazard (New Source Inundation Extent) (shown by orange hatching in **Figure 9**)
- Designations:

- CHBDC-61 CHB District Council: Reserve
- CHBDC-62 CHB District Council: Sewage Treatment and Oxidation Pond

- SASM-63 and Heritage Item HH-67: Kaiwhitikitiki Urupā and Henare Matua Tohu Whakamaumarahara
- Statutory Acknowledgement Area - Pōraungahau/Tāurekaitai River and its tributaries

Figure 8: Central Hawke's Bay District Plan Planning Map - Zoning

Figure 9: Central Hawke's Bay District Plan Planning Maps – Natural Hazards *(Flood Hazard Risk Area in blue)*



4.3.2 Hawke's Bay Regional Council Regional Planning Documents

The flood protection works are within an area usually subject to various planning map overlays within the Regional Resource Management Plan. Of particular relevance:

- Much of the alignment is within an area exempt from Rule 7(c) pertaining to vegetation clearance,
- On Schedule VIII Riparian Protection, the Pōrangahau River is identified as having high recreation use and below average water quality,
- No priority wetlands are identified in the vicinity of the works.

Land use capability is considered in Section 4.4.6 below.

4.4 Site Values and Environmental Context

The following provides an outline of the site values and environmental context in regard to:

- The cultural context,
- Archaeology,
- Water bodies and ecological values,
- Flood hazard management,
- Landscape and amenity values,
- Land contamination,
- Productive capacity of land,
- Network Utility Operators and other infrastructure and services,

4.4.1 Cultural Context

Overview

According to the HBRC Pataka GIS and the records of Statutory Acknowledgments in the Regional Resource Management Plan, the construction area is:

1. Within the rohe of Ngāti Kahungunu,
2. Within the Treaty Settlement Area of Interest of Tamatea Pokai Whenua (north of the river) and Rangitāne o Tamaki nui-ā-Rua (south of the river),
3. Within the Statutory Acknowledgement Area - Pōraungahau/Tāurekaitai River and its tributaries,
4. Within the area of Te Taiwhenua O Tamatea,
5. Within the proximity of Rongomaraeroa Marae, associated with Ngāti Kere, Pihere, Tamatea Hinepara o Kahungunu, Ngāti Manuhiri o Rangitane and Ngāti Hinetewai hapū.

Customary Marine Title Groups

With the works occurring outside the Coastal Marine Area there are no holders of, or any applicants for, customary marine title.

Relevant Māori Entities

Section 12(2)(i) requires an applicant to identity all relevant Māori entities. A Māori Entity is defined in the OiC as having the same meaning in Section 13(5) of the SWERLA, which is as follows:

> ***Māori entity***—
> *(a) has the same meaning as in section 9 of the Urban Development Act 2020; and*
> *(b) includes any entity or other body, incorporated or unincorporated, comprising or representing a collective group whose members are 1 or more of the Māori entities.*

In respect to (a), a Māori Entity is defined in the Urban Development Act 2020 as:

> *meaning any of the following persons or entities:*
> *(a) a post-settlement governance entity:*
> *(b) an iwi authority:*
> *(c) a hapū:*
> *(d) an urban Māori authority:*
> *(e) a Māori Trust Board:*
> *(f) a Māori association:*
> *(g) the Māori Trustee:*
> *(h) a board, committee, authority, or other body, incorporated or unincorporated, recognised in, or established under, iwi participation legislation:*
> *(i) a body corporate, the trustees of a trust, or any other entity or persons who have an ownership interest in Māori land:*
> *(j) a body corporate or the trustees of a trust appointed to administer a Māori reservation:*
> *(k) a customary marine title group or protected customary rights group:*

(l) the entity that is authorised to act for a natural resource with legal personhood

HBRC has identified the following relevant Māori entities in respect to Section 12(2)(i) - with Ngāti Kere and Rongomaraeroa Marae being the mana whenua entities HBRC has primarily engaged with throughout the Porangahau project:

- Ngāti Kahungunu Iwi Incorporated,
- Tamatea Pōkai Whenua and Rangitāne o Tamaki nui-ā-Rua – being the Post Settlement Governance Entities,
- Ngāti Kere Hapu Authority – being the local hapū,
- Rongomaraeroa Marae – being the local marae,
- Te Taiwhenua o Tamatea.

Culturally Significant Land

Section 12(2)(d)(ii) requires an applicant to provide a description of any culturally significant land, which is defined in the OiC as land that:

(a) is on, or adjoins, a wāhi tapu (or a site of cultural significance); or
(b) is on, or adjoins, land that has an area that is subject to a statutory acknowledgement; or
(c) is within, is adjacent to, or directly affects the statutory overlay of ngā rohe moana and ngā rohe moana o ngā hapū o Ngāti Porou, as described in section 11 and Schedule 3 of the Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act 2019

In terms of (a) the Central Hawkes Bay District Plan identifies the following Wāhi Tapu:

- SASM-63 and Heritage Item HH-67: Kaiwhitikitiki Urupā and Henare Matua Tohu Whakamaumarahara

In terms of (b), and as outlined above, the construction area is within/adjoins:

- Statutory Acknowledgement Area - Pōraungahau/Tāurekaitai River and its tributaries

Subclause (c) is not applicable.

Cultural Impact Assessment

A Cultural Impact Assessment (CIA) has been prepared by Te Mana o Ngāti Kere | The Ngāti Kere Hapū Authority and Rongomaraeroa Marae Trust. A copy of the CIA is provided in **Appendix 1.**

It is acknowledged in the document that the proposed stopbank construction present both challenges and opportunities for the cultural values of Ngāti Kere. The recommendations intend to ensure that the flood resilience works "*not only provide physical security for the Pōrangahau township, but also strengthen cultural connections, honour traditional knowledge, and deliver enduring benefits for Ngāti Kere and the wider community. They reflect a commitment to genuine partnership and a culturally responsive approach to infrastructure development on ancestral lands.*"

The CIA acknowledges that flooding has been a persistent challenge for Porangahau and the Ngati Kere people throughout history, with historical records of serious and destructive

flooding dating back to 1864. Significant effects are recorded in May 1941 and January 1953, continuing to more recent events in 1992.

The CIA recognises potential effects of the project on cultural values, including:

- Direct physical impacts to:
    - Two traditional pa sites Oreorewaia and Kahotai with the construction of stopbanks,
    - Kaiwhitikiti with the construction of the Bund,
    - To the neighbouring Rongomaraeroa Reservation which may be used as a Borrow Pit (*Note: this is no longer proposed),*
- Potential impacts of viewshafts to and from the culturally significant features, and introduction of engineered structures into the cultural landscape,
- Potential impacts on kaitiakitanga over identified sites of cultural significance.

The recommendations of the CIA seek to strengthen cultural connections, honour traditional knowledge, and create lasting benefits for Ngāti Kere and the wider community while also providing physical security for Porangahau township.

In conclusion, the CIA seeks the inclusion, input, and endorsement of Ngāti Kere in developing the detailed design, construction management, environmental and cultural monitoring. "*By integrating traditional practices, Mātauranga Māori, and comprehensive stakeholder engagement into every phase of the project, a balance can be achieved between modern engineering solutions and the preservation of a vital cultural legacy for future generations*".

4.4.2 Archaeology

An Archaeological Risk Screening assessment has been undertaken by Archaeological Hawke's Bay and is provided in **Appendix 2.**

The assessment considered the risks of disturbances associated with length of the proposed stopbank and walls, and involved a review of the following together with a site visit:

- Recorded Archaeological Sites
- Historic aerial imagery
- Central Hawkes Bay District Plan

The assessment has determined there are no currently recorded archaeological sites within the immediate area of proposed work, however there is significant archaeological potential in the wider area. This is particularly associated with an extensive pā site (V24/95) and the realignment of the river channel in the 1970s which created a modern and artificial boundary between the pā site and its wider environs.

4.4.3 Water Bodies and Ecological Values

The key water body involved in the Porangahau River – the freshwater and terrestrial ecological values of which are outlined in the Ecological Impact Assessment prepared by PDP and provided in **Appendix 3**. Other water bodies considered in the report are the

Porangahau Estuary downstream, and natural inland wetland values at the north-west extent of the proposed works location. The method applied to report on ecological values broadly follows the EcIA Guidelines (Roper-Lindsay et al., 2018) published by the Environmental Institute of Australia and New Zealand (EIANZ). The guidelines provide a standardised framework and matrix allowing a consistent and transparent assessment of ecological effects.

This report presents:

1. The results of various surveys of freshwater and terrestrial ecological values of the site (i.e. the Porangahau River and margins, with a 15m wide buffer applied around indicative works areas, and a further 100m buffer applied to consider potential effects on wetlands), and,
2. An assessment of effects for the proposed stopbank/walls construction.

In respect to (1), the assessment methodology involved:

- Desktop assessment involving a review of the following documents and databases,
- River Rapid Habitat Assessment (RHA) of three representative reaches of the Porangahau River, in accordance with the Rapid Habitat Assessment Protocol,
- Macroinvertebrate Assessments in wadeable portions of the river,
- Water quality assessments,
- Review of database Environmental DNA (eDNA) samples and derived TICI (taxonomic Index of Community Integrity) scores.

Key findings include:

Terrestrial assessment:

- Ten main vegetation types were identified, ranging from negligible to moderate ecological value,

Wetlands:

- Areas of wetland vegetation are identified and considered to be of moderate value due to their rarity and ecological context,

Porangahau River:

- The overall RHA scores ranged from 'marginal' condition to 'suboptimal' (at the most upstream section of the river within the study area),
- Benthic macroinvertebrate sampling overall indicates a degraded system, and eDNA sampling indicates a score of poor – very poor, indicating impariemtn of the ecological communities in Porangahau River,
- Downstream of the project footprint is an old river oxbow which has been dug out and planted with native riparian vegetation. This will not be impacted by the proposed works,
- No targeted fish sampling occurred, however a number of species were observed and are also recorded in database records, including potentially at risk species such as īnanga and ōrea (lowfin eel). Īnanga were also identified in the old river oxbow downstream of the project footprint, which has been dug out and planted with native riparian vegetation,

- Downstream of the river is the Porangahau Estuary which is a crucial feeding and roosting area for migratory birds and the only known regional breeding site for Caspian terns. The estuary is designated as a Significant Conservation Area under the Regional Coastal Environment Plan and supports various native fish species,

Birds:

- A low diversity of native bird species is expected to be potentially present at site, and no 'At-Risk' or 'Threatened' bird species have been identified within the site. As such, the ecological value for birds and bird habitat is considered low,

Lizards:

- No lizards were observed during site surveys, or recorded in the database within 5km of the project footprint,
- It is considered unlikely that barking geckos will be present within the area of works,
- There is a chance of skinks being encountered given the suitability of the habitat,

Bats:

- A review of bat observation data found no bats recorded closer than 30km of the project footprint,
- However, there are mature trees with potential bat roosting features observed and recorded within the project site. There is the potential for bats/pekapeka to move on a rotation among roosting sites.

Overall, the report concludes that the project site sits within a wider agricultural environment, and both terrestrial and wetland habitats were assessed as having negligible to high ecological value in that context. Freshwater values associated with water quality and/or habitat are concluded to be sub-optimal – moderate, with higher values being associated to the connection to the Porangahau Estuary and the potential for migratory pathway and habitat for several native fish.

4.4.4 Landscape and Amenity Values

A Landscape Scoping Assessment has been prepared by Narrative Landscape to identify the potential visual landscape effects of the proposed works, including effects on any adjoining residential properties. A copy of the assessment is provided in **Appendix 4**.

Although a relatively confined assessment, it is based on guidance from the NZ Landscape Assessment Guidelines. The assessment method comprised:

- Preliminary desktop research and collation of relevant base information,
- Undertaking a site visit (February 2025) to collect photographs and develop an understanding of the surrounding site character,
- Detailed consideration of the proposal,
- Consideration of the relevant Statutory Planning Framework,
- An assessment of potential landscape and visual effects.

The Landscape Scoping Study identifies the extent of any potential effects of the project works on adjoining activities including residential, Porangahau School, and public roads (in particular Keppel Street). Further assessment is provided in Section 7 of this report.

4.4.5 Land Contamination

Contaminated land is defined in the OiC as:

> *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).*

A Preliminary Site Investigation (PSI) has been prepared by PDP and is provided in **Appendix 5**. The work undertaken involved:

- A site visit and discussions with those familiar with the site,
- Review of publicly available historical aerial photographs,
- Review of publicly available information for the site held by Central Hawke's Bay District Council and HBRC,
- An assessment of the potential risk to human health.

In short, review of site history information revealed that the landuse in the area has remained relatively similar over the years except for an increase in residential houses and a wastewater pond site built in the early 1990's. Some potentially contaminating (HAIL) activities have been undertaken within the project site area, including the deterioration of buildings that may include contaminants, identified fill containing bricks, and the movement of materials from HAIL sites by stormwater.

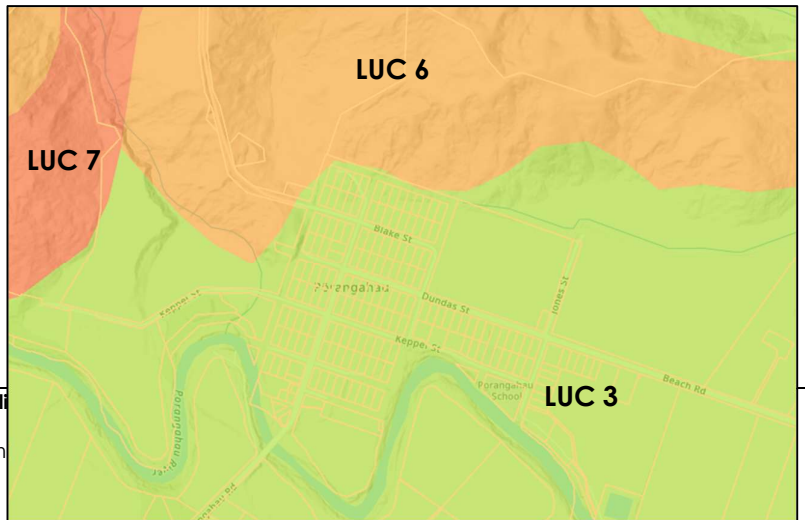
Soil sampling is recommended to inform appropriate safety management measures and disposal requirements.

4.4.6 Productive Capacity of Land

Most of the land within the project site area is associated with river berm, residential land use, or the wastewater treatment plant. Rural land in the immediate vicinity of the project is LUC3 as shown in green in **Figure 10** below.

The potential borrow sites are also within LUC3. LUC3 land is considered highly productive under the current National Policy Statement for Highly Productive Land, however, LUC3 land has moderate limitations that reduce the choice of crops or require more careful management. The land around Porangahau is generally used for passive sheep grazing.

Figure 10: Land Use Classification Maps



4.4.7 Network Utility Operators and Other Infrastructure and Services

The Porangahau township is reticulated with potable water supplied from the east of the township, from the Porangahau and Te Paerahi Water Treatment Plant, located at 425A Beach Road.
The reticulated wastewater network conveys wastewater from the township to the Porangahau Wastewater Treatment Plan (oxidation pond), located at the end of Jones Street to the north of the Porangahau River.

Stormwater is reticulated with discharges/overflows to the Porangahau River.

Other key community facilities include the Keppel (Boyd) cemetery at 31 Keppel Street, north of the Pōrangahau River. Pōrangahau School is also located north of the river at 56 Keppel Street.

Figure 2 of the Design Report at **Appendix 6** shows the proposed works in relation to existing key infrastructure.

5. DESCRIPTION OF PROPOSAL

The Pōrangahau Flood Protection Project involves construction of a new 1,700m stopbank and floodwall on the true left bank side of the Porangahau River to provide protection to the Porangahau community in a 1% AEP flood event (also known as a 1:100 year ARI event), with a 500mm freeboard/climate change allowance. The stopbank and floodwall will be constructed in sections comprising of earth embankments and floodwalls generally as follows:

- An earth, compacted fill, stopbank, in three sections:
    i. From the most downstream end from the school,
    ii. From Keppel Road up to the bridge on Abercrombie Street; and
    iii. Away from the river near the west end of Franklin Street to tie into the natural spur to the north.

- A flood wall in two sections: from the school to Keppel Street and from the bridge to the western end of Franklin Street

Associated works include integration with stormwater infrastructure, including stormwater culverts to facilitate cross-drainage to the Porangahau River, a new bund on the southern side of the river to protect the urupa, and associated roading/access works.

Also relevant is that the OiC only applies to the proposed works when they are carried out within the affected area identified in Schedule 2 of the Order. **Figure 12** below illustrates the extent of the proposed works in respect to the area determined in Schedule 2 and identifies where three minor areas of the stop bank are slightly outside of the footprint strictly identified. This has come about as a result of the Schedule 2 footprint being based on very early concepts.

As outlined in Section 5.1.2, the consenting requirements of works within these areas (if any) is to be considered under the Central Hawkes Bay District Plan and Regional Plan documents under the standard RMA process. This is considered in Section 6.1.2.

