

# RESOURCE CONSENT DECISION

## Whanganui District Council

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Decision on an application for a resource consent to **redevelop the existing wharves and facilities associated with the Whanganui Port.**

Application Reference: APP-2022203676.00

Decision Date: 16 May 2022

Lapse Date: 16 May 2027

Expiry Date: 16 May 2027

## Application Summary

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### *Proposal*

The activity occurs in and around the Whanganui River and needs to be first and foremost viewed in the context of Te Awa Tupua Settlement Act 2017 and all parties are obligated to Te Awa Tupua. This application from the Whanganui District Council (hereafter the “the Applicant”) forms part of the larger project to redevelop the area of the Whanganui Port. The wider project is collectively known as Te Pūwaha. Te Pūwaha places the interests of the wider community at the heart of the development which has been guided by hapū through Te Mata Puau.

Te Awa Tupua Act was enacted to implement the historical Treaty Settlement with Whanganui iwi in relation to the Whanganui River. Te Awa Tupua represents a new beginning in terms of respect for the Whanganui River and recognition of the inalienable connection between Whanganui Iwi and the Whanganui River. This is a detailed set of legislation which includes a range of mechanisms to recognise the Whanganui River as Te Awa Tupua and to provide legal expression to the relationship between Whanganui Iwi and the River.

A fundamental driver for Te Pūwaha as a project is the requirement for all communities and authorities to uphold the values of Tupua te Kawa are the intrinsic values that represent the essence of Te Awa Tupua. These values include:

- 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 Kāhui 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:
- 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.

Te Pūwaha project is seeking to revitalise the wider Whanganui River port area. Te Mata Puau is a hapū collective that invites participation from all hapū with interest. Project partners have committed to upholding Te Awa Tupua in the way they work. Central to the development of this consent has been the input and guidance from Te Mata Puau who have worked alongside Whanganui District Council in this application to ensure Tupua te Kawa is upheld.

Iwi and hapū need to be recognised for their contribution to ensuring the project has been developed and guided by Tupua te Kawa and in the context of Te Awa Tupua (Whanganui River Claims Settlement) Act (2017) (hereafter “Te Awa Tupua Act”). This relationship has helped guide the approach through Te Pūwaha Project Framework and ensured a Te Awa Tupua lens has been applied to the overall project. The support and guidance from iwi and hapū has helped ensure that the implementation of Te Awa Tupua Act and establishment of a framework for this proposal has been upheld across the key partners at both governance and operational levels. This has resulted in the project being approached in a different manner with the Te Awa Tupua and Tupua te Kawa guiding the planning, design and decision making.

The proposal, first and foremost needs to be considered in the context of Te Awa Tupua. The detail of the lead up to the application and how the Applicant has and will continue to be involved in a Te Awa Tupua process, directed by Te Mata Puau, is detailed in the attached document from Te Pūwaha programme director. Horizons understanding is that the Whanganui District Council has committed to Te Awa Tupua and He Ara Tuku Rau. The Applicant will continue to work with hapū and the community outside this resource consent via a Te Awa Tupua process. As a result this assessment and decision is more narrowly confined to matters under the Resource Management Act 1991 (hereafter “RMA”). Horizons also understands that the correlation between Te Awa Tupua and the RMA requires constant consideration.

As a result of this assessment and decision, from an RMA perspective provides for necessary technical component that needs to be satisfied under a planning framework and existing plans that have yet to be reviewed with a Te Awa Tupua lens. This is an ongoing process and the ongoing co-management and co-design process will continue when developing the final design for the project and the implementation of the conditions of consent during construction works and ensuring that an abundance approach is fulfilled in all aspects of the project.

### **Resource Management Application**

The Applicant is seeking a resource consent to enable the redevelopment of the existing port area within the Whanganui River. The proposed works involve the following:

- a. The removal and replacement of wharves 2 and 3 and the associated erosion protection structures and seawalls;
- b. The removal of the existing marina piles;
- c. Installation of a boat hoist runway and support structure. This includes a small reclamation.
- d. Installation of a slipway structure at the end of Wharf 2 capable of accommodating Roll-on / Roll-off (“**RORO**”) vessels;

- e. Placement of new material being cleanfill on the bed of the Whanganui River and coastal marine area for the construction of the erosion protection structures;
- f. Repairs and maintenance to the existing rock wall between the upstream edge of Wharf 3 and the public boat ramp;
- g. The replacement of existing stormwater outfalls that project through the existing retaining walls;
- h. The installation of three new stormwater outlets into the Whanganui River and Coastal Marine area;
- i. The emission of noise into the Coastal Marine Area generated during construction works;
- j. The associated discharge of sediment laden water during construction into the Whanganui River and coastal marine area adjacent; and
- k. The abstraction of groundwater and discharge of dewatered water within the Coastal Marine Area (via the stormwater system).
- l. The construction of a stormwater and trade waste treatment plant; and
- m. The ongoing discharge of stormwater from the new hard stand areas into the Whanganui River.

Proposed Construction works:

The Applicant is proposing to remove the existing wharf 2 and 3 structures. The structures are to be rebuilt along with the river protection structures along the true right bank of the Whanganui River. The final design is yet to be confirmed. The Applicant has provided concept designs outlining the design feasibility options with the final construction design to be confirmed prior to construction. The proposed foot print of the existing wharf structure is not increasing and the wharves will be replaced with either timber and/or concrete materials. The total length of the replacement wharves will be in general accordance with the current wharf structures, and the plans attached the application which set out the alternative designs for the wharves. The works will also involve driving of piles into the bed of the River.

As part of the works the Applicant will need to undertake earthworks immediately adjacent to and beneath the wharf structures. The existing structures have been subject to erosion and the existing retaining structures are failing. The Applicant is proposing to upgrade these erosion protection structures which may involve the placement of cleanfill, the installation of sheet piles or as an alternative placement of rock. The final design is to be confirmed prior to construction.

As part of the overall redevelopment, the Applicant is proposing to install a new boat hoist runway. The boat hoist runway is proposed to be located between wharf 2 and 3. This involves the construction of a travel lift bay area. It is intended to be built using a piled structure and a series of retaining walls to support the landward side of the hoist area. This involves a small area of reclamation of the river bed where the runway is to be installed.

Part of the redevelopment also includes a 'roll on roll off' slipway structure. This is proposed to be located at the downstream end of wharf 2. This involves the removal of part of wharf 2 to accommodate the slipway structure within the current footprint. Associated with the construction of the slipway structure the

existing sheet piled wall will be extended upstream approximately 67m. There is also a proposal to remove part of the existing downstream end of wharf 2 and install an erosion protection wall along this area.

During the redevelopment of the wharf structures, the Applicant is also proposing to upgrade 3 existing stormwater outlets. The Applicant is proposing to install three new stormwater outlets along the redeveloped area. The proposed new outlets are to service the new heavy pavement areas that are proposed to be built to service the port area.

The Applicant has noted that the works are expected to largely occur from land with the exception of removing the existing marina piles. The works are proposed to be undertaken within sections. This includes the removal of the existing structure, installation of an erosion protection measure (sheet pile/rock lining) and the installation of a new wharf structure before moving onto the next section.

Associated with the construction works the Applicant is also proposing to undertake earthworks via dewatering. The earthworks involve works both within the bed of the Whanganui River and land adjacent to the river. The Applicant is proposing to undertake the earthworks in accordance with the Greater Wellington Guidelines for erosion and sediment control.

The wider port area is identified as being a contaminated site and any earthworks has the potential to release contaminants to both ground and water if the works are not managed appropriately. The Applicant has proposed a number of consent conditions to manage the works to ensure no contaminants from earthworks (other than sediment laden water) enter the river. This includes the management during works and ensuring that during works a suitably qualified and experienced person (SQEP) in managing contaminated sites is onsite during construction to identify any risks and ensure the material is appropriately managed.

The Applicant has applied for a consent to take groundwater during construction. This water will be both on the land and within the river and will occur during construction. The Applicant is proposing to discharge the dewatering water to water which may include both sediments and small levels of hydrocarbons.

As part of the proposal the Applicant is proposing to minimise the earthworks and manage the existing soils on the site. This includes the classification of the soils and identification of the soils to ensure the reuse of the material is managed to minimise the possibility of the contaminated soils further leaching into the River.

The Applicant has proposed to develop a number of management plans to manage the effects of the proposal. These are intended to be developed in conjunction with Te Mata Puau to ensure Tupua te Kawa is incorporated into the design and ensure that a continual assessment and implementation Te Awa Tupua is consistently applied throughout the project. These plans will form part of an overarching Construction Environment Management Plan (CEMP) and includes the following:

- Te Pūwaha Protocols for induction;
- An Erosion and Sediment Control Plan;
- Spill Management and Response Plan;
- Construction Biosecurity Management Methods;
- Construction management plan;
- Hapū – Co management plan; and
- Site Management Plan.

A contractor is yet to be appointed and the Applicant is relying on the above plans to be co- developed where appropriate by the appointed contractor. A number of conditions have been proposed as part of the consent application to manage the potential effects during construction. The Applicant has proposed the management plans to be finalised and submitted to the Regional Council for certification prior to any works commencing. The management plans, as well as all associated plans required will be developed with Te Mata Puau to ensure the plans can uphold Tupua te Kawa.

It is anticipated that the construction works to redevelop the wharves and their associated works will take between 18-24 months to complete.

As part of the wider development, the Applicant is proposing to construct a trade waste and storm water treatment plant to service the runoff from the hard stand areas. Part of the hard stand area has the potential to generate contaminants from the maintenance of vessels being undertaken. To manage this the Applicant is proposing to collect the potentially contaminated runoff, process this through the treatment plant and then direct it through the Council's trade waste network.

*Permitted Activities:*

The stormwater from the wharves will be directed to the treatment and storage area. The plant will treat the runoff from this area prior to the stormwater being discharged to the Awa. The proposed system to treat stormwater is an advanced system and the quality of the water is expected to meet the ANZECC water quality guidelines during normal operation.

During high rainfall events, the collection systems will discharge directly to the Awa. The application notes that the stormwater contaminant loads during these high rainfall events is expected to be low due to the first flush being via the treatment plant. The Applicant notes that this is a permitted activity. No further assessment has been undertaken in this assessment.

The Applicant outlines the Regional Consenting requirements in section 4.4 of the Application. A number of the activities above require a consent along with some activities being identified as a permitted activity. Rather than repeat the Applicants assessment the following provides as summary of the activities plus additional consenting requirements.

