STRADEGY
Urban, Environmental & Strategic Planning

Resource Consent Application for Flood Mitigation Works

Whirinaki Flood Protection Stopbank

Hawke's Bay Regional Council

24091AP1
15 September 2025

APPLICATION DETAILS

Consent Authority: Hawke's Bay Regional Council
Hastings District Council

The Applicant: Hawke's Bay Regional Council

Address for Service: Stradegy Planning Limited, PO Box 239 Napier 4140

Address for Invoice: Hawke's Bay Regional Council
c/- Luke.Cahalin@hbrc.govt.nz

Site Details: Various sites in Whirinaki - as follows:

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

Activity for which Consent is sought:

Resource consent to:

1. Undertake flood protection works as a **Controlled Activity** under the **Severe Weather Emergency Recovery (Hawke's Bay Flood Protection Works) Order 2024**. The works involve a range of activities otherwise regulated under section 9, 12, 13, 14 and 15 of the Resource Management Act 1991,
2. Undertake soil disturbance as a **Discretionary Activity** under Regulation 11 of the **National Environment Standard for Assessing and Managing Contaminants in Soil to Protect Human Health**,
3. Undertake earthworks as a **Discretionary Activity** under Rule EM6 and EM10 of the **Hastings District Plan**,
4. Undertake the diversion of flood water as a **Discretionary Activity** under Rule 59 of the **Regional Resource Management Plan** and Rule 39 of the **Regional Coastal Environment Plan** and various other activities.

Prepared by:

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Principal Planner I Director

Reviewed and Approved for Release by:

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Senior Associate - Planning

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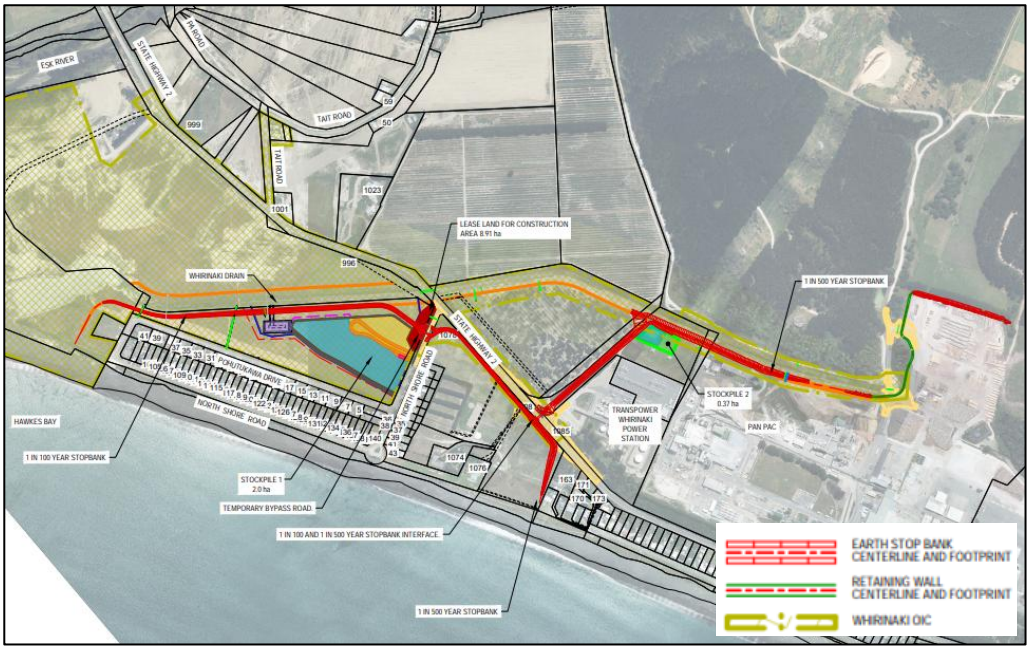
1. INTRODUCTION

The Whirinaki flood protection project ("**Project"**) is an initiative by Hawke's Bay Regional Council ('HBRC') to construct a new stopbank that will provide enhanced flood resilience to the Whirinaki community.

The Project involves:

- construction of a new circa 3,000m long stopbank – comprising two main portions. Portion 1, referred to as the Whirinaki Stopbank, will extend from the north side of the Esk River mouth to State Highway 2 in the north, at which point it will connect with Portion 2, referred to as the Pan Pac Stopbank, which runs from the gravel barrier south of 162 Whirinaki Road, across the State Highway and around the Transpower and Pan Pac sites along the Whirinaki Stream ("**Whirinaki Drain"** – as referred to by HBRC);
- localised raising of State Highway 2 and North Shore Road to allow unimpeded access over the stopbanks where they cross these Road Reserves; and
- various drainage solutions to accommodate existing drainage patterns.

Figure 1: Proposed Flood Protection Project



Funding for the project comes from the integrated package agreed between all five Hawke's Bay Councils and Central Government.

Resource consents for the Project are being sought under the:

1. Severe Weather Emergency Recovery Legislation (Hawke's Bay Flood Protection Works) Order 2024 ("**the OiC**"), for all aspects of the Project contained within the area to which the OiC applies (**"OiC Footprint"**); and

2. Regional Resource Management Plan (**"RRMP"**), Regional Coastal Environment Plan (**"RECP"**) and Hastings District Plan (**"HDP"**) as they apply to all aspects of the Project located outside the OiC Footprint.

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

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

Table 1: Expert Reports

Expert Report	Author	Purpose
Cultural Impact Assessment	Petane Marae	To advise on cultural context and cultural values associated with the area.
Archaeological Risk Assessment	HB Archaeology	To determine the risk of encountering archaeology and advise on the appropriate response in regard to progressing the works.
Ecological Impact Assessment	PDP	To determine ecological values and methods to manage ecological effects.
Landscaping Scoping Assessment	Narrative	To determine the need for landscape mitigation.
Preliminary Site Investigation	PDP	To determine the potential for soil contamination and the nature of any management procedures.
Design Report and Plans - Stopbank	PDP	To provide details of the proposal.
Design Report and Plans – road raising	CDT	To provide details of the proposal.
Consequential Flooding Effects Assessment	PDP	To determine any changes in flood impacts as a result of the proposal and the need for mitigation.
Consequential Flooding Assessment	Beca	To review the consequential flooding effects of the proposal

Legislative Context for the OiC

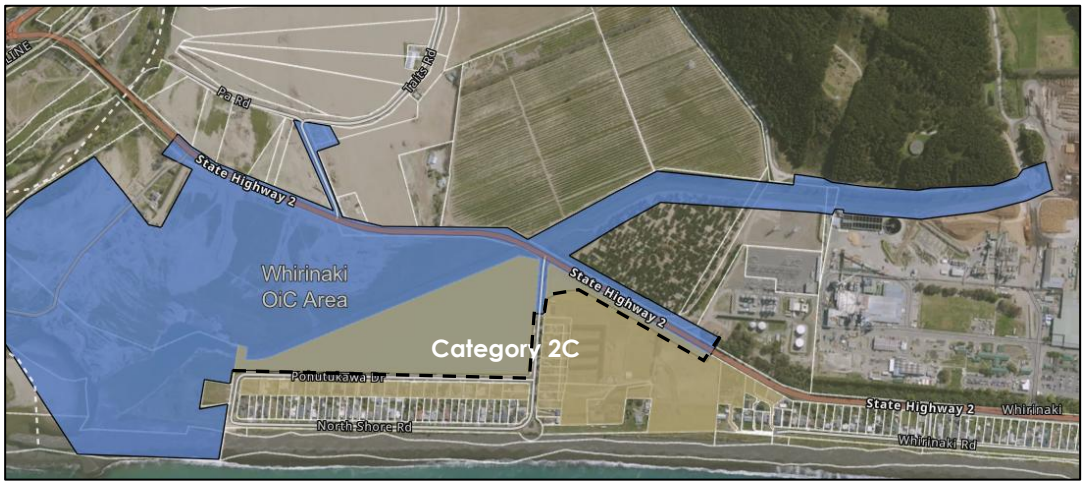
The OiC was developed to facilitate the timely provision of flood protection works following the severe weather events of February 2023 - namely Cyclone Gabrielle. In short, the OiC established a streamlined consenting process that allows flood protection works within specified areas, that trigger a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

consent to be granted in a more timely way, and for initiatives to manage environmental effects and facilitate engagement to be finalised post granting.

In the case of Whirinaki, the flood protection works are proposed to provide flood protection to local industry (Pan Pac), network utilities (Transpower and Contact Energy infrastructure), and private properties within Whirinaki – particularly those identified in **Figure 2** so they can be moved from provisional Land Category 2C to Category 1. The implication of this change for these properties, in particular, is significant as Category 1 land is not considered to be subject to any further requirement for flood hazard related interventions before residential activity can safely occur.

The OiC Footprint is shown in in **Figure 2** below – noting the Category 2C properties overlap it in some areas (the dashed line shows the extent of the OiC Footprint).

Figure 2:



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

Since then, further analysis to inform the design process has been undertaken. As shown in **Figure 3**, while most of the primary flood protection feature remains within the OiC Footprint, the scheme involves the following features outside of the OiC Footprint:

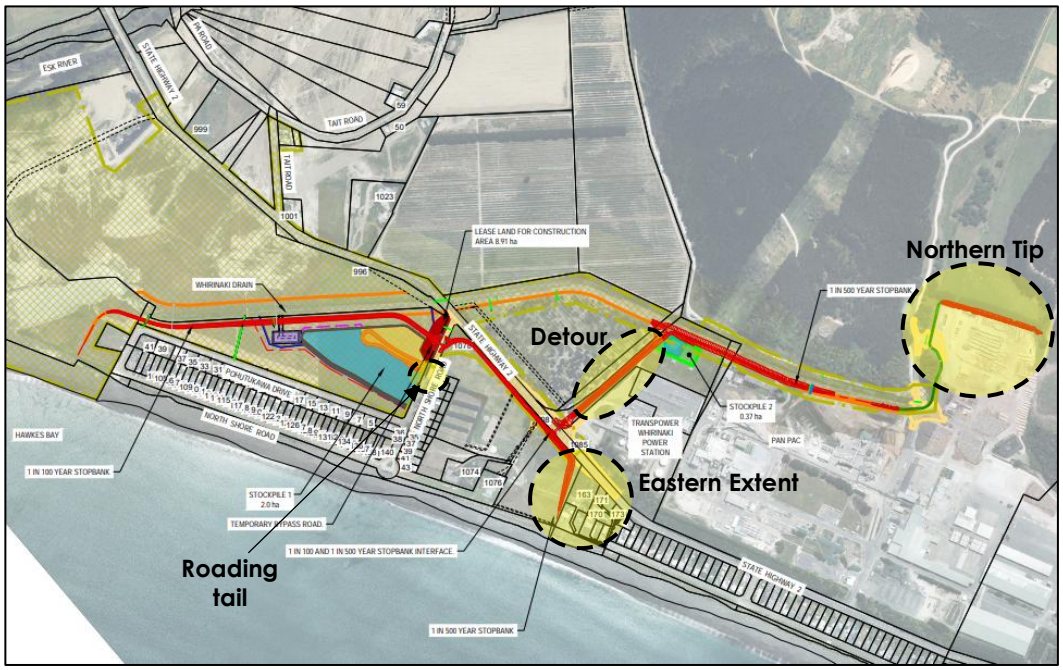
1. a stopbank extending around the Pan Pac yard – referred to in this assessment as the 'northern tip';
2. a slight 'detour' past the Transpower site to cross State Highway 2 at a location that avoids substantial road raising works and the replacement of sizable culverts – avoiding significant costs 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'.

The consenting requirements associated with these features are not subject to the OiC process, and will need to be considered under the standard RMA process i.e. any applicable rules of National Environmental Standards and District and Regional Plans.

The majority of the stopbank alignment is within the OiC Footprint. The portions of the proposed alignment that sit outside the OiC Footprint are considered to be minor detours that were identified through the design process as necessary to reduce costs, while still meeting the requirements to move the category 2C properties to category 1. The fact that some components of the alignment need to be considered under the standard RMA process does not, however, detract from the purpose of the OiC and its enabling legislation the Severe Weather Emergency Recovery Legislation Act 2023.

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

Figure 3: Works Outsdie the OiC Footrpint



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

Section 2	Background

- Impacts of Cyclone Gabrielle
- Project Purpose
- OiC – purpose and overview

Section 3	Design Process • Initial Concept Design • Consequential Flooding Effects of the Initial Concept Design • Refinement of the Concept Design and Development of an Alternative Alignment
Section 4	Approach to Assessment of Application • Assessment Approach - OiC with Standard RMA Process
Section 5	Site Context • Site Location and Neighbouring Community • Subject Properties • Planning Context • Site Values and Environmental Context
Section 6	Details of Proposal
Section 7	Resource Consents Needed • OiC • Standard RMA process o National Environmental Standards o Hastings District Plan o Hawkes Bay Regional Council Regional Plans
Section 8	Statutory Considerations • OiC – Clause 12 • Standard RMA process
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Section 12	Summary

Overall:

1. The application meets the requirements of Section 12 of the OiC and Section 88 and Schedule 4 of the RMA.
2. Key considerations informing the application included:
    - reducing impacts on State Highway 2;
    - consideration of consequential flooding arising from the new stopbank;
    - accommodating existing drainage patterns;
    - accommodating the input of Petane Marae in developing the design; and
    - determining the potential impact on wildlife and developing appropriate responses.

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

2. BACKGROUND

2.1 Impacts of Cyclone Gabrielle

Cyclone Gabrielle caused catastrophic flooding and widespread damage in the Esk valley and Whirinaki area, significantly impacting homes, infrastructure, businesses, and the local environment.

Rapidly rising floodwaters, fuelled by record rainfall, overwhelmed drainage systems. Water levels rose dramatically inundating homes. People evacuated using a combination of methods depending on the speed and severity of the flooding. In the worst-affected areas, formal rescues were needed. Emergency services, including Civil Defence, Fire and Emergency New Zealand, and local volunteers, used boats and helicopters to reach people trapped in houses, on rooftops, or in vehicles. Lives were lost, and many residents lost homes, possessions, and their sense of security.

Flooded and damaged roads cut the area off, leaving residents isolated for days. Some have been permanently displaced from their homes due to the ongoing risk.

Critical sites such as the Pan Pac Forest Products mill and Whirinaki Power Station suffered severe damage - up to 2 meters of silt, and water submerged buildings, destroying equipment and requiring months-long recovery at considerable cost e.g. in excess of $300m.

Farmland, orchards, and local businesses were devastated by silt deposition, loss of crops, and destruction of infrastructure, impacting livelihoods and the regional economy.

Extensive silt blanketed land and the seabed, smothering marine life and damaging ecosystems. Woody debris and refuse clogged drainage systems and beaches, compounding recovery challenges.

Following the cyclone, some 38 properties in the Whirinaki area were categorised as 2C under the government's land categorisation process, indicating a high risk of future flooding unless future flooding hazard interventions are implemented.

2.2 Project Purpose

The purpose of the flood protection works/Project is to provide flood protection to local industry (Pan Pac), network utilities (Transpower and Contact Energy infrastructure), and

private properties within Whirinaki. It will also allow the identified Category 2C properties to move to Category 1. As noted above, this change will have significant implications for these properties, as it will allow residential activity to safely resume and will remove insurance related uncertainty.

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

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

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

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

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

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

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

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

- Provide for the planning, rebuilding, and recovery of affected communities and persons, including rebuilding land, infrastructure, and property,
- Facilitate coordinated short-term, medium-term, and long-term recovery efforts,

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

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

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

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

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

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

- any conditions proposed that are a variation of, or additional to the standard conditions in Schedule 2 of the Order (refer Clause 17 below),
- a description of any consultation undertaken in relation to the works and the names and contact details of all persons consulted – or an explanation as to why consultation has not been carried out,
- a list of all relevant Māori entities, and
- a list of the names and contact details of all persons the consent authority is required to notify under clause 15(2)(a) of the Order,

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

- Contaminated land

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

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

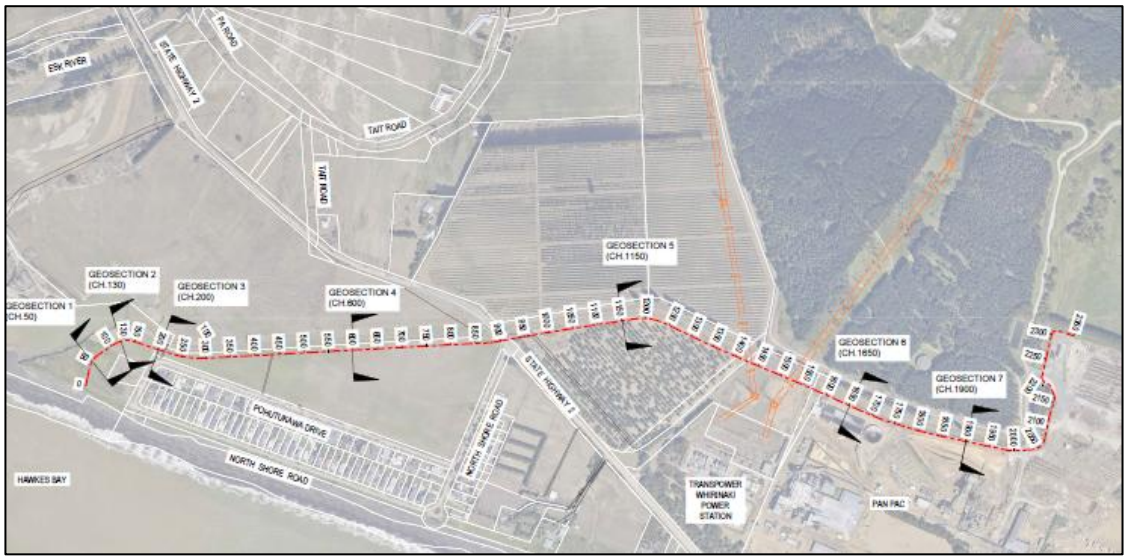
Where a greater degree of assessment and design has occurred as part of preparing the application than what the OiC may have anticipated, it follows that components of the standardised conditions to require and guide mitigation post granting may not be necessary. This is certainly the case with the Whirinaki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

3. DESIGN PROCESS

Initial Concept Design

As noted above, the OiC Footprint was developed based on a high-level concept design. That concept design was initially progressed with a stopbank extending from the western extent of the Pan Pac site, along the Whirinaki Drain (across State Highway 2 at the drain crossing) to the coast as illustrated in **Figure 4** below. The full length of the stopbank was initially designed to provide a 500-year level of service.

Figure 4:



The following scoping assessments were undertaken to inform the design process and assessment requirements of the OiC, and develop the above concept through to a preliminary design stage:

- Geotechnical Assessment,
- Archaeological Risk Assessment,
- Preliminary Site Investigation,
- Ecological Scoping Assessment,
- Landscape Scoping Assessment,
- Cross Drainage Assessment.

A Cultural Impact Assessment was also commissioned, together with various more discrete pieces of work being undertaken to inform the design process such as borrow site investigations and detailed site investigations over discrete areas.

Consequential Flooding Effects of the Initial Concept Design

Having developed the concept to a preliminary design level, consequential flooding effects were assessed and considered by both PDP and Beca.

This involved an assessment being completed by PDP using 14 model runs for the following hydrological events:

- 50-year event with and without climate change,
- 100-year event with and without climate change,
- 500-year event with and without climate change; and,
- Cyclone Gabrielle.

For each of these seven hydrological events, a pre (existing environment) and post construction model was run. Flood depth and velocity changes were identified and impacts (of building the stopbank) on buildings, critical buildings, lifeline utilities and buildings with social or cultural significance were considered in determining impacts and evaluating risk.

In evaluating the identified effects of the proposal against five criteria, Beca concluded that the consequences of the proposed stopbank were acceptable. Based on PDP and Beca's findings, no additional mitigation or conditions were considered necessary in respect to consequential flooding. Copies of these earlier consequential flooding assessments can be provided upon request.

Refinement of the Concept Design and development of an Alternative Alignment

Further investigations undertaken after the scoping assessments were completed identified that the costs associated with constructing the new culvert solution under the State Highway and the road raising itself, at the particular location identified, significantly exceeded the budget of the crowns funding package. A further optioneering exercise was therefore commenced to identify a modified (and more financially viable) concept design.

The optioneering exercise focused on avoiding the costs associated with reconstructing a culvert under the State Highway and the associated road raising. To achieve this, it was necessary to move the stopbank up the State Highway further north. Although outside the

OiC Footprint, an alignment through the Pan Pac nursery was identified and was supported by Pan Pac. With the stopbank being moved north, it also became necessary to raise North Shore Road to facilitate crossing of the stopbank. The eastern extent of these works was located outside the OiC Footprint.

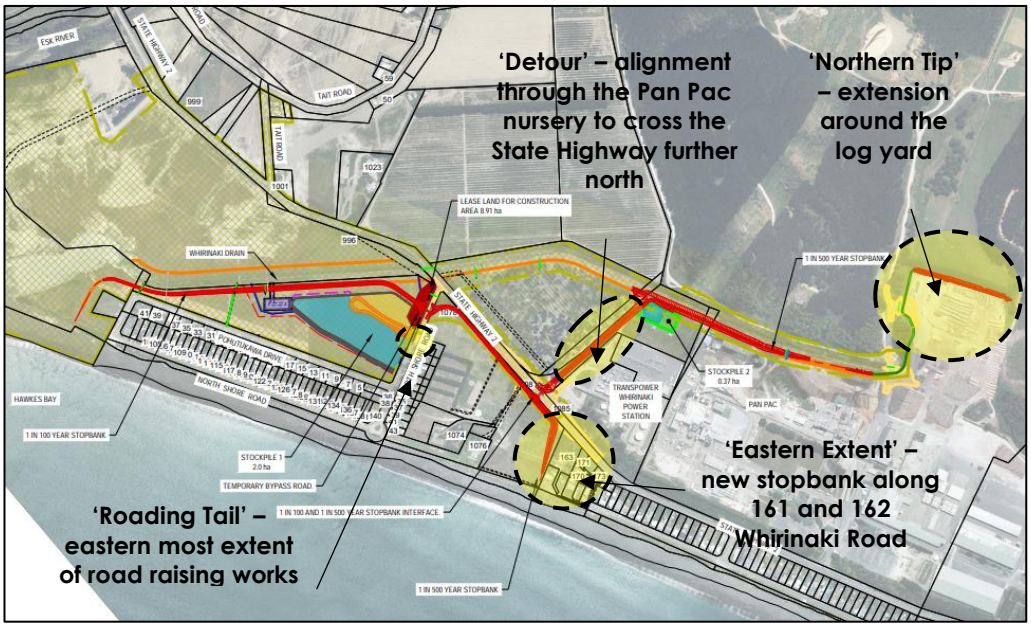
The alternative alignment also provided the opportunity for a mixed level of service i.e. the 500-year level of service desired on the western side of the State Highway did not need to be carried across the full extent of the alignment. This alternative was within budget, while still providing the level of service (1:100 AEP) necessary to move the identified Category 2C properties to Category 1. One implication, however, was the need for an additional stopbank ('Eastern Extent') along the boundary of 161 and 162 Whirinaki Road to prevent flooding during significant events flowing north and back into the Pan Pac, Transpower and Contact Energy sites, which would defeat the purpose of the 500-year level of service stopbank along the Whirinaki Stream. This additional stopbank was also located outside the OiC Footprint.

Alongside this exercise, it was also identified that the primary stopbank needed to be extended further north around the Pan Pac log yard to achieve the protection sought for the area. The footprint of this extension ('Northern Tip') was also outside the OiC Footprint.

The realignment did not substantially change the findings and recommendations of the initial scoping assessments, however an updated flooding effects assessment was carried out. This determined that owing to the proposed alignment being set further back from the Whirinaki Drain, and there being more space for "out of river" flow and the conveyance of flood waters, there would be less consequential flooding effects compared with the initial concept within the OiC footprint – with the exception of the Pan Pac nursery, being the area providing the additional capacity.

With this comfort, the project then pivoted to progress the alternative alignment through to a preliminary design level. That preliminary design, as shown in **Figure 5** below (with the features outside the OiC Footprint also identified) forms the basis of this application.

Figure 5: Proposed Flood Protection Works



4. APPROACH TO ASSESSMENT OF APPLICATION

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

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

The alternative alignment responds to design and cost challenges and crosses the State Highway in a far more optimal location. It will also produce less consequential flooding effects overall, so it is superior to the original concept design in that respect. The potential need for additional resource consents to be obtained under the standard RMA process, to enable activities associated with the flood protection works (including for activities outside the OiC Footprint), is expressly provided for and contemplated in Clause 13(3)(b) of the OiC. As a result, the OiC was not anticipated to provide for all aspects of a flood protection works project, with the potential that other consents may be required.

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

A minority of the Project is located outside the OiC Footprint and will need to be considered under the standard RMA process i.e. any against any applicable rules of National Environmental Standards and District and Regional Plans.

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

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

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

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

> The order seeks to ensure that people and communities in Hawke's Bay can recover from the effects of Cyclone Gabrielle and are protected against future events through the construction of flood protection works at specified locations in the region.

It is necessary to reclassify those flood protection works under the RMA and create a bespoke streamlined consent process.

