



RESOURCE CONSENT

Land use Consent

In accordance with the provisions of the Resource Management Act 1991(RMA), and subject to the attached conditions, the Hawke's Bay Regional Council (the Council) grants a resource consent for a discretionary activity to:

Hawke's Bay Regional Council
Private Bag 6006
Hawke's Bay Mail Centre
Napier 4142

| Consent number | Purpose | Address | Legal Description | Map Reference |
|----------------|--|---|--|---------------------------|
| AUTH-123302-01 | To construct a weir in the Rahui channel (downstream of Whakaki Lake), and to temporarily dam and divert the Rahui channel during the works, and undertake other associated activities as restricted by sections 13 and 14 of the Resource Management Act. | State Highway 2, Whakaki, Wairoa and Whakaki Lagoon Road, Whakaki | Hereheretau B2K1E and Hereheretau B2K2B | 1996445-5668456 |
| | To clear vegetation in a Vegetation Clearance Management Area in association with constructing a Recirculating Wetland (site 1). | Whakaki Lagoon Road, Whakaki | Hereheretau B2K2A and Hereheretau B2K2B | Appendix 2 – eastern side |
| | To clear vegetation in a Vegetation Clearance Management Area in association with constructing a Recirculating Wetland (site 2). | State Highway 2 North, Wairoa | Hereheretau B2K2A | Appendix 2 - western side |
| | To disturb the bed of Whakaki wetland in association with constructing a Recirculating wetland (site 1). | Whakaki Lagoon Road, Whakaki | Hereheretau B2K2A and Hereheretau B2K2B | Appendix 2 – eastern side |
| | To disturb the bed of Whakaki Lake in association with constructing a Recirculating wetland (site 2). | State Highway 2 North, Wairoa | Hereheretau B2K2A | Appendix 2 – western side |
| | To install water take infrastructure on the bed of Whakaki Lake (associated with constructed Recirculating Wetland site 1) | State Highway 2 North, Wairoa and Whakaki Lagoon Road, Whakaki | Hereheretau B2L2 Block and Hereheretau B2K2A | Appendix 2 – eastern side |
| | To install water take infrastructure on the bed of Whakaki Lake (associated with constructed Recirculating Wetland site 2) | State Highway 2 North, Wairoa | Part Hereheretau B1 Block and Hereheretau B2L2 Block | Appendix 2 – western side |

LAPSING OF CONSENT

This consent shall lapse in accordance with section 125 of the RMA on 31 May 2024, if it is not exercised before that date.

CONSENT DURATION

This consent is granted for a period expiring on 31 May 2039.



**Liz Lambert
Group Manager**

REGULATION GROUP

Under authority delegated by Hawke's Bay Regional Council
20th May 2019

CONDITIONS

General

1. All works and structures relating to this resource consent shall be designed and constructed to conform to the best engineering practices and at all times maintained to a safe and serviceable standard.
2. Except where modifications to the authorised structure are required to provide for improvements to fish passage, as required by conditions of this consent, the consent holder shall undertake all operations in general accordance with *Resource Consent Application for Various Wetland Improvement Works, Whakaki Wetland*, prepared by Strategy for Hawke's Bay Regional Council, 18077AP1, dated 5 February 2019 and the following documents provided in support of the application and activities undertaken under this consent:
 - a) Whakaki Adjustable Weir Plan, prepared by G. Clode, dated October 2017 (as shown in Appendix 1);
 - b) Whakaki Weir Plan, prepared by G. Clode (as shown in Appendix 1);
 - c) Manufacturing Drawing, prepared by ESC Pile, dated 13/11/2014 (as shown in Appendix 1).

If a conflict arises between any conditions of this consent and the application, the conditions of this consent will prevail.

3. The water intake, recirculating wetlands and discharge points shall be located in the areas in general accordance with Consent Status: Whakaki FIF plan (as shown in Appendix 2).
4. The consent holder shall give the Council (Manager Compliance) at least five working days notice of the intention to commence any stage of the works, and shall advise the Council of having finished the works immediately following their completion.
5. The consent holder shall take all practical measures to limit the amount of sediment and prevent contaminants from entering the waterbody during the construction works. Such measures include, but are not limited to:
 - a) Any surplus soil, cleared vegetation or debris, shall be deposited at least 20 m from any waterbody or deposited or contained in a manner to reasonably prevent the transportation or deposition of disturbed matter into any waterbody.
 - b) The wash water from containers and tools shall not be discharged into any waterbody and the washing of equipment shall not occur in any waterbody.
 - c) All machinery work shall be undertaken from the banks of the waterbody rather than in the waterbody.
 - d) Refuelling and carrying out machinery maintenance away from waterbody.
 - e) The use of silt fences and other erosion and sediment control methods shall be in accordance with the Council 2009: *Guidelines for Waterways: Erosion and Sediment Control Guidelines*.

