Decision following the hearing of an application by Gisborne District Council – Community Lifelines to Gisborne District Council for resource consents under the Resource Management Act 1991

Proposal

Flood resilience works and upgrades to the stopbank adjacent to and within the Waipaoa River to reduce existing and potential flooding effects on Te Karaka township

The Application for resource consents is GRANTED subject to conditions.

The reasons are set out below.

Applicant:	Gisborne District Council – Community Lifelines
Site address:	Various locations, Te Karaka, Tairāwhiti
Application Nos:	LR-2026-113441-00; LV-2026-113442-00; LL-2026-113443-00; WS-2026-113444-00; DW-2026-113686-00; DL-2026-113687-00
Lodgement date:	21 April 2026
Hearing commenced:	Monday 28 September 2026 at 9.00am
Hearing panel:	Cam Twigley (Chairperson) David Hill
Hearing Appearances:	<u>For the Applicant (Gisborne District Council – Community Lifelines):</u> Brandon Watts and Alec Dawson – Meredith Connell (Counsel) Joss Ruifrok – (Regional River Manager) Dean Foote – (Project Management Engineer) Sven Exeter – Stradegy (Planner) Mark Hooker – Tonkin and Taylor (Principal Water Engineer) Dr Andy Hicks – Stradegy (Principal Ecologist) - online Braydon Narbey - WSP (Landscape Architect) - online Glen Randall – WSP (Transport Engineer) - online Jamie Exeter – Styles Group (Acoustic Engineer) - online <u>Submitters:</u> Maraea Cookson on behalf of the Kewa/Katipa/Cookson Whānau

	Martin Williams (Counsel) and Alan Haronga (online) for the Wi Pere Trust Kenneth and Karen McLanachan Tracy Wilson Stephen Newman Daniel Moran -online Sarah Eriksson (Counsel) for the JRD and PA Coates Family Trust and members of the Coates family -online Chris Coates Ramon Strong – Haskoning New Zealand (River Engineer) on behalf of JRD and PA Coates Family Trust and members of the Coates family Wendy Burgess Joan Forret (Counsel) on behalf of the M & W Burgess Family Trust Scott Wilson (Horticultural Expert) on behalf of the M & W Burgess Family Trust Ross Muir – Insight Ltd (Planner) on behalf of the M & W Burgess Family Trust - online Jenny Moran -online Jacqualine and David Manuel on behalf of Pine Hollow Family Trust <u>For the Regulatory Authority (GDC):</u> Jo Michalakis – Align Limited (s.42A Reporting Planner) Jarred Arthur – Stantec (Ecologist) Andrew Craig – Stantec (River engineering and hydrology) – Online Sophie Fisher - Isthmus (Landscape) – Online Sarah Thompson – (Freshwater and Strategy Integration Lead) – Online Sonia August, Hearing Administrator
Hearing adjourned	Tuesday, 29 September 2026
Hearing Closed:	Friday 16 October 2026

INTRODUCTION

1. Independent Hearing Commissioners Cam Twigley (Chair), David Hill and Josh Wharehinga were appointed to hear and make a decision on the resource consent applications, acting under delegated authority from the Gisborne District Council (**Regulatory Authority**) under sections 34 and 34A of the Resource Management Act (RMA). Commissioner Josh Wharehinga subsequently recused himself from the process, the details of which are covered under the procedural matters section of this decision.

2. The hearing process was supported by Gisborne District Council Hearings Administrator Sonia August and we acknowledge her assistance and support for the process.

3. Gisborne District Council – Community Lifelines has applied to the Regulatory Authority for a number of resource consents under the Tairāwhiti Resource Management Plan (TRMP), the National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health (NES-CS) and the National Environmental Standards for Freshwater (NES-F).

4. Under the TRMP, the consent applications seek to authorise the following activities:

- Construction and operation of the stopbanks and associated ancillary works, including the new and upgraded stopbank sections, associated land disturbance, road and drainage works and other components of the integrated flood-protection scheme. The various TRMP land use components were identified by the Applicant as being bundled as a discretionary activity. Council reference LU-2026-113777-00;
- Works in the beds of rivers and streams, including works associated with the stopbanks, crossings, culverts and related flood protection infrastructure. These activities form part of the bundled discretionary activity under the TRMP. Council reference LR-2026-113441-00;

- Vegetation clearance required to construct and operate the stopbanks and associated works. This forms part of the bundled TRMP discretionary activity. Council reference LV-2026-113442-00;

- Land disturbance and earthworks, including formation of the stopbanks, borrow areas, road raising, construction access and associated reinstatement. These activities form part of the bundled TRMP discretionary activity. Council reference LL-2026-113443-00;

- Take and use of surface water from the Waipaoa River for construction purposes, including dust suppression, wheel washing, concrete make-up water and reinstatement. Consent is required under TRMP Rule C6.1.2(6) as a restricted discretionary activity. Council reference WS-2026-113444-00;

- Construction dewatering, where water is required to be taken during construction. This requires consent under Rule C6.1.2(6) as a restricted discretionary activity. Council reference DW-2026-113686-00;

- Discharge of construction dewatering water to land and/or water, together with drainage discharges not otherwise meeting the permitted activity provisions. Consent is required under Rule C6.2.3(13) as a discretionary activity. Council reference DL-2026-113687-00; and

- Solid discharges not meeting the permitted activity standards, where applicable to the construction works, require consent under Rule C6.2.12(7) as a discretionary activity. Council reference DL-2026-113687-00.

5. Under the NES-F the consent applications seek to authorise the following activities:

    - Construction and operation of the culvert associated with the south-eastern drainage/flood control works requires consent under regulation 71 as a discretionary activity. Council reference LR-2026-113441-00;

    - Construction of specified infrastructure within 100 m of a potential natural inland wetland, including the associated earthworks and vegetation clearance, requires consent under regulations 45(3) and 45(4) as a discretionary activity. Council reference LU-2026-113777-00; and

    - Construction and operation of the passive flap gate associated with the culvert requires consent under regulation 74 as a non-complying activity. Council reference LR-2026-113441-00.

6. Under the NES-CS, the consent applications seek to authorise the following activities:

    - Sampling and disturbance of soil on Hazardous Activity and Industry List (HAIL) sites associated with the construction works requires consent under regulation 9 as a controlled activity. Council reference NC-2026-117778-00.

7. The application was lodged on 21 April 2026, with amendments made following a series of s.92 RMA further information requests from the Regulatory Authority. The application was publicly notified on 09 July 2026. The application attracted 87 submissions within the notified submission period, comprising 72 submissions in support, 13 in opposition and 2 neutral. A further four submissions were received after the close of submissions, all in opposition. A further series of s.92 further information requests were made and responded to post notification.

8. A s.42A RMA hearing report (**the s.42A report**) dated 07 September 2026 was prepared by Jo Michalakis, consultant reporting planner for the Regulatory Authority, and incorporated advice included in Appendices 1 – 15 from the following specialist reviewers:

    - Sophie Fisher (Landscape).
    - Cristian Hadad Westphal (Hydrology).
    - Robin Beale (Development Engineer).
    - Melanie Cheetham (Integrated Catchment Management).
    - Sarah Thompson (Water Take).
    - Mohammad Eskandarighadi (Geotechnical)
    - Jarred Arthur (Freshwater Ecology)
    - Kate Sykes (Contamination, Noise and Vibration, Environmental Risk)

9. The s.42A report recommended that the application be granted (preliminary position) subject to appropriate conditions attached as Appendix 1 to the report.

10. The hearing took place on Monday 28 September 2026 and Tuesday 29 September 2026 at the Gisborne District Council. The Panel undertook an extended site visit on Sunday, 27 September 2026.

11. The hearing was adjourned on Tuesday, 29 September 2026 with a direction issued for the Applicant to provide their right of reply by 09 October 2026. Following receipt of the Applicant's right of reply the hearing was closed on Friday 16 October 2026.

12. This decision assesses the application under s.104 and s.104D of the RMA. It addresses the issues raised primarily in the s.42A report and submissions.

THE PROPOSAL AND ACTIVITY STATUS

The Proposal

13. The proposal to undertake the Te Karaka Flood Scheme Upgrade arises from the severe flooding experienced during Cyclone Gabrielle in February 2023, which overtopped the existing Te Karaka stopbank system and resulted in extensive flooding of the township. The purpose of the proposal is to improve flood resilience and reduce existing and future flood risk to Te Karaka township and associated community infrastructure.

14. The proposal includes the construction and upgrading of approximately 4.2 kilometres of stopbanks together with associated earthworks, road raising, drainage and stormwater infrastructure, works within and adjacent to the Waipaoa River, temporary water take and discharge activities during construction, vegetation clearance, temporary access works, service relocations, landscape planting and site reinstatement. A culvert extension incorporating flap gates is also proposed to prevent floodwaters backflowing through the State Highway 2 culvert system during major flood events.

15. A central feature of the proposal is the retreat of sections of the existing stopbank alignment away from the township referred to by the Applicant as a "making room for the river" approach. The Applicant's evidence is that retreating the stopbank creates additional floodplain capacity, improves conveyance of floodwaters through the reach, and provides a better balance between reducing flood risk to Te Karaka while limiting consequential flood effects elsewhere when compared with upgrading the existing stopbank in its current position. The preferred alignment was selected following hydraulic investigations, flood modelling, an optioneering process, multi-criteria assessment and community engagement.

16. The upgraded scheme has been designed to provide a 1% Annual Exceedance Probability (AEP) standard of protection, being equivalent to a 100-year return period design event. The adopted design flow is based on flood frequency analysis undertaken in 2017 for the Waipaoa River Flood Control Scheme upgrade and uses a design flow equivalent to Cyclone Bola plus 25%. The underlying design flow of 4,500 m^3/s was

increased by 25% to 5,625 m^3/s to account for projected increases in rainfall intensity associated with climate change.

17. The stopbanks have been designed with a minimum freeboard of 600 mm above the design flood level. The evidence explains that the freeboard allowance is intended to accommodate a range of uncertainties and future changes including:
    - hydraulic modelling uncertainties;
    - survey inaccuracies;
    - aggradation and gravel movement within the river channel;
    - super-elevation uncertainties;
    - velocity head effects;
    - river channel roughness variations;
    - localised debris accumulation during flood events;
    - differential settlement of the stopbank and underlying ground; and
    - and potential future land management practices that could degrade or erode the stopbank.

18. Mr Foote for the Applicant explained during the hearing that the freeboard of 600 mm has been applied consistent with the wider Waipaoa River Flood Control Scheme and the freeboard forms part of the government funding agreement for the project.

19. During the processing of the application, a late variation to the proposed stopbank alignment was put forward in response to concerns regarding effects on ancestral Māori land and the land interests of the Wi Pere Trust. The variation involved consideration of an alternative stopbank alignment in the vicinity of Trust owned land. Evidence filed considered the comparative flooding, productive land and cultural implications of the preferred and alternative alignments. The revised material was assessed by the Applicant's experts and the reporting planner and formed part of the evidence considered by the Panel. For clarity, both the preferred alignment and the alternative alignment in the vicinity of the Wi Pere Trust land, form part of the proposal for which consent is sought.

20. The proposal is intended to provide increased flood protection to Te Karaka township, including residential, commercial and community facilities and key infrastructure, while acknowledging that the redistribution of floodwaters associated with the stopbank retreat will result in increased flooding effects for some properties located outside the proposed protected area. These consequential effects, together with proposed mitigation and management measures, formed a central focus of the hearing.

Properties and the Flood Protection Area

21. The Application identifies a relatively extensive project area, reflecting the length of the existing and proposed stopbank systems and the need for associated works, borrow areas, road connections and drainage infrastructure. The works extend across multiple properties around the northern, eastern and western margins of Te Karaka, together with road reserve and parts of the Waipaoa River corridor. The affected land includes Council and Crown land, privately owned rural and residential properties, and Māori

freehold land. The underlying zoning includes General Residential, Rural Residential and Rural General land.

22. An important distinction in understanding the existing and future flood environment is between the area protected by the existing stopbank system and the area that would be protected by the proposed upgraded scheme. For clarity, we refer to these respectively as the existing protected area and the proposed protected area.

23. Under the existing scheme, approximately 39 ha of floodplain lies between the Waipaoa River and the existing stopbanks. The existing protected area contains the substantial majority of Te Karaka township, including residential and commercial properties and important community infrastructure. The Application identifies Te Karaka Area School, early childhood facilities, community facilities and the wastewater treatment plant amongst the assets within the wider township environment.

24. The proposed protected area is different. A central feature of the proposal is the retreat of sections of the stopbank away from the river, described by the Applicant as a "making room for the river" approach. The effect is to create additional floodplain capacity and allow flood flows to be conveyed through a wider corridor, while providing an increased standard of protection to the township and infrastructure remaining within the proposed protected area.

25. The change in alignment means that the existing and proposed protected areas do not coincide. Some land presently protected by the existing stopbanks would lie on the river side of the proposed stopbanks and would therefore lose its existing level of protection. Other land outside both the existing and proposed protected areas already forms part of the active or potential floodplain of the Waipaoa River, although the degree and frequency of existing inundation varies spatially. This distinction is important when considering the consequential effects of the proposal.

26. The Applicant's consequential flood assessment illustrates the overall distribution of benefits and adverse effects. In the design event, 215 buildings, including 179 residential dwellings, experience a flooding benefit within what the Applicant describes as the protected benefit area. Conversely, 23 buildings, including six residential dwellings, experience adverse consequential flooding effects from the proposed works.

27. The distinction between the existing and proposed protected areas is therefore not simply geographical. The proposal changes the way in which floodwaters are conveyed and distributed across the wider floodplain. Retreating the stopbanks creates additional floodplain capacity and reduces confinement of the river through the Te Karaka reach, but in doing so changes flood depths, velocities and hazard on some land outside the proposed protected area. The Applicant's evidence is that this approach provides a better overall balance between improving protection to Te Karaka and limiting consequential flooding elsewhere than upgrading the stopbanks along their existing alignment.

28. We consider the relationship between the existing protected area, proposed protected area and surrounding floodplain to be an important characteristic of the receiving environment. It provides the context for our later assessment of the substantial

reduction in flood risk achieved within the proposed protected area and the corresponding consequential effects experienced by properties, productive land, roads and other infrastructure outside it.

Activity Status

29. The activity status of the application was a point of contention between the Applicant, the Regulatory Authority and submitters.

30. The Applicant's position was that the stopbank project should remain a discretionary activity, with the non-complying flap gate treated separately, rather than allowing that relatively discrete element to pull the whole proposal into non-complying status. Ms. Michalakis in her s.42A report agreed with this position.

31. The Burgess Family Trust, Wi Pere Trust and Jenny Moran disagreed and considered that the applications should be substantively bundled and assessed as non-complying, rather than separating the flap gate from the discretionary stopbank activities.

32. Through the course of the hearing the Panel raised a question of the planning experts as to whether consents were required for activities within the General Residential Zone given part of the project was located in this zone. The planning Joint Witness Statement (JWS) submitted with the Applicant's right of reply addresses this point with a difference of opinion between the planning experts Mr Sven Exeter and Ms. Michalakis.[1]

33. Given the issue's importance, and relationship to the rest of the issues, we have chosen to address the application activity status issue here rather than later in the decision.

34. In the Planning JWS, Ms. Michalakis considered that Rule DD1.6.1(32) applies because construction of a stopbank is not otherwise identified as a permitted, controlled, restricted discretionary or discretionary activity within the Residential Zone Rule Table DD1.6.1. On that interpretation, the relevant component of the proposal is a non-complying activity. Mr Exeter considered that Rule DD1.6.1(32) is instead a residual rule applying only where an activity is not otherwise provided for by the TRMP as a whole. His reasoning is set out in Appendix B to the Planning JWS.

Finding

35. We have considered both interpretations. We accept that the TRMP clearly anticipates flood protection and river control works, including at Te Karaka, and contains specific provisions within Chapters C6 and C8 relating to those activities. We also acknowledge Mr Exeter's submission that the existing Te Karaka stopbank is located partly within the General Residential Zone and that the objectives, policies and methods of the TRMP recognise the importance of flood protection infrastructure.

[1] Expert conferencing was not directed by the Panel. Mr Muir, planning expert for the M & W Burgess Family Trust, was not involved in the expert conferencing.

36. However, on balance, we prefer the interpretation advanced by Ms. Michalakis. Of particular significance is the direction in C8.2.3 that the regional rules applying to the relevant flood hazard overlay apply in addition to the zone rules for the area. In our view, this indicates that regulation of the works under the regional rules in Chapter C8 does not displace the need to determine the activity status of the land use under the applicable zone rules. We also note that the TRMP expressly provides a district activity status for flood control or soil conservation and water management works in certain other zones, while no equivalent provision appears in the Residential Zone Rule Table DD1.6.1.

37. We therefore consider that the proposed stopbank works within the General Residential Zone fall within the residual catch-all provision in Rule DD1.6.1(32) and are non-complying. We consider this to be the more cautious and textually consistent interpretation of the relevant rules when the regional and district components of the TRMP are read together. We have accordingly bundled the applications, including the non-complying activity flap gate, and assessed them all together as a non-complying activity subject to s.104D of the RMA.

38. Resource consent for the components of the stopbank within the General Residential Zone was not specifically sought by the Applicant. In the Applicant's right of reply this matter was addressed, with the Applicant's legal counsel submitting that it would be within the Panel's power to grant consent. This was on the basis that the application contains a clear description of what is proposed. The Applicant's legal counsel outlined that the Courts have faced the question of whether consent requirements can be identified during the consenting process, or whether they have to be identified from the outset. The Applicant's legal counsel outlined that the Courts have taken a "substance over form" approach and confirmed that as long as the substance of the matter is properly considered, the exact form of an application is not determinative. We agree that the application contains a clear description of what is proposed and therefore we are able to consider consent for the elements of the stopbank within the General Residential Zone.

39. In addition, the decision maker may grant consent for the activity on a different status basis to that under which it has been processed (s.104(5)).

EXISTING ENVIRONMENT

40. The Panel found that the existing environment was well described in both the application and the s.42A report and reflected our observations during our site visit. For this reason, we do not see the need to detail the existing environment in our decision and we simply adopt the descriptions provided in both the application and the s.42A report supplemented by the summary below.

41. Drawing the above sources of information together, we find that the existing environment comprises a highly modified rural and township floodplain in which the Waipaoa River, productive alluvial land, Te Karaka township, transport and community infrastructure, and an established flood protection system are closely interconnected.

42. Flooding is an existing characteristic of that environment. So too are the geomorphic processes of sediment transport and aggradation identified in both the Application and s.42A report. The existing stopbanks and associated transport infrastructure provide an established level of protection and connectivity, but Cyclone Gabrielle demonstrated the vulnerability of the existing flood protection system to major flood events.

43. We consider this existing environment provides the appropriate baseline against which to assess the proposal. In particular, our assessment below distinguishes between risks and vulnerabilities that already exist**,** including existing flood and bridge vulnerabilities, and any incremental changes in those risks attributable to the proposed works as well as the benefits**.**

PROCEDURAL MATTERS

Late Submissions

44. Following the close of submissions, the Panel received late submissions from Kenneth and Karen McLanachan, Pine Hollow Family Trust and Lyn Brown. Exercising the power to waive non-compliance with a statutory time requirement under sections 37 and 37A of the RMA, the Panel accepted those submissions. In doing so, it considered the interests of persons directly affected, the community interest in an adequate assessment of effects, and the duty under section 21 RMA to avoid unreasonable delay. The Panel concluded that acceptance would not materially prejudice any party, would assist a comprehensive assessment, and would not unreasonably delay the hearing.

45. A further late submission dated 14 September 2026 was lodged by Maraea Cookson on behalf of the Kewa/Katipa/Cookson whānau. The Applicant agreed to its acceptance, advised that it would respond at the hearing, and did not seek additional time. The Panel accordingly accepted that submission on the same statutory basis.

46. The late submitters' material was placed before the Panel and the parties had an opportunity to address it through the hearing process. We are satisfied that the process adopted preserved fairness and enabled the issues raised to be considered without unreasonable delay.

Recusal of Commissioner Josh Wharehinga

47. Upon receipt of the Kewa/Katipa/Cookson whānau submission, Commissioner Josh Wharehinga immediately advised the Panel that Maraea Cookson is his mother. The relationship was disclosed to the hearing participants and raised a potential conflict of interest and an appearance of bias issue.

48. The Panel initially invited comment on proposed procedural arrangements. On 25 September 2026, counsel for the Applicant requested that Commissioner Wharehinga recuse himself. After considering the relationship, the Applicant's memorandum and the importance of maintaining confidence in the fairness and integrity of the process, Commissioner Wharehinga recused himself from all further participation in the hearing and determination of the applications.

49. The recusal was a procedural step to protect the integrity of the hearing process. No finding was made as to actual bias or any beneficial interest in land. Commissioner Wharehinga did not attend the substantive hearing, question witnesses, participate in later procedural decisions or deliberations, or contribute to this decision.

50. The hearing proceeded before Commissioners Cam Twigley and David Hill. Gisborne District Council in its role as the Regulatory Authority, confirmed that the two remaining commissioners held delegated authority to hear and determine the applications. The remaining Panel has reached its decision unanimously.

Site Visit

51. The Panel visited the application site and surrounding area during the afternoon of 27 September 2026. Commissioners Twigley and Hill were accompanied by Adrian van Zyl who is not an employee of the Council nor involved in the project. Mr van Zyl provided local orientation and assisted the Panel to identify relevant locations. The visit was undertaken to assist the Panel's understanding of the application material and evidence.

52. The Panel viewed the Te Karaka township and surrounding floodplain, the existing stopbank and proposed retreat alignment, the alternative alignment in the vicinity of Wi Pere Trust land, the proposed culvert and flap-gate location, Rangatira Road and Kanakanaia Road bridges, Matawai Road / State Highway 2, Te Puha substation, the Te Karaka wastewater treatment plant, and a number of properties identified as experiencing consequential flooding effects.

53. The visit assisted the Panel to understand the relationship between the township, river corridor, existing and proposed stopbank alignments, transport and lifeline infrastructure, productive land and affected properties. It also provided context for the evidence concerning floodplain storage, bridge constraints, access, property-specific effects and the "making room for the river" approach outlined by the Applicant in the hearing.

EVIDENCE AND LEGAL SUBMISSIONS HEARD

54. Primary evidence for the Applicant was filed as follows:

- Dean Foote – Project Management
- Joss Ruifrok – Project Delivery, Community Engagement and Emergency Response.
- Jamie Exeter – Noise
- Andrew Hicks – Freshwater Ecology
- Mark Hooker – Flooding Effects
- Glen Randall - Traffic
- Stefan Steyn - Landscape
- Sven Exeter – Planning.

55. Rebuttal evidence from the Applicant was received prior to the hearing as follows:

- Jamie Exeter – Noise
- Dean Foote – Project Management
- Mark Hooker – Flooding Effects
- Greg Whyte – Flood Modelling
- Sven Exeter – Planning

56. A supplementary statement of evidence was received from Mr Ruifrok during the hearing. This supplementary statement addressed several matters raised during the hearing including optioneering, consultation with Wi Pere Trust and the alternative alignment, multi-criteria analysis and whenua Māori.

57. Legal submissions in opening and reply (post hearing) for the Applicant were made by Brandon Watts.

58. Prior to the hearing, Ms. Michalakis on behalf of the Regulatory Authority, filed an addendum to her s.42A report to respond to the Applicant's evidence to confirm what matters had been resolved and what matters remain unresolved prior to the hearing; and to provide an updated set of conditions. The addendum also included a statement of evidence from Cristian Hadad Westphal – River Hydrology, rebuttal evidence from Sophie Fisher - Landscape Architecture and a statement of evidence from Jarred Arthur - Aquatic Ecology.

59. Submitter briefs of evidence and legal submissions were filed by:

- Scott Wilson – Horticulture on behalf of Burgess Family Trust
- Ross Muir – Planning on behalf of Burgess Family Trust
- Wendy Burgess – Burgess Family Trust
- Joan Forret – Legal submissions on behalf of Burgess Family Trust
- Ramon Strong – River Engineer on behalf of the Coates Family Trust
- Sarah Eriksson – Legal submissions on behalf of Coates Family Trust and members of the Coates Family
- Chris Coates on behalf of Coates Family Trust and members of the Coates Family
- Alan Haronga – Wi Pere Trust
- Martin Williams – Legal submissions on behalf of Wi Pere Trust
- Jacqualine and David Manuel on behalf of Pine Hollow Riding School and Riverview Horse Treks
- Daniel Moran
- Jenny Moran
- Maraea Cookson on behalf of the Kewa/Cookson/Katipa Whānau
- Tracy Wilson

60. Post hearing, Mr Craig, on behalf of the Regulatory Authority, supplied a brief of expert river engineering evidence that he verbally presented at the hearing. Mr Craig had stepped in for Mr Westphal who was unable to attend the hearing due to illness.

