

Notice is given that an ordinary meeting of a Resource Consent Hearing will be held on:

Date: Monday 11 May 2021
Time: 10.00 am
Venue: Golden Bay Recreation Park Centre,
2032 Tākaka Valley Highway, Tākaka

Commissioner (Resource Consent) Hearing AGENDA

Commissioner: Sharon McGarry (sole commissioner)

Council Staff: Leif Pigott, Team Leader Natural Resources

Alastair Jewell, Principal Planner (Hearing Facilitator)

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AGENDA

1 OPENING, WELCOME

2 REPORTS

- 2.1 Resource consent applications by Tasman District Council for flood mitigation works on two local watercourses known as Ellis Creek and Bartlett Creek, Pōhara5

Resource consents applied for:

RM190876 - Land use consent for works in the bed of river/stream (section 13 of the RMA) for:

- the construction and occupation of the stream bed by culverts, and
- disturbance and occupation of the stream bed by erosion protection structures (rock armouring).

RM190877 - Land use consent for

- the construction of a building (timber flood protection near 59B and 59C Selwyn Street) in the Rural 2 zone that is located in the required setbacks of (a) 5m from the internal boundary and (b) 8 metres from a river (that's less than 5m wide),
- the construction of a building (timber wall at 14B Kohikiko Street) in the Residential zone that is located in the required setback of (a) 4.5m from the road boundary, (b) 25m from the rural zone boundary, and (c) 8 metres from the top of the bank of a river (that is 1.5m to 5m wide);
- land disturbance that is (a) in proximity to the river bank, and (b) within the Land Disturbance Area 1 that will dam and divert floodwaters.

RM190878 - Water permit for the damming and diversion of flood waters.

RM190879 - Discharge permit for the discharge of sediment-laden water to freshwater during construction.

RM190881 - Land use consent for construction of a building (earth bund) located in the Coastal Environment Area.

RM190880 - Water permit for the take, diversion and / or use of water from the dewatering associated with instream construction activity.

Submissions:

This application was limited notified in December 2019 / January / February 2020 and three submission were received and asked to be heard. Two submissions were in opposition and one was in support. Subsequently one withdrew their request to be heard.

Purpose of report

This report is not the decision on the application - it contains advice and recommendations from a planning consultant and other experts. This report has yet to be considered by the independent Hearings Commissioners delegated by Tasman District Council to decide this resource consent application. The decision will be made after the Commissioner has considered the application and this report, and heard from the applicant and submitters.

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2.1 RESOURCE CONSENT APPLICATIONS BY TASMAN DISTRICT COUNCIL FOR FLOOD MITIGATION WORKS ON TWO LOCAL WATERCOURSES KNOWN AS ELLIS CREEK AND BARTLETT CREEK, PŌHARA.**COUNCIL REFERENCE RM190786 AND OTHERS****Decision required**

Report To:	Commissioner (Resource Consent) Hearing
Meeting Date:	11 May 2021
Report Author:	Alastair Jewell, Principal Planner - Resource Consents
Report Number:	REPC21-5-21
Attachments:	<ol style="list-style-type: none">1. Section 42A report and recommendation2. Recommended draft conditions

Report and recommendation.

The main section 42A report and recommendation on the resource consent application hearing report is attached (Attachment 1). Leif Pigott, Team Leader Natural Resources, Resource Consents, and Alice Hill, Consents Planner, prepared it.

Mr Phil Doole, Principal Planner Resource Consents, reviewed the report and authorised its release.

Further documents referenced in the Section 42A report are also attached accordingly.

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Report under section 42A of the Resource Management Act 1991

Applicant:	Tasman District Council (Engineering Services)
Resource consent number:	RM190876, RM190877, RM190878, RM190879, RM190880. RM190881
Addresses and legal descriptions:	Two local watercourses known as Ellis creek and Bartlett creek and adjacent land 82 Richmond Road - Lot 1 DP 494605 , RT 724177 59B Selwyn Street - Lot 1 DP 59341, RT 241771 59C Selwyn Street - Lot 1 DP 20483, RT NL13C/720 85 Selwyn Street - Lot 19 DP 9603, RT NL13C/1379 89 Selwyn Street - Lot 17 DP 9603 RT NL4C/1377 97 Boyle Street - Section 132 Square 11, RT NL1A/771 Abel Tasman Drive - Part Section 8A Survey Office Plan 7960 RT NL10B/1189 23 Lansdowne Street - Lot 1 DP 11360 RT NL6D/254 Abel Tasman Drive & Lansdowne Street - Legal Road
Report / recommendation prepared by:	Alice Hill and Leif Pigott, Natural Resources Resource Consents.