The Applicant has committed to He Ara Tuku Rau and working with Te Mata Puau to ensure this is implemented. The outcomes achieved should not be considered positive effects in relation to the proposed activities, but more a set of deliberately designed outcomes to achieve the strategic aspiration of Mouri Ora, Mouri Awa, Mouri Tangata. These aspirations are implicit in what Tupua Te kawa is and a product of the community led approach. Some examples of how the Applicant will contribute to these aspirations beyond the proposed activities are:

- Development of recreational places that are safely available for the community;
- Dedicated infrastructure alongside or within the vicinity of the wharf for safe swimming and play;
- Reclamation and development of an ecological space (freshwater corridor, wetlands and habitat for taonga species)
- Replacing the gap in the training structure to reduce levels of maintenance dredging;
- An ecological enhancement plan (inclusive of budget for implementation) to improve habitat (wharf, estuary and coastal), water quality, and community relationships with the awa;
- Return of waahi tapu and places of significance (Patapu, Pungarehu, Kaiwharawhara). Please note that this is not a Te Mata Puau led output but a previous council commitment and is currently being advanced in discussions relating to the Special Purpose Vehicle

It is important to note that the position of iwi, hapū and community will be sought on all matters associated with the Consent alongside the applicant at real time, and they will need to identify that the issues they might have of any type have been or will be addressed. This is accounted for through the structure of the project, and commitment statements agreed to by the Applicant.

### Activity Summary

Activity Description	Status	Authorisation Number
Land use consent and Coastal Permit Wharf works – maintenance and replacement works, including associated bed disturbance and discharges and ongoing occupation	Discretionary –Rule 18-44	ATH-2022204960.00
Land use consent and Coastal Permit - earthworks and reclamation works (within the CMA area) associated with the travel lift support structure	Discretionary – Rule 18-20	ATH-2022204961.00
Landuse Consent – Disturbance to land outside CMA area	Discretionary Activity – 13-7	
Discharge to Water – Discharge of sediment associated with construction works	Discretionary – Rule 18-44	ATH-2022204962.00
Discharge to Water – Discharge of Contaminants to water (dewatering)		

Noise Emission – Generation of noise within the CMA area	Rule 18-44	ATH-2022205232.00
Discharge to land – Contaminants to land being managed fill	Rule 14-30	ATH-2022205233.00
Water Permit and Coastal Permit – Abstraction of and discharge of groundwater associated with subsurface foundations (de-watering)	Rule 18-44 and Rule 16-9	ATH-2022205234.00
Discharge to Water – Discharge of stormwater from the ongoing operation of the port area	Permitted Activity 18-38	
Land use consent Construction of stormwater outfall pipes	Permitted Activity 18-8	

For clarification: This application is only associated with the re-build of the existing wharf structures and no works associated with the dredging and reclamation are not part of this consent. It is understood that a further consent(s) will be lodged at a later date for these activities.

For Clarification: This application is for the construction of the boat hoist structure which will form part of the wider Wharves once built and will therefore be considered a permitted structure within the CMA area.

Further clarification: This application does not include the discharge of any contaminated water from the site while earthworks are undertaken. The only contaminant authorised through this consent process is sediment laden water and tested/treated de-watering water. Any additional contaminant within this water is not authorised as the Consent Holder has confirmed that no other contaminant such as metals/hydrocarbons during earthworks will be discharged.



## Assessment Summary

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The application has been assessed against the following:

### *1.1 Te Awa Tupua*

Section 15 of Te Awa Tupua applies to Councils who are making a decision under the RMA. The decision makers must have particular regard to the Te Awa Tupua status and Tupua te Kawa. Under Te Awa Tupua, Tupua te Kawa guide decision making in respect of the Whanganui River.

Te Awa Tupua is a detailed piece of legislation which includes a range of mechanisms to recognise the Whanganui River as Te Awa Tupua and provides a legal expression of the relationship between Whanganui Iwi and the Whanganui River. This is the first consent of a wider project. The wider Te Pūwaha project is being progressed through a Te Awa Tupua lens recognising the legal status of Te Awa Tupua and Tupua te Kawa.

The Iwi and hapū of Whanganui have been at the centre of the overall Te Pūwaha project. The process leading up to the lodgement of this application with Te Mata Puau has been undertaken to ensure that Tupua te Kawa have been upheld. Te Mata Puau is a hapū collective taking lead with the application of Te Awa Tupua framework together with key partners at both the governance and operational levels. Te Mata Puau has been central to the decision making processes and support parties to give particular regard to the Te Awa Tupua status and Tupua te Kawa.

For the overall project, Te Mata Puau has introduced He Ara Tuku Rau (an abundance model) as a means of recognising Te Awa Tupua and Tupua te Kawa. This model is about ensuring that decisions throughout the process, affecting Te Awa Tupua benefit, the health and well-being of the awa.

Through this relational process the involvement to Te Mata Puau has been important to ensure that the Te Awa Tupua lens has been integrated into the project and this is approached throughout the process rather than a point in time. The leadership role hapū have played, assist all parties to recognise that they are legally obligated to a wider Te Awa Tupua process and working a Tupua te Kawa consistent way as a matter of course and of law.

The approach guided by Te Mata Puau has applied this Te Awa Tupua lens throughout the project and the Applicant has committed to Te Awa Tupua and He Ara Tuku Rau. This is a measurement beyond the traditional measurements under the RMA and includes a set of designed outcomes to achieve a strategic outcome of Mouri Ora, Mouri Awa and Mouri Tangata.

### *1.2 Existing Environment*

The area of works are within the Coastal Marine Area under the Regional Plan and is identified as being within the Coastal Whanganui (Whai\_7) Surface Water Management Zone and within the Port Activity Management Area as identified in Schedule I of the One Plan.

The One Plan establishes a set of values and management objectives and water quality targets for managing activities within these areas. These include:

- Life supporting capacity;
- Site of significance – Riparian for dotterel and waders;
- Inanga spawning;
- Whitebait migration;
- Contact recreation;
- Amenity;
- Mauri;
- Industrial Abstraction;
- Capacity to Assimilate Pollution; and
- Existing Infrastructure.

The Applicant has further described the Existing Environment within Section 3 of the Application and it is not considered necessary to repeat this.

### ***1.3 Environmental Effects (Section 104(1)(a))***

Initial consideration has been given to incorporating a Te Awa Tupua lens in this assessment. However, assessment of incorporation of Te Awa Tupua is a constant process, rather than a particular touch point in time. Continual assessment of implementation of He Ara Tuku Rau must be made to gauge the implementation of Tupua Te Kawa. Where matters have been considered 'minor' or 'less than minor' this is in the context of the Resource Management Act framework and not within the context of Te Awa Tupua.

This consent provides for the necessary technical requirements of the Resource Management Act framework.

Section 104(1)(a) of the Resource Management Act 1991 states that when consideration an application for a resource consent authority shall have regard to any actual and potential effects on the environment of allowing the activity.

To assist with the assessment of effects, the application has been reviewed by Ms Alison Lane of Torea Environmental Ltd in terms of the potential effects on the marine ecology, Mr Graeme Ridley of Ridley Dunphy in terms of the erosion and sediment control measures and Mr Kevin Tearney of SLR in terms of the management of the contaminated site.

### **Integrated Success**

The application has been considered through a Te Awa Tupua lens and as such a key aspect of this process has been the development of an abundance model to ensure the project contributes to the strategic goal of Mouri Ora, Mouri Awa, Mouri Tangata. The proposal to carry out maintenance of the existing wharf structures including the construction of a new boat hoist runway is part of a wider project to re-establish the Whanganui Port. The proposed works are considered to contribute to ongoing development of Te Pūwaha and its objectives. The works will contribute to securing the Port as a community asset. The Applicant has committed to ensuring the project contributes to the abundance model and this is achieved through the on-going implementation of Tupua te Kawa. The works will result in an improvement to the existing port area both improving the functionality of the port alongside the revitalisation of this area for the community.

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### **Land Disturbance/Sediment Control**

The Applicant is proposing to undertake earthworks both within the bed of the river and within the land based portion of the port. The Applicant is proposing to minimise the quantity of earthworks to be undertaken to minimise the extent of the works. In addition to being adjacent to the river, the site is a contaminated which means that works will need to be appropriately managed to ensure that the potential contaminated material does not cause any additional issues or adverse environmental effects.

The Applicant has not provided an erosion and sediment control plan (ESCP) as part of the consent application as the application. The application has noted that an ESCP will be developed in accordance with the Greater Wellington Erosion and Sediment Control Guidelines (GWESCG) and will form part of the overarching CEMP.

As a minimum the Applicant is proposing to provide an ESCP as part of the finalised CEMP. The Applicant is proposing to include measures to manage the potential adverse effects on the Whanganui River, identify the methods and techniques and management procedures and protocols to manage the effects. The ESCP is proposed to be certified by Manawatu-Whanganui Regional Council (MWRC) for the construction activity.

The proposal has been assessed by Mr Graeme Ridley who notes the approach to undertake the works in accordance with the GWESCG is considered to be best practice. However as there is no detail provided with the application, as a minimum it is considered that compliance with the GWESCG is recommended to be a condition of consent. This will need to include the methodology for the earthworks undertaken on the landward side of the port as well as construction methodology for works within the Whanganui River itself and how the GWESCG will be met.

The Application provides a plan showing the location and area of works however it is understood that the works will be undertaken to minimise the level of earthworks required. This is an important aspect of the management of any site. The works will need to be undertaken in a manner which appropriately manages erosion and sediment generation to minimise the impact on water quality. This will need to consider the use of structural measures such as the use of silt fences, stabilisation methods and physical

controls as well as utilising non-structural methods such as working at low tides and minimising the area of the site exposed.

While the Applicant has proposed to undertake the works in accordance with best practice and in accordance with the GWESCG, the Applicant has only proposed the ESCP be provided 10 working days prior to construction commencing. As the extent of earthworks is immediately adjacent to the river and there is little detail outlining how this will be undertaken it is considered a longer period for certification is appropriate to provide an ESCP for certification to ensure the works will be undertaken in accordance with the GWESCG as proposed by the Applicant with the effects associated with the proposed works to be appropriately managed.

The site is identified as a contaminated site and as such earthworks have the potential to cause an adverse effect on water quality. The Applicant has undertaken an assessment of the site which has identified a number of areas containing contaminated material. Accordingly, during construction consideration needs to be given to how the construction will occur to ensure that the contaminated material is appropriately managed. The Applicant has noted that the works will be undertaken in a manner to ensure that no contaminants will enter the river other than sediment laden water from earthworks (with the exception of hydrocarbons and sediment through dewatering which is discussed below) will be discharged into the river. This will ensure there are no additional contaminants such as metals being discharged into the river protecting the water quality.

The Applicant has provided a draft Site Management Plan (SMP) which has been reviewed by Mr Kevin Tearney in terms of the suitability of the works to appropriately address the effects. The information currently provided is considered to be conceptual and is very high level plan to manage the site. The final detail for site specific management will need to be refined. To address the lack of detail relating to how the contaminants will be managed the Applicant has proposed a number of consent conditions including the proposed provision of a SMP to be certified by the Regional Council prior to works commencing.