61. We have woven issues raised and evidence submitted by all parties into our assessment of the application rather than reciting it here.

62. Towards the end of the hearing, the Panel facilitated a conditions workshop to help refine the draft conditions presented by Mr Exeter and Ms. Michalakis. Mr Muir attended this workshop along with some of the submitters.

Applicant's Right of Reply

63. In its written right of reply, the Applicant addressed matters arising during the hearing concerning activity status and the consents required, the s.104D gateway test, Māori interests and the Wi Pere Trust whenua, effects on productive land, the adequacy of the hydrological information, the relationship between the RMA and Public Works Act (PWA) processes, the request for an adjournment, and the relevance of retaining and raising the existing stopbank (Option 1).

64. On activity status, the Applicant maintained that the stopbank proposal should be assessed as a discretionary activity, with the flap gates treated as a discrete non-complying activity. It accepted that bundling the culvert activities as non-complying was available. It disputed that an additional consent was required under TRMP rule DD1.6.1(32), but submitted that, if the Panel concluded otherwise and the proposal consequently became non-complying, the additional consent could be granted and the proposal satisfied the s.104D gateway test.

65. In relation to Māori interests and s.6(e) RMA, the Applicant responded particularly to the concerns raised by Wi Pere Trust. It submitted that the TRMP contains extensive provisions recognising Māori interests and that its engagement with tangata whenua, including Wi Pere Trust, was consistent with that framework. The Applicant maintained that the effects of retreating the stopbank on Wi Pere Trust land had been recognised and considered through the options assessment and consultation process. It also emphasised that an alternative alignment avoiding the Wi Pere Trust whenua had been included in the application to provide an option if agreement to locate the preferred alignment across that land could not be obtained. The Applicant sought consent for both alignments.

66. On productive rural land, the applicant acknowledged that increased protection of Te Karaka township would result in greater flood exposure for some rural land outside the proposed stopbank. It submitted, however, that the Panel had adequate information concerning those effects through the flood risk, sediment, options and economic assessments together with the evidence presented by affected landowners. The Applicant relied on the NPS-HPL and NPS-I in submitting that the relevant national policy framework provides for upgrading public flood protection infrastructure notwithstanding effects on highly productive land, subject to the applicable effects management requirements.

67. A substantial part of the reply addressed the adequacy of the hydrological and hydraulic information. The Applicant responded to concerns regarding the adopted flood frequency analysis and 5,625 m^3/s design event, climate change, debris blockage at bridges, future aggradation and berm accretion, flood velocities, sedimentation, and the accuracy of modelling of effects on individual properties. It maintained that the issue for the Panel was not whether a different or more conservative flood protection scheme

could be designed, but whether there was sufficient information to understand the actual and potential effects of the proposal before it.

68. The Applicant submitted that the comparative modelling of pre-upgrade and post-upgrade conditions provided an adequate basis for identifying the incremental effects attributable to the proposal. It emphasised that much of the flood hazard affecting land outside the stopbanks already exists and should not be treated as an effect created by the proposal. While accepting uncertainty concerning future climate, sedimentation and scheme performance, the applicant submitted that these matters did not require further hydrological assessment or redesign before the applications could be determined. It opposed a proposed condition requiring maintenance of minimum freeboard through future raising of the stopbank and considered ongoing monitoring and asset management a more appropriate response to future changes in river conditions.

69. The Applicant also addressed requests from the Wi Pere Trust and the Burgess Family Trust that the hearing be adjourned to enable further negotiations or assessment. It distinguished environmental effects considered under the RMA from questions of land acquisition, injurious affection and compensation under the Public Works Act (PWA). It submitted that the RMA and PWA processes inevitably involved a degree of circularity, because obtaining land interests before resource consent was granted carried its own uncertainty. The Applicant considered that this did not justify delaying determination of the applications and distinguished the circumstances from the Mt Messenger case relied upon by submitters.[2]

70. Finally, the Applicant addressed the continuing focus of several submitters on Option 1, involving raising the existing stopbank. It acknowledged why landowners to the north preferred that option but maintained that it would exacerbate the hydraulic bottleneck created by the existing alignment and transfer increased flooding effects upstream, as well as increasing pressure on bridges and risks associated with stopbank failure. More fundamentally, the Applicant submitted that Option 1 was of limited relevance to the ultimate determination because the Panel's task was to determine the proposal before it rather than select or consent a different scheme. The consideration of alternatives remained relevant to the extent required under s.104 and the applicable planning framework.

71. The Applicant's overall position remained that, while the proposal would produce acknowledged adverse effects, particularly for some land outside the retreated stopbank, those effects had been adequately identified and did not make the proposal inconsistent with the applicable planning framework. It maintained that the proposal would deliver substantial flood protection benefits to Te Karaka and that the applications could be granted.

PRELIMINARY MATTERS

72. There are a number of preliminary matters that we consider are important to address.

[2] Director General of Conservation v New Zealand Transport Agency et al [2018] NZEnvC 203.

Amendments to the Resource Management Act 1991

73. The Panel notes that amendments to the RMA made by the Planning Act 2026 came into force on 30 October 2026, while these applications were before the Panel. Those amendments include changes to s.104, including the insertion of s.104(1A), which identifies matters that must be disregarded when considering certain resource consent applications.

74. These applications were lodged, and the resource consent proceedings commenced, before those amendments came into force. We have therefore considered the transitional effect of the amendments.

75. Under Section 18(1) of the Planning Act 2026 where an application for a resource consent under the RMA is lodged before the date of commencement of the transition period and is not determined before that date, the application must continue to be processed and determined under the RMA as in force immediately before the Planning Act 2026 received Royal assent.

76. Accordingly, the Panel is satisfied that these applications are to be determined under the provisions of the RMA that applied before the amendments commencing on 30 October 2026. The new provisions of s.104, including s.104(1A), therefore do not alter the statutory framework applicable to our determination of these applications.

Alternative Flood Protection Options

77. A recurring theme in submissions and evidence was whether alternative approaches to flood protection at Te Karaka, particularly raising the existing stopbank (Option 1), would provide a better outcome than the proposal before us. We consider it important at the outset to be clear about the scope of our task. The Applicant's right of reply submitted that our role is not to determine the theoretically optimum level of flood protection, nor whether another scheme, alignment or design would be preferable. Rather, our task is to determine whether the proposal for which consent has been sought is acceptable under the RMA and, if so, on what conditions. We agree with that submission and this echoes observations made by Commissioner Hill at the commencement of the hearing. The Applicant also acknowledges that alternatives retain some relevance to the s.104 assessment, but that does not convert this hearing into a comparative assessment to select the Panel's preferred scheme.

78. We have therefore considered the alternatives evidence where it assists us in understanding the proposal, the choices made in its development and matters relevant to the statutory assessment. We have not approached our task as choosing between the proposal and Option 1, or any other alternative advanced during the hearing.

Relationship between the RMA and Public Works Act processes

79. Another preliminary matter concerns the relationship between this resource consent proceeding and the separate processes available under the PWA. We addressed this at the commencement of the process in Te Karaka Hearing Panel Direction #1. We stated

that questions concerning land acquisition and compensation are addressed through separate statutory mechanisms, including the PWA, and that our jurisdiction is confined to determining the resource consent applications under the RMA. We nevertheless made it clear that flooding and other environmental effects remain matters for this Panel to consider to the extent they are relevant under the RMA.

80. The Applicant's reply sought to further explain the boundary between those two statutory processes. It submitted that the extent to which the qualities of affected land are diminished, whether environmentally, socially, economically or culturally, is an RMA effect, whereas the financial consequences of those effects for particular landowners are matters for compensation under the PWA. The Applicant also submitted that the PWA provides for compensation where land is acquired, injuriously affected through the acquisition of other land, or damaged through the exercise of statutory powers relating to the public work.[3]

81. We accept that distinction in principle. In particular, we agree that it is neither necessary nor appropriate for us to determine whether compensation will ultimately be payable to any particular landowner, the amount of such compensation, or the terms upon which interests in land may ultimately be secured. Those are not matters within our RMA jurisdiction. Equally, however, the existence of the PWA process does not relieve us of the obligation to identify and assess the environmental effects of allowing the proposal. The Applicant itself recognised this distinction in reply, including that compensation under the PWA addresses different issues from environmental effects under the RMA.[4]

82. The Applicant in their legal submissions asked us to adopt what it described as a “real world” approach and proceed on the basis that the PWA will apply and that compensation will be provided where it is due. We accept that it would be artificial to assess this public work on the assumption that the statutory processes available under the PWA simply do not exist. We also accept the Applicant’s submission that the RMA process need not be deferred merely because those processes have not been completed. The Applicant described the resulting “circularity” i.e. securing property interests under the PWA before obtaining the necessary RMA approvals carries its own risk, while determining the RMA application before all PWA arrangements are concluded leaves those property arrangements unresolved.

83. However, we do not take the further step of treating future PWA compensation as mitigation for environmental effects that must properly be addressed under the RMA. Nor do we assume that every consequence identified by affected landowners will necessarily be resolved through the PWA. Our approach is instead to assess the environmental effects of the proposal on the evidence before us under the RMA, while leaving questions of acquisition, injurious affection and financial compensation to the statutory process established for those matters. This distinction is particularly important when we later consider effects on productive land, rural activities and individual

[3] Applicant’s Right of Reply submissions, 09 October 2026 at [6.10-6.11, 6.59 and 8.5-8.6]
[4] Applicant’s Right of Reply submissions, 09 October 2026 at [7.3]–[7.11]

properties.

84. Against that background, the fact that PWA arrangements were not complete at the time of the hearing does not, of itself, prevent us determining the applications. The Applicant's right of reply records that, if consent is granted, it intends to proceed with securing the necessary legal interests in land, identifying land subject to injurious affection and addressing compensation in accordance with the PWA. Those processes remain separate from this decision.

85. We have also considered the Mt Messenger authorities relied upon by the Burgess Family Trust.[5] We accept the underlying caution against relying on uncertain future agreements or compensation arrangements as a substitute for environmental mitigation under the RMA. Our decision does not proceed on that basis. We have assessed the environmental effects of the proposal, including those that will remain unmitigated, independently of any compensation or property acquisition that may occur under the PWA. We therefore do not consider that the fact that the PWA processes remain incomplete prevents us from determining these applications.

Flood Modelling and Uncertainty

86. A significant part of the evidence and submissions concerned the hydraulic modelling relied upon by the Applicant and the degree of confidence that can appropriately be placed on predictions of future flood behaviour. This issue is relevant not only to the design of the proposed stopbanks, but also to our assessment of consequential flooding, residual risk and effects on properties outside the proposed protected area.

87. We heard concerns from a number of submitters that the modelling may not fully capture the effects that could occur on their land. Mr Exeter summarised that the Coates Family Trust, Jenny Moran, Daniel Moran and the Burgess Family Trust each raised concerns that the modelling underpinning the assessment of increased flood depth, velocity or hazard on their land was incomplete or incorrect.[6] The Applicant did not dispute that the proposal increases flood risk on some land outside the benefit area. Its evidence identified 10 ha of land as newly flooded in the design event, 157 ha experiencing an increase in hazard category, and adverse flooding effects on 23 buildings, including six residential dwellings.[7]

88. The Coates Family raised the issue particularly strongly. Their position was not that improved flood protection should not be provided to Te Karaka, but that the consequential effects on upstream properties needed to be properly identified and assessed before determining whether those effects were acceptable. Their legal submissions framed the central issue as whether it was appropriate to increase flooding effects on a relatively small number of upstream properties to obtain the wider benefits of the proposal, and whether those increased effects had been appropriately identified,

[5] Legal Submissions for the M & W Burgess Family Trust, 25 September 2026, at [13]–[29], particularly [16]–[22]
[6] Evidence of Sven Exeter, 14 September 2026 at [16.16]–[16.17]
[7] Evidence of Sven Exeter, 14 September 2026 at [16.16]–[16.17]

avoided, remedied or mitigated.[8]

89. Ramon Strong, giving river engineering and flood hazard evidence for the Coates Family, questioned the extent to which a static hydraulic model could represent the dynamic behaviour of the Waipaoa catchment over time. In particular, he identified continuing riverbed aggradation and sediment accumulation on adjoining land and considered that those processes could result in effects on the Coates property being greater than predicted. He also considered that the coarse model grid across that property constrained the level of confidence that could be placed on the predicted effects.

90. Mr Hooker's rebuttal evidence on behalf of the Applicant included additional depth and velocity difference mapping for the Coates property in response to Mr Strong's evidence. That modelling indicated that, across most of the property, the predicted change in velocity in the design event was less than 0.1 m/s.[9] We have taken that additional information into account alongside Mr Strong's reservations as to the level of confidence that can be placed on property specific model outputs.

91. Daniel Moran in his submission also questioned the consequence assessment and the extent to which future flood behaviour had been adequately allowed for. His concerns included aggradation, over-design events, the effects of woody debris and potential consequences for bridge infrastructure, as well as the increased hazard affecting his Rangatira Road property.[10] The s.42A report, relying on technical evidence, ultimately concluded that his property would become newly flooded as a consequence of the Project in the over-design event, but not in the design event.

92. We also received expert evidence recognising more generally that the Waipaoa River is a dynamic system. Dr Ian Fuller, a geomorphologist engaged by the Applicant, considered that the present-day channel and floodplain morphology used in the modelling is unlikely to represent the future state of the river over coming decades. He identified ongoing high sediment delivery and aggradation, referring to previous modelling indicating approximately 0.85 m of riverbed aggradation over the next 50 years.[11]

93. Other expert evidence provided important context to those concerns. Mr Westphal, giving hydraulic and river engineering evidence for the Regulatory Authority, did not consider that aggradation or accretion necessarily invalidated an assessment of the incremental effects of the Project where the existing and proposed scenarios were compared using a common baseline.[12] That evidence provides us with some confidence in using the modelling to assess the relative difference between the existing and proposed stopbank arrangements, while recognising uncertainty about how the river itself may evolve over time.

[8] Legal Submissions for the Coates Family Trust, 25 September 2026, at [11]–[14]
[9] Rebuttal Evidence of Mark Hooker, 25 September 2026
[10] Submission of Daniel Moran, 06 August 2026
[11] Ian Fuller, Te Karaka Flood Management Optioneering: Future flood levels and aggradation, Tonkin & Taylor Ltd, 11 September 2026
[12] Evidence of Cristian Hadad Westphal, 22 September 2026 at [9]

94. The Applicant's own evidence also acknowledged uncertainty. In a memorandum responding to matters raised by Mr Strong, Greg Whyte, an expert in numerical/hydraulic modelling, referred to the inherent statistical uncertainty associated with estimating the frequency of large flood events from the available hydrological record.[13] The Applicant also accepted in their right of reply submissions that flood frequency, climate change, debris blockage and future changes in channel morphology are relevant considerations, while maintaining that those matters did not necessitate further hydrological assessment before the applications could be determined.

95. We have also taken into account the independent technical review undertaken for the Regulatory Authority by Mr Cristian Hadad of Stantec.[14] The review records that the consequential flood assessment included opposite bank properties, that concerns regarding the hydraulic model domain had been addressed, and that an over-design event of approximately 0.2% AEP, or a 1-in-500-year ARI equivalent, had been modelled. The reviewer considered the response adequate for the purposes of the consent review.

96. We consider this evidence establishes two important propositions. First, the hydraulic modelling provides an appropriate and sufficiently robust basis for comparing the existing and proposed stopbank arrangements and for informing our assessment of the effects of the Project. We do not accept that the uncertainties identified are such that the modelling should be regarded as unreliable or that further modelling is necessary before we can determine the applications.

97. Secondly, the model outputs should not be regarded as precise predictions of future flood behaviour at individual properties. The Waipaoa River and its catchment are dynamic. Riverbed aggradation, sediment deposition, climate change, debris, the sequence and magnitude of future flood events and changes in channel morphology introduce uncertainty that cannot reasonably be eliminated from an assessment of this nature. The modelling therefore provides the best available basis for comparing the existing and proposed scenarios, but its numerical outputs need to be understood within those limitations.

98. This distinction is important to our subsequent assessment. We accept the modelling as an appropriate basis for identifying the likely direction and relative magnitude of consequential flood effects, while exercising some caution about the precision of predicted depths, velocities, flood frequencies and hazard changes over the longer term. Where the modelling identifies an adverse consequential effect, we have not discounted that effect because of uncertainty. Conversely, where submitters contend that the actual effect could ultimately be greater than modelled, we have considered that possibility in light of the expert evidence rather than assuming either that the modelled outcome is exact or that a greater effect will necessarily occur.

[13] Memorandum of Greg Whyte, DHI, appended to the Rebuttal Evidence of Dean Foote, 25 September 2026.
[14] Appendix 6 section 42a report

99. This approach informs our subsequent consideration of consequential flooding, natural hazards, productive land and property specific effects. It allows us to distinguish between whether the information before us is adequate to make a decision, which we find it is, and whether future river behaviour can be predicted with certainty, which plainly it cannot.

Long Term Scheme Performance

100. A related, but distinct issue to the matters covered above, concerns the longer-term performance of the upgraded scheme. As noted above, the modelling provides an appropriate basis for comparing the existing and proposed arrangements. That does not mean that the scheme will necessarily continue to provide the same standard of protection indefinitely as the river system evolves.

101. Mr Westphal, on behalf of the Regulatory Authority, distinguished between the relevance of aggradation to the assessment of incremental flooding effects and its relevance to long-term design performance. The geomorphic evidence indicates potential channel accretion of approximately 0.30 m to 1.20 m over the next 50 years, together with potentially greater floodplain accretion. While a +1.0 m riverbed sensitivity scenario was considered during optioneering, Mr Westphal considered the evidence did not establish how future aggradation had been accommodated in the final design, or whether the adopted 600 mm freeboard was additional to, or inclusive of, an allowance for aggradation.[15]

102. We therefore distinguish between the standard of protection for which the scheme is designed and any suggestion that it will provide that protection for a guaranteed period. The proposal provides protection against a specified design event, incorporating the assumptions adopted for that event; it does not provide a guarantee of protection for a fixed number of years. As aggradation, climate change and channel morphology evolve, an event producing the design water level may occur more frequently unless the scheme and river system are appropriately monitored and managed.

103. We do not consider that uncertainty prevents determination of the applications or materially diminishes the positive effects of improving flood protection for Te Karaka.

STATUTORY CONSIDERATIONS

National Planning Instruments

104. Before turning to the s.104D gateway test, we consider it necessary to address the relevant national planning instruments. These higher-order instruments provide important context for the interpretation and application of the TRMP objectives and policies against which the proposal must be assessed.

105. A number of national planning instruments are in play with respect to this application.

[15] Evidence of Cristian Hadad Westphal, 22 September 2026 at [12]–[16]

106. Those instruments include:

- National Policy Statement for Freshwater Management (**NPS-FM**).
- National Policy Statement for Highly Productive Land (**NPS-HPL**).
- National Policy Statement for Infrastructure (**NPS-I**).
- National Policy Statement for Natural Hazards (**NPS-NH**).

and the respective standards:

- National Environmental Standards for Freshwater (**NES-F**).
- National Environmental Standards for Assessing and Managing Contaminants in Soil to Protect Human Health (**NES-CS**).
- Resource Management (Measurement and Reporting of Water Takes) Regulations 2010.

107. The following assessment addresses the relationship between the NPS-HPL, the NPS-NH and the NPS-I in respect of the application.

108. Setting aside for the moment the technical issues concerning natural hazard flood risk that are discussed elsewhere in this decision, it was common ground between the planning experts for the Applicant and the Regulatory Authority that the application had regard to the relevant provisions of the national planning instruments identified and that, in the term used by the s.42A author Ms. Michalakis, was not "*contrary to*" those provisions.[16]

109. That conclusion was re-confirmed by Mr Exeter and Ms. Michalakis in their Planning JWS.[17]

110. Mr Ross Muir, planning expert for Burgess Family Trust[18], disagreed with respect to the NPS-HPL. While he accepted that the application was for a specified infrastructure activity (as defined[19]), for which the NPS-HPL provides an exemption under implementation clause 3.9(2), he noted that that clause contains a proviso in 3.9(3), which he considered had not been sufficiently assessed.

111. We cite the relevant parts of NPS-HPL clause 3.9:

> *(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 …*

[16] S.42A Report, Section [6.2] – [6.11].
[17] Joint Witness Statement of planning experts, 9 October 2026, at [5.17].
[18] The Burgess Family Trust land is the first property "outside" the eastern stopbank not within the footprint of the application and, therefore, not directly protected by the stopbank.
[19] The NPS-HPL defines *specified infrastructure* to include "any public flood control, flood protection … carried out by … a local authority.".

(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…

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

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

(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.

112. In respect to clause 3.9(2), we consider the inquiry to be more straightforward than the planner experts' assessments. Clause 3.9(2) requires only that at least one of the listed circumstances applies. In our view, the proposal plainly falls within clause 3.9(2)(b), as works intended to address the significant flood hazard affecting Te Karaka address a high risk to public health and safety. Therefore, it is not necessary to consider the functional need/operational need pathway.

113. That conclusion does not, however, end the inquiry under clause 3.9 as to whether the proposal is an inappropriate use of highly productive land that must be avoided. Whichever of the clause 3.9(2) pathways is relied upon, the exception remains expressly subject to the measures in clause 3.9(3) being applied. The substantive issue for us is therefore not whether flood-protection works may occur on highly productive land, but whether appropriate measures have been taken to minimise or mitigate the actual or potential cumulative loss of the availability and productive capacity of that land.

114. There was no dispute that compartments of LUC 2 soils would be affected by parts of the proposal, including the horticultural land of the Burgess Family Trust.

115. In response to Mr Muir, the Planning JWS stated:

> *We consider the functional need is clear, and that loss of productive capacity is minimised as far as practicable through re-use of existing stopbank material, stripping and reinstating topsoil, reinstating borrow areas to pasture, locating borrow pits away from higher value soils, the proffered condition on re-use of excavated LUC 2 soils … and the fact that the projects (sic) more land than the existing stopbank. Reverse sensitivity effects are not expected from a stopbank.*[20]

116. That response does not completely address the policy requirement – which does not include the minimising qualifier "*as far as practicable*". The requirement is "to ensure"

[20] Joint Witness Statement of planning experts, 9 October 2026, at [5.13]

that the loss is either minimised or mitigated. Furthermore, the requirement to avoid (if possible) reverse sensitivity effects also brings into focus upstream and downstream effects. We were told (by submitter Coates for example) that the new activity, the stopbanks, will have effects on existing lawfully established productive activities toward and at the upper end of the design flood scale.

117. While the Planning JWS relies for its conclusion on consideration of the project as a whole, that conclusion does not hold for individual properties and their specifically affected highly productive land. Put another way, if the only stopbank required was, for instance, on the Burgess Family Trust land, it could not be said that it satisfied the requirement.

118. However, it must be noted that the clause 3.9(3)(a) requirement takes as its scale reference "the district", not individual parcels or properties. The question, then, is whether the design considered alternatives that would meet the objective whilst minimising the loss of highly productive land - since the mitigation strategy in this respect relies upon the PWA, the outcome of which is incomplete and, as yet, unknown and therefore cannot be said to be accomplished.

119. The alternatives assessment report[21] records that the initial options list contained 9 options subsequently reduced to a longlist of 6 options (the do-nothing option not being considered). The final longlist contained one option upgrading the existing stopbank (Option 1) and five options involving stopbank retreat variations – two of which involved relatively minimal retreat of the eastern stopbank (Options 2 and 3) with significant northern stopbank retreat of between 160 m and 300 m+.

120. Following a Multi-variate Criteria Assessment (MCA) workshop four options were shortlisted – including Options 1 and 3 (which were renumbered Options 1 and 2 in the shortlist). In the final analysis shortlist Option 3 was selected as the preferred option – also being the option that had significant retreat of both northern and eastern stopbanks.