Note: This report sets out the advice and recommendations of the reporting planner. The independent commissioner(s) delegated by Tasman District Council to decide this review of the resource consent have not considered this report yet. The independent hearing commissioner(s) will only make a decision after they have considered the application and heard all evidence from the consent holder, submitters and council officers.

1 Introduction

The application seeks the following resource consents:

Number	Type	Description of activity	Duration sought
RM190876	Land use	Earthworks and structures within the bed of rivers or streams	35 years
RM190877	Land use	Earthworks and structures in residential, Rural 1 and Rural 2 zones	Unlimited
RM190878	Water permit	The damming and diversion of flood waters	Unlimited
RM190879	Discharge permit	Discharge of water containing contaminants	5 years
RM190880	Water permit	To take groundwater associated with dewatering during instream works	5 years
RM190881	Land use	Earthworks and structures in the Coastal Environment Area	Unlimited

- 1.2 This report has been prepared under section 42A of the Resource Management Act 1991 (RMA) to assist the hearing of the application for resource consents made by Tasman District Council.
- 1.3 Section 42A allows consent authorities to require the preparation of such a report on an application for resource consents and allows the consent authority to consider the report at any hearing.
- 1.4 The purpose of the report is to assist the Hearing Commissioners in making a decision on the applications.

Qualifications and Experience

Alice Hill

- 1.5 Alice was employed as a Natural Resource Consents Planner at Tasman District Council (TDC) between October 2019 and January 2021.
- 1.6 Alice holds the qualification of a Master of Science – Civil Engineering (water resources focus) degree from University of Colorado, and Doctor of Philosophy – Physical Geography (hydrology focus) from University of Colorado.

- 1.7 Alice has four year's work experience for local government Councils in NZ within the Resource Management Act sphere, including as an engineer evaluating technical aspects of resource consent applications as well as a natural resource processing planner. Additionally, she was employed as an environmental consultant at John Edmonds & Associates in Queenstown working on matters related to water and contaminant discharges, and she has completed a post-doctoral research position in water resource science at the Cooperative Institute for Research in Environmental Science in Boulder, Colorado.
- 1.8 During her time at TDC Alice processed land use and discharge consent applications across the District related to construction-related earthworks, stormwater and wastewater including in the Coastal Marine Area, and water permit applications for temporary dewatering activities. She was involved with the current application from when it was it was lodged, including site visits.

Leif Pigott

- 1.9 I am the Team Leader Natural Resource Consents at Tasman District Council (TDC). I have been employed by the Council since 2007.
- 1.10 I hold the qualification of a Master of Science degree from Auckland University, and I am a full member of the NZPI. I have over 20 years work experience for Regional and Unitary Councils in NZ, including domestic and industrial wastewater treatment, land application of wastewater, air quality, and other resource consent application processing.
- 1.11 I was employed as a scientist at Environment Waikato specialising in air quality for seven years, then Otago Regional Council managing their Science section. I was one of the three on-call floods managers during my time in Otago.
- 1.12 I have been involved with the site since a severe weather event in December 2011 that caused significant local flooding and property damage in the Pōhara locality. I was the Planning and Intelligence Manager during the civil defence emergency response to that event. I have been following the possible solutions to the flood risks and this application since it was lodged, and I am familiar with the subject site.

2 Background

- 2.1 A significant rainfall event in December 2011 caused flooding and property damage in the Pōhara area due to a combination of drainage blockages caused by debris flows, low lying land and low floor levels in some buildings, and increasing residential development.
- 2.2 Flood waters affecting Pōhara were transported from hill topography to the south by Bartlett and Ellis Creeks, and to a lesser extent Clifton Creek.
- 2.3 Following this event Tasman District Council (TDC) engaged Tonkin and Taylor (T&T) to conduct hydrological and hydraulic modelling of the Pōhara drainage area. This modelling work allowed for exploring potential flood mitigation strategies (“option-eering”) to minimise damage to downstream properties during future events. A specific goal was to lessen impact of flood waters above the finished floor levels (FFLs) of existing buildings.
- 2.4 Design criteria did not include allowances for changing climate patterns or sea level rise.
- 2.5 Specific engineering solutions recognised that ideal design standards (eg wall freeboards) may not be able to be met given the constraints and difficulties of alleviating flooding issues for what is an area of existing development within a low lying coastal settlement.
- 2.6 T&T’s modelling work was used to support TDC’s decisions around drainage improvement works that are the subject of this application for resource consents.
- 2.7 The wider Golden Bay community was formally consulted with by TDC on 29 August 2017 with input from that meeting used to further refine the proposal.
- 2.8 The option-eering process resulted in a suite of proposed measures to decrease flood risk to properties within the Pōhara West floodplain west of Kohikiko Place.