As the site is a contaminated site, the proposed earthworks may remobilise the existing contaminants becoming entrained within water during earthworks. This can occur if the contaminated soil is being excavated below the water table or through rainfall onto newly exposed contaminated soil and the runoff. This can result in contaminants getting into the river if not appropriately managed. One of the contaminants identified within the Application by HAIL Environmental is hydrocarbons which can be remobilised during works resulting in a rainbow sheen. The draft SMP has some procedures to prevent the discharge of contaminants to water including the use of retention tanks, bunding and sand filters along with tankering contaminated water offsite.

Based on the advice of Mr Tearney, these measures may be appropriate however there needs to be further development of the proposed methodology and measures to demonstrate the proposal is able to be carried out whilst ensuring there are no contaminants discharged into the Awa. A condition of consent will be set to ensure this occurs.

The relationship between the ESCP and SMP will need to be developed together to ensure that both the erosion and sediment control measures are appropriate for the site also recognising the potential risk of contaminants such as hydrocarbons being remobilised during works. A condition will be imposed ensuring only sediment laden water is discharged from the earthworks. The current level of detail within the draft SMP is at a high level and this will need to be updated to demonstrate how the site will be managed to ensure there are no contaminants discharged to the awa. As both plans are proposed to be provided to the Regional Council for certification prior to any construction works commencing it is considered that additional time will be required over and above the 10 working days proposed by the Applicant.

To manage the site as works commence, the Applicant is proposing to have a suitably qualified and experienced (SQEP) in contaminated site management onsite to assist with the earthworks and identification of material and the proposed management of the material. The SQEP will need to identify the material and its classification and if this is suitable for reuse on the site along with measures to ensure the works are managed including the classification of soil along with management of stockpiles. This will be critical in ensuring the site is managed and any material to be reused on the site does not result in further contaminants continuing to leach into the river.

A number of conditions have been recommended and included to ensure the proposed management measures are in place through the updated ESCP and SMP that will be required to be certified prior to any construction taking place. This will help to ensure the effects can be managed appropriately to minimise the effects on the River.

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### **Groundwater Effects**

The Applicant has noted that during construction there will be times when shallow groundwater is likely to be encountered. There may need to be some ground water pumped to lower levels to enable construction of structures. The Applicant has not specified a volume or an anticipated pumping rate that will be required to lower the water levels to enable the construction of the structures. Given the location of the works and close proximity to the Whanganui River any water encountered is going to be highly connected to the River and the works are not anticipated to have an impact on groundwater levels.

The proposal includes dewatering during excavation and construction. The Applicant through the SMP has identified this area has known contaminants and that the water removed will need to be treated. If this is encountered, the dewatered water is proposed to be pumped over a grate to volatise any hydrocarbons and then treat the water via a filtration system such as a weir tank. The dewatered water is proposed to be monitored during pumping at set intervals to determine:

- If there are any oil, grease and hydrocarbon odours or sheens;
- Undertake two grab samples for testing to determine if there are any hydrocarbons present and if the results are below 10ppm water then discharge via the stormwater network. If results are great than 10ppm the discharge will cease and the water is to be removed via a vacuum truck;
- The water is to be tested for suspended solids. If the level of suspended solids is less than 20 NTU the water will be discharged via the stormwater network. If the results are greater than 20

NTU then the discharge shall cease and the Applicant shall relook at their measures and adapt the treatment to reduce sediment loads or alternatively remove the water via a vacuum truck to a suitably facility.

The dewatering is proposed to be discharged via the stormwater network into the river and will only encompass the potential hydro carbons and sediment loads. The Applicant has proposed a series of measures to manage the potential release of hydrocarbons and sediment from dewatering. This is incorporated within the proposed consent conditions to minimise the impact on the water quality of the Whanganui River.

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### **Discharge to Land**

As part of the earthworks the Applicant is proposing to reuse some of the excavated material for filling in behind the erosion protection structures. It is proposed to reuse the material within the site where it is considered appropriate given the potential contamination on the site. This is to be determined by the use of the SQEP onsite to classify the material and assess the appropriateness of the reuse of the material. This is proposed to be included within the SMP. The proposed conditions require the classification of material and proposed measures to identify the material and where it may be reused. Where material is considered acceptable to be used as either cleanfill or managed fill it is proposed to use the material outside of the CMA area.

A number of conditions have been proposed to identify the classification of materials. The proposal is to reuse clean fill material anywhere within the site, only use imported cleanfill within the CMA area, and any 'managed' fill is reused where the concentrations of any contaminants will not have possibility of entering the Whanganui River. Any other contaminated soil shall be removed from the site to a suitable facility.

The Applicant has noted that for works within the CMA areas being the reclamation, only imported clean fill material will be utilised. This will ensure the material placed in the CMA area is 'clean' and thereby reducing any risk of further contaminates being released into the Awa.

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### **Effects on water quality/marine ecology**

The proposed works are located within the CMA area of the Whanganui River. The Applicant engaged EOS Ecology to undertake an assessment of the potential effects associated with the proposed works. This has been reviewed by Dr Alison Lane and the following assessment is based on her advice.

The proposal has the potential to cause sediment, potential contamination during construction and habitat disturbance during construction. The release of sediment during the construction works have the potential to adverse effect water quality. The Whanganui River has an existing high suspended sediment load however EOS consider it that it is still necessary to implement strict erosion and sediment control measures to limiting the input of terrigenous sediment to the Whanganui River. This includes the use of 'clean' rock material for the rock revetment wall to minimise the introduction of additional sediment.

The use of staging construction can limit the sediment discharge from a works area. As discussed above, the Applicant has proposed to provide an ESCP prior to the construction of any works in accordance with the GWESCG. This will detail the methodology to minimise the generation of sediment which is important in managing water quality and impacts on water quality.

The project involves the pouring of concrete which has the potential for the release of cement material into the water if not managed appropriately. There is a risk of water coming in contact with uncured concrete which can cause an adverse effect on the marine ecology due to the high pH level.

Accordingly the Applicant will need to ensure that the site is managed to minimise the risk of accidental spill. A condition of consent is recommended to ensure that the works are undertaken in a manner that minimises the risk of cement material entering the Whanganui River as well as having an accidental spill recovery methodology.

The works have the potential to have an effect on fish within the Whanganui River. EOS has identified this can be on those that migrate through the river and those that permanently reside where the works are being undertaken. Given the works are located on an existing structure it is not expected that the construction works or longer term occupation of space, will have a negative impact on habitat. The wharf will result in a small loss of soft sediment habitats but the proposed new structures should not reduce the ability of local taxa to continue to reside in the area. During construction, the works are not expected to cause any impact on the spawning or resident fish fauna.

Following completion of the works, the structure is expected to provide a similar habitat to that existing, which is currently existing and the proposed new structure will result in the creation of new habitat for local fish fauna.

EOS has recommended a number of mitigation measures and these have been incorporated into consent conditions. Therefore based on their advice the effects are considered to be able to be appropriately managed during construction to protect the existing marine ecology.

The area where the works are just upstream (being the mouth of the River) of an area that is known for Kekeno (fur seals) and Korora (little blue penguins) being the entrance river. A condition of consent is recommended to require the Applicant to have a plan in place to minimise the impact on any Kekeno or Korora should they take residence or be found within in the works area.

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### **Flood Flow/Erosion Effects**

The works involve the repair of erosion protection works within the port area. The proposal involves the creation of a retaining wall or rock revetment. The proposal has various options for the proposed upgrade and new structures which have been considered by Offshore and Coastal Engineering Limited (OCEL) including the potential wave effects on the structures.

OCEL have also considered the rock revetment wall between Wharf 3 and the public boat ramp and note the existing wall is in a state of disrepair. The proposed works will need to ensure that the walls are tied into the existing walls to minimise the risk of erosion occurring elsewhere. Given the location and distance of the structures upstream OCEL consider that the wave effects are not expected to adversely affect the operation of the port.

As there are options and the finalised design is still to be confirmed in terms of the erosion protection structures, the Applicant will need to ensure the structures are appropriately designed to take into account both wave effects as well as flood flows both in terms of how the port operates while ensuring that the works do not create any erosion issues either upstream or downstream of the works.

A condition of consent is recommended to ensure that the final design be approved by a suitably quality engineer to confirm that the finalised design of the port redevelopment including the slip way, boat hoist runway area and the erosion protection structures including the rock revetment/lining to ensure that it does not cause any erosion either upstream or downstream of the works taking into account both wave influence and river flows. This will ensure that the potential effects can be managed and appropriately addressed.

During the construction, the works will involve works within the bed of the River along with the removal of existing protection structures. The works are to undertaken in stages within limited sections of the structure being removed at a time. Further, the Applicant has proposed a flood contingency plan to mitigate the risk of damage to the existing structures and also minimise the risk of consequential flooding or erosion problems. A condition of consent will be imposed to ensure that the works are undertaken in accordance with the Flood Contingency Plan.

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#### **Historical Heritage**

The works are located within the Coastal Marine Area (CMA) and the Regional Plan manages the potential effects on the archaeological sites in this area. The site is not listed in the Regional Plan however there is a site listed within the District Plan.

Given the area of works traverse an archaeological site an Archaeological Authority will be required from Heritage New Zealand prior to works commencing. It is understood the Applicant has applied and had approved for an application from Heritage New Zealand Pouhere Taonga. The decision addresses the existing historic heritage as well as any accidental discovery of any additional artefacts during earthworks subject to conditions. This was approved on the 1 March 2022 and has an expiry of the 1 March 2027.

The site identified is not directly within the CMA area however given its location and age of the port area it is considered there is a potential for an archaeological artefact to be discovered during works. The decision from Heritage New Zealand Pouhere Taonga has addressed the accidental discovery of artefacts or koiwi which addresses the matters identified in the Regional Plan. As long as the Applicant adheres to the conditions of the decision it is considered that the works will have a less than minor effect on the archaeological heritage within the CMA area.

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#### **Effects on public access and Recreational activities**

The existing port and its facilities include a recreational boat ramp. The public recreational boat ramp is located upstream of the wharves and is utilised by public to access the river. While works are undertaken on the boat ramp and structures close to the boat ram, the Applicant is proposing to fence off this area meaning the boat ramp will not be available for public use to protect public health and safety.

During construction the informal riverside track is proposed to be closed to the general public to minimise the interaction between construction vehicles and public vehicles.

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The Applicant is proposing to undertake works between Monday 7am to Friday 6.30pm and Saturday 7.30am - 1pm. No works are proposed to be undertaken during public holidays. This along with the proposed staging will minimise the impact on the existing public access to this area for recreation purposes.

