



MITCHELL
DAYSH

WHANGANUI DISTRICT COUNCIL

TE PŪWAHA

Soil Disturbance Resource Consent
Application

23 May 2022

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REPORT INFORMATION

Report Status	Final
Our Reference	MDL001448
File Location	MDL001448 / Te Pūwaha Project Whanganui Port / 04 Application / 11 Earthworks Application
Author	Megan Hankey
Review By	Megan Justice
Version Date	23 May 2022

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PART A

Resource Consent Application

FORM 9

**APPLICATION FOR RESOURCE CONSENT OR FAST-TRACK
RESOURCE CONSENT**

Sections 87AAC, 88, and 145, Resource Management Act 1991

To Whanganui District Council

1. The **Whanganui District Council** applies for the following type of resource consent:

Land use consent

2. The activity to which the application relates (the proposed activity) is as follows:

Earthworks

3. The site at which the proposed activity is to occur is as follows:

Earthworks are required at the Whanganui Port and surrounds, and within the area east of the boat ramp. The legal descriptions of the land subject to this application is provided below:

- *Part Lot 1 DP 89274 and Lot 6 DP 435979, contained within Registered Title ("RT") 534339*
- *Lot 2 DP 548636, contained in RT 985974 (this application only relates to a small part of this site as shown on the earthworks plan contained in **Appendix A**).*
- *Lot 1 DP 548636 contained in RT 985973 (this application only relates to a small part of this site as shown on the earthworks plan contained in **Appendix A**).*
- *Lot 7 DP 435979 and Lot 2 DP 81330, contained in RT534340*
- *Pt Land Assessed at 13090/3500 – Bal of Land (there is no title issued for this land)*
- *Road reserve (small area of Tod St).*

*The site is described in full in the attached Assessment of Environmental Effects which forms part of this application. A site plan is provided in **Appendix A**.*

4. The full name and address of each owner or occupier (other than the applicant) of the site to which the application relates are as follows:

Whanganui Port Limited Partnership owns Lot 2 DP 548636, Lot 7 DP 435979, Lot 2 DP 81330, Part Lot 1 DP 89274 and Lot 6 DP 435979)

5. The other activities that are part of the proposal to which the application relates are as follows:

The earthworks are required as part of the Te Pūwaha project. This project is described in full in the Assessment of Effects which forms part of this application. The earthworks are required to level parts of the site, remediate parts of the site and install trenching for services. Earthworks are also required as part of the works to demolish the existing wharf structures and erect the new wharf structures, where this work is outside of the coastal marine area.

6. The following additional resource consents are needed for the proposal to which this application relates and have been applied for:

A resource consent application has been applied for from the Horizons Regional Council for the works associated with the redevelopment of the existing wharfs, and associated disturbance of the coastal marine area. This application also seeks resource consent for earthworks outside of the coastal marine area.

7. I attach an assessment of the proposed activity's effect on the environment that—

- (a) includes the information required by clause 6 of Schedule 4 of the Resource Management Act 1991; and
- (b) addresses the matters specified in clause 7 of Schedule 4 of the Resource Management Act 1991; and
- (c) includes such detail as corresponds with the scale and significance of the effects that the activity may have on the environment.

8. I attach an assessment of the proposed activity against the matters set out in Part 2 of the Resource Management Act 1991.

9. I attach an assessment of the proposed activity against any relevant provisions of a document referred to in section 104(1)(b) of the Resource Management Act 1991, including the information required by clause 2(2) of Schedule 4 of that Act.

10. I attach the following further information required to be included in this application by the district plan, the regional plan, the Resource Management Act 1991, or any regulations made under that Act:

Assessment of Environmental Effects


Appendix A: Site Plan

Appendix B: Registered Titles

Appendix C: Detailed Site Investigation Report

Appendix D: Draft Site Management Plan

Signature: pp.



Person authorised to sign on behalf of applicant

Date: 23 May 2022

Electronic address for Service: Rosemary.Fletcher@whanganui.govt.nz

Telephone: 06 349 3188

Postal address (or alternative method of service under section 352 of the Act):

Whanganui District Council

PO Box 637

Whanganui 4500

Contact person: Rosemary Fletcher

Note an electronic address for service must be provided if you are applying for a fast-track resource consent application.

Note to applicant

You must include all information required by this form. The information must be specified in sufficient detail to satisfy the purpose for which it is required.

You must pay the charge payable to the consent authority for the resource consent application under the Resource Management Act 1991 (if any).



PART B

Assessment of Environmental Effects

1. INTRODUCTION

This Assessment of Environmental Effects (“**AEE**”) is provided in accordance with the requirements of section 88 of the Resource Management Act 1991 (“**the RMA**” or “**the Act**”) and the Fourth Schedule to the Act. It is in support of a resource consent application made by Whanganui District Council (“**WDC**” or “**the Applicant**”) to carry out earthworks at the Whanganui Port. The ground disturbance is required to enable the development of the Port for the Te Pūwaha project. The site is legally described as

- Part Lot 1 DP 89274 and Lot 6 DP 435979, contained within Registered Title (“**RT**”) 534339,
- *Lot 2 DP 548636, contained in RT 985974 (this application only relates to a small part of this site as shown on the earthworks plan contained in **Appendix A**).*
- *Lot 1 DP 548636 contained in RT 985973 (this application only relates to a small part of this site as shown on the earthworks plan contained in **Appendix A**).*
- Lot 7 DP 435979 and Lot 2 DP 81330, contained in RT534340.
- Pt Land Assessed at 13090/3500 – Bal of Land (there is no title for this land).
- *Road reserve (small area of Tod St).*

The RT’s for the site are attached as **Appendix B**.

2. BACKGROUND

Te Pūwaha (meaning ‘the gateway’, or ‘river mouth’) is a project collaboration of four partners: Whanganui iwi / hapū as the central voice of the partnership, Whanganui District Council (“**WDC**”), Horizons Regional Council (“**Horizons**”), Q-West Boat Builders (“**Q West**”), and Port Employment Precinct.

Te Pūwaha provides for the revitalisation of Whanganui’s Port to enable better utilisation of the traditional Whanganui Port area and provide for a new marine precinct for boat building and servicing. It aspires to improve the aesthetic appearance of the area, making it attractive to current and new users, creating jobs and training opportunities for local people which will positively contribute to the ‘abundance’ of the river and its people.

The Te Pūwaha project is the culmination of a process of co-governance, co-managing and co-design between all the project partners. This co-management and co-design process will be realised by Whanganui District Council and Te Mata Pūau when developing the final design of the project, during the implementation of the conditions of consent and, including ensuring that an abundance approach is fulfilled in all aspects of the project.

While this application relates to activities on the land, and not the Whanganui River, earthworks will take place immediately adjacent to the river. In order to ensure that the values of the Whanganui River are embedded in all construction works for the Te Pūwaha project, the project requires for all project partners to uphold the values of Tupua te Kawa, which are the intrinsic values that represent the essence of the Te Awa Tupua Act (Whanganui River Claims Settlement) Act 2017. These values include:¹

- Ko Te Kawa Tuatahi - Ko te Awa te mātāpuna o te ora: the River is the source of spiritual and physical sustenance;
- Te Awa Tupua is a spiritual and physical entity that supports and sustains both the life and natural resources within the Whanganui River and the health and well-being of the iwi, hapū, and other communities of the River;
- Ko Te Kawa Tuarua - E rere kau mai i te Awa nui mai i te Kahui Maunga ki Tangaroa: the great River flows from the mountains to the sea: Te Awa Tupua is an indivisible and living whole from the mountains to the sea, incorporating the Whanganui River and all of its physical and metaphysical elements;
- Ko Te Kawa Tuatoru - Ko au te Awa, ko te Awa ko au: I am the River and the River is me: The iwi and hapū of the Whanganui River have an inalienable connection with, and responsibility to, Te Awa Tupua and its health and well-being;
- Ko Te Kawa Tuawhā - Ngā manga iti, ngā manga nui e honohono kau ana, ka tupu hei Awa Tupua: the small and large streams that flow into one another form one River: and
- Te Awa Tupua is a singular entity comprised of many elements and communities, working collaboratively for the common purpose of the health and well-being of Te Awa Tupua.

