	RESOURCE CONSENT APPLICATION – RMA20250336 RESOURCE MANAGEMENT ACT 1991 SEVERE WEATHER EMERGENCY RECOVERY (HAWKES BAY FLOOD PROTECTION WORKS) ORDER 2024 WHIRINAKI FLOOD PROTECTION WORKS
	SECTION 42A PLANNING REPORT Clauses 8 and 14 - Severe Weather Emergency Recovery (Hawkes Bay Flood Protection Works) Order 2024 – Area <u>Inside</u> OiC Footprint Section 95A, 95B and 104 - Resource Management Act 1991 – Areas <u>Outside</u> the OiC Footprint

Summary of Application Details												
Application Received: 16 September 2025	<p>PID: 51018 and numerous others along the alignment of the stopbank.</p> <p>Schedule 1 <u>Within the OiC area</u> Construction of new stop banks and associated structures at Whirinaki to give effect to a flood protection scheme authorised under the OiC.</p> <p><u>Outside the OiC area</u> Undertake earthworks associated with the construction of flood protection stop banks to extend the area of protection at Whirinaki and in association with works within the OiC area.</p> <p><u>Other</u> Disturbance of Soil under the NESCS</p>											
Applicant:	Hawkes Bay Regional Council Private Bag 6006 Hawkes Bay Mail Centre Napier 4142											
Address of Sites:	Various Sites in the Whirinaki area off State Highway 2 and Northshore Road											
Legal Description:	<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr style="background-color: #4f81bd; color: white;"> <th style="text-align: left; padding: 2px;">Appellation</th> </tr> </thead> <tbody> <tr><td style="padding: 2px;">Fee Simple, 1/1, Lot 1 DP 405054, 87,370 m2</td></tr> <tr><td style="padding: 2px;">Fee Simple, 1/1, Lot 3-12 DP 506130, 73,408 m2</td></tr> <tr><td style="padding: 2px;">Fee Simple, 1/1, Lot 2 DP 24246, 4,944 m2</td></tr> <tr><td style="padding: 2px;">Fee Simple, 1/1, Lot 3 DP 562586, 132,815 m2</td></tr> <tr><td style="padding: 2px;">Fee Simple, 1/1, Lot 1 DP 562586, 90,028 m2</td></tr> <tr><td style="padding: 2px;">Fee Simple, 1/1, Lot 2 DP23303, 47,214 m2</td></tr> <tr><td style="padding: 2px;">Fee Simple, 1/1, Lot 1 DP 344267 and Lot 1 DP 28162 and Lot 1 DP 28357, 4,292,070 m2</td></tr> <tr><td style="padding: 2px;">Fee Simple, 1/1, Section 62 Block XII Puketapu SD, 2,734 m2</td></tr> <tr><td style="padding: 2px;">Road Reserve – North Shore Road</td></tr> <tr><td style="padding: 2px;">Road Reserve – State Highway 2</td></tr> </tbody> </table>	Appellation	Fee Simple, 1/1, Lot 1 DP 405054, 87,370 m2	Fee Simple, 1/1, Lot 3-12 DP 506130, 73,408 m2	Fee Simple, 1/1, Lot 2 DP 24246, 4,944 m2	Fee Simple, 1/1, Lot 3 DP 562586, 132,815 m2	Fee Simple, 1/1, Lot 1 DP 562586, 90,028 m2	Fee Simple, 1/1, Lot 2 DP23303, 47,214 m2	Fee Simple, 1/1, Lot 1 DP 344267 and Lot 1 DP 28162 and Lot 1 DP 28357, 4,292,070 m2	Fee Simple, 1/1, Section 62 Block XII Puketapu SD, 2,734 m2	Road Reserve – North Shore Road	Road Reserve – State Highway 2
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Road Reserve – North Shore Road												
Road Reserve – State Highway 2												
Zoning:	Rural Zone and Whirinaki Industrial Zone– Operative Hastings District Plan (July 2024)											
District Plan Overlays:	List 1 Riparian Area River Hazard Overlay National Grid – TPR - 2 Archaeological Site V20/69 Coastal Environment Boundary Land Use Capability Class 2 and Class 2 soils											

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

Acronyms used in this report

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

Appendix 1 – Comments Received

Appendix 2 – Conditions of Consent

1.0 The Proposal

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

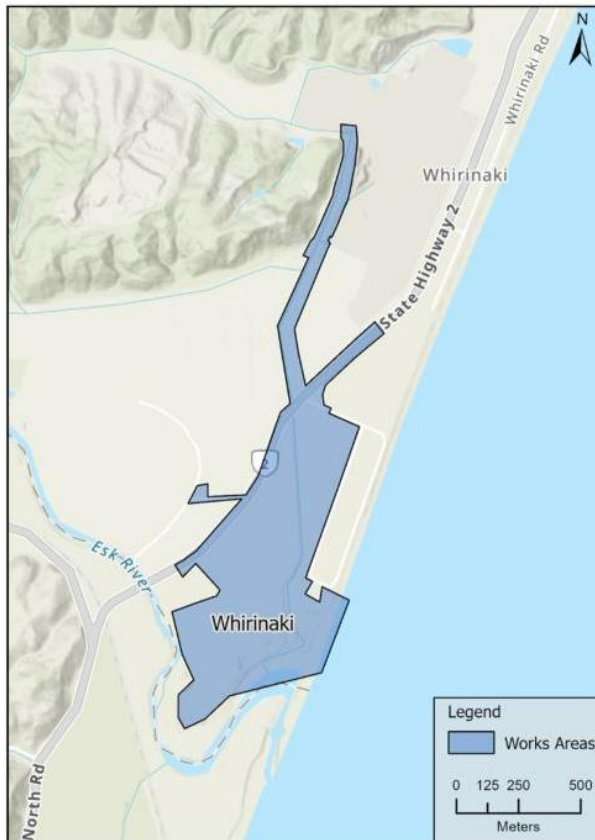


Figure 1: OIC Footprint at Whirinaki

- 1.3 The application provides a map of the part of the OIC footprint overlain on top of an aerial of the area. This map shows where the boundary overlaps some Category 2C¹ land. This is shown in Figure 2.

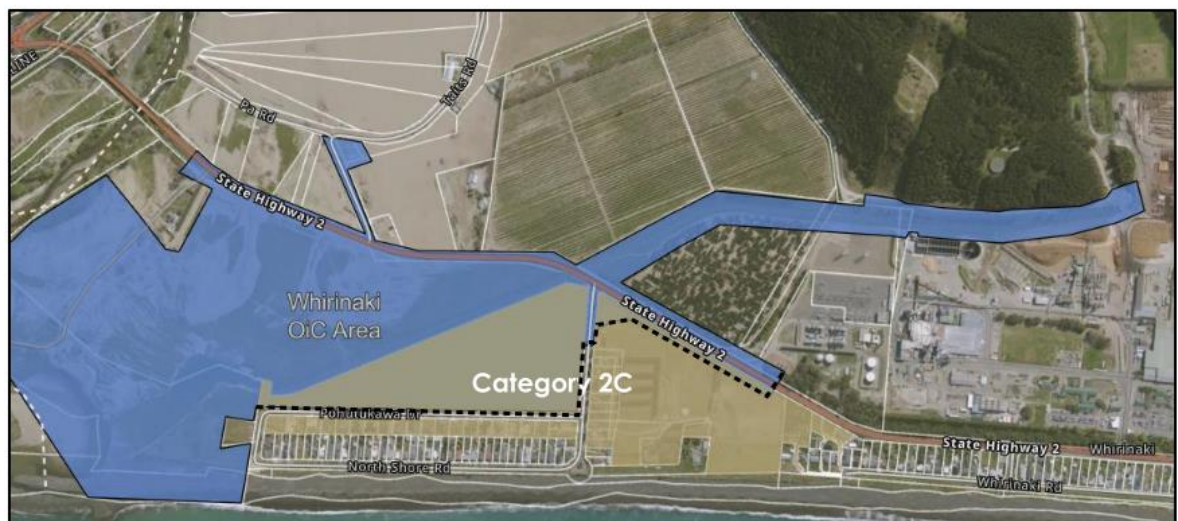


Figure 2: Sourced from Application (dashed line shows extent of the OIC footprint)

- 1.4 The application provides a full description of the proposal (HDC Ref: RMA20250336#0015) which I adopt for this report. The following is a brief description.
- 1.5 Whirinaki Flood Protection Project involves construction of a new stop bank comprising two main portions and associated works. These are referred to in the application as Whirinaki Stopbank and Pan Pac Stopbank.

¹ Land classified following Cyclone Gabrielle flood event

- 1.6 The Whirinaki Stopbank is to provide protection to the Whirinaki community in a 1 % AEP flood event (also known as a 1:100 year ARI event) and will have a freeboard of 700mm to the Category 2C properties in Figure 2 above and move these from a provisional Land Category 2C to Category 1. These works will also involve localised raising of North Shore Road to allow unimpeded access over the stopbank where it crosses North Shore Road. The specific design for the road raising is included in the application as Appendix 10²
- 1.7 The Pan Pac Stopbank has been designed to provide flood protection up to a 500-year level of service to the Whirinaki Power Plant (Transpower) and Pan Pac properties with freeboards ranging between 700mm – 900mm across the alignment. Specific details of the design together with plans are provided in the Whirinaki Drain Stopbank Upgrade Design Report³ prepared by Pattle Delamore Partners Limited (PDP) and provided in Appendix 9 of the application.
- 1.8 The majority of the stopbank works are located within OiC footprint area. Three areas of works are located outside OiC footprint and these are circled. All areas of works are shown in Figure 3 below.

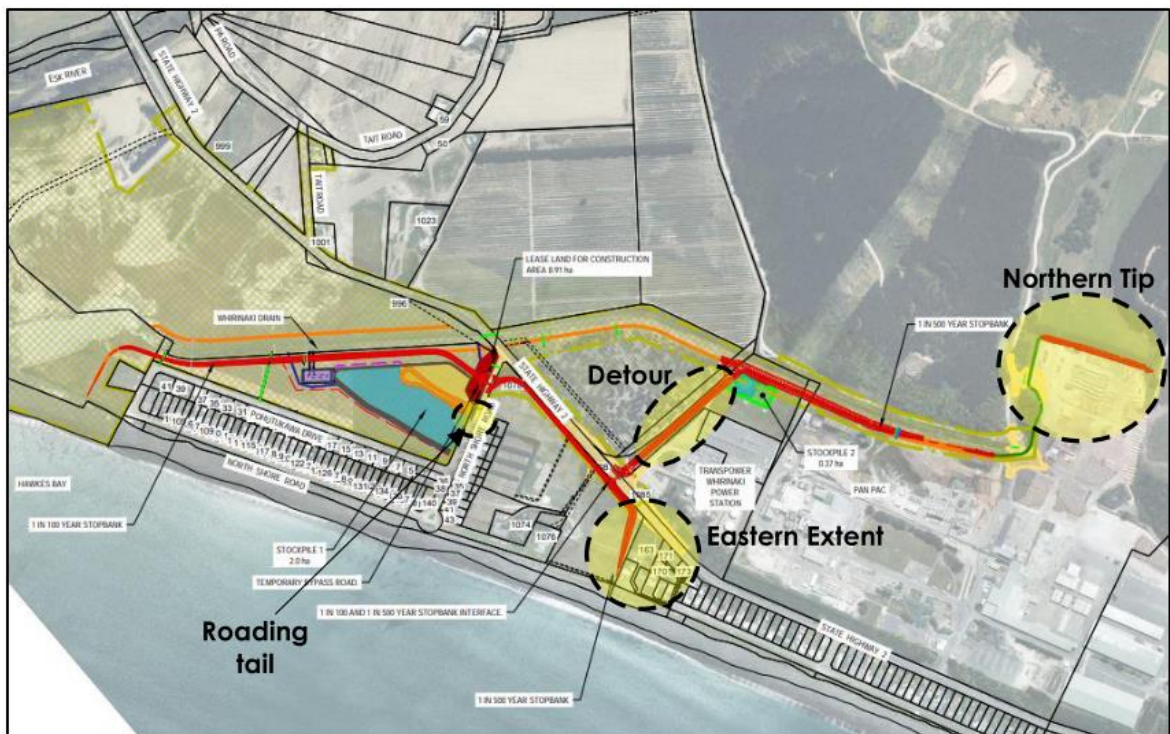


Figure 3: Extent of work inside and outside of the OiC area. The three areas outside the OiC footprint are circled – Sourced from Application

- 1.9 The application describes the works required in the areas that sit outside the OiC footprint as follows;
1. a stopbank extending around the Pan Pac yard - referred to in this assessment as the 'northern tip';
 2. a slight 'detour' past the Transpower site to cross State Highway 2 at a location that avoids substantial road raising works and the replacement of sizable culverts - avoiding significant costs that would have otherwise prohibited the viability of the project - referred to as the 'detour';
 3. road raising along State Highway 2 and a stopbank along 163 Whirinaki Road - referred as the 'eastern extent'; and
 4. the tail end of road raising works along North Shore Road - referred to 'roading tail'.

² Civil and Transport Design Ltd (CTD) Dated 8 August 2025, Rev 2 (HDC Ref: RMA20250336#0006)

³ Pattle Delamore Partners Ltd (PDP Report prepared for HBRC Dated 9 September 2025 Job Ref; HB010500006 (HDC Ref: RMA20250336#0022)

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

1.11 Supporting Documents

The following reports are provided with the Application (each with HDC File references) in the following Appendices to the Application prepared by Stradegy Planning Limited (HDC Ref: RMA20250336#0015).