Unless modified by this order, the activities associated with those works would otherwise be classified as discretionary or non-complying activities under the relevant district and regional plans with the potential for the consent applications to be publicly notified. If public notification occurred, the consent applications would be subject to lengthy public notification, submissions, and hearings requirements in accordance with Part 6 of the RMA. The RMA also provides for a right of appeal to the Environment Court. Using those existing processes to consent the flood protection works could threaten their effectiveness by generating significant delay. Streamlining the process is necessary to ensure that the works can progress by restoring land, safeguarding property, and building resilience in affected communities.

Similarly, the streamlined consent process also makes it possible to complete necessary flood protection works in an expedient way, allowing work to begin quickly on long-term safety improvements. This approach reflects the purposes of the SWERLA as the flood protection works are necessary safety enhancements to address dangers posed by flooding in future severe weather events.

If the OiC and non-OiC applications were bundled, this would have the effect of eliminating the controlled activity status allocated under the OiC for the primary flood protection feature to a discretionary activity status (as per the more minor component and mitigation measures). This would undermine the purpose of the OiC and SWERLA as described above and subvert the Minister's intentions. Aside from making the activity status more stringent, the application would then be subject to the usual RMA process steps and right of appeal, which would further remove the efficiency gains provided by the OiC.

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

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

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

5. SITE DESCRIPTION

The following sets out:

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

5.1 Site Location and Neighbouring Community

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. 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 site 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 6: Site location

5.2 Subject Properties

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

Specific properties/areas, as shown on the plans provided in **Appendix 1**, are intended to be acquired by HBRC to accommodate the footprint of the proposed features. Existing easements will remain.

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

Figure 7: Land on which the works will be undertaken

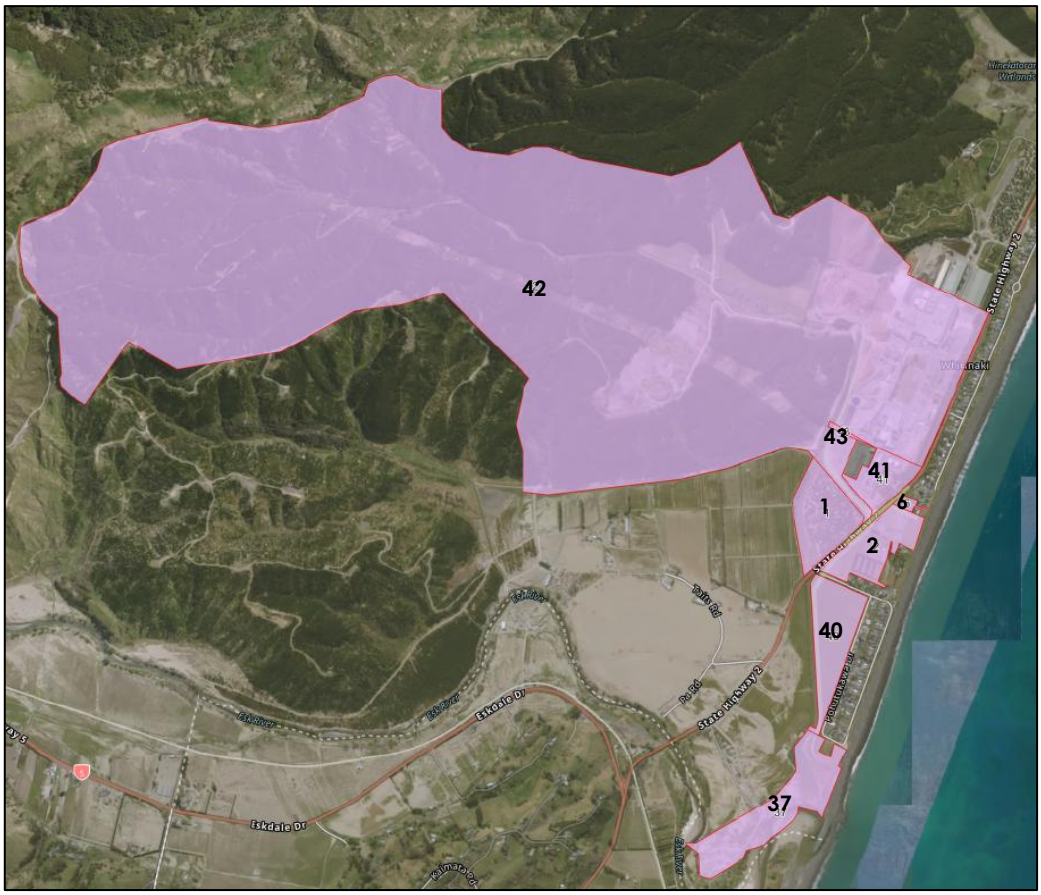


Table 2: Land on which the works will be undertaken

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

5.3 Planning Context

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

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

- The HDP (including Designations),
- The RRMP and RCEP.

5.3.1 Hastings District Plan

The flood protection works will traverse the Whirinaki Industrial and Rural Zones as generally shown in **Figure 8** below. Designation TPR-2 is also identified.

Other notations on the planning map include:

- River Hazard (shown by blue waves): The District Plan enables Natural Hazard Mitigation Activities, including stop banks, in the River Hazard Overlay when this is carried out by a Local Authority. Other activities enabled include water intakes, bridge structures, and minor upgrading of existing network utilities,
- Riparian Land Management Area (List 1): The Riparian Land Management and Public Access District Wide Activity Chapter identifies those areas 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,
- Archaeological Site – Pa,
- Coastal Environment Boundary,
- National Transmission Lines.

Designations

It is noted in the HDP Plan that all existing roads and State Highways are deemed to be designated for roading purposes. Apart from State Highway 2 and North Shore Road, the alignment is not subject to any identified Designations in the Hastings District Plan. As noted in **Figure 8** below however, it adjoins the Whirinaki Substation (Designation TPR-2) - with Transpower New Zealand being the Requiring Authority.

Figure 8: Hastings District Plan Planning Map Features

5.3.2 Hawke's Bay Regional Council Regional Planning Documents

The flood protection works are within an area subject to various planning map overlays within both the RRMP and RCEP. Of particular relevance:

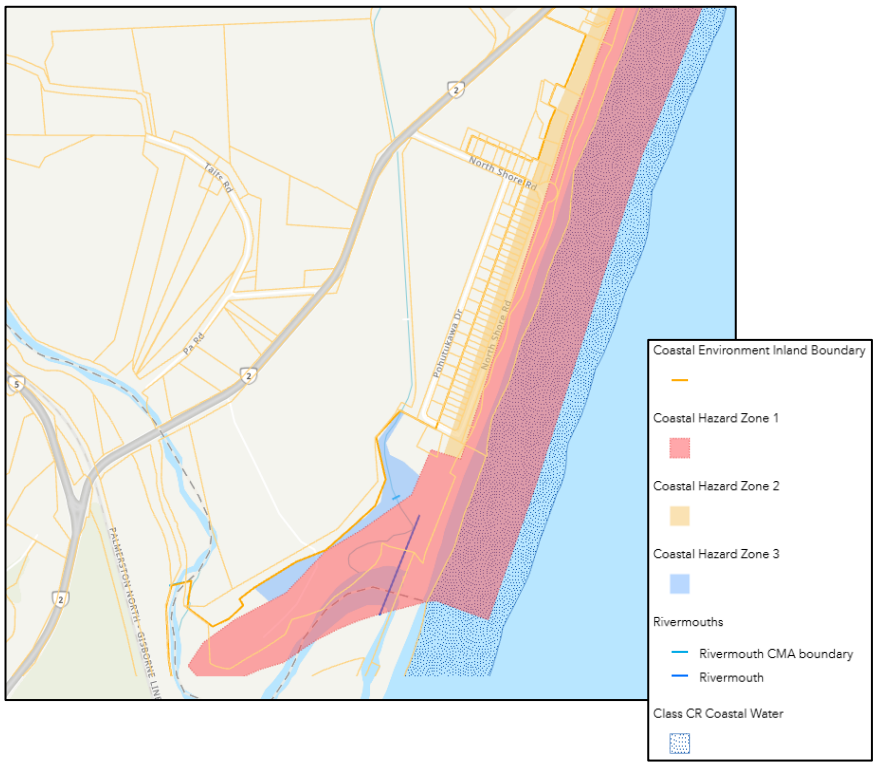
Regional Resource Management Plan:

- Much of the alignment is within an area excluded from consideration under Condition (c) of Rule 7 pertaining to vegetation clearance and soil disturbance,
- The area is within a Groundwater Management Zone,

Regional Coastal Environment Plan:

- The eastern and southern extent of the area works is within the Coastal Environment Inland Boundary. Key features, as shown in **Figure 9** below, include:
  - Coastal Hazard Zones 1, 2 and 3,
  - Esk River mouth and CMA boundary,
  - Class CR Coastal Water receiving environment water quality standards.

Figure 9: Regional Coastal Environment Plan Planning Features



Land use capability is considered in Section 5.4.7 below.

5.4 Site Values and Environmental Context

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

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

5.4.1 Cultural Context

Overview

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

1. Within the vicinity of Petāne Marae,
2. Within the rohe of Ngāti Kahungunu,
3. Within the Area of Interest of both Mana Ahuriri and Mangaharuru Tangitū Hapū,
4. Within:

- The Mana Ahuriri 'Esk River and Tributaries (OTS-206-18)' Statutory Acknowledgement Area,
- The Mangaharuru Tangitū Hapū 'Esk River and Tributaries (OTS-206-18)' Statutory Acknowledgement Area,

5. Adjoins:
   - The Mana Ahuriri 'Coastal Marine Area (OTS-201-34)' Statutory Acknowledgement Area,
   - The Mangaharuru Tangitū Hapū 'Hapū Coastal Marine Area (OTS-201-40)' Statutory Acknowledgement Area,
6. Within the 'boundary' of Te Taiwhenua O Te Whanganui-a-Orotū.

Customary Marine Title Groups

Te Takutai Moana Act 2011 and Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act 2019 provide for recognition of customary interests of iwi, hapū and whānau in the common marine and coastal area of Aotearoa New Zealand and its offshore islands and allows iwi, hapū or whānau groups to make applications for a Customary Marine Title. While applications have been made by Maungaharuru-Tangitū Hapū (MAC-01-09-004), Mana Ahuriri (MAC-01-09-003) and Ngāti Pāhauwera (MAC-01-09-015) for areas of Hawke Bay, the area of works is not within these.

Relevant Māori Entities

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

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

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

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

HBRC has identified the following relevant Māori entities in respect to Section 12(2)(i) - with Te Petāne Marae being the mana whenua entity HBRC has primarily engaged with throughout the Whirinaki project:

- Petāne Marae – being the local marae,
- Ngāti Hinepare – being a local hapū,
- Ngāti Māhu – being a local hapū,
- Ngāti Matepū – being a local hapū,
- Ngāti Whakaari – being a local hapū,
- Ngāti Kahungunu,
- Mana Ahuriri – being a Post Settlement Governance Entity,
- Mangaharuru Tangitū Hapū – being a Post Settlement Governance Entity.

Culturally Significant Land

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

(a) is on, or adjoins, a wāhi tapu (or a site of cultural significance); or

(b) is on, or adjoins, land that has an area that is subject to a statutory acknowledgement; or

(c) is within, is adjacent to, or directly affects the statutory overlay of ngā rohe moana and ngā rohe moana o ngā hapū o Ngāti Porou, as described in section 11 and Schedule 3 of the Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act 2019

In terms of (a) the Hastings District Plan does not identify any specific 'Wāhi Tapu' sites in the area but does identity a Pa. The Cultural Impact Assessment prepared by prepared by Ngā Hapū o Petane Marae and summarised below provides greater insight to the culturally significant land comprising the project area.

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

- The Mana Ahuriri 'Esk River and Tributaries (OTS-206-18)' Statutory Acknowledgement Area,
- The Mana Ahuriri 'Coastal Marine Area (OTS-201-34)' Statutory Acknowledgement Area,
- The Mangaharuru Tangitū Hapū 'Esk River and Tributaries (OTS-206-18)' Statutory Acknowledgement Area,
- The Mangaharuru Tangitū Hapū 'Hapū Coastal Marine Area (OTS-201-40)' Statutory Acknowledgement Area,

Subclause (c) is not applicable.

Cultural Impact Assessment

A Cultural Impact Assessment (CIA) has been prepared by Ngā Hapū o Petane Marae. Referenced as **Appendix 2**, it has been provided to HBRC on a confidential basis - noting inclusion of the following summary has been approved by Petane Marae.

In terms of its purpose, Section 1.3 states:

'The CIA identifies cultural values associated with these sites, whether of a tangible or intangible nature, and proposes ways to mitigate any adverse effects caused or potentially caused by the Project.'

'The primary purpose of this CIA is not merely to fulfill a procedural requirement but to ensure that the rights and interests of Mana Whenua are genuinely respected and integrated into the Project's framework.'

The scope was stated to be:

- **Document Cultural Significance:** Record the cultural importance of areas specified for planned mitigation works and their surrounds.
- **Identify Potential Effects:** Assess both negative and positive effects on cultural values as a result of the project.
- **Enhance Understanding:** Aid the HBRC in understanding the cultural values associated with the environment and potential impacts from a Mana Whenua perspective in relation to the planned mitigation works.
- **Provide Recommendations:** Propose measures and recommendations to avoid, remedy, or mitigate any potential adverse effects of the project works on cultural values.
- **Promote Genuine Engagement:** Facilitate meaningful dialogue between the Project stakeholders and Mana Whenua, fostering a collaborative approach that honours Mana Whenua tikanga and kawa.
- **Ensure Legislative Compliance:** Provide a Mana Whenua viewpoint in relation to the relevant legislation that underpins the project works.

It is reported that the methodology adopted aimed to ensure that the CIA captured the depth and breadth of cultural impacts, rooted in the knowledge and perspectives of mana whenua. By embracing these objectives, the CIA aimed to integrate mana whenua perspectives into the very fabric of the project. This was seen as an opportunity to move beyond procedural compliance and towards a partnership model that recognises and values the unique cultural heritage and knowledge mana whenua hold of the Whirinaki area. The methodology involved:

- Review of existing literature and documentation
- Review of relevant planning documents and information
- Hui ā Hapū
- Hikoi and site visits
- Online survey
- Review wānanga

As outlined in Section 1.6 of the CIA, the document is organised as follows. Key points associated with key sections are noted:

Foreword: Frames the document within the context of a Māori Worldview, giving insight into our beliefs and value systems.

Executive Summary: Provides a brief overview of the Project, key findings, and recommendations.

Introduction: Details the background, objectives, purpose, and scope of the CIA, including the methodology used for the assessment.

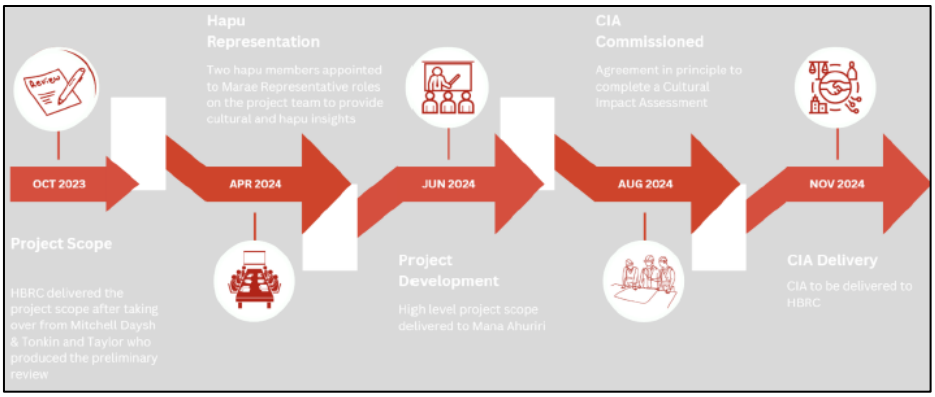
Legislative and Policy Framework: Outlines the relevant national, regional, and local legislation and policies that guide the decision-making processes.

Consultation and Engagement: Documents the process of engagement undertaken by the project team to date.

Summary

Figure 8 in the CIA, as reproduced below, provides a helpful description of engagement with mana whenua.

Figure 10: Mana Whenua Engagement Timeline



Key points include:

- While the engagement by HBRC was seen in the eyes of some as a positive step towards advancing a mana whenua viewpoint and an opportunity for views, tikanga, stories and historical knowledge to inform future decisions, different views were held by others.
- Grievances associated with the land categorisation process were raised.
- Views forestry activities could be better managed were expressed.
- The following concerns as helpfully summarised in Figure 9 of the CIA and reproduced below were raised:

Figure 11: Key Concerns of Hapū Members

Cultural Context: Provides an in-depth examination of the historical and cultural context of the Whirinaki area, focusing on the significance to Mana Whenua.

Summary

Section 4 of the CIA provides an insightful and informative analysis of the cultural context, and as was the aim, helps us to understand the deep-rooted connections between ancestral land and its people. Section 4.1 provides an overview of the history, while Section 4.2 identifies four known wāhi tapu sites — two within the immediate area of the proposed works (Nukurangi Pā and Ararata Urupā) and the nearby Petane Urupā and the Purukamu Tree located adjacent to Petane Urupā[2]. Key points include:

History:

- Section 4.1.1 speaks of the stories of Moremore – recognising an inextricable connection to the moana.
- The origins of Ngāti Matepū hapū, traced back to the pivotal Battle of Te Iho o te Rei, which occurred on the northern shores of the Ahuriri inner harbor in the early 1820s, is discussed in Section 4.1.2. Here it is explained that the principal hapū associated with Petane Marae is indeed Ngāti Matepū and Ngāti Whakaari, and that its strong presence in Hawke's Bay, prior to the arrival of the Tākitimu waka, affords Petane Marae Ahi Kā status denoting its occupation of the whenua over a substantially longer period than Ngāti Kahungunu iwi - whilst certainly part of it. The origins of Petane Marae are further explained in Section 4.1.6.
- The history presented speaks to the resilience of the hapū – in that it has endured massacres, periods of exile and consequent displacement from the whenua, endured barriers since the institution of the Native Lands Act 1862 that has resulted in underutilised, fragmented and ultimately, confiscated whenua, and devastating effects from climate change and flooding events. Through this devastation the hapū has continued to practice its culture, honouring its tūpuna who have paved the way.
- Section 4.1.3 talks of Te Huka Waiohinganga [the Esk River], which served as an ara tawhito, connecting inland regions and facilitating the seasonal gathering of sustenance and resources. The awa functioned as a primary pathway between inland areas and the ocean, was significant wāhi mahinga kai, and was frequently utilised ceremonially for taonga cleansing, particularly of pounamu, and whānau pani would often retreat to the healing waters after tangihanga to release the tapu.
- Section 4.1.4 notes the people of Petane Marae have always been well-known for their hospitality, and that the ability to do this bestows mana on the mana whenua, and when mahinga kai resources are scarce, that mana can be depleted. It is emphasized that mahinga kai relies heavily on a healthy functioning ecosystem, including access to sites and areas.
- The threat of displacement from significant sites, prohibited access and ultimately, the prospect that the landscape will be so wholly modified that

[2] The CIA states there could well be many other wāhi tapu sites on land blocks for which Petane Marae Trustees do not have a mandate and notes it would be necessary for HBRC to engage directly with the relevant landowners to ascertain whether this is the case.

historical features will not be able to be identified is raised in Section 4.1.5 where similarities are drawn with how the hapū feels about Heipipi.

- Section 4.1.6 provides an account of the origins of Te Kapemaihi, a coastal pā situated on the southern bank of Te Huka Waiohinganga on the flats below Heipipi. Te Kapemaihi was intended as a transitional settlement rather than a permanent one, and the hapū relocated (for reasons unknown) to Poroaira (later renamed Petane), situated just north of the present-day river mouth. Further detail of how the marae developed as well as the limitations encountered is outlined, however it is clear that from its earliest days, Petane served as a central hub, or "HQ," for iwi Māori across the motu, with the Marae continuing to function as a central gathering place for whānau and visitors from both near and far, hosting hui, dances, celebrating milestones, and undertaking fundraising initiatives. Finally, the loss of Te Āwhina – the wharekai and cornerstone of the Petane Marae landscape, is said to represent more than just the loss of a building; rather the departure from a place imbued with profound memories, whanaungatanga, wairua and mana. Alienation and displacement from the wharekai are raised as a stark reminder of the enduring connection of mana whenua with the marae, wharekai and ancestral lands.
- Section 4.1.7 talks of the Ahuriri Purchase in the 1850s – a process considered to have profoundly impacted Māori land tenure and ownership, and to have fragmented customary land holdings. Reference is made to the full-sized headstone of Henare Pangopango Pohio (the son of prominent Ngāi Tahu chief Horomona Pohio) holding a marble replica of Te Harakeke (the patu belonging to his father). Standing strong in the Petane Urupā, Henare Pangopango Pohio is viewed as embodying the resilience of the Petane Marae hapū, who have persevered through natural disasters, the land confiscations of the mid-19th century, and what were considered discriminatory planning laws that were considered to displace them in the mid-1990s. It is noted that many hapū members perceive the land categorisation process following Cyclone Gabrielle in a similar vein as the Ahuriri Purchase.

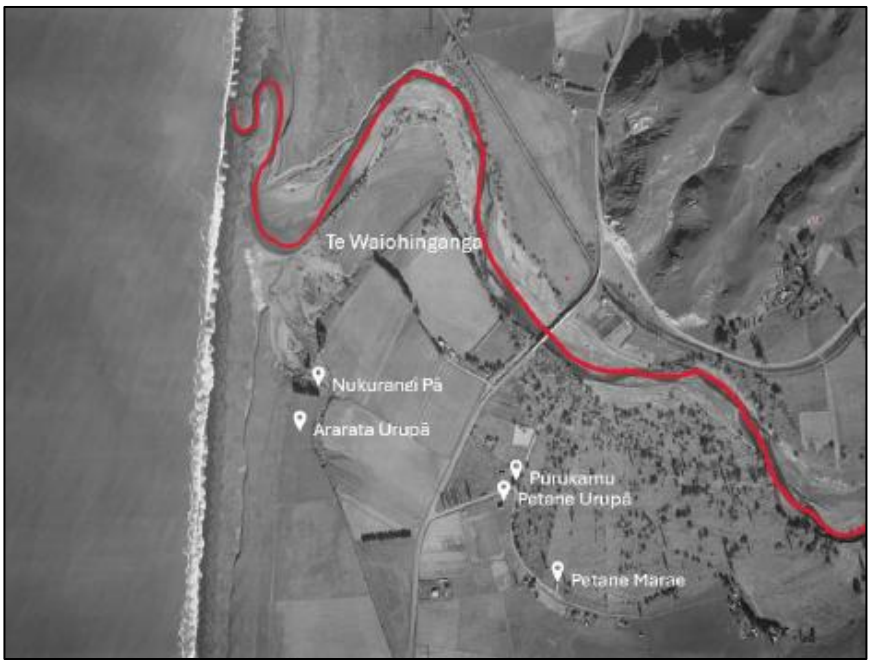
Wahi Tapu:

- The project area is wāhi taonga to mana whenua and as shown in the figure below (reproduced from Figure 20 of the CIA) encompasses four known wāhi tapu sites — two within the immediate area of the proposed works, Nukurangi Pā and Ararata Urupā, and the nearby Petane Urupā and the Purukamu Tree located adjacent to Petane Urupā.
- Key points in relation to Nukurangi Pā include:
    - Evidence from maps dated 1851 and 1882, along with the nearby Ararata Urupā, indicates that there was a settlement at Nukurangi Pā. Indeed, the seasonal relocations of people — with whānau moving to higher ground during seasons of high rainfall and often in accordance with mahinga kai patterns — support the idea that Nukurangi was a pā site occupied at different times as needed,

- It is crucial to handle such sites with care, giving as much consideration to potential undiscovered archaeological findings as to any clearly marked heritage sites,
- While the exact location of the pā may differ from the currently understood site, and much of the site may have been destroyed by Cyclone Gabrielle, it is opined that significant archaeological evidence is likely buried deep within the silt. A process to identify, recover, and preserve any archaeological artifacts within the site is of utmost priority.

- Ararata Urupā, gazetted in 1985, is located at the southernmost end of the Pohutukawa Drive residential development.
- Purukamu, located adjacent to the Petane Urupā, is a Blue Gum Tree used for rongoa and healing. Although it is not within the immediate vicinity of the proposed project works, it is part of the broader cultural landscape.
- The Petane Urupā, gazetted on February 2, 2016, is located on Taits Road. Again, although it is not within the immediate vicinity of the proposed project works, it is part of the broader cultural landscape. Located in an alluvial floodplain, the urupā is prone to flooding and was severely damaged during Cyclone Gabrielle. Protection of the urupā is sought (and will be provided as part of the project).

Figure 12: Identified Wahi Tapu Sites



Assessment of Cultural Impacts with Mitigation Measures and Recommendations: Evaluates the potential positive and negative impacts of the Project on cultural values, practices, and sites. Recommends strategies to avoid, remedy, or mitigate adverse cultural impacts, and suggests ways to enhance cultural values.

Summary

A number of recommendations are made in response to 10 primary matters, referred to in the Executive Summary of the CIA as:

1. Explicit Wāhi Tapu Protection
2. Holistic Environmental Management
3. Environmental Degradation by Clean Fill Operations
4. Preservation of Wāhi Taonga
5. Mana Whenua Inclusion in Decision-Making
6. Economic Participation and Equity
7. Planning for Stopbank Breaches
8. Return of Pan Pac's Social License
9. Restoration Efforts
10. Maintaining Residential Standards

These are considered in more detail in the Assessment of Effects (in Section 10.3 of this report).