In 2017, legislation giving effect to the Whanganui River Deed of Settlement was introduced as Parliament passed an historic bill to recognise the special relationship between the Whanganui River and Whanganui iwi. It provides for the river's long-term protection and restoration by making it a person in the eyes of the law.

Te Awa Tupua Act recognises that Te Awa Tupua is an indivisible and living whole, comprising the Whanganui River from the mountains to the sea, incorporating all its physical and metaphysical elements.² In that context, it is unquestionable that the full suite of prominent obligations the Te Awa Tupua Act imposes on all Resource Management Act

¹ Mitchell Daysh as authors of this report recognise that Te Mata Pūau has the authority and expertise in relation to Tupua te Kawa and Te Awa Tupua Act. All references to Te Awa Tupua in this application are made with the support of Te Mata Pūau.

² Clause 12.

1991 (“**RMA**”) processes involving Te Awa Tupua will apply to the project under s104 of the RMA.

The applicant acknowledges that Te Mata Pūau are best qualified to speak more extensively to the values of the project under Te Awa Tupua Act. Please refer to additional document from Te Mata Pūau, through the Project Director, in support of this consent application.

Te Pūwaha project demonstrates commitment to the legal obligations to provide for Tupua te Kawa, which extends beyond ‘traditional’ involvement of hapū, iwi and community to ensure the values of Te Awa Tupua are upheld. Te Awa Tupua obligates Whanganui District Council (the applicant) and Horizon Regional Council (as decision makers) to work under Tupua Te Kawa. This is guided by the following project-wide commitment statements:

The Whanganui River is recognised at law as a living and indivisible whole, Te Awa Tupua

Te Awa Tupua (Whanganui Settlement Act 2017) invokes a new way of working with the Awa that puts the health and wellbeing of Te Awa Tupua at the centre of decision making. All parties are committed to ensuring that because of this project, the health and wellbeing of Te Awa Tupua will be improved. This includes benefits for the wider ecosystem, the river and whānau, hapū, iwi and the wider Whanganui community.

Te Mata Pūau plays an integral part in the success of the Project

A central component of Tupua Te Kawa is that the Whanganui Iwi and Hapū have an inalienable connection with, and responsibility to Te Awa Tupua, and its health and wellbeing. Te Mata Pūau represent the Whanganui Hapū for the purposes of this project. Given their responsibility, it is essential that Te Mata Pūau play a leadership role in the delivery of Te Pūwaha.

Te Pūwaha will seek guidance and approval from Te Mata Pūau to ensure Te Awa Tupua and Tupua Te Kawa are upheld

Te Mata Pūau will lead us to understanding the Te Awa Tupua status and the application of Tupua te Kawa towards the health and wellbeing of the Whanganui River in its entirety. To ensure that the responsibility of Te Mata Pūau is upheld, all partners will form a strong relationship with Te Mata Pūau and ensure Te Mata Pūau is central to all decision-making processes. The Project Director works closely with Te Mata Pūau to ensure that all partners are contributing to improving the health and wellbeing of Te Awa Tupua through the delivery of this project.

Working in a more collaborative way will benefit the wider community, as multiple views are reflected in the planned activities and progress

All parties will work in partnership to realise the objectives of Te Pūwaha. This will include developing a comprehensive, co-design process to allow the wider community to have input into the project. Partners will align their organisation to provide for these outcomes. This alignment and necessary organisational changes will ensure the project's success in line with Te Awa Tupua and Tupua te Kawa.

Mouri Awa, Mouri Tāngata, Mouri Ora

All parties are committed to the ongoing abundance of Te Awa Tupua that will go beyond the lifespan of this current project.

Te Pūwaha provides for the revitalisation of Whanganui's port to enable better utilisation of the traditional Whanganui port area and provide for a new Marine Precinct for boat servicing. It aspires to improve the aesthetic appearance of the area, making it attractive to current and new users, creating jobs and training opportunities for local people which will positively contribute to the 'abundance' of the river and its people.

The indicative Te Pūwaha Master Plan, showing the full extent of the indicative revitalisation works, is shown in Figure 1 below.

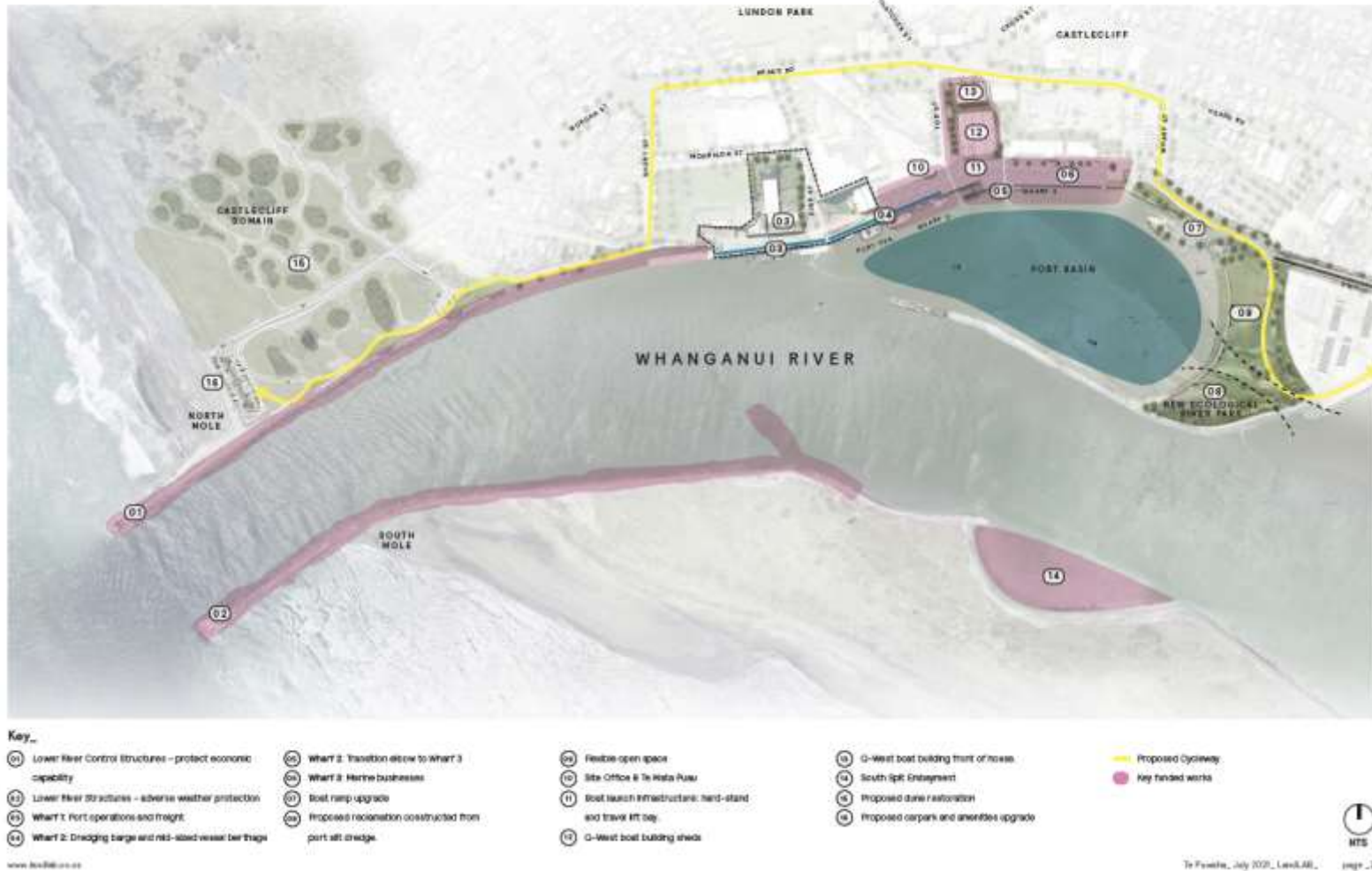


Figure 1: Indicative Te Pūwaha Master Plan - Concept Design (Source: WDC)

The objectives of Te Pūwaha include:

- To secure the Whanganui Port as a community asset for the next 50 years and beyond, saving 125 existing jobs in the marine, engineering and coastal freight sectors in the short term;
- To improve the aesthetic appearance of the area, making it attractive to current and new users;
- To create a platform for attracting further investment and new businesses into the Port, stimulating ongoing local economic development;
- To provide specialist retraining and upskilling for all port activities and users through the Port Employment Precinct programme;
- To create environmentally responsible vessel servicing and maintenance operations; and
- The Port's heritage and authenticity will be valued. Wherever possible, materials from existing structures within the port precinct will be repurposed and restored.