• 1 – Land Requirement Plans	HDC Ref: RMA20250336#0016
• 2 – CIA (Confidential)	HDC Ref: RMA20250336#0004
• 3 – Maungaharuru Tangitū Input (Confidential)	HDC Ref: RMA20250336#0005
• 4 - Archaeological Assessment – Archaeology Hawkes Bay	HDC Ref: RMA20250336#0017
• 5 – Ecological Impact Assessment – Pattle Delamore Partners Ltd (PDP)	HDC Ref: RMA20250336#0018
• 6 – Landscape Scoping Assessment – Narrative Landscape	HDC Ref: RMA20250336#0019
• 7 – PSI – Pattle Delamore Partners Ltd	HDC Ref: RMA20250336#0020
• 8 – Existing Services Layout Plan – PDP	HDC Ref: RMA20250336#0021
• 9 - Whirinaki Drain Stopbank Upgrade Design Report – PDP	HDC Ref: RMA20250336#0022
• 10 – Road Raising Design Report – Civil and Transport Design Ltd (CTD) &	HDC Ref: RMA20250336#0006
• 10 - Pavement design report by Pinnacles Civil Group Limited	HDC Ref: RMA20250336#0006
• 11 – Condition Table (new numbering convention) – Stradegy Planning Ltd	HDC Ref: RMA20250336#0007
• 12 – Whirinaki Stopbank Cross-Drainage Preliminary Design(PDP)	HDC Ref: RMA20250336#0008
• 13 – Urupa Plans (PDP)	HDC Ref: RMA20250336#0009
• 14 – Bypass Erosion and Sediment Control Plan – CTD	HDC Ref: RMA20250336#0010
• 15 – Section 15(2)(a) (vii) parties - Stradegy Planning Ltd	HDC Ref: RMA20250336#0011
• 16 – Consequential Flood Effects Assessment – PDP	HDC Ref: RMA20250336#0012
• 17 – Consequential Flood Assessment Evaluation – BECA	HDC Ref: RMA20250336#0013
• 18 – Affected Party Approvals	HDC Ref: RMA20250336#0014

2.0 The Site and Surrounding Environment

2.1 The application describes the site and neighbouring areas as follows:

The area of works extends along the Whirinaki Drain from within the Pan Pac site to north of the Esk River mouth as shown in Figure 6 below (my Figure 4). Of particular note:

- . *The Petane Marae is located to the west at the end of Taits Road (although it is in the process of being relocated),*
- . *There is an Urupa at the southern end of the works and to the west on Taits Road,*
- . *Pan Pac, the Transpower Whirinaki power station and the Contact Energy sites are located to the north/east,*
- . *Residential development of a rural/coastal settlement nature is located to the east,*
- . *The Whirinaki Drain runs along the west of the area of works,*
- . *An existing stopbank runs along the Whirinaki Drain upstream of the State Highway 2 crossing (and where it is not being upgraded it will remain).*

Figure 4 below, sourced from the application, shows where the main features are located in relation to the proposed alignment.

The application also includes a map showing the relevant parcels where works will be undertaken and the corresponding legal descriptions. I have included these below as Figure 5 and Table 1.



Figure 4: Main Features - Sourced from application

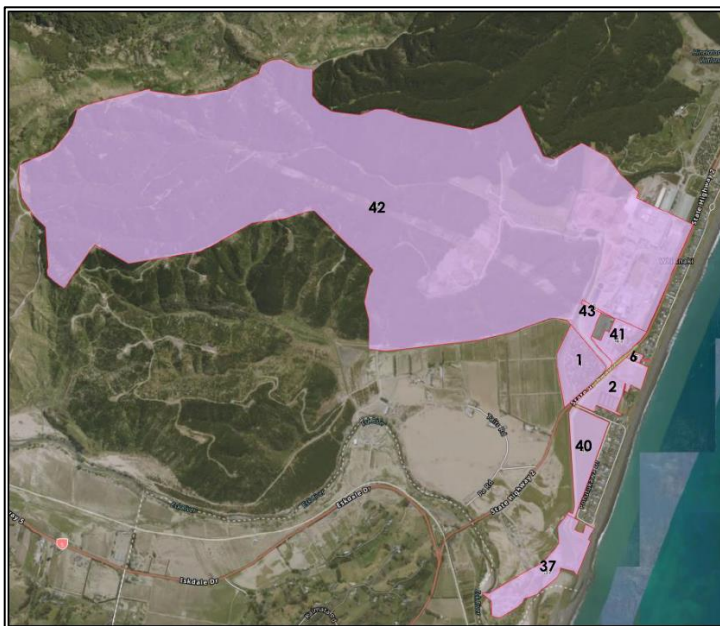


Figure 5: Properties subject of the proposed work (within and outside the OiC)

Figure Reference	LINZ Property ID	Appellation
1	4498680	Fee Simple, 1/1, Lot 1 DP 405054, 87,370 m2
2	4831419	Fee Simple, 1/1, Lot 3-12 DP 506130, 73,408 m2
6	1762085	Fee Simple, 1/1, Lot 2 DP 24246, 4,944 m2
37	5051997	Fee Simple, 1/1, Lot 3 DP 562586, 132,815 m2
40	5051995	Fee Simple, 1/1, Lot 1 DP 562586, 90,028 m2
41	1754606	Fee Simple, 1/1, Lot 2 DP23303, 47,214 m2
42	4263513	Fee Simple, 1/1, Lot 1 DP 344267 and Lot 1 DP 28162 and Lot 1 DP 28357, 4,292,070 m2
43	1996998	Fee Simple, 1/1, Section 62 Block XII Puketapu SD, 2,734 m2
		Road Reserve – North Shore Road
		Road Reserve – State Highway 2

Table 1:

- 2.2 Site photos were taken at the site visit, and these can be viewed at HDC Ref: RMA20250336#0046. Some of these photos may be used throughout this report. The Environmental Consents Manager undertook the site visit on behalf of HDC and was met by relevant HBRC officers, PDP and Independent Commissioner, Janeen Kydd-Smith.

3.0 Reason and Background to the Application – Activity Status

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

The works that fall outside of the OIC footprint are still subject to the relevant provisions and process of the RMA and Operative Hastings District Plan are shown below in Figure 3 in section 1.8 of this report.

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

3.1.1 Statutory Context:

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

Clause 8 refers that flood protection works are taken to be **controlled activities** for the purposes of the RMA.

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

Clause 10 relates functions etc, delegated to hearings commissioner.

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

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

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

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

Clause 15 relates to consultation.

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

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

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

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

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

Schedule 3 lists the matters of control.

In accordance with **Schedule 3**, the application to Hawkes Bay Regional Council and Hastings District Council considers the following matters (described fully in section 10 of the Application⁴ – corresponding sections shown);

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

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

A summary of the information provided is shown below.

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

⁴ Strategy Planning Limited (HDC Ref: RMA20250336#0015).

Information Requirements Clause 12 (2)

(a) Detailed description of flood protection works	<p>Information provided and contained in: Appendix 9 - PDP⁵ <i>HDC Ref: RMA20250336# 0022</i> Appendix 10 - CTD⁶ <i>HDC Ref: RMA20250336# 0006</i> Appendix 12 - PDP <i>HDC Ref: RMA20250336# 0008</i> Appendix 16 - PDP <i>HDC Ref: RMA20250336# 0022</i> Appendix 17 – BECA <i>HDC Ref: RMA20250336#0013</i></p>
(b) Maps	<p>Information provided in contained in: Appendix 9 - PDP⁷ <i>HDC Ref: RMA20250336# 0022</i> Appendix 10 - CTD⁸ <i>HDC Ref: RMA20250336# 0006</i> Appendix 12 - PDP <i>HDC Ref: RMA20250336# 0008</i> Appendix 16 - PDP <i>HDC Ref: RMA20250336# 0022</i> Appendix 17 – BECA <i>HDC Ref: RMA20250336#0013</i></p>
(c) General description of the area	<p>Information provided in Application prepared by Strategy Planning Limited <i>HDC Ref: RMA20250336#0015</i></p>
(d) (i) Description of identified natural and physical resources that have cultural values identified by relevant iwi (ii) Any cultural significant land in the area	<p>Information provided and contained in: Application prepared by Strategy Planning Limited <i>HDC Ref: RMA20250336#0015</i> Appendix 2 (Confidential) <i>HDC Ref: RMA20250336#0004</i></p>
(e) An assessment of all potential effects of the works 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 within or adjoining the area where the works are to be carried out:	<p>Information provided in Application prepared by Strategy Planning Limited <i>HDC Ref: RMA20250336#0015</i></p>
(f) Proposals to avoid, remedy, or mitigate potential adverse effects identified by the assessment described in paragraph (e):	<p>Information provided in Application prepared by Strategy Planning Limited <i>HDC Ref: RMA20250336#0015</i></p>
(g) Any conditions that the applicant proposes for the resource consent that are a variation of, or additional to, a condition set out in Schedule 2:	<p>Information provided and contained in Appendix 11 <i>HDC Ref: RMA20250336#0007</i></p>
(h) A description of any consultation undertaken in relation to the works (including with relevant Māori entities) and the names and contact details of all persons consulted:	<p>Summary of consultation provided in the application prepared by Strategy Planning Limited – Section 9 of Application <i>HDC Ref: RMA20250336#0015</i></p>
(i) A list of all relevant Māori entities:	<p>Information provided and contained in Appendix 15 <i>HDC Ref: RMA20250327#000011</i></p>
(j) A list of the names and contact details of all persons the consent authority is required to notify under clause 15(2)(a).	<p>Information provided with the Application prepared by Strategy Planning Limited <i>HDC Ref: RMA20250336#0002</i></p>

⁵ PDP – Pattle Delamore Partners Ltd

⁶ CTD – Civil and Transportation Design Ltd

⁷ PDP – Pattle Delamore Partners Ltd

⁸ CTD – Civil and Transportation Design Ltd

	List also Provided by HBRC <i>HDC Ref: RMA20250336#0028</i>
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Matters of Control

General	Information provided in Application prepared by Stradey Planning Limited <i>HDC Ref: RMA20250336#0015</i>
Cultural Values	Cultural Impact Assessment provided in Application prepared by Stradey Planning Limited Appendix 2 (Confidential) <i>HDC Ref: RMA20250336#0004</i>
Freshwater	Information provided in Application prepared by Stradey Planning Limited – Section 10.4 <i>HDC Ref: RMA20250336#0015</i> Appendix 5 - PDP Ecological Assessment <i>HDC Ref: RMA20250336#0018</i>
Coastal Environment	Information provided in Application prepared by Stradey Planning Limited – Section 10.5 <i>HDC Ref: RMA20250336#0015</i>
Stormwater	Information provided in Application prepared by Stradey Planning Limited – Section 10.6 <i>HDC Ref: RMA20250336#0015</i>
Soil, land and ecology	Information provided in Application prepared by Stradey Planning Limited – Section 10.7 <i>HDC Ref: RMA20250336#0015</i>
Visual effects and amenity	Information provided in Application prepared by Stradey Planning Limited – Section 10.8 <i>HDC Ref: RMA20250336#0015</i> Appendix 6 – Narrative Landscape <i>HDC Ref: RMA20250336#0019</i>
Adjoining land uses	Information provided in Application prepared by Stradey Planning Limited – Section 10.9, 10.2.1, 10.8 <i>HDC Ref: RMA20250336#0015</i>
Heritage and Archaeology	Information provided in Application prepared by Stradey Planning Limited – Section 10.10 <i>HDC Ref: RMA20250336#0015</i> Appendix 4 -Archaeology HB <i>HDC Ref: RMA20250336#0017</i>
Access and transport	Information provided in Application prepared by Stradey Planning Limited – Section 10.11 <i>HDC Ref: RMA20250336#0015</i>
Contaminated land (human health)	Information provided in Application prepared by Stradey Planning Limited – Section 10.12 <i>HDC Ref: RMA20250336#0015</i> Appendix 7 - PSI prepared by PDP <i>HDC Ref: RMA20250336#0020</i>
Construction – Additional to Matters under Schedule 3	Information provided in Application prepared by Stradey Planning Limited – Section 10.13 Addresses the following matters in tandem with those listed within Schedule 3

	<ul style="list-style-type: none"> • Stormwater management and erosion and sediment control • Nuisance effects i.e. noise, vibration and dust • Hours of operation • Public health and safety • Construction traffic <p>Matters covered in conditions such as requirement for CEMP and ESCM. HDC Ref: RMA20250336#0015</p>
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3.2 National Environmental Standards

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

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

17 Works on contaminated land

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

This condition is proposed to be deleted in favour of including a new condition (10 c) viii) that will require the consent holder to prepare and submit a Contaminated Site Management Plan to respond to the matters identified in the PSI.

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

1. Disturbance of contaminated soil (under the NESCS),
2. Earthworks,
3. The removal of material from the Whirinaki Industrial Zone and Rural Zone.

As the proposal outside the OiC does not meet Regulations 8 -10, and the PSI (prepared by PDP) does not quantify the risk to human health, the application requires consent as a **Discretionary Activity** under **Regulation 11**.

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

- a) *the adequacy of the detailed site investigation, including-*
 - i. *site sampling;*
 - ii. *laboratory analysis;*
 - iii. *risk assessment;*
- b) *the suitability of the piece of land for the proposed activity, given the amount and kind of soil contamination;*
- c) *the approach to the remediation or ongoing management of the piece of land, including-*