Figure 11: Stopbank and Flood Wall Project Extent and Alignment

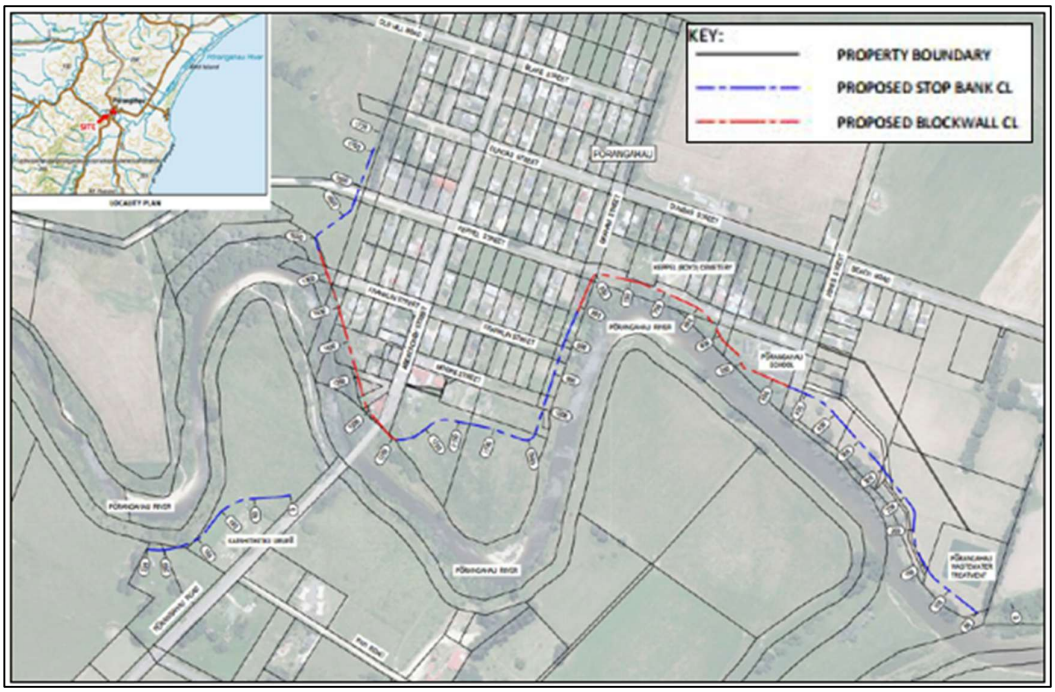
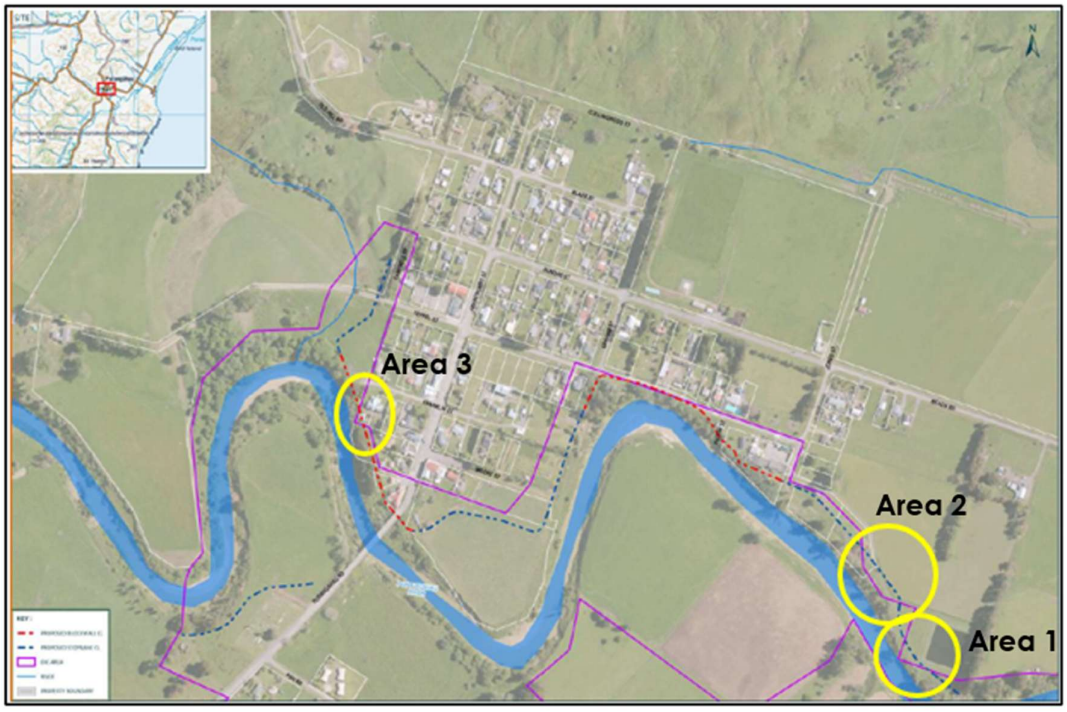


Figure 12: Areas of work Outside the OiC Footprint



The OiC sets out "standardised conditions" developed to provide consistency in how the flood protection works enabled by this process will avoid, mitigate or remedy potential environmental effects. As outlined above, the OiC provides the opportunity for applicants to seek variations to the standardised conditions where appropriate for each individual project. The decision maker may also amend the standardised conditions to address specific environmental effects associated with each proposal.

In developing the broader proposal, the applicant generally proposes to adopt the standardised conditions of the OiC without amendment, therefore, most of these conditions form part of the details of the proposal. A full list of proposed conditions, including the standardised conditions, recommended minor alterations to tailor them to this specific project, and a proposed additional condition relating to the surface water take, is included at **Appendix 10**.

The following sets out details of the proposal with reference to proposed conditions in respect to:

- The proposed stopbank (including earth embankment and flood walls) and associated activities (including temporary surface water take for dust suppression)
- Borrow sites,
- Ecological management,
- Landscaping,
- Archaeology,
- Communication and engagement,

- Construction management.

5.1 Proposed Stopbank and Associated Activities

Drawing on the details of the Preliminary Design Report prepared by PDP, the following provides an overview of the proposed stop bank and flood wall and associated activities in respect to:

- Design considerations,
- The proposed stop bank and Flood wall,
- Mitigation options,
- Road and access crossings,
- Cross drainage (stormwater management),
- Earthworks and vegetation clearance,
- Water take,
- Managing the detailed design process.

5.1.1 Design Considerations

The stopbank and flood wall have been designed to contain flows from the 1% AEP flood event, with a freeboard of 500mm above the peak flood level is applied to provide a margin of safety to account for climate change and uncertainties in the modelling, wave run-up, and potential debris loading.

The low bund proposed adjacent to the urupa is intended to reduce flood velocities across the urupa site to reduce risk of damage, rather than mitigating flood depths. As such, freeboard was not added to its crest elevation.

The design has been informed by various surveys, flood modelling and geotechnical assessments.

5.1.2 Proposed Stopbank and Flood wall

The proposed stopbank and flood wall will extend continuously between the western extent of Porangahau township, and the Porangahau Wastewater treatment plan at the east. The total length is approximately 1,700m. A small bund is also proposed around Kaiwhitikiti Urupa at the entrance to Porangahau. Key features include:

Earth embankment stopbank:

- The stopbank will typically be between 2 to 4m in height, with a maximum of 4.1m above existing ground level,
- The crest width will typically be 3.5m,
- Batter slopes are proposed with 2.5H:1V at the waterside, and 2H:1V on the landward side.

Flood wall:

- The flood wall will be a sheet piled wall,

- The wall will be from below existing ground level to a maximum height of up to 2.2m.

Urupa bund:

- The bund around the urupa will extent from ground level to a height of up to 1.81m for a length of 224m.

5.1.3 Mitigation options

Consequential flooding as a result of the proposed stopbank and flood wall on the north side of the river has been modelled. Potential mitigation options form part of the scope of the proposal and are located within the OiC footprint. Options include:

Marae:

- Flood levels at the marae buildings are anticipated to increase by up to 150 mm in the 1% AEP, however given the existing level of flooding of the marae in this event the overall hazard class is not affected. Remedial options include either the construction of a small earth bund or a floodwall. Details will be confirmed as part of the detailed design. The bund would be around 1.2m with a maximum potential height of 1.8m.

Kaumatua Flats and 14 Pah Road:

- Flood levels in the 1% AEP are anticipated to increase by between 70mm and 130mm for the buildings on these sites, as a result of the stopbank on the true left bank of the river.
- Mitigation options are being discussed with the landowners and residents, and include:
  - Bund,
  - Raising floor levels,
  - Relocation,
  - No mitigation (if preferred by landowners and residents).

5.1.4 Road and Access Crossings

There are 3 access ramps proposed, to provide for stopbank maintenance and/or landowner access to private landholdings south of the stopbank - Jones Street, Moore Street and over the stopbank below The Duke Hotel. The location of the proposed stopbank crossings are shown in Figure 2 of the Design Report.

5.1.5 Cross Drainage (Stormwater) Management

To facilitate cross-drainage to the Porangahau River through the proposed stopbanks, several stormwater culverts are required. The necessary outlets through the proposed stopbank will be confirmed at the detailed design stage. Typical stormwater culvert details are provided in the Preliminary Design Report Appendix A (drawing SK-055).

5.1.6 Earthworks and Vegetation Clearance

Condition 12 of the standardised conditions set out earthworks principles that will apply to the detailed design and implementation of earthworks associated with the project. This includes generally minimising the scope of earthworks to those required to facilitate the project, maximising the effectiveness of erosion and sediment control measures, avoiding or otherwise minimising potential adverse effects on receiving environments and ecology, landscape values and culturally significant land, and stabilisation of land as soon as reasonably practicable. The preliminary design incorporates these principles. Further confirmation will be provided in the detailed design and the CEMP as outlined below.

The contractor will be required to prepare an erosion and sediment control plan that addresses specific requirements (outlined in condition 14), and this will form part of the overall CEMP for the project. Dust management is also required, together with procedures for managing de-watering if required. A concept erosion and sediment control plan is provided in **Appendix 8.**

Vegetation clearance will only generally occur along the stopbank alignment and for excavation of the borrow sites (entirely in pasture).

5.1.7 Water Take

Water may be taken from the Porangahau River (within the OiC footprint) on a temporary basis for construction management/dust suppression purposes. While various use scenarios will exist, it is assumed that two 20,000l water carts will operate full time over different stages of the project area and fill every 30 minutes over a 9 hour day. A proposed total rate of abstraction from the river of 25l/s is proposed over the 9 hour construction period, allowing for a total take of 810m³ per day.

The proposed rate of abstraction will ensure that the previously estimated mean annual low flow of 42 l/s[2] is retained in the river below the project works sites. Real time Monitoring data from the upstream Saleyards site will inform the rate of take for dust suppression purposes. A new condition 30 is proposed to manage the water abstraction as follows:

1. *Abstraction:*
    - The consent holder may abstract water from the Porangahau River up to:
        - Maximum instantaneous rate: 25 litres per second (L/s),
        - Maximum daily volume: 720 cubic metres (m³).
2. *Intake Structure:*
    - Each point of take shall be installed to prevent fish, including eels, from entering the reticulation system.
3. *Minimum Flow Restrictions:*
    - When the river flow at the Porangahau River at Saleyards monitoring site falls below 80 l/s, abstraction shall not exceed a maximum instantaneous rate of 10 l/s,

[2] *Source: Pōrangahau and Te Paerahi Wastewater – Water Quality Assessment, prepared by Beca Limited- 23 August 2021*

- Abstraction shall cease when river flow at the Porangahau River at Saleyards monitoring site falls below 43 l/s.

4. *Monitoring and Reporting:*

- The measurement and reporting of water use shall be undertaken and provided to the Hawkes Bay Regional Council in accordance with the Resource Management (Measurement and Reporting of Water Takes) Regulations 2010.

5.1.8 Managing the Detailed Design Process

The OiC framework envisages that further refinements to the flood protection works design and the associated documentation will continue to occur post-consenting.

It is important that the conditions of consent do not pose barriers to implementation where such design changes are not substantial or likely to result in a change to the activity or an increase in the expected scale of adverse effects. The following condition is proposed as Condition 1A:

Tracking changes in the design process

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.

In this context, "in accordance with" 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.

The Final Design Report shall be provided to the Hawke's Bay Regional Council (Manager Compliance) prior to construction commencing.

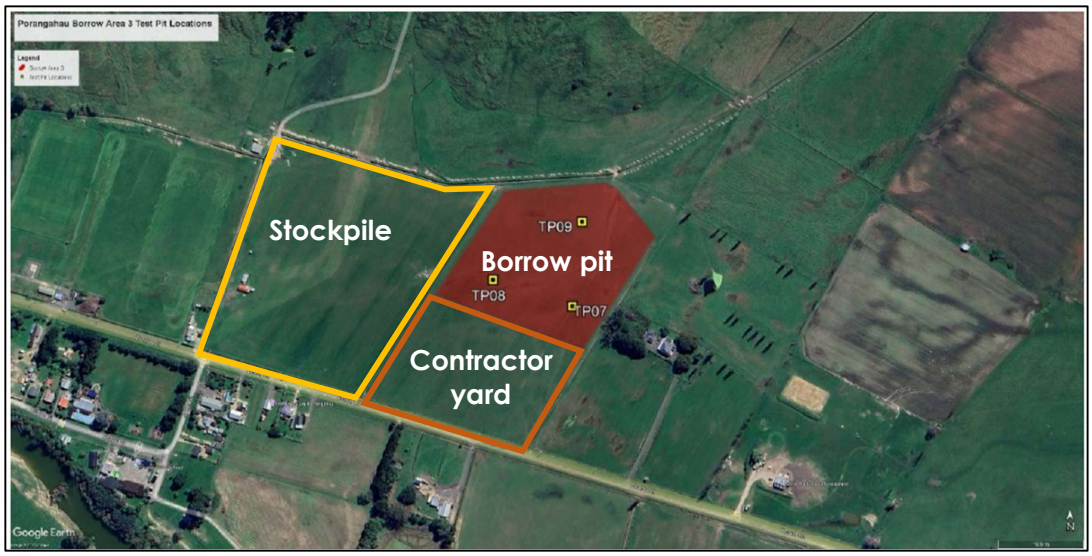
Minor changes to conditions are also recommended to recognise that adverse effects may be less than assessed in this application, due to refinement of the design, and this may impact the required extent of mitigation.

5.2 Borrow Pit and Stockpile Site

Approximately 26,000m³ of fill material will be required to build the proposed stopbanks. The fill material will be sourced from a nearby borrow area and stockpiled in a key location close to construction sites, or placed directly to the stopbank areas.

A number of borrow sites have been investigated. A site at 18 Jones Street has been identified as being suitable to provide sufficient material for the stopbank construction (referred to as Borrow Site 3 – refer **Appendix 9**). Other borrow pit sites referred to in supporting documentation are no longer being considered and do not form part of the scope of the application.

Figure 13: Borrow site and stockpile location – 18 Jones Street



With regards to the scale of the borrow pit:

- The maximum area of Borrow Pit 3 is 34,000m²,
- The total volume of borrow material available is estimated at 91,000m³,
- Excavation will not be deeper than the groundwater level. Depending on seasonal fluctuations, depths may be between 2-3m,
- Topsoil will be removed and stockpiled, for use for reinstatement following completion of excavation of borrow material,
- The volume of topsoil is estimated at 10,000m³,
- Following completion, sites will be reinstated into pasture utilising the stockpiled topsoil and seeding or alternative suitable methods. - Assuming 10% of topsoil is used for covering the earth embankments, the estimated volume of topsoil to be reinstated is 9,000m³ (roughly 0.25m thickness across the borrow pit area),
- Side walls be battered to a final slope of 1(v): 3 (H).

To the west of the borrow pit is a stockpile area. Stockpiles will be minimised to the extent practicable, as material (other than topsoil) will generally be utilised immediately for stopbank construction. Both the borrow pit and stockpile area are located outside of the OiC footprint.

5.3 Ecological Management

Standard OiC condition 26 sets out ecology principles that the consent holder must apply when designing the flood protection works and carrying out construction works.

Based on the Ecological Assessment undertaken by PDP, the following measures for managing vegetation removal, bats, reptiles and native birds are proposed to give effect to the ecology principles and are proposed to be included in Ecology Management Plans prepared under Condition 28 of the standardised conditions of the OiC.

- A restoration plan will be prepared outlining the planting of indigenous species to be undertaken following the completion of the works to mitigate the effects of vegetation clearance, particularly the loss of wetland vegetation near the western extent of Keppel Street,
- Management of in-situ substrates and earthworks equipment to minimise the risk of spreading pest plants offsite or to new locations on site,
- Management of risk to indigenous birds by undertaking construction outside bird nesting season where feasible, or alternatively conducting nest inspections prior to felling trees and providing a 20m boundary around active nests until chicks have fledged,
- Management of risk to indigenous reptiles by staged vegetation removal, creation of offsite habitat and eco-piles, minimising noise and habitat disruption,
- Management of risk to indigenous bats by roost inspections of trees scheduled to be removed with bat roost features prior to felling.

The following measures are proposed to manage effects on freshwater ecology:

- Effects on water quality arising from turbidity will be managed under the Erosion and Sediment Control Plan addressed in Section 6.4,
- Riparian planting and wetland planting post-construction works, around the western extent of Keppel Street, will form part of the restoration plan,
- Construction will be timed to avoid peak migration and spawning of indigenous fish, where feasible,
- Stormwater culverts are proposed to maintain hydrological connection to stormwater source of water, including the identified intermittent stream.

5.4 Landscaping

Landscaping/planting for ecological mitigation purpose shas been discussed above. In respect to landscaping to avoid, remedy, or mitigate potential visual effects of the proposed works, it is concluded in the Landscaping Scoping Assessment that the project will not result in significant potential adverse effects on the adjacent properties. On the basis that Condition 24(2) of the OiC only requires landscaping where significant potential effects are identified, no further landscaping is proposed.

5.5 Archaeology

An Archaeological Authority will be sought which will establish protocols in the event that archaeological features or materials will be encountered.

5.6 Construction

The following outlines the works involved in establishing the construction site and general construction management matters.

5.6.1 Establishment of Construction Site Works

The OiC recognises that the consent holder will need to commence site establishment works as soon as possible following the issue of consent to enable the timely delivery of the flood protection schemes. It is for this reason that works associated with the 'establishment of the construction site' are excluded from the definition of 'construction works' (refer Condition 3 of the OiC). This has the effect allowing such works to occur ahead of / separate to a number of 'pre-commencement' requirements embedded in the standardised conditions, including preparation of the Construction Environmental Management Plan (CEMP) required under Condition 10.

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

- Removal of fencing and vegetation at access points and along construction areas where required,
- Installation of construction fencing,
- Installation of laydown areas,
- Preparation of stockpile sites and haul roads,
- Bring in and position site offices and buildings,
- Lay temporary power cables and water supply lines.

5.6.2 Construction Management

Standard OiC condition 10 requires a detailed Construction Environmental Management Plan (CEMP) to be prepared prior to works commencing. The purpose of the CEMP is to ensure mechanisms are in place to avoid, mitigate or otherwise minimise potential effects on the environment, cultural values and adjoining properties for the duration of the project construction works.

The process for the CEMP is for a draft to be prepared in accordance with the specified requirements, and for this draft to be circulated to a number of parties for feedback prior to being finalised and works commencing on the site. This provides an opportunity for mana whenua, consenting authorities and stakeholders to provide input. While the CEMP is far reaching, the following considers:

- Laydown and stockpile areas,
- Erosion and sediment control,
- Contaminated soil,
- Construction noise and vibration.

Laydown and Stockpile Areas

Areas to accommodate contractor operations including temporary site buildings, storage and parking, together with stockpile sites will be established as part of the works. Access and specific layout details will be confirmed as part of preparing the CEMP. Haulage routes and construction traffic management will form part of the CEMP, which is required to be prepared by the contractor and circulated to key stakeholders for feedback prior to works commencing. Indicative routes are shown below, as assessed in the Traffic Impact Assessment (**Appendix 7**). The proposed route has been planned to avoid any potential effects on Porangahau School as well as other key spots within the community. Private land will be utilised to access some of the riverbank instead of going past the school.

Figure 14: Indicative construction traffic routes[3]

Erosion and Sediment Control

Erosion and sediment controls will be confirmed by the contractor prior to works commencing, as per the standardised conditions of consent. The type of controls/measures have nevertheless been given consideration by PDP, and as outlined in the Design Report and preliminary erosion and sediment control plan provided in **Appendix 8**, are likely to involve:

- Silt fencing around working areas based on on-site risk assessments,
- Progressive stabilisation of stopbank faces and the borrow site with topsoil and planting of grass,
- Stockpile stabilisation – grassing and surface roughening when in use,
- Stabilised haul roads,
- Stabilised entranceway and wheel wash,
- Dust suppression measures, including consideration of water carts, sprinkler systems or similar.

Final solutions and associated detail will be provided within the Erosion and Sediment Control Plan which is required to be prepared under Condition 14 of the standardised conditions, and included in the CEMP prepared under Condition 10.