Several resource consents are required for this project. The resource consent application for the wharf redevelopment works has been lodged with Horizons Regional Council. Remaining works, including the dredging port basin and closing of the training wall, are currently being prepared and will be lodged with Horizons Regional Council early in 2022.

3. SITE AND LOCALITY

The Whanganui Port is located at the mouth of the Whanganui River. The site has been a port since the 1880's and the current port facilities include berths for small coastal trading vessels, fishing/charter and recreational vessels, with approximately 580m of wharf space across all three wharves. The port also has a recreational boat ramp and neighbouring trailer park.

The port is located within the river side commercial area of the Whanganui township, with the dominant land use immediately surrounding the site being industrial and production activities. The Castlecliff residential area is located to the north-west and north-east of the site. The site to which this application relates is depicted in Figures 2 and 3 below.



Figure 2: Location of the site and proposed earthworks (Source: Wardale Ltd).

Resource consent for earthworks and land disturbance activities associated with this proposal have been applied for in a resource consent application lodged with Horizons Regional Council for the wharf’s redevelopment works. As this site is identified as a Hazardous Activities and Industries List (“**HAIL**”) site, a resource consent is required for a discretionary activity under the National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health (“**NESCS**”), (as discussed in Section 5 below) from the WDC. Consent is also required under the Whanganui District Plan as the earthworks will not achieve all of the relevant standards that apply to permitted earthworks activities. This resource consent application is in relation to the earthworks activities on a contaminated site, required under the NESCS.

A combined preliminary site investigation and detailed site investigation (“**DSI**”) of the landward extent of the Whanganui Port area has been partially³ completed by HAIL Environmental to identify the presence of any land contamination at this site. This DSI is attached in full in **Appendix C**. While parts of the site could not be investigated due to demolition works and access restrictions at the wharf, the DSI concluded that the site is a

³ The PSI-DSI is considered to be partially completed as some parts of the site were not accessible for investigation or sampling, due to health and safety matters.

HAIL site.⁴ Additionally, the DSI noted that there have been several other hazardous industries adjacent to the site over the years, including a tannery (HAIL category A16), cement storage (E4), oil terminals (A13), bitumen production (A13) and waste oil collection (A13). Buildings both on and off site have had asbestos cement cladding and roofing in a deteriorated condition (HAIL category E1).⁵

HAIL Environmental also identified fragments of asbestos-containing material at several locations around the site, and some surface soil samples from around Wharf 3 / the previous location of the Victory Shed (now demolished) and from the former cement storage site adjacent to the site's northern boundary, which exceeded BRANZ guideline values for asbestos.

Furthermore, various heavy metals were found to be elevated at a number of locations. Most surface soil samples from around the former Red Shed / Wharf 2 had low to moderately elevated levels of arsenic, chromium, lead and zinc, while one sample exceeded the national Soil Contaminant Standard for arsenic. Samples taken around Wharf 3 / Victory Shed also contained significantly elevated levels of chromium, zinc, lead and arsenic.

Traces of polyaromatic hydrocarbons were also often encountered, including at the rear of Wharf 3 and in the embankment, which appear to be originating from the upgradient site at 501 Heads Road, where an asphalt plant is located. Reclamation fill material, apparently derived from historic demolition materials, may be a further source of contamination, but it was not able to be adequately characterised due to sampling restrictions.

4. PROPOSAL

Ground disturbance is required on the landward area of Whanganui Port as part of the Te Pūwaha project. Earthworks are required for:

- The installation of infrastructure, including reticulated pipe services and vehicle access;
- Preparing building platforms and the hard stand area;
- The re-building of the wharves, including the demolition works for the existing wharf structures and the removal of the flooring slabs of the two demolished sheds; and
- Development of the car parks adjacent to the proposed reclamation area.

⁴ Historic uses of the site are listed in the Ministry for the Environment's Hazardous Activities and Industries List (HAIL, categories F5 and F6).

⁵ The buildings clad with asbestos containing material have been removed from the site and these demolition works have been carried out with the appropriate certifications.

5. PLANNING FRAMEWORK

5.1 DISTRICT PLAN ASSESSMENT

The site is located in the General Industrial Zone in the Whanganui District Plan (“the District Plan”). The proposed activity comprises an earthworks activity landward of the Whanganui Port as part of the Te Pūwaha project.

5.2 EARTHWORKS

The proposed earthworks will not comply with the permitted earthwork limits in the Whanganui District Plan (refer to Table 1). Resource consent is therefore required for a Restricted Discretionary Activity in accordance with Rule EW-R2 of the District Plan.

Table 1: Earthworks Standards Assessment (EW-S2 General Earthworks Standards).

General Earthworks Standards (EW-S2)	Compliance
Cuts shall not exceed 1.5m in height and fills below building platforms shall not exceed 0.6m in depth measured vertically excluding pools and tanks that are buried.	May not comply – The maximum cut height for servicing trenching will be 1.5m and the maximum cut height for the hard stand will be 1m. However, if steel tie backs are used in the final wharf rebuild design these may be circa 2.5m below the finished levels
Cuts or fills shall not occur on slopes exceeding 20°.	Will not comply – The slope of the site is greater than 20° in some locations.
Cuts of greater than 1.0m in height measured vertically shall not occur within 5m of a toe of a slope exceeding 20°.	Expected to comply
Fills greater than 1.0m in height measured vertically shall not occur within 5m of the top of a slope exceeding 20°.	May not comply – filling of land near the wharf may not comply with this standard.
The toe of a fill or cut slope shall be at least 3 times the depth/height of the slope from an upslope boundary and at least 1.5 times the depth/height of the slope from a down slope boundary.	Expected to comply
Earthworks shall not: a. Alter overland flow paths, including swales and low impact stormwater devices, in a manner that causes damage to property through inundation, erosion, or subsidence. b. Cause excessive vibration on surrounding sites.	Will comply – Erosion, overland flow paths and vibration will be managed through a Site Management Plan (“SMP”). A draft SMP has been prepared, which is Attached in Appendix D . This will finalised as per the conditions of consent.

General Earthworks Standards (EW-S2)	Compliance
c. Create, encourage, or exacerbate erosion or instability.	
Measures shall be implemented to ensure that any discharge of dust beyond the boundary of the site is avoided or limited to such that it does not cause nuisance.	Will comply – Dust generated from earthworks on the site will be managed through the Site Management Plan.
Measures shall be implemented to ensure that infrastructure is appropriately protected from infiltration of sediments and roads are kept clean of mud and other such material.	Will comply – Sediment within the site will be managed through the Site Management Plan.

Overall, the proposed earthworks activities are provided for as a Restricted Discretionary activity under Rule EW-R2 of the District Plan.