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**Potential Noise impacts**

The proposal has the potential to generate noise during construction. This can be split into the impact on air borne noise and noise under water. The Applicant has engaged a noise expert to consider both aspects. As part of the works are within the CMA area, the Regional Council needs to consider the potential noise and the potential effects of the proposal. The application has considered both the Regional Plan and District Plan and potential noise limits.

The operation of the port area beyond the CMA boundary is administered by the Whanganui District Council. The One Plan identifies noise generated from the normal operation of boats or ships within the CMA area is permitted by Rule 18-42. Therefore consideration of the effects associated with the construction works are considered below.

The following is an assessment of the proposal within the Regional Council jurisdiction.

There are two aspects of noise that have the potential to generate an adverse effect. This includes construction noise and the ongoing operation of the port. In terms of this consent, the consideration of noise has been in relation to the generation of noise within the CMA area and in particular during the construction of the new wharves, installation of piles and works associated with the new protection walls.

The assessment undertaken by the Applicant including an assessment of the potential noise generation and the impact on marine mammals. To minimise the potential effects the Applicant has offered conditions to minimise the potential noise impact underwater during construction which include the following mitigation measures:

- Use of a vibro piling methodology;
- If impact piling is to occur, there is a form of cushion between the hammer and pile/pile cap;
- The provision of monitoring by an observer for marine mammals in the surrounding waters prior to commencing any impact driving; and
- The use of 'soft starts' whereby the intensity of the impact piling increases in intensity to enable adequate time for marine species to leave the construction area.

This has been reviewed by Ms Lane who considers the measures are appropriate however the proposal has only considered fur seals and orca. In this location Ms Lane considers that there is the potential for other marine mammals and that the inclusion of other marine mammals into the conditions ensure the potential effects are appropriately managed.

In addition, the construction works are proposed to be undertaken during the hours of 7am to 6.30pm Monday – Friday and 7.30am to 1pm Saturdays. No works are proposed to occur on a Sunday or public holiday. The works are located in the coastal area and the Applicant is proposing to restrict construction hours which will help minimise the potential noise generated during the construction works on nearby residential properties from activities within the CMA area.

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### **Effects on Natural Character**

The proposed works are largely being undertaken on the existing structures with a slight modification to the existing foot print to form the proposed hoist area. The existing structure is currently a timber piled structure with concrete deck slabs. The proposal will use material which is similar to the existing structures and the proposed works are all within the existing port area. Therefore it is not expected that the proposed works will change the amenity or existing character of the area.

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### **Potential Positive Effects**

The redevelopment of the port area is to revitalise the existing port area and utilise the existing port asset area and provide a new Marine Precinct for boat servicing. The proposal is seeking to improve the appearance of the area, make a service port for current and new users while continuing to provide employment opportunities for the community.

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### **Biosecurity**

The Applicant has undertaken an assessment of the potential biosecurity risks and the potential introduction of marine pest species during the construction phase of the works. The assessment by Dan McLary identifies this risk occurring from the use of barges or similar vessels during works. However Mr McLary considers that this risk can be minimised by ensuring all equipment is examined and cleared by a biosecurity inspector prior to use on the site. The proposal has been reviewed by Ms Lane who considers that the proposal has comprehensively considered the risk of introduction of marine pests to this area. The proposed mitigation measures for managing the risk are considered appropriate to minimise the potential effects and will be incorporated into the conditions of consent.

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## **CONCLUSION**

The Applicant has approached the proposal with Te Awa Tupua at the forefront of consideration. This has resulted in a collaborative process and resulting in this application with direction from Te Mata Puau who have provided their advice and expertise on measures to ensure the requirements of Te Awa Tupua are upheld. This is proposed to be carried through to the final design management plans which will finalise how the works will be undertaken to ensure the proposed limits set in the conditions are met. Based on the assessment above and proposed conditions to ensure the effects can be managed it is considered that the traditional resource management effects of the proposal are considered to be no more than minor.

### **1.4 Relevant Provisions (Section 104(1)(b))**

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#### **Relevant Provisions**

#### **New Zealand Coastal Policy Statement (3 December, 2010)**

OBJECTIVE 1 Coastal Ecosystems

OBJECTIVE 2 Natural Character and Natural Values

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OBJECTIVE 3	Principles of Treaty of Waitangi
OBJECTIVE 4	Public Space and Recreational Space
OBJECTIVE 6	Social, Economic and Cultural Wellbeing
POLICY 1	Extent & Characteristics of the Coastal Environment
POLICY 3	Precautionary Approach
POLICY 6	Activities in the Coastal Environment
POLICY 9	Ports
POLICY 10	Reclamation and de-reclamation
POLICY 12	Harmful Aquatic Organisms
POLICY 19	Walking Access
POLICY 20	Vehicle Access
POLICY 21	Enhancement of Water Quality
POLICY 22	Sedimentation
POLICY 23	Discharge of Contaminants

#### NATIONAL POLICY STATEMENT CONSIDERATIONS

Objective 1 and 2 seeks to look after the natural character of the coastal environment and protect these values associated with the ecosystems. This Objective is further supported by Policies 1, 3, 6, 11, 21, 22 and 23. The works have the potential to cause the release of sediment and disturbance to the marine environment and increase the area of CMA area occupied by structures.

The works are located within a management area and are largely related to the upgrade of an existing structure to improve the functionality of the existing port. On completion the works will have a similar character to the existing infrastructure and will not result in a change to the existing natural character, landscape or amenity values within this area. For the reasons discussed in the environmental section above, the proposal will ensure that the existing infrastructure and the value it provides is improved enabling the Port to provide the Whanganui community. During construction, the potential effects are proposed to be managed to minimise the effects on the habitat and fauna within the coastal environment.

Objective 3 seek to recognise the role of tangata whenua in the management of the coastal environment. This is supported by Policies 2, 4. In this case, the Application has been considered with a Te Awa Tupua lens and the critical contribution from Iwi and Hapū through Te Mata Puau needs to be acknowledged. This involvement has extended beyond the traditional involvement and rather has directed the overall development of the project to ensure the values of Te Awa Tupua are upheld. Through the Te Awa Tupua process it is considered that the proposal is consistent with this Objective and Policies.

Objective 4 seeks to maintain and enhance the public open space and maintain recreational space in the coastal marine environment. This is supported by Policies 6, 18, 19 and 20. The existing public boat ramp is utilised for recreational purposes. The wharves are part of a working port. The development will need to be undertaken in a manner which still provides for public access to the public boat ramp where appropriate. Therefore it is considered that the proposal is consistent with this Objective and Policies.

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Objective 6 allows for provision of development and use of the coastal area provided the development is able to provide for the social, economic and cultural wellbeing of communities. The proposed works are part of a wider project to develop the Whanganui port. The existing port has a heritage value and the Applicant has applied for an Archaeological Authority from Heritage New Zealand. As this is an upgrade to the existing port to assist with providing a service to the wider area this will ensure that the historic values associated with the structure are appropriately managed

The proposed works include an area of reclamation. Therefore the proposal needs to be considered against Policy 10. Policy 10 is clear that the reclamation of the CMA area needs to be avoided unless the activity can only occur in or adjacent to the CMA. In this case, the reclamation works are located within the existing port area and will improve the existing functionality of the Port. The reclamation will facilitate the proposed boat hoist runway structure which is located between two existing wharves. Therefore it is considered that the proposal will be in keeping with the existing character of the area. Once constructed, the boat hoist runway structure will be considered part of the wharf structures for occupation purposes.

Overall, the proposed works are considered to be consistent with the Objectives and Policies of the Coastal Policy Statement.

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**One Plan (2018) – Part 1 Regional Policy Statement**

OBJECTIVE 2-1	Resource Management
POLICY 2-1	Hapū & Iwi Involvement in Resource Management
POLICY 2-2	Wahi Tapu, Wahi Tupuna & Other Sites of Significance
POLICY 2-3	The Mauri of Water
POLICY 2-4	Other Resource Management Issues
OBJECTIVE 3-1	Infrastructure and Other Physical Resources of Regional or National Importance
POLICY 3-1	Benefits of Infrastructure and Other Physical Resources of Regional and National Significance
POLICY 3-3	Adverse Effects of Infrastructure and Other Physical Resources of Regional or National Importance on the Environment
OBJECTIVE 5-2	Water Quality
POLICY 5-6	Maintenance of Groundwater Quality
POLICY 5-10	Point Source Discharges to Land
OBJECTIVE 8-1	Integrated Management of the Coastal Environment
OBJECTIVE 8-2	Appropriate Protect, Use and Development in the CMA
OBJECTIVE 8-3	Water Quality
POLICY 8-1	Integrated Management of the Coastal Environment
POLICY 8-2	Activity Management Areas
POLICY 8-4	Appropriate Use and Development
POLICY 8-5	Public Access
OBJECTIVE 9	Effects of Natural Hazard Events
POLICY 9-1	Responsibilities for Natural Hazard Management
POLICY 9-5	Climate Change

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## REGIONAL POLICY STATEMENT CONSIDERATIONS

The Application has been considered with a Te Awa Tupua lens and the critical role of Iwi and Hapū through Te Mata Puau needs to be acknowledged. Te Awa Tupua has superseded the RMA and RPS policies with regard to the centrality of hapū and iwi under Tupua te Kawa. This 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. Through this process it is considered that the proposal is consistent with this Objective and Policies.

Objective 3-1 and Policy3-1 identifies the Whanganui Port as important infrastructure. The proposal is to improve the existing functionality of the port by upgrading the existing wharf structure as part of the wider port redevelopment. Therefore it is considered that the proposal is consistent with Objective 3-1 and Policy 3-1. The potential effects associated are proposed to be managed as outlined in the environmental effects section above. Therefore it is considered that the potential effects are considered to be consistent with the Policy 3-2.

Objective 5-2 seeks to ensure that groundwater quality is managed in such a manner that the existing groundwater quality is maintained. Objective 5-2 is supported by Policies 5-6, 5-7 and 5-10. Policy 5-6 seeks to manage land use activities to ensure that the activities do not degrade groundwater and to ensure that existing groundwater quality is maintained. Policy 5-10 outlines the requirements for point source discharges to land and seeks to ensure that the discharge of contaminants are managed appropriately. The effects of the proposed take of groundwater are temporary. The reuse of contaminated material within the site will be managed to ensure there is no additional leaching of contaminants protecting the shallow groundwater and the River.

Objective 8-1, 8-2 and 8-3 relate to the development and management of the Coastal Marine Area using an integrated approach to the management of the coastal environment. The Policies support the development of values and characteristics through the development of activity management areas. The structure falls both within the CMA area and the Port Activity Management Area. The potential effects from the works seek to improve the operation of the Whanganui Port. The structure will be of a similar scale and appearance to the existing structure and will not result in the loss of any additional open space or natural characteristics of the area. The works will restrict public access during construction however longer term the accessibility of area is to be improved. The construction of the works can be appropriately managed to minimise sediment runoff and based on the assessments above it is considered that the works will be consistent with Policy 8-6.