[3] *Note: Stockpile location is now as indicated in Figure 12, not as shown as Borrow 1 on Figure 13*

Contaminated Soil

A Contamination Site Management Plan (CSMP) responding to the matters raised in the PSI is proposed to be prepared. This will generally attend to matters associated with:

- Appropriate management of earthworks,
- Hygiene controls.
- PPE,
- Dust management,
- Stormwater controls,
- Offsite disposal of soils,
- Accidental discovery protocols.

The CSMP will be embedded in the CEMP. Changes to Conditions 10 and 17 of the standardised conditions in the OiC are proposed to this effect.

Construction Noise and Vibration

In line with standard condition 23 of the OiC, construction activity is to be undertaken in accordance with the New Zealand Standard NZS 6803:1999 "Acoustics – Construction Noise" to the extent practicable. To this end, the construction works will be limited to daytime/working hours, being 6.00am – 7.00pm Monday-Saturday.

5.7 Communication and Engagement

The OiC standardised conditions provide mechanisms to minimise or mitigate effects of the project via ongoing engagement with Māori entities and stakeholders throughout the detailed design and implementation phases. Standard conditions 4-11 of the OiC are proposed to be adopted with some minor amendments. These require the consent holder to:

- Invite each relevant Māori entity to appoint a representative to a Stakeholder Advisory Group (STAG),
- Take identified cultural indicators into account in preparing plans and reporting to the Māori entities representatives on how those indicators have been taken into account,
- Invite identified parties to form a STAG to inform and advise the consent holder about managing and monitoring the flood protection works.
- Appoint a person as a Project Engagement Lead to act as the consent holder's main point of contact with the Māori entities representatives and the Stakeholder Advisory Group,
- Record all information and advice provided by the STAG and report to the group how the information and advice have been taken into account in the carrying out of the flood protection works,
- Develop and implement a Communication Plan containing processes for communications, throughout the construction works, with:
    - the general public,
    - local residents and businesses,
    - the Māori entities representatives,
    - the persons and bodies represented by the stakeholder advisory group,

- all other persons potentially affected by the construction works,
- Invite the STAG to comment on the proposed CEMP.
- Submit the finalised CEMP with the STAG.

OiC Standard Condition 9(4)(a) requires the Communications Plan to be provided to the Manager Compliance at least 20 working days before construction works begin. With such a long timeline risking commencement, it is proposed that the Communications Plan instead be provided alongside the CEMP according to the timeline in Condition 10(1)(b). Amendments to Condition 9(4)(a) are made to this effect.

6. RESOURCE CONSENTS REQUIRED

Section 7.1 focuses on the activities associated with the flood protection works within the OiC Footprint for which resource consent would ordinarily be required, while Section 7.2 identifies the consents required for the activities located outside the OiC Footprint. Section 7.3 references the analysis undertaken in Section 4 in regard to bundling.

6.1 Activities Requiring Resource Consent under the OiC

As outlined in Section 6 of the OiC, flood protection works means works that:

(a) are of a kind described in subclause (2); and

(b) are carried out—

(i) by or on behalf of any 1 or more Hawke's Bay local authorities; and

(ii) in any part of the severe weather events affected area that is at a location specified in subclause (3); and

(c) for the purposes of the RMA,—

(i) would ordinarily require a resource consent; and

(ii) are not described in any plan or national environmental standard as a permitted activity; and

(iii) are not a prohibited activity.

All of the proposed works within the OiC Footprint will be carried out by HBRC and are of a kind described in subclause 6(2), being activities that involve or are concerned with the construction or reinstatement of, making safety enhancements to, or improving the resilience of land and flood protection infrastructure; or any incidental or subsidiary activity.

The activities involved in the works that would ordinarily require a resource consent in respect to c(i) have been identified having worked through the analysis below – taking c(ii) into account - and are outlined in **Table 3**. None of the proposed works are classified as a prohibited activity under any relevant NES or plan.

Rule Analysis

In terms of (c)(ii), the following is relevant under the Central Hawke's Bay District Plan:

- Natural Hazard Mitigation Activities[4] within the Flood Hazard Area carried out by or on behalf of a Local Authority, Network Utility Operator or a Requiring Authority Exercising its Powers, Functions and Duties Under the Resource Management Act 1991, Soil Conservation and Rivers Control Act 1941, Land Drainage Act 1908, or the Local Government Act 2002 are classified as a Permitted Activity under Rule NH-R1.
- Trimming or clearance of indigenous vegetation outside any area identified as a Significant Natural Area and outside the Coastal Environment is a permitted activity where limited to (ECO-R4(3)):
    - Clearance of no more than 0.5 hectare per site per calendar year
    - Trees to be cleared must have:
        - An average diameter measured 1.4m from the highest point of ground level at the base of the tree, of no more than 15cm, and
        - An average canopy height of less than 6 metres.
- Earthworks are permitted up to 2,000m³ per hectare of site in any 12 month period in a General Rural Zone, and up to 50m³ per site in any 12 month period in the Settlement Zone (EW-R7 and EW-S2) are a Permitted Activity,
- Flood mitigation activities do not fall within any Permitted Activity rule in either the General Rural Zone or the Settlement Zone, and therefore resource consent would potentially be required as a Discretionary Activity,
- Height and setback standards apply to buildings only, not all structures. The definition of building is "a temporary or permanent movable or immoveable physical construction that is partially or fully roofed; and is fixed or located on or in land. As the stopbank and flood wall will not be roofed, they do not fall within the definition of building therefore these requirements do not apply.

Assuming resource consent is required for a non-permitted activity in the relevant zones, the flood protection stopbank and flood wall would fall to be a Discretionary Activity.

Assuming some material is removed and that the volumes exceed the limits of 2,000m^3 per hectare for Rural zoned sites and 50m^3 from the Settlement Zone sites, resource consent would also likely be required as a Restricted Discretionary Activity under Rule EMP7. Similarly, any clearance of indigenous vegetation exceeding the permitted thresholds would require resource consent as a Discretionary Activity under ECO-R4(4).

These consent requirements under the CHBDP, together with the relevant consent triggers under the NESs and Regional Plan relating to the proposed activity are summarised in respect to each consenting authority in the table below.

The activities in **Table 3** that are within the OiC Footprint will require resource consent as a controlled activity, with the relevant matters of control being those in Schedule 3 of the OiC.

[4] activities that are carried out to reduce the risks posed by natural hazards (includes stopbanks, sea walls, vegetation planting, and river control and drainage works).

Table 3: Activities subject to the OiC and which are to be processed as a controlled activity consent

Activity	Rule	Rule Description	Status	Consent Authority
Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011				
Disturbance of soil	11	Removing or replacing fuel storage system, sampling soil, or disturbing soil	Discretionary	CHBDC
Central Hawkes Bay District Plan				
Earthworks	EM6-R7(2)	Permitted earthworks not meeting the Extent of Earthworks threshold in standard EW-S2	Restricted Discretionary	CHBDC
Ecosystems and Indigenous Biodiversity	ECO-R4(4)	Removal of indigenous vegetation species outside any area identified as a Significant natural Area and outsaide the Coastal Environment, exceeding permitted thresholds	Discretionary	CHBDC
Zone based activities	GRUZ-R18 SETZ-R18	Any other activity not otherwise provided for in the General Rural and Settlement Zones	Discretionary	CHBDC
Regional Resource Management Plan				
Vegetation clearance and soil disturbance	8	Vegetation clearance or soil disturbance activities which do not meet the conditions in Rule 7.	Restricted Discretionary	HBRC
Discharge of dust	30	The discharge of contaminants into the air that: • is from an industrial and trade premises and is not specifically classified by any other rule in this Plan as a discretionary, noncomplying or prohibited activity, or	Restricted Discretionary	HBRC

Activity	Rule	Rule Description	Status	Consent Authority
		• does not comply with all relevant conditions on a permitted activity rule, or • does not comply with all relevant standards and terms on a controlled activity rule or restricted discretionary activity rule.		
Discharge of drainage water (if required as part of construction)	33	The diversion and discharge of drainage water into water or onto or into land, from a pumped system	Controlled	HBRC
Other takes & uses of surface & ground (relating to the 'take' of surface water for dust suppression)	55	The take and use of surface water or groundwater, including takes and uses associated with, or ancillary to Community Irrigation Schemes, except as provided for by Rules 53, 54 TT3, TT3A, TT3B and TT4.	Discretionary	HBRC
Discharge of sediment laden water to land or water and solid contaminants to land	52	The discharge of: • contaminants onto or into land, or into water, or • water into water which does not comply with any condition on a permitted activity rule, or any standard or term on a controlled activity rule within this Plan, but which is not expressly classified as a discretionary, non-complying or prohibited activity.	Discretionary	HBRC
Diversion of the Porangahau River during times of flood arising from the stopbank	59	Any diversion of water which cannot comply with any condition on a permitted activity rule, or any standard or term on a controlled activity rule within this Plan, but which is not expressly classified as a discretionary or non-complying activity.	Discretionary	HBRC

Activity	Rule	Rule Description	Status	Consent Authority
River & lake bed activities (stormwater outlets[5])	69	Any activity which cannot comply with any of the rules in section 6.8 of this Plan and which is not expressly regulated by other rules in this Plan.	Discretionary	HBRC

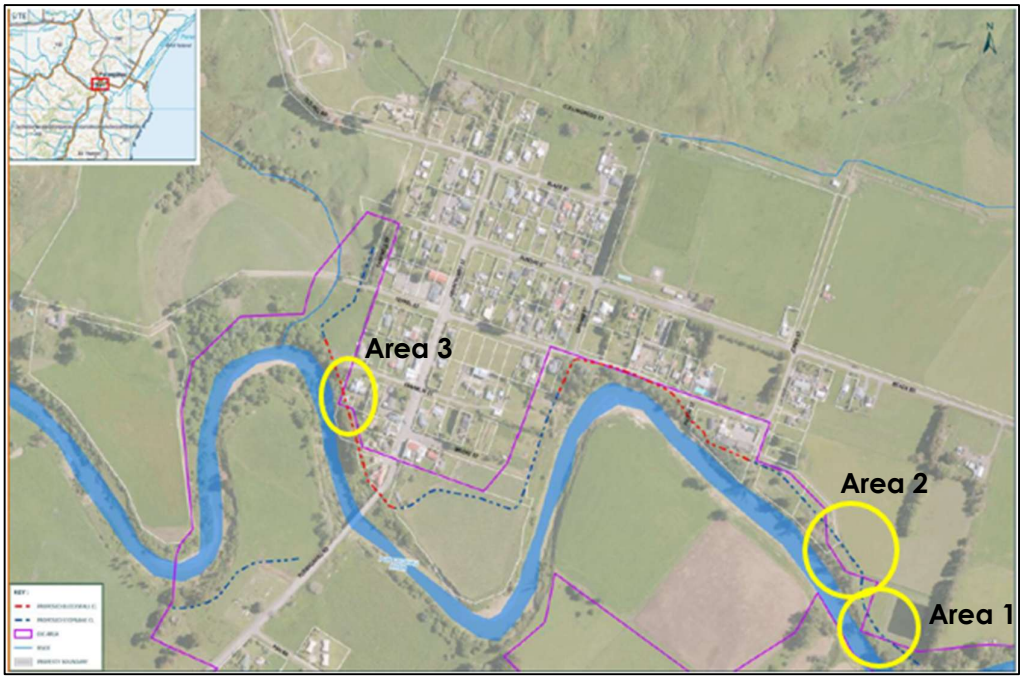
[5] If it is not considered to fall under Rule 72 as a Permitted Activity

6.2 Activities Requiring Resource Consent under the Standard RMA Process

As outlined above and illustrated in **Figure 15** below, there are three areas of the stopbank and flood wall and associated works that are to be constructed outside the OiC Footprint. These will generally involve:

1. Area 1 (Ch100-140) – approximately 180m³ of fill for stopbank construction, up to 2.8m in height
2. Area 2 (Ch230-310) – approximately 550m³ of fill for stopbank construction, up to 2.81m in height
3. Area 3 (Ch1420 – 1440) – removal of topsoil and minor grading of the natural ground to facilitate the floodwall (up to 1.8m in height) with ~5m³ of disturbance.

Figure 15: Works Outside the OiC Footprint



The Borrow site (to excavate source material for stopbank construction) and stockpile areas are also located in the vicinity of the works but outside of the OiC footprint.

The consenting requirements for these works are to be considered under the standard RMA process, which requires an analysis of the resource consents required under any applicable National Environmental Standards, the Central Hawkes Bay District Plan and the Regional Plan documents.

Regarding National Environmental Standards, there are currently nine. These include:

- Plantation Forestry 2017
- Air Quality 2004
- Sources of Drinking Water 2007
- Telecommunications Facilities 2016
- Electricity Transmission Activities 2009
- Assessing and Managing Contaminants in Soil to Protect Human Health 2011
- Freshwater 2020
- Marine Aquaculture 2020
- Storing Tyres Outdoors 2021

Of these, only the National Environmental Standards for Assessing and Managing Contaminants in Soil to Protect Human Health (NESCS) are applicable to the activities outside the OiC Footprint. Consenting requirements under the NESCS are considered below alongside the CHBDP.

The resource consents required are described below and summarised in **Table 4**, which also addresses the requirements of Clause 13(2)(b) of the OiC (other resource consents required in relation to the proposed flood protection works).

Central Hawkes Bay District Plan

Flood Protection Structures:

Having considered each area (as they fall outside the OiC mapped extent):

- Natural Hazard Mitigation Activities[6] within the Flood Hazard Area carried out by or on behalf of a Local Authority, Network Utility Operator or a Requiring Authority Exercising its Powers, Functions and Duties Under the Resource Management Act 1991, Soil Conservation and Rivers Control Act 1941, Land Drainage Act 1908, or the Local Government Act 2002 are classified as a Permitted Activity under Rule NH-R1. The works are therefore permitted within the Flood Hazard Area.
- Trimming or clearance of indigenous vegetation outside any area identified as a Significant Natural Area and outside the Coastal Environment is a permitted activity where limited to (ECO-R4(3)):
    - Clearance of no more than 0.5 hectare per site per calendar year
    - Trees to be cleared must have:
        - An average diameter measured 1.4m from the highest point of ground level at the base of the tree, of no more than 15cm, and
        - An average canopy height of less than 6 metres.

  Vegetation clearance within Areas 1, 2and 3 is limited to exotic species including crack willow – poplar treeland, and exotic grassland. Any indigenous species removed in this area would fall within the permitted thresholds.

[6] activities that are carried out to reduce the risks posed by natural hazards (includes stopbanks, sea walls, vegetation planting, and river control and drainage works).

- Earthworks are permitted up to 2,000m³ per hectare of site in any 12 month period in a General Rural Zone, and up to 50m³ per site in any 12 month period in the Settlement Zone (EW-R7 and EW-S2) are a Permitted Activity. The proposed scale of earthworks are within these permitted thresholds,
- Flood mitigation activities do not fall within any Permitted Activity rule in either the General Rural Zone or the Settlement Zone, and therefore resource consent would potentially be required as a Discretionary Activity,
- Height and setback standards apply to buildings only, not all structures. The definition of building is "a temporary or permanent movable or immoveable physical construction that is partially or fully roofed; and is fixed or located on or in land. As the stopbank and flood wall will not be roofed, they do not fall within the definition of building therefore these requirements do not apply.

Based on the above, resource consent will be required for a non-permitted activity in the relevant zones as a Discretionary Activity (GRUZ-R18 and SETZ-R18).

Further, given the findings of the PSI, and that there is no DSI, resource consent is required under Regulation 11 of the Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011.

Borrow site

The scale of earthworks will exceed the relevant extent of earthworks standard (EW-S2) and therefore resource consent will be required under EW-R7(2) as a Restricted Discretionary Activity, as well as for non-permitted activities in the relevant zones as a Discretionary Activity (GRUZ-R18).

Regional Planning Documents

In the first instance, the portions of stopbank and flood wall outside the OiC Footprint will contribute to the diversion of water during flood flows, thus resource consent is required under Rule 59 of the RRMP.

Further, the deposition of material to form the stopbank, particularly within Areas 1 and 3, will occur within 20m of the Porangahau River and will therefore trigger the need for resource consent under Rule 52 due to not meeting all standard of Rule 48.

As in the case of the same type of works within the OiC Footprint, resource consent may also be required for the:

- Vegetation clearance and soil disturbance under Rule 8,
- Discharge of dust under Rule 30,
- Discharge of sediment laden water, under Rule 52,
- Dewatering – take and discharge (if dewatering is required as part of construction).

Consent for all these activities is sought.

Summary

A summary of the consents identified to be required for works/features outside the OiC Footprint is provided in **Table 4** below. While bundling of the consents required under the OiC and standard RMA process is not proposed, those being assessed solely under the standard RMA process may be bundled.

Table 4: Activities requiring resource consent under the standard RMA process

Activity	Rule	Rule Description	Status	Consent Authority
Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011				
Disturbance of soil	10	Removing or replacing fuel storage system, sampling soil, or disturbing soil	Discretionary	CHBDC
Central Hawkes Bay District Plan				
Earthworks	EM6-R7(2)	Permitted earthworks not meeting the Extent of Earthworks threshold in standard EW-S2	Restricted Discretionary	CHBDC
Ecosystems and Indigenous Biodiversity	ECO-R4(4)	Removal of indigenous vegetation species outside any area identified as a Significant natural Area and outside the Coastal Environment, exceeding permitted thresholds	Discretionary	CHBDC
Zone based activities	GRUZ-R18 SETZ-R18	Any other activity not otherwise provided for in the General Rural and Settlement Zones	Discretionary	CHBDC
Regional Resource Management Plan				
Vegetation clearance and soil disturbance	8	Vegetation clearance or soil disturbance activities which do not meet the conditions in Rule 7.	Restricted Discretionary	HBRC
Discharge of dust	30	The discharge of contaminants into the air that: • is from an industrial and trade premises and is not specifically classified by any other rule in this Plan as a discretionary, noncomplying or prohibited activity, or	Restricted Discretionary	HBRC

		• does not comply with all relevant conditions on a permitted activity rule, or • does not comply with all relevant standards and terms on a controlled activity rule or restricted discretionary activity rule.		
Discharge of drainage water (if required as part of construction)	33	The diversion and discharge of drainage water into water or onto or into land, from a pumped system	Controlled	HBRC
Other takes & uses of surface & ground (relating to the 'take' of drainage water if required as part of construction)	55	The take and use of surface water or groundwater, including takes and uses associated with, or ancillary to Community Irrigation Schemes, except as provided for by Rules 53, 54 TT3, TT3A, TT3B and TT4.	Discretionary	HBRC
The take and use of surface or groundwater relating to the 'take' of drainage water if required as part of construction)	TANK 10	The taking of groundwater as a non-consumptive use.	Discretionary	HBRC
Discharge of sediment laden water to land or water Discharge of solid contaminants within 20 m of a surface water body (not meeting Rule 47)	52	The discharge of: • contaminants onto or into land, or into water, or • water into water which does not comply with any condition on a permitted activity rule, or any standard or term on a controlled activity rule within this Plan, but which is not expressly classified as a discretionary, noncomplying or prohibited activity.	Discretionary	HBRC
Diversion of the Porangahau River during times of flood arising from the stopbank	59	Any diversion of water which cannot comply with any condition on a permitted activity rule, or any standard or term on a controlled activity rule within this Plan, but which is not expressly classified as a discretionary or non-complying activity.	Discretionary	HBRC

6.3 Bundling

OiC and the Standard RMA Process

For the reasons traversed in detail in Section 4 above, this application is presented on the basis that the flood protection works activities within the OiC Footprint will be processed as for a controlled activity under the OiC, and the activities outside the OiC Footprint under the standard RMA process in an un-bundled manner.