5.3 RESOURCE MANAGEMENT (NATIONAL ENVIRONMENTAL STANDARD FOR ASSESSING AND MANAGING CONTAMINANTS IN SOIL TO PROTECT HUMAN HEALTH) REGULATIONS 2011 (“NESCS”)

In regard to the NESCS, the site is identified as a HAIL site. Regulation 8(3) of the NESCS permits small scale soil disturbance activities on HAIL sites, subject to permitted thresholds and controls.

Regulation 8(3) states:

Disturbing the soil of the piece of land is a permitted activity while the following requirements are met:

- (a) *controls to minimise the exposure of humans to mobilised contaminants must—*
 - (i) *be in place when the activity begins:*
 - (ii) *be effective while the activity is done:*
 - (iii) *be effective until the soil is reinstated to an erosion-resistant state:*
- (b) *the soil must be reinstated to an erosion-resistant state within 1 month after the serving of the purpose for which the activity was done:*
- (c) *the volume of the disturbance of the soil of the piece of land must be no more than 25 m³ per 500 m²:*
- (d) *soil must not be taken away in the course of the activity, except that,—*
 - (i) *for the purpose of laboratory analysis, any amount of soil may be taken away as samples:*
 - (ii) *for all other purposes combined, a maximum of 5 m³ per 500 m² of soil may be taken away per year:*

- (e) *soil taken away in the course of the activity must be disposed of at a facility authorised to receive soil of that kind:*
- (f) *the duration of the activity must be no longer than 2 months:*
- (g) *the integrity of a structure designed to contain contaminated soil or other contaminated materials must not be compromised.*

In this case, the scale of disturbance proposed would not comply with the permitted activity thresholds in Regulation 8(3) of the NESCS.

Further, because the DSI was not able to investigate some parts of the site, resource consent is required for a **discretionary activity** under Regulation 11. While this resource consent application is for a discretionary activity, it is considered appropriate to use the matters of discretion set out under Regulation 10(3) to guide the consideration of effects arising from this activity. These are set out in Section 6 of this assessment below.

5.4 SUMMARY

The District Plan

- A land use consent for a Restricted Discretionary **activity** for earthworks.

National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health

- Resource consent for a **discretionary activity** for earthworks to be carried out on a contaminated site.

6. ASSESSMENT OF ENVIRONMENTAL EFFECTS

6.1 EARTHWORKS

Given the site is a HAIL site, the actual and potential adverse effects of any earthworks activities at the site needs to be carefully managed to manage runoff, sedimentation and dust nuisance effects. The potential effects of the earthworks activities will be managed through undertaking works in a manner consistent with industry best standards and also any relevant guidelines or standards including, but not limited to, Greater Wellington's Guidance Document 005 – Erosion and Sediment Control Guidelines ("**GW ESC Guidelines**").

The main mechanism for ensuring the effects of the earthworks and construction activities are appropriately provided for is through the development and implementation of a Site Management Plan. A Site Management Plan will be produced by a Suitably Qualified and Experienced Practitioner to manage the potential risks associated with completing earthworks on contaminated land. The Site Management Plan which will be prepared following engagement of the contractor who will direct the final methodology and

programme, will be submitted to WDC for certification prior to the commencement of any earthworks on-site. The Site Management Plan will also include an Asbestos Removal Control Plan, and an Erosion and Sediment Control Plan.

Overall, any adverse effects as a result of discharges from construction will be appropriately managed through the finalisation of and adherence to the Site Management Plan.

6.2 SOIL DISTURBANCE EFFECTS ON HUMAN HEALTH

As noted above, the DSI found elevated levels of heavy metals at a number of locations throughout the site. Arsenic levels at one location exceeded the National Soil Contaminant Standard for the protection of human health in commercial / industrial use. This poses a potential risk to workers on the site. To appropriately manage this risk, all soil disturbance activities will be undertaken in accordance with procedures detailed in a Site Management Plan.

The DSI also identified fragments of asbestos-containing material at several locations throughout the site. Some of these samples exceeded the BRANZ guidelines for asbestos. All asbestos related work will be undertaken in accordance with the Health and Safety at Work (Asbestos) Regulations 2016, and this will be detailed in the Site Management Plan. Therefore, soil disturbance activities will be appropriately managed and the risk to site workers will be appropriately managed.

The matters of discretion set out under Regulation 10(3) of the NESCS have guided the consideration of effects arising from this activity. These matters of discretion are set out in in Table 2 below, with a corresponding assessment.

Table 2: NESCS Regulation 10(3) Consideration.

NESCS Regulation 10(3)	Assessment
<p>(a) <i>The adequacy of the detailed site investigation including—</i></p> <ul style="list-style-type: none"> (i) <i>site sampling:</i> (ii) <i>laboratory analysis:</i> (iii) <i>risk assessment.</i> 	<p>The DSI has been prepared by a suitably qualified and experienced person and is considered to be adequate in terms of those matters. However, due to the DSI being partially completed, a full Discretionary resource consent is required, and further analysis of the groundwater beneath the hydrocarbon affected area is required prior to works being carried out on this piece of land.</p> <p>Due to the partially completed nature of the DSI, an adaptive approach to managing earthworks is therefore required in order that unexpected areas of contamination are identified, and works can be appropriately managed during earthworks activities.</p>

NESCS Regulation 10(3)	Assessment
<p>(b) <i>The suitability of the piece of land for the proposed activity, given the amount and kind of soil contamination.</i></p>	<p>The piece of land is considered to be suitable for the proposed activity. Of note, the proposal does not include a change of activities at this site. The site will remain in industrial use, as is the current situation whereby a hardstand has been leased over many years for the storage and delivery of industrial components, including moulded concrete products).</p> <p>For the proposed car park site to the east of the main wharf area, this site is currently vacant. The levelling of this site and use for carparking is not considered to be an unsuitable use of this site.</p>
<p>(c) <i>The approach to the remediation or ongoing management of the piece of land, including:</i></p> <p>(i) <i>the remediation or management methods to address the risk posed by the contaminants to human health:</i></p> <p>(ii) <i>the timing of the remediation:</i></p> <p>(iii) <i>the standard of the remediation on completion:</i></p> <p>(iv) <i>the mitigation methods to address the risk posed by the contaminants to human health:</i></p> <p>(v) <i>the mitigation measures for the piece of land, including the frequency and location of monitoring of specified contaminants</i></p>	<p>The approach proposed for managing known contamination and unexpected areas of contamination will be set out in the Site Management Plan. With the area of the site that is known to be contaminated with hydrocarbons, further investigation is required to characterise groundwater beneath the site and determine the appropriate remediation or management requirements for this particular piece of land if it is to be disturbed once final wharf design plans are completed.</p> <p>In order to ensure that the piece of land which is contaminated with hydrocarbons is appropriately managed, a specific condition is suggested to require groundwater testing beneath this land prior to works commencing, and for the appropriate management regime for this piece of land to be provided to the Council (as part of the SMP certification process).</p> <p>The management of land contaminated with Asbestos Containing Material will be carried out in accordance with an Asbestos Removal Control Plan, and this will include adherence to the Works Completion Report. This report will include a plan showing areas of residual contamination which exceed relevant soil contamination standards for any land affected by Asbestos Containing Material that is not remediated.</p>
<p>(d) <i>The adequacy of the site management plan or the site validation report or both, as applicable</i></p>	<p>The SMP will be prepared by a 'suitably qualified and experienced person' and it will be suitable for the proposed works. The SMP will also require provision of a Works Completion Report, the contents of which is set out in a suggested condition below.</p> <p>It is considered that with a management regime set out in the SMP, and the requirements to undertake additional testing prior to works commencing in order to allow the SMP to be finalised, coupled with the Works Completion Report, the potential effects of the</p>

earthworks on human health will be appropriately managed.

(e) *The transport, disposal, and tracking of soil and other materials taken away in the course of the activity.*

The management of any soil to be removed from the site will be managed via in the SMP. In brief, general monitoring of earthworks will be undertaken by a suitably qualified and experienced person, and where required, the SMP will be updated as required to reflect necessary changes in the management regime.