Conclusion: Reflects on the importance of integrating cultural considerations into the Project and reaffirms the commitment to respecting Mana Whenua interests.

Summary

It is concluded that mana whenua understands that the project hopes to provide improved resilience against environmental challenges, and that this is reasonable. It is equally highlighted however that engineered hazard mitigation by its very nature alters the natural landscape and river dynamics, and that the construction and maintenance of this type of infrastructure, while providing obvious benefits to some, can and may indeed lead to the displacement of mana whenua and disruption, if not cessation, of the sacred exercise of kaitiakitanga over ancestral land. It is these matters that have prompted the recommendations made.

Input was also received from Maungaharuru Tangitū in the correspondence provided in **Appendix 3**. Here Maungaharuru Tangitū:

- Reviewed the high-level recommendations by Petāne Marae in the CIA,
- Reviewed its feedback to the Ministry for the Environment around a previous iteration of the OIC in March 2024,
- Reflected on what has worked well from its involvement to date with district and national recovery road works.

It emphasises several recommendations made in the CIA relating to:

- explicit wāhi tapu protection,
- preservation of wāhi taonga,
- a seat at the decision-making table,
- restoration efforts.

Maungaharuru Tangitū also makes additional suggestions that may help implement the recommendations in the CIA.

5.4.2 Archaeology

An Archaeological Risk Screening assessment has been undertaken by Archaeological Hawke's Bay and is provided in **Appendix 4.** The assessment considered the risks of disturbances associated with length of the proposed stopbank and involved a review of the following together with a site visit:

- Recorded Archaeological Sites,
- Current knowledge of oral narratives,
- Historic records (maps and plans),
- Historic aerial imagery,
- Hastings District Plan and HNZPT listings.

Although only one recorded site (V20/69 – urupa – Aratata Cemetery) was identified, the area is reported as a landscape of known long term occupation, with several settlements and a church being identified in pre-1900 plans and maps.

5.4.3 Water Bodies and Ecological Values

The Esk River is one of Hawke's Bay's smaller rivers, with a catchment area of approximately 252 km^2. The Esk River flows south from Taraponui in the Maungaharuru Range before turning east to reach Hawke Bay 10 km north of State Highway 5.

The Whirinaki Drain is the main water body characterising the area of work. It is a significantly modified waterway, now forming part of a drainage network, that has followed the current alignment since at least 1943, with only modifications at the confluence with the Esk River mouth since.

The ecological values of the Whirinaki Drain and broader area of works are considered in the Ecological Assessment provided in **Appendix 5,** which:

- Identifies the terrestrial, aquatic and coastal ecological features of the project corridor and zone of influence (ZOI),
- Determines the presence or absence of wetland habitat within the project area,
- Assesses the presence of indigenous vegetation, habitats, and fauna within the project area.

The assessment methodology involved:

- Desktop assessments, including:
  - HBRC and LAWA surface water quality and flow data from nearby monitoring sites,
  - HBRC biodiversity information and maps,
  - The NZ Freshwater Fish Database (NZFFD) to identify recorded fish assemblages within the Esk River catchment and infer likely species presence at the site,
  - Flora, herpetofauna, bat and avifauna databases to identify threatened species records in the vicinity of the project corridor,

- Wilderlab's discover eDNA database (2024) within the Esk River.
- Field Assessments – including wetland, terrestrial and aquatic habitat surveys, environmental DNA (eDNA), macroinvertebrate sampling, water quality surveys, spot water quality measurements, broadscale coastal assessment at Whirinaki Stream and Esk River confluence and visual screening for potential bat roosting sites in trees around a plantation located south of the Whirinaki Power Station.
- Areas suspected of containing wetlands were identified on aerial imagery and assessed in the field in accordance with standard Wetland Delineation Protocols for New Zealand (Ministry for the Environment (MfE), 2022).

Key points/findings include:

Terrestrial Vegetation:

- The project corridor mainly consisted of:
  - Rank exotic grassland
  - Exotic woody species treeland
  - Juncus-exotic grass grassland
  - Kukuraho sedgeland
  - Mercer grass grassland
  - Kukuraho/mercer grass grassland
- No Threatened or At-Risk plant species were observed in the project corridor (that was able to be accessed during site surveys).

Bats:

- Various features were identified that may provide potential roosting areas for indigenous bats, with the Lombardy poplars, Lawson cypress and Eucalyptus species along State Highway 2 and the south of the Transpower site representing the most likely roosting trees within the project footprint.
- Upon visual inspection however, no potential bat roosting sites or evidence of roosting were identified.
- The likelihood of bats being present was assessed as low based on limited roosting sites, no visual evidence of bats, and constant disturbance from SH2 and surrounding farmland.

Avifauna:

- Whirinaki Drain and its surrounds provide foraging and roosting habitat for indigenous birds. However, suitable roosting habitat is limited in the project corridor itself.
- Given the lack of vegetation for nesting due to intensive land use and flood wash, it is unlikely that pīhoihoi will be nesting within the project area.
- Pīwakawaka and tauhou were observed in high densities in the upper sections of the project corridor and are likely to be using the small group of kahikatea in Section 4 for nesting.
- Birds are highly mobile and will move to more favourable habitat during the construction phase but will be more vulnerable during the peak bird breeding season (September to December).

Reptiles/Skinks:

- No reptile species were found within the project corridor.

- There is a low likelihood of either skinks or geckos being present within the project corridor.

Natural Inland Wetlands:

- While areas of wetland vegetation were identified, because the base of the stream and form of the channels will not be impacted, areas adjacent with wetland attributes are unlikely to experience any significant change in hydrology.

Stream Habitat:

The habitat values of the Whirinaki Drain were considered across five reaches. In summary:

- The drain is highly modified and the bed highly sedimented.
- Invertebrate habitat diversity was low.
- The drain is channelised and incised with defined bank sides.
- There was limited bank shading - most shading was provided by the banks themselves.
- All assessment sites aside from the lower reach scored high for fish cover abundance and bank erosion.
- Diversity of habitat types for both fish and macroinvertebrates were very low.
- The Drain has little in the way of woody debris, pools or riffles, and the high sediment cover of the stream bed is a limiting factor for invertebrates.
- While riparian width scored moderately, four of the drain reaches assessed had no shade or riparian vegetation to enhance biodiversity, with only a small pine tree stand providing shade for approximately 40 m of the W-NRTH reach.
- The habitat scores are low to moderate across all sites.

Stream Fauna:

- Results from eDNA sampling in Whirinaki Drain at the site identify the presence of four indigenous fish species, all of which are migratory and require access to the coast. Fish passage is therefore an important consideration.
- In addition to the eDNA results, several adult īnanga were observed at the time of the ecological survey during opportunistic searches for resident fish and mollusc and crustacea presence (e.g., kōura, kākahi, īnanga).
- With the exciton of the upstaream reach, MCI scores were consistent with the 'poor' water quality class (Stark and Maxted, 2007) and the NPS-FM 2020 Attribute Band 'D' (i.e., failed to meet the national 'bottom-line' standard).

Water Quality:

- Water quality assessments indicated satisfactory water quality.

Coastal Environment:

- The confluence of Esk River and Whirinaki Drain was characterised by a large scour hole (slightly upstream) and consequent pool and slow run flow conditions.
- When tidal egress is possible, this area can be relatively estuarine in nature.
- Five taonga species are likely to use the lower estuarine environment during their diadromous lifecycle.
- Very limited habitat was recorded in the lower coastal reach.

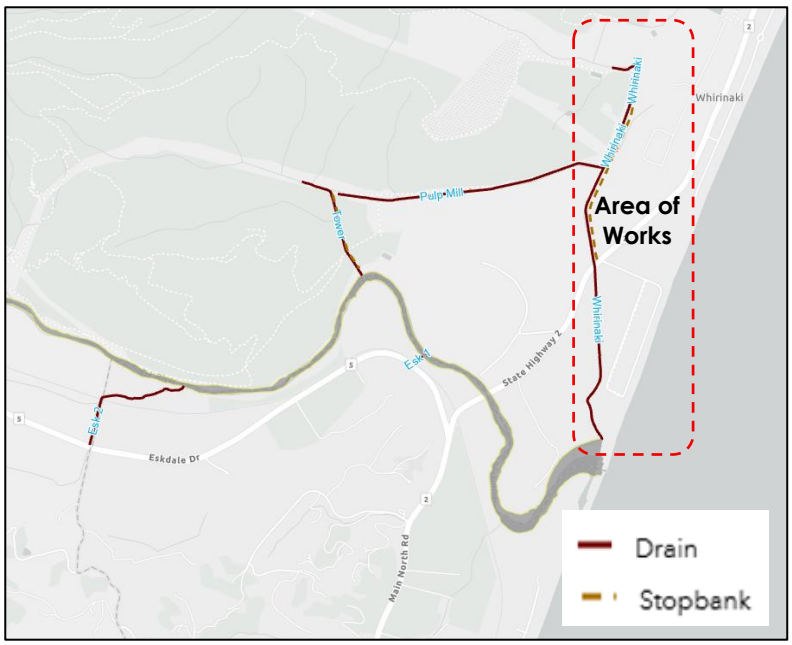
Key recommendations in respect to managing effects on the values identified include:

- All removed vegetation should be replaced with suitable indigenous plant species,
- If works are to occur in peak breeding season, any trees to be felled as part of works should be inspected for nests 1-2 days prior to removal,
- Any trees to be felled that have potential bat roosting features should undergo a tree survey in accordance with the Bat Roost Protocols (DoC, 2024) and include visual inspection and deployment of acoustic monitors for two consecutive nights before felling,
- Appropriate erosion and sediment control should be implemented.

5.4.4 Flood Hazard Management

The 'Whirinaki Drain' is shown in **Figure 13** below together with a number of other 'drains' that form part of the Esk and Whirinaki Flood Control Scheme, which also comprises two stopbanks – one along the Whirinaki Drain adjoining Pan Pac and one along the 'Tower Drain'. The scheme is reported to have been established in 1996.

Figure 13: Flood Control Features



5.4.5 Landscape and Amenity Values

A Landscape Scoping Assessment has been prepared by Narrative Landscape to identify the potential visual landscape effects of the proposed works, including effects on any adjoining residential properties. A copy of the assessment is provided in **Appendix 6**.

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

- Preliminary desktop research and collation of relevant base information,

- Undertaking site visits (initially in June/August 2024 and later in January 2025 as the preliminary design developed) to collect photographs and develop an understanding of the surrounding site character,
- Detailed consideration of the proposal,
- Consideration of the relevant statutory planning framework,
- Review of updated cross-sections and road-raising/stopbank location plans provided by HBRC and PDP (August 2025), and
- An assessment of potential landscape and visual effects,

No specific landscape features were identified. It was identified that as a result of the road raising, 1078 State Highway 2 is likely to have a notable reduction in visual amenity from their dwelling. A further assessment of the landscape and visual effects of the proposal, including on 161 and 162 Whirinaki Road which adjoin the eastern extent of the proposed stopbank, is undertaken in Section 10 of this report.

5.4.6 Land Contamination

Contaminated land is defined in the OiC as:

> *land to which the Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011 apply (see regulation 5(1) of those regulations).*

In the same manner as the potential soil contamination would be investigated and assessed under the Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011 ("**NES-CS**"), a Preliminary Site Investigation ("**PSI**") over the footprint of the stopbank alignment has been undertaken by PDP – a copy of which is provided in **Appendix 7.**

The PSI involved:

- Review of publicly available information for the site held by HDC and HBRC, and historical aerial photographs,
- A site visit and discussions with those familiar with the site,
- An assessment of the potential risk to human health in terms of the NES-CS.

Key findings include:

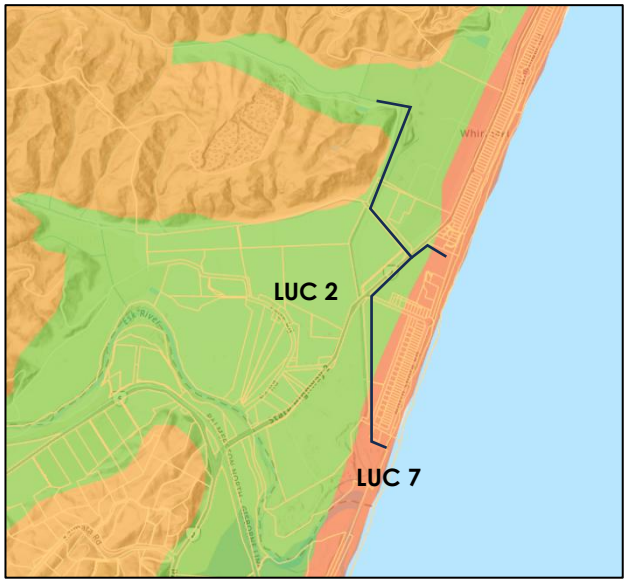
- The site has a history of agricultural and horticultural land use since at least 1943 and since the early 1970s,
- The Pan Pac, Whirinaki power station and Aratata urupa sites have been identified as sites on the HAIL,
- Various discharge permits that may give rise to soil contamination have been identified.

5.4.7 Productive Capacity of Land

As shown in **Figure 14** below, most of the land within the project extent is classified in the Land Use Classification maps as LUC 2, with the eastern most extent being classified as LUC 7. For

those LUC 2 classified areas located outside of the OiC Footprint, consideration of the application under the National Policy Statement for Highly Productive Land ("**NPS-HPL**") is required. This is discussed in Section 11.1.

Figure 14: Land Use Classification Maps



5.4.8 Network Utility Operators and Other Infrastructure and Services

The presence of above ground and underground infrastructure has been checked by PDP, with the following identified near the crossing points on State Highway 2 and North Shore Road:

Table 1: Existing Underground Services near the SH2 Crossing

Service Type	Service Provider	Diameter (m)	Approx. Depth to Top of Service (m)
Watermain	Hastings District Council	0.15	0.8
Gas Main	Powerco	0.225	1
Six Telecommunications	Chorus	-	0.6

Table 2: Existing Underground Services near the North Shore Road Crossing

Service Type	Service Provider	Diameter (m)	Approx. Depth to Top of Service (m)
Watermain	Hastings District Council	0.15	0.8
Five Telecommunications	Chorus	-	0.6

Existing HDC municipal stormwater infrastructure, power pylons, overhead powerlines, fibre optic cable, gas lines and services specific to the Pan Pac, Transpower power station and Contact Energy sites have also been identified and shown on Plans in respect to the proposed stopbank alignment provided in **Appendix 8.**

6. DESCRIPTION OF PROPOSAL

The Whirinaki Flood Protection Project involves construction of a new circa 3,000m long stopbank – comprising two main portions. Portion 1, referred to as the Whirinaki Stopbank, will extend from the north side of the Esk River mouth to State Highway 2 in the north, at which point it will connect with Portion 2, referred to as the Pan Pac Stopbank, which runs from the gravel barrier south of 162 Whirinaki Road, across the State Highway and around the Transpower and Pan Pac sites along the Whirinaki Drain as shown in **Figure 15** below.

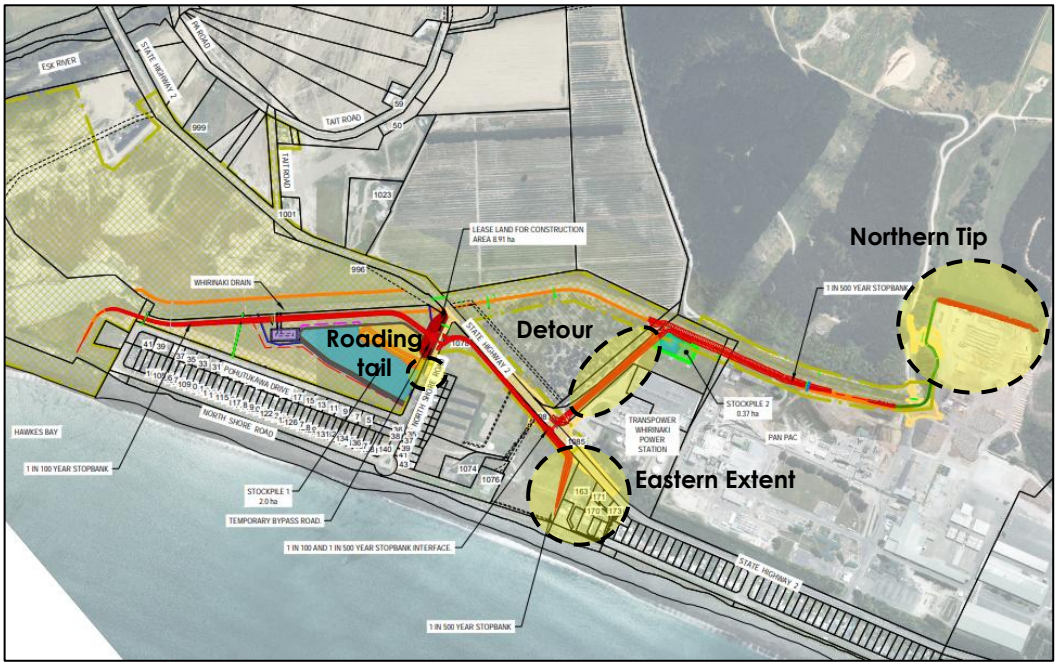
The Whirinaki Stopbank has been designed to provide flood protection up to a 100-year level of service (inclusive of climate change) and a 700mm freeboard to the Category 2C properties identified in Figure 2 above. The work includes localised raising of North Shore Road to allow unimpeded access over the stopbank where it crosses North Shore Road.

The Pan Pac Stopbank has been designed to provide flood protection up to a 500-year level of service (inclusive of climate change) to the Transpower and Pan Pac sites, with various heights (700 – 900mm) of freeboard across the alignment.

Specific details of the design together with plans are provided in the Design Report prepared by PDP provided in **Appendix 9** and in relation to the road raising works in the Preliminary Design Report prepared by CTD provided in **Appendix 10.**

The area of work/features outside the footprint in the OiC are also identified in Figure 15. As outlined, the consenting requirements associated with these works/features will be assessed under the standard RMA process and are considered in Section 7.2.

Figure 15: Stopbank Project Extent and Alignment



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

The applicant proposes to largely adopt the standardised conditions of the OiC, with some variations to account for the specific characteristics of this proposal. The standardised conditions have guided the development of the proposal, including the effects management that is proposed. A full suite of proposed conditions, based on a template of the standardised conditions (in the OiC) provided by the HBRC Consents Team[3] and including minor alterations to tailor them to this specific project is included at **Appendix 11**.

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

- The proposed stopbanks and associated activities,
- Ecological management,
- Landscaping,
- Archaeology,
- Construction, and
- Communication and engagement.

6.1 Proposed Stopbanks and Associated Activities

Drawing on the details of the Design Reports prepared by PDP and CTD, the following provides an overview of the proposed stopbanks and associated activities in respect to:

- Design considerations,
- Pan Pac Stopbank,
- Whirinaki Stopbank,
- Road raising – State Highway 2 and North Shore Road,
- Stormwater management,
- Petane Urupa,
- Earthworks and vegetation clearance,
- Managing the Detailed Design process.

6.1.1 Design Considerations

The design has been informed by various surveys, flood modelling and a freeboard assessment. Key considerations included flow, sediment concentration, geomorphology, river mouth conditions, the railway embankment and the potential for blockages of the Esk River road bridge on State Highway 2.

[3] Text highlighted yellow are minor amendments made by HBRC. With exception of number references, we are assured that no other changes have been made to the text in Schedule 3 of the OiC.

A series of geotechnical assessments have also been undertaken, involving:

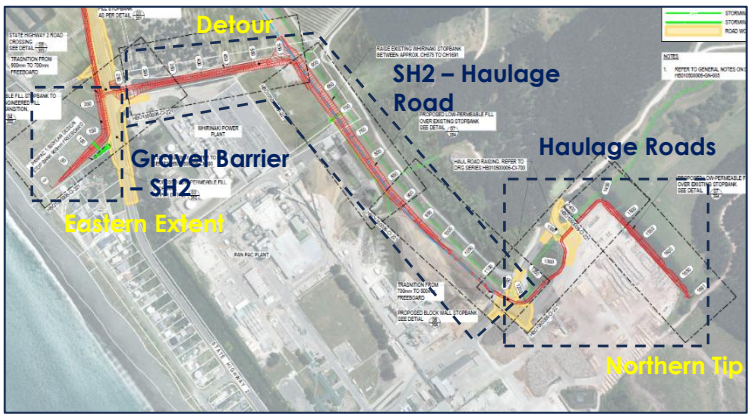
- Desktop studies of existing and available information,
- Visual site walkovers,
- Hand augers,
- Cone penetrometer tests (CPT),
- Geophysical testing to assess the existing stopbank integrity, including ground penetrating radar (GPR) and multi-channel analysis of surface waves (MASW – seismics),
- Geophysical work at the Ararata Urupa.

6.1.2 Pan Pac Stopbank

The Pan Pac Stopbank wraps around the Pan Pac and Transpower sites and crosses State Highway 2 to connect into the gravel coastal barrier to provide flood protection up to a 500-year level of service (inclusive of climate change) to the Transpower and Pan Pac sites, with various heights of freeboard across the alignment. Relevant plans from the drawing set include:

Plans and Long Sections:

- HB010500006-CI-202
- HB010500006-CI-221
- HB010500006-CI-222
- HB010500006-CI-223
- HB010500006-CI-224
- HB010500006-CI-225
- HB010500006-CI-226



Cross Sections:

- HB010500006-CI-311
- HB010500006-CI-312
- HB010500006-CI-313
- HB010500006-CI-314
- HB010500006-CI-315
- HB010500006-CI-316
- HB010500006-CI-317
- HB010500006-CI-318

Typical Cross Sections:

- HB010500006-CI-351
- HB010500006-CI-352
- HB010500006-CI-353
- HB010500006-CI-354

Key points include:

- The new Pan Pac stopbank will be approximately 1,690m long,
- It will comprise three main portions (from east to west):

  Gravel Barrier to State Highway 2 (CH0-CH200):

- This portion of the stopbank will be approximately 200m long,
- It will tie in with the natural ground level at approximately CH16.5,
- The crest of the stop bank will be designed to the 500-year ARI level, with a 900mm freeboard. The stopbank will generally present as being 2.7m high above existing ground level. The maximum height will be approximately 2.80 m at CH100 and CH150.
- The batters will be designed with a 1V:2H batter slope,
- A crest size/width of 3.5m has been adopted,
- The batters will be grassed,
- The undercut width and depth will vary but is expected to be generally in order of 1-2m deep,
- Low permeability material forming its core will extend below the stopbank to act as a cutoff to manage seepage underneath the stopbank due to the presence of gravel in this area.

State Highway 2 to 'Haulage Road' (CH200-approx CH1150):

- This portion of the stopbank will be approximately 950m long, and along some lengths will involve upgrading of the existing stopbank by stripping topsoil and existing material and keying the new material into the existing stopbank profile,
- The crest of the stop bank will be designed to the 500-year ARI level, with a 700mm freeboard. The stopbank will generally present as being 2.7m high above existing ground level.
- The batters will be designed with a 1V:2H batter slope,
- A crest size/width of 3.5m has been adopted,
- The batters will be grassed,
- The undercut width and depth will vary but is expected to be generally in order of 1-2m deep,
- A portion of the stopbank between CH950 and CH1050 will consist of existing compacted soil that is underneath the existing burner fuel pile.

Haulage Roads (approx CH1150-CH1690):

- This portion of the stopbank will be approximately 540m long and will have a 500mm freeboard,
- It will comprise a section of blockwall or similar between CH1150 to CH1450 an earth stopbank between CH1450 and CH1690. Each portion will be an upgrade to the existing stopbank feature,
- The proposed blockwall stopbank will consist of:
  - Modular blockwall type retaining wall on both sides of the stopbank,
  - The fill between the outer block walls will be a low-permeability material,
  - A floodgate to provide for existing access,
- The proposed upgrade of the existing earth stopbank will have:
  - A topsoil finish and be grassed,
  - A crest width of 3.5 m maximum and 1V:2H maximum side slopes.

- The average stopbank height will be approximately 1.0 m along the blockwall portion of the stopbank and approximately 0.5 m increase in height to the existing stopbank.

- The stopbank will be formed utilising clean natural imported material.

The following portions of the Pan Pac Stopbank are outside the OiC Footprint:

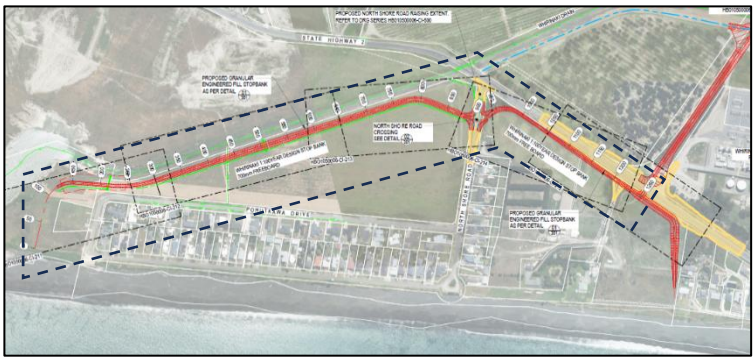
- Northern Tip,
- Detour,
- Eastern Extent.