6. The consent holder shall submit a Construction Methodology and Sediment Control Plan (CMSCP) to the Council (Manager Compliance) for approval prior to the commencement of each stage of works. The plan shall include:
- a) how the construction works will be carried out on site; and
 - b) the construction sequence and associated timeframes;
 - c) how the construction works will avoid construction during the times and in the areas identified as critical for fish migration, whitebait spawning, and use of wetland habitat and vegetation by birds (as identified in accordance with condition 13); and,
 - d) how timing and construction will take into account changes in lake water levels;
 - e) for the wetland areas: how timing and construction will take into account development at a time that is optimal for plant growth;
 - f) inspection for birdlife by a suitably qualified ecologist immediately prior to commencement of vegetation clearance and wetland bed disturbance;
 - g) how timing and construction will minimise mortality and harm to wetland birds during construction;
 - h) the procedures that will be in place to limit sediment from entering the waterbody during the construction works, taking into account the Hawke's Bay Regional Council Waterway Guidelines: Erosion and Sediment Control (April 2009).

Works shall not commence until the Council (Manager Compliance) has confirmed that the CMSCP has been approved. Any contractors engaged to undertake work shall abide by the approved Construction Methodology and Sediment Control Plan and a copy of the Construction Methodology and Sediment Control Plan shall be present on site at all times while the work is being undertaken.

Advice Note: Sediment control measures shall take into account the principles and practices set out in the Hawke's Bay Regional Council Waterway Guidelines: Erosion and Sediment Control (April 2009) and any subsequent publications released in replacement of this document. If during the works it becomes evident that for an unforeseen reason the consent holder cannot operate in accordance with the methodology outlined in the Construction Methodology and Sediment Control Plan, the consent holder must advise the Council (Manager Compliance) of an alternative method that is to be used prior to continuing the works.

7. To ensure worksite spills are managed appropriately, the consent holder shall produce a Spill Management Plan (SMP) appropriate for the activities being undertaken on site. The SMP must;
- a) include procedures for preventing contaminants such as hydrocarbons or chemicals entering any waterbody in the event of a spill;
 - b) be prepared and certified by a suitably qualified person;
 - c) be provided to the Council prior to commencement of the works.

The consent holder and any contractors engaged to undertake work on their behalf shall abide by the SMP and a copy of this SMP must be present on site at all times while the work is being undertaken.

8. The consent holder shall check, clean and dry machinery used in the bed of the waterbody to limit the spread of aquatic pests.
9. Any wet concrete cast on site shall be fully contained during casting and cast in a dry work area.
10. No concrete shall be dumped into bed of any waterbody.
11. The consent holder shall construct the structures using methods and materials non-toxic to aquatic life.
12. A suitably qualified ecologist shall undertake an inspection for birdlife immediately prior to commencement of vegetation clearance and wetland bed disturbance, and shall make recommendations as necessary to minimise mortality and harm to wetland birds as a result of the works. The works shall only proceed if the qualified ecologist confirms that it is appropriate to do so. This advice shall be submitted to the Council (Manager Compliance) in writing prior to works commencing.
13. Prior to construction of each stage of the works, the consent holder shall prepare an Ecological Risk Management Plan (ERMP) identifying any potentially affected areas of Whakaki Lake and the Rahui channel:
 - a) A description of the works to be undertaken in the subject stage of the works; and,
 - b) times and areas that are critical for fish migration (i.e. tuna); and,
 - c) areas that are critical for white bait spawning (if any) and timing of spawning; and,
 - d) areas where wetland birds use the wetland habitat and vegetation; and,
 - e) critical times when wetland birds use the wetland habitat and vegetation.
 - f) methods to ensure that any recommendations made by the ecologist under condition 12 and 37(l) are undertaken.
 - g) 'restricted areas' which are to be avoided, and the times (if any) during which works in any such areas may be undertaken.