As required, the suitably qualified and experienced person will assess any contaminated (or potentially contaminated) material discovered during earthworks. This person will advise on its management, and prepare a Site Contamination Report which will document:

- The nature and extent of the material;
- Its suitability to remain on-site; and
- The proposed disposal location and estimated volumes.

Further, the Works Completion Report must document the total volume of soil disposed of off-site and include copies of waste transfer documentation.

Section 6.3 below provides more details on the manging of contaminated soil.

(f) *The requirement for and conditions of a financial bond.*

A financial bond is not considered necessary given a comprehensive management regime will be in place to manage the effects of earthworks.

(g) *The timing and nature of the review of the conditions in the resource consent.*

The proposed conditions require the preparation of a SMP for certification by the Council prior to works commencing on-site. The SMP will also be updated as required as earthworks progress in order to ensure that unexpected discoveries of contamination are appropriately managed.

(h) *The duration of the resource consent.*

Consent is sought for 10 years, as the phasing of works for this project is proposed. Further, this consent will apply to the car parking area site (east of the main wharf site area). If this area is developed as part of the Te Pūwaha project, this is expected to take place in approximately 5-10 years.

In summary, the development of a SMP, as a resource consent condition, and a condition to require ground water testing of the piece of land affected by hydrocarbons, will appropriately manage effects on human health associated with the earthworks activities.

6.3 MANAGEMENT OF POTENTIALLY CONTAMINATED SOILS

Based on the asbestos soil results undertaken and reported in the DSI, and visible asbestos containing material fragments observed in site soils, earthworks will be undertaken as 'Class B' asbestos work. This will apply where elevated asbestos has been detected in site soils and where asbestos containing material fragments have been observed within site soils. The DSI found the source of asbestos and heavy metal contaminants on exposed surface soils in the wharf areas appears most likely to be building materials. It also identified asbestos containing material within an area of stockpiled fill located near the former rail siding by the Victory Shed. Therefore, asbestos contamination is expected to be superficial, and restricted to exposed soil.

The primary risk driver for asbestos exposure is via inhalation of airborne asbestos fibres. If there is no airborne asbestos present, there is no risk to human health (i.e., on-site workers or the general public during the excavation works). Therefore, the specific management measures outlined in the Asbestos Removal Action Plan will need to be implemented to mitigate the potential generation of airborne asbestos and subsequent potential risk to human health during the remedial works. To assist with the management of the works, air monitoring will be carried out as recommended for Class B asbestos removal works. The air monitoring ultimately provides reassurance that the adopted management controls (e.g., dust suppression measures) are adequate for the works.

Further, all transportation of contaminated or potentially contaminated soil will adhere to best practice methods. Based on the initial soil sampling investigations and the findings of the DSI, appropriate asbestos management controls will need to be implemented within the earth-worked areas where elevated asbestos has been detected in site soils and where asbestos containing material fragments have been observed within site soils. All asbestos remedial works will be undertaken in accordance with the Asbestos Removal Action Plan which will be prepared in accordance with the Asbestos Regulations and BRANZ (2017) asbestos guidelines document. This is required via the SMP.

The DSI also concluded some soil on the site is not suitable to be used as cleanfill, and if removed, will need to be disposed of at a licensed landfill. In particular, soils with elevated heavy metals from around Wharf 2 / Red Shed and Wharf 3 / Victory Shed may require further leachability testing for landfill acceptance purposes. As noted above, the management of these contaminated soils will be outlined in the SMP, including any further testing required within those areas that were not accessible at the time the DSI was prepared, and to determine suitability for reuse and/or suitable disposal locations.

6.4 EFFECTS ON WATER BODIES, ECOSYSTEM SERVICES AND BIODIVERSITY

As the site is located near the Whanganui River, all earthworks at the site will be carefully managed to ensure runoff to the river is appropriately managed to prevent the discharge of contaminants (other than sedimentation) occurring during construction works.

It is noted that one SMP will be prepared for earthworks at the site, which will address earthworks on land and earthworks/disturbance activities within the river. This will be practical, given it is not expected that the construction works would be divided at the CMA boundary. It is also important to ensure that effects arising from earthworks on the land do not result in adverse effects on the river. Of note, care will also be required around the embankment to ensure that the hydrocarbons present there are not mobilised during earthworks, by breaching the wall, or through the installation of underground service trenches. This will be addressed with appropriate management controls outlined in the SMP, and the requirement for ground water testing in this area prior to earthworks commencing in this area.

Conditions are recommended to be imposed by the Whanganui District Council to ensure the contamination matters are appropriately dealt with in relation to managing the potential effects on human health. Recommended conditions are set out in Section 9 of this AEE.

6.5 NUISANCE EFFECTS

The proposed earthworks have the potential to generate dust. Where appropriate, the generation and impact of dust on the surrounding environment is to be minimised by implementing the recommended measures outlined in the SMP and the overall Construction Environment Management Plan. These measures will ensure the generation of potential dust sources throughout the duration of the earthworks are effectively managed on-site.

Key dust control measures include (and will be prescribed in the SMP):

- Establish stabilised entrance/exit way and wheel wash facility to minimise mud and dust track-out from unpaved areas;
- Place hardfill over any exposed soils that will be trafficked over during development works, to prevent the spread of contamination in dirt, dust and runoff;
- When stockpiling, limit drop height of soil onto stockpile, and keep the material damp. Alternatively, load soil directly into truck and trailer units by placing the material or limiting drop heights. Limit load sizes to avoid spillages. Cover truck and trailer units with tarpaulins on route to disposal facility;
- Regularly clean up spillages of soil on paved surfaces;
- Implement traffic controls including access restrictions and speed limits. Targeted and temporary speed restrictions of 5 to 10 km/hr shall be implemented in response to adverse conditions;
- If nuisance dust is still being generated, additional measures may include installing windbreak fences, covering stockpiles and ceasing works until wind strength decreases or changes direction; and

- › Visually monitor dust during dry conditions, and if required, keep active earth working areas damp using water, in such a way that the water application does not cause surface runoff that would discharge into the environment.

With the proposed mitigation measures in a SMP adhered to, the potential effects from dust are expected to be less than minor.

With the implementation of the best practice construction procedures and management measures referred to above, and required by the SMP, any other nuisance effects resulting from the proposed earthworks (e.g. construction noise, vibration, odour or traffic) will be appropriately minimised. Such effects are also further minimised by the industrial nature of the adjacent sites.

Further, all earthworks will be managed to comply with the construction noise standard NZS6803:1999 'Acoustics – Construction Noise'.

6.6 SUMMARY

Overall, it is considered that the adverse effects likely to arise from the proposed earthworks activities, with adherence to a certified SMP, will be less than minor.

7. STATUTORY ASSESSMENT

7.1 INTRODUCTION

The RMA is the principal statutory document governing the use of land, air and water. The purpose of the RMA is to “*promote the sustainable management of natural and physical resources*”. This section of the AEE sets out the framework under the RMA that applies to the resource consent being sought from the Whanganui District Council.

Resource consent for the activities associated with the proposal are required as a restricted discretionary activity under the Whanganui District Plan and a discretionary activity under the NESCS, and this falls to be considered under section 104 of the RMA.