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

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

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

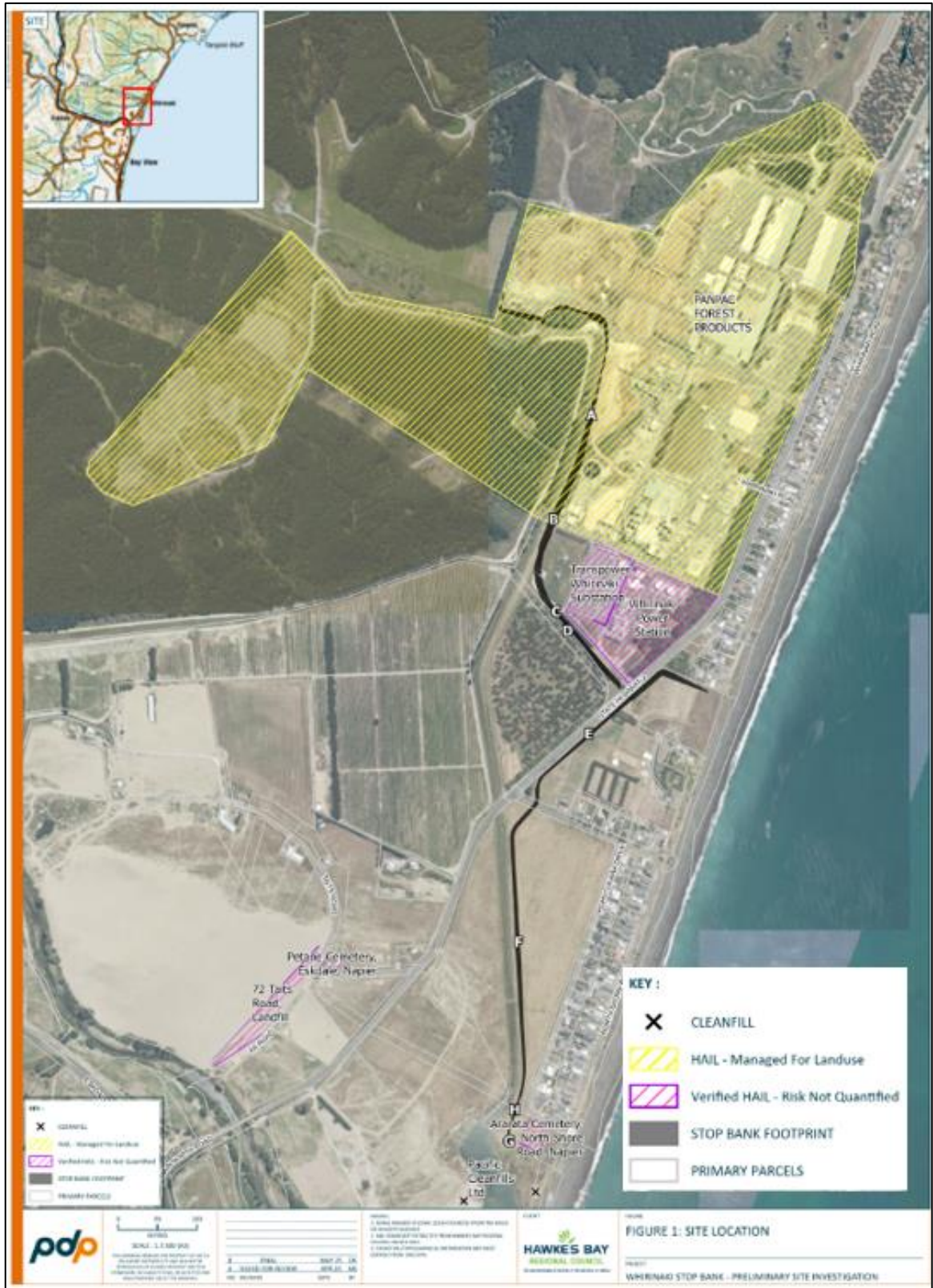


Figure 6: Plan by PDP showing location of HAIL activities

Given the above, and to avoid duplication between the OIC and RMA processes, the Applicant has recommended that Condition 10 be amended to include the requirement of a CSMP and accordingly delete Condition 17 of the OIC (Works on contaminated land) as this will be covered under the amended Condition 10. (see Appendix 11 of the Application - HDC Ref: RMA20250336#0007). I concur with this approach.

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

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

3.2.3 National Environmental Standard for Freshwater (2020)

Not applicable.

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

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

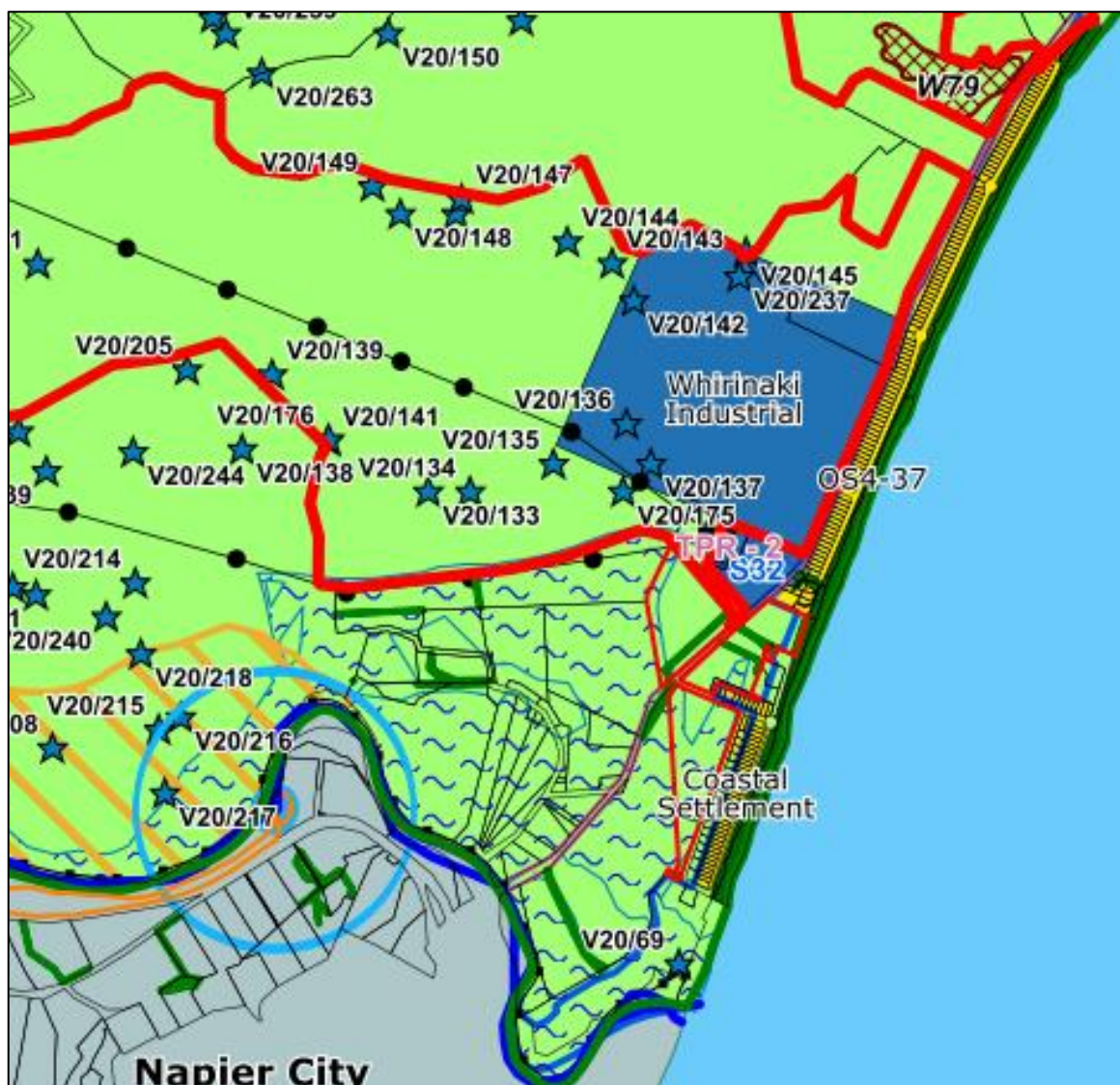


Figure 7: Operative District Plan Zone Map and Overlays

The Application site is also subject to the following:

- River Hazard Overlay on parts of the site
- Riparian Management overlay (List 1)
- National Grid

- Archaeological Site V20/69
- Adjoins the Coastal Environment Boundary
- Adjoins Designated Site TPR – 2 (Transpower)
- Is withing Schedule Site S32 – Unison (Power Generation)
- All roads are designated

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

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

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

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

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

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

3.3.3 Section 27.1 Earthworks, Mineral, Aggregate and Hydrocarbon Extraction

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

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

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

27.1.6A EXTENT OF EARTHWORKS

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

TABLE 27.1.6A EXTENT OF EARTHWORKS			
STRATEGIC MANAGEMENT AREA (SMA)	ZONE	VOLUME	CRITERIA (for any 12 Month period)
Industrial	Industrial	50m ³	per site
Rural	Rural	2000m ³	per hectare of site

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

The proposed works in the area outside the OiC footprint will require approximately 3,613m³ of cut and 14,085m³ of fill (sum total volumes – 17,698m³). The material to be used to form the stopbank will be imported to the site and stored at the properties shown on the map in Figure 8.

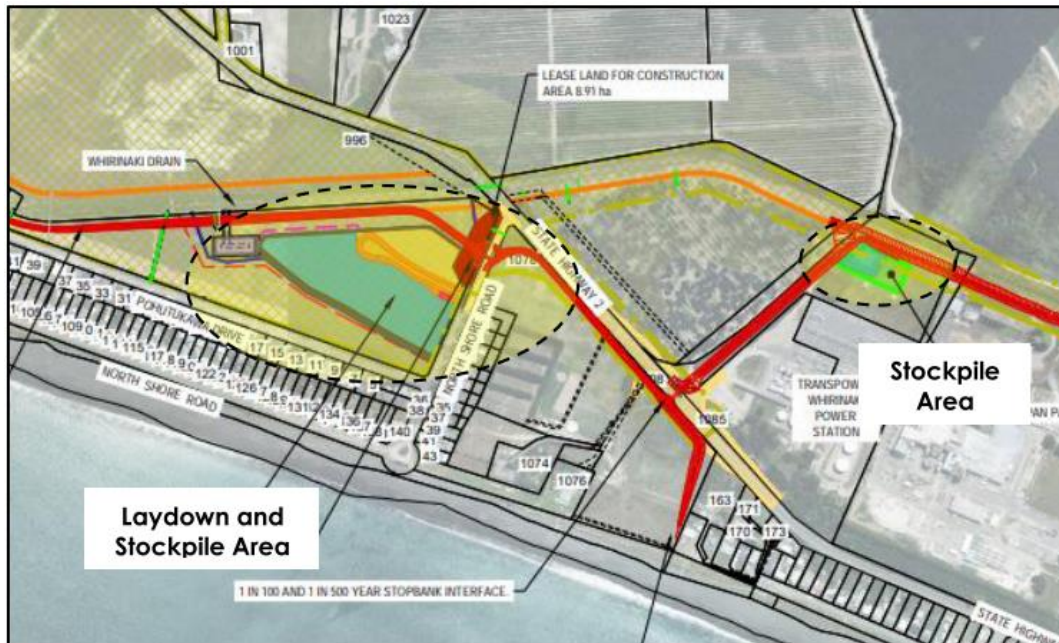


Figure 8: Stock pile areas – Sourced from the application.

The application has assessed the properties that lay outside the OiC and provided the following summary table that indicates compliance or otherwise of the earthworks provisions on each individual property, noting there are some compliant and some non-compliant properties.

Property	Area (ha)	Cut (m ³)	Complies	Fill (m ³)	Complies
Northern Tip					
Lot 1 DP 28357	78*	885	No	3,019	No
Defour					
Lot 1 DP 28162	2.8900	1,325	Yes	7,709	No
Lot 1 DP 344267	0.7013	0	Yes	6	Yes
Eastern Extent					
Lot 3 DP 506130	7.3410	1,403	Yes	3,351	Yes

* Based on approximately 78ha of the Pan Pac site being within the Whirinaki Industrial Zone.

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

For the areas that sit outside the area identified in the OiC as referenced in Figure 3 of this report, the application will be assessed overall as a **Discretionary Activity** under the Operative Hastings District Plan.

3.4 Overall Activity Status

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

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

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

3.5 Other Approvals

A number of approvals are required within and outside the OiC footprint from HBRC (as consent authority), and these are listed on page 62 and 63 of the application (HDC Ref: RMA20250336#0015)

4.0 Notification

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

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

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

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

4.1.2 **Clause 15(6)** states that a person who makes a written comments to a consent authority under this clause is not to be treated under the RMA as a person making a submission. Comments have been received from four parties within the timeframe (Transpower, DoC, Pan Pac and Powerco) and one party outside the timeframe (NZTA), however under **Clause 15(5)** of the OiC, a person invited to make written comments have no appeal rights under Part 6 of the RMA, and they cannot object to the decision under Part 14 of the RMA.

4.1.3 As the issues around the flood protection works fall to be mainly within the responsibility of HBRC under the HBRRMP, under **Clause 11 (3)**, that Authority has undertaken the required engagement with immediately affected or immediately adjoining parties pursuant to **Clause 15(2)(a)** of the OIC. The notice can be viewed on (HDC Ref: RMA20250336#0031) and was notified jointly by HBRC and HDC.

Notice of the Application was sent to all the relevant parties listed **clause 15(2)⁹**. **Clause 15(2)(c)** requires all comments to be received within 10 working days after the date on which the invitation is given. The closing date for comments was **7 October 2025**.

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

⁹ HBRC acted as 'lead agency' under clause 11(3) and sent the notice to listed parties inviting comments on behalf of both council/consent authorities.

HBRC APP-131373– Clause 15(4) Summary of comments and response- Whirinaki
HDC RMA20250336 - Clause 15(4) Summary of comments and responses - Whirinaki

In accordance with clause 15 of the OIC 2024, notice was sent to listed parties (clause 15(2)(a)(i-x)) and they were given the opportunity to comment on the application, with the comment period beginning 19 September 2025 and closing 7 October 2025. During that comment window 4 comments were received from invited parties and one late comment was received. The comments are summarised below with a comment from HBRC and HDC where appropriate (HDC Comments in [Blue](#)).