6.1.3 Whirinaki Stopbank

As shown above, the Whirinaki Stopbank connects with the Pan Pac Stopbank on the east of State Highway 2 to provide flood protection up to a 100-year level of service (inclusive of climate change) and a 700 mm freeboard to the identified Category 2C properties. Relevant plans from the drawing set include:

Plans and Long Sections:

- HB010500006-CI-201
- HB010500006-CI-211
- HB010500006-CI-212
- HB010500006-CI-213
- HB010500006-CI-214
- HB010500006-CI-215



Cross Sections:

- HB010500006-CI-301
- HB010500006-CI-302
- HB010500006-CI-303
- HB010500006-CI-304
- HB010500006-CI-305
- HB010500006-CI-306

Typical Cross Sections:

- HB010500006-CI-351
- HB010500006-CI-352
- HB010500006-CI-353

Key points include:

- The new Whirinaki stop bank will be approximately 1,144m long.
- The stop bank will tie in with the natural ground level at approximately CH116 south of Pohutakawa Drive.
- The crest of the stop bank will be designed to the 100-year ARI level, with a 700mm freeboard. The stopbank will generally present as being 1.5m high above existing ground level. The maximum height will be approximately 2.20 m between CH450 to CH600.
- The batters will be designed with a 1V:2H batter slope,

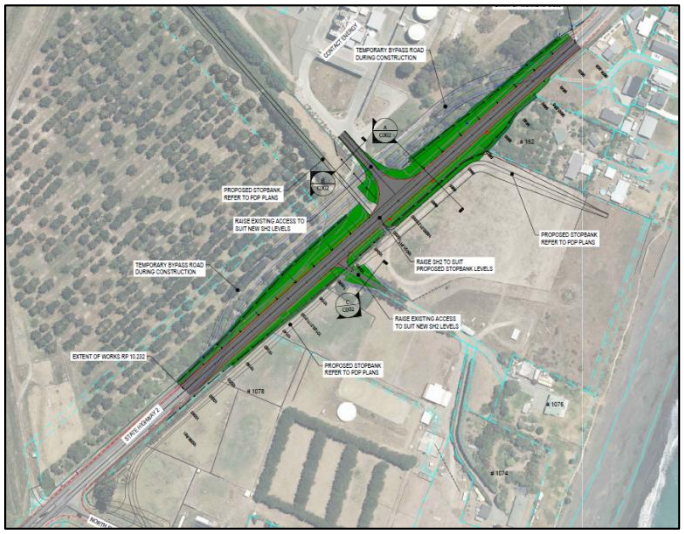
- A crest size/width of 3.5m has been adopted.
- The batters will be grassed.
- The undercut width and depth will vary but is expected to be generally in order of 1-2m deep,
- The stopbank will be formed utilising clean natural imported material.

6.1.4 Road Raising

Raising of State Highway 2 and North Shore Road is required to accommodate crossing of the Pan Pac and Whirinaki Stopbanks respectively. Each is considered below.

Raising of State Highway 2

State Highway 2 Road is required to be raised at a point where the Transpower Extent meets the Road Reserve to accommodate crossing of the Pan Pac Stopbank. Relevant plans from the drawing set include:



Plan:

- 24-05-04-C001:

Typical Cross Section:

- 24-05-04-C002

Plans and Long Sections:

- 24-05-04-C101
- 24-05-04-C102

Services Plan:

- 24-05-04-C301

Sightlines Plan:

- 24-05-04-C401
- 24-05-04-C402
- 24-05-04-C403

Safe Stopping Distance Sightlines:

- 24-05-04-C405

Key points include:

- The extent of roading works is approximately 426m long.
- The road will rise to nearly 1.8m above its existing level to traverse to stopbank.
- The design cross section aims to replicate the existing road cross section and in accordance with NZTA SHGDM Figure 6.3, Group 1.
- The design cross section comprises two 3.5m traffic lanes with a 2m shoulder,
- A 1:6 fill batter of varying width interfaces from the shoulder to a roadside drain.
- The design centreline will match the existing straight alignment with no kinks or curves proposed.
- Superelevation will be designed to key into the existing alignment.

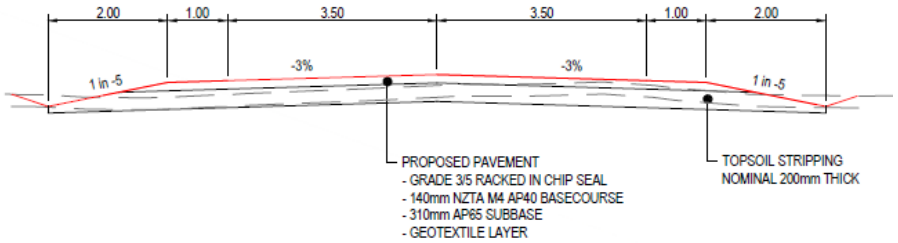
- The road has been designed to shed and drain stormwater run-off to roadside drains. The minimum culvert size on SH2 will be 375mm and traversable headwalls are proposed.
- Existing accessways will be reconstructed.
- Sight distance has been assessed in accordance with AGRD Part 3, Part 4a and RTS6 for the design speeds referenced above. All sight distance requirements are achieved.
- The vertical alignment has been designed to satisfy safe stopping distance sight lines.
- Sightlines at access locations on SH2 (Contact Energy entrance and the access to 1076) have been assessed using SISD requirements both horizontally and vertically for a design speed of 100 km/h with 248m required.
- Clashes with utility services have been avoided where possible, however the proposed design will require several power poles, light poles and telecoms infrastructure to be relocated. A section of existing watermain is required to be raised / relocated.
- Liaison with the affected utility operators will continue throughout detailed design as the layout is refined and more certainty of service relocation and/or protection requirements are known.

A temporary two-lane bypass will be constructed during construction. Relevant plans from the drawing set include:

Temporary Bypass Road - Plan and Longitudinal Section:

- 24-05-04-C501
- 24-05-04-C502

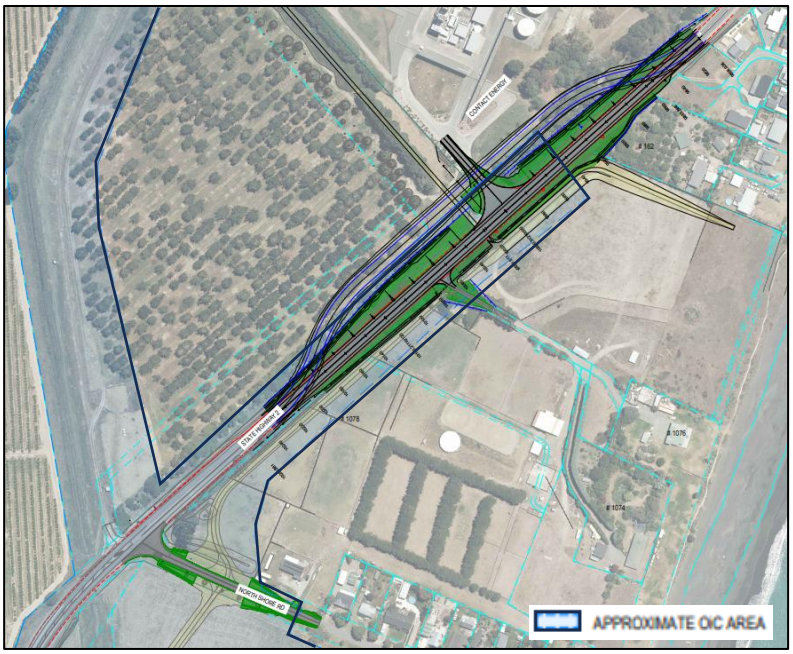
The cross section and pavement surface will be based on the following typical cross section. Further details will be determined as part of detailed design.



F TYPICAL SECTION - TEMPORARY BYPASS ROAD
Scale: 1:50

As shown in **Figure 16** below, both the northern extent of the road raising and the temporary bypass will be outside the OiC Footprint.

Figure 16: State Highway 2 Road Raising and Temporary Bypass



It is recognised that with the road being a state highway and subject to a designation, approval will be required from NZTA (as requiring authority) prior to commencement of this component of the Project. We understand this sits outside the OiC and RMA process, thus no conditions are required.

Raising of North Shore Road

North Shore Road is required to be raised at a point east of the State Highway intersection to accommodate crossing of the Whirinaki Stopbank. Relevant plans from the drawing set include:

Plan:

- 24-05-02-C001:

Typical Cross Section:

- 24-05-02-C002

Plans and Long Sections:

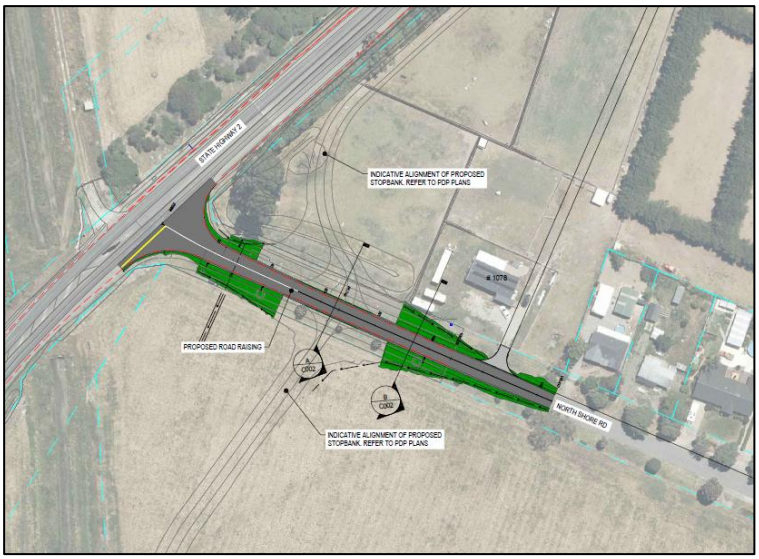
- 24-05-02-C101

Services Plan:

- 24-05-02-C301

Sightlines Plan:

- 24-05-02-C401
- 24-05-02-C402
- 24-05-02-C403



Key points include:

- The extent of roading works is approximately 145m long.
- The road will rise to approximately 1.3m above its existing level to traverse to stopbank.
- The design cross section will match the existing cross section with two 2.75m lanes in accordance with table C4 of the HDC ECOP widening out to 3.5m at the intersection. A 0.5m sealed shoulder is proposed with a 1:6 fill slope falling to a roadside drain.
- The design centreline will match the existing straight alignment with no kinks or curves proposed.
- The road has been designed to shed and drain stormwater run-off to roadside drains.
- Existing accessways will be reconstructed.
- Sight distance has been assessed in accordance with AGRD Part 3, Part 4a and RTS6 for the design speeds referenced above. All sight distance requirements are achieved.
- The vertical alignment has been designed to satisfy safe stopping distance sight lines.
- Sightlines for the access to 1078 on North Shore Road have been assessed in accordance with RTS 6 both horizontally and vertically for a design speed of 50 km/h with 40m required.
- Approach sight distance (ASD) at the intersection of North Shore Road has also been assessed and achieved in accordance with AGRD Part 4a for a design speed of 50 km/h with 55m required.
- Clashes with utility services have been avoided where possible, however the proposed design will require several power poles, light poles and telecoms infrastructure to be relocated.
- Liaison with the affected utility operators will continue throughout detailed design as the layout is refined and more certainty of service relocation and/or protection requirements are known.

As shown in **Figure 15** above, the tail end of the works will be outside the OiC Footprint.

A temporary bypass is proposed to be established on the southern side of North Shore Road to facilitate the construction works.

It is recognised that with the road being a public asset an engineering approval process will be required from HDC prior to commencement of this component of the work. We understand this sits outside the OiC and RMA process, thus no conditions are required.

6.1.5 Stormwater Management (Cross Drainage)

Three primary stormwater management features are proposed for land east of State Highway 2 as follows:

- A pipe under North Shore Road to connect to a swale with an outlet to the Whirinaki Drain.

- A swale on the eastern side of the Whirinaki Stopbank (south of North Shore Road) to manage runoff, together with a series of culvert outlets through the stopbank to drain runoff collected by the swale and existing HDC infrastructure draining runoff from Pohutikawa Drive to the Whirinaki Drain.
- A soak pit on 1078 State Highway 2 (upgradient to the stopbank) to drain runoff that will be cut off from its normal flow path (with as secondary flow outlet through the stopbank via twin culverts). This is within the area to be acquired.

Relevant plans from the drawing set include:

- HB010500006-CI-401
- HB010500006-CI-402
- HB010500006-CI-421

In terms of design, the PDP Cross Drainage – Preliminary Design Report provided in **Appendix 12** explains:

- The cross-drainage infrastructure for the pipe and swale has been designed to capture and convey the 20% AERP (inclusive of climate change) runoff event without ponding, and has considered the total upstream contributing catchment, with allowance being made for future HDC stormwater infrastructure to be connected,
- The soak pit has been designed to capture and discharge to the ground the 10% AEP 1-hour flows as per the Acceptable Solutions and Verification Methods for Building Code Clause E1 Surface Water.

The soak pit is outside the OiC Footprint.

Within the Pan Pac Site, stormwater is collected and treated onsite by Pan Pac's internal stormwater infrastructure and discharged to the Whirinaki Drainas part of Pan Pac's consented activities.

It is proposed to upgrade the existing stormwater outfall at approximately CH700. It will be fitted with a headwall, flap gate, and riprap.

6.1.6 Petane Urupa

A concrete or timber flood wall is proposed to be constructed to encompass the existing urupā and the proposed urupā site extension to the north. Preliminary Plans are provided in **Appendix 13.** Key points include:

- 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 1V: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 DN150 H5 poles spaced at 1.5 m.

This work will be undertaken under a separate contract to the primary flood protection works. It is therefore proposed that the works be subject to a separate Construction Environment Management Plan. Further, as the area of the works is not characterised by identified ecological values, it is not necessary for the works to be subject to Ecology Management Plan.

6.1.7 Earthworks and Vegetation Clearance

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

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

Vegetation clearance will generally occur (1), along the true left of the Whirinaki Drain, (2), as the alignment cuts across to the State Highway, and (3), along 1078 State Highway 2.

6.1.8 Managing the Detailed Design Process

The OiC framework envisages that further refinements to the flood protection works design and the associated documentation will continue to occur post-consenting. It is important that the conditions of consent do not pose barriers to implementation where such design changes are not substantial or likely to result in a change to the activity or the expected scale of adverse effects. The following condition is proposed as Condition 1A – consistent with the decision on the Waiohiki Flood Protection project:

Tracking changes in the design process

> Changes that occur between preliminary and detailed (final) design shall be recorded and reported on as part of a final design report. The final design report shall record the changes, outline the reasons for them and provide a view as to whether the changes are in accordance with documents referred to in Condition 1.

In this context, "in accordance with" means changes that do not introduce a new activity, do not introduce a substantial change in alignment, do not result in a change to outcomes sought under the conditions of this consent, and does not cause any material increase in consequential flooding effects to other properties.

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

6.2 Ecological Management

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

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

Bats

While the likelihood of indigenous bats utilising the project corridor or stockpiling sites has been assessed as low, PDP has recommended that any trees to be felled that have potential bat roosting features should undergo a tree survey in accordance with the Bat Roost Protocols (DoC, 2024) and include visual inspection and deployment of acoustic monitors for two consecutive nights before felling. The need to prepare procedures for managing bats prior to felling trees that have potential bat roosting features is proposed to be included in the Ecology Management Plan.

Native Birds

The likelihood of indigenous birds using the project corridor or stockpiling sites for permanent roosting during construction has been assessed as moderate for smaller songbirds (in the upper catchment), high for pūkeko, and very low for pīhoihoi. If works are to occur in peak breeding season however, PDP has recommended any trees to be felled should be inspected for nests 1-2 days prior to removal. The need to prepare procedures for managing native bird species prior to vegetation removal to facilitate natural abandonment prior to felling is proposed to be included in the Ecology Management Plan.

Reptiles

Although PDP reports a low likelihood of reptiles, the following is recommended to reduce the risk of lizards occupying the area of works during construction:

- Areas of rank grasses are mown to approximately 10cm 2 to 3 days prior to earthworks commencing and the cut grass is raked away from the earthworks zone,
- All woody species and wood debris (if any) be inspected for lizards during the same period prior to works,
- Staged vegetation removal.

The need to prepare procedures (applying to areas of rank grasses and wood debris that will be affected by construction) to reduce the risk to lizards occupying the site during construction is proposed to be included in the Ecology Management Plan.

Vegetation Removal

PDP has noted that vegetation to be removed as part of the works is likely to be suitable habitat for indigenous reptiles, bats and some birds. For this reason, PDP has recommended

that all removed vegetation be replaced with suitable (with an emphasis on indigenous) plant species.

It is therefore proposed that vegetation to be removed as part of the works be identified at the detailed design stage and that a revegetation plan be prepared and implemented to mitigate the identified vegetation removal as part of the Ecology Management Plan.

Effects on water quality arising from turbidity will be managed under the Erosion and Sediment Control Plan addressed in Section 6.4.

6.3 Landscaping

Revegetation for ecological purposes is discussed in Section 6.2 above.

The Landscape Scoping Assessment identifies residential properties along North Shore Road, Pohutukawa Drive, and at the southern end of Whirinaki Road have been identified as the key viewing audience. The Landscaping Scoping Assessment concludes that beyond the property at 1078 State Highway 2, there will be no significant adverse visual of landscape effects on residential properties or the coastal environment.

In respect to 1078 State Highway 2, it is proposed to prepare a plan for landscape treatment (compatible with the stopbank structure) as indicatively shown by the blue line in Figure 5 of the Landscape Scoping Assessment, reproduced in **Figure 17** below. Amendments are proposed to Condition 24 of the OiC to this effect – with implementation being subject to permission from the landowner. No further landscaping is proposed.

Figure 17: Area of Proposed Landscaping

6.4 Archaeology

Archaeology Hawke's Bay has concluded that work to the west of State Highway 2 can proceed under an Accidental Discovery Protocol.

To the east of State Highway 2, only one recorded site (V20/69 – urupa – Aratata Cemetery) was identified, however the area is reported as a landscape of known long term occupation - with several settlements and a church being identified in pre-1900 plans and maps. Owing to these features, along with the potential for further unrecorded archaeology to be encountered, Archaeology Hawke's Bay has concluded that an archaeological authority is required for all work east of SH2.

The structure of Condition 29 of the standardised conditions provides for this approach.

6.5 Construction

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

6.5.1 Establishment of Construction Site Works

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

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

- Removal of fencing and vegetation along construction areas,
- Installation of fencing,
- Construction of stabilised exit and entry points onto North Shore Road,
- Potholing for services location,
- Bring in and position site offices and buildings,
- Lay temporary power cables and water supply lines.

It is also proposed to clear the alignment of the temporary bypass alongside State Highway 2 and to complete formation of this area. The same is proposed for the temporary bypass on North Shore Road.

While it is recognised that these works will require erosion and sediment control, rather than including this exercise in the Erosion and Sediment Control Plan for the broader works under Condition 14, it is proposed that this be undertaken according to the Erosion and Sediment Control Plans provided in **Appendix 14.** In respect to the State Highway 2 bypass, this involves formation of drainage channels falling to a centre point within the Pan Pac site and installation of either a silt fence or earth bund. The bypass on North Shore Road will involve installation of a silt fence.

Likewise, with vegetation removal occurring, potential effects on bats needs to be managed. In this regard, a further site inspection has been undertaken, and while it has been

determined that the vast majority of the trees do not have any potential roosting features, further surveys are recommended prior to felling. This has been reflected in the proposed conditions.

The areas are not considered to contain any other ecological values to trigger the requirements of the Ecology Management Plan.

Amendments to the standardised conditions are proposed to this effect.

6.5.2 Construction Management

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

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

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

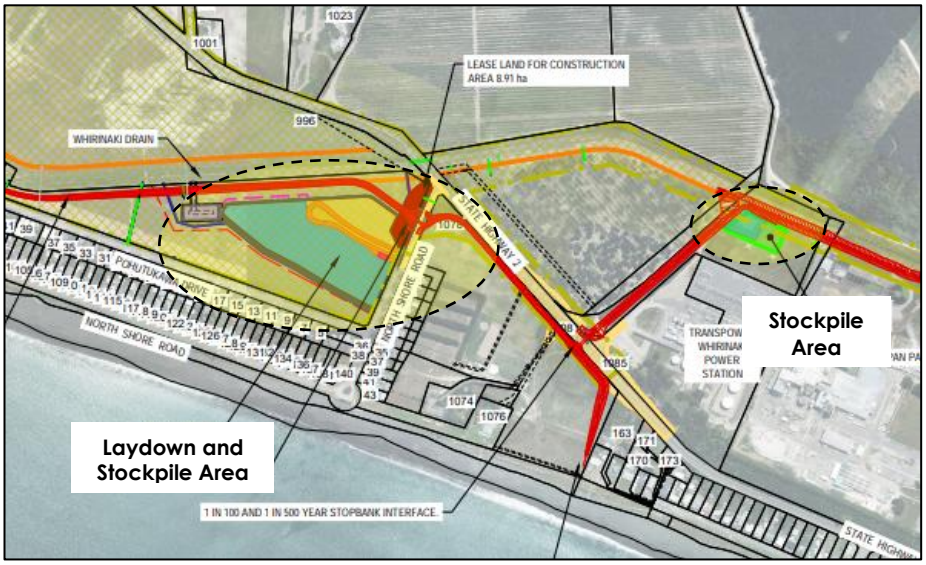
With the works associated with the Petane urupa being undertaken under a separate contract, a separate CEMP is proposed to be prepared for these works – with the requirements being specific to the site and nature of works. This is proposed through Condition 10B and amendments to the definitions and Condition 11.

Laydown and Stockpile Areas

An area to accommodate contractor operations including temporary site buildings, storage and parking, together with a stockpile site alongside will be established as indicated shown in **Figure 18** below.

Access (from North Shore Road) and specific layout details will be confirmed as part of preparing the CEMP. Haulage routes and construction traffic management will form part of the CEMP, which is required to be prepared by the contractor and circulated to key stakeholders for feedback prior to works commencing. A second smaller stockpile area will be established within the Plan Pac site as also shown in **Figure 18**. Details associated with site will also be included in the CEMP.

Figure 18: Laydown and Stockpile Areas



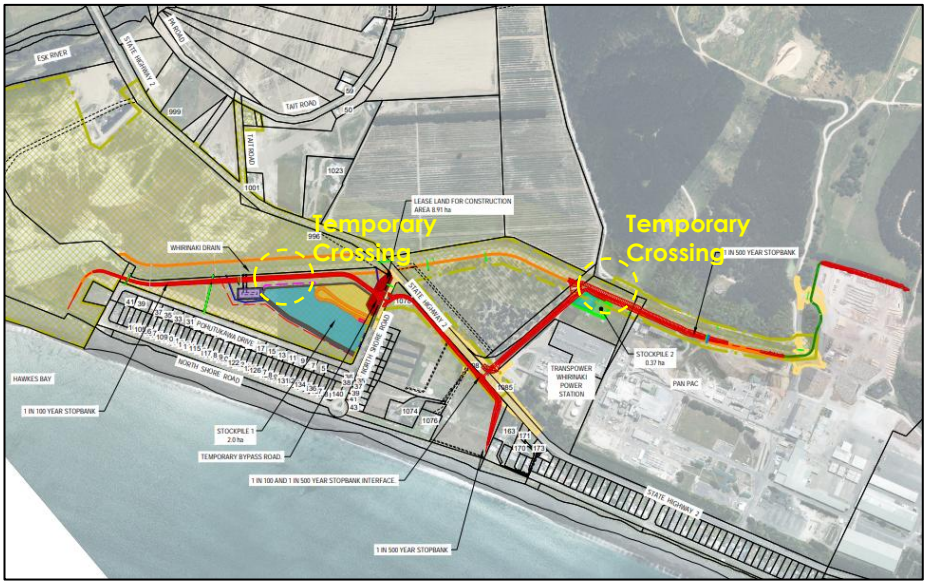
Temporary Drain Crossings

Provision is sought for two temporary stream crossings to be installed to enable crossing of the Whirinaki Stream to facilitate construction if required. One will be installed south of SH2 and one west of the Pan Pac site as indicatively shown in **Figure 19** below.

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:

- Culverts should be open bottom or embedded 25%, and
- 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).

Figure 19: Temporary Crossings



As the need for one or both crossings is not yet known and may not need to be established as part of the first stage of works, this is proposed to be given consideration within the CEMP as an amendment under Condition 11 of the standardised conditions.

Changes have also been proposed to conditions 18 and 19 in the event that a culvert structure is preferred. The proposed changes provide for a temporary culvert to be installed in the same manner as the OiC would otherwise provide for a permanent culvert to be considered, designed and installed post the issue of consent.

Erosion and Sediment Control

Erosion and sediment controls will be confirmed by the contractor prior to works commencing, as per the standardised conditions of consent. The type of controls/measures have nevertheless been given consideration by PDP, and as outlined in the Design Report and preliminary plans provided in **Appendix 9**, are likely to involve:

- Silt fencing around working areas based on on-site risk assessments,
- Progressive stabilisation of stopbank faces and the borrow site with topsoil and planting of grass,
- Stockpile stabilisation – grassing and surface roughening when in use,
- Use of erosion control devices where large open earthworks faces are proposed. This may include decanting earth bunds, clean and dirty water diversion bunds, sediment ponds (one is indicatively shown on the plans) and other means of sediment retention such as flocculation,
- Stabilised haul roads,
- Stabilised entranceway and wheel wash,
- Dust suppression measures, including consideration of water carts, sprinkler systems or similar.