3 Summary of proposal

- 3.1 The scope of the application includes construction works within a stream bed and within the Coastal Environment Area, temporary water takes, and temporary discharges.

- 3.2 Due to the complex nature of the proposal, I will summarise it by grouping the works or measures into upstream, middle, and downstream clusters.
- 3.3 The upstream cluster refers to measures aimed at improving water flow efficiency under an existing quarry access track and mitigating flood risk to properties at Kohikiko Place. The following measures are proposed: a timber pole flood barrier adjacent to 14B Kohikoko Place approximately 400m high; a small earth fill embankment adjacent to 14B Kohikoko Place; earthworks to construct a raised quarry access track; a culvert upgrade under the quarry access track including local channel widening to provide for twin culvert geometry; and formation of a preferred overland flow path upslope of culvert.
- 3.4 The middle cluster refers to works proposed between Kohikiko Place and 19 Selwyn Street with the aim of preventing Bartlett Creek flood waters from flowing north into the properties on Abel Tasman Drive, or from backing up at the Abel Tasman Drive culvert and flooding Selwyn Street properties. These works include an extensive earthen bund (stopbank) adjacent to Bartlett Creek to the east of Abel Tasman Drive (maximum height 1.38m). To allow for vehicle access, an access ramp is proposed over the Bartlett Creek bund with culverts under the access. To the west of Abel Tasman Drive another earthen bund (stopbank) is proposed adjacent to 3 Selwyn Street (maximum height 0.89m) along with a roadside culvert under the stopbank. The Bartlett Creek culvert under Abel Tasman Drive is proposed to be upgraded to a box culvert within the Council road reserve.
- 3.5 The downstream cluster refers to works west of Lansdowne Street and is focused on a series of timber walls for flood protection and earthworks to improve flow efficiency around the confluence of Clifton and Ellis Creeks. Proposed flood protection measures include a timber flood pole barrier on 85 Selwyn Street, and an extensive (approximately 250m long) U-shaped timber flood pole barrier on 59B and 59C Selwyn Street built so the top of the wall is at RL3.8m. An earth fill embankment is proposed including provision for vehicle access and a timber retaining wall to support the toe of the fill, and another earth fill embankment to marry into existing ground contours at the western end of the site. Channel improvements for increased flow capacity include reshaping of Lansdowne Street paper road and swales (minor excavation and infill), excavations for extending the base of the stream channel near the confluence of Clifton and Ellis Creeks including rip rap protection, and an upgrading of the Boyle Street culvert.

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- 3.6 Initial estimates have indicated that the proposed works will involve approximately 350m³ of excavation/cut and 2,500m³ of fill.
- 3.7 Much of the proposed works are on private property, in addition to road reserves on Abel Tasman Drive and Lansdowne Street.
- 3.8 Flood maps generated by the T&T model including the proposed works were utilised for objectively evaluating the effects on individual properties.
- 3.9 The application was notified on a limited basis with notice served to the owners of 24 properties that were discretely identified by the T&T flood model maps to be at risk of adverse effects resulting from an increase in flood levels on private property.
- 3.10 Three submissions were received, two opposed and one in support.

4 Site description

- 4.1 This application relates to the downstream areas of Ellis, Bartlett, and Clifton catchments in Pōhara, adjacent to the western end of the Pōhara township.