Comment Number	Comment From	Issues Raised	Relief Sought	Response to comment
1	Transpower New Zealand Ltd	Land disturbance and stockpiling near the National Grid	<p>Stockpile Area 2 is shown on Figure 18 'Laydown and Stockpile Area', in the Application. In order to comply with the required conductor to ground clearances, no fill or material shall be stockpiled or deposited so that the conductor to ground clearance is reduced to less than 8 metres. Additionally, Transpower does not support the stockpiling of materials or storage of equipment beneath the RDF-WHI-A or WRK-WHI-A National Grid transmission lines or within 12 metres of the outer most visible edged of any National Grid support structure foundations. In this regard, Stockpile Area 2 must be set back at least 12 metres from the aforementioned tower foundations.</p>	<p>Transpower's Wairakei-Whirinaki A(WRK-WHI-A) 220 kV National Grid transmission line and Redclyffe-Whirinaki (RDF-WHI-A) 200 kV National Grid transmission line traverse the section of the Pan Pac stopbank that will extend along the western side of Transpower's Whirinaki Substation and to the north of the substation.</p> <p>Consents sought from HBRC include for the discharge of solid contaminants (fill) within 20 m of a waterway, and so there will be areas where the discharge will occur in the vicinity of the transmission lines. It is therefore appropriate that the Transpower comments are considered in relation to that part of the proposed activity. There are other comments which do not relate to HBRC consent activities, e.g. earthworks in the Laydown and Stockpile Area and setback distances from tower foundations.</p> <p>It is recommended that reference is made to Transpower proximity restrictions to CEMP Condition 10.c)(v).</p>

				<p>An advice note is recommended that all proposed works must comply with the NZECP34: 2001 requirements.</p> <p>HDC Comments:</p> <p>The Hastings District Plan requires a setback of 12m (in all directions) from the transmission poles/towers as identified in Appendix 68, Figure 8. It is recommended that condition 10 c) vii) be amended to ensure the 12m setback required under the District Plan is maintained for the duration of the works. This could be in the form of a physical barrier that demarcates the area where there shall be no works or stockpiles. I have recommended that Condition 10c) vii be amended accordingly</p>
			<p>Transpower request that the project Construction Environmental Management Plan (CEMP) confirms</p> <p>the material to be stockpiled, the location and maximum height of the stockpile, mobile plant operation at the stockpile area, as well as how dust from the stockpile will be managed to avoid or minimise any adverse effects on the National Grid transmission lines and support structures.</p>	<p>Condition 11)(f) requires the consent holder to provide a copy of the CEMP to the STAG of which Transpower is a member. No change to conditions is recommended</p> <p>HDC Comments:</p> <p>Earthworks in association with Network Utility Operations are permitted activities but subject to meeting the general and specific performance standards specified in the District Plan. The proposal is being assessed under these provisions and relevant assessment criteria within and outside the OiC areas.</p>

		Mobile Plant Operation	In accordance with Section 5 of NZECP34: 2001, no mobile plant or large vehicles may come within 4 meters of the conductors of any transmission lines during construction. Accordingly, all machinery, mobile plant and vehicles operating within 12 metres of the transmission lines and traversing beneath the lines, shall be limited to a maximum reach height of 20 metres for the WRK-WHI-A transmission line and 8 metres for the RDF-WHI-A transmission line.	The operation of mobile plant is outside the scope of any HBRC consents. It is recommended that this matter is directly discussed between the applicant and Transpower and no change to the conditions is recommended.
		Access	<p>Transpower has a right to access its existing assets under section 23 of the Electricity Act 1992.</p> <p>Vehicular access to the National Grid transmission lines and support structures shall be maintained during construction of the project and following construction activities so that maintenance works can be undertaken at all reasonable times and emergency works can be undertaken at all times.</p>	<p>Access for Transpower is not a matter within the scope of HBRC consents. It should be agreed between the applicant and Transpower. No changes to conditions are recommended.</p> <p>An advice note is recommended that states that Transpower has a right to access its existing assets under section 23 of the Electricity Act 1992.</p> <p>HDC agree with this approach.</p>
		Underground Fibre Cables	<p>All land disturbance and excavation works shall be undertaken to avoid any damage to the underground fibre cables. Should either of Transpower's underground fibre cables need to be</p> <p>relocated as part of the proposed works, Transpower request to be involved in the relocation design, given these are critical to Transpower's operations.</p>	<p>This is also not a matter within the scope of HBRC consents and no changes to conditions are recommended.</p> <p>HDC Comments:</p> <p>This is not within scope of the HDC consent and no change to conditions are recommended.</p>

		<p>Transpower do not have any concerns with the cables being buried at depth following construction of the stopbank, providing access to existing buried joint tubs is maintained. Transpower requests to review the detailed design drawings of the Whirinaki Stopbank and State Highway 2 / North Shore Road road raising works.</p> <p>Transpower also request accurate as built plans of the works located near the WHI_FOC_TR511 and WHL_WRA_TR320 cables are provided to Transpower, confirming the location and depth of its underground assets in reference to the stopbank and road raising.</p> <p>Transpower also request notification prior to the commencement of construction works and propose the following new condition –</p> <p>The consent holder shall provide Transpower NZ Ltd 10 working days' notice in writing prior to commencing the proposed works.</p>	<p>Recommend an additional condition for as built plans to be provided to network utility operators on the STAG and for notice of works to be provided in advance as requested (added to condition 1B).</p> <p>HDC Comments:</p> <p>HDC agree with this approach as this will provide certainty moving forward of where these assets are located.</p>
	Whirinaki Substation Access	<p>Access must be maintained 24/7 to the Whirinaki Substation during works on State Highway 2 and North Shore Road. Transpower requests that the CEMP includes detail on proposed construction traffic movements on or around the Whirinaki Substation Transpower requests to be notified if the construction works will</p>	<p>This is also not a matter within the scope of HBRC consents and no changes to conditions are recommended.</p> <p>The condition sought by Transpower about access is not recommended. An advice note is recommended.</p>

			<p>limit the size of vehicles able to access the substation at any stage during construction of the project.</p>	<p>HDC Comments:</p> <p>HDC agree with the approach taken by HBRC.</p> <p>The CEMP at condition 10 c) vi) addresses the site access and on-site traffic management, including haulage routes.</p>
		Whirinaki Substation Dust Management	<p>Discharges of dust from construction activities undertaken near the Whirinaki Substation (and National</p> <p>Grid transmission lines and support structures) can settle on the National Grid assets and affect the operation of insulators and transmission equipment at the Substation. Dust discharges during construction of the stopbank must be appropriately managed.</p> <p>Transpower request that the CEMP clearly sets out how any dust generated during the construction will be managed to mitigate potential adverse effects on the National Grid assets.</p>	<p>This is provided in the CEMP Condition 10 (c)(ix). dust management measures. This also references condition 16.</p> <p>An amendment to the CEMP (condition 10) in relation to dust is recommended so that it includes consideration specifically of the impact of dust on the transmission lines/assets</p> <p>HDC Comments:</p> <p>While not within scope of HDC consenting, HDC agree with this approach as it will protect important national infrastructure.</p>
		Whirinaki Substation Detailed design and construction	<p>Transpower request to be kept informed during the detailed design phase of the works in proximity to the substation and to be provided the opportunity to provide comment on any works near the</p>	<p>The CEMP is to be provided to the STAG, of which the network utility providers are members. The invite to the STAG must be provided to the STAG at least 20 working days before construction begins. The draft CEMP</p>

			<p>Transpower assets, including being provided with a copy of the Final Design Report and CEMP.</p>	<p>must be provided allowing 10 days for comment before finalising and the final CEMP must be provided to the group at least five working days before works begin. The CEMP (and any amendments to it) must be finalised after taking into account comments from STAG members.</p> <p>This is considered an appropriate process and forum for this exchange of information and views, without the need to change conditions 1B or 10 in relation to the final design and CEMP respectively. It is recommended that condition 10(a)(iii) and 11(f) are amended to require that the final design plans are provided to STAG members with the CEMP and any amendments.</p> <p>HDC Comment:</p> <p>HDC agree with this approach and proposed amendments to conditions.</p>
2	DoC	Freshwater: the value of the upstream catchment as high quality habitat.	Condition 18 that a specialist freshwater ecologist design any fish passage mitigation structures.	We have discussed this with the applicant in relation to Ohiti Flood Protection project and were advised that Dr Andy Hicks (Ecologist) will be the project ecologist. We assume this will be the case for this project as well. Condition 18 requires that the ecologist have experience in fish passage. As above, a change to condition 11e) is recommended along with a similar change to condition 19b). No other changes are considered necessary.

				<p>HDC Comment:</p> <p>Not within scope of HDC consenting.</p>
			<p>Proposed that condition 18d) regarding permanent fish passage structures should also apply to temporary works.</p>	<p>The application states that provision is sought for two temporary crossings as shown in Figure 19, and that:</p>
			<p>Condition 18e) sets out the requirements for the design of all culverts. DOC promotes this should include the provision of fish passage in accordance with the NZ Fish Passage Guidelines.</p>	<p><i>“The preference is for these crossings to be via a temporary bridge. If this is not practicable, culverts may need to be installed to form the crossings. Taking fish passage into account, PDP has recommended any culverts crossing should adhere to the following:</i></p> <ul style="list-style-type: none"> • <i>Culverts should be open bottom or embedded 25%, and</i> • <i>Culverts should span should be 1.2 x bank full width + 0.6m (for Whirinaki Stream (bed width 1.5 – 2.5 m), this can be achieved with a 2.4 – 3.6 m diameter culvert).”¹⁰</i> <p>The application explains that the possible need for one or both temporary crossings will be addressed through an amendment to the Construction Environmental Management Plan (CEMP), under Condition 11. It also notes that changes to conditions 18 and 19 are proposed to allow a temporary culvert to be installed using the same process as for a permanent culvert, following consent approval.</p> <p>It is recommended that conditions 11e) and 19b) refer to an ecologist with fish passage experience. This may be the Project Ecologist.</p>

¹⁰ Page 55: [AA-RC-Application-Whirinaki-FINAL-150925.pdf](#)

			<p>While providing for fish passage at all times is preferred, it may be appropriate for a temporary crossing to not fully provide for fish passage because of the short duration of effects.</p> <p>It is recommended that condition 19b) be amended so that it does not apply to permanent crossings and refers to temporary crossings only. It is also recommended that condition 19c)i) require the consent holder to provide justification as to why not providing for fish passage at a temporary culvert is the best practicable option.</p> <p>If fish passage is not provided, an approval may be required from DOC and an advice note is recommended to this effect.</p> <p>HDC Comment:</p> <p>Not within scope of HDC consenting.</p>
			<p>Condition 18d) sets out the requirements for the implementation of the effects management hierarchy in relation to managing stream loss where threatened or at-risk species are present. This condition needs to be clear that this should be carried out in accordance with the effects management hierarchy set out in the NPS-FM.</p> <p>The intent of condition 19 does not align with freshwater control (b), which requires</p>
			<p>Attention will be required to control sediment movement and to revegetate and rehabilitate the site. Condition 18 d) requires that the effects management hierarchy is applied if there is stream loss from permanent works. There should be no permanent stream loss. There should be no impact on fish passage. Changes proposed to condition 18b) by the applicant make reference to the ecology plan rather than ecology principles. It is recommended that the reference to ecology principles as set out by the OIC schedule of conditions remain as it will</p>

		provision for the passage of fish. Currently clause (b) of the condition provides the project ecologist with the discretion of providing fish passage. It is the DOC request that this clause is removed.	ensure that consideration of the effects management hierarchy occurs. HDC Comment: Not within scope of HDC consenting.
	Sedimentation and Contamination Controls	DOC is of the view that clause 15(a)(iii) provides a timeframe for incident reporting that is too lengthy in the scenario of failure or erosion and sediment control measures. Recommended that this should be reduced to 3 working days.	Condition 15 requires immediate notification of HBRC via the Pollution Hotline. No changes to the condition are recommended. HDC Comment: HDC do not have a dedicated pollution officer so this function will fall to the Compliance Manager in the first instance. It is recommended that condition 15 a) iii) be amended accordingly.
	Bats	Bats have been adequately considered; DOC supports the following steps which have been proposed: •Following the Bat Recovery Group Protocols for minimising the risk of felling occupied bat roosts. •Only tree species located directly within the construction footprint should be felled. •Replacement of removed vegetation with suitable indigenous species.	This supports the proposed conditions. These steps are identified in the Ecological Impact Assessment. These steps are not specifically set as conditions, but these protocols are expected to be included as part of the Ecological Management Plan (EMP). Condition 28 lists “procedures for managing bats prior to felling trees that have bat roosting features” as a matter that must be included in the EMP. HDC Comment: Not within scope of HDC consenting.
		In relation to deciding on replacement of removed vegetation, DOC recommends to use of the following advice note in deciding the replacement vegetation: Advice Note –	A planting plan is a matter that is to be included in the EMP. This can be included as an advice note.

			Any Planting plan should have regard to the New Zealand Bat Recovery Group advice note - Planting to provide roosts for bats in the long term.	HDC Comment: HDC agree with this approach.
			The AEE proposes to omit Condition 27 from the final decision, as the outcomes intended to inform design, ecological management/mitigation, and implementation have already been achieved through the Ecological Scoping Assessment prepared by PDP. DOC, subject to the aforementioned wording changes, considers this appropriate, as pre-felling surveys are provided for under Condition 28(a)(i).	This supports the removal of condition 27 as the scoping assessment has been done.
			Condition 28 outlines procedures for managing bats prior to felling trees with potential roosting features. However, its implementation does not require compliance with the Bat Recovery Group Protocols for minimising the risk of felling occupied bat roosts. It is recommended this document should be directly referenced.	Condition 28 could be amended to read as follows: <i><u>“Procedures for managing bats prior to felling trees that have potential bat roosting features, that are consistent with the Bat Recovery Group Protocols.”</u></i> HDC Comment: Not within scope of HDC consenting.
		Other Statutory Approvals	The applicant should note that other approvals under the Freshwater Fisheries Regulations 1983 may be required relating to the placement of structures or culverts within a stream.	This can be included as an advice note.
3	Pan Pac Forest Products	Fully supportive of the project	Pan Pac is fully supportive of the project, and we will work with HBRC and the successful contractors to ensure the scheme is delivered safely and efficiently	Supportive of the project.

			with appropriate environmental management practices.	
			A significant amount of construction work will take place on our Whirinaki site, it is important that work is planned in collaboration with the Pan Pac Health, Safety and Environmental team to ensure our staff and contractors are protected from harm along with our environment.	A matter for discussion by the applicant with Pan Pac or STAG.
			It is crucial that the industrial section of the flood protection scheme is built to provide 1:500-year level of service and protection from future weather events.	Between Pan Pac and HBRC as the applicant.
4	Powerco	Underground gas main	<p>Powerco provided a schedule of requirements in regard to construction in proximity to the gas main</p> <ul style="list-style-type: none"> Existing cover of the gas main was confirmed by potholing as 1.0 m. Cover on the gas main will not exceed 3.2 m. Gas main to remain on the edge of the road not in the live lane. No barriers or retaining walls to be built over the alignment of the gas main. Any excavation below current ground level needs to be notified. Advise and share final design plans, a contact liaison and an expected timeframe when work will commence. 	<p>This is generally a design / construction matter, and will need to be discussed when detailing the works through the STAG group and CEMP finalisation process. Recommendations on notice and design plans being provided and made in relation to the Transpower comments above are also relevant to this comment.</p> <p>No additional condition required from HBRC consenting perspective.</p>

			Confirm ASAP if any of the above requirements can't be met by contacting Powerco.	
Comment received 21/10/2025 1:42pm				
	NZTA	s.176 Request to undertake a project within the SH 2 designation	<p>Thanks for inviting New Zealand Transport Agency Waka Kotahi (NZTA) to comment on the resource consent application for the Whirnaki Flood Protection Project. I apologise for the delays coming back to you with our comments.</p> <p>NZTA has been engaging with the project team at HBRC, and an agreement is currently being developed between NZTA and HBRC that will outline NZTA's responsibilities and scope across the design and planning phase, construction stage, the completion, and handover of works. Our network engineers will continue to engage closely in alignment with that agreement to ensure smooth coordination and delivery.</p> <p>NZTA has now received a s176 request to undertake the project within our designation for SH2 and we are currently processing that application.</p>	No response required and no recommended amendment to conditions

Table 2: Summary of Comments Received

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

5.0 CONSIDERATION UNDER CLAUSE 16

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

6.0 CONSIDERATION UNDER CLAUSE 17

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

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

The Applicant has included proposed conditions in Appendix 7 of the application in accordance with Schedule 2 and is seeking to make a number of changes relevant to this proposal.