121. The MCA was assessed under four categories – Delivery, Long Term, Environment, and Flood Benefits.

122. Relevantly, the MCA criteria did not consider productive land as a stand-alone criterion – those being: Feasibility, Consentability, Environmental (ecology and landscape), Natural processes, Flood risk reduction to residential properties, and Flood risk reduction to other assets (critical infrastructure and productive land). The preferred Option 3 was the only option to score positively as a benefit on the "other assets" criterion – which weighted critical infrastructure more heavily, particularly the Kanakanaia Bridge and the oxidation pond. The summary report (Appendix 6) is silent on how (or whether) productive land was weighted in the assessment.

[21] Application Appendix 6 – Stopbank Alignment Options Assessment, T+T, September 2025.

123. Similarly, the Consequential Flood Risk Assessment[22] focuses, unsurprisingly, on constructed assets – buildings (Residential and Marae), roads, bridges, the Puha Substation, and Te Karaka Wastewater Treatment Plant.

124. While this demonstrates that productive land was not wholly overlooked, the material before us does not clearly disclose how effects on productive land were identified or weighted separately from effects on critical infrastructure, nor does it provide a comparative assessment of the extent and productive capacity of LUC 2 land affected by each option. We therefore place limited weight on the MCA as demonstrating that the preferred option was selected through a process that specifically sought to minimise the loss or impairment of highly productive land in the district.

125. The conditions proposed to re-use and manage disturbed soils go some way to minimising or mitigating any actual loss or potential cumulative loss of the availability and productive capacity of highly productive land in the district. However, there are still unmitigated effects of increased flooding on highly productive land as demonstrated in Mr Muir and Mr Wilson's evidence for the Burgess Family Trust.

126. We are satisfied that the proposal qualifies for the pathway in clause 3.9(2)(b), as it addresses a high risk to public health and safety. The more difficult issue is whether the requirements of clause 3.9(3) are fully achieved. Meaningful mitigation measures are proposed, however, those measures do not fully address the loss of productive capacity that may arise from increased flood exposure. We therefore find that a residual tension with clause 3.9(3) remains, particularly for properties where increased flood exposure may materially affect established productive activities.

127. While the general injunction is to attempt to reconcile potential conflicts between or within higher order instruments there will be instances where that is not possible. In this instance we have clear prescriptions in the NPS-I and NPS-NH that support a flood prevention strategy and associated stopbank.

128. The Planning JWS agreed that the project is subject to the NPS-I and the NPS-NH, noting that it constituted "additional infrastructure" under cl.1.4 of the NPS-I and that its associated activities (earthworks, vegetation clearance and culverting) were ancillary infrastructure activities. As such the injunctive directives of the Objective and Policy 1 "*must ensure … recognised and provided for … enable*" are to be given their full weight. That is supplemented by Policy 2 with its direction " …. *must recognise …. operational … or functional need to operate in, be located in, or traverse particular locations and environments*."

129. Other specific NPS-I policies identified included:

> *Policy 4(1)(f)(i) (enabling upgrades that improve resilience to natural hazards), Policy 4(2) (the infrastructure provider identifies the preferred location), Policy 7 (regard to the selection of route, site and method, and mitigation and conditions proportionate to the scale of effects) and Policy 9 (enabling major upgrades, read alongside other national direction and plans where section 6 values are affected).*[23]

[22] Application Appendix 8 – Te Karaka Consequential Flood Risk Assessment, T+T, April 2026.
[23] Joint Witness Statement of planning experts, 9 October 2026, at [5.6]

130. With respect to the NPS-NH, the Planning JWS notes that the exemption afforded to *infrastructure* is not in play as stopbanks are not covered by the RMA definition. It concludes that, as a natural hazard risk reduction measure, Policy 4 is the key consideration, which states:

> *Where subdivision, use or development, including any associated mitigation measures, will create or increase significant natural hazard risk on other sites, that risk must be avoided or mitigated using an approach that is proportionate to the level of natural hazard risk.*

131. The evidence was that no dwellings outside the benefit area are assessed as being very high risk; the Rangatira Road and Kanakanaia Road bridges remain in their current risk category; the best available information is being used; and proportionate mitigation provided (including floor raising, relocation or acquisition), emergency management measures and the proposed conditions.

132. The Planning JWS conclusion and prioritisation of the NPS-I and NPS-NH over the NPS-HPL was supported in Mr Watts' reply submissions for the Applicant.[24]

Finding

133. While we have expressed doubt about consistency with the NPS-HPL above, we are satisfied that any tension thereby created is, as Mr Watts noted, resolved in favour of the NPS-I and NPS-NH. That is not to say that the effects on highly productive land including productive soils can simply be set aside. We discuss that issue later in this decision.

134. That conclusion also informs our assessment of the relevant TRMP objectives and policies.

S.104D Gateway Test

135. Section 104D provides a gateway test for non-complying activities, with two alternative limbs, one of which must be passed before consent can be granted, requiring either that the activity's adverse effects will be minor (s.104D(1)(a)) <u>or</u> that the activity is not contrary to the relevant plan objectives and policies (s.104D(1)(b)). As we have determined that the applications should be bundled and assessed as a non-complying activity, s.104D applies.

136. If either limb is satisfied, the application passes the s.104D gateway and can then proceed to be determined having regard to the relevant considerations under s.104. Therefore, we need to address the gateway test first.

<u>Adverse Effects Limb</u>

137. The first limb, s.104D(1)(a), requires the Panel to be satisfied that the adverse effects of the activity on the environment will be minor. We do not consider that threshold is met.

138. During the hearing there was common ground between the planning experts that adverse consequential flood effects would be more than minor at some locations. In his

[24] Reply legal submissions, 9 October 2026, at [5.7]-[5.9]

evidence in chief, Mr Exeter expressly acknowledged that the technical assessments identified more than minor adverse effects at specific locations and, if the proposal were bundled as non-complying, he relied on the objectives and policies limb of s.104D rather than the effects limb to pass the gateway test.[25] Similarly, Ms. Michalakis concluded in her s.42A report that the proposal would generally result in some adverse effects assessed as more than minor, while her finding that the first limb of s.104D was met related specifically to the flap gate when assessed separately.[26] However, in the post-hearing Planning JWS filed by Mr Exeter and Ms. Michalakis, the planners reached a different conclusion, agreeing that the adverse effects would be no more than minor and that the first limb of s.104D was therefore satisfied.

139. The Planning JWS contains a number of findings that particular adverse effects would be adequately mitigated or managed through the revised conditions. However, it does not explain the planning experts' change from their previously expressed position that adverse effects would be more than minor at some locations, nor does it provide an overall assessment explaining how the individual findings on effects led to the conclusion at section 5.22 of their JWS that the adverse effects of the proposal would be no more than minor.

140. We have considered the planners' revised position but do not find it persuasive. Given the position taken in Mr Exeter's evidence in chief, the s.42A report and during the hearing, and based on the evidence provided by the hydrology, river engineering and horticultural experts, we are not satisfied that the planners revised conclusion provides a sufficient basis for finding that the adverse effects of the proposal will be no more than minor. More fundamentally, having considered the evidence before us, we consider that some of the adverse effects of the proposal such as consequential flooding effects are plainly capable of being more than minor. This is not a case where the pluses and minuses can be said to simply balance each other out. There is no obvious benefit to those who will be newly exposed to the frequency or duration of the nuisance.

141. It is unnecessary for us to undertake a detailed assessment of each of the adverse effects of the proposal at this stage in the decsion. For the purposes of s.104D(1)(a), it is sufficient that we are not satisfied that the adverse effects of the activity on the environment will be minor. The proposal therefore does not pass the first limb of the s.104D gateway.

Objectives and Policies Limb

142. The second limb, s.104D(1)(b), requires the Panel to be satisfied that the application will not be contrary to the objectives and policies of the relevant plan, in this case the TRMP. For the purposes of s.104D(1)(b), the Panel has considered the relevant objectives and policies of the TRMP as a whole, and in the context of the aforementioned higher-order national policy direction.

[25] Evidence of Sven Exeter, 14 September 2026 at [11.2(iii) and 15.20–15.24]
[26] Section 42A report Section 9

143. Assessing the relevant objectives and policies of the TRMP naturally requires us to assess many of the principal issues raised in submissions, many of which were still in contention at the end of the hearing. We have done this in detail which will inform the additional matters we must have regard to, should the proposal pass the gateway test.

144. The applicable higher-order national policy direction, includes the following planning instruments:

- National Policy Statement for Freshwater Management (**NPS-FM**).
- National Policy Statement for Highly Productive Land (**NPS-HPL**).
- National Policy Statement for Infrastructure (**NPS-I**).
- National Policy Statement for Natural Hazards (**NPS-NH**).

145. In response to questioning from the Panel during the hearing, the planning experts were all in agreement that when assessing the objectives and policies of the TRMP it would be appropriate to take guidance from a relevant NPS where there may be conflict between a TRMP objective or policy and the direction of a more recent NPS.

146. In applying s.104D(1)(b), we have approached the word "contrary" as requiring more than some inconsistency, tension or failure by the proposal to fully achieve a particular objective or policy of the TRMP. The statutory question is whether the proposal is contrary to the relevant objectives and policies, rather than whether it is entirely consistent with, or gives effect to, every individual provision. That assessment requires the relevant provisions to be understood in their proper context and their overall thrust identified, rather than treating each objective or policy as a separate pass or fail test. Accordingly, the existence of conflict with, or tension under, one or more provisions does not necessarily mean that the proposal is contrary to the objectives and policies. The question is whether, having considered the relevant provisions together and given appropriate weight to those most directly engaged by the proposal, the proposal is opposed to or repugnant to the overall direction they establish.

147. Mr Exeter and Ms. Michalakis identified the objectives and policies of the TRMP that they considered relevant to the proposal and provided their detailed assessment of those provisions in Appendix A to their JWS. The provisions address, in broad terms, tangata whenua and cultural values, freshwater values, natural resources, historic heritage, land management including productive soils, natural hazards and flood risk, infrastructure, residential and rural zone objectives and the general avoidance, remediation or mitigation of adverse environmental effects.

148. Mr Exeter and Ms. Michalakis agreed, having considered those provisions as a whole and in the context of the applicable national policy direction, that the proposal was consistent with and not contrary to the relevant objectives and policies of the TRMP.[27]

149. Mr Muir reached a different conclusion as to whether the second limb of s.104D was satisfied. His evidence was particularly concerned with objectives and policies requiring the appropriate mitigation of adverse effects, including consequential flooding effects

[27] Joint Witness Statement of planning experts, 9 October 2026 at [5.19 and Appendix A]

and effects on productive land.[28] Our understanding is that Mr Muir, in his evidence in chief, did not disagree with the identification of the relevant TRMP objectives and policies in the application, the s.42A report or the evidence of Mr Exeter.

150. We therefore accept the Planning JWS as an accurate identification of the relevant TRMP objectives and policies for our consideration under s.104D(1)(b).

151. There are a number of objectives and policies identified in the Planning JWS where, after taking account of the mitigation measures proposed, and by the end of the hearing, we have not identified any material tension or conflict with the outcomes sought, including those concerning residential and rural zones, landscape, freshwater ecology and heritage and amenity, aside from construction related environmental effects.

152. Accordingly, we do not consider it necessary to address each provision individually. Our assessment instead focuses on those provisions where the proposal creates a genuine tension with the outcome sought, or where the proposal could arguably be regarded as inconsistent or contrary to a particular objective or policy.

Natural Hazards

153. The natural hazard provisions of the TRMP provide strong policy support for the proposal. Objective B5.1.2(1) seeks to reduce risks from natural hazards to people, property and infrastructure. That direction is implemented through the policies in B5.1.3 and the corresponding natural hazard provisions in C8.

154. The proposal responds directly to the significant existing flood hazard affecting Te Karaka. It will materially improve the level of protection afforded to the township, its residents and important community and lifeline infrastructure. We consider those outcomes strongly advance Objective B5.1.2(1).

155. The same direction is evident in Objective C8.1.3(1), which seeks a pattern of human settlement that provides a high level of personal safety from natural hazards, avoids or mitigates risk to property and infrastructure, and does not accelerate or worsen the adverse effects of natural hazards on the natural and physical environment. The substantial reduction in flood depth and hazard within the proposed protected area of Te Karaka clearly advances the first two of those outcomes.

156. Policy B5.1.3(2) recognises the limitations of attempting to control natural processes through physical works and identifies the circumstances in which such intervention is appropriate. These include protection of existing development and public infrastructure, a favourable benefit-to-cost ratio, confidence in the long-term effectiveness of the works, and that the works represent the only practical alternative. The corresponding provisions in C8.1.4 adopt a similar approach. The project is directed primarily at protecting an established community and existing infrastructure rather than facilitating new development within a hazard prone area. The retreat approach also provides

[28] Evidence of Ross Muir, 22 September 2026 at [12.19 – 12.20]

greater room for the river, reduces hydraulic pressure and breach risk and allows lower stopbanks than a more confined alignment.

157. The proposal also materially advances Policy C8.1.4(2) through the reduction of risks to life, property and infrastructure. Residual risks are addressed through the proposed conditions and emergency-management measures, including the updated Flood Evacuation Contingency Plan.

158. There is, however, an important qualification. Policy B5.1.3(2)(d) requires that physical hazard-control works do not cause or worsen hazards to other land or waters. That direction is reflected in Policies C8.1.4(4) and C8.1.4(5), particularly C8.1.4(5)(d), which require consideration of whether development induces or accelerates natural hazard risk through matters including diversion of floodwaters and changes to flood conditions.

159. Those provisions are directly engaged by the consequential flooding effects identified in the evidence and raised by submitters. The Coates Family accepted the wider public benefits of improved protection for Te Karaka but questioned whether it was appropriate to increase flooding effects on upstream properties and whether those effects had been sufficiently identified and addressed. Neta Worsley raised concerns about redirected flood flows and the level of protection afforded to Takipū, while Daniel Moran raised concerns about increased flood effects on his property and the vulnerability of bridge infrastructure. Similar concerns were raised by Pine Hollow Family Trust, which submitted that the eastern alignment would place more of its property on the flood prone side of the stopbank and raised particular concerns regarding drainage, ponding and the adequacy of proposed culverts. The s.42A report records these concerns as part of a wider submission theme concerning the transfer of flood risk to land outside the proposed protected area.

160. As we have addressed under Preliminary Matters above, we accept the hydraulic modelling as an appropriate basis for comparing the existing and proposed arrangements and assessing the likely consequential effects of the project. We have, however, approached the predicted property specific outcomes with caution given the inherent uncertainty associated with future river behaviour and flood events. We do not repeat that evidential assessment here.

Finding on Natural Hazards Provisions

161. We find that the proposal therefore does not achieve all of the outcomes sought by the natural hazard provisions without qualification. While flood risk is substantially reduced within Te Karaka, some land outside the proposed protected area will experience increased or redistributed flood risk. That creates genuine tension with B5.1.3(2)(d), C8.1.4(4), and C8.1.4(5)(d). We do not discount those effects simply because substantially greater benefits accrue within the proposed protected area.

162. Overall, however, we consider that the proposal strongly advances the principal outcomes sought by Objective B5.1.2(1), Policy B5.1.3(2), Objective C8.1.3(1) and the

corresponding C8.1.4 provisions. It materially reduces significant existing flood risk to people, property and critical infrastructure within Te Karaka and does so through a retreat approach that provides greater room for the river and reduces residual breach risk. While the consequential effects outside the proposed protected area create genuine tension with particular aspects of B5.1.3(2) and C8.1.4, we do not consider that tension sufficient to make the proposal contrary to the natural hazard objectives and policies when those provisions are read as a whole.

Land Management and Productive Soils

163. We first consider it important to make a distinction between the focus of the TRMP land management provisions and that of the NPS-HPL. The relevant TRMP provisions, namely Objective B8.3.1 and policies B8.3.2(1) and B8.3.2(3), are principally expressed in terms of protecting highly fertile, versatile or productive soils, including their life-supporting capacity, and avoiding their permanent or long-term loss as well as adverse effects. The NPS-HPL takes a broader approach, being concerned with the availability and productive capacity of highly productive land for land-based primary production. We also note that land management objectives and policies under C7 of the TRMP are also relevant in a more general sense in terms of the objectives to maintain the life supporting capacity of soils and avoid, remedy or mitigate adverse effects.

164. That distinction noted above is material in this case. For example, in relation to the Wi Pere Trust land, the evidence does not establish that the productive soil resource itself will be permanently lost. The soil will largely remain in place and capable of supporting productive use. This weighs in favour of consistency with the TRMP provisions directed specifically to permanent or long-term loss of productive soils. However, the predicted increase in inundation frequency may constrain the range, intensity and reliability of productive activities undertaken on that land. That consequence is more directly engaged by the broader concept of productive capacity under the NPS-HPL.

165. The provisions are particularly relevant to a number of properties affected by the proposal. Submissions from the Burgess Family Trust, Kenneth and Karen McLanachan and the Wi Pere Trust each raised concerns about effects on productive soils or productive capability, although the nature and magnitude of those effects differ between properties. The Coates Family also raised concerns regarding consequential flooding effects on productive farmland.

166. Scott Wilson, giving horticultural evidence for the Burgess Family Trust, considered that increased flood velocities could result in greater damage to orchard trees and infrastructure, soil scouring and loss of productive topsoil, siltation, and effects on tree health and productivity.[29] He ultimately considered that the changed flood risk profile could materially affect the future viability of the property as a commercial orchard and that future land use may need to move away from permanent cropping.

167. Mr Craig, for the Regulatory Authority, identified a related limitation in the hydraulic evidence. He considered that, although further information had been provided on flood depths, velocities and hazard at affected properties, the evidence did not fully address

[29] Evidence of Scott Wilson, 11 September 2026 at [21]–[35]

uncertainty concerning changes in the frequency and duration of inundation of productive land. In his opinion those characteristics were relevant because effects on productive land may depend not only on maximum depth and velocity, but also on how often inundation occurs, how long it persists, and the potential delayed smothering effects of deposited silt.[30]

168. Mr Craig specifically referred to the Burgess orchard and productive land held by Wi Pere Trust as examples of the issue arising. He concluded that there remained uncertainty regarding the baseline flood regime and incremental change caused by the proposal, particularly in terms of flood frequency and duration on productive land, which limited the hydraulic information available to characterise the change experienced by affected landowners.[31]

169. Mr Muir, planning expert for the Burgess Family Trust, relied on Mr Wilson's specialist horticultural evidence when assessing the planning implications and considered that the relevant assessment needed to address productive capacity more broadly than merely the physical loss of productive soils.[32]

170. The McLanachan submission outlined that the existing stopbank on their property largely follows the LUC 3 soils and protects much of the LUC 2 resource, whereas the proposed alignment would place almost all of their LUC 2 soils on the flood prone side of the stopbank. They expressly characterise the result as a loss of productive and versatile land available for pastoral farming and an adverse effect on their economic wellbeing.

171. The Wi Pere Trust property comprises approximately 21.2 ha, of which some 17 ha is presently protected by the Te Karaka Flood Scheme and includes LUC2 land. Under the Applicant's preferred alignment, nearly 12 additional hectares would be placed outside the stopbank. The Application estimates and inundation frequency of land from approximately 1 in 40 years to 1 in 5 years, with the Planning JWS accepting that the principal consequence is a change in what can be grown rather than permanent physical loss of the soil.

Finding on Land Management and Productive Soils

172. The permanent physical loss of highly fertile and versatile soils appears relatively confined. Much of the affected soil resource will remain in place and retain its life-supporting capacity, and the construction methodology and proposed conditions provide mechanisms for the protection, handling and reinstatement of soils disturbed by the works. Those considerations are materially consistent with the outcomes sought by Objective B8.3.1 and policies B8.3.2(1) and B8.3.2(3) and the C7 land management provisions.

173. We nevertheless find some tension with the outcomes sought by the provisions. The proposal redistributes flood risk and, for some productive properties, increases exposure to inundation. The consequences differ between properties. In relation to the Wi Pere Trust, the principal productive land concern is the potential restriction on the

[30] Evidence of Andrew Craig, 08 October 2026 at [21]–[24]
[31] Evidence of Andrew Craig, 08 October 2026 at [21]–[23]
[32] Evidence of Ross Muir, 22 September 2026 at [5.3]–[5.4] and [7.9]–[7.11]

range and reliability of future productive uses. In the case of the Burgess Family Trust, the evidence identifies consequences for an established intensive horticultural activity, including production, orchard infrastructure and potentially its longer-term viability. More generally, other submitters, including the Coates Family, raised concerns about increased consequential flood effects on productive farmland.

174. We do not consider those effects should be discounted merely because the productive soil physically remains in place. They are relevant to the broader policy recognition in B8 of the importance and sustainable use of the productive soil resource. Equally, we do not consider the TRMP provisions can properly be interpreted as though they contain the broader and more directive productive capacity regime subsequently established by the NPS-HPL.

175. Accordingly, when the TRMP land management objectives and policies are read as a whole, we consider the proposal is not fully consistent with all of the outcomes they seek, but nor do we find it contrary to them. The residual tension arises principally from increased flood exposure potentially diminishing productive use of the soil resource on particular properties. Set against that are the limited permanent physical loss of productive soil, the retention of its life-supporting capacity, the measures proposed to protect and reinstate disturbed soils, and the continued ability to undertake productive activity on much of the affected land.

176. We reach that conclusion on the terms of the TRMP itself. We have had regard to the NPS-HPL as relevant higher-order context but have not used it to expand the TRMP provisions beyond their language. The broader question of whether reduced flood protection adversely affects the availability or productive capacity of highly productive land, notwithstanding the physical retention of its soils, is more appropriately and directly addressed in our separate assessment under the NPS-HPL.

Infrastructure

177. The relevant TRMP infrastructure provisions, namely Objectives C2.1.3(1) and (2), provide support for the proposal. They recognise the role of infrastructure in enabling the social, economic and cultural wellbeing of communities, while also requiring its adverse effects to be appropriately avoided, remedied or mitigated. The proposal plainly engages both aspects of that policy direction. It will provide substantially improved flood protection for Te Karaka but will also increase flood risk or impose other adverse effects on some properties and infrastructure outside the proposed protected area. Mr Exeter acknowledged that distribution of benefits and adverse effects expressly in his evidence.[33]

178. The infrastructure benefits themselves are substantial. Those benefits include protection of life and personal safety, homes and businesses, education and community facilities, and essential wastewater infrastructure.[34]

[33] Evidence of Sven Exeter, 14 September 2026 at [1.4]–[1.6] and [22.1]–[22.4.
[34] Evidence of Sven Exeter, 14 September 2026 at [1.4]–[1.6]

179. There is nevertheless an important infrastructure tension associated with the Rangatira Road and Kanakanaia Road bridges. The Applicant's technical assessments identify increased hydraulic and structural loading and increased scour depths at both bridges as a result of the proposal under the design event. In relation to Kanakanaia Road Bridge, the preliminary assessment also identifies an existing risk of structural failure under the design event, irrespective of the proposed upgrade.[35] Mr Westphal, corroborated by Mr Craig, both for the Regulatory Authority, considered further assessment necessary to establish the overall bridge capacity and any strengthening or remediation requirements attributable to the proposal.[36]

180. The Applicant proposed to address the associated access and emergency management risk through the evacuation framework. Mr Ruifrok, for the Applicant, identified potential alternative access arrangements if either bridge became unavailable during a significant flood event and proposed that the Te Karaka Flood Evacuation Contingency Plan be reviewed and updated.[37]

181. We have also considered the concerns raised by Pine Hollow Family Trust in relation to its established equestrian business at 2424 Matawai Road. The Trust identified a range of effects arising from the eastern stopbank alignment and associated works, including effects on access to grazing land and the Waipaoa River, disruption from borrow pits and haul roads, drainage and culvert performance, removal of shelter vegetation, noise and vibration, water supply and the safe continued operation of the riding school and trekking business. These matters are relevant particularly to those TRMP provisions concerned with appropriate design and operation of infrastructure within the rural environment including maintaining rural amenity, effects on existing rural activities and adjoining properties.

Finding on Infrastructure Provisions

182. We do not regard the infrastructure provisions as unqualified support for the proposal despite the obvious and substantial benefits of the proposal. There is tension between providing infrastructure that materially improves community resilience and the increased loading imposed on existing transport infrastructure, consequential flooding effects on properties outside the proposed protected area, maintaining rural amenity and managing effects on existing rural activities.