Activities Subject to the Standard RMA Process

While bundling of the consents required under the OiC and standard RMA process is not proposed, those being assessed solely under the standard RMA process are to be bundled as a discretionary activity – being the most restrictive activity status.

7. STATUTORY CONSIDERATIONS

Section 8.1 sets out the application requirements and statutory considerations for applications under the OiC and Section 8.2 under the standard RMA process.

7.1 Order in Council

Application Requirements

As outlined above, Section 88 of the RMA has been amended by the OiC – with Section 12(2) of the OiC setting out the information that is required to be included in an application under the OiC. **Table 5** confirms compliance with these requirements. The application can therefore be accepted for processing without the need to invoke Section 13(3).

Table 5: Section 12(2) Application Requirements

S88 requirements (modified by clause 12(2) of Oic)	AEE section reference
(a) A detailed description of the flood protection works	Refer Section 5 – Description of Proposal
(b) A map that shows – i. The area in which flood protection works are to be carried out; and ii. Every proposed work site in that area	Refer to the Design Report
(c) A general description of the area	Refer Section 4 – Site Description
(d) A description of – i. Any identified natural and physical resources at the site that have cultural value identified by a relevant iwi authority or hapū as significant for present or future generations; and	Refer Section 4.4.1 – Cultural Context

S88 requirements (modified by clause 12(2) of Oic)	AEE section reference
ii. Any culturally significant land in the area (including a description of the nature of the cultural significance).	
(e) An assessment of all potential effects of the work with input from appropriate experts, including consideration of: i. All information reasonably available to the applicant; and ii. The potential effects on any cultural values identified by a relevant iwi authority or hapū; and iii. The potential effects on any culturally significant land that is within or adjoining the area where the works are to be carried out	Refer Section 9 - Assessment of Environmental Effects, and Section 9.3 – Cultural Values
(f) Proposal to avoid, remedy, or mitigate potential adverse effects identified by the assessment described in paragraph (e)	Refer Section 9 – Assessment of Environmental Effects
(g) Any conditions that the applicant proposes for the resource consent that are a variation of, or additional to, a condition set out in Schedule 2	Refer Sections 5 – Description of Proposal and 9 – Assessment of Environmental Effects, and **Appendix 10** – Proposed Resource Consent Conditions
(h) A description of any consultation undertaken in relation to the proposed work, including with relevant Māori entities.	Refer Section 8 – Summary of Consultation
(i) A list of all relevant Māori entities	Refer Section 4.4.1 – Cultural Context and **Appendix 13** containing a list of Māori Entities and stakeholder contact details
(j) A list of the names and contact details of all persons the consent authority is required to notify under clause 15(2)(a)	Refer **Appendix 13**

Assessment of an Application

The statutory process for assessing an application is outlined in Section 2.3 above.

7.2 Standard RMA Process

Application Requirements

Section 88 of the RMA allows any person to make a resource consent application, provided it is in the prescribed form and includes an assessment of environmental effects in such detail to correspond with the scale and significance of the effects that the activity may have on the environment.

Schedule 4 of the Act lists those matters that must (and should) be included in an assessment of environmental effects. These matters are addressed throughout the body of this report, confirming that the application meets all the requirements of Section 88.

Assessment of an Application

In accordance with section 104(1), and when considering an application for a resource consent and any submissions received, the consent authority must, subject to Part 2 of the Act, have regard to:

a) Any actual and potential effects on the environment of allowing the activity; and

ab) any measure proposed or agreed to by the applicant for the purpose of ensuring positive effects on the environment to offset or compensate for any adverse effects on the environment that will or may result from allowing the activity; and

b) Any relevant provisions of:
   i) a national environmental standard:
   ii) other regulations:
   iii) a national policy statement:
   iv) a New Zealand coastal policy statement:
   v) a regional policy statement or proposed regional policy statement:
   vi) a plan or proposed plan; and

c) Any other matter the consent authority considers relevant and reasonably necessary to determine the application.

The relevant planning documents referred to in Section 104(1)(b) are identified in Section 11.1 where the relevant national policy statements are considered prior to an assessment of the activities' actual or potential effects in terms of Section 104(1)(a) in Section 11.2 - the conclusions of which are considered in relation to notification in Section 11.3. Sections 105 and 107 of the RMA are also considered in Section 11.2 as part of the assessment of environmental effects.

The relevant provisions of the Regional Policy Statement, RRMP and District Plan, being the most applicable planning documents, are considered in respect to section 104(1)(b) in Section 11.4. Other matters in respect to Section 104(1)(c) are considered in Section 11.5.

Part 2 of the Act contains sections 5, 6, 7 and 8. Section 5 outlines the purpose of the Act, which is to "*promote the sustainable management of natural and physical resources*", and the meaning of the "sustainable management". Sections 6 and 7 contain "matters of national importance" and "other matters", while Section 8 provides for the principles of the Treaty of Waitangi. Part 2 of the Act is considered in Section 11.6 of this report.

8. SUMMARY OF CONSULTATION

Section 12(2)(h)-(j) of the OiC requires the applicant to provide:

(h) a description of any consultation undertaken in relation to the works (including with relevant Māori entities) and the names and contact details of all persons consulted:

(i) a list of all relevant Māori entities:

(j) a list of the names and contact details of all persons the consent authority is required to notify under clause 15(2)(a).

Where consultation has not been carried out in respect to Section 12(2)(h), the application must explain why.

Similarly, and in regard to the standard RMA process, Schedule 4 of the RMA requires an application for resource consent to:

1. Identify the persons affected by the proposal.
2. The consultation undertaken.
3. Any response to the views of any person consulted.

While the applicant is not obliged to undertake consultation, the applicant is obliged to report on who may be affected by the proposal. This is expanded upon in Section 11.3 of this report. The following addresses (2) and (3).

Consultation has been led by the HBRC Infrastructure Programme Management Office. This has involved various meetings, hui, community meetings, site visits and discussions with interested parties over the period April 2024 through to September 2025, while monthly newsletters (since November 2023) have been made available on the Councils website. How the design and alignment have been refined during the design process has been included in the consultation undertaken.

The applicant has engaged with multiple individuals either at community meetings, drop-in sessions or one-on-one's in regard to the design, associated works and land access matters. Discussions with those consulted have covered matters including:

- Extent of the stopbank footprints, including how the alignment has been refined,
- Impacts on Porangahau School,
- The bund around the Urupa,
- Proximity to the wastewater treatment plant,
- Stormwater management,
- Consequential flooding effects and mitigation,
- Construction management,
- Land access requirements.

These are among the primary matters that have been considered and responded to in developing the proposal.

Sections 9.1 – 9.5 below provide further detail in regard to the following key parties:

- Relevant Māori entities,
- Porangahau School and MoE,
- CHBDC,
- Community Groups.

8.1 Māori Entities

Ngāti Kere Hapū Authority has been the primary entity that HBRC has engaged with as partners on the project as well as Rongomaraeroa Marae. This has involved:

- Initial hui in August 2024 with Ngāti Kere Hapū Authority confirming their commitment to active engagement with the Pōrangahau Māori committee and Rongomaraeroa Marae. Meeting focused on progressing the Memorandum of Understanding(MOU) which outlined cultural inclusion, and the key issues of the rebuilding of the Marae facilities and the housing solutions for the Kaumatua Flats.
- Sept – Oct 2024 various meetings with impacted landowners including site walkovers. Community drop in event on the 5th October.
- Hui in November 2024 to discuss the draft MOU with Tangata Whenua Partners. Key actions included the clarification of Mana Whenua, Cultural Monitor and community liaison roles.
- Feb 2025 – Hui with all mana whenua partners regarding the appointment of a community connector for the project.
- March 2025 Presentation at Rongomaraeroa Marae, presented at the Tamatea Pokai Whenua hui with a project update.
- Receipt of the Cultural Impact Assessment April 2025.
- Hui at Rongomaraeroa Marae to discuss the five options presented to the marae. June – 2025.
- Whanangatanga Hui held in Pōrangahau, key topics, project team introductions, role definitions, community engagement, land discussions, project updates and archaeology authority. September 2025.
- Hui in October 2025 to discuss the recommendations of the CIA and Mana Whenua input into the Ecological Management Plan.

The final point is discussed further in Section 10.3 in considering the matters of control pertaining to cultural values.

8.2 Porangahau School and MoE

Again, consultation has been ongoing, with points of note including:

- Initial hui in October 2024 to discuss impacts on school buildings, land requirements, discuss any considerations and concerns.
- November 2024, meeting with school principal and board chair to gain an understanding of the potential impact to the school.
- March 2025 introduction meeting with Geri Dethier, asset manger at MOE
- Follow-up discussions during April-October 2025 to discuss areas of interest/concern in relation to the stop bank alignment and project updates.

8.3 Central Hawkes Bay District Council

An initial meeting was held with CHBDC in April 2024 to discuss the Pōrangahau flood protection project. Since then, regular (circa monthly) 'catch up' sessions have been held

between CHBDC and HBRC's project team to discuss issues and share information in the recovery space.

8.4 Community Groups

Meetings with the wider community have occurred on an ongoing basis. Points of note include:

- Initial meeting in April 2024 with the community to discuss a flood resilience plan,
- Ongoing community meetings and drop-in sessions held on weekdays and on some Saturdays, to provide updates and opportunities for one-on-one discussions.

9. OIC ASSESSMENT

This part of the assessment relates to activities within the OiC footprint. Being a Controlled Activity, and according to the requirements of the OiC, the purpose of the following assessment of environmental effects is to:

(1) Determine, and if necessary, refine the standardised conditions in Schedule 2 of the OiC to avoid, remedy, or mitigate potential adverse effects i.e. link the established/ standardised conditions embedded in the OiC (to avoid, remedy, or mitigate potential adverse effects) with the identified matters/effects, and

(2) Determine the need for any additional conditions to avoid, remedy, or mitigate potential adverse effects (within the scope of the matters of control in Schedule 3 of the Order).

This analysis is structured through Section 10.2 – 10.13 according to the topics under which various matters of control are grouped in Schedule 3 of the OiC – these being:

- General matters
- Cultural values
- Freshwater
- The coastal environment
- Stormwater management
- Soil, land and ecology
- Visual effects and amenity
- Adjoining landuses
- Heritage and archaeology
- Access and transport
- Contaminated land

Prior to this, the permitted baseline established by rules in the District and Regional Plans is considered in Section 10.1.

Identified amendments to the standardised conditions are outlined in **Appendix 10.**

9.1 Permitted Baseline

When considering the effects of an activity, a consent authority may disregard an adverse effect on the environment if the plan permits an activity with that effect (s 104(2)). The permitted baseline is useful in this context as it assists in establishing what the anticipated outcomes of the District and Regional Plans are with respect to environmental effects on the river berm and visual and amenity effects in particular.

District Council Functions

- Natural hazard mitigation activities (construction of stopbank), (and their associated visual amenity and landscape effects) are permitted within the Flood Hazard overlay.
- Earthworks up to 2000m³ per Hectare per site in the General Rural Zone, and up to 50m³ per site in the Settlement Zone are permitted (NOISE-S5(2)).
- Disturbance of soil that is not within an identified HAIL site or having been subject to HAIL activities is permitted under the National Environmental Standard: Assessing and Managing Contaminants in Soil to Protect Human Health (NES-CS).
- Exotic vegetation removal is permitted.
- Indigenous vegetation removal outside identified SNAs and Coastal environment, up to specified thresholds, is permitted.
- Noise that complies with NZS6803:1999 Acoustics - Construction Noise is permitted,
- However, other rules also apply such as the nature of the activity triggering a discretionary activity consent in the General Rural and Settlement Zones.

Regional Council Functions

- Some flood management activities in relation to river protection maintenance works are permitted under Rule 70 of the RRMP and/or Clause 51 of the National Environmental Standard: Freshwater (NES-F) that do not otherwise trigger consent under the NES-F.

The scale and intensity of the effects associated with the above activities are relevant when assessing the comparative impact of the current proposal.

9.2 General Matters **(as referenced in Schedule 3 of the OiC)**

The following matters of control are listed under 'General':

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

(b) The risk (likelihood and severity) of erosion resulting from the proposed works, and measures to avoid or minimise that risk.

(c) Potential adverse effects on fisheries, and measures to avoid or minimise that risk.

(d) Potential adverse effects on wildlife, habitat and ecosystems, and the application of the effects management hierarchy.

(e) The management of construction works to avoid, remedy, or mitigate potential adverse effects on receiving environments, including adverse effects of hazardous substances, spills, and stormwater run-off.

Matter (a) is considered in Section 10.2.1 below, but with matters (b), (c) and (d) relating more to the matters grouped under 'Soil, Land and Ecology', these are considered in Section 10.7 Although not a specific topic listed in Schedule 3 of the OiC, matter (e) pertaining to construction is considered in Section 10.13.

9.2.1 Consequential Flooding

(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.

Planning Context

It is recognised within the Regional Policy Statement (RPS) that there is widespread potential for flooding within Hawke's Bay, and that individual rainfall events causing flooding can range from localised downpours affecting particular catchments, to cyclonic storms causing general flooding over large parts of the region.

Considerable flood protection works have been carried out by HBRC, particularly on the Heretaunga and Ruataniwha Plains. In addition to the obvious potential impact of large floods on unprotected areas however, it is noted in the RPS that while these works have significantly reduced the risk from most flood events, very large events exceeding flood protection design standards can impact normally protected areas.

Indeed, the risk of flooding cannot be completely avoided, and there will always be potential for incidences when land is impacted by flooding, regardless of whether that land benefits from an existing flood protection scheme or how that land may have experienced flooding in the past. In this context the RPS refers to broader land use planning and adequate and timely flood forecasting being fundamental to managing the risk of flooding.

For context, Objective 31 of the RPS is the avoidance or mitigation of the adverse effects of natural hazards on people's safety, property, and economic livelihood. In regard to flooding, Policy 55 directs HBRC to focus both hazard avoidance and mitigation on areas of high human population density as a first priority, and to provide flood mitigation measures where the benefits can be shown to outweigh the costs. While there is reference (in the Policy) that costs should be met by beneficiaries, this directive is not applicable in this circumstance given the funding approach for projects covered by the OiC / Land re-categorisation process.

Risk Assessment

An assessment of effects on flooding has been undertaken by PDP, with Beca also being engaged to:

1) Review and provide comment on PDP's report Assessment of Effects on Flooding for Proposed Porangahau Stopbanks. (PDP Effects Report).
2) Report on the consequences of the proposed works on the local community. This includes the areas and numbers of buildings where the risk of flooding will change due to the works, with the information drawn from the PDP report.

The PDP report is provided in **Appendix 14** with the Consequences Report prepared by Beca in **Appendix 15.** The following consideration draws on the content of these reports.

Consideration:

Consequential flooding (i.e. additional flood risk occurring as a result of the proposed stopbank and flood wall) is a matter that the designers have been cognisant of and have been testing throughout the design process to arrive upon the solution proposed in this application.

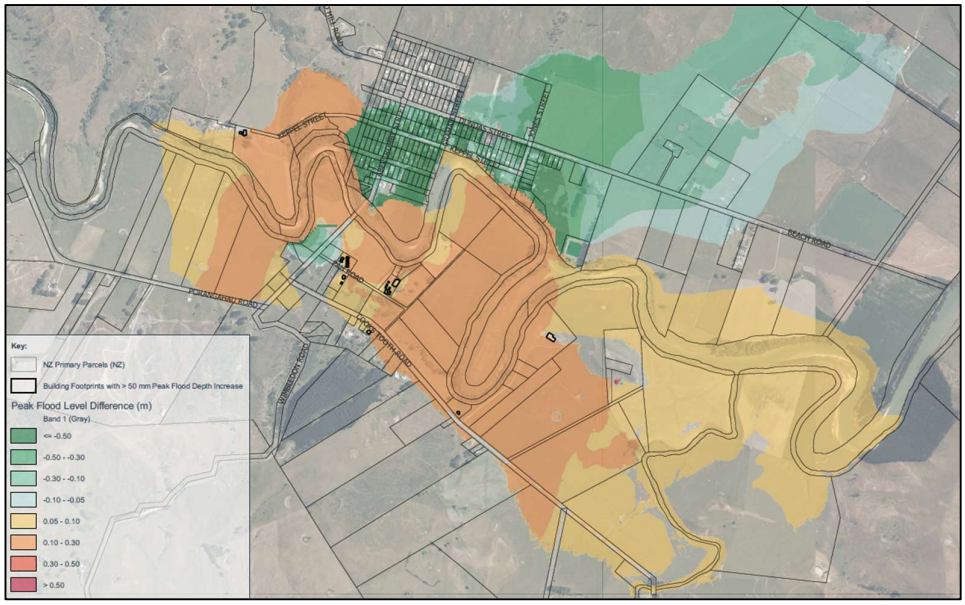
The assessment of effects on flooding has been completed by PDP for a future state 1% AEP event. Flood models were undertaken in a before and after stopbank construction scenario to inform evaluations on the changes in flood extents, flood depths, flow velocities, and hazard classifications.

Flood Levels:

Focusing on the potential increase in flood depths across the broader area, the difference map provided in Appendix A of the PDP Report (Figure A3), which is based on the 100-year ARI with climate change, and as further detailed in the report, are summarised as follows:

- Decreases in flood levels for properties north of the stopbanks in Porangahau village,
- Decreases in flood levels for the urupa south of the proposed bund,
- Increases of up to 0.3m to the south of the river, and to the east and west of the northern side of river beyond the stopbank extent,
- *Beach Road:* 67 building footprints will have an increase or around 8 – 11mm at the peak flood depth. This is in the context of current predicted flooding of around 0.4 – 2.5m depth,
- *Cooks Tooth Road:* 4 building footprints are predicted to increase by up to 120mm,
- *Keppel Street:* one building will have an increase in peak flood depth of up to 140mm,
- *Marae and Kaumatua Flats:* The water levels at the marae and the Kaumatua Flats at the peak of the 1% AEP event are estimated to increase by up to 0.11m,
- *14 Pah Road:* Increase of up to 80mm for two building footprints.