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

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

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

In accordance with sub clause (2) of Schedule 2, the applicant is proposing amendments to as noted in Appendix 7 of the Application.

The HBRC are proposing two additional conditions which have been agreed to by HDC that relate specifically to the comments received from Transpower. The proposed conditions are attached in Appendix 2 of this report.

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

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

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

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

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

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

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

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

7.1 Public Notification Assessment Section 95A

Step 1: mandatory public notification in certain circumstances

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

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

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

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

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

(c) in the case of a restricted discretionary activity, must disregard an adverse effect of the activity that does not relate to a matter for which a rule or national environmental standard restricts discretion; and

(d) must disregard trade competition and the effects of trade competition; and

(e) must disregard any effect on a person who has given written approval to the relevant application.

Section 95D(a)

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

Section 95D(b)

No effects have been disregarded.

Section 95D(c)

The activity is not a Restricted Discretionary Activity.

Section 95D(d)

There are no trade competition effects.

Section 95D(e)

Written approvals have been provided with the application. These were from:

- Anthony Cyril Clifford – Pan Pac Forest Products - 1161 State Highway 2
- Mark Alan Taylor - ArborGen ANZ GP Limited, General Partner of ArborGen ANZ Limited Partnership - 1161 State Highway 2

Are the Adverse Effects more than Minor?

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

- Safe and efficient access can be provided to the works site via existing crossings and the proposed slip road;
- The proposed slip road will not prevent traffic safely travelling north and south on SH2 while the construction works are being undertaken on the highway;
- The proposal will not have a significant adverse effects on the wider roading network given the measures being put in place for the duration of construction works;
- While the proposed works are close to the Urupa off Pohutukawa Drive and there is a registered archaeological site 100m from the proposed works, the proposal does not directly affect these sites or any other areas of historic or cultural significance;
- Proposed mitigation works around the Petane Urupa will ensure long term safety from flooding for this significant site;
- Ongoing involvement is proposed with Ngā Hapū o Petane Marae and other Maori Entity Representatives through the Petane Urupa Construction Environmental Management Plan in accordance with new Condition 10B of Schedule 2 of the OIC.
- No reverse sensitivity issues within the wider environment are anticipated;
- Conditions imposed under Schedule 2 of the OIC are suitable for those areas outside of the OIC Footprint. These conditions include provision for relevant management plans to mitigate the effects of the earthworks activity;

- The application is supported by expert engineering reports that include flood modelling to address any consequential flooding of land following the construction of the new stopbanks, raising of road and installation of stormwater swales.
- The proposal is a positive addition to the environment due to the purpose of providing flood mitigation to protect land and property.

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

Step 4: public notification in special circumstances

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

- As assessed above, the effects on the wider environment are likely to be no more than minor;
- The earthworks are specifically anticipated by the Hastings District Plan.

7.1.1 Section 95A Recommendation

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

7.2 Limited Notification Assessment Section 95B

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

Are there any affected protected customary rights groups? (S95B(2)(a))	No
Are there any affected customary marine title groups? (S95B(2)(b))	No
Is the proposed activity on or adjacent to, or may affect, land that is the subject of a statutory acknowledgement made in accordance with an Act specified in Schedule 11? (S95B(3)(a))	Yes. The proposal falls within a Statutory Acknowledgement Area of Mana Ahuriri and Maungaharuru Tangitū.
Is the person to whom the statutory acknowledgement is made an affected person under section 95E? (S95B(3)(b))	<p>The wider application site adjoins the Esk River which is listed under the Ahuriri Hapu Claims Settlement Act 2021 the Maungaharuru Tangitū Hapu Claims Settlement Act 2014 as areas subject to both statutory acknowledgement and deed of recognition.</p> <p>The OiC Footprint adjoins crown land and the Esk River. Notice has been sent to Mana Ahuriri and Maungaharuru Tangitū.</p> <p>Maungaharuru Tangitū Trust provided feedback on the summary notice and this has been saved as a confidential document, at their request, on the application file (HDC Ref: RMA20050336#0032). Their feedback has been limited to:</p> <p><i>1. Ensuring our cultural input, which we anticipate will likely tautoko several</i></p>

recommendations from the Cultural Impact Assessment by the Hapū of Petane marae, is included in the application and consent conditions

2. Ensuring the consent conditions are clear and a good representation of what we would expect to see during the works.

3. Supporting Petane as the primary entity, which is separate from the Māori Representative Entities, consistent with HBRC's RPC-approved approach of engaging with the closest marae, under which Petane Marae has been identified as the primary Māori entity.

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

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

The OiC conditions, with the amendments proposed generally address the comments made.

To be considered an affected person under section 95E, the consent authority must decide that the adverse effects of the activity on persons to whom a statutory acknowledgement is made are minor or more than minor (but not less than minor).

A Cultural Impact Assessment (CIA) for the Whirinaki Flood Protection Scheme, prepared by the Ngā Hapū o Petane Marae to assist HBRC. It provides strong recommendations to HBRC to aid in the design, development, and delivery of the project which includes ongoing community consultation, collaboration and ensuring that long term partnerships ensue.

The applicant has committed to maintaining ongoing relationship and communication between HBRC and the marae, and local landowners throughout the project which is reflected in the conditions.

The level of involvement between the HBRC (Applicant) and mana whenua throughout this project is reflected in the conditions (Condition 10B in particular) and this will

	<p>ensure Maori interests, the Petane Urupa and archaeological items are protected through management plans and archaeological protocols.</p> <p>The works areas do not impact on the Esk River and its margins or the Coast.</p> <p>Accordingly, no persons to whom the statutory acknowledgement are made are considered to be affected persons beyond the consultation undertaken throughout this project.</p>
<p>Outcome Step 1: Limited notification is NOT required to the above groups.</p>	

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

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

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

<p>Determine whether a person is an affected person in accordance with section 95E (S95B(8))</p> <p>Under Section 95E, a consent authority must decide that a person is an affected person if the activity's effects on them are minor or more than minor (but are not less than minor), subject to the limitations in Sections 95E(2) and (3).</p> <p><u>Section 95E(2)(a)</u> I have not disregarded effects on the environment on the basis that a rule or national environmental standard permits an activity with that effect.</p> <p><u>Section 95E(2)(b)</u> The activity is not being assessed as a restricted discretionary activity.</p> <p><u>Section 95E(2)(c)</u> The Esk River (and its tributaries) are within a statutory acknowledgement area identified in the Maungaharuru Tangitū Hapu Claims Settlement Act 2014 and Ahuriri Hapu Claims Settlement Act 2021. Notice has been sent to Maungaharuru Tangitū Hapu Claims Settlement Act 2014 (in terms of s44) and Ahuriri Hapu Settlement Act 2021 (in terms of s39).</p> <p>Comment has been received from MTT as discussed above. No comment was received from MAT.</p> <p>Given that the proposal is of a limited/temporary nature, and the matters of concern for MTT and Archaeology HB (in relation to the archaeological site V20/69), are addressed through conditions, it is not considered that there will be any adverse effects on the Esk River catchment area affected by the Statutory Acknowledgement. Ngā Hapū o Petane Marae has provided a CIA that provides strong recommendations to HBRC to aid in the design, development, and delivery of the wider project. Ongoing relationships and communication between HBRC and the marae, and local landowners, is proposed throughout the project.</p>

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

Section 95E(3)

Where written consent is obtained Council must disregard any effect on a person who has given written approval to the relevant application. In this case written approvals have been provided as part of the application as noted below.

- Anthony Cyril Clifford – Pan Pac Forest Products - 1161 State Highway 2
- Mark Alan Taylor - ArborGen ANZ GP Limited, General Partner of ArborGen ANZ Limited Partnership - 1161 State Highway 2

Are there any Affected Persons?

My assessment as to whether there are any affected persons is as follows:

- The proposed construction activity will be for a limited duration while the stopbank, swales and works on SH2 and North Shore Road are being undertaken;
- Visual impacts on adjoining properties cannot be avoided due to the scale of works, however these works will be temporary and of limited duration;
- In terms of the property at 1078 SH2, this site is located inside the OiC footprint. The LIA considered that while there will be a noticeable reduction in amenity for this site the mitigation options in the form of landscaping and fencing is however proposed and this will be secured by amending Condition 24 of Schedule 2 of the OiC imposed to require these mitigations be imposed specific to this property (see figure below).



Figure 5: Potential mitigation planting for property at 1078 SH2 indicated by blue line

- In terms of the proposed swales that will address stormwater runoff, these will not be incompatible within a rural context due to the low impact of the designs proposed.
- Earthworks are generally short term projects where the disturbed areas are required to be reinstated upon completion. Proposed Condition 12(a) vi. of the OiC covers this reinstatement.
- Truck movements will have an impact on residential properties nearby creating noise and vibration. These effects will however be managed through the CEMP authorised by the consent authority and through Conditions 10, 11, 23 (with proposed amendments) of Schedule 2 of the OiC;
- Condition 9 of Schedule 2 of the OiC ensures open communication between the following:

- i. *the general public:*
- ii. *local residents and businesses:*
- iii. *the Māori entities representatives:*
- iv. *the persons and bodies represented by the stakeholder advisory group:*
- v. *all other persons potentially affected by the construction works.*

- Flood protection works are a permitted in the District Plan and therefore anticipated to occur within the River Hazard Overlay;
- The application specialist engineering reports include a robust assessment of the consequential flooding effects on properties following construction of the stopbanks. The flood modelling concluded that there will be a significant flood reduction by 7% and at least 12% respectively, the quantifiable effects are constrained to 1 dwelling, 1023 SH2. The report also concluded that in respect of this one dwelling there is no change in the hazard classification although flood levels in the 50-year event (with climate change) are expected to increase by 20 mm whilst in the 50-year event, they are expected to increase by 80 mm. The report considers this to be a minimal impact and overall considers the works provide a significant flood protection with limited adverse impacts. This conclusion meets the less than minor threshold.
- The peer review of the engineering reports found these reports and analyses to be robust.
- The site of works is near a Urupa and is located 100m from a registered archaeological site. An accidental discovery protocol enacted to address the unexpected discovery of archaeological features, artefacts or taonga. This will be imposed as a condition of consent which will follow the standard OiC conditions (along with recommended amendments shown in Appendix 2 of this report) listed in Schedule 2 of the OiC;
- Noise associated with the activity will be temporary but will be required to meet the NZ Standards for Construction Noise. Condition 23 of Schedule 2 (with proposed amendments) of the OiC is considered sufficient to address these temporary effects;
- Potential dust and stockpile effects on Transpower's National Grid Assets are addressed through Condition 10 c) ix (as amended). Condition 10 c) vi (as amended) will require the consent holder to demonstrate compliance with the District Plan setback requirements from the National Grid towers and lines to mitigate potential adverse effects on the National Grid;
- The effects on Pan Pac and Transpower assets from the construction of the proposed stopbank around their sites is considered to be positive and will provide protection in a 1 in 500 year flood event which will ensure the wider community benefits from this protection and continued use of these assets;
- Other potential adverse effects of the construction works are mitigated through conditions set down in the OiC. These conditions are considered suitably robust to address the works outside the OiC footprint;
- There will not be a significant change to existing land use patterns in the surrounding area in the long term as stopbanks are a common feature within the Rural Zone.
- The proposal is a positive addition to the environment due to the purpose of the stopbanks providing flood mitigation to protect residential properties, particularly properties classified as 2C, and rural land from future 1 in 100 year flood events.

Overall, it is considered that the adverse effects of the proposal are less than minor on any person.

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

Step 4: Special Circumstances

It is considered that there are no special circumstances that exist in relation to the application that would warrant notification of the application to any other persons not already determined to be eligible for limited notification (excluding persons assessed under Section 95E as not being affected persons). All relevant matters and persons are sufficiently addressed above in this report. Thus, no limited notification to any other affected persons is deemed necessary in accordance with Section 95B(10).

7.2.1 Section 95B Recommendation

I am satisfied the application can be considered without notification on a limited basis to any person in accordance with Section 95B(10)(b).

7.3 Summary of Notification Recommendations

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

7.4 Decision on Notification

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

Notification Decision made under delegated authority by:



Michelle Hart
Senior Environmental Planner (Consents)

Date: 24/10/2025

8.0 Assessment of Environmental Effects

8.1 Permitted Baseline

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

In regard to this proposal, it is the effects on the river (inside and outside of the River Hazard Overlay) and the visual and amenity effects of the proposed earthworks on the environment that need to be considered. The District Plan prescribes the volume of earthworks permitted in the Plains Production Zone as being 100m³ per hectare of site for any twelve month period and in the Rural Zone 2000m³ per hectare of site for any twelve month period. In the Whirinaki Industrial Zone, this is 50m³ per site. Given the scale of earthworks over the sites required to construct the stopbank, the permitted baseline is not particular assistance.

In terms of the proposed works within the River Hazard Overlay, these works are permitted under the District Plan and therefore the permitted baseline is not relevant. Works outside of the River Hazard Overlay are only permitted if the volume of earthworks does not exceed the volume thresholds prescribed in the District Plan. On this point, the soil for the construction of the stopbank is being transported on the site and stockpiled. The visual impact of these earthworks will be assessed against the relevant assessment criteria under the earthworks provisions.

8.2 Matters of Control - Schedule 3

Schedule 3 of the OIC lists the matters of control for assessing the application. The applicant has provided a detailed analysis of these matters and provided comprehensive technical reports to support the proposal. These are listed in section 1.6 of this report.