183. We acknowledge the adverse effects on Pine Hollow Family Trust from the perspective of the operation of that particular property and business. However, many of the effects identified are associated with the construction phase and are capable of being addressed through detailed design and appropriate consent conditions, including provisions relating to property access, reinstatement, construction management, noise and vibration, drainage and continuity of essential services. We therefore regard the Pine Hollow evidence as reinforcing the need for careful property specific management rather than demonstrating that the proposal is contrary to the relevant rural land use

[35] Section 42A report, section headed "Bridges"; see also 1.0-APPLICATION-Te-Karaka-Stopbank-Upgrade, section 6.9.5.2 regarding Kanakanaia Road Bridge.
[36] Evidence of Cristian Hadad Westphal, 22 September 2026 at [19]–[21]
[37] Evidence of Joss Ruifrok, 14 September 2026 at [9.14]–[9.16]

and infrastructure provisions.

184. There is some tension with Objective C2.1.3(2), because not all adverse effects of the proposal will be avoided, remedied or mitigated. However, we are mindful of the significant benefits of the proposal in enabling a large proportion of the Te Karaka community to provide for and enhance their environmental, social, cultural and economic wellbeing.

185. On balance, we find that the proposal is not contrary to the relevant infrastructure provisions of the TRMP.

Tangata Whenua, Cultural Values and Māori Land

186. There are a number of Tangata Whenua provisions in the TRMP which reflect principles of the Treaty of Waitangi, matters related to Section 6(e) Part 2 RMA including ancestral land and consultation with tangata whenua. We address these in our finding below. We note that there are a number of properties affected by the proposal which are whenua Māori including but not limited to the Wi Pere Trust land, which is also ancestral Māori land, and the land relating to Maraea Cookson's submission on behalf of the Kewa/Katipa/Cookson whānau.[38]

187. The Panel also records an important development during the hearing. Te Aitanga ā Māhaki Trust had been a party to a joint submission supporting the proposal. The Application documentation outlines they were actively involved through steering groups, community hui, optioneering workshops and decision-making discussions. Their submission referred to the importance of improved flood protection for community wellbeing, resilience and safety. However, on the second day of the hearing that support was withdrawn, with reference made to a breakdown in the relationship with the Applicant. We have therefore not relied on the original submission as demonstrating continuing tangata whenua support for the proposal. We also consider that the withdrawal of the submission does not invalidate the engagement process undertaken by the Applicant with Te Aitanga ā Māhaki Trust.

188. The position of Wi Pere Trust requires separate consideration. Wi Pere Trust described its property as ancestral land for the purposes of s.6(e) RMA, held through the Trust since 1899 for approximately 600 beneficial owners. Its case was that removing the protection of the existing stopbank adversely affects the relationship of mana whenua with that ancestral land, particularly because of the implications for intended horticulture and papakāinga development. Alan Haronga, giving evidence for Wi Pere Trust, explained that representatives of Te Aitanga ā Māhaki involved in the wider engagement process would not necessarily have understood or expressed the Trust's particular interests and concerns. While the Trust strongly supports improved flood protection for Te Karaka, Mr Haronga recorded its strong opposition to the current proposal.[39] He advised that approximately 17 ha of the Trust's 21.2 ha property is currently protected and that the proposal would place nearly 12 additional hectares

[38]Application at [7.2.4]

[39] Evidence of Alan Haronga, 25 September 2026, at [19]

outside the stopbank and within the floodplain.

189. The Trust's preference was for greater consideration of strengthening and raising the existing stopbanks, rather than proceeding with the proposed relocation, and it sought proper recognition of the effects on its ancestral Māori land.

190. Wi Pere Trust also questioned whether the options assessment adequately recognised the particular social and cultural consequences for the Trust, its ancestral land and its beneficial owners, and disputed the proposition that engagement with wider tangata whenua interests adequately represented the Trust's particular perspective.[2] Conversely, Joss Ruifrok, giving evidence for the Applicant, described direct engagement with Wi Pere Trust during development of the options, including the provision of an early alignment plan and presentation of the four shortlisted options to the trustees.[3]

191. We also had regard to the submission of Maraea Cookson on behalf of the Kewa/Katipa/Cookson whānau and the Applicant's response to the submission. The application identifies Te Karaka 16A as Māori land, and Ms. Cookson provided a localised perspective on the relationship of the whānau with that whenua, including the cultural significance of Waihora Hill (Waihora). Of some relevance to the tangata whenua provisions, Ms. Cookson advised that she had sought direct consultation with the Applicant but had not had the opportunity for the kōrero she was seeking before submissions closed. Following receipt of her late submission, the Applicant responded to the matters she raised, and Ms. Cookson presented those concerns to us at the hearing. Her evidence concerning Waihora was also subsequently addressed in the Planning JWS. We have taken both the earlier limitations in direct engagement and the subsequent consideration of the whānau concerns into account in assessing the proposal against the tangata whenua provisions. We understood Ms. Cookson to be supportive of the proposal overall.

192. We also had regard to the submission of Māhaki Tiaki Tangata. This iwi led emergency response organisation made its own supportive submission and acknowledged the collaborative approach used by the Applicant in developing the proposal.

193. The proposal engages a number of related tangata whenua provisions in Part B1 of the TRMP. These include Objective B1.2.1(1) and the associated policies in B1.2.2, concerning the principles of Te Tiriti o Waitangi and, in particular, rangatiratanga, partnership and active protection. They also include the kaitiakitanga and consultation provisions in B1.3.1 and B1.3.2, and Objectives B1.4.2(1) and (2) concerning the preservation and protection of sites of value to Māori and recognition and provision for the relationship of Māori with their culture, traditions, ancestral lands and other resources.

194. In considering those provisions as a whole, we give weight to the engagement undertaken with tangata whenua during the development of the project. The evidence records a partnership approach with Te Aitanga ā Māhaki, with the iwi and two local marae actively involved in the project and informing the preferred stopbank alignment. The s.42A assessment also records that conditions addressing cultural and mana whenua matters were developed with input from Te Aitanga ā Māhaki. We consider

those matters relevant particularly to the partnership and active protection principles in B1.2.2(3) and (4) and to B1.3.2, including its direction concerning consultation with tangata whenua.

195. We also recognise that tangata whenua interests are not necessarily uniform. In particular, the interests and concerns of the Wi Pere Trust require separate consideration. The Planning JWS records that, while the Trust is a statutory trust rather than an iwi or hapū, its approximately 600 beneficial owners exercise kaitiakitanga over their whenua and that mana whenua groups do not necessarily hold the same views. We therefore do not regard the broader engagement with Te Aitanga ā Māhaki, or its position on the proposal, as resolving the particular issues raised by the Trust.

196. The Wi Pere Trust's ancestral land and continuing relationship with it engages Objective B1.4.2(2), which seeks to recognise and provide for the relationship of Māori with their culture, traditions, ancestral lands and other resources. The Planning JWS identified this as the TRMP provision most directly relevant to the Trust's submission and recognised its relationship to s.6(e) of the RMA.

197. The Trust's concerns are consequently broader than the physical footprint of a new stopbank. They include the consequences of withdrawing the existing level of flood protection for its relationship with the whenua and its ability to use and develop that land for the benefit of present and future beneficiaries. That dimension is also relevant to the Rangatiratanga Principle in B1.2.2(2) and the Active Protection Principle in B1.2.2(4).

198. The Trust's aspirations for permanent horticulture and papakāinga illustrate the relationship between cultural connection and future use of the whenua. We address the effects on the productive potential of the LUC 2 land separately in our assessment of the NPS-HPL. For present purposes, we consider the significance of those aspirations lies principally in what they demonstrate about the Trust's continuing and intergenerational relationship with its ancestral whenua. In relation to papakāinga specifically, we distinguish between an existing use or development opportunity and an aspiration for future development that may become more difficult as a consequence of increased flood exposure. In our view these are not matters amenable to PWA compensation.

199. We have considered the alternative stopbank alignment in the above context. The alternative avoids locating the new stopbank directly across the Wi Pere Trust whenua and would largely avoid construction effects on that property. The Planning JWS considered this relevant to the autonomy of the Trust in respect of its ancestral land. That is relevant to Objectives B1.4.2(1) and (2) and warrants some recognition.

200. However, we do not regard the alternative alignment as resolving the substantive concerns raised by the Trust. Those concerns extend beyond physical occupation of the land by the stopbank to the consequences of removing the flood protection presently afforded to the whenua. Accordingly, the alternative alignment is properly regarded as avoiding a particular form of direct effect on ancestral land, rather than mitigating the

full range of effects identified by the Trust.

201. The proposed conditions are also material to our assessment. The Planning JWS considered that temporary construction effects on the Wi Pere Trust land could be managed to an acceptable level through the proposed conditions, while acknowledging that cultural effects on that land were arguably more pronounced than cultural effects generally. The Planning JWS also contemplated conditions specific to the Trust in its role as kaitiaki of its land if considered warranted by the Panel. More broadly, the fact that cultural and mana whenua conditions were developed with Te Aitanga ā Māhaki input provides some assurance that cultural values have been incorporated into the manner in which the works will be undertaken.

202. We nevertheless distinguish between construction related cultural effects, which we accept can appropriately be managed through conditions, and the longer-term implications of increased flood exposure for the Wi Pere Trust's relationship with its ancestral whenua. The latter cannot properly be regarded as having been resolved through construction management conditions.

Finding on Tangata Whenua, Cultural Values and Māori Land Provisions

203. Drawing these matters together, we consider that the proposal has responded meaningfully to tangata whenua interests, but not uniformly or completely. The engagement with Te Aitanga ā Māhaki, Māhaki Tiaki Tangata and local marae, their involvement in development of the preferred alignment, and the incorporation of cultural measures into the proposed conditions are important considerations under the partnership, active protection, kaitiakitanga and consultation provisions in B1.2 and B1.3.

204. At the same time, we recognise a degree of tension with the tangata whenua provisions in respect of the Wi Pere Trust land specifically, particularly the recognition of rangatiratanga and active protection sought by B1.2.2, and Objective B1.4.2(2) concerning the relationship of Māori with ancestral land. The Trust's concerns about the implications of increased flood exposure for its continuing and intergenerational relationship with its whenua remain unresolved. We have not treated either the alternative alignment or the proposed conditions as removing those concerns.

205. On balance, however, when the tangata whenua objectives and policies are read as a whole and the full range of tangata whenua interests affected by the proposal is considered, we find that the proposal is not contrary to those provisions. That conclusion does not depend upon finding complete consistency with every provision or that all tangata whenua concerns have been addressed. Rather, it reflects the broader engagement and partnership undertaken, the positive flood protection benefits for tangata whenua living within Te Karaka, the incorporation of cultural values into the project's design and conditions, the measures available to avoid and manage cultural effects, and our recognition of the residual effects and policy tension associated with the Wi Pere Trust ancestral whenua.

Overall Finding on TRMP Objectives and Policies

206. Overall, we find that the proposal is not contrary to the relevant objectives and policies of the TRMP. In particular, it strongly advances the natural hazard and flood management outcomes sought by the Plan by materially reducing flood risk to the established Te Karaka community and important infrastructure. We have not identified any material conflict with the provisions relating to freshwater, river works, rural land use, ecology, landscape, heritage or amenity that would alter that overall finding. This is consistent with the ultimate conclusion reached in the Planning JWS.

207. That conclusion does not mean that the proposal is wholly consistent with every relevant objective and policy. We have identified areas of tension, particularly where the proposed realignment increases flood exposure for properties outside the proposed protected area. Those effects have implications for productive soils and land use and, in the case of the Wi Pere Trust, for the relationship of its beneficiaries with ancestral land. We have not treated those effects as being resolved simply by the overall benefits of the project, the availability of compensation under the PWA, the alternative alignment, or the proposed conditions.

208. In relation to tangata whenua provisions, we give weight to the broader engagement undertaken during development of the project and to the incorporation of cultural values into its design and conditions. At the same time, the concerns of the Wi Pere Trust remain relevant to the provisions concerning rangatiratanga, active protection and the relationship of Māori with ancestral land. Similarly, while the physical loss or degradation of productive soils is relatively limited and can largely be managed through construction and reinstatement measures, increased flood exposure may constrain the productive use of some Māori land. We therefore find some inconsistency with particular outcomes sought by the TRMP, but not opposition to the policy framework as a whole.

209. Considering the relevant objectives and policies together, we find that those areas of tension are not sufficient to make the proposal contrary to the TRMP objectives and policies overall. We are therefore satisfied that the proposal passes the second limb of the gateway test in s.104D(1)(b) and can proceed to be considered under s.104. This conclusion also accords with the joint position ultimately reached by Mr Exeter and Ms. Michalakis in their Planning JWS.

Section 104

210. Section 104 RMA sets out the matters to which we must have regard. Section 104 is subject to Part 2, which states the purpose and principles of the Act. That is well known and need not be repeated here. Furthermore, s.104 expressly provides that, in considering the application, we must not have regard to:

    (a) the hierarchy of obligations in clauses 1.3(5) and 2.1 of the NPS-FM, in accordance with s.104(2F); and

(b) trade competition or the effects of trade competition, in accordance with s.104(3).

211. We confirm that we have not had regard to those matters.

Actual and Potential Effects on the Environment

212. Section 104(1)(a) requires us to have regard to the actual and potential effects on the environment of allowing the proposal. In the following assessment, we address the positive and adverse effects identified through the application, submissions and evidence, including the extent to which adverse effects are avoided, remedied or mitigated through the design of the proposal and the proposed conditions. We focus on those matters material to our determination and, where relevant, rely on findings made elsewhere in this decision rather than repeating that analysis.

Positive Beneficial Effects

213. The proposal will produce substantial positive effects for Te Karaka and the wider community. These benefits were widely recognised by submitters, including many of those in opposition. Its principal benefit is the material reduction of the existing flood risk to people, homes, businesses, community facilities and essential infrastructure within the proposed protected area.

214. The modelling identifies flooding benefits for 215 buildings, including 179 residential dwellings. The proposal will also improve the resilience of important community and lifeline infrastructure, including education and community facilities, the wastewater treatment plant and associated transport and service connections. These benefits are particularly significant given the extensive flooding experienced during Cyclone Gabrielle and the demonstrated vulnerability of the existing stopbank system.

215. The retreat of parts of the stopbank will also provide more room for the Waipaoa River, increase floodplain capacity through the relevant reach, improve flood conveyance and reduce hydraulic pressure and residual breach risk compared with retaining a more confined alignment. The proposal therefore provides benefits not only through the increased height and standard of flood protection, but also through a more resilient overall configuration of the flood management system.

216. There will also be positive social and economic effects arising from greater personal safety, reduced risk of damage and disruption, and increased resilience and security for the Te Karaka community. The proposal will better enable residents, businesses and community organisations within the proposed protected area to continue to provide for their social, economic and cultural wellbeing following significant flood events. Those effects extend beyond the avoidance of physical damage and include improved community resilience, continuity of essential services and greater confidence in emergency response and recovery.

217. As addressed in our assessment of the TRMP objectives and policies, these are substantial benefits and strongly advance the Plan's principal natural hazard, flood

management and infrastructure outcomes.

218. The benefits are nevertheless not permanent. The proposal is appropriately understood as providing a medium-term improvement in flood resilience, designed to a 1% AEP event with an allowance for climate change, rather than guaranteeing protection for a specified period. Future aggradation, climate change and changes in river morphology may progressively affect that level of protection, requiring ongoing monitoring and management.

219. While the positive beneficial effects are substantial, we do not, however, treat those positive beneficial effects as cancelling out the adverse effects experienced by properties and activities outside the proposed protected area. Those effects require separate consideration, to which we turn below

Consequential Flooding Effects

220. Consequential flooding is the most significant adverse effect of the proposal. The proposal deliberately alters the way floodwaters are conveyed and distributed across the floodplain in order to provide increased protection to Te Karaka. The consequence is that some properties outside the proposed protected area will experience increased flood depth, velocity and/or hazard relative to the existing situation.

221. As previously referenced, the Applicant's modelling identifies approximately 10 ha of land as newly flooded and 157 ha as experiencing an increase in hazard category in the design event. It also identifies adverse consequential flooding effects on 23 buildings, including six residential dwellings.[40] It is acknowledged that these effects occur within a wider environment already subject to flooding, but they represent an incremental increase in flood exposure attributable to the proposal. Mr Exeter acknowledged that these effects should not be understated.[41]

222. We also acknowledge the Applicant's evidence that the alternative stopbank options involved different distributions of flood risk and that increased protection for Te Karaka could not be achieved without consequential changes in flood behaviour elsewhere. The preferred retreated alignment was considered to provide the best overall balance, including lower upstream consequential flooding effects than upgrading the stopbanks on their existing alignment.[42]

223. The effects of consequential flooding are not confined to the physical depth or velocity of floodwater. Depending on the property and degree of increased exposure, the evidence and submissions identified potential adverse effects including:

- increased hazard across productive land and implications for its productive capacity and reliability, including the concerns raised by the Burgess Family Trust in

[40] Evidence of Sven Exeter, 14 September 2026 at [14.4] and [16.17]
[41] Evidence of Sven Exeter, 14 September 2026 at [1.6]
[42] Supplementary Evidence of Joss Ruifrok, 29 September 2026 at [2.2]–[2.8] and Table 1; see also Resource Consent Application for Te Karaka Flood Scheme Upgrade, assessment of consequential flooding.

relation to the commercial orchard;

- loss or reduced availability of higher ground used for stock management during flood events, as raised by Kenneth and Karen McLanachan;
- changes to the viability and resilience of established horticultural and farming activities;
- constraints on the future use and development of land, including the Wi Pere Trust aspirations for horticulture and papakāinga on its ancestral whenua;
- effects on the relationship of Māori landowners and beneficiaries with ancestral whenua; and
- more generally, effects on the utility, accessibility and flexibility of affected properties.

224. These effects are reflected in the evidence of Mr Westphal, who specifically identified the concerns raised in relation to the Burgess orchard, the McLanachans' grazing and stock management activities and the Wi Pere Trust land when considering the consequences of increased flooding on productive land.[43]

225. The Coates Family Trust submission sought conditions providing for monitoring of actual consequential flooding effects following implementation of the proposal and a mechanism for further mitigation where effects prove greater than predicted.[44] We understand the basis for that request, particularly given the uncertainties inherent in predicting future flood behaviour. However, the evidence before us does not establish an appropriate flood event threshold or other objective trigger for a property specific monitoring regime. We do not consider it appropriate to devise such a regime through the conditions without an adequate evidential basis.

226. We consider it important not to assess consequential flooding simply by reference to the number of dwellings or buildings affected. Nor is the relevant effect exhausted by whether land remains physically capable of rural production. An increase in flood hazard can affect the utility, reliability, flexibility and future development potential of land without rendering that land unusable. Those consequences are particularly relevant where an affected property supports an established productive activity, where access or isolation is affected, or where land has particular ancestral and cultural significance.

227. While we accept the modelling as an appropriate basis for identifying the direction and relative scale of consequential flooding effects, the evidence does not fully characterise all of the consequences for productive land. Mr Westphal identified remaining uncertainty regarding changes in the frequency and duration of inundation. He considered those characteristics relevant because the consequences for productive land may depend not only upon maximum flood depth or velocity, but also upon how often inundation occurs and how long it persists (i.e. frequency and duration).[45]

[43] Evidence of Cristian Hadad Westphal, 22 September 2026 at [24]–[27]
[44] Legal Submissions Coates Family Trust, 25 September 2026
[45] Evidence of Cristian Hadad Westphal, 22 September 2026 at [24]–[27]

Mitigation of Consequential Flooding Effects

228. The proposed conditions provide a number of mechanisms directed at mitigation of consequential flooding effects. We accept that these measures are meaningful and materially reduce some of the risks associated with the proposal. They do not, however, eliminate the underlying redistribution of flood risk, nor do they address all of the consequential effects identified in the evidence.

229. The final design report condition proposed provides an important safeguard against consequential flooding effects becoming materially worse through detailed design. Any changes must be supported by technical evidence demonstrating that they do not materially alter the anticipated environmental outcomes or materially increase consequential flooding effects.

230. In addition, there is the ability to include consequential flooding effects on properties outside the proposed protected area as a matter capable of being addressed through a s.128 RMA review condition. This does not remove the residual effects identified above or predetermine the outcome of any future review but would preserve a mechanism for the Regulatory Authority to consider whether the conditions remain appropriate if operational experience identifies adverse consequential flooding effects requiring a consent condition response.

231. Specific mitigation is proposed at 103 Kanakanaia Road, the property owned by Tracy Wilson, where significant consequential flooding effects on habitable buildings must be reduced to an acceptable hazard category through measures such as floor raising, unless otherwise agreed with the landowner through the alternative mechanism provided by the condition.[46] Mr Exeter assessed the consequential flooding effect at this property as significant because the modelled flood hazard increases from H1 to H5 during the design event.[47]

232. The planning experts for the Applicant and the Regulatory Authority agreed that this condition sufficiently addressed the adverse flooding effects on that property.[48]

233. The conditions also require the Te Karaka Flood Evacuation Contingency Plan to be updated to respond to increased flood hazard, including updated hazard and evacuation mapping, warning systems and trigger points, alternative evacuation routes and road and bridge closures.[49] These measures do not prevent consequential flooding from occurring, but they reduce its potential consequences for life safety and community access.

234. The conditions therefore provide effective mitigation for particular components of the consequential flooding effects. We do not, however, agree with the Planning JWS

[46] Joint Witness Statement of planning experts, Proposed Consent Conditions, 09 October 2026, "Consequential flooding effects mitigation at 103 Kanakanaia Road".
[47] Rebuttal Evidence of Sven Exeter, 24 September 2026, at [1.32] and [1.35]
[48] Joint Witness Statement of planning experts, 09 October 2026 assessment of TRMP Policy C8.1.4(3).
[49] Joint Witness Statement of planning experts, Proposed Consent Conditions, 09 October 2026, Condition 6

conclusion that increased flood risk is proportionately mitigated such that the adverse effects will be no more than minor overall. There remains a material gap between mitigation of particular consequences, principally effects on habitable buildings, life safety and emergency response, and mitigation of the full range of consequential flooding effects established by the evidence.

235. In our view, those matters make it inappropriate to conclude that the residual consequential flooding effects are no more than minor simply because particular building and life-safety effects are subject to mitigation.

236. The conditions go some way to appropriately addressing particular components of the consequential flooding effects. However, there is a material gap between mitigation of those components and mitigation of the full range of consequential flooding effects established by the evidence. We have difficulty accepting the Planners JWS conclusion that increased flood risk would be proportionately mitigated and that the proposed consent conditions and mitigation measures would result in adverse effects being no more than minor. Mr Exeter, in his rebuttal evidence, accepted that conditions cannot completely mitigate the operational effect on horticulture at the Burgess Family Trust property.[50] For some properties and in some circumstances, adverse effects would be more than minor and potentially significant. For example, a significant effect could arise where increased flood exposure materially compromises the viability or resilience of an established productive activity, such as the Burgess Family Trust orchard.

Finding on Consequential Flooding Effects

237. We therefore find that, while the proposed conditions will avoid or mitigate some of the consequential flooding effects, they do not fully avoid, remedy or mitigate the effects of the redistribution of flood risk outside the proposed protected area. Material residual adverse effects will remain which, considered overall and recognising the uncertainties identified above, are more than minor. For particular properties and in particular circumstances, those residual effects may be significant, including at levels below the design flood event. We do have concerns about the drafting of some of the conditions in the Planners JWS and turn to these matters later in this decision.

<u>Effects on Productive Land</u>

238. We have already addressed the effects of increased flood exposure on productive land and rural activities as part of our assessment of consequential flooding effects. We do not repeat that assessment here. This section is confined to the more direct effects of the proposal on productive land arising from the location and physical presence of the stopbank and associated construction works.

239. The proposal traverses productive rural land, including LUC 2 soils. Direct effects include the permanent occupation of land within the stopbank footprint, potential severance of productive areas, changes to property access and configuration, and temporary

[50] Rebuttal Evidence of Sven Exeter, 24 September 2026, at [1.10]

disturbance associated with earthworks, borrow areas, stockpiling and construction access. The Planning JWS recognised effects associated with the stopbank footprint, borrow areas and severance of productive land.[51]

240. The effects extend beyond the area of soil physically occupied. On individual properties, the stopbank may influence paddock configuration, movement of stock and machinery, drainage, fencing and access between productive areas, potentially affecting the efficient operation of the property. This was an issue highlighted in the neutral submission of Stephen Newman.[52]The magnitude of those effects will depend on the particular property and alignment.