Figure 16: Change in flood levels (Post-development - pre-development flood levels)

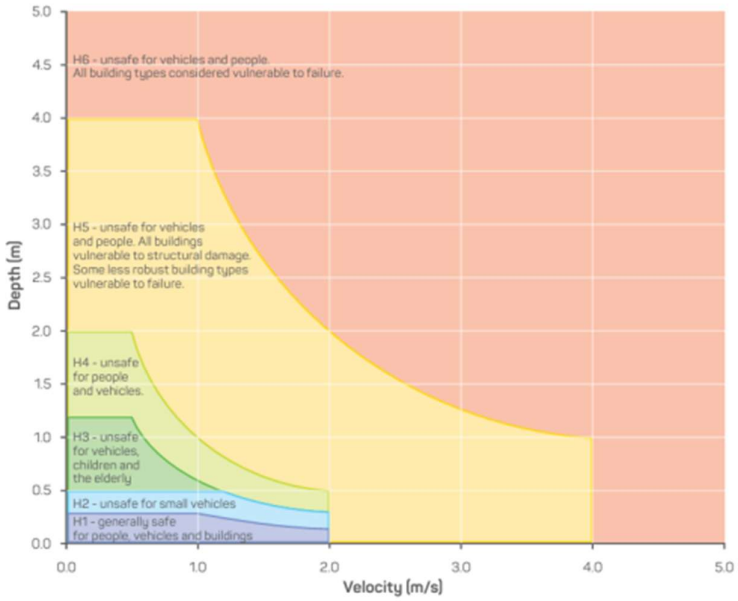


Flood Hazard Risk:

Focusing on areas where the model indicates a potential effect on flood levels, the assessment goes onto consider impacts on buildings, critical buildings, lifeline utilities and buildings with social or cultural significance.

The *"Australian Disaster Resilience Handbook 7 Managing the Floodplain: A Guide to Best Practice in Flood Risk Management in Australia (AIDR 2017)"* has been adopted to evaluate the impact. This provides an overview of various risk categories (H1 – H6) based on flood depth and velocity as shown below.

Figure 17: Flood Depth vs Velocity Risk Category



In terms of buildings, there is a significant increase in overall flood protection as a result of the proposed works with 124 buildings have a reduced hazard classification after the proposed works. Most of the buildings experiencing a higher modelled flood level in the 1% AEP + CC event do not change hazard classification due to the minimal increase in levels and/or velocity.

The modelling suggests the consequences of the proposed scheme are:

- **Pōrangahau Township** – Flood depths reduced for 23 properties, flooding removed for 128 properties.
- **Kaiwhitikitiki Urapā** – Flood depths and velocities reduced, with a reduction in hazard classification from H5 to H3.
- **Lifeline routes** – Depths, velocities and hazard generally unchanged.
- **Rongomaraeroa Marae** – Flood depths increased by 86 – 108mm in the design event (baseline depths of 510 – 650mm increasing to 600 – 740mm). The hazard classification of H3 for the marae will remain.
- **109 Keppel Road** – Flood depth increased from 190mm to 330mm, but hazard category is unchanged.
- **Pah Road properties** – Flood depths increased for 5 properties by 66 – 110mm (baseline depths of 0.87 – 1.43m increasing to 0.95 – 1.54m), but hazard category is unchanged (lowered for one property).
- **Cooks Tooth Road properties** - Flood depths increased for 3 properties, and 1 new property flooded. Hazard category unchanged.
- **Beach Road properties** - 67 Beach Road properties are estimated to have a depth increase of 1.1cm. This is not considered material, as it comes on top of already considerable flood depths (0.4 – 2.5 m depths) and is well within modelling uncertainties.

In evaluating the identified effects of the proposal against five criteria, Beca concludes that the benefits of the proposal outweigh community wide scale impacts and that the consequences of the proposed stop bank are acceptable.

It is noted that increased flood levels along Pah Road are in the context of already significant flood levels of around 1m – 1.5m during the design event. New buildings in this area would be subject to the Flood Hazard Risk area of the Central Hawkes Bay Regional Plan with or without the stopbank in place.

Based on the findings of PDP and Beca, beyond the mitigation built into the proposal, no additional mitigation or conditions are proposed by HBRC in respect to consequential flooding. It is noted, however, that discussions with the Pah Road properties (including the marae and kaumatua flats) regarding potential mitigation are ongoing. Although not considered required to mitigate an increase in flood hazard risk as a result of the project, the scope of the project includes allowance for a small bund around these properties (earth embankment or flood wall) of around 1.2m in height (up to 1.8m) if agreed as an appropriate measure with the landowners and residents.

9.3 Cultural Values

The following matters of control are listed under '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.*

Section 12(2)(e) also requires consideration of:

(ii) the potential effects on any cultural values identified by a relevant iwi authority or hapū; and
(iii) the potential effects on any culturally significant land within or adjoining the area where the works are to be carried out:

The proposed works extend into a wahi taonga site identified in the Central Hawkes Bay District Plan (Kaiwhitikitiki Urupa and Henare Matua Tohu Whakama, referred to as HH-67). This is for the construction of the bund. While this is not specifically focused on in the CIA, an Archaeological Authority will be in place to manage any unexpected discoveries.

In regard to the remaining matters, and as introduced above, a CIA have been has been and include a number of recommendations.

Table 6 below contains the individual recommendations made. Although this resource consent process does not provide scope for all to be realised, each recommendation has nevertheless been considered and responded to, with input from the HBRC Māori Partnerships Team. Where scope allows, a response has been provided as to how those specific recommendations can be given effect through the standardised conditions of consent - which are proposed to be adopted to manage effects on cultural values in respect to the matters over which control has been reserved. A Memorandum of Understanding has been entered into with Ngāti Kere Hapū Authority and this will complement the resource consent conditions.

Where scope does not allow some of the recommendations to be realised within this project, it is noted that there are a number of workstreams being undertaken by the broader HBRC team, and that part of the Māori Partnerships Team's role is to connect opportunities for ongoing engagement. The CIA will inform this work, which is ongoing.

It is our understanding that Ngāti Kere Hapū supports the proposed OiC conditions, and the view that these give effect to the recommendations in the CIA that are applicable to the resource consent for this project.

Table 6: Analysis of CIA Recommendations

Reproduced from the CIA		Response
Theme	**Recommendation**	
Te Mana Whakahaere Takirua – Co-governance structure	**Shared Authority:** HBRC and Ngāti Kere establish a co-governance structure that recognises Ngāti Kere as mana whenua to jointly oversee management strategies, decision-making, and evaluations of the project, ensuring meaningful hapū participation in caring for their environment.	Collaboration with mana whenua is provided for within the OiC process and standardised conditions. In particular: • Condition 4 provides for the appointment of Māori Entity representatives, and cultural monitors to inform and advise the consent holder about managing and monitoring the flood protection works. • The cultural monitors are to 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 (Condition 4). Amendments are proposed to 'build out' their role to also provide advice in preparing the Communications Plan and Ecology Management Plan – which in reality need to be prepared ahead of the CEMP. Amendments are proposed to Condition 5(2) to focus on these initial requirements with ongoing inputs being provided for under Condition 10(c)(3), • The consent holder is to report how the information and advice has been taken into account in the carrying out of the flood protection works (Conditions 5 and 7), • The Stakeholder Advisory Group may comment on the CEMP and the consent holder must take account of any comments received by the persons invited when finalising the CEMP or any amendment (Condition 11). • The Ecologist is to work the Māori Entity representative in developing the Ecology Management Plan. Amendments

		are proposed to Condition 28 to emphasis this is to be undertaken in partnership.
	Cultural Values Framework: Develop an agreed cultural values framework to guide project decisions, ensuring that impacts on cultural values are consistently considered throughout the project lifecycle.	Condition 4 provides for the appointment of Māori Entity representatives, and cultural monitors to inform and advise the consent holder about managing and monitoring the flood protection works. The cultural monitors are to 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 (Condition 4).
	Joint Monitoring: Implement a collaborative monitoring program between HBRC and Ngāti Kere to continually evaluate the cultural, environmental, and spiritual outcomes post-construction, ensuring timely responses to emerging issues.	
	Co-management Opportunities: Explore opportunities for co-management of completed flood protection infrastructure, potentially enhancing Ngāti Kere's role in environmental stewardship.	Ongoing management of the flood protection works is outside the scope of the OiC consent process.
Ngā Mahi Whakawhanaunga me Ngāti Kere – Robust Stakeholder Engagement	**Engagement:** Establish a structured, ongoing consultation process that actively involves Ngāti Kere kaumātua, cultural experts, and stakeholder groups from the project's inception through to post-construction evaluation.	Conditions 4 – 7 establish the framework for a Stakeholder Advisory Group, which includes Māori Entity representatives, and cultural monitors to inform and advise the consent holder about managing and monitoring the flood protection works.
Ngā Tikanga Mahi – Culturally Sensitive Construction Protocols	**Cultural Protocols:** Develop construction protocols that enable Ngāti Kere to conduct necessary cultural ceremonies before, during, and after construction that incorporate appropriate karakia and tikanga to establish rāhui to respect and mitigate any negative spiritual impacts during the works.	Condition 4 provides for the appointment of Māori Entity representatives, and cultural monitors to inform and advise the consent holder about managing and monitoring the flood protection works. The cultural monitors are to provide the consent holder with guidance on appropriate protocols to inform construction management.
	Cultural Design elements: Integrate culturally appropriate design elements that reflect Ngāti Kere cultural narratives and connection to place, potentially including interpretive features, art installations, or landscape design informed by cultural values.	There is a valuable opportunity to seek funding to support the development and implementation of culturally significant features (storytelling panels, artwork, interpretative signage)

	This should include involving local carvers, artists, and craftspeople in creating cultural markers, pou whenua, gates, and interpretation panels. Ensuring that these cultural elements are created by Ngāti Kere acknowledges their inextricable connection to the land and river.	along the flood walls. These will be incorporated where possible, subject to budget constraints.
	Viewshaft Protection – Consider the protection of significant cultural viewshafts in stopbank and flood wall design and placement, particularly in relation to Rongomaraeroa Marae and Kaiwhitikitiki Urupā.	Mana whenua representatives and cultural monitor continue to work with the project team on project designs. Viewshafts cannot be incorporated into the sheetpile wall, as it creates weak points.
	Cultural Landscape Integration – Utilise design approaches that minimise visual intrusion and support the interpretation of the cultural landscape, such as naturalistic contouring and appropriate native planting across the stopbank corridors.	Planting can occur adjacent to or parallel with stopbanks, and any planting or restoration required in these areas will be carried out in consultation and partnership with mana whenua and landowners.
Te Tiaki i ngā Wāhi Tapu me ngā Wāhi Taonga – Protection of Sacred and Cultural Sites	**Safeguarding Sites:** Conduct detailed site assessments and mapping of culturally significant locations, and establish protective barriers and measures-such as pou rahui-to prevent inadvertent damage during construction of stopbanks and flood walls	Condition 4 provides for the appointment of Māori Entity representatives, and cultural monitors to inform and advise the consent holder about managing and monitoring the flood protection works. The project team will work closely with the Cultural Monitor and establish protective barriers/measures as required.
	Archaeological Assessment and Management Conduct a comprehensive archaeological assessment along the entire 2 km stretch of proposed works, with particular attention to the proximity of recorded sites such as V24/95 (Te Pao Porangahau), Te Awakari o Tamanui, Rongomaraeroa Marae, Kaiwhitikitiki, Oreorewaia, and Kahotai. Develop and implement an archaeological management plan in collaboration with Ngāti Kere.	An Archaeological Authority will be in place and will include procedures around these matters.
	Cultural Monitoring Develop and implement cultural monitoring protocols with	Condition 4 provides for the appointment of Māori Entity representatives, and cultural monitors to inform and advise the

	active involvement of Ngati Kere cultural experts during all construction activities, particularly during ground disturbance within the stop bank and retaining wall corridors near Oreorewaia and Kahotai, and at borrow pits.	consent holder about managing and monitoring the flood protection works. The cultural monitors are to provide the consent holder with guidance on appropriate protocols to inform construction management.
	Anticipated Discovery Protocol Implement a comprehensive anticipated discovery protocol developed in collaboration with Ngati Kere to manage any unexpected archaeological findings during excavations.	The Archaeological Authority will document procedures to be followed. Conditions will be imposed under the Authority separate to this resource consent process. An Accidental Discovery Protocol will be developed for the project, with input from mana whenua and the Cultural Monitor. This protocol will also be a contractual requirement for the contractor and will include provisions for immediate notification and culturally appropriate responses.
	Tikanga-based Approaches: Incorporate appropriate tikanga (customary practices) during significant project milestones, potentially including site blessings, cultural inductions for workers, and ceremonial acknowledgments, particularly for works near Rongoma raeroa Marae, Kaumatua Flats, Kaiwhitikitiki Urupa, Rongomaraeroa Reservation, Oreorewaia, and Kahotai.	The project team will continue to engage with the Cultural Monitor, mana whenua representative, and the mana whenua working group throughout the project lifecycle to ensure appropriate tikanga is upheld.
	Timing Considerations Consider Te Maramataka (Maori calendar) and seasonal activities in construction, and scheduling to minimize disruption to cultural practices at Rongomaraeroa Marae and other significant cultural sites.	The project team is committed to accommodating for kaupapa Māori and other significant events. This includes allowing for designated stop days for tangihanga or other important observances as identified by mana whenua.
	Archaeological Authority: Pursue an Archaeological Authority before commencing work, as recommended in the archaeological report, to address the "potentially high archaeological risk".	An Archaeological Authority will be in place and will include procedures around these matters.

	Protection measures: Develop specific protection measures for the identified of sites of cultural significance including Te Awakari a Tamanui, Te Pao Porangahau, Kaiwhilikitiki Urupa, Rongomaraeroa Marae and Reservation, Oreorewaia, and Kahotai.	The project team will work closely with the Cultural Monitor and establish protective barriers/measures as required.
	Pou Whenua and Cultural Markers Install Pou whenua along significant points of the Tauraekaitai River and across the wider landscape. These carved posts will acknowledge ancestral pa sites, traditional kainga, urupa (cemeteries), and movement trails. Each Pou will be carved with symbols reflecting the mana of Ngati Kere tipuna (ancestors) and will serve as both cultural markers and visual anchors in the landscape, guiding present and future generations.	Opportunity for cultural features on the project and to collaborate with existing local initiatives.
Te Whakaurunga o Mātauranga Māori I Integration of Mātauranga Māori	**Traditional Knowledge Integration:** Ensure that traditional Maori ecological knowledge is embedded in environmental assessments and design modifications, so as to clearly understand and mitigate impacts on the mauri of the land and water.	An Erosion and Sediment Control Plan is required to be prepared under Condition 14 – information on which must be included in the Construction Environment Management Plan, which the Stakeholder Group, of which the Māori Entities will be members, will have opportunity to comment on. Further, the Ecologist is to work the Māori Entity representative in developing the Ecology Management Plan.
	Interpretation panels will be placed along significant sites beside the river, sharing the whakapapa (genealogy) and stories of Ngati Kere's relationship with the Tauraekaitai River. These panels will be bilingual (Te Reo Maori and English) and will provide educational content on the river's history, the impact of floods, and the role of Ngati Kere as mana whenua and kaitiaki of the awa. The panels may also feature QR codes linking to videos and	Opportunity for cultural features on the project.

	audio recordings of local kaumatua (elders) sharing traditional knowledge and oral histories.	
	Local Materials: Incorporate native plant species and cultural design elements from Ngati Kere traditions into landscaping and aesthetic components, enhancing the project's connection to place and cultural context. Develop educational materials that document the cultural significance of the area and the steps taken to protect it during stopbank construction.	Develop a planting plan as required, in partnership and consultation with mana whenua and landowners.
	Habitat Enhancement Implement habitat enhancement measures for culturally significant species affected by the project, developed with input from Ngati Kere knowledge holders.	The project team will develop a planting plan/programme that is inclusive and reflective of mana whenua aspirations for culturally significant species that may be affected by the project. This plan will be developed in consultation and collaboration with mana whenua and landowners.
	Cultural Mapping and Documentation Support cultural mapping initiatives to document cultural values and sites that may be affected by the 2 km stretch of works, contributing to the maintenance of cultural knowledge and addressing the current gap in official recognition of sites such as those recorded in ArchSite.	The project team will continue to engage with mana whenua on opportunities for broader initiatives outside the scope of the project.
	Educational Initiatives Develop educational resources about Ngati Kere cultural connections to the Porangahau area, potentially including interpretive signage, digital resources, or educational programmes.	The project team will continue to engage with mana whenua on opportunities for broader initiatives outside the scope of the project.
	Digital Storytelling and Innovation Ngati Kere supports the development of digital storytelling tools to help tell the stories of the	The project team will continue to engage with mana whenua on opportunities for broader initiatives outside the scope of the project.

	Tauraekaitai River. This could include apps or augmented reality (AR) features that allow users to engage with the river's cultural and ecological history interactively. These tools would help ensure that matauranga Maori (traditional knowledge) is preserved and shared with future generations.	
	District Plan Recognition Advocate for the formal recognition and protection of recorded archaeological sites, particularlyV24/95 (Te Pao Porangahau), in the Central Hawke's Bay District Council Operative District Plan.	Outside the scope of the resource consent.
Te Waiaro kite Reo Maori I Language Revitalization	**Bilingual Signage:** Install bilingual signage, information panels, and interpretive materials that incorporate te reo Maori throughout the project area, explaining the traditional narratives and relationships with the river and land.	The project team will continue to engage with mana whenua on opportunities for broader initiatives outside the scope of the project.
Te Whakawhanake Pukenga I Capacity Building Community Development	Provide employment, training, and skills development opportunities for Ngati Kere members during and after construction, maximizing economic benefits for the community.	Engagement of contractors is subject to HBRC's procurement policies and procedures. Remuneration of Māori entity representatives is a matter identified in Condition 4 to be considered in developing a terms of reference however.
Te Whakarauora Taiao I Environmental Restoration	**Restoration Initiatives:** Implement a culturally aligned environmental restoration strategy to restore indigenous riparian vegetation along the river to support both the mauri of the river and the health of the ecosystem. This includes the planting of native species that have cultural significance. The restoration of these plants reintroduces native biodiversity and rehabilitates areas disturbed by flood protection works.	In regard to this project, Conditions 4 – 7 establish the framework for a Stakeholder Advisory Group, which includes Māori Entity representatives, and cultural monitors to inform and advise the consent holder about managing and monitoring the flood protection works. This includes input into the Ecology Management Plan (5(b)).

9.4 Freshwater

The following matters of control are listed under '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.

Matters (a) and (c) relate to natural inland wetlands and are considered in Section 10.4.1. Matter (d) relating to the reclamation/diversion of the bed of water bodies is considered in Section 10.4.2 and fish passage in Section 10.4.3. Matter (e) relating to the management of potential sedimentation and contamination is a construction matter and is considered in Section 10.13.

9.4.1 Natural Inland Wetlands

(a) Potential adverse effects on the values of any natural inland wetland and hydrological regime.
(c) Application of the effects management hierarchy to works affecting any natural inland wetland.

Works to create the stopbanks and access ramps on the northern end of the site near Keppel Street will result in the loss of all of the rautahi sedgeland wetland (moderate value, 0.05ha), a small section of the juncus rushland wetland (moderate value, 0.019ha) and a section of the creeping bent stream margin wetland (low value, 0.005ha). A total of 0.074ha of wetland will be lost. This is necessary to tie the north-western end of the stopbank into higher ground.