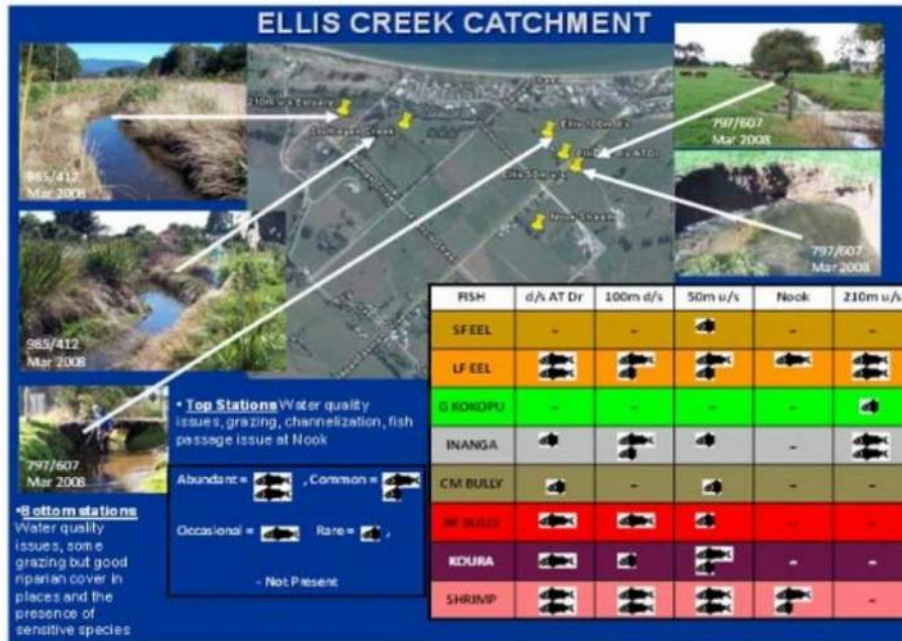
Figure 1: Subject site at Pōhara: the orange polygon approximately encapsulates the footprint of the proposed works.

- 4.2 The site spans multiple Planning zones as defined in the Tasman Resource Management Plan (TRMP): Rural 1, Rural 2, Residential and Recreation zones. Much of the subject site lies within the defined Coastal Environment Area (CEA) which includes land above the

coastal margin that is affected by coastal processes, resources and issues, and all associated plants, animals and structures.

- 4.3 The Coastal Marine Area (CMA) lies adjacent to the site but works are not proposed within the CMA.
- 4.4 The works are primarily on private property described in Table 2.1.1 in the application, as well as on the road reserves of Abel Tasman Drive and Lansdowne Street paper road. Affected party approval has been provided by some but not all private property owners.
- 4.5 Ellis and Bartlett Creeks flow north, then east before their channels join adjacent to 55 Selwyn Street. From there the stream (now called Ellis Creek) flows west where it joins Clifton Creek approximately 350m upstream of the culvert under Boyle Street. This culvert roughly marks the start of the salt marsh that connects the creeks with Motupipi estuary and the sea.
- 4.6 The site itself has a gentle gradient towards the sea. The upper Bartlett and Ellis catchments are significantly steeper, with “knickpoints” of the streams lying just south of Pōhara township. Knickpoints are notorious areas for flood-prone conditions because of the rapid change in a river systems ability to carry flow (water volume per time) due to stark differences in channel slope.
- 4.7 The site of the middle and upstream clusters (south and east of Selwyn Street) is currently used for rural pastoral purposes. This land is mostly grassed, and the stream channels have little to no riparian vegetation. Channels have been subject to historical mechanical excavation, thereby reducing natural habitat for native fish species.
- 4.8 The site of the downstream cluster (west of Selwyn Street) is predominantly rural residential properties with some areas replanted in native vegetation that supports ecological restoration of lower Bartlett and Ellis Creeks.
- 4.9 Several species of native fish inhabit the lower reaches of Ellis Creek including those freshwater species that move between the freshwater and marine environment as part of their life cycle, including white bait / inanga. The most recent fisheries information comes from The State of the Environment Report “*The Health of the Freshwater Fish Communities in Tasman District 2011*”. This report relies on monitoring prior to the 2011 flood but is it a good starting point. The report states the following:

Ellis Creek is a lowland-fed, low-gradient waterway near Pohara that flows into the eastern arm of the Motupipi estuary. Giant kokopu was found at the 210m u/s site. Much of the lower part of the stream and tributaries have been straightened and restoring these lower parts by adding meanders and natural substrate could provide considerable improvements in habitat value for giant kokopu. One landowner in the lower reaches has already undertaken significant works to enhance habitat for this species.



4.10 There are mapped wetlands within the works area footprint shown in Figure 1 above. These are shown in the image below (blue lines). It is likely that additional wetlands are present in this area but they are currently not mapped.



4.11 The New Zealand Archaeological Association ArchSite database does not show any recorded archaeological sites in the immediate vicinity of the proposed flood mitigation works.

- 4.12 The site borders a cultural heritage precinct as identified in the TRMP, within which burial sites have been identified as well as along the coastal waterfront.

5 Status of the application

- 5.1 Consent activity statuses are shown in Table 1.