Mitigation of Effects on Productive Land

241. The proposed conditions provide meaningful mitigation of the construction related effects on productive land. In particular, they require topsoil from LUC 2 land to be stripped, appropriately stockpiled and reinstated where practicable; borrow excavations to avoid higher value soils where practicable; exposed areas to be progressively stabilised; and borrow areas to be progressively reinstated following construction.[53] These measures formed part of the mitigation relied upon by the planning experts for the Applicant and Regulatory Authority in concluding that loss of productive capacity had been minimised as far as practicable.

242. Those measures will substantially mitigate temporary soil disturbance and enable affected land to return to productive use. They cannot, however, remedy the permanent occupation of land beneath the stopbank or any ongoing severance, access or operational effects created by its alignment. To the extent that those effects arise from the permanent acquisition or occupation of private land for the scheme, matters of land acquisition and compensation may also fall to be addressed through the separate processes available under the PWA. We have not treated any entitlement to compensation under that Act as mitigation of environmental effects under the RMA but recognise that it forms part of the separate statutory framework applying to the consequences of the proposal for affected landowners.

Finding on Effects on Productive Land

243. Overall, we find that these direct residual effects on productive land will be no more than minor. That finding reflects the relatively confined permanent footprint, the continued availability of surrounding land for productive use and the mitigation secured through the proposed conditions. It is separate from, and does not diminish, our earlier finding that consequential flooding effects on productive land and rural activities are more than minor and may, in particular circumstances, be significant.

[51] Joint Witness Statement of planning experts, 09 October 2026 at [5.11]–[5.13]
[52] Submission of Stephen Newman, 02 August 2026
[53] Joint Witness Statement of planning experts, Proposed Consent Conditions, 09 October 2026, conditions relating to Earthworks, Borrow Areas and Reinstatement and Land Disturbance/Productive Soils

Effects on Freshwater Ecology

244. The proposal involves works within and adjacent to waterbodies, including vegetation clearance, earthworks, culvert works and associated sediment-generating activities. Those activities have the potential to adversely affect water quality, aquatic habitat, fish passage and freshwater ecological values.

245. The technical assessments relied upon in the s.42A report concluded that, subject to the proposed mitigation measures, residual effects on freshwater habitat, fish passage, ecological values and water quality would generally be low, with cumulative ecological effects remaining minor.

246. By the conclusion of the hearing, the freshwater ecology experts were substantially aligned. Mr Arthur, on behalf of the Regulatory Authority, advised that he had no outstanding ecological concerns following discussion with the Applicant's expert Dr Hicks. In particular, they agreed that the conditions appropriately address ecological review of culvert design, fish passage, ongoing culvert monitoring and maintenance, fish salvage and management of construction effects on freshwater environments.

Finding on Freshwater Ecology Effects

247. The conditions provide direct and enforceable mitigation of the principal freshwater ecological effects, while the culvert works have the potential to improve fish passage relative to the existing perched culvert arrangement. We therefore find that, subject to those conditions, the residual adverse effects on freshwater ecology will be no more than minor.

Effects of Construction Noise and Vibration

248. Construction of the stopbank will involve substantial earthworks, heavy machinery and vehicle movements over an extended construction period. The potential effects include elevated construction noise and vibration at neighbouring properties, although the evidence was that the highest noise levels would generally be intermittent and of relatively short duration at any individual receiver. The s.42A report concluded that, with the proposed Construction Noise and Vibration Management Plan (CNVMP) and associated conditions, those effects would be minor.

249. A particular issue arose in relation to Pine Hollow Family Trust and its established equestrian activities at 2424 Matawai Road. The Trust's concerns extended beyond ordinary amenity effects. It was concerned that construction noise, vibration and machinery movements could affect horses in proximity to the works, with consequential implications for rider safety and the continued operation of the riding school and horse-trekking activities.

Mitigation of Construction Noise and Vibration

250. Those concerns resulted in specific mitigation being incorporated into the proposed conditions. The CNVMP is required to address procedures for responding to neighbour

concerns and complaints, monitoring noise and vibration during the works, corrective actions, and ensuring that contractors and operators understand the requirement to minimise noise and vibration effects on neighbouring properties as far as practicable.

251. Importantly, the conditions submitted with the Planning JWS also includes specific measures for 2424 Matawai Road, informed by the expert acoustic evidence of Mr Jamie Exeter, including:

- communication with Pine Hollow about the timing and duration of works so that paddock rotation can, where practicable, be used to avoid or minimise noise effects on horses;
- an 85 dB LAmax limit in areas occupied by horses at rest or grazing;
- minimum setback distances, with and without mitigation; and
- controls on activities capable of producing sudden noise events, including avoiding truck tailgates being slammed when horses are within 30 m.

252. Those measures sit alongside the property specific Access and Operations Management Plan for 2424 Matawai Road, which is to be prepared in consultation with the property owner and addresses matters necessary for the continuation of the equestrian activities during construction, including horse-trekking access across the stopbank and continuous vehicle access to and within the property.

253. The Planning JWS records that the planners considered the Pine Hollow concerns specifically and incorporated the resulting property specific controls into their agreed consent conditions. In that context, the final conditions represent a more tailored response than the generic CNVMP originally proposed, recognising the particular sensitivity of horses and the operational requirements of the existing equestrian activity.

Finding on Construction Noise and Vibration Effects

254. We accept that construction noise and vibration will at times be noticeable and potentially disruptive, particularly on properties immediately adjoining the works. For Pine Hollow Family Trust, the potential consequences extend to the safe and effective operation of its equestrian activities and accordingly warrant the specific mitigation described above.

255. However, these effects are a necessary component of a construction project, are temporary in nature and capable of active management. We are satisfied that the combination of the CNVMP, monitoring and corrective action requirements, communication with affected landowners and the specific controls applying to Pine Hollow provides an appropriate and enforceable mitigation framework. We therefore find that the residual adverse construction noise and vibration effects can be appropriately mitigated and will be no more than minor.

<u>Construction Effects - Dust, Traffic and on General Amenity</u>

256. Along with the noise and vibration effects identified in the proceeding section, earthworks, truck movements, vegetation clearance, stockpiling and construction access will also generate temporary effects from dust, traffic movements, disruption to access

and general loss of residential and rural amenity. The s.42A report recognised that these activities may occur concurrently at different locations over the construction period.

257. These effects need to be considered in the context that construction may extend over several seasons. The consent framework itself provides a five-year construction period to accommodate potential delays.

258. Construction will temporarily increase heavy vehicle movements on the local road network and State Highway 2. The application refers to approximately 80 truck and trailer movements per day associated with movement of material over periods of two to four months and 60 aggregate delivery movements per day for approximately two to three months.

Mitigation and Finding on Construction Effects

259. The effects are addressed principally through the construction management framework, including the Construction Environmental Management Plan (CEMP), erosion and sediment controls, noise and vibration management, traffic controls and progressive site reinstatement.

260. The Regulatory Authority's development engineer raised no construction traffic safety concerns.

261. We accept that construction will cause periods of inconvenience and disruption to neighbouring properties. In our view, however, the effects are temporary, localised and substantially capable of management through the conditions. We find these effects to be appropriately mitigated and no more than minor.

Contaminated Land

262. The proposal also involves soil disturbance in locations potentially subject to the NES-CS. The application accordingly includes a controlled activity under regulation 9 of that instrument.

263. The Regulatory Authority’s environmental health review by Ms Sykes considered the potential effects arising from contaminated soils and hazardous substances, including risks associated with soil disturbance and potential contaminant pathways.

Mitigation and Finding on Contaminated Land Effects

264. Given the nature of the activity and the proposed controls such as the Site Management Plan, we are satisfied that the potential effects associated with contaminated soil disturbance including risk to human health can be appropriately managed. We find the residual adverse effects to be no more than minor.

Effects on Water Quantity and Allocation

265. The proposal includes temporary takes from the Waipaoa River for construction

purposes, principally dust suppression, wheel washing, concrete make-up water and reinstatement. Our understanding is that the principal issue is that the Waipaoa River catchment / Poverty Bay Flats water quantity zone is over allocated, such that additional abstraction requires careful consideration notwithstanding the temporary nature of the proposed take.

266. The Planning JWS records agreement on much of the approach to managing the proposed water take but identifies the A Block take as one of the few matters on which the planners remained in disagreement. Mr Exeter sought to retain an alternative allowing a larger A Block take of 30 L/s and 149.5 m^3/day, subject to cessation below a river flow of 1,300 L/s, whereas Ms Michalakis, relying on the expert advice of Ms Sarah Thompson, supported limiting the A Block take to the TRMP permitted volumes 5 L/s and 10 m^3/day per property.[54] The clean JWS condition set adopts the latter approach.

267. The agreed condition set includes a B Block take of no more than 30 L/s and 1,000 m^3/day, which must cease when flow at the Kanakanaia Bridge monitoring site falls below 4,000 L/s. The conditions also restrict the purposes for which water may be used and require metering, recording and reporting of the B Block take.[55]

Mitigation and Finding on Effects on Water Quantity and Allocation

268. Condition 60 separately refers to an A Block take of no more than 5 L/s and 10 m^3/day per property.

269. To the extent that condition 60 simply reflects an existing permitted activity entitlement under the TRMP, we do not consider it necessary or appropriate to replicate that entitlement as a condition of consent. That matter is more appropriately identified by way of an advice note, with the consent conditions confined to regulating the water take requiring consent.

270. Subject to the B Block minimum flow cessation requirement and the associated monitoring and reporting conditions, and taking into account the intermittent use of the water, we are satisfied that the effects of the water take requiring consent can be appropriately avoided or mitigated and will be no more than minor.

<u>Effects on Transport Infrastructure, Access and Isolation</u>

Effects on Bridge Infrastructure

271. The proposal has potential adverse effects on the Rangatira Road Bridge and Kanakanaia Road Bridge. Both provide important access to rural properties outside the proposed protected area, such that the consequences of increased flood loading extend beyond effects on the structures themselves to access, isolation, evacuation and emergency response.

[54] Joint Witness Statement of planning experts, 09 October 2026 at [6.2] and Appendix C, Condition 60
[55] Joint Witness Statement of planning experts, 09 October 2026 at [section 6.2 and Appendix C, Conditions 59–64.]

272. These matters were raised particularly by Daniel Moran and Jenny Moran, and in the Walmsley submission. They expressed concern about increased hydraulic loading and scour at the two bridges and the consequences for residents reliant on those transport connections. Mr Exeter accepted that this was a "legitimate concern" and that the increase in risk was real and undisputed.[56] Daniel Moran sought bridge protection or upgrading and emphasised the function of the Rangatira Road Bridge as a public access and civil defence connection, while Jenny Moran also raised the potential for residents to become isolated before the stopbank itself is overtopped.

Expert Evidence on Effects on Bridge Infrastructure

273. The technical evidence gives substance to those concerns. Mark Hooker, for the Applicant, confirmed that the proposal will increase hydraulic loading on both bridges and increase estimated scour depth by up to approximately 0.7 m at Rangatira Road Bridge and 0.8 m at Kanakanaia Road Bridge, representing around 10% of total calculated scour depth. He noted that the additional scour further increases bending demand on the bridge piles.[57]

274. Mr Hooker relied on the preliminary structural assessment undertaken on behalf of the Applicant by Oz Ben-Ezra. That assessment was specifically directed to the change in hydraulic loads and scour resulting from the proposal under the 5,625 m^3/s design event. It was, however, a preliminary assessment and did not comprise a full assessment of the structural capacity of all bridge elements.

275. Of particular concern is the Kanakanaia Road Bridge. The preliminary checks by Mr Ben-Ezra indicated that its columns are likely to have inadequate capacity under the design flood under both the existing and proposed scenarios. Mr Hooker concluded that the additional effects caused by the proposal "may be significant, particularly for Kanakanaia Bridge", and that the degree of risk and any need for structural strengthening could not be determined without a detailed bridge assessment.[58]

276. We recognise that both bridges are already vulnerable to significant flood events. That vulnerability forms part of the existing environment. For example, the Rangatira Road Bridge was constructed in 1959 to accommodate an event estimated at approximately 3,500 m^3/s, materially below the 5,625 m^3/s design event adopted for this proposal.

277. Mr Westphal, advising the Regulatory Authority, concluded that further assessment is required to establish overall bridge capacity and any strengthening or remediation requirements and recommended a consent condition requiring this assessment.[59] Mr Craig, also on behalf of the Regulatory Authority, corroborated this evidence.[60]

278. Mr Westphal also identified a related unresolved issue concerning debris blockage at the

[56]Planning Evidence of Sven Exeter, 14 September 2026 at [16.33]–[16.34]
[57] Evidence of Mark Hooker, 14 September 2026 at [10.14]–[10.17]
[58] Evidence of Mark Hooker, 14 September 2026 at [1.7] and [12.7]
[59] Evidence of Cristian Hadad Westphal, 22 September 2026 at [19-21]
[60] Evidence of Andrew Craig, 08 October 2026 at [18]–[20]

bridges. He noted that debris loading had not been assessed and could represent a more critical loading case. In particular, the potential consequences of debris blockage for upstream design water levels and the residual 600 mm freeboard had not been demonstrated. He recommended that credible debris blockage scenarios be assessed during detailed design, together with any consequential changes required to design levels or mitigation.[61]

279. The Applicant took a different view of the materiality of this risk. Mr Foote relied on observations and GDC video footage from Cyclone Gabrielle indicating no significant accumulation of woody debris at the Rangatira Road or Kanakanaia Road bridges. He also considered that, because design event water levels exceed the bridge decks and there is substantial bypass capacity at Rangatira Road Bridge, debris blockage is unlikely to materially affect the modelled flood levels.[62]

280. We accept that debris blockage remains a credible uncertainty but prefer the Applicant's evidence that it is unlikely to materially affect modelled flood levels, having regard in particular to the observations during Cyclone Gabrielle and the hydraulic characteristics of the bridges. We nevertheless consider it appropriate that credible debris blockage is taken into account through detailed design to the extent necessary to confirm its implications for upstream design flood levels and available freeboard.

281. We consider that the Final Design Report required by proposed Condition 2, should demonstrate that it has included consideration of credible debris blockage scenarios at the Rangatira Road Bridge and Kanakanaia Road Bridge and demonstrate that any resulting effects on upstream design flood levels and available stopbank freeboard have been appropriately accounted for in the final design. We do not consider the evidence establishes a need to require structural modification of either bridge on account of debris loading.

Mitigation of Effects on Bridge Infrastructure

282. The Planning JWS condition set addresses the consequences of increased flood hazard principally through Condition 6, which requires the Te Karaka Flood Evacuation Contingency Plan to be updated. The Plan must address increased flood hazard risk at the Kanakanaia Road Bridge and Mangaone Road, including updated hazard and evacuation mapping, warning systems and trigger points, advance warning of alternative routes, evacuation and road or bridge closures, and measures to reduce risks to community health and safety.

283. Mr Ruifrok, for the Applicant, similarly identified potential alternative access arrangements should either the Rangatira Road Bridge or Kanakanaia Road Bridge become unavailable during a significant flood event and supported review and updating of the evacuation plan.[63]

[61] Evidence of Cristian Hadad Westphal, 22 September 2026 at [17]–[18]
[62] Evidence of Dean Foote, 07 September 2026 at [7.7]–[7.11]
[63] Evidence of Joss Ruifrok, 14 September 2026 at [9.14]–[9.16]

284. We accept that the updated Flood Evacuation Contingency Plan provides meaningful mitigation of the life-safety, evacuation and isolation consequences associated with the increased risk to the bridges. We nevertheless recognise that these measures do not reduce the additional hydraulic loading or scour imposed on the bridges themselves.

285. We have considered carefully the recommendations of Mr Westphal and Mr Craig that further structural assessment be required by condition, particularly given Mr Hooker's evidence that the additional effects may be significant at Kanakanaia Road Bridge and cannot presently be quantified without further assessment. We also recognise, however, that both bridges have existing vulnerabilities to significant flood events and that the proposal before us does not include structural upgrading of either bridge.

286. Importantly, the evidence does not establish that either bridge will fail as a consequence of the proposal in the design event. Rather, it identifies an incremental increase in loading and scour which adds to an existing structural risk, particularly at Kanakanaia Road Bridge. In those circumstances, we consider it necessary to distinguish between an identified potential for bridge closure or failure and a finding that such failure is a likely or inevitable consequence of allowing the proposal.

287. We have considered whether the conditions should nevertheless require further structural assessment and implementation of any strengthening or remediation identified through that assessment. On reflection, we do not consider such an open-ended condition appropriate. Structural upgrading of the bridges does not form part of the application, the extent of any works that might ultimately be required has not been established, and such a condition could potentially require substantial infrastructure works extending materially beyond the scope of the proposal.

288. There is also a practical difficulty in seeking to isolate and remedy only the incremental effect of the proposal where the evidence identifies pre-existing structural vulnerability. In particular, the preliminary assessment indicates that the Kanakanaia Road Bridge columns are likely to have inadequate capacity in the design flood under both the existing and proposed scenarios. We do not consider the resource consent process for this proposal provides an appropriate basis for requiring the Consent Holder to remedy those wider existing deficiencies.

289. We consider the more appropriate response is to ensure that the consequences of bridge closure or failure are expressly anticipated and managed. Proposed condition 6 already requires the updated Te Karaka Flood Evacuation Contingency Plan to address increased flood hazard risk, warning and trigger points, alternative routes, evacuation arrangements and bridge and road closures. We consider that requirement should be strengthened to expressly recognise the potential closure or failure of either the Rangatira Road Bridge or Kanakanaia Road Bridge during a major flood as a credible contingency.

290. The updated Plan should therefore identify:

- appropriate monitoring, warning and pre-emptive bridge closure triggers;
- properties and residents potentially isolated by the closure or failure of either bridge;
- practicable alternative egress and evacuation arrangements;
- arrangements for timely warning and communication with affected residents; and
- arrangements for emergency access, evacuation and response where normal road access is unavailable.

291. That approach is also consistent with Mr Ruifrok's evidence identifying potential alternative access arrangements should either bridge become unavailable during a significant flood event. It responds directly to the matters raised by submitters concerning isolation, evacuation and emergency access without extending the scope of the stopbank consent to require an as yet undefined programme of bridge strengthening.

292. We nevertheless regard the engineering evidence concerning the vulnerability of the bridges as important. In particular, the evidence has identified issues that should inform the Council's wider management of its roading, bridge and flood protection infrastructure. While structural assessment and any broader upgrading of the bridges fall outside the scope of the applications before us, this decision places the infrastructure owner on notice of those matters.

Finding on Effects on Bridge Infrastructure

293. We therefore find that the proposal will result in an incremental increase in hydraulic loading and scour at the Rangatira Road Bridge and Kanakanaia Road Bridge, against a background of existing vulnerability. The evidence does not establish that either bridge will fail as a consequence of the proposal in the design event, but bridge closure or failure remains a credible low frequency, potentially high consequence risk which must be appropriately planned for.

294. Subject to strengthening proposed Conditions 2 and 6 as described above, we are satisfied that the life-safety, access, evacuation and isolation consequences of that risk can be appropriately managed.

Effects on Road Raising and Road Safety

295. The proposal includes road raising where the stopbank interacts with Rangatira Road and sections of State Highway 2. Glen Randall, for the Applicant, specifically addressed transport, road safety and design associated with those road raising works, relying on the preliminary Road Safety Audit and subsequent design response.[64] The s.42A report ultimately assessed adverse transport effects from road raising as minor, subject to conditions. NZTA made a submission on the application and considered that the raised stopbank would provide some resilience benefit to State Highway 2. It recorded that a

[64] Evidence of Glen Randall, 14 September 2026

Road Safety Audit had been undertaken and that its Senior Safety Engineer had no outstanding concerns provided that the identified mitigation was incorporated into final design.[65]

Mitigation of Effects on Road Raising and Road Safety

296. Proposed condition 83 of the Planners JWS requires design/construction drawings for the Rangatira Road raising and vehicle crossings to be certified before commencement. The design must address vertical alignment, pavement and surfacing, traffic services, earthworks, stormwater, and long-term erosion and sediment control, and comply with the relevant Council standards or Austroads.

Finding on Effects on Road Raising and Road Safety

297. We accept the transport evidence that the road raising works can be safely accommodated through detailed design. This conclusion is supported by the Road Safety Audit process and the position of NZTA, which identified no outstanding safety concerns provided the recommended mitigation is incorporated into final design. We find the residual adverse effects of the road-raising works to be no more than minor.

Effects on Cultural Values and Ancestral Land

298. We have considered tangata whenua interests, cultural values and effects on whenua Māori in detail in our assessment of the relevant TRMP objectives and policies. We adopt those findings for the purposes of s.104(1)(a) and do not repeat the underlying evidence here. We have also addressed the physical effects of increased flood exposure on affected land, including whenua Māori, separately under consequential flooding.

299. At a wider mana whenua level, we recognise both the substantial flood protection benefits the proposal will provide to tangata whenua living within Te Karaka and the extent to which mana whenua engagement influenced the development and selection of the proposal. Mr Ruifrok's evidence records the active involvement of Te Aitanga ā Māhaki throughout the optioneering process, including in the development, assessment and refinement of options, and strong support through that process for the "making room for the river" approach.[66]

300. As recorded earlier in this decision, the Te Aitanga ā Māhaki submission was subsequently withdrawn. As discussed earlier, we do not view the withdrawal as undoing the engagement undertaken through the development of the scheme or the influence that engagement had on its design. We consider that history remains relevant to our assessment of the proposal's effects on cultural values at the wider mana whenua level.

301. However, those wider benefits and that engagement do not determine the effects on individual areas of whenua Māori. The proposal affects a number of such properties, including the Wi Pere Trust land and land associated with Maraea Cookson's submission

[65] NZTA Submission on Application
[66] Supplementary Statement of Evidence of Joss Ruifrok, 29 September 2026 at [2.8]–[2.13]

on behalf of the Kewa/Katipa/Cookson whānau. As we found in our TRMP assessment, the interests of Māori landowners and whānau are not necessarily uniform, and wider mana whenua support does not displace the need to recognise particular relationships with ancestral land. That distinction is expressly reflected in Alan Haronga's evidence for the Wi Pere Trust.[67]

Mitigation of Effects on Cultural Values and Ancestral Land

302. Cultural considerations have influenced both the design of the proposal and the proposed conditions. We accept that the construction management, freshwater, ecological and discovery protocols provide appropriate mitigation for the direct and temporary cultural effects of construction. The Planning JWS similarly concluded that cultural effects generally would be no more than minor.

303. In relation to the Wi Pere Trust, the alternative alignment provides further mitigation by avoiding the physical location of the new stopbank on the Trust's land and giving the Trust greater autonomy as to whether the stopbank traverses its whenua. That mitigation does not, however, address the Trust's principal concern, which relates to the removal of existing flood protection and the implications for the continuing and intergenerational use of its ancestral whenua, including its papakāinga and horticultural aspirations.

Finding on Effects on Cultural Values and Ancestral Land

304. Overall, and for the reasons set out more fully in our TRMP assessment, we find that the general cultural effects of the proposal, considered at the wider mana whenua level, will be no more than minor. We also give weight to the substantial positive effects of improved flood protection for tangata whenua living within Te Karaka and to the influence of mana whenua engagement on the development of the proposal.

305. That conclusion does not mean that the effects on all whenua Māori or Māori landowners are no more than minor. As identified in our consequential flooding assessment, increased flood exposure may have more substantial property specific consequences for the use of whenua Māori and for the ability of its owners and beneficiaries to maintain and develop their relationship with that land. The Wi Pere Trust ancestral whenua is the clearest example before us. We have taken those residual effects into account under consequential flooding and do not regard either the wider mana whenua engagement or the construction related cultural mitigation as removing them.

<u>Landscape and Visual Effects</u>

306. The proposal will result in a permanent change to the local landscape through the increased scale and changed alignment of the stopbanks, associated road raising and vegetation removal. These changes occur within an already modified rural landscape where productive land uses and existing flood protection works are established features.