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

Contaminated Soil

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

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

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

Construction Noise and Vibration

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

6.6 Communication and Engagement

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

- Invite each relevant Māori entity to appoint a representative to a Stakeholder Advisory Group (STAG),
- Take identified cultural indicators into account in preparing plans and reporting to the Māori entities representatives on how those indicators have been taken into account.
- Invite identified parties to form a STAG to inform and advise the consent holder about managing and monitoring the flood protection works. For this proposal, amendments are proposed to Condition 6 to focus the adjoining landowners (to be invited to join the STAG) to those who immediately adjoin the areas of construction or whose access off State Highway 2 will be affected. The consent holder will also invite one representative from the group of residents along North Shore Road and one representative from the group of residents along Pohutukawa Drive to join the STAG.
- Appoint a person as a Project Engagement Lead to act as the consent holder's main point of contact with the Māori entities representatives and the Stakeholder Advisory Group,
- Record all information and advice provided by the STAG and report to the group how the information and advice have been taken into account in the carrying out of the flood protection works,
- Develop and implement a Communication Plan containing processes for communications, throughout the construction works, with:
    - the general public,
    - local residents and businesses,
    - the Māori entities representatives,
    - the persons and bodies represented by the stakeholder advisory group,
    - all other persons potentially affected by the construction works,
- Invite the STAG to comment on the proposed CEMP.
- Submit the finalised CEMP with the STAG.

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

7. RESOURCE CONSENTS REQUIRED

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

7.1 Activities Requiring Resource Consent under the OiC

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

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

(b) are carried out—

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

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

(c) for the purposes of the RMA,—

(i) would ordinarily require a resource consent; and

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

(iii) are not a prohibited activity.

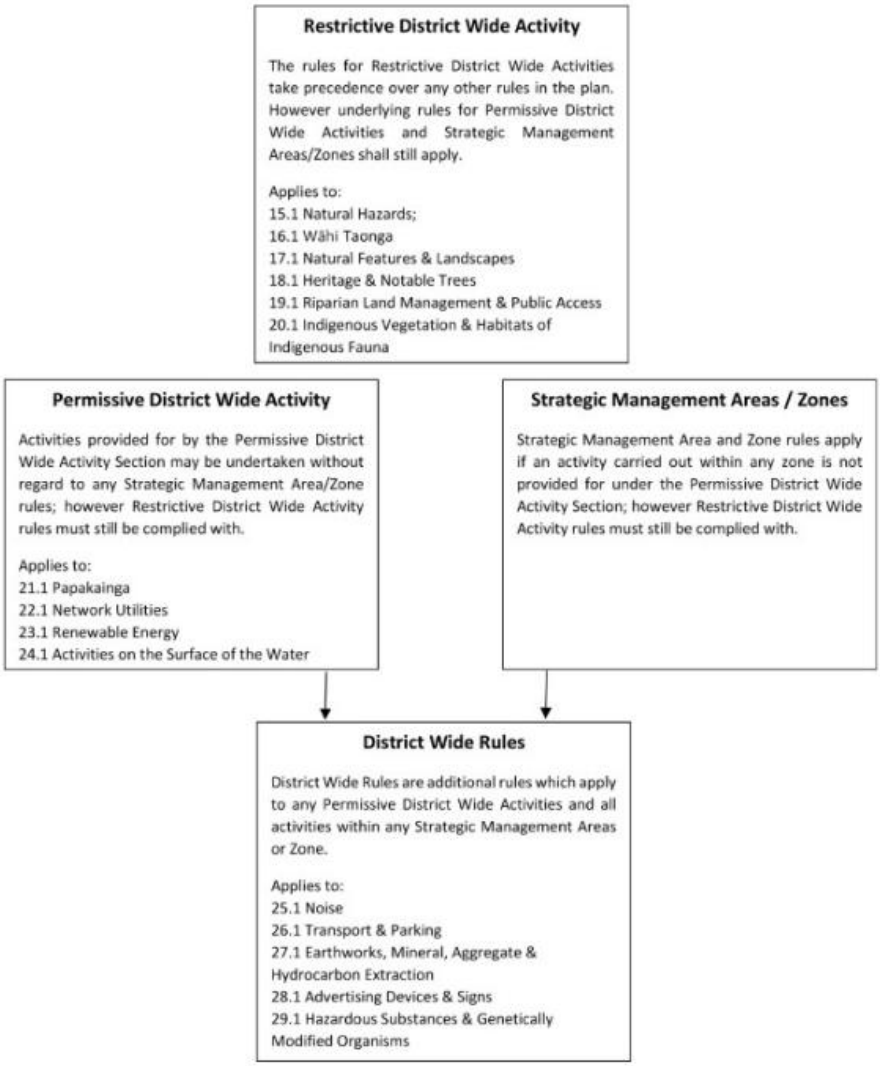
All of the proposed works within the OiC Footprint will be carried out by HBRC and are of a kind described in subclause 6(2), being activities that involve or are concerned with the construction or reinstatement of, making safety enhancements to, or improving the resilience of land and flood protection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

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

Rule Analysis

In terms of (c)(ii), and the HDP in particular, the following hierarchy applies (refer 1.1.5.3 of the Plan).

Figure 20: Hastings District Plan Hierarchy



Key points include:

Works within the River Hazard Overlay (area bounded by North Shore Road and Pohutukawa Drive):

- Natural Hazard Mitigation Activities[4] 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 are classified as a Permitted Activity under Rule NH1. All performance standards and terms can be complied with,
- It is stated in 19.1.6.1 that riparian vegetation modification does not include actions undertaken or authorised by the HBRC for the purpose of flood control activities.

[4] means activities that are carried out by a Network Utility Operator to reduce the risks posed by natural hazards to human life, property or the environment (includes stopbanks, sea walls, vegetation planting).

Riparian vegetation modification associated with this proposal is therefore Permitted under Rule RM1 / not regulated,

- Similarly, it is stated in 20.1.6B(h) that Indigenous Vegetation Modification in association with actions undertaken for flood control purposes by or on behalf of the HBRC shall be permitted. Indigenous Vegetation Modification associated with this proposal is therefore Permitted under Rule IN1 / not regulated,
- The proposal does not trigger Rules in Chapters 16.1, 17.1 or 18.1, being Restrictive District Wide Activities,
- The proposal does not trigger Rules in Chapters 21.1, 22.1[5], 23.1 or 24.1, being Permissive District Wide Activities,
- According to the Plan hierarchy above (refer 1.1.5.3 of the Plan), Rules in Chapter 27.1 pertaining to Earthworks are not applicable where activities are provided for under Restrictive District Wide Activity rules.

Works outside the River Hazard Overlay (Remainder of the works with the OiC Footprint):

- Outside the River Hazard Overlay the rules pertaining to the applicable zones apply. This applies to the majority of the alignment – with the associated works being subject to the earthwork rules in Chapter 27.1.
- The removal of river berm silt, gravel or other river control or drainage works carried out by a local or regional authority, exercising its powers, functions and duties under The Soil Conservation and Rivers Controls Act 1941, or The Land Drainage Act 1908 and ancillary activities involved with any relocation of the extracted material is provided for as a Permitted Activity under Rule EM4. The proposal is considered to meet this rule.
- Although the exact volumes and strict compliance with the applicable performance standards for earthworks associated with construction of various stopbank and drainage features is not known, it is assumed that strict compliance with the standards will not be achieved.

On this basis, resource consent would be required to undertake earthworks as a Restricted Discretionary Activity under Rule EM6 – noting resource consent would also ordinarily be required under the NES-CS for the disturbance of contaminated land on identified HAIL sites.

Assuming some material is removed and that the volumes exceed the limits of 1,000m^3 for Rural zoned sites and 100m^3 from the Whirinaki Industrial zoned sites, resource consent would also likely be required as a Discretionary Activity under Rule EM10 pertaining to the removal of material.

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

[5] HDC has confirmed that road raising works in a similar situation can be deemed a Permitted Activity under Rule NU4, and that an Outline Plan or waiver is not necessary. If Section 176 approval from HDC as the Roading Authority in respect to North Shore Road is deemed to be necessary, this is proposed to be provided as part of assessing this application. Section 176 approval is in the process of being obtained from NZTA.

The discharge of stormwater from the Pan Pac site is already authorised under AUTH-131265-01, and the discharge of runoff/stormwater associated with the proposed drainage solutions elsewhere can be provided for as a Permitted Activity under Rule 42. Consent of this discharge is not included in the scope of this proposal. Nor is consent sought for those activities that are permitted under the HDP, as outlined above.

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

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

Activity	Rule	Rule Description	Status	Consent Authority
Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011				
Disturbance of soil	11	Removing or replacing fuel storage system, sampling soil, or disturbing soil	Discretionary	HDC
Hastings District Plan				
Earthworks	EM6 EM10	Permitted Activities not meeting the General Performance Standards and Terms in Section 27.1.6 The removal offsite of more than 100m^3 topsoil, sand, gravel, metal or earth from any site	Restricted Discretionary Discretionary	HDC
Regional Resource Management Plan				
Vegetation clearance and soil disturbance	8	Vegetation clearance or soil disturbance activities which do not meet the conditions in Rule 7.	Restricted Discretionary	HBRC
Discharge of dust	30	The discharge of contaminants into the air that: • is from an industrial and trade premises and is not specifically classified by any other rule in this Plan as a discretionary, noncomplying or prohibited activity, or • does not comply with all relevant conditions on a permitted activity rule, or • does not comply with all relevant standards and terms on a controlled activity rule or restricted discretionary activity rule.	Restricted Discretionary	HBRC
Discharge of drainage water (if required as part of construction)	33	The diversion and discharge of drainage water into water or onto or into land, from a pumped system	Controlled	HBRC

Other takes & uses of surface & ground (relating to the 'take' of drainage water if required as part of construction)	55	The take and use of surface water or groundwater, including takes and uses associated with, or ancillary to Community Irrigation Schemes, except as provided for by Rules 53, 54 TT3, TT3A, TT3B and TT4.	Discretionary	HBRC
Discharge of sediment laden water to land or water and solid contaminants to land	52	The discharge of: • contaminants onto or into land, or into water, or • water into water which does not comply with any condition on a permitted activity rule, or any standard or term on a controlled activity rule within this Plan, but which is not expressly classified as a discretionary, noncomplying or prohibited activity.	Discretionary	HBRC
Diversion of the Esk River during times of flood arising from the stopbank	59	Any diversion of water which cannot comply with any condition on a permitted activity rule, or any standard or term on a controlled activity rule within this Plan, but which is not expressly classified as a discretionary or non-complying activity.	Discretionary	HBRC
River & lake bed activities (stormwater outlets[6] and crossings[7])	69	Any activity which cannot comply with any of the rules in section 6.8 of this Plan and which is not expressly regulated by other rules in this Plan.	Discretionary	HBRC

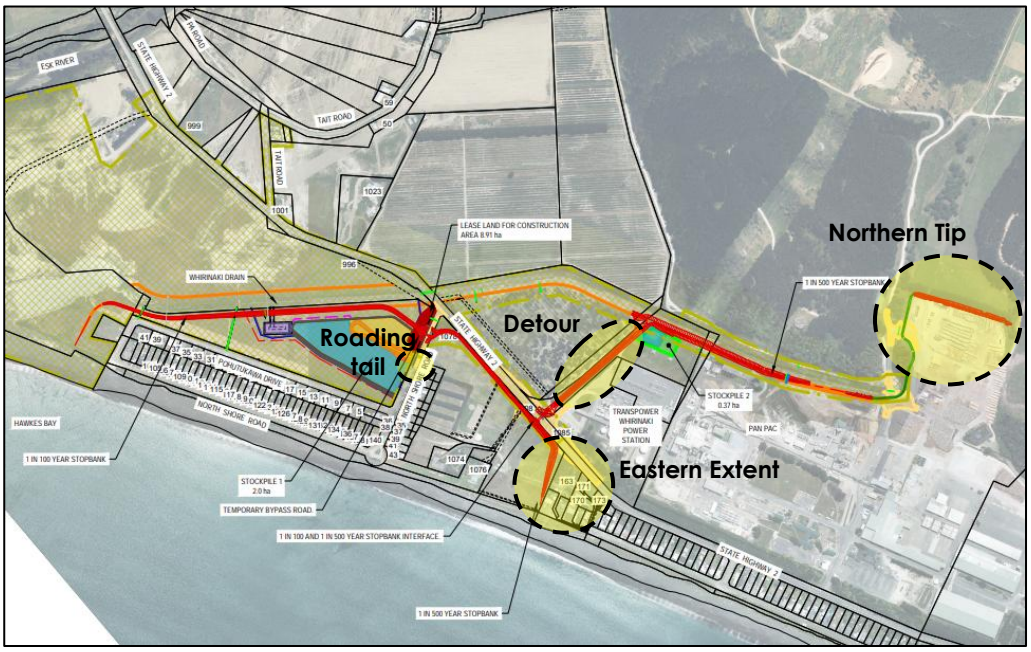
[6] If it is not considered to fall under Rule 72 as a Permitted Activity
[7] If the potential crossing across the Whirinaki Stream is not considered to fall under Rule 70 as a Permitted Activity.

7.2 Activities Requiring Resource Consent under the Standard RMA Process

As outlined above and illustrated in **Figure 21** below, the following features are to be constructed outside the OiC Footprint:

1. A stopbank extending around the Pan Pac yard – referred to as the 'northern tip',
2. A slight 'detour' past the Transpower site – referred to as the 'detour',
3. Road raising along State Highway 2 and a stopbank along 163 Whirinaki Road – referred as the 'eastern extent',
4. The tail end of road raising works along North Shore Road – referred to as the 'roading tail'.

Figure 21: Works Outside the OiC Footprint



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

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

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

- Marine Aquaculture 2020
- Storing Tyres Outdoors 2021

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

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

Hastings District Plan

On the basis that the road raising works are considered a permitted activity under Rule NU4, and that the temporary bypass across the Contact Energy Site is associated with these permitted activity works, the following analysis is limited to activities associated with the 'northern tip', 'detour' and 'eastern extent'. With both these areas of work being outside the River Hazard Overlay, the rules of the underlying zones apply. Being earthworks activities however i.e. fill activities to form stopbanks, these works are subject to the earthwork rules in Chapter 27.1.

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

- For the 'northern tip', the earthwork thresholds in 27.1.6A – Extent of Earthworks pertaining to Industrial zones are 50m^3 per site for cut activities and 25m^3 per site for fill activities. For the 'eastern extent' and 'detour', the earthwork thresholds pertaining to the Rural Zone are 2,000m^3 per hectare for cut activities and 1,000m^3 per hectare for fill activities,
- The cut and fill volumes on the lots outside the OiC Footprint and their extent of compliance with the District Plan thresholds are outlined below,

Property	Area (ha)	Cut (m^3)	Complies	Fill (m^3)	Complies
Northern Tip					
Lot 1 DP 28357	78*	885	No	3,019	No
Detour					
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.

- Stopbank height will exceed a fill face of 2.5m in respect to 27.1.6D – Excavation at points along the eastern extent and detour,
- Any vegetation clearance or disturbed areas will be repastured or revegetated as soon as practicable within 18 months of the activity ceasing in respect to 27.1.6B – Vegetation,

- The earthworks will not be undertaken on land with a slope of greater than 45° above horizontal in respect to 27.1.6C – Slope,
- The works are expected to be undertaken in accordance with 25.1.6I pertaining to construction noise in respect to 27.1.6E – Noise,
- In respect to 27.1.6F(2) – Flood Protection Works, the stopbanks by their very nature will influence the path of flood flows, which could be considered a 'significant' change,
- A cut and fill plan is included in respect to 27.1.6H pertaining to the Location of Fill,
- 27.1.6H pertaining to Sediment Control is not applicable in this instance.

Based on non-compliance with 27.1.6A, 27.1.6D and 27.1.6F, the earthworks associated with these features are to be assessed as a Restricted Discretionary Activity under Rule EM6. Assuming more than 100m^3 of the cut material will be removed from the each of the areas, resource consent is also likely to be required as a Discretionary Activity under Rule EM10 pertaining to the removal of material.

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

Regional Planning Documents

Regional Resource Management Plan:

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

Further, the deposition of material within 20m of the Whirinaki Drain (where the stopbank may still be within 20m of the drain where it cuts across the Pan Pac nursery site) may trigger the need for resource consent under Rule 52.

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

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

Consent for all these activities is sought.

Regional Coastal Environment Plan:

While the northern extent of the stopbank will tie into the landward side of the gravel barrier, according to Sheet 02 of the Landscaping Scoping Assessment it will sit just outside the coastal margin. As such, only the southern extent of the Whirnaki Stopbank is subject to the RCEP.

As in the case of the same type of works outside the coastal margin, resource consent may be required for the:

- Vegetation clearance and soil disturbance under Rule 8 (including the management of dust – the discharge of dust does not appear to be specifically regulated),
- Deposition of material under Rule 9,
- Diversion of water under Rule 39,
- Discharge of sediment laden water, which may also contain flocculants, to land or water under Rule 9.
- Dewatering – take and discharge (if dewatering is required as part of construction) under Rules 35 and 24 respectively.

Based on the long section, the proposed stopbank will tie into existing ground prior to extending into Coastal Hazard Zone 1.

Summary

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

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

Activity	Rule	Rule Description	Status	Consent Authority
Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011				
Disturbance of soil	10	Removing or replacing fuel storage system, sampling soil, or disturbing soil	Discretionary	HDC
Hastings District Plan				
Earthworks	EM6 EM10	Permitted Activities not meeting the General Performance Standards and Terms in Section 27.1.6 The removal offsite of more than 100m^3 topsoil, sand, gravel, metal or earth from any site	Restricted Discretionary Discretionary	HDC
Regional Resource Management Plan				
Vegetation clearance and soil disturbance	8	Vegetation clearance or soil disturbance activities which do not meet the conditions in Rule 7.	Restricted Discretionary	HBRC
Discharge of dust	30	The discharge of contaminants into the air that: • is from an industrial and trade premises and is not specifically classified by any other rule in this Plan as a discretionary, noncomplying or prohibited activity, or • does not comply with all relevant conditions on a permitted activity rule, or • does not comply with all relevant standards and terms on a controlled activity rule or restricted discretionary activity rule.	Restricted Discretionary	HBRC
Discharge of drainage water (if required as part of construction)	33	The diversion and discharge of drainage water into water or onto or into land, from a pumped system	Controlled	HBRC

Other takes & uses of surface & ground (relating to the 'take' of drainage water if required as part of construction)	55	The take and use of surface water or groundwater, including takes and uses associated with, or ancillary to Community Irrigation Schemes, except as provided for by Rules 53, 54 TT3, TT3A, TT3B and TT4.	Discretionary	HBRC
Discharge of sediment laden water to land or water Discharge of solid contaminants within 20 m of a surface water body (not meeting Rule 47)	52	The discharge of: • contaminants onto or into land, or into water, or • water into water which does not comply with any condition on a permitted activity rule, or any standard or term on a controlled activity rule within this Plan, but which is not expressly classified as a discretionary, noncomplying or prohibited activity.	Discretionary	HBRC
Diversion of the Esk River and Whirirnaki Drain during times of flood arising from the stopbanks	59	Any diversion of water which cannot comply with any condition on a permitted activity rule, or any standard or term on a controlled activity rule within this Plan, but which is not expressly classified as a discretionary or non-complying activity.	Discretionary	HBRC
Regional Coastal Environment Plan				
Vegetation clearance and soil disturbance	8	Vegetation clearance or soil disturbance activities which do not meet the conditions in Rule 7.	Restricted Discretionary	HBRC
Discharge of drainage water (if required as part of construction)	24	The diversion and discharge of drainage water into water or onto or into land, from a pumped system.	Controlled	HBRC
Other takes & uses of surface & ground (relating to the 'take' of drainage water if required as part of construction)	35	The take and use of surface water or ground water in the Coastal Margin.	Discretionary	HBRC

Discharge of sediment laden water to land or water Discharge of solid contaminants within 20 m of a surface water body (not meeting Rule 47)	9	The discharge of contaminants onto or into land, or into water; or water into water in the Coastal Margin that: 1. is not specifically classified by any other rule in this Plan as a discretionary, non-complying or prohibited activity or 2. does not comply with all relevant conditions on a permitted activity rule or 3. does not comply with all relevant standards and terms on a controlled activity rule or restricted discretionary activity rule.	Discretionary	HBRC
Diversion of the Esk River and Whirirnaki Drain during times of flood arising from the stopbanks	39	Any diversion of water in the Coastal Margin that: 1. is not specifically classified by any other rule in this Plan as a discretionary, non-complying or prohibited activity or 2. does not comply with all relevant conditions on a permitted activity rule or 3. does not comply with all relevant standards and terms on a controlled activity rule or restricted discretionary rule.	Discretionary	HBRC

7.3 Bundling

OiC and the Standard RMA Process

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

Activities Subject to the Standard RMA Process

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

8. STATUTORY CONSIDERATIONS

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

8.2 Order in Council

Application Requirements

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

Table 5: Section 12(2) Application Requirements

S88 requirements (modified by clause 12(2) of Oic)	AEE section reference
(a) A detailed description of the flood protection works	Refer Section 6 – Description of Proposal
(b) A map that shows – i. The area in which flood protection works are to be carried out; and ii. Every proposed work site in that area	Refer to the Design Report
(c) A general description of the area	Refer Section 5 – Site Description
(d) A description of – i. Any identified natural and physical resources at the site that have cultural value identified by a relevant iwi authority or hapū as significant for present or future generations; and	Refer Section 5.4.1 – Cultural Context

	ii. Any culturally significant land in the area (including a description of the nature of the cultural significance).	
(e)	An assessment of all potential effects of the work with input from appropriate experts, including consideration of: i. All information reasonably available to the applicant; and ii. The potential effects on any cultural values identified by a relevant iwi authority or hapū; and iii. The potential effects on any culturally significant land that is within or adjoining the area where the works are to be carried out	Refer Section 10 - Assessment of Environmental Effects, and Section 10.3 – Cultural Values
(f)	Proposal to avoid, remedy, or mitigate potential adverse effects identified by the assessment described in paragraph (e)	Refer Section 10 – Assessment of Environmental Effects
(g)	Any conditions that the applicant proposes for the resource consent that are a variation of, or additional to, a condition set out in Schedule 2	Refer Sections 6 – Description of Proposal and 10 – Assessment of Environmental Effects, and **Appendix 11** – Proposed Resource Consent Conditions
(h)	A description of any consultation undertaken in relation to the proposed work, including with relevant Māori entities.	Refer Section 9 – Summary of Consultation
(i)	A list of all relevant Māori entities	Refer Section 5.4.1 – Cultural Context and **Appendix 15** containing a list of Māori Entities and stakeholder contact details
(j)	A list of the names and contact details of all persons the consent authority is required to notify under clause 15(2)(a)	Refer **Appendix 15**

Assessment of an Application

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

8.2 Standard RMA Process

Application Requirements

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

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

Assessment of an Application

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

a) Any actual and potential effects on the environment of allowing the activity; and
ab) any measure proposed or agreed to by the applicant for the purpose of ensuring positive effects on the environment to offset or compensate for any adverse effects on the environment that will or may result from allowing the activity; and
b) Any relevant provisions of:
    i) a national environmental standard:
    ii) other regulations:
    iii) a national policy statement:
    iv) a New Zealand coastal policy statement:
    v) a regional policy statement or proposed regional policy statement:
    vi) a plan or proposed plan; and
c) Any other matter the consent authority considers relevant and reasonably necessary to determine the application.

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

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

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

9. SUMMARY OF CONSULTATION

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

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

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

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

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

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

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

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

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

- Extent of the stopbank footprints, including how the alignment has been refined,
- Consequential flooding effects,
- Drainage solutions,
- Scale of road works,
- Vegetation removal.
- Land access requirements

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

Sections 9.1 – 9.6 below provide further detail in regard to the following key parties:

- Relevant Māori entities,
- Pan Pac,
- NZTA,
- HDC,
- Unison and Chorus,
- Community Groups.

9.1 Māori Entities

Petane Marae has been the primary entity that HBRC has engaged with as partners on the project. This has involved:

- Initial hui in September 2023 with Petane Marae representatives and various hui over September 2023 - March 2024 building relationships and discussing design ideas,
- Site blessing in March 2024,
- Hui in September 2024 to discuss alignment and progress of the CIA,
- Various hui and site walk overs from September 2024 through to December 2024,
- Receipt of the Cultural Impact Assessment December 2024,
- Various hui to discuss the recommendations of the CIA from December 2024 to April 2025,
- Hui with Petane Marae in April 2025 to discuss Petane Urupa design options,
- Hui in August 2025 to discuss the recommendations of the CIA and whether/how the standardised conditions could be amended to give effect to these.

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

9.2 Pan Pac, Transpower and Contact Energy

Pan Pac has been a key stakeholder over the course of the project due to its land holdings involved in the alignment and the level of protection being sought. Consultation has been ongoing with points of note including:

- Initial meeting in mid-2023 to discuss future flood protection plans,
- Meeting in March 2024 to understand Pan Pac's insurance,
- Ongoing discussions through 2024 to discuss potential stockpile locations and design progression,
- Weekly project meetings with Pan Pac from late 2024 through to present day,
- Meeting in February 2025 to discuss material source options,
- Meetings to identify solutions to the funding shortfall for the project in early 2025,
- Pan Pac hosted a Category 2C landowner meeting in collaboration with HBRC in June 2025, with a second meeting held in August 2025.

HBRC also recognises the role Pan Pac has played in fielding queries, providing updates to the Whirinaki community on a more informal basis, and acting as a conduit for sharing information with Transpower and Contact Energy.