Consent	Rule	Description	Status
RM190876 <i>Earthworks and structures in bed of rivers</i>	Rule 16.10.2.2	Stopbank construction requires earthworks and structures within the bed of rivers or streams within 10 m of a river bank exceeding 20 m ³ in area, to be open for more than four days, and that may raise or lower the level of the land.	restricted discretionary
	Rule 28.1.5.2	Multiple new culverts and culvert upgrades that will be larger than the existing culvert, and the width of the river bed >3 metres	controlled
	Rule 28.1.8.1	The rock rip-rap at the confluence of Ellis and Clifton Creek will exceed 2m ²	discretionary
	Rule 28.1.8.1	The proposed widening of the confluence of Clifton and Ellis Creek is not associated with maintenance of existing river protection works and does not meet permitted activity status	discretionary
RM190877 <i>Earthworks and structures in residential, Rural 1 and Rural 2 zones</i>	Rule 18.5.2.5	Earthworks in residential and Rural 1&2 zones don't meet permitted activity status which requires earthworks must not raise the level of land as it may result in damming or diversion of floodwaters. As part of the proposed activity is to construct a bund / stop bank for flood protection, it will dam and divert floodwaters.	restricted discretionary
	Rule 17.1.3.4	The timber flood protection at 14B Kohikiko Street is considered to be a 'building' under the TRMP and thus falls under the construction of a structure in a residential zone. The wall does not meet permitted activity status Rule 17.1.3.1(q) and (v) because it is located within 4.5m of the road boundary, 25 m of a rural zone boundary, and within 8 m of the top of a bank of a river between 1.5-5 m in width.	
	Rule 17.6.3.4	The timber flood protection near 59B & 59C Selwyn Street is considered to be a 'building' under the TRMP and therefore is considered to be construction of structures in the Rural 2 Zone. The timber protection wall does not meet permitted activity status (Rule 17.6.3.1(j)) because it is located within 5 metres of an internal property boundary, and	

Consent	Rule	Description	Status
		within 8 metres of a river with a bed width of less than 5 metres.	
RM190878 <i>Damming and diversion of flood waters</i>	Rule 31.1.5.2	The proposed bund and timber walls are intended to dam and divert flood waters and will be constructed after 3 November 2001.	restricted discretionary
RM190879 <i>Discharge of water containing contaminants</i>	Rule 36.2.3.1	Construction activities may result in discharge of water containing sediment, contaminants or debris arising from activities in the bed of a river and outside the bed of a river.	discretionary
RM190880 <i>Water take for temporary dewatering</i>	Rule 31.1.2.5	Instream earthworks or earthworks intercepting the groundwater table may require dewatering >5m ³ /day.	restricted discretionary
RM190881 <i>Earthworks and structures in the CEA</i>	Rule 18.11.3.1	The proposed works include a structure that meets the definition of a building in the TRMP in the CEA.	controlled

Table 1: Consent status and applicable rules.

- 5.2 The application as lodged with Council prior to the new Essential Freshwater Package becoming effective during 2020. The applicant has not assessed the effect of the proposed activities against the revised NPS and the NES for Freshwater.
- 5.3 Where several consents are required for an activity and those activities are inextricably linked, the activities should be bundled and the most restrictive activity classification applied to the overall proposal. In this instance, all of the consents are required for the Pohara drainage improvements and as such Tasman District Council as the applicant has applied for these applications in concert with one another. Overall, I consider it appropriate that the consents are bundled and considered as a **discretionary activity**.

6 Notifications and submissions

Notification timeline

- 6.1 The following is a summary of the timeline for processing of the applications:

Date	Process detail
25 July 2019	Application lodged
12 December 2019	Application limited notified
14 February 2020	Submission period closed
February 2020 onwards	Applicant further consults with submitters

Submissions

- 6.2 A total of three (3) submissions were received, two in opposition and one in support. All three submitters did request to be heard, although one has subsequently withdrawn their request.
- 6.3 Cloud Dance Trust (represented by Laurie Healy), property owner of 59A Selwyn St, opposed the application and requested to be heard. That request has been withdrawn, however I have been advised that the property has been sold as of 16 April (to be confirmed) to a new owner, who may wish to take up the submission and be heard. The trust's concerns as expressed in the submission primarily relate to the upstream stormwater catchment, and the ability to control the amount of discharge from future upstream development that would be conveyed through their property via Ellis Creek.
- 6.4 Hans Stoffregen of 23 Lansdowne Street opposes the application and wants to be heard. His concerns relate to the absence of alternatives considered using naturally occurring (pre-development) flood plains and ecological restoration strategies to mitigate flood risk as opposed to hard engineering solutions. Stoffregen also notes that a post-construction habitat rehabilitation plan needs to be prepared in order for him to grant permission to TDC to conduct works on his land.
- 6.5 Both Cloud Dance Trust and Stoffregen express concerns related to Stoffregen's previously approved 2-lot subdivision RM180659 for 23 Lansdowne Street.
- 6.6 Stoffregen notes that by way of a condition imposed on his subdivision RM180659 an esplanade strip is to be established along the creek frontage. The application at hand

does not acknowledge this strip nor related issues brought to bear on compliance with the subdivision consent conditions.