This ERMP shall be provided to the Council (Manager Compliance) prior to undertaking each stage of the works covered by the relevant ERMP.

14. Before submitting the ERMPs required by condition 13, the Construction Methodology and Sediment Control Plan required by condition 6 and Water Quality Improvement Process Final Design Plans required by condition 37 to the Council, the consent holder shall provide these plans to the Department of Conservation and seek comment and recommendations. At the time the plans are provided to the Council, the consent holder shall also provide information that demonstrates that the plans have been reviewed by DOC and that any feedback has been taken into account.

Advice note: a letter of approval from DOC will suffice for demonstrating compliance with condition 14.

15. The consent holder shall avoid construction during the restricted times and in the areas identified by condition 13.

16. The consent holder shall ensure that at the completion of the works, any exposed stream banks at the site, newly established surfaces and any grassed slopes or vegetated areas that were cleared or damaged as a result of the activity, are revegetated and stabilised (e.g. vegetated, mulched or similar) to prevent sediment from entering the waterbody. The initial stages shall include grassing (for rapid stabilisation) followed by other enrichment plantings of native plants as is appropriate.
17. The consent holder shall undertake regular inspections of plantings and replace planting as required until establishment is successful. The consent holder shall keep records of planting and inspections and make the information available to the Council (Manager Compliance) upon request.
18. On completion of the works, the bed of the waterbody shall be restored to no lesser state than it was before the works commenced.
19. In the event of any archaeological site or waahi tapu being uncovered during the exercise of this consent, activities in the vicinity of the discovery shall cease. The consent holder shall advise the Council (Manager Compliance) of the discovery. The consent holder shall then consult with Whakaki marae, Iwitea Marae, and the Heritage New Zealand Pouhere Taonga, and shall not recommence works in the area of the discovery until the relevant Heritage New Zealand Pouhere Taonga and tāngata whenua approvals to damage, destroy or modify such sites have been obtained.
20. Prior to exercising this consent, the consent holder shall provide the Council (Manager Compliance) the contact details of the person(s) who will be undertaking the inspections, observations and monitoring required to remain compliant with conditions of this resource consent.
21. The consent holder shall ensure that any contractors engaged to undertake work authorised by this consent abide by the conditions of this consent. The person responsible for the work on site shall be familiar with the consent conditions and a copy of this consent shall be present on site at all times while the work is being undertaken.

Weir, temporary dam and diversion

22. The weir and any temporary dams and diversions shall be designed, installed, maintained and undertaken in a manner that provides for the ongoing passage of fish.
23. Prior to construction, the consent holder shall provide final plans for the weir, including confirmation of the method(s) and details (e.g. the height and size of weir) for ensuring fish passage.

Advice Note: If the weir design plans are significantly differ to those approved in condition 2 of this condition, the consent holder may need to apply for a change of conditions to this consent to change the design.

24. Within one week of completion of construction of the weir, the consent holder shall provide 'as built plans' of the weir structure, including the details of the measures that are included to ensure fish passage.
25. The temporary dam(s) and diversion(s) shall be removed on completion of installation of the weir.
26. If it is observed that fish passage past the weir is inhibited when lake levels are low between September and April, the consent holder shall remove a single insert panel from the weir.

This panel must be re-inserted before any openings of the Rahui Channel. Within one day of moving panels, the consent holder shall report to the Council (Manager Compliance) when the panels are removed and when they are put back in place.

Advice Note: This requirement to remove the insert panel applies only when the lake level is above 10.6RL.

27. The consent holder shall advise the Council (Manager Compliance) of any modifications or actions that are taken to improve fish passage. This advice shall be provided to the Council in writing within 10 working days of undertaken any modifications or actions. The information provided shall describe what action was taken and the reasons for undertaking the action.

Advice Note: If the modifications do not comply with other conditions of this resource consent, the consent holder may need to apply for a change of conditions to change the design.

28. The consent holder must undertake construction the weir in a dry work area.
29. The maximum height of the weir crest when the panels are inserted (i.e. the level of water retained behind the weir) shall not exceed RL 11.5m.
30. The maximum height of the weir crest when the panel is removed (June – August) (i.e. the level of water retained behind the weir) shall not exceed 10.6m RL.