8.2.1 **General**

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

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

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

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

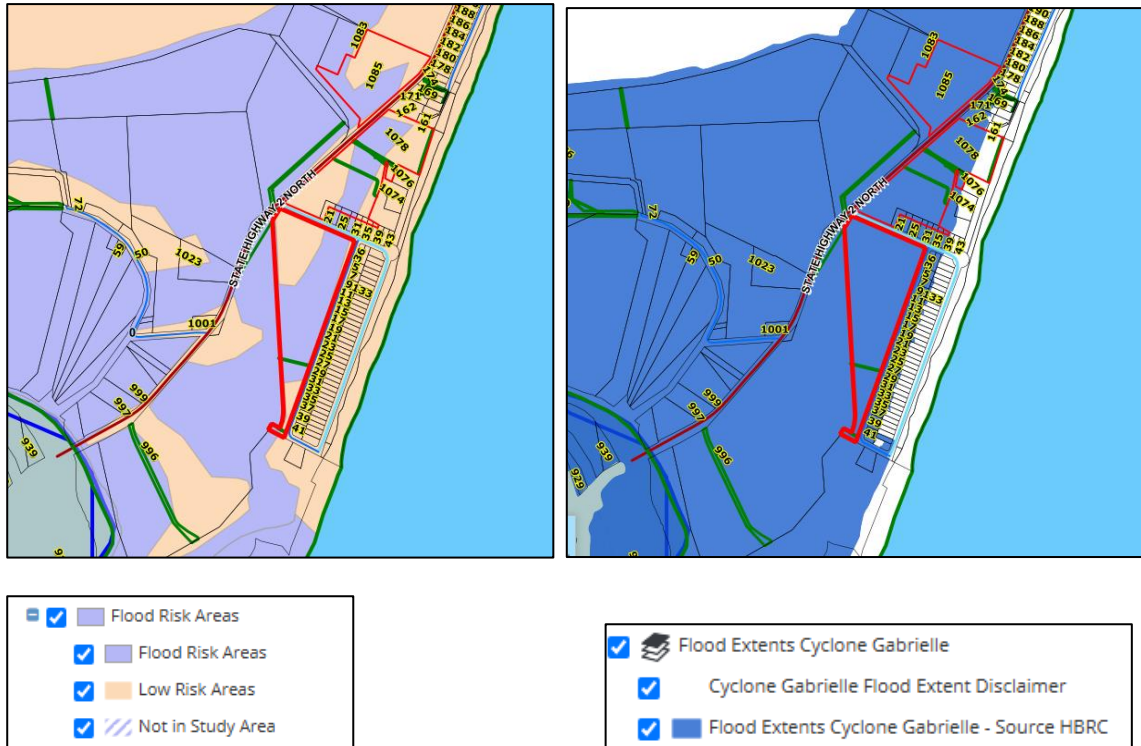


Figure 9: Flood Hazard – Before and following Cyclone Gabrielle

The application was lodged with key engineering reports in Appendices 8, 10,12,14,16 and 17 Appendix 17 is a peer view from BECA various reports presented by PDP. These reports are referred to in section 1.11 where the HDC files are registered against each report.

The key potential effects have been recognised as being the effects of consequential flooding that may occur following construction of the stopbanks. To address this, extensive modelling through a range of predicted events to inform the assessment undertaken of flood hazard risks.

The applicant makes the point that “*within the Regional Policy Statement (RPS) there is widespread potential for flooding within Hawke’s Bay, and that individual rainfall events causing flooding can range from localised downpours affecting particular catchments, to cyclonic storms causing general flooding over large parts of the region.*” The purpose of the OIC and this Application is to endeavour to ensure that to provide a pathway in which to ensure the best possible protection from future flood events to communities located alongside river features is achieved without delay and for works to commence without a complicated process.

A risk assessment of the proposed works has been undertaken by PDP (referenced at section 10.2.1 of the Application) and supported by BECA. BECA was engaged to review and provide comment on PDP’s report “*Assessment of Effects on Flooding for Proposed Whirinaki Stopbank*”. (PDP Effects Report); and report on the consequences of the proposed works on the local community. This included 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 focus of this report was also to weigh up the benefits of protecting Category 2C land against the adverse effects on the Category 3 areas.

BECA, in reviewing the flood assessment by PDP found that the reports and analysis therein to be robust.

The conclusions reached by BECA are that the proposed Whirinaki stopbank prevents flooding of Category 2C land east of Whirinaki Drain in the design 100-year and 500 year events. The area protected by the 100-year ARI stopbank includes Pohutukawa Drive Urupa and residential areas along North Shore Road and Pohutukawa Drive. BECA states that “*the proposed works provide a significant level of protection to critical infrastructure and residential areas*”.

BECA have acknowledged that the food risk increases slightly in the Taits Road area between the Whirinaki Drain and the Esk River and that HBRC has identified as Category 3 where future event risk cannot be sufficiently mitigated. This area includes the Petane Urupa which, in accordance with proposed condition 10B of the OIC, will benefit from mitigation measures proposed as shown on the plans below.¹¹

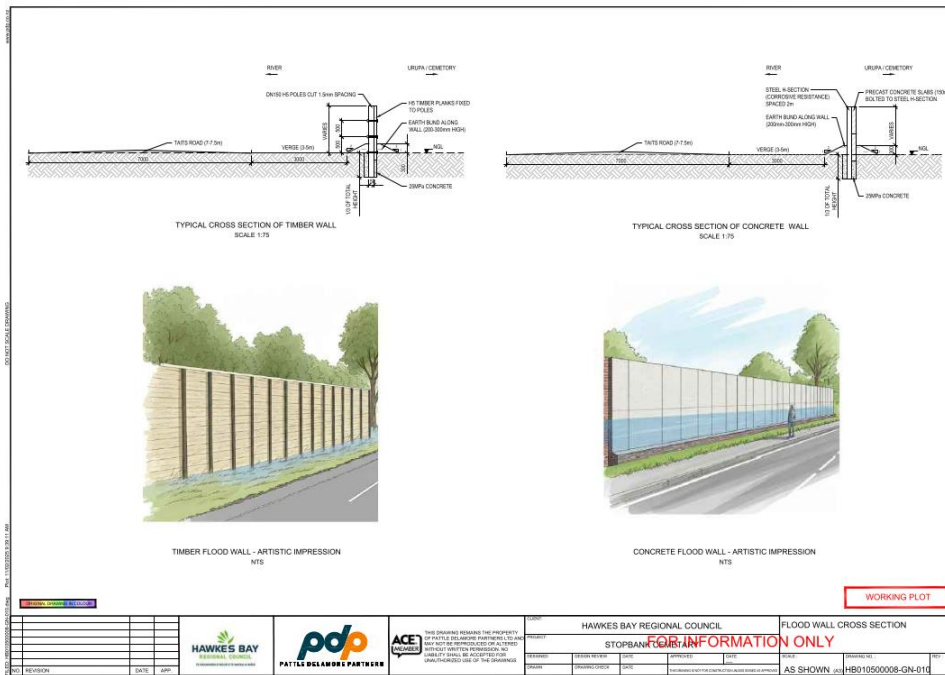
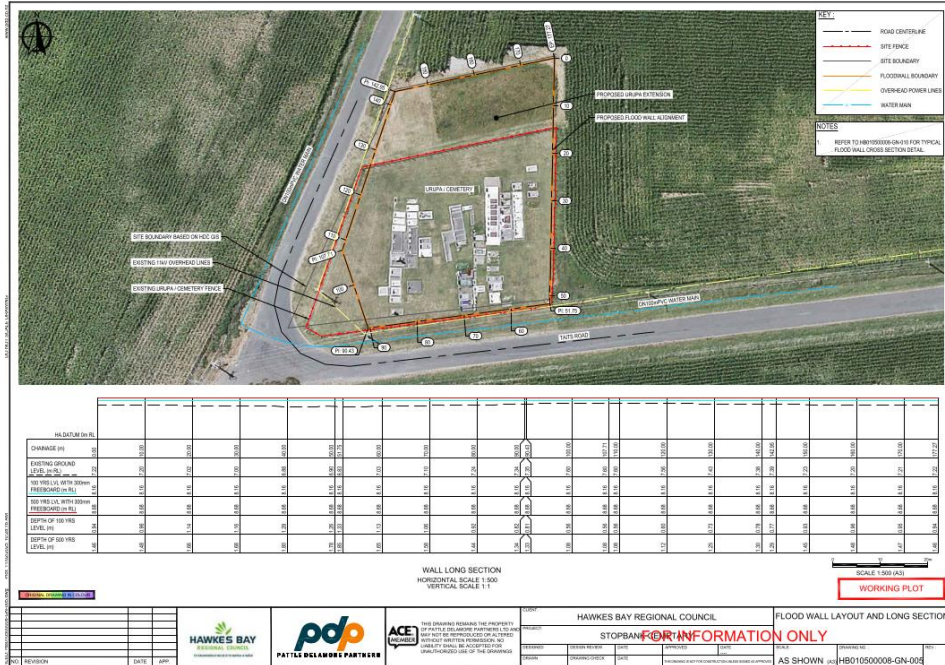


Figure 11: Mitigation measures for Petane Urupa

The Applicant has also provided a detail assessment of affects arising from activities which require resource consent from HBRC under the standard RMA process i.e. outside the OIC footprint. In this assessment, the Applicant has drawn from the engineering reports provided in the appendices of the application. The assessment largely centres on the consents required under the HBRMP which is

¹¹ Plans by PDP – Stopbank for Cemetery Drawing HB010500008-GN-005 (HDC Ref: RMA20250336#0009)

within the authority of the HBRC. The full assessment can be viewed at HDC Ref: RMA20250336#0015.

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

8.2.2 **Cultural Values**

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

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

I note that the physical works do not impact any identified archaeological sites, wāhi tapu or wāhi taonga sites but works are close to the Pohutukawa Drive Urupa. The Application also addresses the Petane Urupa and the southern end of Taits Road.

The application includes details of the level of engagement with mana whenua throughout the proposal. Cultural Impact Assessment (CIA) is provided at Appendix 2 of the Application. This has been prepared by Ngā Hapū o Petane Marae who have requested that this report remains confidential. Table 6¹² in the Application sets out clearly the recommendations of the CIA and the Applicants response to those which indicate an ongoing partnership between the Applicant (HBRC) and the Maori entities throughout the project construction.

The CIA includes a number of recommendations that have been included in the Application ¹³under the following headings.

1. *Explicit wāhi tapu protection*
2. *Holistic environment management,*
3. *Environmental degradation clean fill operations,*
4. *Preservation of wāhi ta,*
5. *Mana whenua inclusion in decision making*
6. *Economic participation and equity*
7. *Planning for stopbank breaches*
8. *Return of Pan Pac social license*
9. *Restoration efforts*
10. *Maintaining residential status quo*

This list is extensive and requires a level of consideration with mana whenua that sits both within and outside of the OiC and RMA processes. Conditions 4 to 7 of Schedule 2 establishes the framework for a Stakeholder Advisory Group, which includes Māori Entity representatives and cultural monitors. Following extensive consultation by the Applicant with Ngā Hapū o Petane Marae and other Maori entities. The conditions, including amendments following the consultative process, are included within Appendix 11 of the Application. Of particular note is the inclusion of a new condition 10B, Petane Urupa Construction Environmental Plan, which has the purpose of protecting

¹² Page 73 – 77 Application (HDC Ref: RMA20250336#0015)

¹³ Page 86 – 93 Application (HDC Ref: RMA20250336#0015)

the Urupa located at the end of Taits Road and Pohutukawa Drive. The Urupa sites are shown in Figure 12. Figure 13 shows the proximity of the construction works to the Urupa.



Figure 12: Urupa bordered RED Lot 2 DP 3354 BLK XII PUKETAPU SD-BURIAL GROUND and LOT 12 DP 3351 BLK XII PUKETAPU SD-MAORI RES Archaeological Site V20/69 bordered BLUE

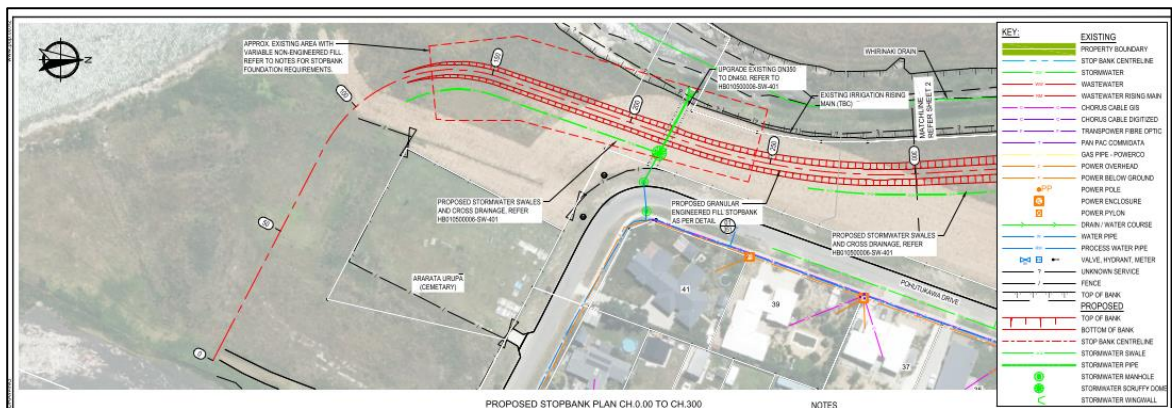


Figure 13: Construction works in proximity of the Urupa Sourced from PDP report Appendix 9 of the Application

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

While it is noted that the proposed works (including ancillary activities) do not directly impact the Urupa or Archaeological Site this does not mean other cultural elements should be overlooked.

The conditions in Schedule 2 of the OiC will ensure that cultural values are maintained, and archaeology is protected through the appropriate mechanisms. I note in the Application that a timber flood wall is proposed to be constructed to encompass the existing Urupa and any further extensions of this (see figure 11). The Application notes the following key points stating that these works are for flood protection but will be undertaken under a separate contract.

- *The flood wall will be approximately 178 m long,*
- *The proposed design LoS is for a 500-year ARI event,*
- *The wall will be embedded up to one-third of the wall's height into the ground with a 25 MPa concrete surround with 200-300mm high earth bunds along both sides of the wall with 1 V:2H side slopes,*
- *If concrete is to be used, the design is likely to involve 150mm thick precast concrete slabs bolted to steel H-sections spaced at 2 m, and timber is to be used, H5 timber planks fixed to DN 150 H5 poles spaced at 1.5 m.*

Importantly, the Urupa will have some protection moving forward.