The proposed design of the works are part of a wider development which has factored in Climate Change to ensure the existing asset upgraded to provide for the future. This is consistent with Policy 9-5 whereby development within coastal area must be precautionary and take into account sea level rise. The final design will factor in climate change along with the increased sea level rise to ensure the structural integrity of the development is maintained.

Overall it is considered that the proposed works is consistent with the Objectives and Policies of the Regional Policy Statement.

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**One Plan (2018) – Part 2 Regional Plan**

OBJECTIVE 13-1	Accelerated Erosion
POLICY 13-2	Consent Decision-Making for Land Disturbance
OBJECTIVE 14-1	Management of Discharge to Land and water
POLICY 14-2	Consent Decision-Making for discharge to land
POLICY14-3	Industry Based Standards
POLICY 14-4	Options for Discharges to Surface Water and Land
POLICY 14-9	Decision Making Requirements from National Policy Statement for Freshwater Management
OBJECTIVE 16-1	Regulation of Takes, Uses and Diversions of Water
POLICY 16-1	Consent Decision Making for Takes and Uses of Surface Water and Groundwater
POLICY 16-6	Effects of Groundwater on Surface Water Bodies
OBJECTIVE 18-1	Activities in the CMA
POLICY 18-3	Consent Decision Making for Occupation of Space by Activities
POLICY 18-5	Consent Decision-Making for New Structures
POLICY 18-7	Consent Decision-Making for Existing Structures
POLICY 18-8	Consent Decision-Making for Reclamation and Drainage
POLICY 18-9	Consent Decision-Making for Activities involving Disturbance, Removal or Deposition
POLICY 18-10	Consent Decision-Making for Take or use of water in the CMA
POLICY 18-12	Consent Decision-Making for Discharged into the CMA
POLICY 18-14	Consent Decision-Making for any Noise and Discharges to Air

**REGIONAL PLAN CONSIDERATIONS**

Objective 13-1 and Policy 13-2 seeks to manage land disturbance to minimise the impact on water quality. The proposal involves large scale earthworks which are to be undertaken adjacent to the River. The Applicant is proposing to develop erosion and sediment control measures in accordance with the Great Wellington Guidelines. Provided the works are undertaken in accordance with these guidelines it is considered best practice and in accordance with these Objectives and Policies.

Objective 14-1 and Policy 14-2 provide guidance on the matters which Regional Council must consider when assessing an application for resource consent to discharge contaminants to land, including avoiding as far as practicable any adverse effects on sensitive receiving environments, the appropriateness of adopting the best practicable option, avoiding discharges which contain persistent contaminants likely to accumulate in the soil or groundwater. Policy 14-9 requires Regional Council to have regard to the National Policy Statement for Freshwater Management when considering applications for resource consent. It aims to ensure that any discharge does not adversely impact freshwater and the receiving environment. Based on the assessment above the land disturbance, dewatering and associated discharge of contaminated soils within the site are considered to be consistent with these Objectives and Policies.

Objective 16-1 and Policy 16-6 relate to the proposed abstraction of groundwater being the dewatering. The pumping of groundwater will intercept shallow groundwater and is considered to be highly

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connected with the River. For the reasons discussed above it is considered the potential effects are considered to be consistent with these Objectives and Policies.

Objective 18-1 in conjunction with Policies 18-5 and 18-7 relate to decision making structures. Policies 18-3 and 18-8 relate to the small area of reclamation and occupation of the bed. The proposal is to undertake maintenance and the upgrade to the existing port. The proposal involves a small reclamation however upon completion, the redevelopment will have a similar character to the existing port area. The structure and construction methodology is not expected to give rise to any adverse effects. The potential effects can be managed and proposed conditions will ensure that the works are undertaken in a manner to manage the effects.

Policy 18-9 relates to the discharge and disturbance of the CMA area. The works will involve the placement of material onto the bed of the River along with disturbance of the existing bed. The works are proposed to be managed to minimise the impact on the existing instream ecology. The works are proposed to be undertaken in a manner to minimising the impact on the water quality. The Applicant has obtained an Archaeological Authority to ensure any historic heritage is appropriately managed during the works. Management of the site and materials will be important to ensure that the materials do not introduce any pests to the area. Conditions have been imposed to ensure the works are consistent with this policy.

Policy 18-10 relates to the take of water from the CMA area. The proposal will include an area of dewatering within the CMA to create the reclamation behind the boat hoist runway area. This is considered to be temporary in nature and will ensure that the take does not result in an adverse effect on the marine ecology in the area.

Policy 18-12 provide guidance on the matters which Regional Council must consider when assessing an application for resource consent to discharges in the CMA area. The proposed discharge of sediment laden water along with dewatering water is not considered to give rise of any of the matters listed in Policy 18-12(e). The management of the site will ensure that the works are consistent with this Policy.

Therefore it is considered that the proposal is consistent with the relevant Objective and Policies.

## CONCLUSION

Overall it is considered that the proposal is consistent with the relevant Objectives and Policies of New Zealand Coastal Policy Statement, the Regional Policy Statement and Regional Plan.

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### 1.5 *Matters Relevant to Certain Applications (Section 105)*

The proposal involves works which has an ancillary discharge of sediment and potentially small levels of hydrocarbons and as such consideration of methods for the various discharges have been incorporated into the project to manage the effects. The Applicant has undertaken an assessment of the matters identified in Section 105 and the Applicant has identified that while there are no further

alternatives for the discharges associated with the construction works. As such it is considered that the matters of section 105 have been considered.

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### **1.6 Discharge Permit Restrictions (Section 107)**

For the reasons discussed in the environmental section above, the ancillary discharge of sediment and potential hydrocarbons during the construction works are proposed to be managed to ensure that discharge does not give rise to any of the matters listed in Section 107. Further a condition of consent has been recommended to ensure none of the matters listed in Section 107 are breached. Therefore it is considered that the application can be granted.

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### **1.7 Duration and Reviews**

#### **Relevant Matters**

The landward extent of the site is located within the Lower Whanganui (Whai\_7) Surface Water Management Zone. The CMA extent of the site is zoned Activity Management Area – Port. The Applicant has requested at term of 5 years to allow for the construction to be undertaken. Under Policy 12-5(a) consent durations will generally be granted for the term sought by the Applicant. In this case the term sought by the Applicant is considered appropriate for the construction activities while allowing for any unforeseen delays.

There are a number of activities which require consent associated with the upgrade of the port area. Once completed the ongoing maintenance and occupation of space is permitted under the Coastal Chapter of the One Plan. The proposed works are considered to take between 18 – 24 months to complete however to allow for any delays it is considered a term of 5 years is appropriate.

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### **1.8 Purpose and Principles (Resource Management Act Part 2)**

Part 2 of the Resource Management Act 1991 outlines the purpose and principles of the Act. Following the decision: *Davidson Family Trust v Marlborough District Council [2018] Court of Appeal Decision* there is the ability to recourse to Part 2 when it is appropriate to do so. In this case, recourse to Part 2 is not required as it is not considered there is any illegality, uncertainty or incompleteness in the relevant part of the One Plan. Recourse to Part 2 would not provide any further guidance to the decision maker for this consent. Furthermore, no issues as such have been identified and therefore no further assessment against Part 2 of the Resource Management Act 1991 is considered necessary.



## Recommendation

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It is recommended that the resource consent application by **Whanganui District Council** to redevelop the existing wharves and facilities associated with the Whanganui Port be granted, subject to the conditions outlined in the attached conditions schedule for the following reasons:

- a. Significant direction from iwi and hapū of Whanganui has ensured the obligation of all communities, applicants and decision makers to Tupua te Kawa and Te Awa Tupua is recognised and understood.
- b. That the application is upholding the purpose of Te Awa Tupua status and Tupua te Kawa which will ensure that the wellbeing of Te Awa Tupua has been recognised and protected.
- c. The proposed activities have been assessed and it is considered that the potential effects are considered to be able to be appropriately managed;
- d. The proposed works are considered to be consistent with the relevant Objectives and Policies of the New Zealand Coastal Policy Statement and Regional Policy Statement and Regional Plan being the One Plan.



Jasmine Mitchell

**TEAM LEADER CONSENTS**

## Decision

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The Manawatū-Whanganui Regional Council Regulatory Manager, grants resource consent for the reasons stated in the recommendation, to **Whanganui District Council** under section 104, 104B, and 108 of the Resource Management Act 1991 to redevelop the existing wharves and facilities associated with the Whanganui Port on the true right bank of the Whanganui river for a term expiring on 16 May 2027



Nic Peet

**GROUP MANAGER, STRATEGY, REGULATION AND SCIENCE**

*Made Under Authority Delegated to the Group Manager, Strategy, Regulation and Science*

16 May 2022

## 1. Whanganui Port Wharf Replacement Works

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The following details the location, classifications and conditions associated with the activity.

Authorisation Number	<b>ATH-2022204960.00</b>
Activity Type	Land Use and Coastal Permit
Activity Class	Discretionary
Activity Primary Industry	Manufacturing, Processing or Production
Activity Primary Purpose	Construction   Harbour Infrastructure, Bollards or Navigation Aids

### *Location*

The following summarises the authorised location for the consented activity.

Activity Location Description	TOD STREET CASTLECLIFF WHANGANUI, WHARF STREET CASTLECLIFF WHANGANUI
Valuation Number	13090 246 00, 13090 371 01
Legal Description	LOT 6 DP 435979 PT LOT 1 DP 89274
Map References	LOC-2022100021 (Centroid: BL32:703-765), LOC-2022100021 (Centroid: BL32:703-765)

### *Classifications*

The following summarises the classifications associated with the application activity.

Groundwater Management Zone	Whanganui
Water Management Zone	Whanganui Catchment, Lower Whanganui, Coastal Whanganui (Whai_7b)
Estuary Management Zone	Whanganui Estuary Management Zone
Associated River	Whanganui River

## 2. Earthworks and Reclamation

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The following details the location, classifications and conditions associated with the activity.

Authorisation Number	<b>ATH-2022204961.00</b>
Activity Type	Land Use, River & Lake Beds
Activity Class	Discretionary
Activity Primary Industry	Manufacturing, Processing or Production
Activity Primary Purpose	Construction   Harbour Infrastructure, Bollards or Navigation Aids

### *Location*

The following summarises the authorised location for the consented activity.

Activity Location Description	TOD STREET CASTLECLIFF WANGANUI, 8 KIRK STREET CASTLECLIFF WANGANUI
Valuation Number	13090 246 08, 13090 246 00
Legal Description	LOT 6 DP 435979 PT LOT 1 DP 89274 LOT 7 DP 435979 LOT 2 DP 81330

### *Classifications*

The following summarises the classifications associated with the application activity.