The original alignment concept did not impact the Transpower and Contact Energy properties, so initial consultation with these parties was limited, although they were kept informed of the project's progress via regular meetings with Pan Pac. Engagement increased during 2025 with the new alignment impacting their joint entryway, and has included the following:

- Site visit with Contact Energy in July 2025 to discuss impacts on the site,

- Second site visit with Contact Energy in August 2025 to discuss and stake out the temporary bypass,
- Ongoing discussions with Transpower over July – August 2025 to discuss processes for working in close proximity to the 220kV powerlines.

9.3 NZTA

NZTA is a key stakeholder with interest in the impact the works will have on its roading asset. Again, consultation has been ongoing, with points of note including:

- Initial hui in early 2024 to discuss impacts on road corridor,
- Ongoing meetings throughout 2024 to discuss design iterations including design departures for a reduced culvert level of service (associated with the initial alignment being considered and sight-line requirements,
- Follow-up discussions during April-August 2025 to discuss areas of interest/concern in relation to the new alignment,
- Ongoing fortnightly progress meetings from April 2025 to present day,
- Safety in design workshop in July 2025 with NZTA to receive confirmation to progress to detailed design.

9.4 Local Authorities

Hastings District Council

An initial meeting was held with HDC in mid-2024 to discuss the Whirinaki flood protection project. Since then, regular (circa fortnightly) 'catch up' sessions have been held between HDC and HBRC's recovery management teams to discuss issues and share information in the recovery space. The most recent meetings focused on the requirement to lift the HDC potable water mains through the stopbank asset.

Napier City Council

Consultation with Napier City Council (NCC) has been limited as the proposed works will not take place within the city boundaries. Of most interest to NCC is the potential for downstream flooding in Bayview. All flood modelling to date, which has been shared with NCC, has shown little to no secondary effects for the Bayview community.

9.5 Unison and Chorus

Unison and Chorus have been consulted within respect to the protection or relocation of utilities. Engagement has included:

- Initial contact in March 2024 to advise them of the project and seek advice on asset relocation,
- Follow-ups through May to July 2024 where HBRC provided additional information to Chorus,
- Follow up meetings over April-June 2025 to discuss the updated alignment design
- July 2025 design meeting where Unison agreed to develop detailed drawings and costings,

- Confirmation in August 2025 that Chorus cables could remain in situ.

9.6 Community Groups

Meetings with the wider community and 2C landowners have occurred on an ongoing basis. Points of note include:

- Meetings in May, June, July, September 2023 with the community to discuss a flood resilience plan,
- Ongoing meetings with community members and drop-in meetings on Saturdays in September 2024 and March and July 2025 to provide updates and opportunities for one-on-one discussions,
- Meetings with 2C landowners in July and August 2025 to discuss the updated alignment and project progression.

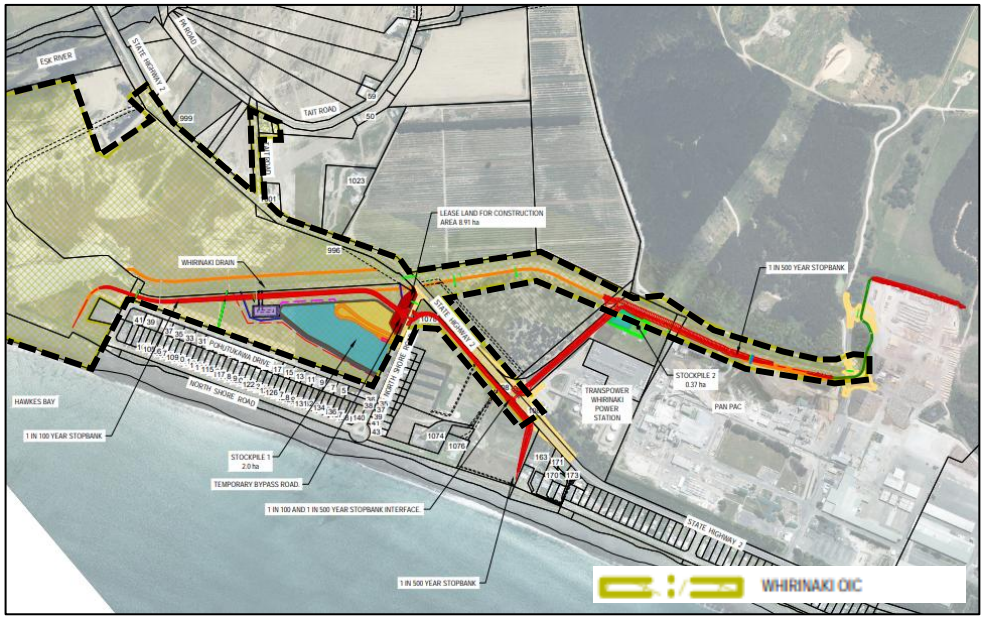
10. OIC ASSESSMENT

This part of the assessment relates to activities within the OiC footprint as shown in **Figure 22** below. Being a Controlled Activity, and according to the requirements of the OiC, the purpose of the following assessment of environmental effects is to:

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

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

Figure 22: Works within the OiC Footprint



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

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

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

Identified amendments to the standardised conditions are outlined in **Appendix 11.**

10.1 Permitted Baseline

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

District Council Functions

Within the River Hazard Overlay:

- Natural hazard mitigation activities (construction of stopbank), vegetation clearance and earthworks within the River Hazard Overlay (and their associated visual amenity and landscape effects) are permitted.

Outside the River Hazard Overlay:

- Earthworks meeting the following parameters are permitted:
    - not undertaken on land with a slope of greater than 45° above horizontal,
    - cut/fill face does not exceed a vertical extent of 5 metres,
    - no excavation of greater than 1 metre vertical extent of cut/fill face, where the top of the excavation is within 10 metres of buildings or surcharge loads,
    - no significant change occurs to existing flood overflow paths,
    - sediment run-off into a Council reticulated network does not cause any conspicuous change in colour or visual clarity of water after reasonable mixing,
- Vegetation clearance where disturbed areas are repastured or vegetated as soon as practicable within 18 months of the activity ceasing as a permitted activity,

- The removal of river berm silt, gravel or other river control or drainage works carried out under the Soil Conservation and Rivers Control Act 1941, of the Land Drainage Act 1908 and ancillary activities involved with the relocation of the extracted material is permitted under Rule EM4,
- Noise that complies with NZS6803:1999 Acoustics - Construction Noise is permitted,
- The operation, maintenance, replacement, refurbishment or upgrading of existing roads, road reserves and service lanes, including any associated retaining walls, culverts, bridges and general works both within and on land adjacent to road reserve are permitted under Rule NU4.

Regional Council Functions

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

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

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

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

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

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

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

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

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

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

10.2.1 Consequential Flooding

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

Planning Context

It is recognised within the Regional Policy Statement (RPS) that there is widespread potential for flooding within Hawke's Bay, and that individual rainfall events causing flooding can range

from localised downpours affecting particular catchments, to cyclonic storms causing general flooding over large parts of the region.

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

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

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

Risk Assessment

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

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

The PDP report is provided in **Appendix 16** with the Consequences Report prepared by Beca in **Appendix 17.** The following consideration draws on the content of these reports.

Consideration:

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

The assessment of effects on flooding has been completed by PDP using 14 model runs using the following hydrological events:

- 50-year event with and without climate change,
- 100-year event with and without climate change,
- 500-year event with and without climate change; and,

- Cyclone Gabrielle.

For each of these seven hydrological events, a pre (existing environment) and post construction model has been run

Flood Levels:

Figure 5 illustrates the pre and post flood depths for 6 locations across the immediate area. In short, flood depths are unchanged or very similar.

Focusing on the potential increase in flood depths across the broader area, the difference map provided in Appendix A of the PDP Report (Figure A7), which is based on the 100-year ARI with climate change shows:

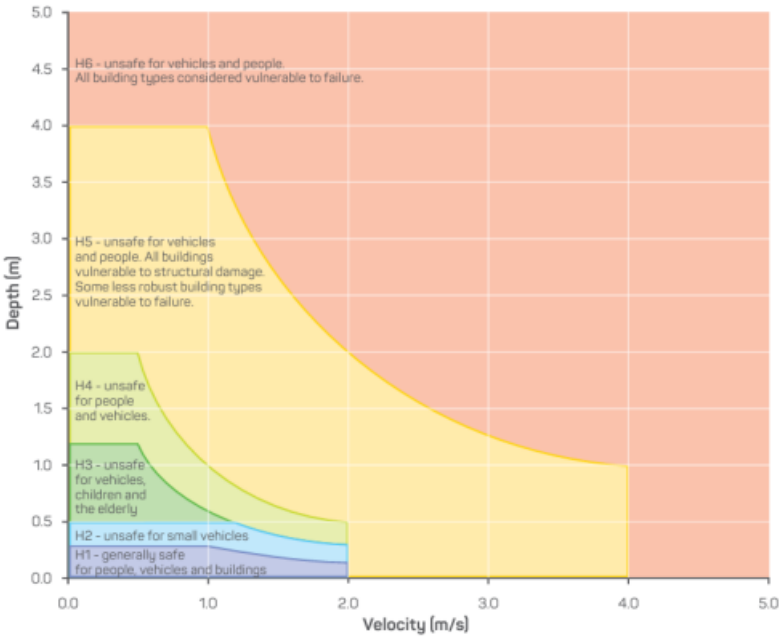
- Increases of 10mm-100mm on the upgradient side of the stopbank in the immediate vicinity of State Highway 2, Taits Road and the Esk River mouth – within which three building footprints are identified,
- Increases of 10mm-100mm in areas of Bayview,
- Areas in Bayview that had not previously been subject to flooding which now are.

Flood Hazard Risk:

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

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

Figure 23: Flood Depth vs Velocity Risk Category



In terms of buildings, there is a significant increase in overall flood protection as a result of the proposed works with 87 buildings being at less risk of flooding and 14 at increased risk - a net benefit of 73 residential buildings. In terms of most affected, the assessment by PDP identified the following:

For the 50-year event (without climate change):

- The hazard classification for a garage at 3 Anthony Place, Bayview, increases from H1 to H2,
- There are no increases in hazard classification for habitable dwellings anywhere within the modelled extent

For the 50-year event (with climate change):

- The hazard classification over part of the property at 15 Thurley Place, Bayview increases from H2 to H3,
- There are no other increases in hazard classification for buildings anywhere within the modelled extent,

For the 100-year event (without climate change):

- There are no increases in hazard classification for any buildings anywhere within the modelled extent,

For the 100-year event (with climate change):

- The hazard classification for a shed in 2 Bruce Place increases from H1 to H2,
- The hazard classification for a building at 1023 State Highway 2, which is within the LC3 area, increases from H3 to H4,
- There are no increases in hazard classification for habitable dwellings outside of LC3 anywhere within the modelled extent.

An increase from H1 to H2 is not considered to be a significant change in risk to people, buildings or land, and no mitigation is considered necessary.

In terms of 15 Thurley Place, PDP reports a 4mm increase in flood depth being the reason for the increase in hazard classification from H2 to H3 in a 50-year event (with climate change) scenario. This means that the site is already on the tipping point of being classified as H3, and given the minor increase in flood depth, the actual outcomes/effects for this property are unlikely to change.

Regarding 1023 State Highway 2, while the additional flood depth during the 100-year event (with climate change) scenario is 48mm (4.8cm), this property is already located within LC3 – defined as:

> *Future severe weather event risk cannot be sufficiently mitigated. In some cases, some current land uses may remain acceptable, while for others there is intolerable risk of injury or death*.

While the works will result in an increase in the property's hazard classification, the existing H3 classification is already 'unsafe for vehicles, children and the elderly'. The impact of increasing the classification to H4 is that it would be unsafe for all people during a 100-year flood event – consistent with the identified land classification risk (LC3). Considering the

already significant hazard risk posed at this property, no mitigation is proposed to address the consequential flooding effects.

While modelling under the 500-year events identifies additional hazard classification increases as a result of the works, the RPS recognises that very large events exceeding flood protection design standards can impact normally protected areas, and broader land use planning and adequate and timely flood forecasting are fundamental/the appropriate tools to managing the risk of flooding in this regard.

PDP identifies three sites of cultural significance within the modelled area including two urupa (located near Taits Road and Pohutukawa Drive) and a marae (Petane). All three sites are located in the LC3 categorisation. PDP note:

Petane Marae:

- While there is no increase in the hazard classification under the modelled events, the increase in flood level during the 500-year event is estimated at 17 mm, whilst there is an increase in the temporal duration of the hazard classification meaning it is less safe for longer.

Taits Rd urupa

- While there is no increase in the hazard classification under the modelled events, the increase in flood level during the 500-year event is estimated at 36 mm.

Pohutukawa Drive urupa:

- There is no change in classification as a result of the proposed works across all events modelled.

With impacts on the Petane Marae and the Taits Road Urupa only occurring during the 500-year event, and taking the identified land classification risk (LU3) into account, no mitigation is proposed.

Regarding lifeline utilities:

- The hazard classification for State Highway 2 remains constant regardless of the stopbanks,
- There is no change to the hazard classification for the rail line or State Highway 5,
- The proposal will reduce the hazard classification for the substation.

In terms of horticultural land:

- Maximum depth increases of between 50 and 100mm occur on an orchard (approximately 30 ha) immediately adjacent to Whirinaki Stream. Elsewhere within the Esk Valley, the change in flooding effects is less than 10mm,
- It is highly unlikely that people or vehicles would be present on this land during a significant flood event,
- The increase of between 50-100mm is on top of existing flood depths already ranging from 500 to 1500mm,
- Damage to the orchard is more likely to result from debris and sediment carried by floodwaters rather than solely flood depths. In both scenarios (with and without the

stopbank) velocities and depths will be high enough to carry significant sediment and debris loads.

Finally, PDP advise flood velocities for the modelled events are generally unchanged, with localised increases not expected to significantly increase scour.

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

Based on the findings of PDP and Beca, beyond the mitigation built into the proposal, no additional mitigation or conditions are proposed by HBRC in respect to consequential flooding.

10.3 Cultural Values

The following matters of control are listed under 'Cultural Values':

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

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

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

The proposed works do not impact known wāhi tapu or wāhi taonga sites, while an Archaeological Authority will be in place to manage any unexpected discoveries.

In regard to the remaining matters, and as introduced above, a CIA has been prepared by Ngā Hapū o Petane Marae and includes a number of recommendations under the following headings:

- Explicit Wāhi Tapu Protection,
- Holistic Environmental Management,
- Environmental Degradation by Clean Fill Operations,
- Preservation of Wāhi Taonga,
- Mana Whenua Inclusion in Decision-Making,
- Economic Participation and Equity,
- Planning for Stopbank Breaches,
- Return of Pan Pac's Social License,
- Restoration Efforts,
- Maintaining Residential Standards.

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

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

Following a hui on 20 August 2025 during which the analysis was presented and discussed, it is our understanding that the Petane Marae accepts the analysis and view that the standardised conditions give effect to the applicable recommendations in the CIA and address this matter of control.

Table 6: Analysis of CIA Recommendations

Reproduced from the CIA		Response
Theme	**Recommendation**	
Explicit Wāhi Tapu Protection	**Recommendation 1.1:** The protection of our wāhi tapu must be established as a core, prioritised objective of the Project rather than merely providing handshake or verbal assurances that protection for our wāhi tapu will be included in its scope. Adequate funding and resources to implement effective solutions are essential.	Section 12(2)(e)(ii) and (iii) of the OiC requires the potential effects on any cultural values and culturally significant land (within or adjoining the area where the works are to be carried out) to be undertaken. These are matters being considered in this section of the application.
	Recommendation 1.2: Replace vague promises and non-committal statements with concrete commitments and actionable plans with clear timelines and specific deliverables for any proposed measures.	Conditions of consent will be legal requirements.
	Recommendation 1.3: That [maori] landowners [within the surrounding area] are engaged directly to determine if there are any other wāhi tapu sites on their respective landblocks, over which the Petane Marae Trustees have no mandate, that may be affected by the project.	Upon further discussion with Petane Marae representatives, it is understood that this related to having a specific community hui with only landowners who were Māori. While this did not eventuate, the framework around the stakeholder group and cultural monitors and the Authority process will provide the protection of wahi tapu.
	Recommendation 1.4: That the Purukamu (Blue Gum) tree located adjacent to Petane Urupā is protected by a fence as a matter of urgency.	Although not within the scope of the OiC, we understand a contractor is to be engaged to erect a fence as recommended.
Holistic Environmental Management	**Recommendation 2.1:** Mana Whenua recommend that HBRC commit to the permanent afforestation of the headwaters of the awa, and support the landowners, and Mana Whenua, in these areas to achieve this. Historical riparian planting efforts have been limited to the planting of half a dozen poplars in a slip. This whenua must be returned to permanent forest, preferably with indigenous	We are advised that this recommendation will be considered in undertaking the broader review of the Esk River Scheme.

	species to maximise biodiversity benefits and with adequate pest and weed control provisions during the establishment period.	
	Recommendation 2.2: Undertake riparian planting and replanting vegetation in the project area and wider landscape with selected native species that reference the ecological whakapapa of the takiwā.	We are advised that this recommendation will be considered in undertaking the broader review of the Esk River Scheme.
	Recommendation 2.3: Develop and design mitigation measures to safely convey floodwaters from upstream to the sea, restoring the health back to the awa allowing more natural river functioning through meandering and allowing floodwaters to spill, flow and be stored in a controlled manner.	We are advised that this recommendation will be considered in undertaking the broader review of the Esk River Scheme.
	Recommendation 2.4: Mana Whenua further recommend widening and naturalising the channel of the Whirinaki Stream below SH2 and allowing a natural meander to form through times of normal flow, with associated riparian planting, the drain will have the potential to revert from its current severely degraded state to a flourishing ecosystem once again, capable of supporting mahinga kai.	We are advised that this recommendation will be considered in undertaking the broader review of the Esk River Scheme. No works to the Whirinaki Stream are proposed as part of this project.
	Recommendation 2.5: Mana Whenua recommend that we be empowered by the principles of Te Mana o te Wai to lead restoration efforts and monitoring of our awa and that we be adequately resourced to undertake this mahi.	We are advised that this recommendation will be considered in undertaking the broader review of the Esk River Scheme. In terms of this proposal, Condition 4 provides for the appointment of Māori Entity representatives and cultural monitors to inform and advise the consent holder about managing and monitoring the flood protection works.
Environmental Degradation by Clean Fill Operations	**Recommendation 3.1:** Mana Whenua recommend as a matter of urgency, that resource consents issued to the adjacent clean fill operation currently denigrating the mauri of the whenua and causing issue at the mouth of the awa, are reviewed, monitored, actively managed, and revoked where appropriate to ensure compliance and avoid the further degradation caused by this operation.	This is outside the scope of this proposal however we understand the concerns raised have been forwarded on to the HBRC compliance team.
	Recommendation 3.2: Specifically, Mana Whenua recommend urgently reviewing the concrete structures/access bridge that during Cyclone Gabrielle, affected the	This matter has been referred to the Asset team which will be responsible for ongoing management.

	flow of water through the Whirinaki Stream that poses significant threat to flood waters in severe weather events. It is noted that it was sheer luck that this water passage did not spill and completely wipe out the urupā and result in our loved ones graves being completely under water.	
Preservation of Wāhi Ta	**Recommendation 4.1:** To preserve the mauri of this wāhi tapu [urupa] and honour the stories of our tūpuna, our overarching recommendation is that this area is left alone.	Works will avoid/protect the urupa.
	Recommendation 4.2: Should the HBRC ultimately ignore recommendation 4.1 above, Mana Whenua recommend HBRC undertake the process to identify, recover, and preserve any archaeological artifacts and taonga within the site prior to any proposed works commencing.	An Archaeological Authority will be in place and will include procedures around these matters.
	Recommendation 4.3: Any taonga recovered during works cannot be left in situ. Mana Whenua recommends that the works should not proceed until these archaeologically significant taonga are identified, removed, and preserved by an archaeologist under the guidance of Mana Whenua representatives.	An Archaeological Authority will be in place and will document procedures to be followed. Conditions will be imposed under the Authority separate to this resource consent process.
	Recommendation 4.4: That HBRC adhere to the AAE recommendation of sourcing any materials from elsewhere should works progress to construction. We note that significant gravel and material extraction is taking place across the region such that an equilibrium could be reached between sourcing material from an alternate location and relevant cost factors. We vehemently oppose quarrying for material where it is currently proposed to do so.	All material will be sourced off-site.
	Recommendation 4.5: In accordance with any Archaeological Authority that may be required throughout the project as recommended by the AAE, the Accidental Discovery Protocol (ADP) must take effect and be implemented without delay. Mana Whenua anticipates being resourced by the HBRC to develop our own ADP relevant to our tikanga and kawa.	The Conditions to be imposed under the Archaeological Authority are subject to a separate process.
	Recommendation 4.6: That should an Archaeological Authority be obtained and a process to identify, recover and preserve any taonga is undertaken, that Mana	The Archaeological Authority will document procedures to be followed. Conditions will be

	Whenua involvement in this process by way of an educational scholarship be resourced.	imposed under the Authority separate to this resource consent process.
Mana Whenua Inclusion in Decision-Making	**Recommendation 5.1:** Establish a Mana Whenua Operations Group (MWOG) made up of landowners, hapū members, Marae trustees, and PSGE representatives, as a matter of priority, to provide cultural oversight and consultation for the duration of the project.	Collaboration is provided for within the OiC process and standardised conditions. In particular: • Condition 4 provides for the appointment of Māori Entity representatives, and cultural monitors to inform and advise the consent holder about managing and monitoring the flood protection works - with cultural monitors providing the consent holder with on-site guidance to enable effective management of impact on culturally significant land and other natural and physical resources that have cultural value. • Condition 6 provides for the appointment of a Stakeholder Advisory Group including a range of parties including Māori Entity representatives and landowners.
	Recommendation 5.2: That HBRC consult directly with the MWOG on any changes, updates, and technical reports produced, enabling Mana Whenua to participate in decision-making, monitor changes, and mitigate any potential adverse effects. The current hapū representation on the project team has been empowering, however, a dedicated group who are resourced to undertake this important mahi is required moving forward	Building on the above in respect to Recommendation 5.1: • Condition 5(2) requires the consent holder to report to the Māori entities representatives on how guidance has been taken into account in preparing plans, • Condition 7(2) requires the consent holder to record all information and advice provided by the stakeholder advisory group, which includes the Māori entity representatives, and to report to the group on how the information and

		advice have been taken into account in the carrying out of the flood protection works, • Condition 28 requires the consent holder to report to the stakeholder advisory group, which includes the Māori entity representatives, on ecological matters on a 2 monthly basis.
	Recommendation 5.3: That subject to the establishment of a MWOG, Mana Whenua are adequately resourced to develop a Hapū Development Plan, giving effect to Policy 60 of the RRMP	Outside of the scope of this proposal. Renumeration of Māori entity representatives is a matter identified in Condition 4 to be considered in developing a terms of reference however.
	Recommendation 5.4: That the MWOG be mandated and adequately resourced to develop its own ADP to be utilised if any subsurface archaeology, artifacts or koiwi are exposed during any works that may proceed	While we understand an ADP has already been provided, Condition 29 requires an ADP to be prepared in collaboration with the Māori entities representatives.
	Recommendation 5.5: Ensure that whatever project design is agreed upon, Henare Pangopango Pohio must be able to maintain his view to the moana and Ararata Urupā and a baseline of project provisions are developed to guide future designs of works.	Confirmation has been provided that the flood protection project does not compromise this view.
	Recommendation 5.6: Engage surveyors to provide 3D imaging that can be presented to hapū members, offering a tangible representation of the design works and what the view would be with the proposed works in place from our wāhi tapu.	This work is being undertaken.
Economic Participation and Equity	**Recommendation 6.1:** In so much as the tender process has reached the shortlist stage and potentially the finalisation of contracts, it may not now be possible, though it would be desirable to make such inclusion. In any event, Mana Whenua recommends the employment of Māori workers on any worksites (if work were to proceed) encompassed by the Project, not only to promote Mana Whenua interests but to safeguard the preservation of wāhi tapu – one could easily imagine on site situations where a Māori worker would not only be better able to recognise but more likely to act in furtherance of that goal.	Engagement of contractors is subject to HBRC's procurement policies and procedures. Renumeration of Māori entity representatives is a matter identified in Condition 4 to be considered in developing a terms of reference however.