Advice Note: Taking into account the height of the sill between the Rahui channel and Whakaki Lake, a height of 10.6m RL is appropriate to provide for the flushing possible in the channel prior to installation of the weir is retained in the winter. It is acknowledged that Whakaki Lake Trust controls the opening and closing of the Rahui channel. If the inserts are removed but the channel is not opened, the water level in the lake could remain above 10.6m RL. That is beyond the control of the consent holder.

31. The consent holder shall not commence works when it is forecast that there will be a rainfall event that may overwhelm the dry work area (created by the temporary dam and diversion) during the construction period or compromise the integrity of the temporary dam and/or diversion and maintenance of a dry work area.

Advice Note: If during the works it becomes evident that unexpected rainfall will overwhelm the temporary dam and diversion and enter the working area, the consent holder must advise the Council (Manager Compliance) immediately of the methods that will be used to avoid sediment and contaminants entering the waterway.

32. The design and installation of the weir shall be such that it does not cause any long-term erosion of the bed or banks of the waterbody.
33. The removable weir panels shall not be in place within the weir between the months of June and August (inclusive). The consent holder shall report the removal or insertion of weir panels to the Council (Manager Compliance) within 2 working days of its occurrence.

Advice Note: The purpose of this condition is to allow water to flow out of the lake and avoid exacerbating flooding on adjacent land in the winter period.

34. No works shall be conducted in the Rahui Channel during the tuna migration season (1 January – 30 April).

35. The consent holder shall avoid construction works for the weir when the level of Whakaki Lake (measured on the level gauge on Patangata Bridge) is at or above 11.6m and/or when sustained heavy rainfall is forecast and an opening of the lagoon mouth may be imminent.

Advice Note: The mouth of Whakaki lagoon is opened when the lake level hits a certain lake level to avoid flooding of surrounding lands. When the mouth is opened, the water flow through the Rahui channel will be faster.

36. The consent holder shall conduct the works only in the Rahui Channel during periods when there are low flows in the waterbody.

Water Quality Improvement Process

37. Water Quality Improvement Process Final Design Plans shall be provided to the Council (Manager Compliance) for certification - prior to construction commencing. The final design plans shall be prepared by a suitably qualified professional and shall demonstrate (but may not be limited to) the following:

- a) Location of surface water take infrastructure and points of take;
- b) Location, area, dimensions and volume of sediment ponds/traps and water intake and discharge structures;
- c) Location and area of plantings;
- d) Location, area and dimensions of constructed recirculating wetlands;
- e) Location of discharge infrastructure to Whakaki Lake;
- f) A plan showing areas and volume of disturbance;
- g) Location of inflow sampling points upstream of the discharge from the sediment ponds/traps;
- h) Location of outflow sampling points from the constructed recirculating wetlands;
- i) Re-establishment plans including location and suitable species of planting, a planting programme and how the planting programme has taken into account optimal time for plant growth;
- j) Construction methodology and Sediment Control Plan prepared in accordance with condition 6;
- k) Location and area of vegetation clearance;
- l) Recommendations from a suitably qualified ecologist as to how the design and construction works can:
 - i) minimise mortality and harm to wetland birds.
 - ii) avoid adversely affecting the ability wetland birdlife to live and breed at Whakaki Lake.
 - iii) avoid disturbance to high value wetland areas and minimise loss of important wetland habitat.

- m) Information and calculations to support that the implementation of the final design will improve water quality in Whakaki Lake. This information shall take into account parameters that may affect the functioning of water quality improvement process such (but may not be limited to):
- i) Rate at which water taken from the lake (under AUTH-123915-01) will be discharged to the recirculating wetlands
 - ii) Rainfall
 - iii) Evaporation
 - iv) Evapotranspiration
 - v) Size of recirculating wetlands
 - vi) Soil drainage
 - vii) Retention time
 - viii) Discharge rates from the recirculating wetland to Whakaki Lake.