Groundwater Management Zone	Whanganui
Water Management Zone	Whanganui Catchment, Lower Whanganui, Coastal Whanganui (Whai_7b)
Estuary Management Zone	Whanganui Estuary Management Zone
Associated River	Whanganui River

### 3. Discharge to Water from Construction works

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The following details the location, classifications and conditions associated with the activity.

Authorisation Number	<b>ATH-2022204962.00</b>
Activity Type	Discharge to Land
Activity Class	Discretionary Activity
Activity Primary Industry	Manufacturing, Processing or Production
Activity Primary Purpose	Construction   Harbour Infrastructure, Bollards or Navigation Aids

#### *Location*

The following summarises the authorised location for the consented activity.

Activity Location Description	TOD STREET CASTLECLIFF WHANGANUI
Valuation Number	13090 246 00
Legal Description	LOT 6 DP 435979 PT LOT 1 DP 89274
Map References	LOC-2022100023 (Centroid: BL32:703-765), LOC-2022100023 (Centroid: BL32:704-765)

#### *Classifications*

The following summarises the classifications associated with the application activity.

Groundwater Management Zone	Whanganui
Water Management Zone	Whanganui Catchment, Lower Whanganui, Coastal Whanganui (Whai_7b)
Estuary Management Zone	Whanganui Estuary Management Zone
Associated River	Whanganui River

## 4. Noise Emissions within the CMA

The following details the location, classifications and conditions associated with the activity.

Authorisation Number	<b>ATH-2022205232.00</b>
Activity Type	Discharge to Air
Activity Class	Discretionary
Activity Primary Industry	Manufacturing, Processing or Production
Activity Primary Purpose	Construction   Harbour Infrastructure, Bollards or Navigation Aids

### Location

The following summarises the authorised location for the consented activity.

Activity Location Description	TOD STREET CASTLECLIFF WHANGANUI
Valuation Number	13090 246 00
Legal Description	LOT 6 DP 435979 PT LOT 1 DP 89274
Map References	LOC-2022100023 (Centroid: BL32:703-765), LOC-2022100023 (Centroid: BL32:704-765)

### Classifications

The following summarises the classifications associated with the application activity.

Groundwater Management Zone	Whanganui
Water Management Zone	Whanganui Catchment, Lower Whanganui, Coastal Whanganui (Whai_7b)
Estuary Management Zone	Whanganui Estuary Management zone
Associated River	Whanganui River

## 5. Discharge to Land

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The following details the location, classifications and conditions associated with the activity.

Authorisation Number	<b>ATH-2022205233.00</b>
Activity Type	Discharge to Land
Activity Class	Discretionary
Activity Primary Industry	Manufacturing, Processing or Production
Activity Primary Purpose	Construction   Harbour Infrastructure, Bollards or Navigation Aids

### *Location*

The following summarises the authorised location for the consented activity.

Activity Location Description	TOD STREET CASTLECLIFF WHANGANUI
Valuation Number	13090 246 00
Legal Description	LOT 6 DP 435979 PT LOT 1 DP 89274
Map References	LOC-2022100023 (Centroid: BL32:703-765), LOC-2022100023 (Centroid: BL32:704-765)

### *Classifications*

The following summarises the classifications associated with the application activity.

Groundwater Management Zone	Whanganui
Water Management Zone	Whanganui Catchment, Lower Whanganui, Coastal Whanganui (Whai_7b)
Estuary Management Zone	Whanganui Estuary Management Zone
Associated River	Whanganui River

## 6. Water Take during Construction

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The following details the location, classifications and conditions associated with the activity.

Authorisation Number	<b>ATH-2022205234.00</b>
Activity Type	Water Permit and Coastal Permit
Activity Class	Discretionary
Activity Primary Industry	Manufacturing, Processing or Production
Activity Primary Purpose	Construction   Harbour Infrastructure, Bollards or Navigation Aids

### *Location*

The following summarises the authorised location for the consented activity.

Activity Location Description	TOD STREET CASTLECLIFF WHANGANUI
Valuation Number	13090 246 00
Legal Description	LOT 6 DP 435979 PT LOT 1 DP 89274
Map References	LOC-2022100023 (Centroid: BL32:703-765), LOC-2022100023 (Centroid: BL32:704-765)

### *Classifications*

The following summarises the classifications associated with the application activity.

Groundwater Management Zone	Whanganui
Water Management Zone	Whanganui Catchment, Lower Whanganui, Coastal Whanganui (Whai_7b)
Estuary Management Zone	Whanganui Estuary Management Zone
Associated River	Whanganui River

## **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 sets out the Council's commitments to co-governance, co-managing and co-design. The 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 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, HRC regulatory team (where relevant), Te Mata Pūau, and recreational users of the port area. These plans include;
  1. Erosion and Sediment Control Plan;
  2. Spill Management and Response Plan;
  3. Construction biosecurity management methods;
  4. Construction Environment Management Plan; and
  5. Hapū Co-management Plan;<sup>1</sup> and

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<sup>1</sup> For clarity, the Hapū Co-management Plan is not required by a condition of consent.



6. Post Development Assurance Plan (this plan will be prepared after construction works are completed).<sup>2</sup>
- This co-management and co-design process will be realised by Whanganui District Council, 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 – Applies to all activities*

1. This resource consent authorises maintenance and redevelopment works within the Whanganui Port being on the true right bank of the Whanganui River in general accordance with the activities as described in the resource consent application. The works include:
  - a. The removal and replacement of wharves 2 and 3 and the associated erosion protection structures and seawalls;
  - b. The removal of the existing marina piles
  - c. Installation of a boat hoist, runway and support structure. This includes a reclamation of the bed;
  - d. Installation of a slipway structure capable of accommodating Roll-on/Roll-off (RORO) vessels;
  - e. Placement of new material being cleanfill on the bed of the Whanganui River and coastal marine area for the construction of the erosion protection structures;
  - f. Repairs and maintenance to the existing rock wall between the upstream edge of Wharf 3 and the public boat ramp;
  - g. The replacement of the existing stormwater outfalls that project through the existing retaining walls;
  - h. The installation of three new stormwater outlets into the Whanganui River and Coastal Marine areas;
  - i. The emission of noise into the Coastal Marine Area generated during construction works;
  - j. The associated discharge of sediment laden water during construction into the Whanganui River and coastal marine area adjacent;
  - k. The abstraction of groundwater and discharge of dewatered water within the Coastal Marine Area and earthworks; and
  - l. Temporary restriction of public access to the public boat ramp area during construction works.

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<sup>2</sup> For clarity, the Post Development Assurance Plan is not required by a condition of consent.

2. The Consent Holder must undertake the activity in general accordance with the consent application including all accompanying plans and documents first lodged with the Manawatū-Whanganui Regional Council on 24 December 2021, the additional information provided 21 March 2022 being an updated Site Management Plan and support from Te Mata Pūau and additional information provided on 2 May 2022 being details on the overall management of the proposed works.

Where there may be inconsistencies between information provided by the Consent Holder and conditions of the resource consent, the conditions of the resource consent will apply.

**ADVICE NOTE:** Any variance from the location, design concepts and parameters, implementation and / or operation may require a new resource consent or a change of consent conditions pursuant to section 127 of the Resource Management Act 1991.

3. 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.
4. A copy of this consent must be kept onsite 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 Manawatū-Whanganui Regional Council.

**ADVICE NOTE:** An electronic copy of this resource consent is considered to be acceptable.

#### *Pre-Development Assurance*

5. The Consent Holder must prepare and submit at least **twenty (20) working days** prior to the commencement of physical works provide final site plans including the following:
  - a. The final plans and elevations of all structures including details on the wharves 2 and 3, the boat hoist and service areas, details of the proposed rock wall between wharf 3 and the public boat ramp and the existing area of wharf 2;
  - b. A statement from a suitably qualified engineer confirming the finalised design of the erosion protection structures will not cause any erosion either immediately adjacent to the River banks either upstream or downstream of the redevelopment; and
  - c. A statement the finalised design has incorporated and factored climate change.
6. The Consent Holder must prepare and submit at least **ten (10) working days** prior to the commencement of physical works a finalised construction environment management plan (CEMP). All assurance measures including but not limited to the CEMP are subject to being incorporated in the He Ara Tuku Rau process guided by Te Mata Pūau. The purpose of the CEMP is therefore to form

part of the broader support mechanism to demonstrate compliance with the conditions of this resource consent. The CEMP shall include:

- a. A copy of the Certified Erosion and Sediment Control Plan;
- b. A copy of the Certified Site Management Plan;
- c. A copy of a Flood Contingency Plan;
- d. A copy of the Spill Management and Response Plan;
- e. A copy of a Noise and Vibration Management Plan;
- f. Methods to manage public access to the boat ramp during construction;
- g. Methods to minimise the effects on marine biota;
- h. Methods to minimise the underwater noise effects on marine mammal species;
- i. The name and contact details of the contractor undertaking the works as well as the representative of the Consent Holder;
- j. Details of the conditions of the Archaeological Authority from Heritage New Zealand;
- k. Details of the construction biosecurity management methods;
- l. Any other information to demonstrate compliance with the conditions of consent; and
- m. Hapū co-management plan.

**ADVICE NOTE:** The CEMP is a plan which will detail other matters beyond the Regional Councils jurisdiction and does not require certification however certain plans will be required to be certified prior to the lodgement of the CEMP.

7. The Consent Holder shall contact the Manawatū-Whanganui Regional Council's Team Leader – Consents Monitoring and the Area Engineer – Northern at least **ten (10) working days** prior to the commencement of the construction works authorised by this resource consent to advise when works will commence, and on completion of the construction works to advise that works are complete.

**ADVICE NOTE:** The Team Leader – Consents Monitoring can be contacted on 0508 800 800, -OR- consent.monitoring@horizons.govt.nz. The Area Engineer –Northern can be contacted on 0508 800 800.

8. The Consent Holder shall arrange and conduct a pre-construction site meeting and invite, with a minimum of **ten (10) working days'** notice, the Manawatū-Whanganui Regional Council, Consent Holders contact person and the contractors identified in the CEMP, Te Mata Pūau, Nga tangata Tiaki o Whanganui, and any other party representing the Consent Holder prior to any work authorised by this resource consent commencing on site.

**ADVICE NOTE:** In the case that any of the invited parties, other than the site representative does not attend this meeting, the Consent Holder will have complied with this condition, provided the invitation requirement is met.