The establishment of the stopbank and access ramps will also likely result in some small change in hydrology, however, a culvert will be constructed underneath the stopbank to provide hydrological connection. A flapgate will prevent flood water from flowing the opposite way towards the town. Overall changes in hydrology in relation to the natural inland wetland will therefore be minimal. Mitigation is proposed in the paddock in which creeping bent wetland is located. This will be described in the Ecology Management Plan required under standard condition 28.

9.4.2 Reclamation/Diversion of the Bed of a Water Body

(d) The use of reclamation and diversion to facilitate flood protection works.

Except for the stopbanks and floodwalls themselves, no reclamation or diversions are proposed as part of the works. Effects on ecological values and appropriate consent conditions are considered in Section 10.7 below.

9.4.3 Fish Passage

(b) Provision for the passage of fish.

Only an intermittent stream has been identified as being potentially affected. The intermittent stream is identified as having low ecological values with limited natural instream habitat. Aquatic biodiversity is assessed as likely being restricted to hardy macroinvertebrates tolerant of stagnant flows, poor physical habitat conditions, and potential contaminants. A new culvert will be installed under the stopbank to facilitate drainage.

The intake structure for the surface water take will be designed to avoid entrainment of fish.

9.5 Coastal Environment

The following matters of control are listed under 'Coastal Environment':

(a) The methods to be used to avoid, remedy, or mitigate the effects of any identified coastal hazard on the flood protection works.

(a) Potential adverse effects of the flood protection works on landscape values of the coastal environment, and measures to avoid, remedy, or mitigate those effects

Being located some distance inland and outside the coastal margin, the location of the proposed works does not raise any matters in relation to on or of effects on the coastal environment.

Minor amendments have been made to the standardised conditions to remove reference to the coastal environment or CMA.

9.6 Stormwater Management

The following matters of control are listed under 'Stormwater Management':

(a) The quality of stormwater discharged from the area where flood protection works are carried out, including the concentration of any hazardous substances in the stormwater, and measures to avoid, remedy, or mitigate contamination and the sediment loading.

(b) Potential adverse effects (including potential cumulative effects) on water quality in any receiving freshwater or coastal environment, and measures to avoid, remedy, or mitigate those effects.

The standard condition in the OiC to avoid, remedy or mitigate effects in relation to stormwater is Condition 21, which states:

(1) The consent holder must, not later than 3 months after the completion of the construction works,

(a) document the requirements for the effective operation and maintenance of all stormwater treatment devices (including sediment traps, if practicable); and

(b) submit the documents to the consent authority.

(2) The consent holder must design any new permanent culvert to ensure that any headwater ponding upstream in the relevant design event does not have any significant adverse effect in that area.

(3) *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.*
(4) *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.*

In terms of (2) and (4), the PDP Cross Drainage - Design Report provides indicative culvert details for stormwater cross-drainage (Drawing No: SK-)55). Design of the culverts to provide adequate levels of service is being undertaken by Stantec on behalf of CHBDC as part of a wider stormwater improvement project for Porangahau.

The above conditions are proposed to be retained to suitably manage effects on both stormwater ponding and water quality – with minor amendments to (1) noting that the final design is unlikely to involve permanent 'treatment' devices.

9.7 Soil, Land and Ecology

The following matters of control are listed under 'Soil, Land and Ecology':

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

Matter (a) relating to potential erosion and stability is considered in 10.7.1 together with matter (b) from 'General'.

Matter (b) is similar to matter (e) from 'Freshwater' and is considered in Section 10.13 pertaining to construction.

Matter (c) is considered in Section 10.7.2 and matter (d) in Section 10.7.3, where (c) and (d) from 'General' are also considered.

The effects of the proposed water take are considered in regard to (d) from 'General' in Section 10.7.4.

9.7.1 Erosion and Stability

(a) *Potential soil erosion and other adverse effects on soil stability, and measures to avoid, remedy, or mitigate those effects.*

Section 7.2 of the Preliminary Design Report considers geotechnical matters and provides an overview of the following assessments/matters:

- Liquefaction Assessment,
- Lateral spread,
- Static settlement,
- Differential settlement,
- Ground bearing capacity,
- Slope stability.

Seismic liquefaction analyses showed acceptable vertical settlements, and lateral spreading of 400mm under ULS conditions was within the acceptable criteria threshold as defined by HBRC (2021).

Other matters associated with material composition, revised slope stability analysis, and settlement analysis, will be further refined as part of detailed design.

In respect to soil erosion, this will be managed during construction under the CEMP and ESCP, while the flooding assessment has concluded in regard to erosion and scour that flood velocities under the modelled events are generally unchanged or are reduced, with localised increases not expected to significantly increase scour.

No additional conditions are considered necessary in this regard to this matter of control.

9.7.2 Natural Landform and Contour

c) Potential adverse effects on natural landforms and contours, and measures to avoid, remedy, or mitigate those effects.

The proposed works have considered the natural landform and provided for drainage features. No additional conditions are considered necessary in this regard.

9.7.3 Ecology

(d) Potential adverse effects on terrestrial ecology, and measures to avoid, remedy, or mitigate those effects.
(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.

Condition 26 of the standardised conditions set out the following ecology principles to be applied to the design of the flood protection works and in carrying out the works:

(a) to apply the effects management hierarchy to the following potential adverse effects:
(i) permanent habitat loss (including in coastal, terrestrial, and freshwater habitats):
(ii) 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:
(iii) habitat fragmentation or habitat barriers (including in coastal, terrestrial, and freshwater habitats):
(iv) impacts on habitat connectivity (including coastal, terrestrial, and freshwater habitats):
(v) impacts on at-risk or threatened species and taonga species:

(vi) *effects on water quality (including on kaimoana and mauri) from sediment:*
(vii) *alteration of natural hydrology patterns, except as necessary to facilitate the flood protection works:*
(viii) *spread or establishment, or both, of pest plants or animals:*
(ix) *impacts on habitats that play an important role in the life cycle and ecology of native species:*

(b) *as far as practicable, to create safe habitats, especially for at-risk or threatened species and taonga species:*
(c) *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:*
(d) *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.*

Condition 27 of Schedule 2 requires preparation of an Ecological Scoping Survey to:

- Identify all ecological values relevant to applying the ecology principles to the places where construction works, and,
- To assess the adverse effects the construction works have had on the ecological values identified by the ecological scoping survey.

Finally, Condition 28 relates to preparation of an Ecology Management Plan, which requires ongoing recording and reporting in anticipation of the design of the works occurring on a progressive basis.

The standardised OiC conditions anticipate a lesser degree of design and assessment than has been provided in this application. Here, there is already a high degree of clarity over the proposal and mitigation required and proposed. The scoping study that would have been required by Condition 27 has already been undertaken and has enabled ecological values to be identified and considered as part of developing the design. It has also considered the potential presence for bats, native birds and native lizards and determined appropriate responses.

It is therefore not considered necessary to impose Conditions 27 and 28 in their standardised form. Amendments are proposed to provide for the specific mitigation/management already developed and assessed by the applicant. Key points include:

- The requirements for an ecological scoping survey to be prepared under Condition 27 has been removed on the basis that this work and the outcomes anticipated to inform design, ecological management/mitigation and implementation have already been achieved through the Ecological Scoping Assessment prepared by PDP. Consequential amendments are also made to Condition 18(3),
- 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 Assessment - with the key matters being:
    - Developing procedures for managing bats prior to felling trees that have potential bat roosting features,
    - Developing procedures for managing native bird species prior to vegetation removal,

- Developing procedures to reduce the risk to lizards occupying the site during construction,
- Identifying areas of vegetation removal and disturbance of wetlands, and preparing revegetation plans.

- The Project Ecologist must still work with the Māori Entities representatives to prepare an Ecology Management Plan,
- The consent holder must still report to the Stakeholder Advisory Group every 2 months on work undertaken according to the Ecology Management Plan and on any other works deemed necessary by the Project Ecologist, working with the Māori Entities representatives,
- A report must still be completed at the completion of works that describes the ecological mitigation works carried out by the consent holder.

9.7.4 Water Take

(d) Potential adverse effects on wildlife, habitat and ecosystems, and the application of the effects management hierarchy.

A surface water take from Porangahau River is proposed to support dust and construction management for the duration of construction works. An additional condition is proposed (condition 30 in **Appendix 10**) to manage the rate of take, the design of the intake structure, monitoring and reporting, and to require abstraction to cease when river flow falls below the specified minimum flow threshold.

There is currently no allocation or minimum flow set for the Porangahau River under the RRMP (Policy 74, Table 9). There was an estimate of Mean Annual Low Flow (MALF) of ~ 43 L/s as part of the Porangahau and Te Paerahi wastewater replacement consents. A review of river flow data at the upstream Salesyard monitoring site is consistent with this estimate. In the absence of a set minimum flow set, the previously estimated MALF is considered appropriate to minimise risk to ecological values as a result of the temporary water take. On this basis, the proposed conditions allow the maximum instantaneous rate of 25 L/s to be undertaken up to a maximum 30% of the live-monitored flow rate (i.e. when flow does not go below 80 L/s). The flow rate must then reduce to 10 L/s (being the minimum efficient rate of take for dust suppression purposes). When the live-monitored flow rate reduces to 53 L/s, the take must cease, to protect the MALF rate in the river. Alternative measures to achieve dust suppression would be required, or construction would cease until flow rates increased in the river. The details can be confirmed by the contractor as part of the CEMP.

As the water take will be temporary, and will enable sufficient water to remain in the river to support ecological values (subject to the proposed minimum flow condition), the proposed conditions are considered appropriate to mitigate potential adverse effects.

9.8 Visual Effects, Landscape and Amenity

The following matters of control are listed under 'Visual Effects, Landscape and Amenity':

(a) Potential adverse visual effects on the following:
  (i) the residential or recreational (including tourism) use of land in the vicinity of the flood protection works:

(ii) the existing character of the locality and amenity values:
(iii) outstanding or significant landscape areas.

(b) Potential adverse amenity effects on adjoining land.
(c) Construction noise, vibration, and dust generation, including having regard to the noise sensitivity of the receiving environment.
(d) Potential adverse effects of the hours of operation of flood protection works.
(e) Potential adverse effects on identified recreation areas.
(f) Potential adverse effects on public health and safety during works.
(g) Measures to avoid, remedy, or mitigate the effects described in paragraphs (a) to (f), including post-completion reinstatement and landscaping in relation to the effects described in paragraph (a).

Matters (a), (b), (e) and (g) are considered below. Matters (c), (d) and (f) relate more to construction and are considered in Section 10.13.

In terms of (a)(iii), the area of works is not within an outstanding or significant landscape area, nor within an area of recreation as referenced in (a)(i) and (e).

Turning to (a)(ii), (b) and (g) and the existing character and visual and amenity values of the adjoining area, the Landscaping Scoping Assessment has concluded that the project will not result in significant potential adverse effects on the adjacent properties from a visual amenity perspective. On the basis that Condition 24(2) of the OiC only requires landscaping where significant potential effects are identified, no further landscaping is proposed in this context, and it is not considered that the proposed works will give rise to any unreasonable effects in relation to existing character or visual and amenity values.

Noting the existing requirement of the CEMP and conditions pertaining to noise, vibration and dust, which the applicant has adopted, there is no need for any further conditions to mitigate potential effects on amenity.

9.9 Adjoining Land Uses

The following matters of control are listed under '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.

Matter (a) relating to effects on the subject and adjoining land is considered in Section 10.9.1 with effects on infrastructure assets and facilities in Section 10.9.2.

9.9.1 Effects on the Subject Land and Adjoining Land

(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.

The landowners of the land upon which the works will occur have been involved in the developing the solution. In principle, and noting the design features around providing for

existing services and access to adjoining properties, the proposed works are not anticipated to compromise the actual use of the properties concerned. This includes Porangahau School where the alignment and design has had regard to the location of the school buildings and playing fields.

In terms of the adjoining land, noting effects in relation to flooding and visual outlook/amenity have been considered in Sections 10.2.1 and 10.8 above respectively:

- Culverts are proposed to accommodate the existing drainage pattern,
- The stopbank itself is not anticipated to compromise existing or potential landuse activities.

No additional conditions are considered necessary.

9.9.2 Effects on Infrastructure Assets

(b) Potential adverse effects on infrastructure assets and facilities (including those of network utility operators), and measures to avoid, remedy, or mitigate those effects.

As outlined above, the area of works is characterised by various infrastructure services, including the wastewater treatment plant, while Keppel Street is a public road.

All these features have been taken into account in the design of the scheme. The presence of this infrastructure is not expected to impact construction, nor is the proposed flood protection expected to affect this infrastructure.

Further consultation will be undertaken with networks utility operators and CHBDC as part of the detailed design process and in preparing the CEMP, while they will also be invited to appoint a member to the Stakeholder Group under Condition 6, which, under Condition 11, will enable the opportunity to comment on the CEMP. No further conditions/amendments are considered necessary to address effects on infrastructure assets.

9.10 Heritage and Archaeology

The following matters of control are listed under 'Heritage and Archaeology':

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

As outlined above Archaeology Hawke's Bay has concluded that due to the number and proximity of recorded archaeological sites, it is recommended that an Archaeological Authority is sought for all or part of the proposed work, depending on the outcome of a full Assessment of Archaeological effects.

An Archaeological Authority is in the process of being applied for, which will include management protocols to reduce risk to unidentified archaeological sites.

The structure of Condition 29 provides for this approach and is considered a reasonable response to avoiding, remedying, or mitigating adverse effects on heritage values.

9.11 Access and Transport

The following matters of control are listed under 'Access and Transport':

(a) Potential adverse effects on access to and along or around watercourses and water bodies, and measures to avoid, remedy, or mitigate those effects.

(b) Potential adverse effects on the safe and efficient operation of the transport network during flood protection works, and measures to avoid, remedy, or mitigate those effects.

Matter (a) is considered below, with matter (b) being considered in relation to construction in Section 10.13.

The location and form of the proposed stopbank and flood wall features will not prevent opportunities for future access to the Porangahau River. Three access ramps are proposed over the stopbank, at Jones Street, Moore Street and over the stopbank below The Duke Hotel. This forms part of the proposal. As such, no specific measures/conditions to avoid, remedy, or mitigate effects associated with access to and along or around watercourses and water bodies are considered necessary.

In terms of access during construction, Condition 10(3)(g) requires the CEMP to include procedures for managing public health and safety - including restrictions on public access to work sites and the 'river'. Further, the Communications Plan required under Condition 9 requires a description of the construction works, which will include such procedures.

These standardised conditions are proposed to manage potential adverse effects on access to and along or around watercourses and water bodies during construction. No further measures/conditions are considered necessary.

9.12 Contaminated Land

The following matters of control are listed under 'Contaminated Land':

(a) Potential adverse effects on human health from disturbance or use of contaminated soil.

(b) Measures to avoid, remedy, or mitigate those effects, including—

(i) remediation or management methods proposed to reduce risk posed by contaminants; and

(ii) timing of remediation; and

(iii) standard of remediation on completion of works.

Based on its findings, the PSI recommends that a Contaminated Land Site Management Plan (CSMP) is prepared to manage potential effects on human health in respect to contaminated soil. The matters to be included are outlined in Section 6.5.2.

Amendments to Conditions 10 and 17 have been made to this effect.

9.13 Construction

Although not a specific topic noted in Schedule 3, many of the matters of control listed under other topics relate to construction. These include:

General:

(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:

(e) The management of flood protection works to avoid, remedy, or mitigate potential sedimentation or contamination effects on any receiving environment.

Soil, Land and Ecology:

(b) Potential soil run-off and sedimentation, and measures to avoid, remedy, or mitigate those effects.

Visal Effects, Landscape and Amenity:

(c) Construction noise, vibration, and dust generation, including having regard to the noise sensitivity of the receiving environment.

(d) Potential adverse effects of the hours of operation of flood protection works.

f) Potential adverse effects on public health and safety during works.

Access and Transport:

(b) Potential adverse effects on the safe and efficient operation of the transport network during flood protection works, and measures to avoid, remedy, or mitigate those effects.

These matters essentially cover:

- Stormwater management and erosion and sediment control
- Nuisance effects i.e. noise, vibration and dust
- Hours of operation
- Public health and safety
- Construction traffic

Each is considered below:

Stormwater Management and Erosion and Sediment Control:

- The Design Report outlines the key matters that will be considered in managing erosion and sediment during construction, including a conceptual Erosion and Sediment Control Plan,
- An Erosion and Sediment Control Plan is required to be prepared under Condition 14 and will be circulated to key stakeholders for feedback as part of preparing the CEMP prior to works commencing,
- Condition 13 requires an Erosion and Sediment Control Manager to be appointed for the duration of the flood protection works. This will ensure a focused approach to erosion and sediment control and managing the potential for sedimentation of waterbodies,
- Condition 15 outlines the process for managing/responding to any failures,

- Condition 19 sets out specific requirements particularly in regard to managing the potential for spills when working within, or adjacent to, the bed of a river,

Nuisance Effects (Noise, Vibration and Dust):

- Condition 16 states 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,
- Condition 23 states:
    1. 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.
    2. The consent holder must take all practicable steps to reduce levels of noise and vibration from plant and equipment operating on site during construction.
- Dust, noise and vibration are all matters to be considered in preparing the CEMP, which must be circulated to key stakeholders for feedback,

Hours of Operation:

- Hours of operation will generally be 6.00am to 7.00pm each day,
- The start time is to allow for erosion and sediment control measures to be implemented, monitored and checked. The use of dust suppressants is far more effective if they are first used in the early morning,
- The broader working hours will enable the works to be completed as soon as possible,
- As outlined above, noise will be managed according to the long-term duration limits set out in Table 2 and Table 3 of NZS 6803:1999,

Construction Traffic:

- Site access and on-site traffic management is a matter to be considered in preparing the CEMP under Condition 10, which is required to be prepared by the contractor and circulated to key stakeholders for feedback prior to works commencing. A Transportation Impact Assessment has been prepared to inform the CEMP preparation (**Appendix 7**), which considers potential construction traffic routes to minimise impacts on access including to Porangahau School. The safety and functioning of key roads throughout the community will be an obvious factor in further developing the traffic management approaches.

Public Health and Safety:

- In addition to the matters already discussed, public health and safety is a matter to be considered in developing the CEMP,
- The CEMP is also required to consider procedures for managing hazards, including any risk of flooding and restrictions on public access to work sites and the river.

The requirements of Conditions 10 and 14 pertaining to the preparation of a CEMP and an Erosion and Sediment Control Plan are comprehensive and considered sufficient to ensure that overall, effects with regard to construction can be suitably managed. No other conditions are considered necessary.

9.14 Summary

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, many of the outcomes provided for in the standardised conditions have already been met and components of them are not required as conditions of consent. Amendments to the standardised conditions are proposed to enable more effective implementation of the works.

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

10. STANDARD RMA PROCESS ASSESSMENT

This assessment relates to the three areas and the activities within them that are outside the OiC Footprint, as well as the excavation of material from the potential borrow sites.

10.1 Planning Context

While the various National Environmental Standards have been considered in Section 7.2 above in identifying the resource consents required, the following Tables set out the applicable National Policy Statements and Regional and District level planning documents.