8.2.3 **Freshwater**

- (a) ***Potential adverse effects on the values of any natural inland wetland and hydrological regime.***
- (b) ***Provision for the passage of fish.***
- (c) ***Application of the effects management hierarchy to works affecting any natural inland wetland.***
- (d) ***The use of reclamation and diversion to facilitate flood protection works.***
- (e) ***The management of flood protection works to avoid, remedy, or mitigate potential sedimentation or contamination effects on any receiving environment.***

The matters of control listed in 7.2.3 above fall to be addressed under the HBRRMP and will be addressed by HBRC.

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

8.2.4 **Coastal environment**

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

The Application site is not located within the coastal environment however the application site is close to the coast. The application includes a Landscape Scoping Assessment in Appendix 6 (HDC Ref: RMA20250336#0019) which considers the coastal environment, determining that the proposed stopbank will not have a significant adverse effect on the landscape character, visual amenity or natural character values of this locality.

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

8.2.5 **Stormwater**

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

The matters of control listed in 7.2.5 above fall to be addressed under the HBRRMP and will be addressed by HBRC. I note however that the conditions in the OiC address this issue through conditions 10 to 15.

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

8.2.6 **Soil, land, and ecology**

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

The application includes an Ecological Impact Assessment (Appendix 5 of the Application) prepared by PDP. As Condition 27 of Schedule 2 of the OiC requires this and it has already been prepared, the Applicant has shown this condition deleted. The matters listed above have been addressed by the Applicant and in the Ecological Impact Assessment. I note that HBRC have commented on the proposed amendments to Conditions 18 and 28 in relation to these matters (refer to Appendix 2 of this report)

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

8.2.7 **Visual effects and amenity**

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

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

The Application in Appendix 6, includes a Landscape Impact Assessment (LIA), prepared by Narrative Landscape. The LIA addresses the above matters and provides an assessment of potential effects on the following:

- Coastal Environment
- Pohutukawa Drive Residents
- North Shore Road Residential Properties
- Residential Property at 1078 SH2
- Whirinaki Road Residential Properties
- Petane Urupa

- The LIA also assessed
- Potential Scour Protection
- North Shore Road Street Trees

The LIA concludes that “*beyond a single property at 1078 SH2, no other significant effects were identified on residential properties or the coastal environment*”.

In terms of the property at 1078 SH2, the assessment considered that “*the project could result in significant potential adverse effects*” on that dwelling, also known as 19 North Shore Road. The LIA identifies that the proposed stopbank will be directly in front of this dwelling meaning that there will be a noticeable reduction in amenity as existing views will be lost due to the raising of North Shore Road. This is worsened by the need to remove the existing earth bund that separates the house from SH2.

The LIA recommends mitigation options should be explored in respect of this property and in consultation with the owners. The Applicant has addressed this by recommending amendment to Condition 24 as noted below.

Landscape assessment and plan

- a) ~~Before construction works begin, the consent holder must conduct a landscape scoping assessment to identify the potential visual landscape effects of the proposed works, including effects on any adjoining residential properties and any coastal environment.~~
- b) ~~If the assessment identifies significant potential adverse effects, The consent holder must prepare and implement a landscaping plan according to Figure 5 of the Whirinaki Landscape Scoping Assessment, 25 August 2025 prepared by Narrative Landscape prior to the completion of works, so that planting, upon maturity, will reduce the visibility of the stopbank and traffic on State Highway 2 from the dwelling identified in Figure 5 of the Whirinaki Landscape Scoping Assessment for the use of planting and fencing as required to avoid, remedy, or mitigate those effects.~~

Figure 5 of the LIA is shown below;



I agree with the LIA prepared by Narrative Landscape and subsequent amendments to Condition 24 that will authorise the imposition of a planting plan as mitigation for the owners of this property in accordance with the plan prepared by Narrative Landscape. This type of condition would normally be imposed by HDC when assessing earthworks located outside the Oic footprint

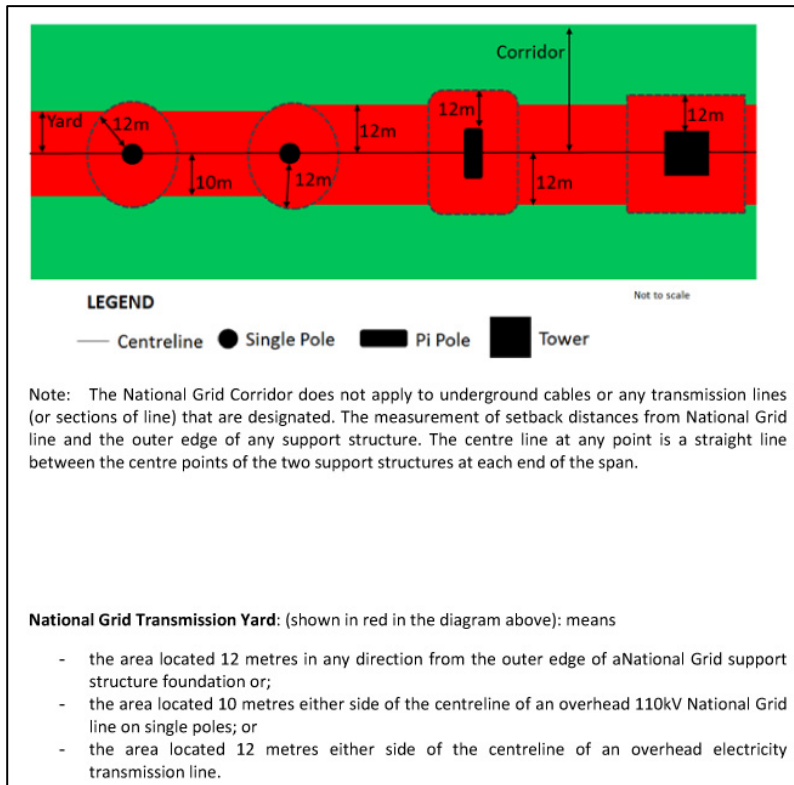
8.2.8 Adjoining land uses

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

Effects on adjoining land uses has been addressed throughout the Application, in particular the sections that relate to consequential flooding. I concur with these assessments in relation to potential risk of flooding upstream and downstream of the proposed stopbanks and I have reached a measured conclusion that the benefits of the works have been identified as outweighing the costs.

The Applicant has engaged with the community, network utilities and HDC throughout the process. The Application states that landowners are supportive of the proposal. This is reflected in there being no comments on the proposal from any private persons who were invited to comment. The comment from Transpower did however raise an issue around the location of the stockpiles at their site in proximity to the foundations on the transmission lines. The Hastings District Plan has specific rules

around how close an activity can be from these structures. These rules are included for context below.



The figure and photograph below show this location. I have recommended that Condition 10 c) vii) of the OiC be amended to provide protection of these assets as follows:

10 Construction and Environmental Development Plan

c) The CEMP must include the following information:

vii. procedures for managing public health and safety, including restrictions on public access to work sites and the river and how a 12m setback control from the outer most visible edge of the National Grid support structure foundations, on the land legally described as INDUSTRIAL PORTION PO 4500025484, for material stockpiles will be managed (demarcation of the 12 metre setback shall be visible on site).



Figure 14: Transpower site / stockpile area

In terms of effects on infrastructure assets, the Applicant has committed to working network utility operators and HDC as part of the detailed design process and in preparing the CEMP and will be invited to appoint a member to the Stakeholders Group and will be able to comment on any amendments to the CEMP. This is covered in the conditions of the OiC.

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

8.2.9 **Heritage and archaeology**

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

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

The Applicant has addressed this matter in section 10.10 of the Application. The Archaeological Assessment by Archaeology HB concluded that work to the west of SH2 can proceed under an Accidental Discovery Protocol, however, an archaeological authority will be required for all work east of SH2. This is no surprise given the location of the Urupa and Archaeological Site nearby. No changes to Condition 29 are therefore proposed.

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

8.2.10 **Access and transport**

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

The Application at section 10.11 addresses these matters and states that the proposed stopbank features will not prevent future access to the Whirinaki Drain, Esk River or the coast and on this basis no specific measure or conditions to avoid, remedy or mitigate effects associated with access to and along these watercourses and water bodies were considered necessary. My comment to this statement is that while the constructions works are being undertaken, access to these features, from a health and safety viewpoint, may be temporarily obstructed. The construction works will however be temporary, and any potential effects will be temporary, if not necessary.

Condition 10(c) vi. and vii. of the draft conditions along with the proposed amendments, requires that the CEMP shall include procedures for managing public health and safety – including restriction of public access to work sites and the river. These proposed amendments to Conditions 10 c) vi and vii. are noted below:

10 Construction and Environmental Development Plan

c) The CEMP must include the following information:

- vi. arrangements for site access and on-sit traffic management, [including haulage routes:](#)
- vii. procedures for managing public health and safety, including restrictions on public access to work sites and the river [and how a 12m setback control from the outer most visible edge of the National Grid support structure foundations, on the land legally described as INDUSTRIAL PORTION PO 4500025484, for material stockpiles will be managed \(demarcation of the 12 metre setback shall be visible on site\).](#)

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

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

The works proposed and required around North Shore Road and SH2 are covered under the CEMP noting that works within the designated corridor by a network utility operator are permitted activities.

8.2.11 **Contaminated land (human health)**

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

The Application included a PSI prepared by PDP (HDC Ref: RMA20250336# 0020). The report is a desktop review of the available information and observations made by the SQEP who noted the following (abridged):

- The site has been subject to filling from unknown sources since 1970;
- The land around the site, prior to development of Pan Pac appeared to be a mix of horticulture and agriculture from 1943;
- There was no evidence of bulk storage of chemicals or waste disposal within the stopbank site;
- There has been a timber mill operation;
- Discharge permits have been obtained over the years to the Whirinaki drain;
- Cleanfill permits have been obtained for a site at the southern end of the application site, but it is possible that some of this fill could have contained asbestos from building materials;
- The site has been used for a disposal area for sediment excavated from the base of the Whirinaki drain and it is possible that chemicals and contaminants from the site were deposited during Cyclone Gabrielle flooding.

The conceptual site model contained in the PDP report, identified the potential HAIL activities associated with the site include:

- *HAIL H - Any land that has been subject to the migration of hazardous substances from adjacent land in sufficient quantity that it could be a risk to human health or the environment*
- *HAIL I - Any other land that has been subject to the intentional or accidental release of a hazardous substance in sufficient quantity that it could be a risk to human health or the environment*

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

The applicant has recommended that **Condition 17 of the OiC** (Works on Contaminated Land) be deleted, and that Condition 10 be amended to include a CSMP (see Appendix 11 of the Application). I agree that to the deletion at it will reduce repetition and confusion around this.

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

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

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

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

9.1.2 National Environmental Standard for Sources of Human Drinking Water 2007

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

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

9.2.1 National Policy Statement on Urban Development 2020

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

9.2.2 National Policy Statement for Freshwater Management 2020

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

(a) the health and well-being of water bodies and freshwater ecosystems

(b) the health needs of people (such as drinking water)

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

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

9.2.3 National Policy Statement for Highly Productive Land 2023

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

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

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

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



Figure 15: Land Use Capability Classification Map

Clause 3.9 applies, however an exception to the assumption that works affecting highly productive land applies under 3.9 (2).

3.9 Protecting highly productive land from inappropriate use and development

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

I make the following comments in relation to these matters:

- The purpose of the works are to address flooding risk, which present a high risk to public safety;
- Section 6(h) RMA provides that the management of significant risks from natural hazards is a matter of national importance. The proposed works will address such significant risk;

- In terms of (j)(i) the sole purpose of the application is to construct a stopbank which constitutes public flood control and flood protection. Such works are defined as “specified infrastructure” in cl 1.3 NPS-HPL. The works have a functional need to be located in the specific area.

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

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

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

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

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

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

9.2.5 Hawke’s Bay Regional Policy Statement – s104(1)(b)(v)

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

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

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

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

9.3.1 Applicable Earthworks Assessment Criteria – Section 27.1.7

27.1.7A LAND DISTURBANCE AND VEGETATION CLEARANCE

- (a) The effects of land disturbance and vegetation clearance will be assessed in terms of their effects on:*
 - (i) The life-supporting capacity of soils.*
 - (ii) Soil erosion and stability.*
 - (iii) Soil Runoff and Sedimentation.*
 - (iv) Natural landforms and contours.*
 - (v) Flora and fauna.*
 - (vi) Significant cultural, ecological and historic heritage sites*
 - (vii) Composition and characterises of any fill used.*

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

- (i) *The extent of removal of vegetation, topsoil and subsoils at any one time.*
- (ii) *Methods to separate soil horizons during stripping.*
- (iii) *Measures to safeguard the life supporting capacity of stockpiled soils.*
- (iv) *The potential or increased risk of hazards from the activity, including potential risk to people or the community.*
- (v) *Sediment control measures*
- (vi) *Rehabilitation of site*
- (vii) *Land capability and potential end uses of the site*
- (viii) *Information on any relocation of fill on or offsite.*
- (ix) *Siting, construction and maintenance of internal access roads.*
- (x) *Effect on flow paths and floodways.*
- (xi) *Measures to avoid disturbance of archaeological sites*

Assessment:

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

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

In terms of effects on the life-supporting capacity of soils, the proposed stopbank (Whirinaki and Pan Pac) will not only protect people and land they will in effect form a barrier to contain these soils from being washed away during any new flood events should they occur. The soil to form the stopbanks will be brought in to the site which means that there will be no borrow within the Application site but rather soils will be stockpiled in the areas shown in Figure 8.

The PDP report¹⁴ in Appendix 9 of the Application investigates, assesses and details the design work to support the Application and includes analysis of the following:

- Existing Environment;
- Whirinaki Flooding Background;
- Proposed Flood Resilience Project;
- Flood Modelling completed as part of the work;
- Investigations completed as part of the work consisting of:
 - Geotechnical; and,
 - Survey.
- Proposed preliminary design including drawings;
- Assessment of effects;
 - Flooding Effects
 - Erosion and Scour Effects
- Construction overview.

This report is very thorough and addresses all matter considered appropriate for HDC to assess the proposed construction within and outside the OiC footprint. There is nothing further that could be added to the PDP assessment other than to acknowledge that erosion and sediment control measures will be employed to manage sediment laden stormwater runoff, and that these will need to be in accordance with HBRC guidelines.