9. 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 onsite induction programme which ensures all contractors are appropriately inducted into the project within a Te Awa Tupua and Tupua te Kawa context.
10. The Consent Holder shall, **twenty (20) working days** prior to commencing activities authorised by this resource consent, provide the Manawatū-Whanganui Regional Council with a finalised Erosion and Sediment Control Plan (ESCP) for technical certification. The ESCP shall as a minimum be based upon and incorporate those specific principles and practices which are appropriate for the activity authorised by this consent and contained within with document titled *“Erosion and Sediment Control – Guidelines for the Wellington Region, dated June 2021”*, and shall include at least the following:
  - a. Details of all principles, procedures and practices that will be implemented to undertake erosion and sediment control to minimise the potential for sediment discharge from the site;
  - b. The design criteria, supporting calculations, dimensions and contributing catchments of all key erosion and sediment control structures, including (but not limited to) sump and cess pit protection and decanting structures;
  - c. Proposed measures to minimise release and water turbidity before release into the Whanganui River. This may include non-structural measures such as the use of sediment curtains or booms within the River or works during low tides to minimise the release of sediment;
  - d. A site contour plan of a suitable scale to identify;
    - i. The extent of soil disturbance;
    - ii. Areas of cut and fill;
    - iii. Locations of topsoil stockpiles;
    - iv. All key erosion and sediment control structures;
    - v. The boundaries and area of catchments contributing to all erosion and sediment control devices;
    - vi. The locations of all specific points of discharge to the environment;
    - vii. Identification of areas of potentially contaminated areas and measure to divert clean water away from these areas (this will need to be developed in conjunctions with the Site Management Plan);
    - viii. Identification of stockpile management;
    - ix. Any other relevant site information;
  - e. Construction timetable for the erosion and sediment control works and the earthworks proposed;

- f. Confirmation of the implementation dewatering methodologies including specific design details and flocculation design criteria;
- g. Timetable and nature of progressive site stabilisation;
- h. Maintenance, monitoring and reporting procedures for managing the sites;
- i. Rainfall response and contingency measures including procedures to minimise adverse effects in the event of extreme rainfall events and/or the failure of any key erosion and sediment control structures;
- j. Procedures and timing for review and/or amendment to the ESCP; and
- k. Identification and contact details of personnel responsible for the operation and maintenance of all key erosion and sediment control structures.

**ADVICE NOTE:** Regarding Manawatū-Whanganui Regional Council Certification: Several conditions require the certification of the Manawatū-Whanganui Regional Council. That certification (or withholding of certification) shall be based on the Manawatū-Whanganui Regional Council's assessment of whether the matters being considered achieve the objective of minimising sediment discharges from the site.

**ADVICE NOTE:** The Manawatū-Whanganui Regional Council shall notify the Consent Holder in writing that the Council either certify or refuse to certify the ESCP. If the certification is withheld, the Manawatū-Whanganui Regional Council must provide reasons why certification is withheld. The Consent Holder must consider any reasons and recommendations and resubmit an amended ESCP for certification.

- 11. Any changes proposed to the ESCP shall be confirmed in writing by the Consent Holder and certified in writing by the Manawatū-Whanganui Regional Council acting in a technical certification capacity, prior to the implementation of any changes proposed.
- 12. The Consent Holder shall ensure that a copy of the certified ESCP required by **Condition 10**, including any certified amendments, is kept onsite and this copy is updated within **five (5) working days** of any amendments being certified.
- 13. The Consent Holder shall, **twenty (20) working days** prior to commencing activities authorised by this resource consent, provide the Manawatū-Whanganui Regional Council with a finalised Site Management Plan (SMP) for technical certification. The Site Management Plan shall be prepared in accordance with the Contaminated Land Management Guidelines No 1 *Reporting on contaminated sites in New Zealand* (revised 2021) Ministry for the Environment. The objective of the SMP is to:
  - a. ensure that excavations and construction activities, including the remediation and/or removal of contaminated soil, are undertaken in accordance with this consent and best practice;

- b. protect the health of any workers on site during construction or any future workers of or visitors to the site once construction is complete;
- c. prevent contamination (other than sediment) reaching stormwater/surface water or ground water systems;
- d. ensure appropriate disposal of any contaminated matter removed from the site;
- e. details of how works within contaminated land will be managed to ensure there is no discharge of contaminants other than sediment and hydrocarbons to the Whanganui River; and
- f. ensure compliance with conditions of consent.

As a minimum the SMP must include the following details:

- a. the name/s and contact details of key personnel responsible for site contamination management;
  - b. identification of the construction zone;
  - c. estimated timing of site works in relation to demolition, earthworks and construction phases;
  - d. contamination management during site works;
  - e. identification and classification of the soil and the use requirements in accordance with consent conditions;
  - f. minimisation of the flow of surface water through the construction zone from adjacent areas;
  - g. that no earthworks shall be carried out during rain fall that may compromise the ability of the contamination management on the site;
  - h. that no excavations shall be undertaken if rain fall is predicted which may compromise the contamination management before measures can be implemented to secure excavated areas from the effects of overland flow; and
  - i. water treatment, filtering, measures to minimise the dewatering water leaving the construction zone and specific design details;
  - j. any monitoring and reporting requirements; and
  - k. 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 for the SMP.
14. Any changes proposed to the Site Management Plan shall be confirmed in writing by the Consent Holder and certified in writing by the Manawatū-Whanganui Regional Council acting in a technical certification capacity, prior to the implementation of any changes proposed.

15. The Consent Holder shall ensure that a copy of the certified Site Management Plan required by **Condition 13**, including any certified amendments, is kept onsite and this copy is updated within **five (5) working days** of any amendments being certified.
16. The Consent Holder must prepare a Spill Management and Response Plan. The purpose of the SMRP is to identify the construction processes, plant and equipment, materials and substances proposed to be used during construction which have a risk of hazardous materials or hazardous substances spillage. The SMRP shall identify the methods and techniques, management procedures and protocols and as a minimum including the following information:
  - a. Person(s) responsible for responding to any spills;
  - b. Potential sources of contaminants from fuel, construction equipment or machinery and management of these areas to reduce the risk of a spill into the Whanganui River;
  - c. The proposed response procedures for emergency spill management process;
  - d. Measures to ensure concrete material does not enter the Whanganui River;
  - e. Proposed ongoing monitoring of construction equipment, fuel storage facilities, fuel refilling systems, and a chemical and hazardous substance storage facility to ensure the site is managed to ensure there is no discharge to a flow path into the River;
  - f. Maintenance of a hazardous substance register and dangerous goods being stored onsite;
  - g. Any ongoing audits, monitoring and reports proposed to be undertaken; and
  - h. Demonstration of compliance with conditions of consent.
17. Any changes proposed to the Spill Management and Response Plan shall be confirmed in writing by the Consent Holder prior to the implementation of any changes proposed.
18. The Consent Holder shall ensure that a copy of the updated Spill Management and Response Plan required by **Condition 15**, including any amendments, is kept onsite and this copy is updated within **five (5) working days** of any amendments being certified.
19. Prior to the commencement of works, the consent holder shall prepare and submit a flood contingency plan as part of the CEMP to the Manawatū-Whanganui Regional Council's Consents Monitoring Team. This Flood Contingency Plan shall include, but not be limited to incorporating procedures which will be carried out to ensure that adjacent property and infrastructure are not put at risk during a flood and while the construction phase of the works is still in progress.

**ADVICE NOTE:** The Consents Monitoring Team can be contacted by email [consents.monitoring@horizons.govt.nz](mailto:consents.monitoring@horizons.govt.nz) or on free phone 0508 800 800.

### *Environmental Standard*

20. The Consent Colder must undertake the works in accordance with an Erosion and Sediment Control Plan certified through the process set out in **Conditions 10 and 11**.
21. The Consent Holder must undertake the works in accordance with a Site Management Plan certified through the process set out in **Conditions 13 and 14**.
22. The Consent Holder must undertake the works in accordance with the latest Spill Management and Response Plan.
23. The Consent Holder must undertake the works in accordance with the Flood Contingency Plan.
24. The Consent Holder shall ensure that sediment losses to natural water arising from the exercise of this resource consent are minimised during the duration of the works and during the term of this consent. In this regard, erosion and sediment control measures shall be established and maintained in accordance with the document titled "Erosion and Sediment Control – Guidelines for the Wellington Region, dated June 2021", and the latest version of the certified ESCP.
25. All earthmoving machinery, pumps, generators and ancillary equipment shall be operated in a manner, which ensures spillages of fuel, oil and similar contaminants are prevented, particularly during refuelling and machinery servicing and maintenance. Refuelling and lubrication activities shall be carried out away from any water body.
26. The Consent Holder must ensure the works are undertaken in a manner to minimise the effects of construction on the generation of underwater noise. This shall include:
  - a. Ensuring an observer (who may be part of the construction team) to provide watch over an area extending 155m from any in-water impact and vibration piling activity to check for marine mammals at least 30 minutes before and during in water impact and piling operations. If a marine mammal is observed, in water impact and vibration pilings shall not commence until such times as the mammal as moved from the area;
  - b. Measures to minimise the effects of underwater noise for in water pilling including:
    - i. Minimising the use of impact pile driving;
    - ii. Using 'soft starts' being a lower intensity and gradually increasing the intensity of the impact piling; and using a non-metallic dolly/cushion cap between the impact piling hammer and driving helmet.
27. The Consent Holder shall ensure the works are undertaken in a manner that minimises the impact on the existing marine biota. This shall include but is not limited to the following measures:
  - a. Where existing rock needs to be removed, the Consent Holder shall reuse as much of the exiting rock in the structure as possible;
  - b. The Consent Holder shall ensure that new material placed within the bed of the River be 'clean' rock and the consent holder shall ensure that the material has no 'free' sediment; and
  - c. New rock is to be placed in the bed to ensure there is minimal disturbance of existing rock.



28. Before commencing construction, and as construction extends into a new area, the consent holder shall identify if there are any Kekeno (New Zealand Furseals) or Korora (Little Blue penguins) prior to any works commencing. If such birds are present where construction works are proposed, then a buffer must be established around the birds. The buffer distance and measures to minimise the effects on these birds must be developed in conjunction with the Department of Conservation.
29. All material that is imported on-site and deposited within the Coastal Marine Area for the development or filling works associated with the erosion protection must meet the definition of cleanfill in the Manawatū-Whanganui Regional Council's One Plan.

**Definition:** Cleanfill material means material such as clay, soil and rock, and other inert materials such as concrete or brick that are free of:

- a. Combustible, putrescible (except that cleanfill material may contain up to 5% by weight putrescible matter), degradable or leachable components;
  - b. Hazardous substances;
  - c. Products or materials derived from hazardous waste treatment, hazardous waste stabilisation or hazardous waste disposal practices;
  - d. Material that may present a risk to human health; and
  - e. Liquid waste.
30. There shall be no discharge of airborne particulate matter that is objectionable to the extent that it causes an adverse effect at or beyond the boundary of the port area as defined by Lot 6 DP 435979, Pt Lot 1 DP 89274, Lot 7 DP 435979, Lot 2 DP81330 and Lot 2 DP 548636.