Table 7: National Policy Statements

National Policy Statement	Applicable
National Policy Statement for Freshwater Management	Yes
National Policy Statement for Greenhouse Gas Emissions from Industrial Process Heat	No
National Policy Statement for Highly Productive Land	Yes
National Policy Statement for Indigenous Biodiversity	No
National Policy Statement for Renewable Electricity Generation	No
National Policy Statement on Electricity Transmission	No
National Policy Statement on Urban Development	No
New Zealand Coastal Policy Statement	No

Table 8: Regional and District Level Planning Documents

Planning Document	Applicable
Regional Policy Statement	Yes
Operative Regional Resource Management Plan	Yes
Plan Change 9	Yes
Regional Coastal Environment Plan	No
Central Hawke's Bay District Plan	Yes

The National Policy Statement for Freshwater Management (NPS-FM) and National Policy Statement for Highly Productive Land (NPS-HPL) are considered in this section, while the Regional and District Plan level planning documents are considered in Section 11.4 below.

10.1.1 National Policy Statement for Freshwater Management

The NPS FM 2020 came into force on 3 September 2020. It generally relates to freshwater quantity and quality matters but also contains a suite of further provisions relating to other matters such as tangata whenua involvement, integrated management, setting objectives/outcomes/actions and monitoring. These are generally high level, however, and of a nature to inform Plan development processes. Greater consideration has been given to the Regional and District Plan level planning documents considered in Section 11.4 below.

10.1.2 National Policy Statement for Highly Productive Land

The NPS-HPL was published in September 2022. The NPS-HPL requires regional councils to map highly productive land in the region, and for regional policy statements and district plans to be updated to give effect to the key objective being "*Highly productive land is protected for us in land-based primary production, both now and for future generations*" – with the key policy in this instance being "*Highly productive land is protected from inappropriate use and development.*"

The HBRC has not yet mapped highly productive land in the region through the process identified in the NPSHPL. Therefore, the interim definition of highly productive land outlined in clause 3.5(7) would apply during a resource consent process.

As identified in **Figure 24** above, some of the areas of work outside the OiC Footprint are classified as LUC 3. Use or development of this land is constrained by the NPS. However as outlined below, the policy statement provides for flood protection activities as 'Specified Infrastructure' and creates an exemption pathway for the proposal under Clause 3.9 (j)(i).

Clause 3.9 states (emphasis added):

(1) Territorial authorities must avoid the inappropriate use or development of highly productive land that is not land-based primary production.

(2) A use or development of highly productive land is inappropriate except where at least one of the following applies to the use or development, and the measures in subclause (3) are applied:

- (a) it provides for supporting activities on the land:
- (aa) it provides for intensive indoor primary production or greenhouse activities:
- (b) it addresses a high risk to public health and safety:
- (c) it is, or is for a purpose associated with, a matter of national importance under section 6 of the Act:
- (d) it is on specified Māori land:
- (e) it is for the purpose of protecting, maintaining, restoring, or enhancing indigenous biodiversity:
- (f) it provides for the retirement of land from land-based primary production for the purpose of improving water quality:

(g) it is a small-scale or temporary land-use activity that has no impact on the productive capacity of the land:

(h) it is for an activity by a requiring authority in relation to a designation or notice of requirement under the Act:

(i) it provides for public access:

(j) it is associated with one of the following, and there is a functional or operational need for the use or development to be on the highly productive land:

(i) the development, operation, or decommissioning of specified infrastructure, including (but not limited to) its construction, maintenance, upgrade, expansion, replacement, or removal

(ii) the maintenance, operation, upgrade, or expansion of defence facilities operated by the New Zealand Defence Force to meet its obligations under the Defence Act 1990:

(iii) mineral extraction that provides significant national public benefit that could not otherwise be achieved using resources within New Zealand:

(iv) aggregate extraction that provides significant national or regional public benefit that could not otherwise be achieved using resources within New Zealand.

(3) Territorial authorities must take measures to ensure that any use or development on highly productive land:

(a) minimises or mitigates any actual loss or potential cumulative loss of the availability and productive capacity of highly productive land in their district; and

(b) avoids if possible, or otherwise mitigates, any actual or potential reverse sensitivity effects on land-based primary production activities from the use or development.

(c) Territorial authorities must include objectives, policies, and rules in their district plans to give effect to this clause.

Specified Infrastructure is defined below, with particular reference to (c):

specified infrastructure means any of the following:

(a) infrastructure that delivers a service operated by a lifeline utility:

(b) infrastructure that is recognised as regionally or nationally significant in a National Policy Statement, New Zealand Coastal Policy Statement, regional policy statement or regional plan:

(c) any public flood control, flood protection, or drainage works carried out:

(i) by or on behalf of a local authority, including works carried out for the purposes set out in section 133 of the Soil Conservation and Rivers Control Act 1941; or

(ii) for the purpose of drainage, by drainage districts under the Land Drainage Act 1908

The proposal is therefore not an inappropriate activity in respect to the NPS-HPL. It is development of specified infrastructure, the spatial extent is limited to that required to deliver the flood protection project, and the stopbank and flood wall will not generate reverse sensitivity effects on the productive use of HPL.

It is further noted that the borrow site is "associated" with the specified infrastructure, and are therefore also captured by the exclusion in clause 3.9(2)(j). The actual loss of the productive capacity of highly productive land will not occur as the borrow sites will be backfilled by the stockpiled topsoil material and reinstated into pasture following completion of the excavation of stopbank material.

10.2 Section 104(1)(a) – Assessment of Environmental Effects

10.2.1 Assessment of Effects Arising from Activities Requiring Resource Consent from HBRC

The activities for which resource consent is required from HBRC for the three areas outside the mapped OiC footprint are outlined in **Table 4** above and include the following under various rules/Plans:

1. The deposition of material within 20m of the Porangahau River as part of constructing the stopbank,
2. The potential discharge of sediment laden water to land or water,
3. Potential dewatering (if considered a take and discharge and if required as part of construction),
4. The potential discharge of dust arising from soil disturbance,
5. The diversion of water during flood flows.

No resource consent from HBRC is considered necessary for the land based borrow sites. The surface water take will be from within the mapped OiC area.

Discharge and Dewatering Activities

In terms of (1), the material to be used to construct the stopbank will be natural, locally sourced material and will not present a risk to water quality.

Regarding (2), the potential discharge of sediment laden water may occur from sediment control devices should the design events used to size erosion and sediment control measures be exceeded. Such effects would be of a temporary nature and minor in the context of the rainfall event that would be occurring at the time when sediment loads are likely to be naturally high.

Nevertheless, the potential discharge of sediment laden water is proposed to be managed outside the OiC Footprint in the same manner as it is proposed to be within it – that is for erosion and sediment control measures to be in place (Condition 14(3)(b)) before and during all construction works, for failure of any erosion and sediment control measure to be responded to in the manner outlined in Condition 15 and for activities to be carried out in a manner that avoids if practicable, or minimises so far as practicable, adverse effects on freshwater environments, with particular regard to reducing opportunities for the works to generate sediment (Condition 12(c)). As within the footprint of the OiC, this approach is considered suitable in managing the potential for sediment discharge outside the footprint of the OiC.

While the need for dewatering in respect to (3) is not expected, the theoretical taking of water would involve minor amounts and would essentially be non-consumptive. With any

associated discharge involving natural water or levels of turbidity worst case, this is unlikely to present a risk to water quality after reasonable mixing – if even discharged to water. Dewatering is therefore, again, proposed to be managed outside the OiC Footprint in the same manner as within it – that is for these procedures to be outlined in the CEMP (Condition 10(3)(i)) and for these activities to be carried out in a manner that avoids if practicable, or minimises so far as practicable, adverse effects on freshwater environments, with particular regard to reducing opportunities for the works to generate sediment (Condition 12(c)). As within the OiC Footprint, this approach is considered suitable for managing the effects of potential temporary dewatering outside the OiC Footprint.

Further, given the temporary nature and minor scale of any effects associated with the discharge components of these activities, the proposal is not expected to give rise to any of the matters listed in Section 107(1)(c)-(g). Section 107(2) would nevertheless allow consent to be granted on the basis of the activities being of a temporary nature.

Regarding Section 105, the sensitivity of the receiving environment has been considered in locating the flood protection features in respect to the effects of associated discharge activities and is recognised in the management approaches to be applied.

Regarding the potential for dust as a result of soil disturbance, this will again be managed outside the OiC Footprint in the same manner as within it. This will generally include the use of water carts, sprinkler systems or similar, with further detail on measures being included in the CEMP to achieve the outcome in Condition 16 – being that as far as practicable, dust arising from construction works does not spread beyond the boundary of the work sites. As with within the OiC Footprint, this approach is considered suitable for managing the potential for dust outside the footprint of the OiC.

Diversion of Water

It has been demonstrated that the effects associated with the broader diversion of flood waters arising from the Porangahau Stopbank and Flood Wall will be largely positive i.e. the wider risk of flooding will be reduced. The small areas outside the mapped OiC extent are part of an integrated flood protection alignment. As assessed earlier in this report, the diversion will not result in any increase in hazard classification as a result of the diversion during a 1%AEP (including climate change allowance) scenario.

Increases in flood levels are in the context of existing flood levels, and are not directly related to features of the stopbank and flood wall being outside the OiC Footprint.

In this context, the consequential flood effects from the diversion of water associated with the stopbank and flood wall outside the OiC footprint are considered to be less than minor.

10.2.2 Assessment of Effects Arising from Activities Requiring Resource Consent from CHBDC

Activities outside the OiC footprint that require resource consent from HDC are outlined in **Table 4** above and include:

1. Disturbance of contaminated soil (under the NES CS),

2. Earthworks,
3. Use of land for a non-permitted activity.

Disturbance of Contaminated Soil

The proposed works require resource consent as a Discretionary Activity under regulation 11 of the NESCS. However, the matters of discretion in regulation 10 can assist when identifying relevant considerations when assessing the effects of the proposed disturbance. These are:

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

All these matters will be addressed in the Contaminated Site Management Plan that is required to be prepared under Condition 10. The requirement to prepare a Contaminated Site Management Plan is considered sufficient to ensure that any potential effects in terms of contaminated soils will be appropriately managed and avoided to a level which is less than minor.

Earthworks

Although being considered under a bundling approach as a discretionary activity, earthworks outside the OiC Footprint would ordinarily require resource consent as a Restricted Discretionary.[7] Rule EW-R7(2) of the District Plan identifies matters over which CHBDC has restricted its discretion for Earthworks requiring resource consent as a Restricted Discretionary Activity.

[7] As noted above, the works within the road reserve and those associated with the temporary by-pass do not require resource consent. As such, the assessment of effects does not include effects arising from this activity.

An assessment is provided in regard to each of these matters below in respect to the consents required under (2) and (3) above. We note the assessment criteria covers matters/effects such as:

- Land disturbance and vegetation clearance
- Visual impact
- Effects on other land uses and adjoining properties
- Noise
- Effects on Roading Network
- Effects on Watercourses, Waterbodies and on Recreation, Conservation or Significant Natural Areas
- Effects within High Natural Character Areas, Outstanding Natural Landscapes and Features, and Significant Amenity Features
- Electricity Safety Distances.

These matters/effects are addressed as part of considering the assessment criteria as follows:

Land disturbance and vegetation clearance

- For the areas that will support the stopbank and the flood wall, they will accommodate critical flood protection infrastructure, and have minimal impact on the life-supporting capacity of soils or the production potential of the Rural Zone,
- As noted above, the borrow areas will be backfilled with stockpiled topsoil material which will be reinstated in pasture to support ongoing pastural use as is the current productive use of the subject sites,
- Erosion and stability matters have been considered by PDP including through preparation of conceptural Erosion and Sediment Control Plan. PDP will progress the detailed design process according to the Design Report. This is considered to suitably address erosion and stability matters associated with the flood protection features,
- Erosion and sediment control measures will be employed to manage sediment laden stormwater runoff. As outlined in regard to the discharge activities regulated by HBRC in Section 11.2.1 above, the standardised conditions in the OiC relating to erosion and sediment control are considered appropriate to manage erosion and sediment control outside the OiC Footprint also,
- Fill material will be natural material,
- In terms of effects on flow paths and floodways, the assessment applied with regard to the diversion of water in Section 11.2.1 above can be applied here also,
- The works will not alter or impact overland drainage in relation to any adjacent sites and with reliance on the assessment and designs of PDP and Stantec (with respect to localised stormwater drainage) will not destabilise or cause erosion of any adjacent site.
- Vegetation clearance will be mainly of exotic species. An Ecology Management Plan is proposed for the project, which will include the areas outside the OiC footprint. No wetland vegetation removal is required outside the OiC footprint.
- It has been determined that the works may occur under an Accidental Discovery Protocol. While there are no known cultural heritage or archaeological sites within the footprint concerned, an Authority will nevertheless be in place in relation to construction management and a condition will be imposed to manage the

unexpected discovery of archaeological features, artefacts or taonga, as is common for development projects.

Visual Impact:

- Visual effects arising from the three areas of stopbank and flood wall outside the OiC mapped extent have been considered in the landscape scoping report and not considered to be significant.
- Works, including excavation of borrow areas and stockpiling of material, will be short term and the disturbed areas will be reinstated upon completion.

Effects on other land uses and adjoining properties – including noise and the roading network:

- Dust will be managed as referenced in Section 11.2.1 and is considered appropriate in respect to managing effects on adjoining parties.
- Noise will be managed according to the long-term duration limits set out in Table 2 and Table 3 of NZS 6803:1999. On this basis it is considered that noise effects will be less than minor.
- Construction traffic, including the transportation of borrow material from the identified borrow sites to the stopbank alignment will be undertaken in accordance with a traffic management plan. A Traffic Impact Assessment has been prepared and concludes that the project works can be undertaken in a way that does not cause significant adverse effects on the use of land for the duration of the construction works.

Effects on Watercourses, Waterbodies and on Recreation, Conservation or Significant Natural Areas:

- As outlined above, erosion and sediment control measures will reduce potential effects on the receiving watercourse.
- There will be no impact on Recreation, Conservation or Significant Natural Areas as a result of the proposed earthworks.

Effects within High Natural Character Areas, Outstanding Natural Landscapes and Features, and Significant Amenity Features:

- The sites are not located within any of these identified areas.

Standard condition 21 of the OiC sets out requirement in relation to land-based borrow sites, including in relation to slope of excavated areas; geotechnical stability; no excavation below the groundwater level; and reinstatement of the sites. Together with the standard conditions relating to construction and environmental management, and erosion and sediment control, the conditions are considered appropriate to ensure potential adverse environmental effects from the excavation and temporary stockpiling of material will be adequately avoided, remedied or mitigated.

In summary, the extent of earthworks is considered to have less than minor adverse effects on people, property and the environment.

Non-permitted activities in the General Rural Zone and Settlement Zone

The proposed activities do not clearly fall within the definition of any permitted activity. However, the areas outside the mapped OiC extent for the stopbank and flood wall are within the Flood Hazard Area, and are permitted under NH-R1. They are therefore an anticipated activity in this area and will provide critical flood protection to the rural and settlement land uses anticipated within these zones.

The borrow sites will provide locally sourced material for this critical flood infrastructure. The excavated areas will be backfilled with stockpiled topsoil material and returned to pasture, enabling ongoing rural use in accordance with the anticipated activities for the zone.

In this context, the non-permitted activities will have less than minor effects on the long term land use, and will provide significant positive effects in terms of providing flood protection.

10.2.3 Summary

The effects of the stopbank and flood wall features located outside of the OiC Footprint in respect to the diversion of floodwater, earthworks (including in relation to construction, soil contamination matters, drainage and visual effects), and the use of land, are considered less than minor. Further, the effects of the borrow sites in terms of earthworks and the long term productive use of rural land are also considered to be less than minor.

Secondly, it has been demonstrated that the standardised conditions of the OiC (as amended by the applicant) are equally suitable for managing the effects of the activities occurring outside the OiC Footprint as within it. These conditions were specifically designed to manage the relevant impacts of flood protection works on the environment. There is no reason why they cannot be adopted to avoid, remedy or mitigate the effects of equivalent activities outside the OiC Footprint.

Adopting a consistent set of conditions for works within and outside the OiC Footprint will enable effective monitoring and implementation of the consents. Rather than having two separate consent documents with the same conditions, it is suggested that the face of the consent document could reference the different consents authorised under the different legislation/Plans, but with the same set of conditions applying to both.

10.3 Section 95-95G Assessment – Notification

The following assessment focuses on the effects associated with the works outside the OiC Footprint.

There is no presumption in the RMA as to whether or not an application will be notified, and a consent authority has discretion in determining whether or not notification is necessary. This assessment is primarily governed by Section 95A and Section 95B of the RMA.

10.3.1 Section 95A Assessment – Wider Environmental Effects

Section 95A of the RMA considers the need for public notification and sets out four steps in a specific order to be considered in determining whether to publicly notify.

In terms of Step (1), public notification has not been requested, Section 95C pertaining to notification in the event that further information is not provided under Section 92 is not applicable, and the application is not being made jointly with an application to exchange recreation reserve land under Section 15AA of the Reserves Act 1977.

In terms of Step (2), none of the circumstances precluding notification are applicable.

Moving to Step 3, notification is not required by a rule in a Plan and the adverse effects of the features outside the OiC Footprint on the wider environment have been demonstrated in Section 11.2. of this report to be positive in respect to reducing the wider impacts of flood events, and less than minor in the case of other matters.

Lastly, Step 4 requires the consideration of any special circumstances. The purpose of considering special circumstances is to look at matters that are beyond the plan itself. Special circumstances have been defined as circumstances that are unusual or exceptional, but may be less than extraordinary or unique (*Peninsula Watchdog Group (Inc.) v Minister of Energy* [1996] 2 NZLR 529 (Court of Appeal)).

Special circumstances must also be more than where a council has had an indication that people want to make submissions and must be more than just the fact that a large or interesting activity is proposed. The fact that some parties may have concerns about a proposal, or a relevant topic does not in itself give rise to special circumstances.

It is submitted that consideration of the proposed activities is well provided for under the Regional and District Plan planning documents and that the actual or potential effects of the proposal are well understood. There are not considered to be any special circumstances in this particular case to justify notification. Public notification is therefore not required under any of the pathways in Section 95A.

10.3.2 Section 95B Assessment – Effects on the Local Environment and Particular Parties

While public notification is not necessary, any effects of the proposal on the local environment and upon particular parties must still be considered. This is addressed through Section 95B of the RMA, which has four steps similar to Section 95A.

In terms of Step (1), being outside the coastal marine area we understand there are no affected protected customary rights or customary marine title groups in terms of Subclause (2).

In terms of subclause (3), and whether the proposed activity is on or adjacent to, or may affect, land that is the subject of a statutory acknowledgement made in accordance with an Act specified in Schedule 11, the proposal falls within a Statutory Acknowledgment Area of Tamatea Pokai Whenua. The scale of effects on the entities therefore needs to be

considered in the context of S95B (refer Step 3 below).

In terms of Step (2), none of the circumstances in Subsection (6) that would preclude limited notification apply. We therefore move to Step (3).

Step (3) requires the consent authority to determine, in accordance with Section 95E, whether there are any affected parties. Section 95E states that a person is an affected person if the consent authority decides that the activity's adverse effects on the person are minor or more than minor (but are not less than minor).