- 6.7 Cloud Dance Trust raised concerns related to a lack of monitoring of RM180659 subdivision which the Trust says has created stormwater discharge on to their land. This is a matter for TDC Compliance and is not relevant to this application.
- 6.8 Rosemary Jones and Daniel TeTau of 59B Selwyn Street submitted in support of the application and wish to be heard. While supportive of the application overall, they are concerned that reduced flow capacity of Ellis Creek in the lower reaches due to overgrown riparian vegetation will prevent upstream flood waters from passing by their property without incident. They request that TDC and the owners of 59A Selwyn Street develop an agreement regarding riparian vegetation clearance of Ellis Creek as it runs along the boundary of their property.

7 Statutory Considerations

The Resource Management Act 1991

- 7.1 The Resource Management Act (The Act) sets out resource management principles in a national framework, guiding regional and district statutory provisions to manage the actual and potential effects of the use of natural and physical resources.

Sections 104 and 104B RMA

- 7.2 A decision on these applications must be made under Section 104 and 104B of The Act. Subject to Part 2 of the Act the consent authority must have regard to:
- (a) any actual and potential effects of the environment of allowing the activity;
 - (b) positive effects that may compensate for adverse effects; and
 - (c) any relevant provisions of RMA statutory documents that relate to the application.
In this case those are:
 - (i) National Policy Statement - Freshwater 2020;
 - (ii) New Zealand Coastal Policy Statement 2010;
 - (iii) Tasman Regional Policy Statement; and

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- (iv) Tasman Resource Management Plan.
 - (d) other relevant matters, which for the proposed activity are the Te Tau Ihu Iwi Statutory Acknowledgement Areas.
- 7.3 Section 104(2) allows any effects that may arise from permitted activities set out in a National Environmental Standard (NES) or a plan to be excluded from the assessment of effects related to the resource consent. The “baseline” constitutes the existing environment (excluding existing use rights) against which a proposed activity’s degree of adverse effect is assessed.
- 7.4 In accordance with Section 104(2A) when considering an application affected by section 124, the consent authority must have regard to the value of the investment of the existing consent holder.

Section 105

- 7.5 As the activities involve discharge permits the consent authority must also have regard to:
- (a) *the nature of the discharge and the sensitivity of the receiving environment to adverse effects; and*
 - (b) *the applicant's reasons for the proposed choice; and*
 - (c) *any possible alternative methods of discharge, including discharge into any other receiving environment.*

Section 107

- 7.6 Under section 107, the consent authority shall not grant a discharge or a coastal permit allowing the discharge of a contaminant or water into water if, after reasonable mixing, the contaminant or water discharged (either by itself or in combination with the same, similar, or other contaminants or water), is likely to give rise to all or any of the following effects in the receiving waters:
- (a) *the production of any conspicuous oil or grease films, scums or foams, or floatable or suspended materials;*
 - (b) *any conspicuous change in the colour or visual clarity;*
 - (c) *any emission of objectionable odour;*
 - (d) *the rendering of fresh water unsuitable for consumption by farm animals;*
or
 - (e) *any significant adverse effects on aquatic life.*

7.7 However, there is the exclusion in Section 107(b) where the consent authority may grant a discharge permit or a coastal permit to do something that would otherwise contravene section 15 or section 15A that may allow any of the effects described above if it is satisfied:

- (a) *that exceptional circumstances justify the granting of the permit; or*
- (b) *that the discharge is of a temporary nature; or*
- (c) *that the discharge is associated with necessary maintenance work, and that it is consistent with the purpose of the RMA to do so.*

7.8 Key issues from section 107 are the definition of “reasonable mixing” and having an agreement on the extent of the reasonable mixing zone, and the avoidance of the effects from the discharge listed in section 107. The consent authority should not grant a discharge or a coastal permit allowing the discharge of a contaminant or water into water if the discharge is likely to give rise to the effects identified outside the zone of reasonable mixing - unless there are exceptional circumstances or the discharge is only temporary.