7.2 SECTION 104 ASSESSMENT

7.2.1 Introduction

Section 104(1) of the RMA specifies the matters that a consent authority must ‘have regard to’ when considering applications for resource consents, as follows:

104 Consideration of applications

- (1) *When considering an application for a resource consent and any submissions received, the consent authority must, subject to Part 2 have regard to-*
 - (a) *any actual and potential effects on the environment of allowing the*

- activity; and*
- (ab) any measure proposed or agreed to by the applicant for the purpose of ensuring positive effects on the environment to offset or compensate for any adverse effects on the environment that will or may result from allowing the activity; and*
 - (b) any relevant provisions of –*
 - (i) a national environmental standard;*
 - (ii) other regulations;*
 - (iii) a national policy statement;*
 - (iv) a New Zealand coastal policy statement;*
 - (v) a regional policy statement or proposed regional policy statement; and*
 - (vi) a plan or proposed plan.*
 - (c) Any other relevant matter the consent authority considers relevant and reasonably necessary to determine the application.*
- (2) When forming an opinion for the purposes of subsection (1)(a), a consent authority may disregard an adverse effect of the activity on the environment if a national environmental standard or the plan permits an activity with that effect.*
- (2A) When considering an application affected by section 124 or 165ZH(1)(c), the consent authority must have regard to the value of the investment of the existing consent holder.*

Section 104 of the RMA does not give any of the matters to which a consent authority is required to have regard primacy over any other matter. All of the relevant matters are to be given such weight as the consent authority sees fit in the circumstances, and all provisions are subject to Part 2 of the RMA – although it is understood that a consent authority is not required to consider Part 2 of the RMA beyond its expression in the relevant statutory planning documents.

The matters for consideration under section 104(1) of the RMA are assessed in the subsections below.

7.2.2 Actual and Potential Effects

With respect to section 104(1)(a) of the RMA, the actual and potential effects on the environment in respect to the proposal are set out in Section 6 of this AEE.

In summary, it is concluded that all actual and potential adverse effects can be appropriately avoided, remedied or mitigated to the extent that any residual effects will be less than minor, and such that the proposal will promote the sustainable management of natural and physical resources.

7.2.3 New Zealand Coastal Policy Statement (“NZCPS”)

The NZCPS is a national policy statement under the RMA and took effect in December 2010.⁶ The purpose of the NZCPS is to state policies to achieve the purpose of the RMA in relation to the coastal environment of New Zealand.

The NZCPS relevant objectives and policies are considered further below.

Objectives

The objectives of the NZCPS are:

Objective 1

To safeguard the integrity, form, functioning and resilience of the coastal environment and sustain its ecosystems, including marine and intertidal areas, estuaries, dunes and land, by:

- ...;
- ...; and
- *Maintain coastal water quality, and enhancing it where it has deteriorated from what would otherwise be its natural condition, with significant adverse effects on ecology and habitat, because of discharges associated with human activity.*

With the implementation of the SMP, the earthworks proposed as part of the Te Pūwaha project will be undertaken in a manner that at least maintains, but is expected to enhance the coastal water quality for the duration of the construction works.

Objective 3

To take account of the principles of the Treaty of Waitangi, recognise the role of tangata whenua as kaitiaki and provide for tangata whenua involvement in management of the coastal environment by:

- *recognising the ongoing and enduring relationship of tangata whenua over their lands, rohe and resources;*
- *promoting meaningful relationships and interactions between tangata whenua and persons exercising functions and powers under the Act;*
- *incorporating mātauranga Māori into sustainable management practices; and*
- *recognising and protecting characteristics of the coastal environment that are of special value to tangata whenua.*

Resource consent for ground disturbance is required to facilitate the redevelopment of the port at Whanganui as part of the wider Te Pūwaha project. In order to ensure that the role of tangata whenua is involved in this project, and the management of construction works, a partnership approach has been adopted for all stages of the project. This partnership

⁶ Decisions on submissions on the AUP took effect after the NZCPS became operative, therefore the AUP can be taken as having given effect to the NZCPS.

approach will enable the project to progress through the construction phases in a manner that aligns with the outcomes sought in Objective 3 of the NZCPS.

Policy 5: Land or waters managed or held under other Acts

1. Consider effects on land or waters in the coastal environment held or managed under:
 - a) the Conservation Act 1987 and any Act listed in the 1st Schedule to that Act; or
 - b) other Acts for conservation or protection purposes; and, having regard to the purposes for which the land or waters are held or managed:
 - c) avoid adverse effects of activities that are significant in relation to those purposes; and
 - d) otherwise avoid, remedy or mitigate adverse effects of activities in relation to those purposes.

The Whanganui River is managed under the Te Awa Tupua Act 2017. The purpose of this act is described at Section 3 as:

- (a) to record the acknowledgements and apology given by the Crown to Whanganui Iwi in Ruruku Whakatupua—Te Mana o Te Iwi o Whanganui; and
- (b) to give effect to the provisions of the deed of settlement that establish Te Pā Auroa nā Te Awa Tupua; and
- (c) to give effect to the provisions of the deed of settlement that settle the historical claims of Whanganui Iwi as those claims relate to the Whanganui River.

Te Mata Puau have provided support for this application.

The management of earthworks and the management of any contaminated land discovered during earthworks, will be managed (via the Site Management plan) to protect potential effects on human health, and to prevent contaminants (other than sediment) being discharges to the river. It is noted that additional controls for discharges to the river as part of the construction activities are including in the Horizons resource consent APP-202203676.00.

7.2.3.1 Horizons One Plan – Regional Policy Statement

Infrastructure, Energy, Waste, Hazardous Substances and Contaminated Land

The following objectives are considered relevant to this resource consent application:

Objective 3-5 – Waste, hazardous substances and contaminated land

The Regional Council and Territorial Authorities must work together in a regionally consistent way to:

- (i) Minimize the quantity of waste generated in the Region and ensure it is disposed of appropriately;
- (ii) Manage adverse effects from the use, storage, disposal and transportation of hazardous substances; and

(iii) Manage adverse effects from contaminated land.

Objective 7-1 – Ambient air quality

A standard of ambient air quality is maintained which is not detrimental to amenity values, human health, property or the life-supporting capacity of air and meets the national ambient air quality standards.

With the implementation of the SMP, the earthworks proposed as part of the Te Pūwaha project will be undertaken in accordance with the outcomes sought by these objectives.

7.2.4 Whanganui District Plan

As noted in Section 5 of this AEE, the site is located in the General Industrial Zone in the Whanganui District Plan. The majority of the site is part of the Whanganui Port and will continue to be used for port and industrial type activities.

The objectives and policies for the General Industrial Zone are generally focussed on enabling urban development (inclusive of a range of industrial activities and their ancillary activities), which minimise adverse environmental effects and maximise effective and efficient use of natural and physical resources, while ensuring that high quality urban amenities are sustained.

The Whanganui District Plan objectives and policies that are relevant to this earthworks proposal are set out below.

7.2.4.1 Part 1 – Introduction and General Provisions – Tangata Whenua-Mana Whenua

Objective TW-01 seeks to enhance Tangata Whenua participation in resource management by further developing meaningful relationships, through understanding and learning which take into account the unique roles and responsibilities of Tangata Whenua. A commitment is made to go beyond consultation and consider the further processes available for active participation by Tangata Whenua, for example through joint decision making and building capacity.

This objective acknowledges the rights and interests of iwi/hapu that is established in the Treaty of Waitangi and is embedded in the Resource Management Act 1991 and within the Whanganui District Plan. The project partnership and the commitment to the co-management of the Te Pūwaha project aligns with this outcome, and will be realised through an enduring partnership throughout the life of the project.

7.2.4.2 Part 2 – General District-Wide Matters - Earthworks

Objective EW-01 and associated policies⁷ seeks to ensure earthworks in Whanganui maintain or enhance amenity values, landforms and natural processes, the efficiency and

⁷ Policy EW-P1, EW-P2 and EW-P3, Part 2 – General District Wide Matters, Earthworks, Whanganui District Plan.

effectiveness of infrastructure, the safety of people and property, the stability of soils and the structural stability of infrastructure. It also aims to have appropriate regard to cultural heritage sites and values.

Associated policies seek to minimise landform modification via earthworks (Policy EW-P1), and avoid earthworks that result in damage to property, network utilities or result in significant nuisance effects (Policy EW-P2).

The proposal will enable necessary earthworks to be completed in support of the redevelopment of the Whanganui Port, which has fallen into a poor and derelict state. The proposal will contribute to enhancing the amenity value of the site and enable the subsequent development of infrastructure, including the re-building of the wharves and associated facilities. The scale of the earthworks required is not large relative to the site size, and will not noticeably alter the landform of the site. The earthworks will be designed by an experienced engineer and completed in accordance with best practice procedures that apply to contaminated sites. With adherence to the SMP, the proposal will maintain the stability of soils, landforms and the safety of people and property.