The effects arising from the various features/activities to be undertaken outside the OiC Footprint have been identified and considered in Section 11.2 above. For the reasons expressed, the effects of the stopbank and flood wall features, as well as the borrow sites located outside of the OiC Footprint are considered less than minor.

The adjoining owners and occupiers are considered to be limited to the owners and occupiers of:

Stopbank and Flood Wall:

- The Wastewater Treatment Plant (Lot 1 DP 20711)
- Lot 6 DP 562529
- 2B Jones Street
- 6 Franklin Street

Borrow Sites:

- 18 Jones Street
- 41 Dundas Street
- 51 Beach Road

Figure 18: Adjoining Parties – Stopbank and Flood Wall (outside OiC extent)

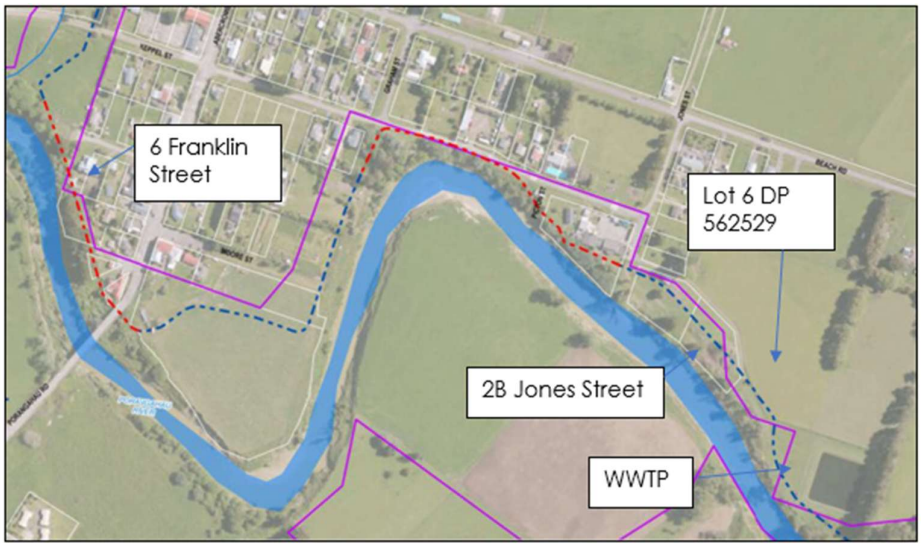
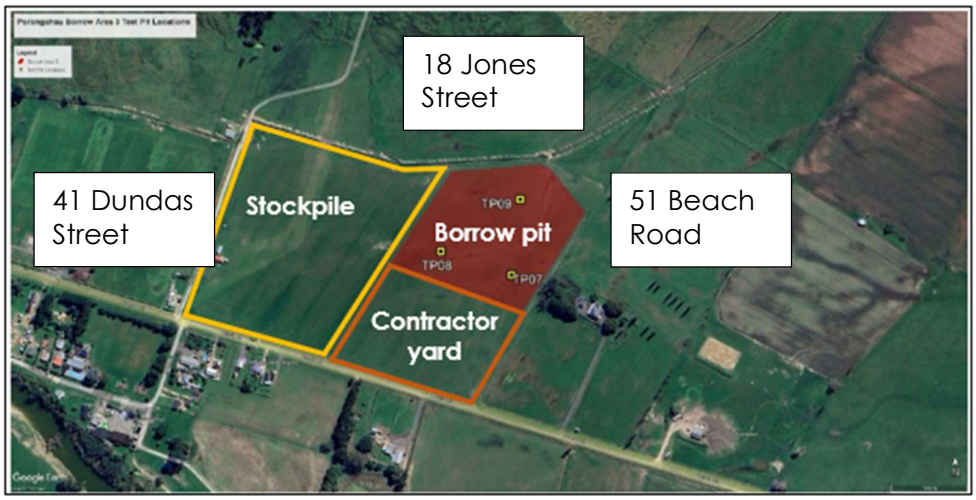


Figure 19: Adjoining Parties – Borrow pit and Stockpile site



Key points in coming to the view that effects on the adjoining parties will be less than minor include:

- Stopbank and flood wall adjoining sites:
    - The works will reduce the potential impacts of flooding,
    - In the context of the flood protection nature of the landuse, and based on the landscape scoping assessment, visual effects arising from the will be less than minor,
    - Access will not be compromised,
    - Construction effects including noise and the management of dust will be of temporary nature and managed to avoid unreasonable nuisance effects.
- Borrow site adjoining sites:
    - Construction effects including noise and the management of dust will be of temporary nature and managed to avoid unreasonable nuisance effects. The conditions of the CEMP will ensure effects are minimised to the extent practicable.

In respect to mana whenua parties, the works outside the OiC Footprint and not considered to give rise to any effects on cultural values that are not already associated with the works within the OiC footprint and which the standardised conditions of the OiC will manage under the bespoke framework established.

Lastly, Step 4 is similar to Step 4 of Section 95A and considers whether special circumstances exist that warrant notification of the application to any other persons not already determined to be eligible for limited notification. No special circumstances are considered to exist in this regard.

On the basis that there are no affected parties or any special circumstances, the application may be processed on a non-notified basis - acknowledging a number of parties will still have

the opportunity to provide comment on the broader flood protection proposal under Clause 15 of the OiC.

10.4 Section 104(1)(b) – Policy Assessment

In accordance with section 104(1)(b) of the RMA, a consent authority must, subject to Part 2 of the RMA, have regard to the relevant provisions of any statutory plans and policy statements. This includes any relevant provisions of:

i) National Environmental Standards (**NES**)
ii) Other regulations
iii) National Policy Statements
iv) The New Zealand Coastal Policy Statement (**NZCPS**)
v) Regional Policy Statements or proposed Regional Policy Statements (**RPS**)
vi) A Plan or Proposed Plan

With the NES for Assessing and Managing Contaminants in Soil to Protect Human Health being dealt with in Section 7.2, and the NPS-F and NPS-HPL being considered in Section 11.1, the provisions of RPS, RRMP and HDP remain to be considered.

10.4.1 Regional Policy Statement

The Regional Policy Statement is contained in Chapter 3 of the RRMP – with various Objectives and Policies relating to water quality and quantity matters. In light of the minor scale of effects identified in Section 11.2.1, the proposed activities are not expected to compromise the outcomes sought i.e.:

- There is unlikely to be any degradation of groundwater in respect to Objective 21
- Significant adverse effects on the long-term quantity of groundwater in aquifers and on surface water resources respect to Objective 23 and on existing users in respect to Objective 24 and Policy 38 will be avoided,
- Operations will be undertaken and measures will be in place to manage the quality of water will be maintained in line with Objective 25.

Importantly, the proposal is also consistent with Objective 31 relating to natural hazards, which is the avoidance or mitigation of the adverse effects of natural hazards on people's safety, property, and economic livelihood. This is very purpose of the proposal and as outlined the various assessments, it is consistent with the directions set down in Policy 55 and takes account of existing infrastructure in respect to Objective 32.

Finally, development of the broader proposal has given effect to Objectives 34 – 36 in respect to recognising tikanga maori, providing for contributions, consultation and proving for the protection of wahi tapu and other taonga.

10.4.2 Regional Resource Management Plan

The RRMP is contained in Chapter 5 of the RRMP. Again, there are a number of Objectives and Policies relating to water quality and quantity matters. In light of the assessments above,

and to avoid unnecessary repetition, the proposal is not considered to compromise any of the policy directions or environmental guidelines stated.

Noting the specific reference to Policy 79 in Rule 59 pertaining to the diversion of water however, it is noted that the guidelines contained in Table 12 that activities affecting river beds are to be managed in accordance these relate to the active riverbed and are not applicable to considering the effects of flood flow beyond the river berm - as is the case of the 'diversion' activity being considered in this application.

10.4.3 Central Hawke's Bay District Plan

While Objectives NHO2 and NHO3 relating to natural hazards seek to minimise the significant risks of natural hazards on the community, avoid increasing significant risk to people, property, infrastructure and the environment from the effects of natural hazards, which the proposal seeks to achieve, the provisions of the Earthworks, General Rural Zone and Settlement Zone District Plan are also applicable.

Here Objective EW-O1 and EW-O2 seeks to enable earthworks while ensuring that the life-supporting capacity of soils and ecosystems are safeguarded and adverse environmental effects, including on human health and safety are avoided, remedied or mitigated.

The matters raised in the supporting Policies reflect those considered in the assessment criteria in Section 11.2.2 above. Overall, the circumstances of the proposal will provide for the communities health and safety, and adverse effects of earthworks will be managed through erosion and sediment control measures, construction traffic, noise and dust management as required through the CEMP condition.

The productive use of rural land will be maintained to the extent practicable while facilitating the critical flood protection infrastructure, including through the re-pasture of borrow sites (EW-P4 and EW-P5).

With regard to the General Rural and Settlement Zone objectives, the anticipated activities and amenity of the zones will not be compromised by the project.

Overall, the proposal can be considered consistent with the Objectives and Policies pertaining to earthworks and the relevant zones, and totally aligned with Objectives NHO1, NHO2 and NHO3 relating to natural hazards which essentially seek to minimise the effects of natural hazards.

10.5 Section 104(1)(c) – Other Matters

Section 104(1)(c) provides for any other matter the consent authority considers relevant and reasonably necessary to determine the application to be given regard. With reference to the matters already considered in the body of this report, there are not considered to be any 'other matters'.

10.6 Part 2 Assessment

The assessments contained in Sections 11.2, 11.4 and 11.5 of this report are subject to the matters contained in Part 2 of the RMA, which contains Sections 5, 6, 7 and 8.

Section 5 sets out the purpose of the RMA, which is to promote the sustainable management of natural and physical resources and is supported by Sections 6, 7 and 8. Sections 6 and 7 contain the "matters of national importance" and "other matters" and Section 8 provides for the principles of the Treaty of Waitangi. These sections are hierarchical and provide for a different level of consideration to be given to each.

Regarding the extent to which Part 2 of the RMA should be considered in determining applications for resource consent, it is acknowledged that the relevant planning documents (RPS, HDP and RRMP) have been competently prepared having regard to Part 2 and have coherent sets of policies. For completeness, the following brief assessment under Part 2 is provided.

The matters listed in Section 6(a), (b) and (c) relate to natural character, outstanding natural features and landscapes and significant indigenous vegetation and habitats of indigenous fauna. The area of work has been assessed and is either not characterised by such features or works will be undertaken to avoid the identified matters being compromised. Access along rivers as provided for in Section 6(d) will not be compromised.

There are no identified heritage values that may be compromised in terms of Section 6(f), with the proposed bund seeking to improve flood protection to the urupa. The works will be managed to avoid the relationship of Māori and their culture and traditions with their ancestral lands, water, sites, waahi tapu and other taonga being compromised as provided for by Section 6(e). Sections 6(a), 6(aa) and 8 have been given regard / taken account of through the engagement undertaken and envisaged to continue through the proposed conditions of consent. In terms of Section 6(h) pertaining to natural hazards, the very purpose of the proposal is to reduce the impact of flooding on the community. Climate change has been given regard in respect to Section 6(i).

Turning to Sections 7(c) and 7(f), particular regard has been given to amenity values and the maintenance and enhancement of the quality of the environment, and it has been demonstrated that the activity's scale of effects on the receiving environment, including surface water resources, is acceptable.

11. CONCLUSION

The Project involves flood protection works that are located both within and outside of the OiC Footprint. This leads to a situation where the OiC process can be relied on in part, with the standard RMA process for the balance of the Project. This mixed approach to a single flood protection works activity is not an unanticipated consequence of the OiC. In the unique context of SWERLA and the bespoke consenting framework provided by the OiC, the activities within and outside of the OiC can and should be assessed separately, and not

bundled with the non-OiC parts of the Project. If bundling was applied, this would undermine the purpose of the OiC.

Works within the OiC Footprint

The works within the OiC Footprint are a Controlled Activity, and the application for these works must be granted, and processed on a non-notified basis. The OiC does, however, require engagement with mana whenua, local authorities and key stakeholders, together with technical assessments, which collectively ensures that a robust flood protection works consent is confirmed that will achieve significant benefits to Category 2 land while managing potential adverse environmental effects of the project to the extent practicable.

Key issues arising from the specific flood protection works design that are relevant to the matters of control have been identified and worked through in this report, with the standardised conditions largely adopted to avoid, remedy or mitigate any actual or potential adverse effects of the proposal. Where a sufficient degree of design and assessment has been undertaken such that effects and mitigation are clear, amendments have been made to the standardised conditions to enable efficient implementation of the recovery works.

Works outside the OiC Footprint

In terms of the activities outside the OiC Footprint and subject to the standard RMA process, consent is required under the NES-CS, CHBDP and RRMP as a discretionary activity overall.

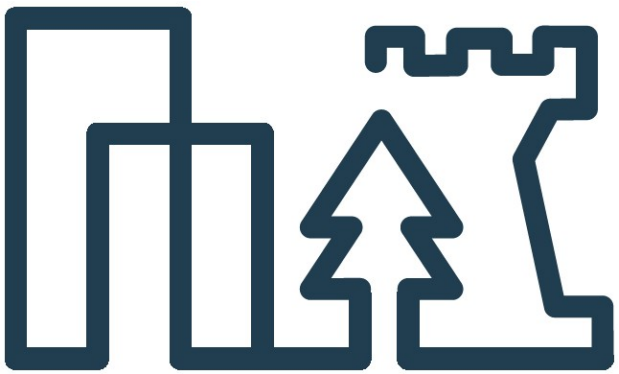
It has been demonstrated that the effects of these components of the Project will be less than minor, and in keeping with the applicable planning documents. The assessment provided in this document is that no notification is required for the non-OiC parts of the Project.

Further, it has been demonstrated that consent for these activities can be granted subject to the same condition framework that has been applied to the activities within the OiC Footprint. These conditions are considered to be appropriate to manage the effects of those parts of the Project - and adopting the same conditions will ensure that a consistent, workable approach is taken to the implementation and monitoring of the works, which will be efficient and effective.

Having considered the components of the Project to be assessed under the standard RMA process in terms of Part 2 of the RMA, it has been determined that the grant of consent for a discretionary activity is appropriate under sections 104 and 104B of the Resource Management Act 1991.

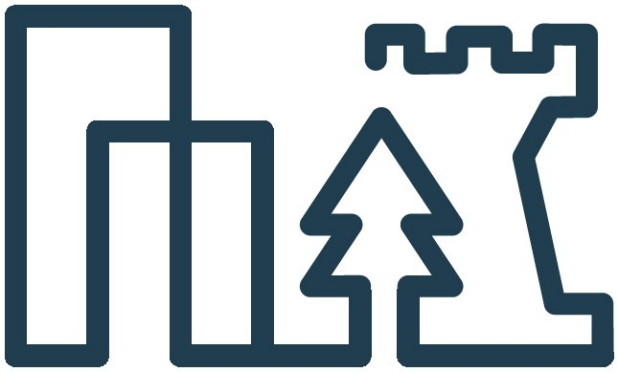
Appendix 1

Cultural Impact Assessment
(to be provided confidentially)



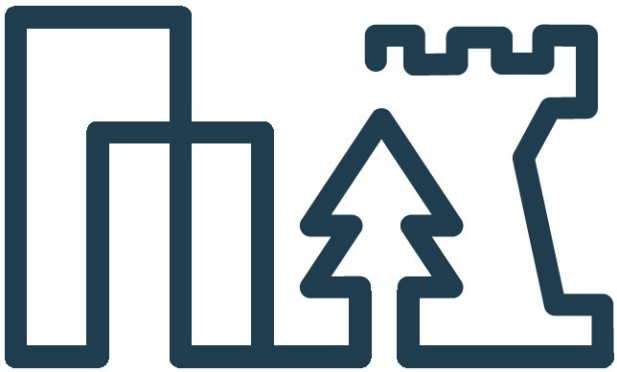
Appendix 2

Archaeological Screening Assessment



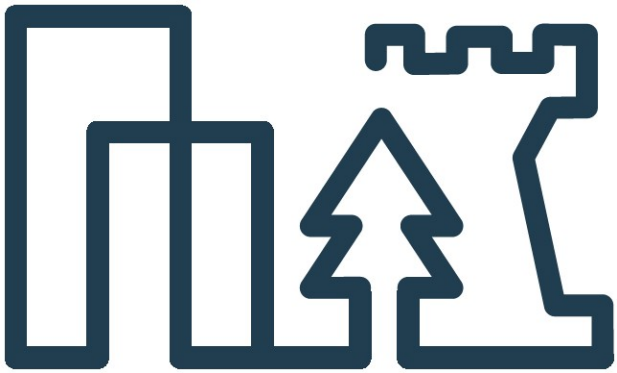
Appendix 3

Ecological Impact Assessment Report



Appendix 4

Landscape Scoping Study

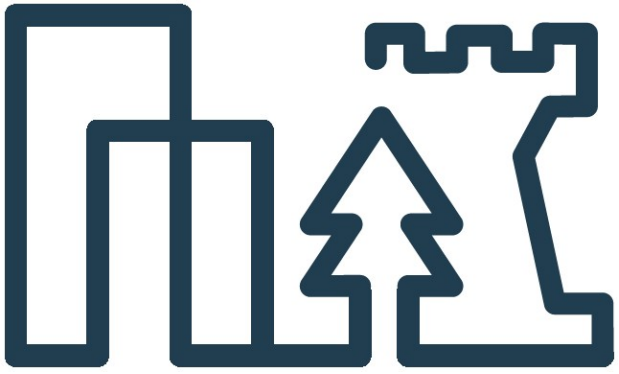


Appendix 5

Preliminary Site Investigation

Appendix 6

Preliminary Design Report



Appendix 7

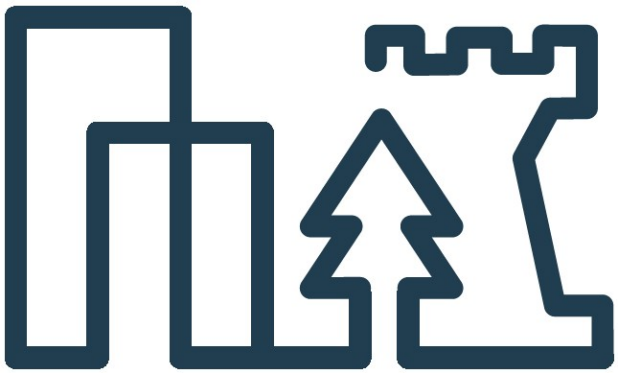
Traffic Impact Assessment

Appendix 8

Erosion and Sediment Control Concept Plan

Appendix 9

Borrow Pit Investigation Report



Appendix 10

Proposed Resource Consent Conditions

Appendix 11

Affected and Adjoining Parties (Condition 6(2)(a) and (b)

Appendix 12

Record of Consultation

Appendix 13

Māori Entities and Section 15(2)(a) Parties

Names and contact details to be provided confidentially

Appendix 14

Consequential Flooding Effects Assessment

(PDP)

Appendix 15

Consequential Flooding Assessment Evaluation

(Beca)