	Mana Whenua recommends the employment of Māori workers on any worksites (if works were to proceed) encompassed by the Project, not only to promote Mana Whenua interests but to safeguard the preservation of wāhi tapu.	
	Recommendation 6.2: Incorporate training sessions into the Project for all workers undertaking any works in our takiwā. The MWOG will need to be adequately resourced for this mahi, to ensure our tikanga, in the spirit of Manaaki Tangata, can be conveyed. Workers will be educated on the cultural association of the area and sites they are working with, and then introduced to archaeology, enabling and empowering kaimahi to be the eyes and ears on the ground.	It is envisaged that the cultural monitors together with the archaeologist will provide a briefing prior to the construction work commencing.
	Recommendation 6.3: Ensure the MWOG is involved in each step of planning, procurement, and contracting to ensure opportunities for Mana Whenua and Pākihi Māori are involved in the mahi and supply.	Engagement of contractors is subject to HBRC's procurement policies and procedures.
	Recommendation 6.4: Provide representation for Mana Whenua on the procurement/tender panel to ensure they have a say in who is contracted to perform any project works that may go ahead.	Engagement of contractors is subject to HBRC's procurement policies and procedures.
	Recommendation 6.5: HBRC should refer any delegated operators/contractors to the MWOG prior to engagement or delegation to those operators. The aim is that Mana Whenua may have its own dedicated contractors who have the capacity to deliver the necessary solutions more effectively than larger Tier 1 and 2 providers.	Engagement of contractors is subject to HBRC's procurement policies and procedures.
Planning for Stopbank Breaches	**Recommendation 7.1:** Conduct more robust investigations to support a resource consent application.	Investigations exceeding the requirements OiC for a resource consent application have been undertaken.
	Recommendation 7.2: These investigations should consider secondary systems in the event of a breach and conduct modelling that accounts for the reality that, during an event of the magnitude of Cyclone Gabrielle, it is neither safe nor practical to remove debris blockages from the mouth of the awa. Therefore, some degree of debris blocking the mouth of the awa should necessarily be factored into the design scenario testing.	Consequential flooding assessments have been undertaken and have been considered in Section 10.2.1 above. Modelling accounts for a degree of river mouth blockage and tidal actions.

	Recommendation 7.3: Allowing for the return of Te Huka Waiohinanga to Te Whanganui ā Orotu could allow for greater dissipation of floodwaters in flood events. This will require a high volume of engineering as well as the buying back of land. HBRC should consult with the Mana Whenua Operations Group, who should be resourced to lead this mahi.	We are advised that this recommendation will be considered in undertaking the broader review of the Esk River Scheme.
	Recommendation 7.4: To achieve this, allowing the blocking of the mouth to happen wouldn't pose an issue and could be mitigated through reinstating the former channel through Bay View to the whānga.	We are advised that this recommendation will be considered in undertaking the broader review of the Esk River Scheme.
	Recommendation 7.5: Engage specialists to enhance resilience of infrastructure through the re-evaluation of culvert and bridge design given the increased frequency and intensity of severe weather events	The project does not now involve the installation of any permanent bridges or culverts.
	Recommendation 7.6: Engage specialists to develop innovative engineering approaches that are resilient to severe weather events that consider comprehensive management strategies, slips and stability analysis in vulnerable areas of all infrastructure and 'assets'.	The flood protection project has been designed by specialists considering such matters.
	Recommendation 7.7: That coastal hazards, particularly those posed by climate change and the proximity of Pohutukawa Drive and North Shore Road to the ocean, are given due consideration in designs and modelling. Whilst we appreciate that these works are planned in accordance with hazard mitigation specifically with regard to Cyclone Gabrielle, any engineering structures are necessarily affected by the coastal environment and could exacerbate risks for residents in the event of a tsunami for example. Adequate planning and modelling is needed to determine the extent of those inherent risks.	The flood protection project has been designed by specialists considering such matters, including drainage.
Return of Pan Pac's Social License	**Recommendation 8.1:** Mana Whenua recommend that, pursuant to Section 7 of the SWERLA, an Order in Council is made modifying the RMA to enable a review of existing forestry-related resource consents issued to the industrial businesses in Whirinaki without having to strictly adhere to the prescribed process set out in sections 128 to 130 of the RMA.	Not within the scope of this application.

	Recommendation 8.2: Mana Whenua recommend that a collaborative approach be taken to achieving a funding model that is shared equitably amongst forest owners, council and community to enable clean-up efforts in a timely manner after a severe weather event to allow teams to mobilise efficiently after an event.	Not within the scope of this application.
	Recommendation 8.3: Mana Whenua recommend that HBRC work collaboratively with Pan Pac to resource debris walls and fences to protect the Petane Marae and Urupā from woody debris and forestry slash mobilised during severe weather events.	Appropriate protection of the Petane Urupa is included in the proposed flood protection works.
Restoration Efforts	**Recommendation 9.1:** HBRC, in collaboration with a yet-to-be established Mana Whenua Operations Group, should develop and implement a concept plan for the enhancement and beautification of the project area and wāhi tapu areas to enhance the cultural heritage and values this area has to Mana Whenua and the community at large.	Remediation will be undertaken where required on areas disturbed as part of the construction works. Works beyond these areas are not within the scope or funding model of this project. Additional opportunities will be given focus as the works progress towards completion.
Maintaining Residential Status Quo	**Recommendation 10.1:** Mana Whenua recommends that any works undertaken, the literal and metaphorical de-clothing and stripping bare of Papatūānuku, need not depart from the norm.	Earthworks will be limited to the minimum required to undertake the construction works.
	Recommendation 10.2: The MWOG should collaborate with HBRC's appointed engineering and design team to establish a list of parameters that meet a minimum set of non-negotiables preserving the dignity of Papatūānuku thereby ensuring that the legacy of burden is not left to the generations to come.	Condition 4 provides for the appointment of Māori Entity representatives and cultural monitors to inform and advise the consent holder about managing and monitoring the flood protection works.

10.4 Freshwater

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

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

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

10.4.1 Natural Inland Wetlands

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

While areas of wetland vegetation were identified, because the base of the stream and form of the channels will not be impacted, PDP concludes that adjacent areas with wetland attributes are unlikely to experience any significant change in hydrology. As such, there is no need for any conditions to avoid, remedy or mitigate effects on wetland features.

10.4.2 Reclamation/Diversion of the Bed of a Water Body

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

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

10.4.3 Fish Passage

(b) Provision for the passage of fish.

Fish passage considerations may be applicable if culvert crossings were to be established. This is considered in Section 10.7.3 pertaining to Ecology in terms of the standardised conditions in the OiC and how the National Environmental Standard for Freshwater provides for fords.

10.5 Coastal Environment

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

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

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

The flood protection features do not extend into the coastal hazard zones in respect to (a). In terms of (b), the Landscape Scoping Assessment has considered the coastal environment, and it has been determined that the proposed stopbank will not have a significant adverse effect on the landscape character, visual amenity or natural character values of this locality.

10.6 Stormwater Management

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

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

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

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

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

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

(b) submit the documents to the consent authority.

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

(3) The consent holder must ensure that stormwater discharge from construction works does not cause erosion or scouring of the bed or any bank of any downstream watercourse or receiving drain.

(4) The consent holder must ensure that the design of culverts and stormwater detention devices is, so far as practicable, in accordance with the HBRC Stormwater Management Guidelines.

In terms of (2) and (4), the PDP Cross Drainage - Preliminary Design Report explains the level of service of each drainage solution. In reliance on PDP's design, which will manage drainage and avoid unreasonable upstream ponding, subclauses (2) and (4) are proposed to be deleted.

Conditions 21(1) and (3) are proposed to be retained to suitably manage effects on water quality – with minor amendments to (1) noting that the final design is unlikely to involve permanent 'treatment' devices.

10.7 Soil, Land and Ecology

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

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

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

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

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

10.7.1 Erosion and Stability

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

Section 8.6 of the Preliminary Design Report considers geotechnical matters and provides an overview of the following assessments/matters:

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

The application parameters can be met with the exception of HBRC's acceptable factor of safety of 1.2 under Ultimate Limit State (ULS) conditions (the point at which a structure may experience catastrophic failure due to extreme loading conditions) in respect to slope stability. HBRC's approach is to take a 'repair-when-damaged' approach in the event of a ULS seismic event.

Other matters associated with material composition and areas of special consideration will be further refined as part of detailed design.

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

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

10.7.2 Natural Landform and Contour

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

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

10.7.3 Ecology

(d) Potential adverse effects on terrestrial ecology, and measures to avoid, remedy, or mitigate those effects.
(c) Potential adverse effects on fisheries, and measures to avoid or minimise that risk.
(d) Potential adverse effects on wildlife, habitat and ecosystems, and the application of the effects management hierarchy.

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

(a) to apply the effects management hierarchy to the following potential adverse effects:
  (i) permanent habitat loss (including in coastal, terrestrial, and freshwater habitats):
  (ii) loss of naturally uncommon and highly depleted ecosystem types, significant indigenous vegetation, significant habitats of indigenous fauna, and habitats for at-risk or threatened species and taonga species:
  (iii) habitat fragmentation or habitat barriers (including in coastal, terrestrial, and freshwater habitats):
  (iv) impacts on habitat connectivity (including coastal, terrestrial, and freshwater habitats):
  (v) impacts on at-risk or threatened species and taonga species:
  (vi) effects on water quality (including on kaimoana and mauri) from sediment:
  (vii) alteration of natural hydrology patterns, except as necessary to facilitate the flood protection works:
  (viii) spread or establishment, or both, of pest plants or animals:
  (ix) impacts on habitats that play an important role in the life cycle and ecology of native species:
(b) as far as practicable, to create safe habitats, especially for at-risk or threatened species and taonga species:
(c) to avoid, remedy, mitigate, or offset (using biodiversity offset) adverse ecological effects in order to achieve, as far as practicable, a net positive ecological outcome:
(d) to enhance the positive ecological role of the works area in the wider ecological context, including its role as a buffer that protects or enhances other areas with ecological significance.

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

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

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

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

It is therefore not considered necessary to impose Condition 26, or Conditions 27 and 28 in their standardised form. Amendments are proposed to provide for the specific mitigation/management already developed and assessed by the applicant. Key points include:

- The requirements for an ecological scoping survey to be prepared under Condition 27 has been removed on the basis that this work and the outcomes anticipated to inform design, ecological management/mitigation and implementation have already been achieved through the Ecological Scoping Assessment prepared by PDP. Consequential amendments are also made to Condition 18(3),
- Condition 28 has been amended to focus on the preparation and delivery of an Ecology Management Plan that responds to the findings and recommendations of the Ecological Assessment - with the key matters being:
    - Developing procedures for managing bats prior to felling trees that have potential bat roosting features,
    - Developing procedures for managing native bird species prior to vegetation removal,
    - Developing procedures to reduce the risk to lizards occupying the site during construction,
    - Identifying areas of vegetation removal and preparing revegetation plans.
- The Project Ecologist must still work with the Māori Entities representatives to prepare an Ecology Management Plan,
- The consent holder must still report to the Stakeholder Advisory Group every 2 months on work undertaken according to the Ecology Management Plan and on any other works deemed necessary by the Project Ecologist, working with the Māori Entities representatives,
- A report must still be completed at the completion of works that describes the ecological mitigation works carried out by the consent holder.

While a temporary bridge is not expected to have any effects on the Whirinaki Drain, in the event that temporary culvert crossings are adopted instead, it is proposed that these are provided for as an amendment to the CEMP - on the basis that the need for this may not be determined until after the works have commenced. Here we note:

- Amendments to Condition 11 are proposed to facilitate the design, installation and removal of any culvert crossings as an amendment to the CEMP - in accordance with the ecology principals in Condition 26 via using a similar approach/wording as Conditions 18(4) and (5) that would otherwise apply to the design of permanent works and culverts within a bed of river following the issue of consent i.e. the culverts must:
    i. Be designed by a suitably qualified and experienced engineer with input from the Project Ecologist,
    ii. Allow for the relevant design flood flow event,
    iii. Be designed, installed and removed in a way that is, so far as practicable, consistent with the ecology principles set out in Condition 26(b)(i),
    iv. Be included in / reported on in an amendment to the CEMP according to the process set out in Condition 11 relating to developing and amending the CEMP.

While the integration of this activity is in line with that provided for in the OiC (refer Condition 18(4) pertaining to 'permanent' works within the bed of a water body), the following assessment is nevertheless provided:

Effects on the Drainage Network

The culverts will be designed to accommodate as great a flow as possible within the drain channel, installed so as to not impact grade and removed at the completion of works. Effects on the wider drainage network can therefore be considered less than minor.

Effects on Water Quality

Actual or potential effects associated with installation on water quality are likely to be limited to the potential for increased turbidity to occur.

In this regard, the scale of activity is minor, the work will only occur for a short period, and the discharge of sediment will be generally avoided. In addition, machinery will be operated only from the banks and all refuelling will be undertaken in a location away from the drain to avoid any spills into surface water – as required by Condition 19 of the standardised conditions. All exposed surfaces will be re-vegetated upon completion of the works. Overall, any actual or potential effects on water quality are considered to be less than minor.

Effects on Ecological Values

Given the minor scale and localised nature of the works and noting the above in regard to effects on water quality, effects on ecological values can be considered to be less than minor. In terms of fish passage, recommendations have been made by PDP to provide for this – noting the exceptions provided for in the OiC. Overall, the proposal will

not result in the permeant loss of habitat and will not present a significant barrier or lead to habitat fragmentation as referenced in the ecology principles in condition 26. For these same reasons, it is not considered necessary to limit the work to times outside fish spawning.

10.8 Visual Effects, Landscape and Amenity

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

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

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

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

Turning to (a)(ii), (b) and (g) and the existing character and visual and amenity values of the adjoining area, the Landscaping Scoping Assessment has concluded that beyond the property at 1078 State Highway 2, there will no other significant effects on residential properties or the coastal environment.

In respect to 1078 State Highway 2, it has been determined that this property is likely to be affected as a result of the road raising occurring along both frontages. Mitigation planting is therefore proposed, subject to landowner agreement, to avoid the potential for adverse visual effects associated with this change in outlook. Amendments are proposed to Condition 24 to give effect to this.

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

10.9 Adjoining Land Uses

The following matters of control are listed under 'Adjoining Land Uses':

(a) Potential adverse effects on the use of land on which works are carried out and adjoining land, and measures to avoid, remedy, or mitigate those effects.

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

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

10.9.1 Effects on the Subject Land and Adjoining Land

(a) Potential adverse effects on the use of land on which works are carried out and adjoining land, and measures to avoid, remedy, or mitigate those effects.

The landowners of the land upon which the works will occur have been involved in the developing the solution and are supportive of the proposal. In principle, and noting the design features around providing for existing services on the Pan Pac site and access to adjoining properties, the proposed works are not anticipated to compromise the actual use of the properties concerned.

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

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

No additional conditions are considered necessary.

10.9.2 Effects on Infrastructure Assets

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

As outlined above, the area of works is characterised by various infrastructure services, while State Highway 2 and North Shore Road are public roads.

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

Regarding the road raising works themselves, and as outlined in the CTD Report, each length has been designed according to the applicable design parameters, while a safety in design review is currently underway as part of the detailed design process.

Further consultation will be undertaken with networks utility operators and HDC as part of the detailed design process and in preparing the CEMP, while they will also be invited to appoint

a member to the Stakeholder Group under Condition 6, which, under Condition 11, will enable the opportunity to comment on the CEMP. No further conditions/amendments are considered necessary to address effects on infrastructure assets.

10.10 Heritage and Archaeology

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

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

As outlined above Archaeology Hawke's Bay has concluded that:

1. Work to the west of State Highway 2 can proceed under an Accidental Discovery Protocol,
2. An archaeological authority is required for all work east of SH2.

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

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

10.11 Access and Transport

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

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

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

The location and form of the proposed stopbank features will not prevent opportunities for future access to the Whirinaki Drain, Esk River or the coast. As such, no specific measures/conditions to avoid, remedy, or mitigate effects associated with access to and along or around watercourses and water bodies are considered necessary.

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

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

10.12 Contaminated Land

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

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

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

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

10.13 Construction

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

General:

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

Freshwater:

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

Soil, Land and Ecology:

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

Visal Effects, Landscape and Amenity:

(c) Construction noise, vibration, and dust generation, including having regard to the noise sensitivity of the receiving environment.
(d) Potential adverse effects of the hours of operation of flood protection works.
f) Potential adverse effects on public health and safety during works.

Access and Transport:

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

These matters essentially cover:

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

- Construction traffic

Each is considered below:

Stormwater Management and Erosion and Sediment Control:

- The Design Report outlines the key matters that will be considered in managing erosion and sediment during construction,
- An Erosion and Sediment Control Plan is required to be prepared under Condition 14 and will be circulated to key stakeholders for feedback as part of preparing the CEMP prior to works commencing,
- Condition 13 requires an Erosion and Sediment Control Manager to be appointed for the duration of the flood protection works. This will ensure a focused approach to erosion and sediment control and managing the potential for sedimentation of waterbodies,
- Condition 15 outlines the process for managing/responding to any failures,
- Condition 19 sets out specific requirements particularly in regard to managing the potential for spills when working within, or adjacent to, the bed of a river,

Nuisance Effects (Noise, Vibration and Dust):

- Condition 16 states the consent holder must, as far as practicable, ensure that dust arising from construction works (including earthworks and related activities) does not spread beyond the boundary of the work sites,
- Condition 23 states:
    1. The consent holder must ensure that noise from construction, maintenance, and demolition work complies, so far as practicable, with the long-term duration limits set out in Table 2 and Table 3 of NZS 6803:1999.
    2. The consent holder must take all practicable steps to reduce levels of noise and vibration from plant and equipment operating on site during construction.
- Dust, noise and vibration are all matters to be considered in preparing the CEMP, which must be circulated to key stakeholders for feedback,

Hours of Operation:

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

Construction Traffic:

- Site access and on-site traffic management is a matter to be considered in preparing the CEMP under Condition 10, which is required to be prepared by the contractor and circulated to key stakeholders for feedback prior to works commencing. The safety and functioning of State Highway 2 will be an obvious factor in developing the traffic management approaches.

Public Health and Safety:

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

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

10.14 Summary

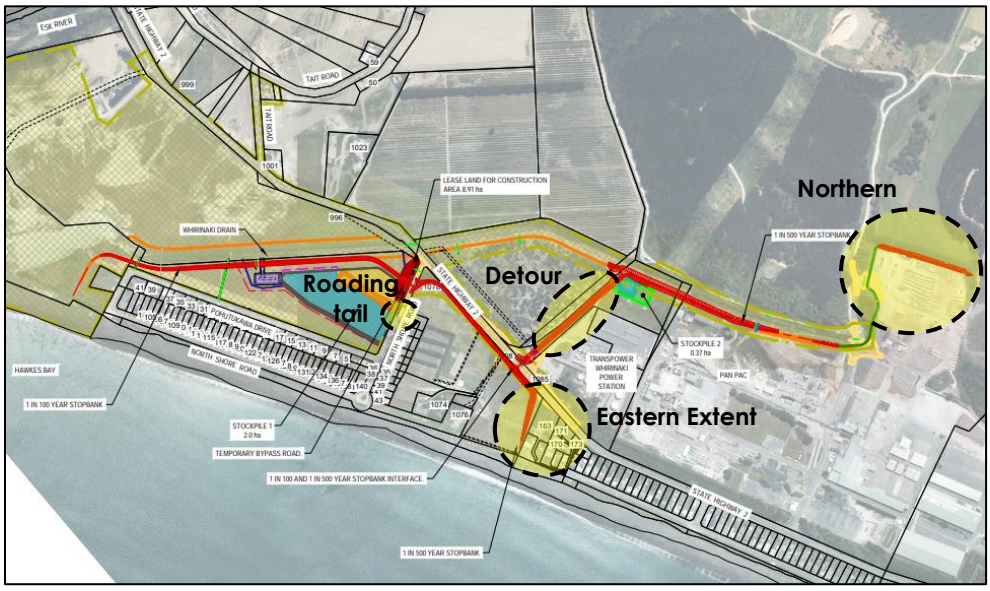
In summary, with the benefit of a greater degree of design and assessment being undertaken as part of preparing the application than necessarily anticipated by the context of the OiC, many of the outcomes provided for in the standardised conditions have already been met and components of them are not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

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

11. STANDARD RMA PROCESS ASSESSMENT

This assessment relates to the four areas and the activities within them that are outside the OiC Footprint as shown in **Figure 24** below, including the temporary proposed bypass along State Highway 2 to be established during construction.

Figure 24: Works Outside the OiC Footprint



11.1 Planning Context

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

Table 7: National Policy Statements

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

Table 8: Regional and District Level Planning Documents

Planning Document	Applicable
Regional Policy Statement	Yes
Operative Regional Resource Management Plan	Yes
Plan Change 9	No
Regional Coastal Environment Plan	Yes
Hastings District Plan	Yes

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

11.1.1 National Policy Statement for Freshwater Management

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

11.1.2 National Policy Statement for Highly Productive Land

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

policy in this instance being "*Highly productive land is protected from inappropriate use and development.*"

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

As identified in **Figure 24** above, some of the areas of work outside the OiC Footprint are classified as LUC 2. Use or development of this land is constrained by the NPS. However as outlined below, the policy statement provides for flood protection activities as 'Specified Infrastructure', and creates an exemption pathway for the proposal under Clause 3.9 (j)(i).

Clause 3.9 states (<u>emphasis added</u>):

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

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

- (a) it provides for supporting activities on the land:
- (aa) it provides for intensive indoor primary production or greenhouse activities:
- (b) it addresses a high risk to public health and safety:
- (c) it is, or is for a purpose associated with, a matter of national importance under section 6 of the Act:
- (d) it is on specified Māori land:
- (e) it is for the purpose of protecting, maintaining, restoring, or enhancing indigenous biodiversity:
- (f) it provides for the retirement of land from land-based primary production for the purpose of improving water quality:
- (g) it is a small-scale or temporary land-use activity that has no impact on the productive capacity of the land:
- (h) it is for an activity by a requiring authority in relation to a designation or notice of requirement under the Act:
- (i) it provides for public access:
- (j) it is associated with one of the following, and there is a functional or operational need for the use or development to be on the highly productive land:
  - (i) <u>the development, operation, or decommissioning of specified infrastructure, including (but not limited to) its construction, maintenance, upgrade, expansion, replacement, or removal</u>
  - (ii) the maintenance, operation, upgrade, or expansion of defence facilities operated by the New Zealand Defence Force to meet its obligations under the Defence Act 1990:
  - (iii) mineral extraction that provides significant national public benefit that could not otherwise be achieved using resources within New Zealand:
  - (iv) aggregate extraction that provides significant national or regional public benefit that could not otherwise be achieved using resources within New Zealand.

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

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

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

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

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

specified infrastructure means any of the following:

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

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

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

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

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

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

11.1.3 New Zealand Coastal Policy Statement

The NZCPS provides policies that must be included in Regional and/or District Plans and directs priorities for the management of coastal resources as a means of achieving the purpose of the RMA in relation to the coastal environment. The RCEP, which became operative on 8 November 2014 gives effect to the NZCPS. The RPS and district and regional planning documents are therefore considered to be more applicable. Further, the majority of works are inland of the coastal environment – with none within the CMA.

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

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

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

1. The deposition of material within 20m of the Whirinaki Stream and Esk River mouth as part of constructing the stopbank,
2. The potential discharge of sediment laden water to land or water,

3. Potential dewatering (if considered a take and discharge and if required as part of construction),
4. The potential discharge of dust arising from soil disturbance,
5. The diversion of water during flood flows.

Discharge and Dewatering Activities

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

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

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

While the need for dewatering in respect to (3) is not expected, the theoretical taking of water would involve minor amounts and would essentially be non-consumptive. With any associated discharge involving natural water or levels of turbidity worst case, this is unlikely to present a risk to water quality after reasonable mixing – if even discharged to water. Dewatering is therefore, again, proposed to be managed outside the OiC Footprint in the same manner as within it – that is for these procedures to be outlined in the CEMP (Condition 10(3)(i)) and for these activities to be carried out in a manner that avoids if practicable, or minimises so far as practicable, adverse effects on freshwater environments, with particular regard to reducing opportunities for the works to generate sediment (Condition 12(c)). As within the OiC Footprint, this approach is considered suitable for managing the effects of potential temporary dewatering outside the OiC Footprint.

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

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

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

Diversion of Water

Of the features outside the OiC Footprint, it is the 'northern tip' and 'detour' that result in the diversion of floodwater.

In this regard, the northern tip has the effect of diverting flood water southward as a result of preventing it flowing eastward across the log yard.

To assist with the assessment of this effect, it is relevant to consider what could be granted consent under the OiC as a controlled activity (meaning that a consent authority would be required to grant consent for the activity) and to compare the effects of the proposal against what could be considered an 'alternative development scenario'. This is different to the permitted baseline test; but as considered in *The Mahora Residents Society Inc v Hastings District Council* [2024] NZHC 3322, a realistic 'alternative development scenario' can be used in a limited way to assess the effects of a proposal and provides planning context when determining whether effects are less than minor, minor, or more than minor.

Section 3 of this report described the initial alignment considered for the Whirinaki stopbank, which was wholly within the OiC Footprint. Scoping and consequential flooding assessments were undertaken for that initial design to demonstrate how consent could have been granted. Therefore, it is not considered that the initial alignment (the alternative development scenario) is fanciful. Further, because the consequential flooding effects of the initial alignment were modelled, there is also a high degree of certainty regarding the extent of consequential flooding that would be generated by the alternative development scenario, enabling the two scenarios to be realistically contrasted. The following is a summary of the consequential flooding assessment associated with that previous alignment (alternative development scenario):

The assessment completed by PDP was based on using 14 model runs using the following hydrological events:

- 50-year event with and without climate change,
- 100-year event with and without climate change,
- 500-year event with and without climate change; and,
- Cyclone Gabrielle.

For each of these seven hydrological events, a pre (existing environment) and post construction model was run.

Flood Levels:

Based on the 100-year ARI event with climate change , increased flood depths as a result of the proposed works were identified as follows:

- Increases of 10mm-100mm on the upgradient (western) side of the stopbank in the immediate vicinity of State Highway 2, Taits Road and the Esk River mouth – within which three building footprints are identified,
- Within localised depression in Bayview.