7.3 PART 2 OF THE RESOURCE MANAGEMENT ACT 1991

As noted earlier, a consent authority is generally no longer required to consider Part 2 of the RMA beyond its expression in the relevant statutory planning documents, unless it is appropriate to do so.

In this case, it is considered that the planning context is clear, the subject of the consent application is discrete, and the proposed activities align well with the various planning directions set out earlier. Therefore, no further consideration of Part 2 of the RMA has been provided here.

7.4 SUMMARY

The granting of the resource consents, subject to the imposition of appropriate conditions, would promote the sustainable management of natural and physical resources and ensure that adverse effects on the environment, as a result of the proposal, are appropriately provided for.

8. NOTIFICATION ASSESSMENT

In accordance with the assessment of effects in Section 6 of this AEE, adverse effects on the environment are considered to be less than minor. Therefore, public notification of the application is not required, as is set out below. Limited notification of the application is also not considered necessary for the reasons outlined below.

8.1 SECTION 95A PUBLIC NOTIFICATION

Section 95A requires a council to follow specific steps to determine whether to publicly notify an application. The following is an assessment of the application against these steps:

Step 1 – Mandatory Public Notification:

An application must be publicly notified if, under section 95A(3), it meets any of the following criteria:

- (a) *the applicant has requested that the application be publicly notified;*
- (b) *public notification is required under section 95C;*
- (c) *the application is made jointly with an application to exchange recreation reserve land under section 15AA of the Reserves Act 1977.*

WDC does not request the application be publicly notified and the application is not made jointly with an application to exchange reserve land. Therefore, Step 1 does not apply.

Step 2 – Public Notification Precluded:

An application must not be publicly notified if, under section 95A(5):

- (a) *the application is for a resource consent for 1 or more activities, and each activity is subject to a rule or national environmental standard that precludes public notification;*
- (b) *the application is for a resource consent for 1 or more of the following, but no other, activities:*
 - (i) *a controlled activity;*
 - (ii) *[Repealed]*
 - (ii) *a restricted discretionary, discretionary, or non-complying activity, but only if the activity is a boundary activity;*
 - (iv) *[Repealed]*

None of these circumstances apply to this application therefore, Step 2 does not apply.

Step 3 – Public Notification Required in Certain Circumstances:

An application is required to be publicly notified if one of the following circumstances are met, under section 95A(8):

- (a) *the application is for a resource consent for 1 or more activities, and any of those activities is subject to a rule or national environmental standard that requires public notification;*
- (b) *the consent authority decides, in accordance with section 95D, that the activity will have or is likely to have adverse effects on the environment that are more than minor.*

For this application, the relevant rules do not require public notification and all effects have also been assessed to be less than minor for the reasons set out in Section 6 of this AEE. Therefore, Step 3 does not apply.

Step 4 – Public Notification in Special Circumstances:

Section 95A(9) states that a council must publicly notify an application for resource consent if it considers that ‘special circumstances’ exist, notwithstanding that Steps 1 to 3 above do not require or preclude public notification.

Special circumstances are not defined in the RMA. Case law though, has identified special circumstances as something outside the common run of things which is exceptional, abnormal or unusual, but less than extraordinary or unique. A special circumstance would be one which makes notification desirable despite the general provisions excluding the need for notification. The council should be satisfied that public notification may elicit additional information on the aspects of the proposal requiring resource consent.

There are no special circumstances which apply to this application, noting in particular:

- The effects of the proposal will be temporary and less than minor; and
- The proposal is consistent with the objectives and policies of the relevant planning documents.

Public Notification Summary

It is considered that the proposal does not meet any of the public notification requirements under section 95A of the RMA.

8.2 LIMITED NOTIFICATION

If the application is not publicly notified, a consent authority must consider the steps in section 95B to determine whether to give limited notification of an application.

Step 1 – Certain affected groups and affected persons must be notified:

The application must be limited notified to the relevant persons if the following are determined, as specified by section 95B(2) and (3):

Section 95(2)

- (a) affected protected customary rights groups; or*
- (b) affected customary marine title groups (in the case of an application for a resource consent for an accommodated activity).*

Section 95(3)

- (a) whether the proposed activity is on or adjacent to, or may affect, land that is the subject of a statutory acknowledgement made in accordance with an*

Act specified in Schedule 11; and

- (b) whether the person to whom the statutory acknowledgement is made is an affected person under section 95E.*

Te Mata Pūau, as the hapū representative for the Whanganui River under Te Awa Tupua Act, are the lead voice of the project partnership group and have provided their input into the design and outcomes of the Te Pūwaha project. Te Mata Pūau support the Te Pūwaha proposal, and on that basis, are not considered an affected party under section 95E of the RMA.

Step 2 – Limited notification precluded in certain circumstances:

In the following circumstances, an application must not be limited notified to any persons, as specified by section 95B(6):

- (a) the application is for a resource consent for 1 or more activities, and each activity is subject to a rule or national environmental standard that precludes limited notification;*
- (b) the application is for a controlled activity (but no other activities) that requires a resource consent under a district plan (other than a subdivision of land).*

None of these circumstances apply to this application therefore, Step 2 does not apply.

Step 3 – Certain affected persons must be notified:

Other affected persons must be notified in the following circumstances specified by section 95B(7) and (8):

- (7) in the case of a boundary activity, determine in accordance with section 95E whether an owner of an allotment with an infringed boundary is an affected person;*
- (8) In the case of any other activity, determine whether a person is an affected person in accordance with section 95E.*

The proposal is not a boundary activity.

Under section 95E, a person is considered “affected” if the adverse effects of the activities on that person are minor or more than minor (but are not less than minor). In deciding who is an affected person under section 95E, a council under section 95E(2):

- (a) may disregard an adverse effect of an activity on a person if a rule or national environmental standard permits an activity with that effect (i.e., council may consider the “permitted baseline”);*
- (b) must disregard an adverse effect that does not relate to a matter for which a rule or environmental standard reserves control or restricts discretion;*
and

- (c) *must have regard to every relevant statutory acknowledgement made in accordance with a statute set out in Schedule 11 of the Act.*

As outlined in Section 6 above, the proposal is not considered to give rise to any actual or potential adverse effects to persons at a minor or more than minor extent. The purpose of this resource consent is to ensure adverse effects arising from the earthworks are contained within the site, and to protect the human health of construction workers at the site.

Step 4 – Further notification in special circumstances:

As required by section 95B(1), the Council must determine the following:

- (10) *whether special circumstances exist in relation to the application that warrant notification of the application to any other persons not already determined to be eligible for limited notification under this section (excluding persons assessed under section 95E as not being affected persons)*

As stated in the public notification section above, it is not considered that there are any special circumstances that apply to this application.

Limited Notification Summary

It is considered that the proposal does not need to be limited notified to any person under section 95B of the Act.

The Applicant therefore requests that the application be assessed on a non-notified basis.

9. PROPOSED CONSENT CONDITIONS

A proposed set of resource consent conditions for the earthworks activities is set out below:

Advice Note:

TE AWA TUPUA

The consent holder is legally obligated by the Te Awa Tupua (Whanganui River Claims Settlement) Act 2017 and must ensure works undertaken in accordance with this consent and its associated conditions are occurring within a Te Awa Tupua and Tupua te Kawa context. Te Awa Tupua calls upon an integrated and Tupua te Kawa consistent approach throughout all aspects of the approach and project including from the development of the project through to the construction of the works. This holistic approach to the project and its implementation upholds the relationship between the iwi/hapu and the awa.