In terms of effects on flow paths and foodways, the assessment applied by the Applicant in their assessment in Section 11.2.1 of the application¹⁵ provides a detailed assessment relating to discharge and dewatering activities and diversion of water. While any discharge or diversion of water

¹⁴ Whirinaki Drain Stopbank Upgrade Project – PDP , dated September 2025 (HDC Ref: RMA20250336#0022)

¹⁵ Page 108-115 Stradegy Planning Ltd (HDC Ref: RMA20250336#0015)

in the excise of an activity falls to be largely a responsibility of the HBRC, HDC must remain consistent in its approach to these activities and the application must be assessed in accordance with the assessment criteria listed above in 27.1.7A (b) (x) *Effect on flow paths and floodways*.

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

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

27.1.7B VISUAL IMPACT

- (a) *The visual effects of the activity will be assessed in terms of its potential effect on:*
- (i) *The residential or recreational (including tourism) use of land in the vicinity of the activity.*
 - (ii) *The existing character of the locality and amenity values.*
- (b) *In making that assessment regard shall be had to:*
- (i) *Planting, screening and other amenity treatment to minimise visual impact.*
 - (ii) *Site location including locality, topography, geographical features, adjoining land uses.*
 - (iii) *Height of soil stockpiles and cuttings.*
 - (iv) *Rehabilitation of the site, including contouring, landscaping and re-vegetation.*
 - (v) *Duration, rate and extent of extraction.*
 - (vi) *Lighting – intensity, direction and positioning of lighting in relation to the effects of glare on the surrounding environment and adjacent land uses.*

Assessment:

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

The existing stopbank is already a feature of this area and informs the character of the existing environment. I consider that the works to upgrade this stopbank will not result in a significant change in the existing character of the wider locality and will not have a significant visual impact on most of the surrounding properties.

A landscape assessment plan is listed as being required under Condition 24 of the OiC. As stated earlier in this report, the Application, in Appendix 6, includes a Landscape Impact Assessment (LIA), prepared by Narrative Landscape. The LIA provides an assessment of potential effects on the following:

- Coastal Environment
- Pohutukawa Drive Residents
- North Shore Road Residential Properties
- Residential Property at 1078 SH2
- Whirinaki Road Residential Properties
- Petane Urupa

The LIA also assessed

- Potential Scour Protection
- North Shore Road Street Trees

The LIA concludes that “*beyond a single property at 1078 SH2, no other significant effects were identified on residential properties or the coastal environment*”.

In terms of the property at 1078 SH2, this site is located inside the OIC footprint and is also on Category 2C land affected by Cyclone Gabrielle. This is shown below in Figure 16.



Figure 16: 1078 SH2

The LIA considered that “*the project could result in significant potential adverse effects*” on that dwelling noting that the proposed stopbank will be directly in front of this dwelling resulting in a noticeable reduction in amenity as existing views will be lost due to the raising of North Shore Road. This will be worsened by the need to remove the existing earth bund that currently separates the house from SH2.

The LIA recommends mitigation options should be explored in respect of this property and in consultation with the owners. The Applicant has addressed this by recommending amendment to Condition 24 as noted below.

Landscape assessment and plan

- a) ~~Before construction works begin, the consent holder must conduct a landscape scoping assessment to identify the potential visual landscape effects of the proposed works, including effects on any adjoining residential properties and any coastal environment.~~
- b) ~~If the assessment identifies significant potential adverse effects, The consent holder must prepare and implement a landscaping plan according to Figure 5 of the Whirinaki Landscape Scoping Assessment, 25 August 2025 prepared by Narrative Landscape prior to the completion of works, so that planting, upon maturity, will reduce the visibility of the stopbank and traffic on State Highway 2 from the dwelling identified in Figure 5 of the Whirinaki Landscape Scoping Assessment for the use of planting and fencing as required to avoid, remedy, or mitigate those effects.~~

Figure 5 of the LIA is shown below;



Figure 5: Potential mitigation planting for property at 1078 SH2 indicated by blue line

I agree with the LIA and subsequent amendments to Condition 24 that will authorise the imposition of a planting plan as mitigation for the owners of this property, in accordance with the plan prepared by Narrative Landscape. This type of condition is a standard condition imposed by HDC when assessing earthworks and it is appropriate when assessing earthworks located outside the OiC footprint. I consider that Condition 24 of the OiC will address the condition that would otherwise be imposed under s.108 of the RMA.

In terms of the proposed swales, these will not be incompatible within a rural context due to the low impact of the designs proposed.

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

27.1.7C EFFECTS ON OTHER LAND USES AND ADJOINING PROPERTIES.

The extent to which the activity will interfere with, or adversely affect, the current use of the land on which the activity is sited, or adjoining land uses. Consideration will be given to any potential effects of the proposed activity on adjoining properties and land uses, such as effects on surface drainage patterns, dust nuisance, or adverse effects on adjoining buildings. Permanent effects will be given more weight than temporary effects. Consideration will also be given to methods to avoid adverse effects on land use activities which are allowed in the zone where the activity is located, such as distance of activities from boundaries, and methods to avoid disturbance to adjoining properties, including livestock, particularly during birthing, and dust on fruit, particularly during harvesting season.

Assessment:

The most significant effect from earthworks on adjoining land uses and adjoining land is dust created by the use of machinery and from wind blowing particulates in the air. This can be mitigated through appropriate dust suppression measures. The Application lists measures such as water carts and sprinkler systems or similar to mitigate the effects of dust while construction activities are being undertaken. Condition 16 of the OiC specifically addresses dust management, noting that it is also recommended that Condition 10 c) ix. be amended to address potential adverse effects on the National Grid assets.

The LIA provided by Narrative Landscapes has identified one property visually affected by the proposed works (this has been addressed earlier) and in particular the raising of the road and the location of the new stopbank. Mitigation in the form of landscaping will provide a level of permanent screening to minimise the visual effects and loss of view for this property.

The application is reliant on the specialist reports and designs prepared by PDP that address any surface drainage issues from the new stopbank and any consequential flooding upon completion of construction. The report in Appendix 16 of the application is a hydraulic flood model that addresses the height of Whirinaki stopbank, designed to protect properties in Pohutukawa Drive in a 100 year event and Pan Pac stopbank, designed to protect Pan Pac properties from flooding of the Esk River for events up to and including the 1 in 500 year event.

The key issue for adjoining properties would likely be the actual or potential effects of consequential flooding following construction of the collective (Whirinaki and Pan Pac) proposed stopbank. PDP undertook a series of modelling exercises and have concluded:

- *Significant Flood Reduction: reduce flooded areas and buildings by approximately 7% and at least 12%, respectively.*
- *Improved Flood Hazard Classification: The works generally decrease higher flood hazard classifications, with most buildings experiencing a decrease in hazard.*
- *Minimal Impact on Habitable Dwellings Outside LC3: No increases in hazard are expected for habitable dwellings outside the LC3 zone. Even within the LC3 zone, the quantifiable effects are constrained to 1 dwelling, 1023 SH2. On this dwelling, there is no change in the*

hazard classification although flood levels in the 50-year event (with climate change) are expected to increase by 20 mm whilst in the 50-year event, they are expected to increase by 80 mm.

- *Limited Impact on Cultural Sites: The proposed works have minimal impact on cultural sites and provide protection for the Pohutukawa Drive urupa.*
- *Protected Lifeline Utilities: No changes in hazard are expected for key infrastructure; the substation's is fully protected up to a 500-year event with climate change.*
- *Manageable Impact on Horticultural Land: Impacts on the orchard are considered manageable given existing conditions and land use.*
- *Minimal Changes in Flood Velocities: Flood velocities are generally unchanged, with localised increases not expected to significantly increase scour.*
- *Manageable Temporary Construction Impacts: Temporary construction risks are low due to the low probability of a major flood during the construction period.*
- *Overall Positive Outcome: The works provide significant flood protection with limited adverse impacts.*

BECA, in reviewing the flood assessment found that the reports and analysis therein by PDP to be robust. The focus of this report was to weigh up the benefits of protecting Category 2C land against the adverse effects on the Category 3 areas.

The conclusions reached by BECA are that the proposed Whirinaki stopbank prevents flooding of Category 2C land east of Whirinaki Drain in the design 100-year and 500 year events. The area protected by the 100-year ARI stopbank includes Pohutukawa Drive Urupa and residential areas along North Shore Road and Pohutukawa Drive. BECA states that “*the proposed works provide a significant level of protection to critical infrastructure and residential areas*”.

BECA have acknowledged that the food risk increases slightly in the Taits Road area between the Whirinaki Drain and the Esk River and that HBRC has identified as Category 3 where future event risk cannot be sufficiently mitigated.

Overall, the analysis undertaken by BECA¹⁶ evaluated the consequences of the stopbank as being acceptable.

27.1.7D NOISE

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

Assessment:

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

In terms of the properties at the beginning of North Shore Road (off SH2) and Pohutukawa Drive, I consider these persons should be protected from vibration effects associated with the proposed works. To this effect I am recommending a change to Condition 23 to include c) and d) as follows:

¹⁶ Refer to Table 3-8 Flood consequences evaluation Pg 20 BECA Consequential Flood Assessment (HDC Ref: RMA20250336#0013)

c) The consent holder must submit a Construction Noise and Vibration Management Plan (CNVMP) for certification a minimum of 10 working days prior to commencement of works.

d) The construction works must be carried out in accordance with the certified CNVMP and a copy of the CNVMP must be kept onsite during construction hours and must be available to authorised Hastings District Council staff during monitoring inspections.

The proposed amendment reflects the proximity of residential activities to the works sites and the medium liquefaction properties of the soils.

27.1.7E EFFECTS ON SPECIFIC DISTRICT WIDE ACTIVITIES AND LOCATIONS

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

- (a) Access to and along watercourses and waterbodies.
- (b) Recreation, Conservation or Natural Areas (see District Plan Section 13.1 Open Space Environments).

Assessment:

The location and form of the proposed stopbank features will result in access to and along the water bodies and the coast or for access to these from being established following construction of the stopbanks.

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

27.1.7F EARTHWORKS WITHIN OUTSTANDING NATURAL LANDSCAPES (ONFL)

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

- (a) Where practicable, minimise the location of large scale earthworks on prominent rural ridgelines, hill faces and spurs.
- (b) Be designed to minimise cuttings across hill faces and spurs.
- (c) Where practicable, minimise the number of finished contours that are out of character with the natural contour.
- (d) Demonstrate what visual mitigation is proposed to minimise the visual intrusion of the work, including proposals to ensure the successful establishment of any plantings.

Assessment:

Not applicable to this activity

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

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

9.4 Hastings District Plan Objectives and Policies

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

Section 15.1 Natural Hazards

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

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

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

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

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

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

Assessment:

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

The application is supported by specialist flood assessments by PDP, and these have undergone a peer view by BECA. I consider that these reports which include flood modelling and flood effects assessments represent the most 'up to date' information that Council has upon which to base its decision on the potential natural hazard effects. The works are being undertaken by HBRC (public body) who are exercising their power to carry out natural hazard mitigation activities. HBRC have a statutory obligation as part of their functions and powers to carry out mitigation work for some hazards. The District Plan enables these Authorities to carry out these functions where they follow the provisions of the relevant statute, and they have expertise in this field. Flood mitigation works are permitted activities in the District Plan.

Section 27.1 Earthworks:

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

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

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

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

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

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

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

Assessment:

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

- The proposed flood mitigation works will not threaten the life-supporting capacity of soils;
- Ecosystems are safeguarded through the requirement under the OiC to install erosion and sediment controls for the duration of works;
- Visual effects on the landscape and wider environment will be less than minor due to the nature of works being consistent with the character of the surrounding rural environment;
- Effects on human health and safety are avoided, remedied or mitigated through appropriate management plans required by the conditions of the OiC;
- The works will be undertaken / managed both within and outside of the OiC in a manner consistent with standard and recommended conditions;
- Conditions will be imposed in accordance with Schedule 2 of the OiC to manage any potential adverse environmental effects from the proposed works on the environment.
- The Petane Urupa will be protected through the imposition of Condition 10B proposed by the Applicant in response to the consultation undertaken with local Maori Entities as is required under the OiC;
- Accidental Discovery Protocols in accordance with Condition 29 of the OiC will be enacted should any item/artefact be discovered during construction noting that the Applicant has stated that an Archaeological Authority has been applied for, adding further strength to protect any historic heritage features.

10.0 Other Matters:

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

11.0 Part 2 of the Resource Management Act 1991

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

- The flood protection works are being undertaken to sustainably manage the effects from natural hazards on the Whirinaki community;
- Section 6(h) provides for the management of significant risks for natural hazards as a matter of national importance, and the works will assist in achieving that for the Whirinaki community;
- The relevant consultation has been undertaken with all stakeholders and appropriate Maori entities;
- On going engagement with mana whenua is promoted through the conditions listed in Schedule 2 of the OiC;
- Sections 6(e), 7(a) and 8 of Part 2 state that Council should recognise the relationship of Maori and their culture and traditions with their ancestral lands, water, sites, wāhi tapu, and other taonga, have regard to kaitiakitanga, and take into account the Principles of the Treaty of Waitangi. This proposal is within close proximity to the Petane Urupa and approximately 100m from a registered archaeological site. As discussed earlier, the conditions in the OiC address the management of works near the Urupa and an accidental discovery protocol will apply. Ongoing relationship between the Applicant and the relevant Maori entities will ensure continued respect and protection of these sites. The Applicant has stated their commitment to continue this engagement for the duration of the project and have invited the relevant representatives on to the STAG group. A CIA prepared Ngā Hapū o Petane Marae directs and supports the project.

12.0 Conditions of Consent

- 12.1 The applicant has proposed conditions of consent (as amended and those additional) that relate to works both within the OiC footprint (subject to the conditions set out in Schedule 2 of the OiC 2024) and for those outside the OiC footprint (not restricted to the matters set out in Schedule 2 of the OiC 2024).
- 12.2 To be consistent with the HBRC section 42A report, the proposed conditions agreed with have been included as Appendix 1 attached to this report and separated into the individual activities (OIC and non-OIC activities). Additionally, a suggestion has been made as to which consent authority each condition relates to, for compliance purposes. HBRC and HDC have recommended some additional wording and additional conditions to reflect the various nuances of the construction works.

13.0 Consent Duration and Lapse

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

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

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

14.0 Conclusion

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

15.0 Recommendation

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

Recommended by:



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

Reviewed by:



Caleb Sutton
Environmental Consents Manager
Planning and Regulatory Services

Date: **28 October 2025**

APPENDIX 1: COMMENTS RECEIVED

APPENDIX 2: CONDITIONS OF CONSENT – RMA20250336
HDC Comments and Changes in Purple