Flood Hazard Risk:

Focusing on areas where the model indicates a potential effect on flood levels as a result of the proposed works, PDP considered impacts of building the stopbank on buildings, critical buildings, lifeline utilities and buildings with social or cultural significance.

The "*Australian Disaster Resilience Handbook 7 Managing the Floodplain: A Guide to Best Practice in Flood Risk Management in Australia (AIDR 2017)*" was adopted to evaluate the impact. This provides an overview of various risk categories (H1 – H6) based on flood depth and velocity (refer Figure 23 above)

While there was deemed to be a significant increase in overall flood protection for buildings as a result of the proposed works, the assessment by PDP identified the following:

For the 50-year event (without climate change):

- The hazard classification for a garage at 3 Anthony Place, Bayview, increased from H1 to H2,
- There were no increases in hazard classification for habitable dwellings anywhere within the modelled extent,

For the 50-year event (with climate change):

- The hazard classification for a garage, within the LC3 area, increased from H2 to H3,
- There were no other increases in hazard classification for habitable dwellings anywhere within the modelled extent,

For the 100-year event (without climate change):

- Again, the hazard classification for a garage, within the LC3 area, increased from H2 to H3,
- There were no increases in hazard classification for any habitable buildings anywhere within the modelled extent,

For the 100-year event (with climate change):

- There were <10 increases in hazard classification for building (habitable and non-habitable) within the LU3 area,
- There were no increases in hazard classification for habitable dwellings outside of LC3 anywhere within the modelled extent.

An increase from H1 to H2 is not considered to be a significant change in risk to people, buildings or land, and no mitigation is considered necessary, and given the LC3 area being defined as follows, no mitigation was considered necessary in the context of the existing risk:

> *Future severe weather event risk cannot be sufficiently mitigated. In some cases, some current land uses may remain acceptable, while for others there is intolerable risk of injury or death*.

While modelling under the 500-year events identified additional hazard classification increases, there were no hazard classification increases outside the LU3 area. Further, and as recognised in the RPS, very large events exceeding flood protection design standards can impact normally protected areas, and broader land use planning and adequate and timely flood forecasting are fundamental/the appropriate tools to managing the risk of flooding in this regard.

PDP identified three sites of cultural significance within the modelled area including two urupa (located near Taits Road and Pohutukawa Drive) and a marae (Petane). All three sites were located in the LC3 categorisation. PDP note:

Petane Marae:

- While there was no increase in the hazard classification under the modelled events, there was an estimated flood level increase of 271mm during the 500-year event and an increase in the temporal duration of the hazard classification meaning it is less safe for longer. The marae is in the process of relocating owing to the LC3 categorisation.

Taits Road urupa

- While velocities within this location remained well below 2m/s, the increased flood depth of 266mm increased the hazard classification from H2 to H3.

Pohutukawa Drive urupa:

- There is no change in classification as a result of the proposed works across all events modelled.

With impacts on the Petane Marae and the Taits Road Urupa only occurring during the 500-year event and taking the identified land classification risk (LU3) into account, no mitigation was considered necessary.

Regarding lifeline utilities:

- The hazard classification for State Highway 2 remains constant regardless of the stopbanks,
- There is no change to the hazard classification for the rail line or State Highway 5,
- The proposals will reduce the hazard classification for the substation.

In terms of horticultural land:

- Maximum depth increases of between 250 and 500mm occur on an orchard (approximately 30 ha) immediately adjacent to Whirinaki Drain. Elsewhere within the Esk Valley, effects are less than 10mm,
- Despite the flood depth increases, there was no change in the hazard classification, noting a greater area is affected – albeit within the LC3 area,
- It was considered highly unlikely that people or vehicles would be present during a significant flood event,
- The increase of between 250-500mm is on top of existing flood depths already ranging from 500 to 1500mm,
- Damage to the orchard is more likely to result from debris and sediment carried by floodwaters rather than solely flood depths. In both scenarios (with and without the stopbank) velocities and depths are high enough to carry significant sediment and debris loads.

Finally, PDP advised that while there were increases in flood velocities, the changes would be unlikely to exacerbate or cause further scour and erosion, over and above what is already experienced in an extreme event.

In evaluating the identified effects of the proposal against five criteria, Beca concluded that the consequences of the proposed stopbank were acceptable.

Based on PDP and Beca's findings, no additional mitigation or conditions were considered necessary in respect to consequential flooding.

Copies of these earlier consequential flooding assessments can be provided upon request.

With the proposed alignment being set further back from the Whirinaki Drain (afforded by the 'detour'), PDP advises there is more space for "out of bank" flow and the conveyance of flood waters and that the proposed alignment, including the influence of the northern tip, generally results in lower flood levels than the previous alignment / alternative development scenario across the model - with the exception being on the Pan Pac nursery site which will now be located 'upgradient' of the stopbank. Specifically:

In a 100-year event (with climate change RCP8.5 2074), the flood level differences are:

- Upstream of SH2, flood Levels are reduced by up to 220 mm,
- Downstream of SH2, there is no significant difference in flood levels.

In a 500-year event (with climate change RCP8.5 2074), the flood level differences are:

- Upstream of SH2, flood Levels are reduced by up to 500 mm,
- Downstream of SH2, flood Levels are reduced by up to 150 mm.

The effects of the northern tip on the wider environment can therefore be considered less than minor, and the effects of the detour positive – with the exception of effects on the Pan Pac nursery site. Provided in **Appendix 18** however is the written approval of Pan Pac and occupier of the site, thus effects on the nursery site and these parties must be disregarded.

Although not related to works outside the OiC Footprint, it is acknowledged that according to the flood depth differences shown in Figures 9 and 10 of the PDP Report, which are reproduced in **Figure 26** below, there will be an increase in flood levels of up to 100mm in the 500-year event on land east of the Whirinaki Stopbank.

Figure 25: Flood Depth Change

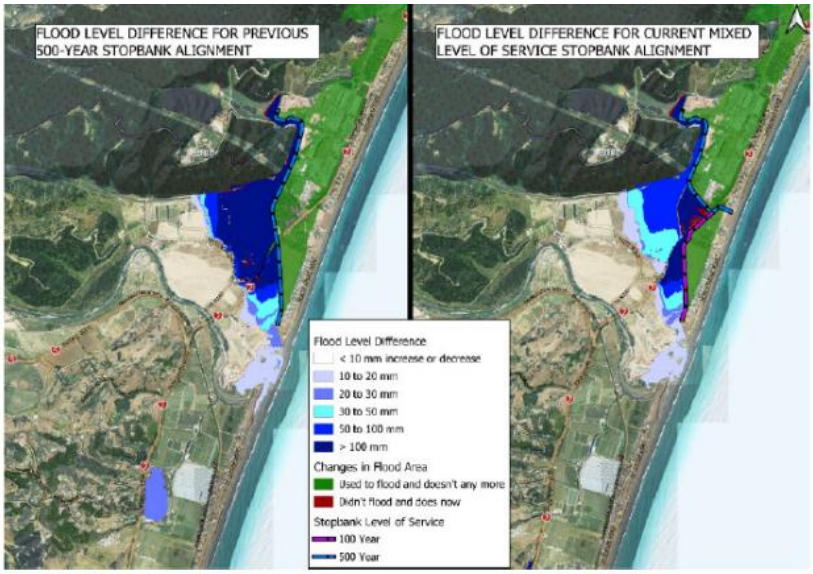


Figure 10: Flood Difference in a 100-year event with climate change to RCP 8.5 2074

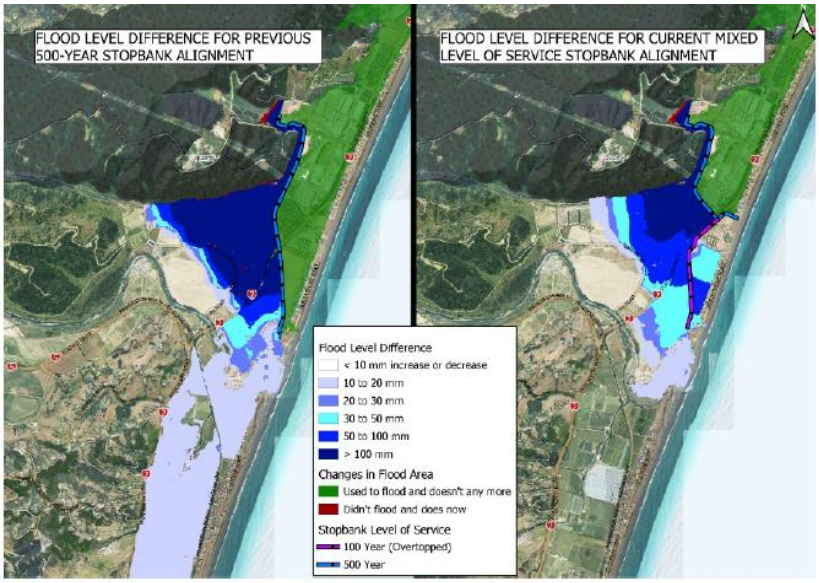


Figure 11: Flood Difference in a 500-year event with climate change to RCP 8.5 2074

It is important to note that this results from an over design event rather than features of the stopbank being outside the OiC Footprint. This has been considered in the modelling and analysis undertaken in Section 10.3.1. Although not subject to assessment under the standard RMA process, we note for completeness:

- Such effects only occur in excesses of the 100-year ARI design standard,
- This does not compromise the identified category 2C properties moving to category 1,
- As recognised in the RPS, very large events exceeding flood protection design standards can impact normally protected areas, and broader land use planning and adequate and timely flood forecasting are fundamental/the appropriate tools to managing the risk of flooding in this regard,
- Without the proposal, flood depths in the same area during the same 500-year event have been modelled to be greater than 1.5m (refer Figure A5 of the Assessment of Effects on Flooding provided in **Appendix 16**). The impact is therefore 100mm of flooding on top of 1.5m of flooding or greater,
- Much of the area is also within the River Hazard Overlay already identified in the HDP and regulated in respect to the establishment of habitable buildings.

In this context, the consequential flood effects from the diversion of water associated with the stopbanks are considered to be less than minor.

11.2.2 Assessment of Effects Arising from Activities Requiring Resource Consent from HDC

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

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

Disturbance of Contaminated Soil

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

a) the adequacy of the detailed site investigation, including—
- *i. site sampling:*
- *ii. laboratory analysis:*
- *iii. risk assessment:*

b) the suitability of the piece of land for the proposed activity, given the amount and kind of soil contamination:

c) the approach to the remediation or ongoing management of the piece of land, including—
- *i. the remediation or management methods to address the risk posed by the contaminants to human health:*
- *ii. the timing of the remediation:*
- *iii. the standard of the remediation on completion:*
- *iv. the mitigation methods to address the risk posed by the contaminants to human health:*
- *v. the mitigation measures for the piece of land, including the frequency and location of monitoring of specified contaminants:*

d) the adequacy of the site management plan or the site validation report or both, as applicable:

e) *the transport, disposal, and tracking of soil and other materials taken away in the course of the activity:*
f) *the requirement for and conditions of a financial bond:*
g) *the timing and nature of the review of the conditions in the resource consent:*
h) *the duration of the resource consent.*

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

Earthworks

Although being considered under a bundling approach as a discretionary activity, earthworks outside the OiC Footprint would ordinarily require resource consent as a Restricted Discretionary or Discretionary Activity.[8] Chapter 27.1.7 of the District Plan identifies matters over which HDC has restricted its discretion for Restricted Discretionary Activities. For Discretionary Activities, HDC's assessment is not restricted to these matters, but it may consider them.

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

- Effects on life supporting capacity of soil,
- Effects on drainage,
- Stability matters,
- Visual impacts,
- Landscape values,
- Construction effects.

These matters/effects are addressed as part of considering the assessment criteria rather an under specific headings.

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

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 (including archaeological sites).
(vii) Composition and characteristics 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, including measures to prevent sediment run-off into Council's reticulated network.
(vi) Rehabilitation of site (including backfilling, re-spreading of subsoil and topsoil, contouring, repasturing and revegetation).
(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 the disturbance of archaeological sites (noting that any disturbance of an archaeological site will require separate approval under the Heritage New Zealand Pouhere Taonga Act 2014.

The matters outlined in (b) have been considered in forming the following views in regard to the matters listed in (a):

- Given neither area within the Rural Zone (of the 'detour' and 'eastern extent') support production activities, and that the areas concerned will go on to accommodate critical flood protection infrastructure, the associated earthworks are not expected to compromise the life-supporting capacity of soils or the production potential of the Rural Zone,
- Erosion and stability matters have been considered by PDP as summarised in Section 10.7.1. PDP will progress the detailed design process according to the Design Report. This is considered to suitably address erosion and stability matters associated with the flood protection features,
- Erosion and sediment control measures will be employed to manage sediment laden stormwater runoff. As outlined in regard to the discharge activities regulated by HBRC in Section 11.2.1 above, the standardised conditions in the OiC relating to erosion and sediment control are considered appropriate to manage erosion and sediment control outside the OiC Footprint also,
- Fill material will be natural material,
- In terms of effects on flow paths and foodways, the assessment applied with regard to the diversion of water in Section 11.2.1 above can be applied here also,

- It has been determined that the works within the 'northern tip' and 'detour' may occur under an Accidental Discovery Protocol. In terms of the 'eastern extent', while there are no known cultural heritage or archaeological sites within the footprint concerned, an Authority will nevertheless be in place in relation to construction management and a condition will be imposed to manage the unexpected discovery of archaeological features, artefacts or taonga, as is common for development projects.

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.
- (iii) Whether the land is covered by Outstanding or Significant Landscape Areas will be assessed under the Assessment Criteria 27.1.7F.

(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.

The matters outlined in (b) have been considered in coming to the following views around the matters listed in (a):

- The sites are not located within or near an area of Outstanding Natural Value or an Outstanding Natural Feature,
- In the context of the Pan Pac, Transpower and Contact Energy sites, visual effects arising from the 'detour' and 'northern tip' are considered to be less than minor.
- Regarding the 'eastern extent', adjoining 161 and 162 Whirinaki Road, the Landscape Scoping Assessment has considered this group of adjoining residential properties and has determined that the potential adverse visual effects are minimal given the more gradual level change and much more dominant constant presence of the State Highway 2 corridor. Effects on this group of properties is considered to be less than minor.
- Works will be short term and the disturbed areas will be reinstated upon completion.

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 the 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.

Dust will be managed as referenced in Section 11.2.1 and is considered appropriate in respect to managing effects on adjoining parties. The works will not alter or impact overland drainage in relation to any adjacent sites and with reliance on the assessment and designs of PDP will not destabilise or cause erosion of any adjacent site.

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.

Noise will be managed according to the long-term duration limits set out in Table 2 and Table 3 of NZS 6803:1999. On this basis it is considered that noise effects will be less than minor.

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).

The location and form of the proposed stopbank features will not prevent opportunities for access to and along the water bodies concerned from being established if a decision is made to do so following completion of the works. Matter (b) is not particularly relevant.

27.1.7F EARTHWORKS WITHIN OUTSTANDING NATURAL LANDSCAPES (ONFL)

Not applicable to this site.

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

Not applicable to this activity.

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

Finally, and as outlined in regard to Assessment Criteria 27.1.7A, given the sites from which any material would be removed in respect to (3) do not form part of a production unit, and the areas concerned will go on to accommodate critical flood protection features, the removal of material is not expected to compromise the life-supporting capacity of soils or the production potential of the Rural Zone.

11.2.3 Summary

Having disregarded the effects of the northern tip and detour on the Pan Pac nursery site, the effects of the stopbank features located outside of the OiC Footprint in respect to the diversion of floodwater and earthworks (including in relation to construction, soil contamination matters, drainage and visual effects), are considered less than minor.

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

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

11.3 Section 95-95G Assessment – Notification

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

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

11.3.1 Section 95A Assessment – Wider Environmental Effects

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

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

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

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

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

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

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

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

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

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

In terms of subclause (3), and whether the proposed activity is on or adjacent to, or may affect, land that is the subject of a statutory acknowledgement made in accordance with an Act specified in Schedule 11, the proposal falls within a Statutory Acknowledgment Area of both Mana Ahuriri and Mangaharuru Tangitū Hapū. The scale of effects on the entities therefore needs to be considered in the context of S95B (refer Step 3 below).

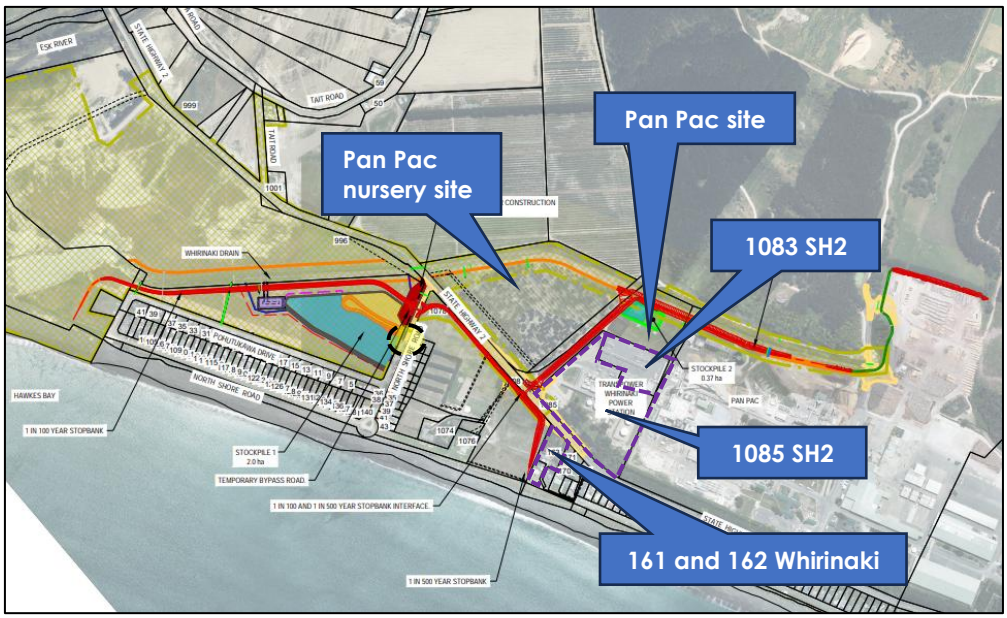
In terms of Step (2), none of the circumstances in Subsection (6) that would preclude limited notification apply. We therefore move to Step (3).

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

The effects arising from the various features/activities to be undertaken outside the OiC Footprint have been identified and considered in Section 11.2 above. For the reasons expressed, and having disregarded effects on the Pan Pac nursery site and the associated owners and occupiers, the effects of the stopbank features located outside of the OiC Footprint are considered less than minor.

The adjoining owners and occupiers are considered to be limited to the owners and occupiers of 1083 and 1085 State Highway 2 adjoining the 'detour' (Transpower NZ Limited and Contact Energy Limited respectively) and 161 and 162 Whirinaki Road (adjoining the 'eastern extent') as shown in **Figure 27** below.

Figure 27: Adjoining Parties



Noting effects on the Pan Pac nursery site and adjoining site must be disregarded, key points in coming to the view that effects on the remaining parties will be less than minor include:

- 1083 and 1085 State Highway 2 (Transpower NZ Limited and Contact Energy Limited):
    - The works will reduce the potential impacts of flooding,
    - In the context of the initial/network utility nature of the landuse, visual effects arising from the will be less than minor,
    - Access will not be compromised,
    - Construction effects including noise and the management of dust will be of temporary nature and managed to avoid unreasonable nuisance effects.
- 161 and 162 Whirinaki Road:
    - The works will reduce the potential impacts of flooding,
    - Drainage solutions are provided for,

- The Landscape Scoping Assessment has determined that the potential adverse visual effects are minimal given the more gradual level change and much more dominant constant presence of the State Highway 2 corridor,
- Construction effects including noise and the management of dust will be of temporary nature and managed to avoid unreasonable nuisance effects.

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

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

On the basis that there are no affected parties or any special circumstances, the application may be processed on a non-notified basis - acknowledging a number of parties will still have the opportunity to provide comment on the broader flood protection proposal under Clause 15 of the OiC.

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

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

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

With the NES for Assessing and Managing Contaminants in Soil to Protect Human Health being dealt with in Section 7.2, and the NPS-F, NPS-HPL and NZCPS being considered in Section 11.1, the provisions of Regional Policy Statement, RRMP, RCEP and Hastings District remain to be considered.

11.4.1 Regional Policy Statement

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

- There is unlikely to be any degradation of groundwater in respect to Objective 21

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

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

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

11.4.2 Regional Resource Management Plan

The RRMP is contained in Chapter 5 of the RRMP. Again, there are a number of Objectives and Policies relating to water quality and quantity matters. In light of the assessments above, and to avoid unnecessary repetition, the proposal is not considered to compromise any of the policy directions or environmental guidelines stated.

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

11.4.3 Regional Coastal Environment Plan

The Objectives and Policies in the RCEP pertaining to activities between the coastal margin extent and the CMA largely mirror those contained in the RRMP. On that basis, and without going into unnecessary detail, the short extent of works within the coastal margin in the southern area of the works will not compromise any of the policy directions or environmental guidelines stated.

11.4.3 District Plan

While Objectives NHO1 and NHO2 relating to natural hazards seek to minimise the effects of natural hazards on the community and the built environment and avoid increasing the risk to people, property, infrastructure and the environment from the effects of natural hazards respectively, which the proposal seeks to achieve, the provisions in Chapter 27.1 of the District Plan relating to earthworks are applicable.

Here Objective EMO1 seeks 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.

Objective EMO5 is to ensure that earthworks and mineral extraction do not compromise outstanding natural features, historic heritage and cultural heritage features (including archaeological sites).

These are generally achieved through the following policies. The remaining objectives and policies relate to mineral extraction, works over Unconfined Aquifer Water Resource or earthworks within Outstanding Natural Landscapes and are not relevant to this proposal.

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

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.

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.

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.

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

The matters raised in the Policies reflect those considered in the assessment criteria in Section 11.2.2 above. Overall, the circumstances of the proposal do not give rise to issues associated with the protection of productive soil in respect to EMP3, and it has been demonstrated that the works will be undertaken / managed in a manner consistent with EMP1, EMP5, EMP13 and EMP14.

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

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

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

11.6 Part 2 Assessment

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

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

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

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

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

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

12. CONCLUSION

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

Works within the OiC Footprint

The works within the OiC Footprint are a Controlled Activity, and the application for these works must be granted, and processed on a non-notified basis. The OiC does, however,

require engagement with mana whenua, local authorities and key stakeholders, together with technical assessments, which collectively ensures that a robust flood protection works consent is confirmed that will achieve significant benefits to Category 2 land while managing potential adverse environmental effects of the project to the extent practicable.

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

Works outside the OiC Footprint

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

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

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

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

Appendix 1

Land Requirement Plans

Appendix 2

Cultural Impact Assessment

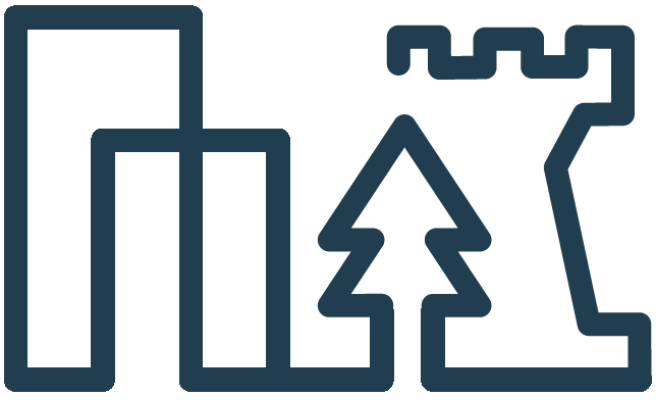
(to be provided confidentially)

Appendix 3

Maungaharuru Tangitu Trust Input
(to be provided confidentially)

Appendix 4

Archaeological Screening Assessment

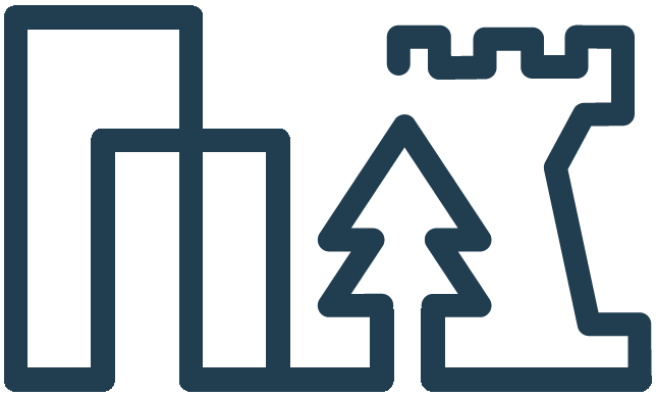


Appendix 5

Ecological Impact Assessment Report

Appendix 6

Landscape Scoping Study



Appendix 7

Preliminary Site Investigation

Appendix 8

Existing Services Plans

Appendix 9

Stopbank Preliminary Design Report and Plans

Appendix 10

Road Raising Preliminary Design Report and Plans

Appendix 11

Proposed Resource Consent Conditions

Appendix 12

Cross Drainage Report

Appendix 13

Urupa Plans

Appendix 14

Bypass Erosion and Sediment Control Plans

Appendix 15

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

Names and contact details to be provided confidentially

Appendix 16

Consequential Flooding Effects Assessment

(PDP)

Appendix 17

Consequential Flooding Assessment Evaluation

(Beca)

Appendix 18

Affected Party Approvals