Section 108 - Applying the best practicable option

7.9 Section 108(2)(e) of the RMA allows consent authorities to impose condition of consent that require the best practicable option (BPO) to control any adverse effects caused by a discharge. The BPO for the discharge of contaminants is defined in section 2 of the RMA as:

Best practicable option, in relation to a discharge of a contaminant or an emission of noise, means the best method for preventing or minimising the adverse effects on the environment having regard, among other things, to:

- (a) *the nature of the discharge or emission and the sensitivity of the receiving environment to adverse effects; and*
- (b) *the financial implications, and the effects on the environment, of that option when compared with other options; and*
- (c) *the current state of technical knowledge and the likelihood that the option can be successfully applied.*

7.10 Section 108(8) of the RMA restricts the requirement for BPO to being the most efficient and effective means of preventing or minimising any actual or likely adverse effect on the environment.

7.11 When applying the efficiency and effectiveness test, the consent authority needs to consider the efficiency from the Council’s and community’s perspective, as well as the

applicant's viewpoint. In the case of this consent the applicant is the engineering arm of the Council with the community's interests chiefly motivating the works. Requiring the best practicable option can still provide flexibility to enable change, provided the effects remain the same or decrease.

Part 2 of the RMA

- 7.12 Part 2 of The Act sets out the purpose and principles of general application in giving effect to the Act. The overall objective is set out in Section 5: its purpose is "to promote the sustainable management of natural and physical resources." Section 5 contemplates environmental preservation and protection as an element of sustainable management of natural and physical resources and protecting the environment from adverse effects of use Page 10 and development is an aspect of sustainable management. Similarly, the enabling elements of Section 5 are not absolute or necessarily predominant and they must be able to co-exist with the purposes in paragraphs (a) to (c). Sections 6, 7 and 8 direct those administering The Act, and elaborate how Section 5 is to be applied.
- 7.13 Section 5(2)(c) provides for "avoiding, remedying, or mitigating any adverse effects of activities on the environment". 'Effect' is defined in Section 3 as including any:
- (a) *positive or adverse effect; and*
 - (b) *temporary or permanent effects; and*
 - (c) *past, present, or future effect; and*
 - (d) *cumulative effect which arises over time or in combination with other effects - regardless of the scale, intensity, duration or frequency of the effect, and also includes -*
 - (e) *potential effect of high probability; and*
 - (f) *potential effect of low probability which has a high potential impact.*
- 7.14 Section 2 defines "environment" as including:
- (a) *ecosystems and their constituent parts, including people and communities; and*
 - (b) *all natural and physical resources; and*
 - (c) *amenity values; and*
 - (d) *the social, economic, aesthetic, and cultural conditions which affect the matters stated in paragraphs (a) to (c) of this definition or which are affected by those matters.*
- 7.15 Section 6 of the RMA identifies matters of national importance that the consent authority is required to recognise and provide for. The following matters are considered to be relevant to this application:

- (a) *the preservation of the natural character of the coastal environment (including the coastal marine area), wetlands, and lakes and rivers and their margins, and the protection of them from inappropriate subdivision, use, and development;*
- (b) *the protection of outstanding natural features and landscapes from inappropriate subdivision, use, and development;*
- (c) *the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna;*
- (d) *the relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga; and*
- (e) *the protection of recognised customary activities;*
- (h) *the management of significant risks from natural hazards.*

7.16 Section 7 directs that in achieving the purpose of the RMA, the consent authority must have particular regard to other matters. The following matters are considered to be relevant to this application:

- (a) *kaitiakitanga;*
- (aa) *the ethic of stewardship;*
- (b) *the efficient use and development of natural and physical resources;*
- (c) *the maintenance and enhancement of amenity values;*
- (d) *intrinsic values of ecosystems;*
- (e) *...*
- (f) *maintenance and enhancement of the quality of the environment; and*
- (g) *any finite characteristics of natural and physical resources*
- (h) *the protection of the habitat of trout and salmon;*
- (i) *the effects of climate change;*

7.17 Section 8 requires that, in achieving the purpose of the Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall take into account the principles of the Treaty of Waitangi (Te Tiriti o Waitangi).

8 Statutory documents and Statutory Acknowledgement Areas

National Policy Statement - Freshwater 2020

8.1 The application was lodged prior to the National Policy Statement – Freshwater Management 2020 (NPS-FM2020) coming into effect.