[67] Evidence of Alan Haronga, 25 September 2026 at [19]–[20]

307. Landscape and visual effects were assessed for the Applicant by Stefan Steyn a landscape architect from WSP and independently peer reviewed by Sophie Fisher for the Regulatory Authority. Through her rebuttal evidence, Sophie Fisher, considered that the majority of matters raised through her peer review had been appropriately addressed and that the Applicant's landscape assessment and subsequent evidence provided an appropriate response to the matters she had raised.[68]

Mitigation and Finding on Landscape and Visual Effects

308. Recommendations were made by the experts for mitigation planting for some properties. The Planning JWS records that mitigation planting was extended to 35 Paulson Road and Pine Hollow/2424 Matawai Road, alongside planting for other affected landowners and within the public realm.[69] We note that we could not find a landscape mitigation planting plan condition in the Planners JWS for the property at 2424 Matawai Road. We turn to this matter later in this decision.

309. We accept the substantially aligned landscape evidence. While the proposal will result in permanent changes to the landscape and more noticeable effects at some individual properties, those effects are relatively localised and can be appropriately mitigated through the proposed planting and reinstatement measures. We therefore find that the residual landscape and visual effects will be no more than minor overall.

Archaeological and Historic Heritage Effects

310. The proposal has the potential to encounter previously unidentified archaeological material during the substantial earthworks required. No material adverse effects on known historic heritage were identified in the evidence, and the proposed conditions include accidental discovery procedures to manage any archaeological material, kōiwi or taonga encountered during construction. We are satisfied that these measures provide appropriate mitigation and find the residual adverse archaeological and historic heritage effects to be less than minor.

Cumulative Effects

311. We have also considered whether the various adverse effects identified above may combine to produce a materially greater cumulative effect. Construction will involve earthworks, heavy vehicle movements, vegetation clearance, noise, vibration, dust and temporary disturbance of land and waterways occurring concurrently or sequentially across the project area. However, those effects are predominantly temporary and localised and are subject to the CEMP and the specific management and mitigation measures addressed above. We are satisfied that their cumulative effect will remain no more than minor.

312. With respect to the ongoing effects of the proposal, particularly for some of the

[68] Evidence Rebuttal of Sophie Fisher, Addendum 2: Evidence Rebuttal, Landscape Peer Review, 18 September 2026, at [3] and [8]
[69] Joint Witness Statement of planning experts, 09 October 2026, Assessment of B6.2.1 Objective 3

properties outside the proposed protected area, a different conclusion applies. The s.42A report identified that, while individual effects may be manageable in isolation, the combination of increased flood hazard, property impacts, potential acquisition or severance, uncertainty concerning mitigation, disruption to existing land uses and associated social effects has the potential to result in a greater overall effect on affected landowners.[70]

313. We agree. For some properties, the effect of the proposal cannot appropriately be understood simply by considering an increase in flood depth or hazard in isolation. An affected landowner may experience increased flood exposure together with reduced productive flexibility, effects on access or stock management, constraints on future use, uncertainty as to mitigation or acquisition, and disruption to the ongoing use and occupation of the property. Those effects may interact and compound one another.

Finding on Cumulative Effects

314. We are satisfied that the cumulative effect of construction effects will be no more than minor.

315. In terms of ongoing cumulative effects, these effects reinforce our earlier finding that the consequential flooding effects are more than minor overall and may, for particular properties and circumstances, be significant. We do not consider it necessary or appropriate to characterise the cumulative effects across all affected properties as significant in their own right. Rather, the cumulative assessment demonstrates why the effects on particular properties need to be considered in the round, rather than as a series of individually discrete effects.

<u>Overall Conclusion on Effects on the Environment</u>

316. Drawing the above matters together, we find that the proposal will result in substantial positive effects, principally through the significantly improved level of flood protection and resilience provided to Te Karaka, including its residents, businesses, community facilities and essential infrastructure. Those benefits are significant, although, for the reasons addressed earlier, they should be understood as providing an improved standard of protection rather than eliminating flood risk or guaranteeing that level of protection for a fixed period.

317. The proposal will also result in a range of adverse effects. Many are capable of being appropriately avoided, remedied or mitigated through the design of the proposal and the proposed conditions. These include the direct effects on productive soils, freshwater ecology and water quality effects, construction noise and vibration, landscape and visual effects, water-take effects, road safety and construction related effects. In those respects, and subject to the conditions discussed above, we find the residual adverse effects will generally be minor or less.

318. We have reached a more qualified conclusion in respect of effects on bridge

[70] Section 42A Report at [section 5.3.14, Cumulative Effects.]

infrastructure. The evidence establishes an incremental increase in hydraulic loading and scour at the Rangatira Road Bridge and Kanakanaia Road Bridge, against a background of existing vulnerability. However, the evidence does not establish that either bridge will fail as a consequence of the Project in the design event, and structural upgrading of the bridges does not form part of the proposal before us. We therefore do not consider it appropriate to require further structural assessment or upgrading through conditions of this consent. Instead, we consider that the potential closure or failure of either bridge should be expressly recognised as a credible contingency within the updated Te Karaka Flood Evacuation Contingency Plan, with appropriate warning and closure triggers, alternative egress and evacuation arrangements, communication with potentially isolated residents, and emergency access and response arrangements. Subject to that requirement, we are satisfied that the life-safety, access and isolation consequences associated with the incremental bridge risk can be appropriately managed.

319. Consequential flooding remains the principal adverse effect of the proposal. The proposal deliberately redistributes flood risk in order to provide greater protection to Te Karaka. The resulting effects extend beyond the identified buildings and dwellings to productive land and activities, stock management, access, the utility and future use of affected properties, and whenua Māori. The proposed conditions provide meaningful mitigation of some of those consequences, particularly in relation to habitable buildings, life safety and emergency response, but they do not eliminate the underlying increase in flooding and hazard experienced on land outside the proposed protected area.

320. We therefore find that the consequential flooding effects will not be fully avoided, remedied or mitigated. Material residual adverse effects will remain which, considered overall and recognising the uncertainties identified in the evidence, are more than minor. For particular properties and in particular circumstances, those residual effects may be significant. We have also considered the potential for those effects to operate cumulatively, including where increased flood hazard combines with impacts on productive activities, access, land use, occupation and future opportunities. That cumulative consideration reinforces, rather than alters, our finding as to the significance of the consequential flooding effects.

321. We acknowledge that this differs from the ultimate conclusion reached by the planning experts in the Planning JWS that the proposed consent conditions and mitigation measures would result in adverse effects being no more than minor. We have given that joint planning opinion weight. However, for the reasons set out above, we consider that conclusion does not adequately reflect the nature, distribution and persistence of the residual consequential flooding effects, or the extent to which some of those effects remain unmitigated.

322. Our overall conclusion under s.104(1)(a) is therefore that the proposal will generate substantial positive effects but will also result in material adverse effects that are more than minor overall. That conclusion does not determine whether consent should be granted. Rather, it identifies the effects that must be weighed with the other relevant

considerations under s.104, including the relevant statutory planning instruments.

323. We have addressed the uncertainties associated with longer-term scheme performance under Preliminary Matters. Those uncertainties do not undermine our reliance on the modelling for assessing the comparative effects of the proposal. They do, however, mean that the improved flood protection provided by the proposal should not be understood as eliminating residual flood risk or as guaranteeing a particular standard of protection for a fixed period. We have taken that limitation into account when assessing the positive effects of the proposal and consider that ongoing monitoring and maintenance should be secured through the conditions, if we determine that consents can be granted.

National Environmental Standards

324. Section 104(1)(b) requires us to have regard to the relevant provisions of any national environmental standard.

325. The National Environmental Standards for Freshwater (NES-F) and the National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health (NES-CS) are relevant. In this case, their principal significance is that they establish consent requirements and applicable controls for particular components of the proposal, rather than providing a broader policy framework requiring separate evaluation.

326. The NES-F is relevant both because it establishes consent requirements for particular components of the proposal and because the applicable regulatory requirements must be reflected in the conditions of consent. The relevant activities include works affecting freshwater environments and the installation and use of culverts and other structures associated with the proposal. We have considered those matters in our freshwater related assessments and are satisfied that the conditions, including those relating to fish passage, ecological management, monitoring and maintenance, give effect to the applicable NES-F requirements.

327. The NES-CS applies to the sampling and disturbance of potentially contaminated soil. The relevant consent has been sought. We have found that the Site Management Plan and associated controls will appropriately manage the risks to human health arising from those activities.

National Policy Statements

328. Section 104(1)(b) also requires us to have regard to the relevant provisions of any national policy statement. We have already assessed the proposal against the NPS-HPL, the NPS-I and the NPS-NH. We adopt those findings here and summarise our assessment.

329. In summary, the proposal is strongly supported by the NPS-I and NPS-NH, particularly because it will improve the resilience of an established community and important

infrastructure and materially reduce existing risks to public health and safety. We reach a more qualified conclusion under the NPS-HPL.

330. We are satisfied that the proposal falls within the pathway provided by clause 3.9(2)(b) of the NPS-HPL because its purpose is to address a high risk to public health and safety. Accordingly, the use or development of highly productive land is not, for that reason alone, inappropriate. The more difficult issue arises under clause 3.9(3), which requires measures to minimise or mitigate the actual or potential cumulative loss of the availability and productive capacity of highly productive land.

331. We accept that the proposal incorporates meaningful measures to minimise that loss. These include limiting the permanent physical footprint of the stopbanks, re-use of existing stopbank material, stripping and reinstatement of topsoil, reinstatement of borrow areas to pasture and locating borrow pits away from higher value soils where practicable.

332. However, our assessment is not confined to permanent physical loss of the soil resource. Increased flood exposure outside the proposed protected area may reduce the availability, reliability and productive capacity of highly productive land even where the soil physically remains in place. We have identified that issue particularly in relation to established horticultural and rural activities and have found that those effects are not fully mitigated by the proposed conditions. Accordingly, there remains genuine tension with the outcome sought by clause 3.9(3).

333. We do not, however, consider that tension results in the proposal being contrary with the NPS-HPL when the instrument is considered as a whole. Clause 3.9 expressly provides a pathway for activities addressing high risks to public health and safety, provided measures are taken to minimise or mitigate loss of highly productive land. We are satisfied that meaningful measures have been taken to do so, while recognising that residual loss of productive capacity remains.

334. Against that qualified NPS-HPL conclusion, the NPS-I and NPS-NH provide strong and direct support for the substantial infrastructure resilience and natural hazard benefits of the proposal. No one national policy statement overrides another. We have therefore carried the residual tension with the NPS-HPL forward as a matter weighing against the proposal in our overall s.104 judgement, rather than treating the support provided by the NPS-I and NPS-NH as displacing it.

335. Additionally, the National Policy Statement for Freshwater Management (NPS-FM) is a relevant consideration because the proposal involves works within and adjacent to freshwater environments, including culvert and fish passage works, vegetation clearance, earthworks and the temporary taking of water from the Waipaoa River.

336. We have had regard to the relevant provisions concerning the health and wellbeing of freshwater bodies and ecosystems, tangata whenua involvement, the maintenance and improvement of freshwater values, water quantity and fish passage. As recorded in our

effects assessment, the freshwater ecology experts were substantially aligned by the conclusion of the hearing. The revised conditions address ecological input into culvert design, fish passage, monitoring and maintenance, fish salvage and management of construction effects on freshwater environments. The culvert works also have the potential to improve fish passage relative to the existing arrangement.

337. The temporary water take is subject to limits on rate and volume, specified construction purposes, a minimum flow cessation requirement for the consented B Block take, and metering and reporting requirements. We have found that those measures appropriately avoid or mitigate effects on freshwater values, river flows and other water users.

338. We are therefore satisfied that, subject to the conditions imposed, the proposal appropriately provides for freshwater values and is consistent with the relevant direction of the NPS-FM.

Other Regulations

339. Section 104(1)(b) also requires us to have regard to the relevant provisions of any other regulations.

340. The Resource Management (Measurement and Reporting of Water Takes) Regulations 2010 are relevant to the proposed water take. The Regulations were addressed in the s.42A report and are expressly reflected in the Planning JWS condition set.[71] In particular, proposed Conditions 63 and 64 require the B Block take to be appropriately metered, recorded and reported in accordance with the Regulations. We are satisfied that those conditions appropriately give effect to the applicable regulatory requirements and no further assessment is necessary.

Part 2 RMA

341. Section 104 is subject to Part 2 of the RMA. However, we consider that the relevant national direction and the TRMP provide a comprehensive and coherent framework for assessing the matters genuinely in contention in these applications, including natural hazard risk, infrastructure, freshwater, highly productive land, tangata whenua interests and the management of adverse effects. We have identified no material gap, ambiguity or invalidity in that framework. Accordingly, we do not consider separate recourse to Part 2 necessary in order to determine the applications.

342. That approach is consistent with the planning evidence of Mr Exeter. Applying the Davidson authority, Mr Exeter considered the relevant planning framework to be complete and concluded that recourse to Part 2 did not alter the outcome of his assessment under s 104(1)(b).[72] He nevertheless addressed Part 2 for completeness and to respond directly to submitters who had framed their concerns in Part 2 terms.[73]

[71] s 42A Report at [section 6.11] and Joint Witness Statement of planning experts, 09 October 2026 at [Appendix C, Conditions 63–64.]
[72] R J Davidson Family Trust v Marlborough District Council [2018] NZCA 316
[73] Evidence of Sven Exeter, 14 September 2026 at [18.1]–[18.2]

343. We adopt a similar approach. We address the relevant Part 2 matters below, not because they are required to fill a gap in the statutory planning framework or provide an alternative pathway for determining the applications, but because they were expressly raised before us in a number of submissions and warrant a direct response. They also provide a useful cross-check that the conclusions reached under the more specific statutory instruments and the TRMP are consistent with the purpose and principles of the Act.

344. Section 5 requires consideration of sustainable management, including enabling people and communities to provide for their social, economic and cultural wellbeing and for their health and safety, while avoiding, remedying or mitigating adverse effects. The proposal strongly advances those enabling and health and safety considerations by materially reducing the existing flood risk to Te Karaka and its community and infrastructure. We have, however, not treated those substantial benefits as an answer to the adverse effects imposed elsewhere. That distinction is consistent with Mr Exeter's evidence that the benefits of the Project do not remove the need to address the adverse effects it creates.

345. The relevant matters of national importance under s.6 of Part 2 include s.6(a), 6(c), 6(e) and 6(h). Of particular importance, s.6(h) is directly engaged because the proposal is intended to manage a significant natural hazard risk affecting Te Karaka. Section 6(e) is also directly engaged by the effects on ancestral Māori land, including the Wi Pere Trust whenua.

346. We agree with Mr Exeter that the s.6(e) considerations require express and separate consideration within the assessment of highly productive land under the NPS-HPL.[74] We have therefore considered the relationship of Māori landowners and whānau with ancestral whenua separately in our assessment of the TRMP tangata whenua provisions, consequential flooding and cultural effects. We have likewise recognised that the wider benefits of the proposal to mana whenua within Te Karaka do not displace the particular interests of Māori landowners outside the proposed protected area.

347. We have also considered the Wi Pere Trust's reliance on *McGuire v Hastings District Council* [2001] 2 NZLR 577 (PC). We accept the importance of the principle identified in that decision that particular regard must be given to Māori interests and values, including the relationship with ancestral land. In this case we have expressly considered the effects of the proposal on the Trust's ancestral whenua and its identified aspirations for that land, together with the alternatives advanced in the evidence. We do not, however, understand *McGuire* as requiring us to select a different flood protection scheme merely because an alternative exists. As addressed under Preliminary Matters, our task is to determine the applications before us, while taking relevant alternatives into account insofar as they inform that assessment.

[74] Planning JWS – Exeter and Michalakis, 9 October 2026

348. The “other matters” in s.7 of Part 2 are also reflected in the more specific assessments undertaken above, including kaitiakitanga, efficient use and development of resources, amenity values and environmental quality, intrinsic values of ecosystems and the effects of climate change. Mr Exeter similarly identified those matters as relevant to the proposal.

349. Section 8 of Part 2 requires the principles of the Treaty of Waitangi to be taken into account. The extensive engagement with Te Aitanga ā Māhaki during development of the proposal is relevant in that respect, together with the particular matters raised by Māori landowners and whānau. As addressed elsewhere in this decision, we have not treated wider mana whenua engagement as resolving the distinct interests raised in relation to individual areas of whenua Māori.

350. Overall, our consideration of Part 2 does not alter the conclusions we have reached under the more specific statutory planning framework. Rather, it confirms them including some of the competing considerations already identified and considered. They remain relevant to the overall judgement we make below.

Other Matters

351. Section 104(1)(c) enables us to have regard to any other matter we consider relevant and reasonably necessary to determine the applications. We do not consider there are any other matters we need to consider in order to make a decision on the applications.

Sections 105 and 107 RMA

352. Because the applications include discharge permits, we have also considered s.105 and s.107 of the RMA. Having regard to the nature of the discharges, the receiving environments, the reasons for the proposed methods of discharge and the available alternatives, we are satisfied that the discharges can be appropriately managed through the proposed construction, erosion and sediment control, water quality and monitoring conditions. The evidence does not establish any circumstance under s.107 that would prevent the grant of the relevant discharge permits.

Section 106A RMA

353. The application and s.42A report also addressed s.106A of the RMA. There was some uncertainty as to whether the infrastructure exclusion in s.106A(4) applies to all components of the proposal. Like the reporting planner for the Regulatory Authority, we have taken the precautionary approach of considering the proposal against s.106A.

354. We recognise that the proposal increases flood hazard at a limited number of properties outside the protected area and, most significantly, at 103 Kanakanaia Road. Having regard to the likelihood, material damage and potential consequences of that hazard, and to the mitigation and other conditions imposed through this decision, we are satisfied that the natural hazard risk does not require the land use consent to be refused under s.106A.

OVERALL FINDINGS

355. We have considered the applications, submissions, evidence and legal submissions, together with the matters required by s.104, s.104B, s.104D, s.105, s.106A and s.107 of the RMA. We have also considered the relevant national planning instruments, the objectives and policies of the TRMP, the actual and potential effects on the environment of the proposal, and the conditions proposed to avoid, remedy or mitigate adverse effects.

356. As a consequence of our activity status finding, the applications are assessed together as a non-complying activity and the proposal must first pass the gateway test under s.104D before it can be considered under s.104 RMA.

357. We are not satisfied that the adverse effects of the proposal will be minor, and the proposal therefore does not pass the effects limb of the gateway in s.104D(1)(a). In particular, the consequential flooding effects outside the proposed protected area will be more than minor overall and may, for particular properties and in particular circumstances, be significant.

358. We are, however, satisfied that the proposal is not contrary to the relevant objectives and policies of the TRMP when those provisions are considered as a whole and in the context of the applicable national direction. The proposal therefore passes the second limb of the gateway in s 104D(1)(b), and therefore the gateway test, and may be considered on its merits under s104.

359. The proposal will provide substantial and enduringly important benefits for Te Karaka. It will materially improve protection for residents, homes, businesses, community facilities and essential infrastructure within the proposed protected area. The modelling identifies flood protection benefits for 215 buildings, including 179 residential dwellings. The retreated alignment also increases floodplain capacity, provides more room for the Waipaoa River, reduces confinement through the reach and lowers residual breach risk relative to retaining a more confined alignment.

360. Those benefits are particularly significant given the flooding experienced during Cyclone Gabrielle and the vulnerability of the existing stopbank system. They strongly advance the natural hazard, infrastructure, public health and community resilience outcomes identified in the NPS-I, NPS-NH and TRMP. The proposal also responds directly to the management of significant natural hazard risk under s.6(h) of Part 2 of the RMA.

361. The benefit is not absolute. The proposal is designed to provide protection against a specified 1% AEP event, using a flow of 5,625 m^3/s and a minimum freeboard of 600 mm. It does not eliminate flood risk or guarantee that the same standard of protection will endure for a fixed period. Aggradation, climate change and future changes in river morphology may progressively affect scheme performance. Those limitations do not materially diminish the present benefits of the proposal, but they reinforce the need for ongoing monitoring and maintenance.

362. The proposal will also create material adverse effects. Most of the construction related and localised effects can be appropriately managed through the proposed conditions. These include effects on freshwater ecology and water quality, productive soils, noise and vibration, construction traffic and amenity, contaminated land, landscape and visual amenity, archaeology and road safety. Subject to the conditions discussed in this decision, we find those residual effects will generally be no more than minor.

363. Consequential flooding is different. The proposal deliberately changes the distribution of flood protection and flood exposure. Approximately 10 ha of land is identified as newly flooded and 157 ha as experiencing an increased hazard category in the design event. Adverse consequential flooding effects are identified for 23 buildings, including six residential dwellings. These effects are incremental to the receiving environment and attributable to the proposal.

364. The consequences extend beyond predicted flood depths and hazard classifications. Depending on the property concerned, they include effects on productive capacity and the resilience of rural activities, orchard viability, stock management, access, the utility and future use of land, and the relationship of Māori landowners and beneficiaries with ancestral whenua. Those effects may interact and compound at particular properties.

365. The proposed conditions provide meaningful mitigation of some consequential effects. They constrain material worsening through detailed design, require specific mitigation at some properties, and provide for warning, evacuation, road closure and emergency response arrangements. They do not, however, remove the underlying redistribution of flood risk or fully mitigate its effects on productive activities, future land use and whenua Māori.

366. We therefore find that material residual consequential flooding effects will remain. Considered overall, those effects are more than minor and, for particular properties and circumstances, may be significant. We have not treated the substantial benefits within the proposed protected area as cancelling out those concentrated effects outside it.

367. We have given particular consideration to the effects on whenua Māori and ancestral land. The proposal has responded meaningfully to wider mana whenua interests, including through engagement that influenced the optioneering and preferred alignment, cultural measures within the conditions, and the substantial protection benefits for tangata whenua living within Te Karaka. However, tangata whenua interests are not uniform. The residual concerns of the Wi Pere Trust, including the implications of increased flood exposure for the continuing and intergenerational use of its ancestral whenua, remain relevant and have not been treated as resolved by the wider engagement, the alternative alignment or the construction conditions.

368. The evidence also establishes an incremental increase in hydraulic loading and scour at the Rangatira Road Bridge and Kanakanaia Road Bridge, against a background of existing vulnerability. The evidence does not establish that either bridge will fail as a

consequence of the proposal in the design event. Nor do structural upgrading works form part of the applications before us. We therefore do not consider it appropriate to impose an open-ended condition that could require substantial bridge upgrading beyond the scope of the proposal.

369. The appropriate response is to ensure that the closure or failure of either bridge is expressly recognised as a credible contingency in the updated Te Karaka Flood Evacuation Contingency Plan. That plan must contain appropriate warning and pre-emptive closure triggers, identify potentially isolated properties and residents, provide practicable alternative egress and evacuation arrangements, and address communication and emergency response where normal road access is unavailable. Subject to that amendment, we are satisfied that the life-safety, access, evacuation and isolation consequences of the incremental bridge risk can be appropriately managed.

370. We have also had regard to the relevant national direction. The proposal is strongly supported by the NPS-I and NPS-NH because it will improve infrastructure and community resilience and materially reduce existing risks to public health and safety. There is genuine tension with the NPS-HPL because increased flood exposure will adversely affect the availability and productive capacity of highly productive land outside the proposed protected area. That tension has not been set aside. It remains part of the overall balance, although we find that the national direction supporting resilient infrastructure and natural hazard risk reduction weighs substantially in favour of the proposal.

371. The NPS-FM, NES-F and water-take regulations are appropriately addressed through the freshwater, fish passage, ecological management, minimum flow, metering and reporting conditions.

372. The evidence does not establish any circumstance under s.106A or s.107 that would prevent the grant of consents.

373. We do not consider separate recourse to Part 2 RMA necessary to determine the applications. The relevant national direction and the TRMP provide a comprehensive and coherent framework addressing the matters genuinely in contention. We have nevertheless addressed Part 2 because submitters expressly raised related matters and those matters warranted a direct response. That consideration confirms rather than alters the conclusions reached under the more specific statutory framework.

374. We have consequently undertaken an overall judgement rather than treating any single benefit or adverse effect as determinative. On one side are substantial benefits to the health, safety and social, economic and cultural wellbeing of the Te Karaka community, together with strong support from the national and regional direction relating to infrastructure resilience and natural hazard management. On the other are concentrated and enduring adverse effects on a smaller number of properties outside the proposed protected area, including productive land, rural activities and ancestral whenua.