38. The construction of the Water Quality Improvement Processes shall not commence until such time as the Council (Manager Compliance) has certified the Water Quality Improvement Process Final Design Plans.
39. The Council will review the Water Quality Improvement Process Final Design Plans and details and will certify the Final Design Plans as meeting design requirements set out in condition 37 if it considers this be the case.
40. If the Council (Manager Compliance) refuses to certify the Water Quality Improvement Process Final Design Plans, it shall inform the consent holder in writing of the refusal to certify within 25 working days of receipt of the information required by condition 37 and shall outline the reasons why certification has been withheld.
41. Once the Water Quality Improvement Process Final Design Plans have been certified as meeting the requirements of condition 37 by the Council (Manager Compliance), the water quality improvement processes shall be constructed in accordance with these plans.
42. Within one week of completion of construction of the Water Quality Improvement Processes, the consent holder shall provide 'as built plans' including all components including the points of intake, wetland areas and discharge infrastructure.
43. The Water Quality Improvement Process discharge method shall be designed to meet the requirements of conditions 6 - 8 of AUTH-123916-01.

Review

44. The Council may review conditions of this consent pursuant to sections 128, 129, 130, 131 and 132 of the RMA. The actual and reasonable costs of any review undertaken will be charged to the consent holder, in accordance with section 36 of the RMA. The times of service of notice of any review is during the month of May, of any year. The purposes of review are as follows:

- a) To deal with any adverse effect on the environment which may arise from the exercise of this consent, which it is appropriate to deal with at that time, or which became evident after the date of issue.
- b) To require the adoption of the best practicable option to remove or reduce any adverse effects on the environment.
- c) To modify any monitoring programme, or to require additional monitoring if there is evidence that current monitoring requirements are inappropriate or inadequate.
- d) To require monitoring and surveying to determine the impact of the weir on fish passage, and to subsequently require modification if the weir to improve fish passage if necessary.

ADVICE NOTES

- i. That where, for any cause (accidental or otherwise), contaminants associated with the consent holder's operations escape to water other than in conformity with the consent, the consent holder shall:
 - a) Immediately take all practicable steps to contain and then remove the contamination from the environment, and;
 - b) Immediately notify the Council of the escape, and;
 - c) Report to the Council, in writing and within 7 days, describing the manner and cause of the escape and steps taken to control it and prevent its reoccurrence.
- ii. This consent does not give the consent holder permission to access, do works or operate on private property. The consent holder must make their own arrangements with the landowners for access.
- iii. All information required to be provided to the Council (Manager Compliance) can be provided to the Council by email to ComplianceReturns@hbrc.govt.nz
- iv. If the introduction and planting of plants or any part of a plant in, on or under the bed of a river or wetland in the Coastal Margin does not comply with all of the conditions of Rule 56 of the Regional Coastal Environment Plan, the consent holder must obtain a resource consent prior to undertaking any works under this consent.
- v. The consent holder is responsible for obtaining any necessary authorisations from Heritage New Zealand Pouhere Taonga.
- vi. The consent holder is responsible for obtaining any necessary permissions/authorisations from the Department of Conservation.
- vii. The consent holder is responsible for ensuring that they obtain all of the necessary resource consents to undertake activities relating to the weir and water quality improvement process prior to commencement of exercising the activities. The consent holder shall contact the Council (Manager Consents and Manager Compliance) if they require further resource consents.

REASONS FOR DECISION

The effects of the activity on the environment will not be more than minor. Granting the consent is consistent with the purpose and principles of the RMA, the requirements of any relevant NPS, Regulations, NES regulations and with all relevant plans and policies.

MONITORING NOTE

Routine monitoring

Routine monitoring inspections will be undertaken by Council officers on at least one occasion during construction and/or after the completion of works. The costs of **any** routine monitoring will be charged to the consent holder in accordance with the Council's Annual Plan of the time.

Non-Routine monitoring

"Non routine" monitoring will be undertaken if there is cause to consider (e.g. following a complaint from the public, or routine monitoring) that the consent holder is in breach of the conditions of this consent. The cost of non-routine monitoring will be charged to the consent holder in the event that non-compliance with conditions is determined, or if the consent holder is deemed not to be fulfilling the obligations specified in section 17(1) of the RMA shown below.