**ADVICE NOTE:** A discharge will only be considered objectionable, after a Manawatū-Whanganui Regional Council officer has considered the Frequency, Intensity Duration, Offensive and Location of the odour (i.e. the FIDOL Factors).

31. The Consent Holder shall take all measures to ensure that no uncured cement or cement based products enter the flowing water in the Whanganui River during the exercise of works or maintenance authorised by this consent. Any uncured concrete placed in or near the Whanganui River shall be undertaken in such a manner that no concrete or cement leaches out and enters the Whanganui River. Any new concrete or mortar shall not be exposed to the flow of water before the concrete or mortar has hardened to a strength of at least 10 megapascal (MPa), or for at least **forty-eight (48) hours** from completion of pouring.
32. The Consent Holder must manage the site to minimise any accidental spills of materials and the introduction of pest species into the Whanganui River, including but not limited to:
  - a. Cleaning and maintenance of all civil and marine plant, equipment and machinery before arrival at the site and at intervals during the use at this site;

- b. Use of biodegradable hydraulic oils where machinery will be used in and around the Whanganui River unless there is specialised machinery which is unable to use biodegradable hydraulic oil;
- c. Ensuring no fuel or hazardous chemical storage occurs within 20m of the Whanganui River; and
- d. The installation of containment systems when refuelling plant and equipment such as banded fuel storage.

**ADVICE NOTE:** All fuel and hazardous substances are to be stored in a manner that complies with the relevant Hazardous Substances New Organism requirements.

33. The Consent Holder must ensure that any earthworks undertaken between the period of 1 May to 30 September inclusive is undertaken in accordance with a certified ESCP. Any requests to undertake works during the period 1 May to 30 September inclusive, for any year that this resource consent is current, shall be submitted in writing to the Manawatū-Whanganui Regional Council by 1 April and shall be in the form of amendments to the certified ESCP in accordance with **Condition 9** of this consent.

**ADVICE NOTE:** The request to undertake works during 1 May and 30 September may be included within the ESCP or amendments.

34. The Consent Holder during earthworks/land disturbance/demolition works must ensure that any excavated soils are classified in accordance with clauses (a), (b) and (c) of this conditions as either 'cleanfill for reuse on the site', 'managed fill' or 'contaminated soil' in order to determine the suitability for res-use on the site and / or suitable disposal locations:

- a. 'Cleanfill for reuse of the site' must meet the definition of clean fill in the WasteMINZ Technical Guidelines for Disposal to Land (Updated August 2018);
- b. 'Managed Fill' must only comprise:
  - i. Soil with concentrations of hazardous substances present above regional background concentrations but below human health risk-based assessment/guidelines values (commercial/industrial landuse);
  - ii. Soil containing detectable concentrations of hydrocarbon compounds below risk assessment levels;
  - iii. Soil that does not contain hazardous substances or materials in the form of household or industrial waste, organics waste or asbestos containing material; and
  - iv. Soil that meets the acceptance criteria of an appropriately consented managed fill site.
- c. 'Contaminated Soil' is soil containing:
  - i. Hazardous materials in the form of household or industrial waste, organics waste or asbestos containing material;

- ii. Soil with concentrations of hazardous substances present above human health risk based assessment/guideline values; or
  - iii. Soil with contamination levels above Managed Fill waste acceptable criteria.
- 35. Once the excavated material has been classified in accordance with **Condition 34** above, the reuse of classified soil shall be as follows:
  - a. Cleanfill for reuse on the site may be reused as fill anywhere within the site outside of the bed of the River;
  - b. Only imported soil/fill classified as 'cleanfill' as defined in the One Plan (2018) shall be used in the areas of reclamation and within the Coastal Marine Area; and
  - c. Managed fill shall only be reused within parts of the site where the concentration of hazardous substances in groundwater leaching from the soil will not have an adverse effect on the Whanganui River, as assessed by the Suitably Qualified and Experienced Practitioner experienced in contaminated site management (SQEP). Contaminated soil and other soil not able to be reused onsite shall be disposed off-site to suitably licensed landfill or securely contained on site where the concentrations of hazardous substances in groundwater leaching from the soil will not have an adverse effect on the Whanganui River, as assessed by the SQEP.
- 36. Stockpiles of excavated material classified as contaminated under **Condition 34** must be managed to ensure it does not enter the Whanganui River or groundwater. This shall be detailed in the SMP.
- 37. During construction and earthworks/land disturbance only sediment laden water is to be discharged into the Whanganui River. The discharge of sediment must not, after reasonable mixing cause any decrease in visual clarity by more than 20%.
- 38. During dewatering activities, the Consent Holder must ensure that the water being discharged to the River is managed in accordance with the following:
  - a. The methodology set out in section 3.14.3.1 of the draft SMP provided with the Application on using a Photoionization detector (PID). Where the PID results are below 10 ppm the water may be discharged to the Whanganui River. Where the PID results are greater than 10 ppm the discharge shall cease, and a water sample shall be collected to confirm concentrations of Total Petroleum Hydrocarbons are below the discharge limit of 15 mg/L as referenced in the *Methodology for deriving standards for contaminants in soil by Ministry for Environment*. If the limits cannot be met, the water shall be removed by a vacuum truck to a liquid waste facility; and
  - b. Testing of water from dewatering for suspended solids shall be undertaken in accordance with the methodology set out at section 3.14.2.2 of the draft SMP. Where results are below 20 nephelometric turbidity units (NTU) the water can be discharged to the Whanganui River. Dewatered groundwater that is not suitable for discharge to the Whanganui River will be disposed of to a liquid waste facility.

39. The discharge of dewatered water or sediment laden water into the Whanganui River must not cause, after reasonable mixing, any of the following effects in the receiving water:
- a. the production of conspicuous oil or grease films, scums or foams, or floatable or suspended materials;
  - b. any conspicuous change in the colour or visual clarity of the receiving water;
  - c. any emission of objectionable odour;
  - d. toxicity to marine ecosystems.

***Operational Restrictions***

40. The Consent Holder shall, prior to any earthworks commencing, submit to the Manawatū-Whanganui Regional Council a statement signed by an appropriately qualified and experienced professional certifying that all erosion and sediment control structures have been constructed in accordance with the certified ESCP required by Condition 10. The certification statement shall be supplied to the Manawatū-Whanganui Regional Council within **five (5) working days** of the completion of the construction of the structures concerned. Information contained in the certification statement shall include at least the following;
- a. Confirmation of contributing catchment areas;
  - b. The location, capacity and design of each structure;
  - c. Position of inlets and outlets;
  - d. Stability of the structures;
  - e. Measures to control erosion; and
  - f. Any other relevant matter.
41. The Consent Holder shall ensure that all erosion and sediment control structures are inspected on a weekly basis and within **Twelve (12) hours** of each rainstorm event that is likely to impair the function or performance of the controls.
42. The Consent Holder shall keep an accurate record of the daily water volumes and rates, in cubic metres, of water abstracted during any dewatering and the location of where the water is discharged. These records shall be documented and forwarded to the Manawatū-Whanganui Regional Council's Team Leader Compliance by the end of each month dewatering occurs.

**ADVICE NOTE:** Records can be sent to the Manawatū-Whanganui Regional Council via email [consent.monitoring@horzions.govt.nz](mailto:consent.monitoring@horzions.govt.nz)

43. 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 **Forty-eight (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).
44. Works authorised by this resource consent shall be restricted to the following hours:
- a. 7:00 am - 6:30 pm on weekdays; and
  - b. 7:30 am - 1:00 pm on Saturdays.
  - c. No works on any Saturday after 1:00 pm, Sunday or Public Holiday.
  - d. The Consent Holder may undertake works outside of these hours *if* there are works required to remove machinery/equipment from the bed of the River or to strengthen any erosion protection structures that may be compromised during a storm event.

***Post-Development Assurance***

45. The removal of any erosion and sediment control measure from any area that has been disturbed as a result of the exercise of this resource consent shall only occur after consultation and written approval has been obtained from the Manawatū-Whanganui Regional Council acting in a technical certification capacity.
46. The Consent Holder shall ensure those areas of the site where earthworks have been completed shall be stabilised against erosion as soon as practically possible and in accordance with the certified ESCP. Stabilisation shall be undertaken by providing adequate measures (vegetative and/or structural in accordance with the measures detailed in the document titled “Erosion and Sediment Control – Guidelines for Land Disturbing Activities the Wellington Region, dated February 2021”) that will minimise sediment runoff and erosion to the satisfaction of the Manawatū-Whanganui Regional Council acting in a technical certification capacity.
47. Within two months of the completion of soil disturbance works resulting in the placement of excavated material on the site that is classified under **Condition 35**, the Consent Holder shall provide to Manawatū-Whanganui Regional Council:
- a. The location and dimensions of the excavations carried out, including a relevant site plan; and
  - b. Records of contamination encountered during the works including soil validation results, if applicable.

- c. The location, volumes and classification of material and where it has been reused within the site.

#### *Monitoring Provision*

48. The Consent Holder shall carry out monitoring and maintenance of erosion and sediment controls in accordance with the certified ESCP and conditions of this resource consent and shall maintain records detailing:
  - a. The date, time and results of the monitoring undertaken; and
  - b. The erosion and sediment controls that required maintenance; and
  - c. The date and time when the maintenance was completed.

These records shall be provided to the Manawatū-Whanganui Regional Council at all reasonable times and within **seventy-two (72) hours** of a written request to do so.

49. If any complaints are received by the Consent Holder regarding the activities authorised by this resource consent, the Consent Holder shall notify the Manawatū-Whanganui Regional Council of those complaints as soon as practicable and no longer than one working day after receiving the complaint. If complaints are received or advised by the Manawatu-Whanganui Regional Council that a complaint has been 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.

#### *Post Construction*

50. Within **six (6) months** of completion of the structures and works, the Consent Holder must provide the following information to the Team Leader – Consents Monitoring for the Manawatu-Whanganui Region Council records:
  - a. A statement from a suitably qualified expert that the structures have been built in accordance with the plans provided to Council;

- b. For all coastal marine area structures constructed pursuant to this consent, an as-built plan with sufficient GPS information to demonstrate the structures compliance with the consented envelope; and
  - c. For the reclamation area (boat hoist area) / declamation area (removed portion of wharf 2), a plan or survey to meet the requirements of Section 245 of the Resource Management Act 1991.
51. Within **three (3) months** of completion of the construction activities, the Consent Holder, in partnership with Te Mata Pūau, shall prepare an Abundance Outcomes Report. The purpose of the report is to describe the abundance outcomes realised through the elements of the Te Puwaha project authorised by this consent. Following completion of the report, a copy shall be provided to the Regional Council for information.

*Duration & Lapsing*

~~52.~~—The resource consent will expire on **16 May 2027**.

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