375. The proposal does not represent a situation in which all adverse effects have been avoided, remedied or mitigated. Nor is that a prerequisite to the grant of consent. The relevant question is whether, having regard to all of the matters in s.104 and the proposal as a whole, the benefits and supporting statutory direction are sufficient to justify granting consent despite the material residual effects, and whether those effects have been reduced and managed to the extent reasonably available through the proposal and conditions.

376. On balance, we find that they are. The proposal will provide a substantial and necessary improvement in flood resilience for an established community exposed to significant natural hazard risk. The retreated alignment provides a more resilient flood management configuration than continuing to confine the river along the existing alignment. While the consequential flooding effects are material and weigh against granting consents, they do not outweigh the substantial community wide benefits, the strong natural hazard and infrastructure policy support, and the mitigation and management secured through the conditions.

377. We therefore conclude that the applications should be granted, subject to the conditions attached to this decision.

378. For the avoidance of doubt, the consent authorises either the preferred alignment or the alternative alignment in the vicinity of the Wi Pere Trust land. The alignment ultimately selected is to be confirmed in accordance with the conditions of consent.

CONDITIONS

379. The conditions imposed are based substantially on the condition set appended to the Planning JWS but have been amended where necessary to give effect to our findings and to address matters that remained unresolved following the hearing. In particular, we have strengthened the Final Design Report requirements by requiring credible debris blockage scenarios at the Rangatira Road and Kanakanaia Road bridges to be considered and any implications for upstream design flood levels and available stopbank freeboard to be accounted for. We have also required the Final Design Report to address any changes in consequential flooding effects without limitation.

380. We have strengthened the Te Karaka Flood Evacuation Contingency Plan requirements to address the potential closure or failure of either bridge, including monitoring and pre-emptive closure triggers, identification of potentially isolated residents and properties, alternative egress and evacuation arrangements, warnings and emergency response.

381. We have bolstered the Operations and Maintenance Plan to include monitoring of changes in riverbed levels and morphology relevant to the stopbanks intended flood protection function and available freeboard and required this Plan to be certified by the Regulatory Authority.

382. We have bolstered the review condition purpose to include the management of debris accumulation and/or blockage, consequential flooding effects on properties outside the proposed protected area and riverbed aggradation or other morphological change that may materially affect design flood levels, available freeboard or the intended level of service of the upgraded stopbanks. We have also extended the review period.

383. We have also made consequential drafting, certification and monitoring amendments necessary to give effect to the findings in this decision amongst some other more minor changes.

384. The Applicant has not agreed to all of the conditions imposed in this decision. We have therefore considered the requirements of s.108AA of the RMA. To the extent that conditions have been imposed without the Applicant's agreement, we are satisfied that they are directly connected to adverse effects of the activities on the environment for the purposes of s.108AA(1)(b)(i). In particular, the additional or amended conditions respond to the effects identified in this decision concerning consequential flooding, bridge blockage and access, noise and vibration, landscape and visual effects, productive land, and the ongoing operation and maintenance of the proposal. We are satisfied that those conditions are appropriately directed to avoiding, remedying or mitigating those effects and do not extend beyond what is reasonably required for that purpose.

385. Subject to those conditions, we are satisfied that granting the consents will promote the sustainable management of natural and physical resources and therefore achieve the purpose of the RMA. In reaching that conclusion, we have had particular regard to the substantial community and flood resilience benefits of the proposal, while recognising and providing for the measures necessary to avoid, remedy or mitigate its adverse effects and acknowledging the residual adverse effects that will remain for some properties and landowners outside the proposed protected area

Consent Duration

386. The Applicant has sought a five-year duration for the construction related water and discharge permits, including the temporary water take from the Waipaoa River and any dewatering and associated discharge required during construction. Although construction is anticipated to take approximately two to three years, we accept that a five-year term provides reasonable flexibility for potential delays.

387. The land use consents authorising the permanent components of the proposal, including the stopbanks, roads, culverts and associated permanent structures, are not subject to an expiry date.

388. We consider the durations sought to be appropriate having regard to the nature and intended duration of the respective activities. Accordingly, the construction related water and discharge permits are granted for a duration of five years, while the land use consents associated with the permanent works are granted without expiry.

DECISION

389. In accordance with s.104B and s.104D of the Resource Management Act 1991, and having considered the matters required by s.104, s.105, s.106A and s.107, together with the conditions imposed under s.108, the applications by Gisborne District Council – Community Lifelines for the Te Karaka Flood Scheme Upgrade, comprising land use, vegetation clearance, earthworks, works in the beds of rivers and streams, associated culverts and flood control structures, temporary water take and associated freshwater activities, and disturbance of potentially contaminated soil, are granted, subject to the conditions set out in **Attachment A**.

REASONS FOR THE DECISION

390. Pursuant to s.113 of the RMA, the summary reasons for this decision are:

- The proposal satisfies the statutory requirements for grant of consents. While its adverse effects are more than minor, it is not contrary to the relevant objectives and policies of the TRMP and therefore passes the s.104D gateway.

- The proposal will provide substantial flood resilience, public safety and community benefits for Te Karaka and is strongly supported by the national direction relating to infrastructure and natural hazard risk management.

- Most adverse effects can be appropriately avoided, remedied or mitigated through the proposal and conditions. Material residual consequential flooding effects will remain, which we find are more than minor overall and may be significant in particular circumstances.

- Having weighed those benefits and adverse effects together with the relevant statutory instruments and other s.104 matters, we find that granting the applications, subject to the conditions in **Attachment A**, is appropriate.



Cam Twigley
Chairperson - Independent Hearings Panel
and for Commissioner David Hill.

Dated: 16 November 2026

Attachment A: Resource Consent Conditions

CONSENT CONDITIONS

General Conditions

1. The Consent Holder must undertake all operations in general accordance with any drawings, specifications, and all other information supplied and approved/certified as part of this resource consent, including but not limited to the following documents:

Report Name	Author	Reference	Date	Rev
Stopbank drawings, cross-sections, construction details and cut and fill volume sheets	GDC/CPS		Feb-April 2026	1
Road Raising Concept Design Report & Drawings	WSP	2-S5743.00	16 October 2025	First Issue
Stopbank Alignment Options Assessment Appendices	Tonkin & Taylor	1092556.0020	September 2025	v2
Stopbank Alignment Options Assessment - New Appendices Figures 12.1-12.5, 13.1-13.5, 14.1-14.5, 15.1-15.5, 16.1-16.5, 17.1-17.5, 18.1-18.5, 19.1-19.5, 20.1-20.5, 21.1-21.5 and 22.1-22.5	Tonkin & Taylor		05 June 2026	First Version
SH2 Culvert Concept Design	WSP	5-S5743.00	18 February 2026	A
Section 92 Response Appendix 7 Drawings and Volume Reports	CPS	-	-	-
Technical Memo – Landscape and Visual Assessment - Drawings	WSP	2-S5743.00	1 September 2026	-
Technical Memo - Response to Pine Hollow Family Trust submission matters relevant to road raising, access and drainage design	WSP	-	2 September 2026	-
Proposed trench drain locations	Tonkin and Taylor	N/A	Email dated 8 October 2026	1

2. The Consent Holder may amend any management plan or other Plan required to be certified under these conditions. Any amendment must:

    a. be consistent with the purpose and requirements of the relevant management plan or other Plan condition;

b. not result in a materially different or greater adverse effect than that anticipated by these consents;

c. clearly identify and track the changes made to the previously certified management plan or other Plan; and

d. be submitted to the Resource Management Compliance Manager for certification prior to implementation in accordance with the certification process outlined in these conditions for the Plan.

3. The Consent Holder must not implement an amended management plan or other Plan until certification of the amendment has been received in writing. Once certified, the amended management plan or other Plan supersedes the previous version and must thereafter be implemented and complied with.

4. Minor amendments that do not alter the methods by which adverse effects are managed, and do not reduce the level of environmental protection provided by the certified management plan or other Plan, may be made without further certification. The Consent Holder must maintain a record of such amendments and provide the amended management plan or other Plan to the Resource Management Compliance Manager.

Final Design Report

5. A Final Design Report, prepared by a suitably qualified and experienced professional, must be submitted to the Resource Management Compliance Manager for certification at least 20 working days prior to construction commencing.

6. The purpose of the Final Design Report is to demonstrate that the final design is in general accordance with all information approved as part of the grant of these resource consents.

   The Final Design Report must:

   a. describe each change from the approved information including the documents referred to in Condition 1;

   b. explain the reasons for each change;

   c. assess whether each change remains generally in accordance with the approved information including the documents referred to in Condition 1;

   d. demonstrate that the final design continues to achieve the outcomes anticipated by these consents and complies with all relevant conditions of consent, including consideration of credible debris blockage scenarios at the Rangatira Road Bridge and Kanakanaia Road Bridge and any resulting effects on upstream design flood levels and available stopbank freeboard have been appropriately accounted for in the final design;

e. include supporting technical evidence confirming that the changes:

i. do not introduce any new activity not contemplated by the consents;
ii. do not result in a substantial change in alignment, footprint, location, or extent of works;
iii. do not materially alter the environmental outcomes anticipated by the consents;
iv. do not result in any material increase in consequential flooding effects on other properties

Advice Notes:

For the purposes of this condition substantial change does not include changes in alignment, footprint, location, or extent of works occurring wholly within properties identified in the documents referred to in Condition 1

7. Where there is any conflict or inconsistency between the conditions of this consent and the application or documents referenced by this consent, the conditions of consent shall prevail.
8. All works and structures relating to this resource consent must be designed and constructed to conform to the best engineering practices and at all times maintained to a safe and serviceable standard.

Flood Evacuation Contingency Plan Updates & Mitigation Measures

9. Within 60 working days of grant of these consents, and again within 60 working days of practical completion of the upgraded stopbanks, the Consent Holder must submit to the Resource Management Compliance Manager, for certification, an updated *Te Karaka Flood Evacuation Contingency Plan*. The Plan must be updated to address increased flood hazard risk to Kanakanaia Road bridge, Rangatira Road Bridge and Mangaone Road including the potential for closure or failure of the bridges during a significant flood event. Updates must be undertaken by a suitably experienced and/or qualified person(s). The updates to the Plan must include but not be limited to:
    a. Updated flood hazard maps and evacuation maps.
    b. Appropriate monitoring, warning and pre-emptive road and bridge closure triggers.
    c. Identification of properties and residents that may become isolated by the closure or failure of either bridge.
    d. Practicable alternative egress and evacuation routes and arrangements.
    e. Arrangements for emergency access, evacuation and response where normal road access is unavailable.
    f. Updates to the warning system and trigger points and a process for advance warnings to local residents of alternative routes, evacuations and bridge and road closures where required.
    g. An outline of all mitigation measures required to reduce flood risk and impacts on the community to an acceptable level with regard to health and safety before and during flood events.
    h. Details of an ongoing review and update process for the Plan.

Hours of Operation

10. Construction work must only take place between the hours of 7:30 am to 6:00 pm, Monday to Saturday. This condition does not prevent quiet construction activities and meetings from taking place at any time, provided that any noise generated complies with limits of 45 dB LAeq and 75 dB LAmax at any occupied dwelling. There must be no work on Sundays and Public Holidays.

Construction Environmental Management Plan (CEMP), Design Requirements & Management Plans

11. At least 20 working days prior to the commencement of construction, the Consent Holder must submit to the Resource Management Compliance Manager for certification, a Construction Environmental Management Plan (CEMP) prepared by a suitably qualified and/or experienced person(s). The CEMP must include but not be limited to:
    a. an outline of the environmental management and monitoring measures to be installed prior to and maintained during construction works, demonstrating that construction works can be carried out in such a way to minimise adverse environmental effects as much as practicable.
    b. noise and vibration management measures (to achieve compliance with conditions 366 to 43);
    c. dust control mitigation measures in the form of a dust management plan including methods for keeping dust to a practicable minimum;
    d. water quality (to achieve compliance with conditions 44-53;
    e. erosion and sediment control plan and measures (to achieve compliance with conditions 55 to 60;
    f. site design, spill containment, spill management, waste management, signage and contingency plans for construction lay down areas and compounds and locations where bulk fuel is stored to demonstrate compliance with Tairāwhiti Resource Management Plan C5.2.6.1 General Standards.
    g. site remediation or reinstatement details;
    h. contaminated land management details;
    i. methods to maintain fish passage and how fish salvage will be managed during works in waterways;
    j. specific measures to manage the effects of construction of activities within ecologically sensitive areas including native bat surveys during October to April prior to tree felling;
    k. dewatering details and a dewatering management plan (if dewatering is required);
    l. overview of the construction programme for each stage of the construction works;
    m. positioning of the haul road and construction compound must be located as far as reasonably practicable away from the dwelling at 29 Morris Road having regard to site constraints and the need to minimise adverse noise and dust adverse effects on the occupants of that dwelling;
    n. detailed staging plan and design details and program including:
        i. earthworks for all works including stopbank works;

ii. confirmed stopbank alignment and design details and confirmation if the alternative alignment is required;
iii. culvert works;
iv. road raising works;
v. fish passage works;
vi. stopbank edge planting; and
vii. reinstatement works.

Advice Note:

There are specific dust management conditions relating to specific properties which prevail over this condition in the event of any conflict with this condition.

12. Construction activities must not commence until the CEMP has been certified by the Resource Management Compliance Manager, and written confirmation from the Resource Management Compliance Manager has been received. If a written response, which may include a request for further information, is not received within 20 working days of the Consent Holder submitting the CEMP for certification, the certification shall be deemed to be confirmed.
13. The Consent Holder must supply as-built engineering drawings to the Resource Management Compliance Manager within 2 months of the end of each construction season. Any future maintenance of the consented scheme must be in accordance with these as-built engineering drawings.

Culverts and Fish Passage

14. At least 20 working days prior to construction, the Consent Holder must submit to the Resource Management Compliance Manager, for certification the detailed culvert design and a Culvert Monitoring and Maintenance Plan for the culvert along State Highway 2 on the tributary of the Waipaoa River and the 'eastern stream'.
15. The detailed design of the culvert and the Culvert Monitoring and Maintenance Plan must include but not be limited to:
    a. An automatic flood gate that is open to provide fish passage below the flood event interval design; or
    b. A passive flood gate that is routinely monitored (quarterly) and checked after the flood event design interval is reached. The passive gate must be opened as much as practicable to provide fish passage including during times when flows are below the flood event design.
    c. Details confirming how the culvert design and management approach provides a net benefit to fish passage compared to the current culvert through the addition of a fish friendly ramp or another suitable solution.
    d. Evidence that the culvert design has been reviewed by a suitably qualified freshwater ecologist for the purpose of ensuring the culvert maintains and facilitates fish passage).
    e. Culvert, flood gate and ramp structures that have regard to the design principles outlined in the latest version of the New Zealand Fish Passage Guidelines.
    f. Information required by Regulations 62, 63, 65 and 69(2) of the NES-Freshwater 2020.
16. Construction activities for the culvert must not commence until the culvert detailed design and Culvert Monitoring and Maintenance Plan has been

certified by the Resource Management Compliance Manager, and written confirmation from the Resource Management Compliance Manager has been received. If a written response, which may include a request for further information, is not received within 20 working days of the Consent Holder submitting the culvert detailed design and Culvert Monitoring and Maintenance Plan for certification, the certification shall be deemed to be confirmed.

Rangatira Road Planting Plan

17. The Consent Holder must submit a Landscape Mitigation Planting Plan for new roading embankment at Rangatira Road within 20 working days of completion of the road embankment. The purpose of the Plan is to soften and screen past earthworks and operational bulk form.

18. The Plan must be submitted to the Resource Management Compliance Manager for written certification.

19. The Landscape Mitigation Planting Plan must:

    a. Be prepared by a suitably qualified and experienced Landscape Architect;

    b. Be comprised of plant species that are natives / indigenous which are selected in accordance with Gisborne District Council roading guidelines and code of practices.

    c. Identify the location, species, size, spacing and extent of all proposed planting;

    d. Utilise species that are consistent with the character of the surrounding rural environment;

    e. Include a maintenance programme providing for weed control, replacement of failed plants, and general plant establishment.

20. The Consent Holder must implement the certified Landscape Mitigation Planting Plan during the first available planting season following certification of the Plan.

21. Any plant that dies, is removed, or is damaged to the extent that it no longer fulfils its intended softening and/or screening function within three years of planting must be replaced with the same or similar species during the next planting season.

22. The Consent Holder must maintain all mitigation planting for a minimum period of three years following installation to ensure successful establishment (unless otherwise agreed with the landowner).

23. Planting activities must not commence until the Plan has been certified by the Resource Management Compliance Manager and written confirmation from the Resource Management Compliance Manager has been received. If a written response is not received, which may include a request for further

information, within 20 working days of the Consent Holder submitting the Plan for certification, the certification shall be deemed to be confirmed.

Advice Note: *the Plan can be submitted as part of the CEMP.*

Pre-Season Construction Team Meeting

24. At a date in August or September prior to the start of each construction season, the Consent Holder must hold a meeting with the Resource Management Compliance Manager or representative(s) to outline the upcoming season construction works including matters such as (but not limited to):
    a. Stopbank design levels;
    b. Earthworks and borrow area location and extent;
    c. Number and location of culverts;
    d. Review of the CEMP; and
    e. Review of proposed fish passage enhancements.
25. At least 20 working days prior to the start of each construction season, the Consent Holder must hold a meeting with the Resource Management Compliance Manager or representative(s) and the primary Contractor. This meeting must form the basis for confirming communication channels and the details of the Construction Methodology and proposed earthworks management and associated methodologies and shall ensure that all Contractors are aware of and familiar with the proposed construction methodologies.

Communications Plan

26. At least 20 working days prior to the start of the first construction season, the Consent Holder must submit to the Resource Management Compliance Manager, for certification, a Communications Plan. The purpose of the Plan is to establish procedures detailing how the public and project stakeholders including subject site landowners will be communicated with throughout the construction works program. As a minimum, the Communications Plan must include:
    a. Details of a contact person available at all times during the works. Contact details must be prominently displayed at the site office so that they are clearly visible to the public at all times;
    b. Methods to consult with subject site landowners and occupiers, surrounding landowners, representatives of Te Aitanga a Mahaki iwi, the local residential and rural community and utility operators, which may include:
        i. Publications of a newsletter, or similar, and its proposed delivery area;
        ii. Establishment of a stakeholder group;
        iii. Newspaper advertising;
        iv. Use of the Council website;
        v. Emails or letters notifying owners and occupiers of properties located adjacent to the stopbank corridor where and when construction activities will take place; and
        vi. Notification to public utility operators with utilities within the Project Area, where and when construction activities will take place.

c. Monitoring and review procedures for the Communications Plan.

27. Construction activities must not commence until the Communications Plan has been certified by the Resource Management Compliance Manager, and written confirmation from the Manager has been received. If a written response, which may include a request for further information, is not received within 20 working days of the Consent Holder submitting the Communications Plan, the certification shall be deemed to be confirmed.

Feedback & Incidents

28. At all times during construction works the Consent Holder must maintain a register of any public or stakeholder feedback received, and any incidents or non-compliance noted by the Consent Holder 's contractor, in relation to the construction of the Project. The register must include:
    a. The name and contact details (as far as practicable) of the person providing feedback or contractor observing the incident / non - compliance;
    b. Identification of the nature and details of the feedback/incident; and
    c. Location, date and time of the feedback/incident.
29. The Consent Holder must promptly investigate any complaint, incident or non - compliance. This must include but is not limited to:
    a. Recording weather conditions at the time of the event (as far as is practicable), and including wind direction and approximate wind speed if the adverse feedback or incident relates to dust;
    b. Recording any other activities in the area, unrelated to the Project that may have contributed to the negative feedback/incident/non-compliance, such as non - Project construction, fires, traffic accidents or unusually dusty conditions generally (if applicable); and
    c. Investigating other circumstances surrounding the incident.
30. In relation to conditions 28 and 29 above, the Consent Holder must:
    a. Record the outcome of the investigation in the register;
    b. Record any remedial action or measures undertaken to address or respond to the matter in the register; or
    c. Respond to the initiator, in closing the feedback loop, if practicable; and
    d. Where the complaint or incident was in relation to non-compliance with a condition of resource consent, the Resource Management Compliance Manager, must be notified in writing of the matter within 10 working days of the non-compliance, and informed of the remedial actions undertaken.
31. A copy of the register of feedback must be provided to the Resource Management Compliance Manager, annually at the end of each construction season or as requested by the Resource Management Compliance Manager.

Ecological Sensitive Areas & Management Requirements

32. All works must be undertaken at least 10 m away from the potential wetland shown in Figure 16: EcIA Overview Map.

33. The consent holder must not fell exotic trees during the bat breeding and roosting season (April to October), unless otherwise provided for under clause a. below;

    a. tree felling may occur during the bat breeding and roosting season where the Construction Environmental Management Plan (CEMP) required under Condition 11 includes procedures for identifying, monitoring and managing potential bat roosts prior to tree felling. These procedures must be prepared by a suitably qualified ecologist and must have regard to the Bat Recovery Group protocols and relevant Department of Conservation guidance.

Archaeological and Cultural Discovery Protocols

34. In the event of any archaeological site, waahi tapu, taonga or koiwi being discovered during the works authorised by this consent, the Consent Holder must immediately cease work at the affected site and secure the area. The Consent Holder must contact the Council to obtain contact details of the relevant hapū and /or marae. The Consent Holder must then consult with the appropriate tribal entities and Heritage New Zealand Pouhere Taonga and must not recommence works in the area of the discovery until the relevant Heritage New Zealand Pouhere Taonga and appropriate tribal entity approvals to damage, destroy or modify such sites have been obtained.
35. The Consent Holder must establish written protocols with Te Aitanga ā Māhaki in relation to any cultural practices to be observed during earthworks and specifically in relation to the accidental discovery of heritage artefacts and/or koiwi. The protocols must be made available to the Resource Management Compliance Manager at least 20 working days prior to commencement of each stage of the earthworks.

Construction Noise and Vibration Management Plan

36. At least 20 working days prior to commencement of construction works, the Consent Holder must submit a Construction Noise and Vibration Management Plan (CNVMP) to the Resource Management Compliance Manager for written certification. If a written response, which may include a request for further information, is not received within 20 working days of the Consent Holder submitting the CNVMP, the certification shall be deemed to be confirmed. The CNVMP must include but not be limited to:

    a. Objectives that must:
        i. Set out the procedures to identify and adopt the best practicable options for minimising adverse construction noise and vibration effects; and
        ii. Define the procedures to be followed to ensure that the project construction noise and vibration standards are being met.
    b. To achieve the objectives above, the final CNVMP must be prepared by a suitably qualified and experienced person and with reference to Annex E of NZS 6803:1999 *Acoustics – Construction noise* and the Association of Australasian Acoustical Consultants *Guideline for Interpreting and Applying NZS 6803-1999*, and include the following information:
        i. The consented construction noise and vibration limits for the project.

ii. Requirements and specifications for acoustically effective barriers and any localised screening if required for compliance with the project limits.
iii. Minimum setback distances for compliance.
iv. Identification of surrounding noise and/or vibration sensitive receivers.
v. Details of general noise and vibration mitigation measures.
vi. Details for advising the occupiers of the neighbouring buildings of the works, including when the highest noise levels and perceptible vibration can be expected.
vii. Procedures for responding to concerns from neighbours and dealing with any complaints (including the provision of contact details for any concerns regarding noise and vibration).
viii. Procedures for noise and vibration monitoring to be undertaken during the works and for applying any corrective action measures.
ix. Procedures for ensuring that all contractors and operators on site are aware of the construction noise and vibration monitoring requirements during the works, and the requirement to minimise noise and vibration effects as far as practicable on the neighbouring sites.

c. The CNVMP must include noise management measures and procedures to mitigate potential adverse noise effects at 2424 Matawai Road including:

i. A procedure for communicating with the submitters to advise the timing and duration of works to enable them to schedule paddock rotation to avoid noise effects on the horses where possible.

ii. A noise limit of 85 dB L_{Amax} in any area occupied by horses at rest or grazing at 2424 Matawai Road;

iii. Minimum setback distances with and without mitigation; and

iv. When there are horses or ponies in a paddock immediately adjacent to the works:
a) Truck horns will not be used unless necessary (e.g. for safety reasons).
b) Materials will be lowered gently into empty trucks rather than tipped from height.
c) Truck tailgates will not be slammed when horses at 2424 Matawai Road are within 30m.
d) All heavy machinery and trucks will comply with the speed limits on the construction site and haul roads to reduce noise and rattling.

v. If the above mitigation measures are adopted and a construction noise event nonetheless causes horses or ponies to start galloping in their paddocks, or be otherwise noticeably

distressed, further noise mitigation measures must be investigated and discussed with the submitters.