Section 17(1) of the RMA states:

Every person has a duty to avoid, remedy, or mitigate any adverse effect on the environment arising from an activity carried on by or on behalf of the person, whether or not the activity is carried on in accordance with

- a) *any of sections 10, 10A, 10B, and 20A; or*
- b) *a national environmental standard, a rule, a resource consent, or a designation.*

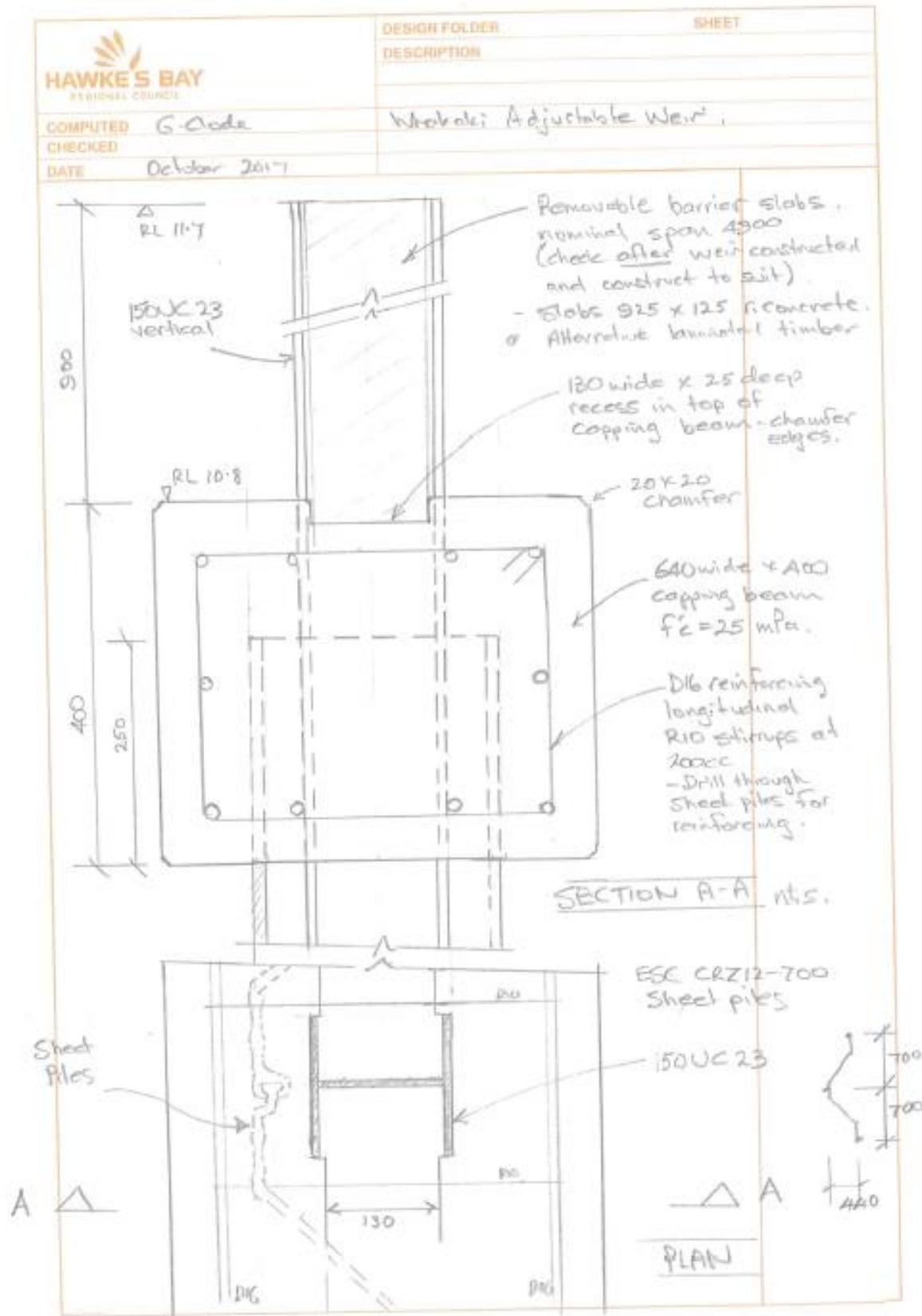
DEBT RECOVERY

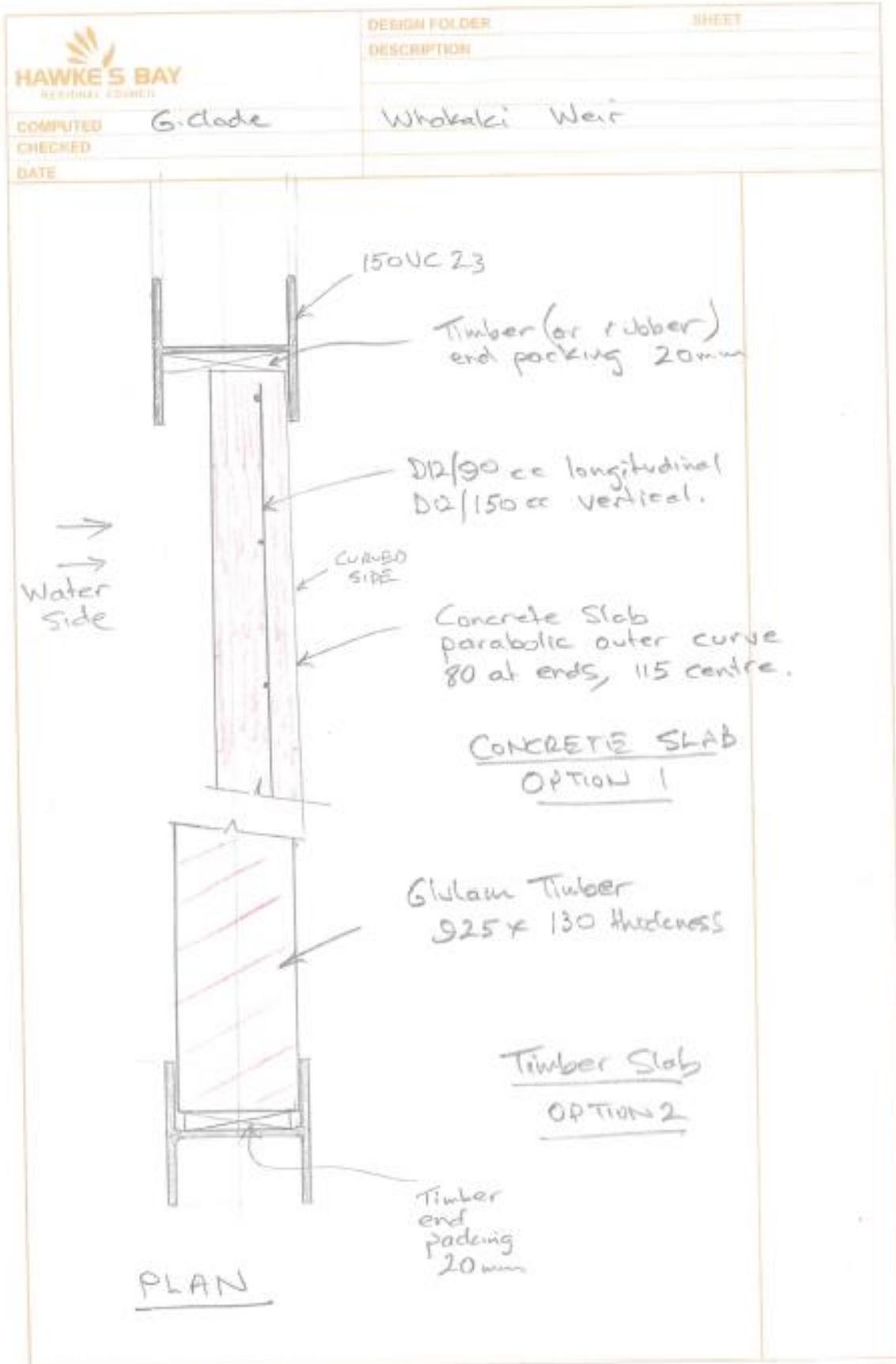
It is agreed by the consent holder that it is a term of the granting of this resource consent that all costs incurred by the Council for, and incidental to, the collection of any debt relating to this resource consent, whether as an individual or as a member of a group, and charged under section 36 of the RMA, shall be borne by the consent holder as a debt due to the Council, and for that purpose the Council reserves the right to produce this document in support of any claim for recovery.

CONSENT HISTORY

| Consent No. | Date | Event | Relevant Rule | Relevant Plan |
|----------------|------------|---------------------------|---------------|--|
| AUTH-123302-01 | 20/05/2019 | Consent initially granted | 8 and 46 | Regional Coastal Environment Plan (8 November 2014) (RCEP) |

APPENDIX 1: WEIR DESIGN PLANS





APPENDIX 2: SITE PLAN – RECIRCULATING WETLANDS, WATER TAKE, AND WATER DISCHARGE