To ensure Tupua te Kawa is upheld and the Te Awa Tupua are at the forefront of consideration of the works, the works must be undertaken in the following manner:

- a. *By ensuring compliance with the consent conditions;*
- b. *Being cognisant of Te Awa Tupua and Tupua te Kawa by ensuring the works provides for an ‘abundance’ approach (He Ara Tuku Rau) within the Te Pūwaha Project environment; and*
- c. *Acknowledgement of Te Pūwaha project through a process of co-governance, co-management and co-design.*

Whanganui District Council’s wharf replacement proposal, which includes the earthworks that are subject to this application, sets out the Council’s commitment to co-governance, co-managing and co-design. This application document does not address these matters specifically, and in particular, does not address the requirements and outputs proposed by Te Mata Puau. The Te Pūwaha project is the culmination of a process of co-governance, co-managing and co-design between all the project partners. This means the obligation of Councils’, community and the iwi to the awa is at the centre of co-designing the Whanganui Port wharf replacement works. This co-management and co-design process will be realised by Whanganui District Council (as project partner) and Te Mata Pūau when developing the final design of the project, during the implementation of the conditions of consent and, including ensuring that an abundance approach is fulfilled in all aspects of the project.

For Te Pūwaha, this means before the project is physically initiated, the project partners will co-design the following:

- *How consent conditions will be implemented to provide certainty in relation to the management of physical effects generated by the proposal.*
- *Completion of the protocols for induction, management plans and reports designed through a Te Awa Tupua and Tupua te Kawa consistent approach which includes the input of the port community, Te Mata Puau, and recreational users of the port area. These plans include;⁸*
 1. *Erosion and Sediment Control Plan;*
 2. *Spill Management and Response Plan;*
 3. *Construction biosecurity management methods;*
 4. *Construction Environment Management Plan;*

⁸ This advice note is suggested for inclusion in this earthworks resource consent to align this consent with the other resource consents required for the Te Pūwaha project and describe the co-governance, co-managing and co-design approach for Te Pūwaha being undertaken with the project partners. For clarity, with the exception of the Site Management Plan (which is addressed in the conditions below) none of the management plans listed in this advice note are relevant to this application, nor will they require any input or certification from Whanganui District Council as a regulatory authority. The reference to Whanganui District Council in this advice note is as a project partner.

5. *Site Management Plan;*
 6. *Hapū Co-management Plan and*
 7. *Post Development Assurance Plan (this plan will be prepared after construction works are completed).*
- *This co-management and co-design process will be realised by Whanganui District Council (as project partner), Te Mata Pūau and key community groups when developing the final design of the project, during the implementation of the conditions of consent and, including ensuring that an abundance approach is fulfilled in all aspects of the project.*

Conditions

1. *The Consent Holder shall be responsible for all contracted operations related to the exercise of this resource consent and shall ensure contractors are made aware of the conditions of this consent and ensure compliance with those conditions.*
2. *A copy of this consent shall be kept on-site at all times that physical works authorised by this resource consent are being undertaken and shall be produced without unreasonable delay upon request from an officer or agent of the Whanganui District Council.*
3. *The consent holder must finalise the draft Site Management Plan (Appendix D of the Resource Consent Application, in partnership with Te Mata Puau, and submit it for certification at least **ten (10) working days** prior to the commencement of physical works. The Site Management Plan must include the following:*
 - a. *Measures to protect the health of any workers on site during construction or any future workers of or visitors to the site once construction is complete.*
 - b. *The outcomes of the testing of groundwater within the area affected by hydrocarbons (north of Wharf 3), depicted in Appendix XX to the Site Management Plan, and any measures recommended to prevent the mobilization of hydrocarbons from this area.*
 - c. *Accidental discovery protocol in relation to the unexpected discovery of soils found to have visible staining, odours and/or other conditions that indicate soil contamination, including work ceasing until such time as the suitably qualified and experienced land contamination expert has assessed the matter and if necessary prepared amendments to the SMP.*
 - d. *Control measures to ensure that all asbestos related work will be undertaken in accordance with the Health and Safety at Work (Asbestos) Regulation 2016.*
 - e. *Require a Works Completion Report that includes the following (unless modified by the final SMP):*

- i. *An overview of works completed at the site, noting compliance status with response to the SMP and the relevant resource consents;*
- ii. *A site plan showing location of final excavations and soil sample locations;*
- iii. *Soil test results for any soil and water disposed of offsite or imported to site;*
- iv. *The total volume of soil disposed of off-site and include copies of the waste-transfer documentation;*
- v. *Overview of any unexpected areas of contamination encountered during the works, and associated remediation methods employed;*
- vi. *Summary of any complaints received, or environmental or human health incidents and subsequent mitigation measures;*
- vii. *Site plan showing areas of residual contamination exceeding relevant soil contaminant standards.*

Advice note: The SMP is also required under the resource consent issued by Horizons Regional Council, application reference APP-2022203676.00. Only those matters that are under the jurisdiction of the Whanganui District Council shall be certificated by Whanganui District Council.

- 4. *The Consent Holder shall undertake works in accordance with the certified Site Management Plan.*
- 5. *The preparation of the Site Management Plan must be undertaken by a Suitable Qualified and Experienced Person.*
- 6. *All soils removed from site must be disposed of to a facility consented/licensed to receive such material. Copies of receipts from disposal must be provided to the Council as part of the Works Completion Report that is required as part of the Site Management Plan.*
- 7. *A minimum of five (5) working days prior to activities commencing as authorised by this resource consent, the Consent Holder shall work with Te Mata Pūau to develop and implement an on-site induction programme which ensures all contractors are appropriately inducted into the project within a Te Awa Tupua and Tupua te Kawa context.*
- 8. *If any issues of concern arises that result beyond what has been considered through this process on Te Awa Tupua, the consent holder must notify Te Mata Pūau regarding the activities and their direct or indirect effects on Te Awa Tupua. Representatives of the project including the consent holder, Te Pūwaha and Te Mata Pūau will:*
 - a. *meet without delay (and no less than 48 hours after notification of the concern);*
 - b. *discuss the issues of concern; and*
 - c. *seek to resolve the issues of concern in good faith and in a manner which upholds Tupua te Kawa).*

9. *If any complaints are received by the Consent Holder regarding the activities authorised by this resource consent, the Consent Holder shall notify the Whanganui District Council of those complaints as soon as practicable and no longer than one working day after receiving the complaint. If complaints are received, the consent holder shall record the following details in a Complaints Log:*
- a. *Time and type of complaint, including details of the incident, e.g. duration, any effects noted;*
 - b. *Name, address and contact phone number of the complainant (if provided);*
 - c. *Location from which the complaint arose;*
 - d. *The weather conditions and wind direction at the time of any dust complaint;*
 - e. *The likely cause of the complaint;*
 - f. *The response made by the consent holder including any corrective action undertaken by the consent holder in response to the complaint; and*
 - g. *Future actions proposed as a result of the complaint.*

If there is to be any variation to these conditions, the applicant would appreciate the opportunity to discuss these with the Council officer prior to the finalisation and issue of the resource consent.

10. CONCLUSION

WDC are seeking all necessary resource consents to authorise the earthworks activities associated with the Te Pūwaha project.

The granting of this resource consent application will be part of a suite of resource consents that will allow the currently unsafe wharves / port infrastructure, recognised as 'regionally important' under the Horizons One Plan, to return to a safe and functioning port area. The proposal forms part of the wider revitalisation of the Whanganui Port / River area, as part of Te Pūwaha, which will positively contribute to the 'abundance' of the River and also the social, environmental and economic wellbeing for the Whanganui community.

The actual and potential effects of the subject earthworks proposal will be less than minor with the implementation of the Site Management Plan and associated management plans and works completion report, and have been considered in accordance with sections 104 of the RMA.

The proposal also been assessed to be consistent with the relevant objectives and policies of the Whanganui District Plan and relevant higher order planning documents.

Overall, subject to imposition of the proposed consent conditions, it is considered that granting the consents sought for the proposal is consistent with the purpose of the RMA and that there are no impediments to the granting of the resource consents sought by the WDC.