Notice of works to receivers

37. At least 10 working days (unless agreed in writing with landowners) before any earthworks authorised by this consent commence, the Consent Holder must advise the occupants of all buildings within 100 m of the works. The advice must be provided in writing and include the following information:
    a. A general description of the construction works.
    b. The construction hours and expected duration of the works.
    c. The approximate dates, times, and durations of the activities that will generate the highest levels of construction noise and vibration.
    d. A contact name and phone number for any questions or complaints regarding noise and vibration throughout the project.

Construction noise limits

38. Construction works on the site must be designed and conducted to ensure that noise emissions do not exceed the following limits at 1 m from the façade of any occupied dwelling outside the subject site between 7:30 am and 6:00 pm on Monday to Saturday:
    a. the project limits of 70 dB LAeq and 85 dB LAmax
    b. higher limits of 80 dB LAeq and 95 dB LAmax when an activity cannot practicably comply with the project limits in (a). Before such activity commences, notice of the higher noise levels must be provided to the occupiers of the dwelling including the dates, times, and duration of the activity. The activity must be identified in the CNVMP. The reasons why compliance with the project limits in (a) is not practicable must be stated and the best practicable options for mitigating noise effects of the activity must be identified.
    c. The LAmax noise limits in this condition do not apply at 1 m from the façade of any occupied building that does not contain a noise sensitive activity, as that term is defined in part E7 of the Tairāwhiti Resource Management Plan.
39. All construction noise must be measured and assessed in accordance with NZS 6803:1999 *Acoustics – construction noise* and in accordance with the certified CNVMP.

Construction vibration amenity limits

40. Construction works must be designed and conducted to ensure that vibration does not exceed 5 mm/s PPV within any occupied building outside the subject site. Where vibration is expected to exceed 2 mm/s PPV within an occupied building outside the site, the Consent Holder must provide the following information in writing to the occupants:
    a. The dates, times, and duration of the vibration expected to exceed 2 mm/s PPV.
    b. A phone number and contact person for any questions or to advise of any sensitive times for construction vibration during the day.

41. The information / advice provided under condition 40 must be provided no less than 3 days before the works expected to exceed 2 mm/s PPV commence. The Consent Holder must maintain records of any consultation and provide them to the Resource Management Compliance Manager on request.

42. The vibration from all other works must comply with 2 mm/s PPV within any occupied building.

    Advice Note:

    The vibration amenity limits do not apply to any building that is not occupied during the works. This allows higher vibration works to be scheduled when occupants are not in the building, subject to compliance with building damage criteria and compliance with the amenity limits at other nearby buildings that are occupied.

Construction vibration limits to avoid building damage

43. Construction works must be designed and conducted to ensure that vibration does not exceed the limits set out in German Industrial Standard DIN 4150–3:2016 *Vibration in buildings – Part 3: Effects on structures* when measured in accordance with that Standard at any structure not on the subject site.

Works in the Bed of a River & Surface Water Quality

44. The Consent Holder must take all practicable measures to limit the amount of sediment and prevent contaminants from entering any water bodies during construction. Such measures must include (but not be limited to):
    a. Any surplus soil or cleared vegetation or debris must be removed and deposited at an appropriate disposal site;
    b. The wash water from containers and tools must not be discharged into any waterbodies and the washing of equipment must not occur in any waterbodies;
    c. Fuelling and carrying out machinery maintenance away from water bodies;
    d. The installation of erosion and sediment control measures in accordance with the certified Construction and Environmental Management Plan, as required by condition 11; and
    e. No spoil or other debris shall be directly deposited into a permanently flowing water body or deposited in a position where it can readily enter or be carried into a permanently flowing water body.

45. No clearly discernible change in visual clarity of the surface waterbody shall occur after reasonable mixing downstream of the activity site more than 48 hours after any construction work commences

46. The Consent Holder must take all practicable measures to prevent contaminants such as diesel and oil entering any waterbodies in the event of a spill during construction.

47. Where, by any cause, (accidental or otherwise), contaminants associated with the Consent Holder 's operations escape to a surface waterbody, the Consent Holder must:
    a. Immediately take all practicable steps to contain and then remove the contamination from the environment;

b. Immediately notify the Council of the escape; and
c. Report to Council within 7 working days, describing the manner and cause of the escape, steps taken to control it and prevent its occurrence and steps taken to prevent a reoccurrence.

48. The Consent Holder must ensure that any newly established surfaces, grassed slopes and vegetated areas that were cleared or damaged as a result of construction, are revegetated in order to prevent sediment from entering the surface waterbody.
49. The Consent Holder must where practicable construct all structures using methods and materials non-toxic to aquatic life.
50. No machinery used for the exercise of this consent, must enter, operate or excavate within water in the waterbodies during the exercise of this consent except for river crossings, which must be kept to a minimum and located at the upstream end of riffles where possible.
51. The Consent Holder must ensure that any materials, machinery or equipment from the activities authorised by this consent (including any temporary structures) are:
    a. not stored in or on the bed of any watercourse;
    b. removed after completion of the activity;
    c. disposed of in an appropriate manner where it will not adversely affect the stream channel or impede the flow of water.
52. The Consent Holder must comply with all notices and guidelines issued by Biosecurity New Zealand (refer to www.biosecurity.govt.nz/didymo) in relation to avoiding the spread of the pest organism *Didymosphenia Geminata* (known as 'Didymo') and other freshwater pests.
53. In the event a spillage of chemicals occurs, or other such event, which may have a significant adverse effect on the quality of the surface waterbody, the Consent Holder must notify, as soon as reasonably practicable, the registered drinking -water supply operators concerned, the Medical Officer of Health and Drinking Water Assessor and Resource Management Compliance Manager.
54. Fish salvage and relocation must be undertaken by a suitably qualified and experienced freshwater ecologist in accordance with the CEMP which includes details on procedures for fish salvage and safely relocating and salvaging fish individuals (if or when required). A record of all fish salvage activity must be provided to the Resource Management Compliance Manager within one month of the completion of work.

Earthworks & Erosion and Sediment Control

55. While borrow excavation is in progress, a vegetated strip of at least two metres wide must be left between the borrow excavation and the top of the riverbank for the purpose of sediment filtration. Any exemption to this minimum requirement will require pre-approval from the Resource Management Compliance Manager.

    Advice Note: *This will provide a sediment detention barrier that is intended to minimise sediment discharge into the nearby watercourse. In some cases, the vegetated strip will be less than 2 metres when there is insufficient space to enable this. An individual borrow area will typically remain open from two weeks on small jobs, through to 10 or 12 weeks or more on larger jobs if rain*

delays work. This buffer will need to be removed at the completion of each construction phase to ensure adequate drainage of the berms and to discourage siltation which decreases flood capacity.

56. The Consent Holder must minimise the time the borrow area is exposed by minimising the number of sites exposed at a time, and progressively exposing each borrow site only as needed. Multiple borrow areas supplying a long length of stopbank upgrade must similarly be reinstated in a progressive manner as the respective sections of stopbank they provide material for are completed.
57. Earthworks activities involving the stripping of the existing stopbank batter exceeding 500 m in length, require site specific controls to be outlined in detail within the CEMP.
58. The Consent Holder must ensure that the borrow sites are appropriately stabilised by 30 May of each year unless otherwise approved in writing by the Resource Management Compliance Manager. Stabilisation must be undertaken by providing adequate measures (vegetative and/or structural and including, pavement, metalling, re-vegetation and mulching) that will minimise erosion of exposed soil to the extent practical to avoid sediment run off.
59. Sediment control measures must be installed prior to works and must remain in place until any bare earth associated with the works has been re-vegetated sufficiently to avoid sediment runoff.
60. Where construction works are on LUC2 areas of highly productive land, topsoil must be stripped, stockpiled and reinstated, and the borrow excavations located to avoid these areas of highly productive land.

Vegetation removal, replacement & disposal

61. Where any vegetation is removed that includes exotic plants such as willow and pampas, it is not to be disposed of in locations where such vegetation is not present. Exotic plants must be disposed of at a location and in a manner where it will not cause the spread of exotic plants. The disposal of exotic plants at a facility authorised to receive exotic vegetation will also satisfy this condition.
62. If the kauri tree at 29 Morris Road is removed, the Consent Holder must replace it with the same species. The Consent Holder must maintain all replacement planting for a minimum period of three years following the replacement planting to facilitate successful establishment.

Waipaoa River Water Take

63. Water must be taken from the Waipaoa River at a rate of take of no more than 30 litres per second and 1,000 cubic metres per day under the B Block Allocation.
64. Water taken under this consent must be only for general construction purposes such as dust suppression, wheel wash facilities, concrete 'make-up' water and reinstatement activities (minor irrigation of grass and vegetation).
65. The taking of water under the B Block allocation must cease when the Waipaoa River (B-Block) flow at the Kanakanaia Bridge site drops below 4,000 litres per second, as reported by the Gisborne District Council Compliance low-flow tool or another tool as agreed by the Resource Management Compliance Manager.

66. When taking water under the B Block Allocation, the consent holder must install, maintain and calibrate a suitable water meter and data logger in accordance with the *Resource Management (Measurement and Reporting of Water Takes) Regulations 2010*, record the water taken (instantaneous rate of take and volume) and return the records to the Resource Management Compliance Manager on a monthly basis.

    Advice notes:

    - *Under the A Block Allocation water can be taken from the Waipaoa River at a rate of take of no more than 5 litres per second and 10 cubic meters per day per property as a permitted activity under Rule C6.1.2(1) of the Tairāwhiti Resource Management Plan.*
    - *Telemetry is not required.*

67. The water meter(s) must be operated and maintained to measure the volume of water taken to an accuracy of +/- 5%. The water meter must:
    a. meet the Resource Management (Measuring and Reporting of Water Takes) Regulations 2010;
    b. be installed in accordance with the manufacturer's instructions and at a location that will ensure the entire water take is measured;
    c. be sealed and as tamper-proof as practicable;
    d. be able to be fitted with a recording device; and
    e. The Consent Holder must provide notice to the Resource Management Compliance Manager (compliance.admin@ gdc.govt.nz) within two weeks of any new and/or any change in water meter(s), telemetry system(s) or monitoring device(s), or headworks being installed.
68. All practicable measures must be taken to ensure that the water meter(s), recording device(s) (if installed) and headworks are fit for purpose and in effective working order.
69. Water authorised to be taken under this resource consent must not be transferred upon expiry.
70. Mobile water take intake pumps must be screened with mesh wire screen with gaps of a maximum of 1.5 mm or as otherwise agreed in writing with the Resource Management Compliance Manager.

Post Construction

71. All waste material must be removed from the site and the shape of the streambed must be reinstated to the predevelopment streambed profile or to a profile agreed to by the Resource Management Compliance Manager.
72. The works must remain the responsibility of the Consent Holder and shall be maintained so that any erosion, scour or instability of the streambed or banks that is attributable to the works carried out as part of this consent is remedied by the Consent Holder within ten (10) working days.
73. The Consent Holder must be responsible for the continued maintenance of the culverts, stopbank and associated works and must replace any parts of the works that may be dislodged through naturally occurring events; particularly should this compromise the integrity of the culvert, stopbank or impede access to the river or stream flow.

Consequential flooding effects mitigation at 103 Kanakanaia Road

74. Prior to the upgraded stopbanks becoming operational, the Consent Holder must implement mitigation measures to reduce the significant consequential flooding effects on the habitable buildings at 103 Kanakanaia Road.
75. The mitigation measures must be designed by a suitably qualified and experienced practitioner and must reduce the flood hazard risk classification applying to the habitable buildings in the design event to a level that provides an acceptable level of risk to occupants.
76. In determining the required mitigation and post-mitigation flood hazard risk classification, the suitably qualified and experienced practitioner must have particular regard to:
    a. the H1 flood hazard risk classification applying to the habitable buildings prior to the stopbanks being upgraded;
    b. the modelled increase to H5 as a consequence of the upgraded stopbanks in the design event; and
    c. the practicability and effectiveness of available mitigation measures, including raising the floor levels of the habitable buildings.
77. The requirements of Conditions 74–76 do not apply where statutory compensation has been provided to the landowner in respect of the consequential flooding effects on the habitable buildings at 103 Kanakanaia Road.
78. Prior to the upgraded stopbanks becoming operational, the Consent Holder must provide the Resource Management Compliance Manager with evidence demonstrating how conditions 74-77 have been satisfied, being either:
    a. where mitigation is implemented under Conditions 74-76:
        - details of the mitigation measures implemented;
        - the pre and post-mitigation flood hazard risk classifications for the habitable buildings; and
        - certification from the suitably qualified and experienced flood hazard practitioner confirming that the requirements of Conditions 74-76 have been satisfied; or
    b. where Condition 77 applies, written evidence confirming that statutory compensation has been provided to the landowner.

Mitigation planting at 35 Paulson Road, 29 Morris and 59 Kipling Road

79. The Consent Holder must submit a Landscape Mitigation Planting Plan for each of the properties at 29 Morris Road, 35 Paulson Road and 59 Kipling Road within 20 working days following completion of the stopbank construction works adjacent to the relevant property (unless otherwise agreed with the landowner).
80. The Landscape Mitigation Planting Plans must be submitted to the Resource Management Compliance Manager for written certification. The Landscape Mitigation Planting Plans must:
    a. Be prepared by a suitably qualified and experienced Landscape Architect;

b. Be developed in consultation with the owners of 29 Morris Road, 35 Paulson and 59 Kipling Road;
c. Identify the location, species, size, spacing and extent of all proposed planting;
d. Include planting designed to mitigate the visual effects of the stopbank as experienced from the dwelling and principal outdoor living areas of each property;
e. Utilise species that are consistent with the character of the surrounding rural environment, including shelterbelt, hedgerow, orchard, or other appropriate rural landscape planting;
f. The mitigation planting must be designed to achieve, within five years of planting, a vegetated screen capable of substantially softening and filtering views of the stopbank from the dwellings and principal outdoor living areas at 29 Morris Road, 35 Paulson Road and 59 Kipling Road.
g. Include a maintenance programme providing for weed control, replacement of failed plants, and general plant establishment.

81. The Consent Holder must implement the certified Landscape Mitigation Planting Plans during the first available planting season following certification of the plans (unless otherwise agreed with the landowner).

82. Any plant that dies, is removed, or is damaged to the extent that it no longer fulfils its intended screening function within three years of planting must be replaced with the same or similar species during the next planting season (unless otherwise agreed with the landowner).

83. The Consent Holder must maintain all mitigation planting for a minimum period of three years following installation to ensure successful establishment (unless otherwise agreed with the landowner - written evidence of which must be provided to the Resource Management Compliance Manager):

2416 Matawai Road Property

84. At least 20 working days prior to the commencement of any works on, or affecting access to, 2416 Matawai Road, the Consent Holder must submit to the Resource Management Compliance Manager, for certification an Access and Orchard Operations Management Plan for that property. If a written response, which may include a request for further information, is not received within 20 working days of the Consent Holder submitting the Access and Orchard Operations Management Plan, the certification shall be deemed to be confirmed. The plan must be prepared by a suitably qualified and/or experienced person and in consultation with the property owner, and must provide for the following (unless otherwise agreed with the landowner - written evidence of which must be provided to the Resource Management Compliance Manager):

a. Continuous all-weather vehicle access to and within the property at all times during construction, suitable for the heaviest vehicle type using the property immediately prior to construction, including truck and trailer units carrying fruit bins;
b. Where the existing accessway cannot be used, an alternative access of equivalent standard, formed and available for use before the existing access is disturbed;

c. On site separation of construction and haulage traffic from orchard traffic where possible, including signage and a maximum speed for construction vehicles;
d. Sight distances at the State Highway 2 crossing point are no less than 160 m and comply with the standards of the New Zealand Transport Agency;
e. The gradient, width, formation and surfacing of the reinstated permanent access, must be designed by a suitably qualified engineer and must be no less serviceable than the accessway existing prior to the works;
f. Dust suppression on the accessway and haul route, including metalling and watering to manage dust emissions to reduce the risk of orchard tree foliage contamination and to reduce the risk of significant fruit marking, fruit rejection or food safety issues;
g. A response procedure where dust suppression does not meet the outcomes of (f) - including notification of the owner, investigation and remedial action which may include screening;
h. Temporary and permanent shelter belt replacement details; and
i. A procedure for the owner to notify the Consent Holder in writing of the harvest period during when works are occurring on site, and for the Consent Holder to confirm how construction and haulage traffic will be managed during that period.

2424 Matawai Road Property

85. At least 20 working days prior to the commencement of any works on, or affecting access to, 2424 Matawai Road, the Consent Holder must submit to the Resource Management Compliance Manager, for certification an Access and Operations Management Plan for that property. If a written response, which may include a request for further information, is not received within 20 working days of the Consent Holder submitting the Access and Operations Management Plan, the certification shall be deemed to be confirmed. The plan must be prepared by a suitably qualified and/or experienced person and in consultation with the property owner, and must provide for the following (unless otherwise agreed with the landowner - written evidence of which must be provided to the Resource Management Compliance Manager):
    a. Providing access to the river over the stopbank for horse trekking activities during construction;
    b. Continuous vehicle access to and within the property at all times during construction, suitable for the heaviest vehicle type using the property immediately prior to construction;
    c. Where the existing accessway cannot be used, an alternative access of equivalent standard, formed and available for use before the existing access is disturbed;
    d. On site separation of construction and haulage traffic from site operations traffic where possible including signage and a maximum speed for construction vehicles;
    e. Temporary and permanent shelter belt replacement details;
    f. Dust suppression measures;
    g. Fence and gate management and reinstatement details (any fences and gates needing to be removed or altered because of the works will

be first relocated with an equivalent fence unless otherwise agreed with the landowner);

h. Sight distances at the State Highway 2 crossing point that are no less than those existing prior to the works and that comply with the standards of the New Zealand Transport Agency;

i. Details on how alternative water supply well and ancillary assets will be implemented before being removed (if required); and

j. Noise and vibration management measures as outlined in the CNVMP; and

k. Ensure permanent vehicle access post-construction is designed in accordance with the relevant GDC and/or NZTA guidelines.

86. If it is confirmed that the borrow pit works will remove the property's water supply well, the Consent Holder must facilitate a replacement water supply well, relocated pump shed, pipework and power. The replacement assets must be in place and operating before the works that affect the existing supply commence. The new well must be:

    a. of a similar depth and diameter as the current well.

    b. located on the protected side of the new stopbank and a minimum of 50 m or another suitable distance away from the existing effluent pond on the Council's land to the west (if practicable).

    c. be designed to meet Tairāwhiti Resource Management Plan requirements.

Advice note:

A bore permit may be required under the TRMP. A permit is not authorised by these consents.

87. Within 20 working days following completion of the stopbank construction works adjacent to 2424 Matawai Road, the Consent Holder must submit a Landscape Mitigation Planting Plan for 2424 Matawai Road to the Resource Management Compliance Manager for certification.

88. The Landscape Mitigation Planting Plan must:

    a. be prepared by a suitably qualified and experienced landscape architect;

    b. be prepared in consultation with the owner of 2424 Matawai Road;

    c. identify the location, species, size, spacing and extent of replacement and mitigation planting;

    d. provide replacement and mitigation planting to address the loss of vegetation and shelter associated with construction of the Project, including loss of visual containment, rural landscape character and shelter along the property access;

    e. utilise species appropriate to the rural character and existing vegetation patterns of the property; and

    f. include a maintenance programme providing for establishment, weed control and replacement of failed plants.

89. The planting must be implemented during the first planting season following certification of the Landscape Mitigation Planting Plan, unless otherwise agreed in writing with the landowner - written evidence of which must be provided to the Resource Management Compliance Manager.

Geotechnical Conditions

90. The Consent Holder must undertake the activity in accordance with the recommendations contained in the Geotechnical Report prepared by GHD (reference 12685374 Rev1 and dated 31/3/2026), or any subsequent addenda or detailed geotechnical assessments prepared by a suitably qualified geotechnical practitioner.

91. Upon completion of construction, the Consent Holder must provide certification from a suitably qualified geotechnical practitioner that the stopbank has been constructed generally in accordance with the approved plans and that the geotechnical assumptions adopted in the design remain valid.

Operations and Maintenance Plan

92. Prior to completion of construction of the stopbank, the Consent Holder must submit an Operations and Maintenance Plan for the stopbanks to the Resource Management Compliance Manager for certification. If a written response, which may include a request for further information, is not received within 20 working days of the Consent Holder submitting the Operations and Maintenance Plan, the certification shall be deemed to be confirmed.

93. The Plan must:

    a. address routine inspections and post-event inspections following significant flood or seismic events that may reasonably be expected to affect stopbank performance;

    b. procedures for repair or reinstatement works required to maintain the stopbanks intended flood protection function;

    c. monitoring of changes in riverbed levels and morphology relevant to the stopbanks intended flood protection function and available freeboard.

94. The Consent Holder must implement and comply with the certified Operations and Maintenance Plan for the duration of these consents.

Maintenance of Existing Stopbank Protection

95. The Consent Holder must retain the existing stopbank until the new stopbank has been constructed to an equal or greater level of service.

    Advice note:

    This condition is imposed to avoid an increase in flood risk and associated adverse flooding effects during construction. For the avoidance of doubt, consent is granted to remove the parts of the existing structure.

Development Engineering

96. Any damage caused by the Consent Holder to any access way or other assets as a result of the exercise of this consent must be repaired to the satisfaction of the Resource Management Compliance Manager and at the Consent Holders expense.

<u>Road Raising Design – Rangatira Road</u>

97. Prior to commencement of the road raising works on Rangatira Road, the Consent Holder must submit design/construction drawings for the road raising

and vehicle crossings to the Resource Management Compliance Manager for certification (in accordance with condition 12). The design must be in accordance with Council's standards as set out in the Tairāwhiti Resource Management Plan and Gisborne District Council's Engineering Code of Practice or Austroads and must include (but not be limited to):

a. Geometric design including Vertical Alignment
b. Pavement design including Surfacing and Traffic Services
c. Earthworks design
d. Disposal of stormwater including all structures
e. Long term erosion and sediment control.

Vehicle crossing – upgrade

98. Prior to completion of the works the Consent Holder must upgrade the existing vehicle entrances affected by the works on SH2 in accordance with NZTA Appendix 5B Type C Vehicle Entrance or alternative standard.

99. Prior to completion of the works the Consent Holder must upgrade the existing vehicle crossings affected by the works on Rangatira Road in accordance with the Tairāwhiti Resource Management Plan and Gisborne District Council's Engineering Code of Practice 2000 Type A Sealed Vehicle Entrance.

Advice Note:

The vehicle crossing upgrades will be subject to Corridor Access Request to the relevant Road Controlling Authorities – NZTA for SH2 and Gisborne District Council for Rangatira Road and an Engineering Plan Approval (EPA) will be required for the final design and Construction plans.

Management of Contaminated Land

100. To address the possibility of, and response to, any accidental discovery of hazardous substances or contaminated soil in buried legacy sites the Consent Holder must ensure works take place in accordance with the Site Management Plan submitted with the application (LDE Ref #30019 dated 29 May 2026).

Review condition

101. The Resource Management Compliance Manager may, after the granting of this consent, give notice of intention to review the conditions of this consent pursuant to Section 128 of the Resource Management Act 1991. The time period for reviewing the consent may be at annual intervals during construction and annually for 10 years following completion of the upgraded stopbanks with written notice to be given at least 20 working days ahead of the review date of the consent conditions for all or any of the following purposes:

a. To review the appropriateness of conditions in the light of changes to relevant national standards, regulations and guidelines, and the relevant regional and district level plans.

b. To review the effectiveness of these conditions in avoiding, remedying or mitigating any significant adverse effect on the environment arising from the exercise of the consents.

c. To impose additional, or modify existing conditions of consent relating, but not necessarily limited, to the matters specified hereunder if the Council considers it necessary to deal with any adverse effect on the environment which may arise from the exercise of this consent and which it is appropriate to deal with at a later date:

i. The management of debris accumulation and/or blockage;

ii. Consequential flooding effects on properties outside the proposed protected area; and

iii. Riverbed aggradation or other morphological change that may materially affect design flood levels, available freeboard or the intended level of service of the upgraded stopbanks.