- 8.2 The key requirements of the National Policy Statement -Freshwater 2014 are:
- consider and recognise Te Mana o te Wai in freshwater management
 - safeguard fresh water's life-supporting capacity, ecosystem processes, and indigenous species
 - safeguard the health of people who come into contact with the water
 - maintain or improve the overall quality of fresh water within a freshwater management unit
 - improve water quality so that it is suitable for primary contact more often
 - protect the significant values of wetlands and outstanding freshwater bodies
 - follow a specific process (the national objectives framework) for identifying the values that tāngata whenua and communities have for water, and using a specified set of water quality measures (called attributes) to set objectives
 - set limits on resource use (eg, how much water can be taken or how much of a contaminant can be discharged) to meet limits over time and ensure they continue to be met
 - determine the appropriate set of methods to meet the objectives and limits
 - take an integrated approach to managing land use, fresh water and coastal water
 - involve iwi and hapū in decision-making and management of fresh water
- 8.3 The NPS-FM 2020 requires that management of freshwater is to be in a way that 'gives effect' to Te Mana o te Wai. This is a key change from the NPS-FM 2014 which required that 'Te Mana o te Wai' was to be 'considered and recognised'. As set out in Part 1.3(1) this change prioritises the fundamental importance of water and recognises that protecting the health of freshwater protects the health and well-being of the wider environment. It protects the mauri of the wai. The hierarchy of obligations relating to Te Mana o te Wai are set out in the single objective of the NPS-FM 2020 which states:

The objective of this National Policy Statement is to ensure that natural and physical resources are managed in a way that prioritises:

- (a) First, the health and well-being of water bodies and freshwater ecosystems*
- (b) Second, the health needs of people (such as drinking water)*
- (c) Third, the ability of people and communities to provide for their social, economic, and cultural well-being, now and in the future.*

8.4 The related policies which have relevance to the stormwater application involve the following matters:

- *Giving effect to Te Mana o te Wai*
- *Actively involving Tangata Whenua in freshwater management and decision making*
- *Managing freshwater in an integrated way on a whole-of-catchment basis*
- *Utilising a National Objectives Framework to improve the health of degraded waterbodies and freshwater ecosystems, and at a minimum maintain the health of others*
- *The loss of river values is avoided where practicable*
- *Significant values of outstanding water bodies, and the habitats of indigenous freshwater bodies are protected*
- *National targets for water quality improvement is achieved*
- *The condition of water bodies and freshwater ecosystems is systematically monitored over time with actions taken where freshwater is degraded, including reversing deteriorating trends*
- *Information on the state of water bodies and freshwater ecosystems and challenges to their health and well-being is regularly reported on and published.*
- *Communities are enabled to provide for their social, economic, and cultural well-being in a way that is consistent with this NPS.*

8.5 As per the NPS, regional councils are required to carry out a range of consultation, monitoring, action plan development, and meaningful engagement with tangata whenua to develop ambitious but reasonable goals for freshwater management on an FMU, part of an FMU or catchment level. Council has to have a new freshwater plan notified by the end of 2024, and the full plan is up for review in the next few years to align it to the national planning standards. As it is impossible to know the outcome of this plan change, a review condition has been included in the recommended draft consent conditions to ensure that the consent conditions can be varied if required via the review process set out in the RMA.

National Environmental Standard (NES) – Freshwater 2020

- 8.6 The NES Freshwater provides a set of national rules in the freshwater space and areas around wetlands. The implementation of these rules are site specific.
- 8.7 Wetlands are mapped in the lower section of this catchment.
- 8.8 The applicant will need to determine if they meet the NES rules for each piece of work and apply for consent if they require it.

Soil Conservation and Rivers Control Act 1941

- 8.9 The Council has duties and functions under the Soil Conservation and Rivers Control Act 1941 (SCRCA). The activities carried out under the Soil Conservation and Rivers Control Act are subject to the Act and the regulatory framework.
- 8.10 Pursuant to the Local Government Reorganisation Order 1989 and Part 2 of the Local Government Amendment Act 1992, Tasman District Council became a Unitary Authority with the functions and powers of a Catchment Board. The function of a Catchment Board under s126 SCRCA is to minimise and prevent damage within its District by floods and erosion.
- 8.11 Section 10 of the SCRCA provides the objects of that Act which are:
- (a) The promotion of soil conservation;
 - (b) The prevention and mitigation of soil erosion;
 - (c) The prevention of damage by floods;
 - (d) Utilisation of land in such a manner as will tend towards the attainment of the said object.
- 8.12 The powers and duties of former Catchment Boards are prescribed in Part VII of the SCRCA. Section 126 prescribes the general functions and powers as follows:

Section 126 (2) - Each Board shall have all such powers, rights and privileges as may reasonably be necessary or expedient to enable it to carry out its functions, and in particular each Board shall have power to construct, reconstruct, alter, repair and maintain all such works and do and execute all such other acts and deeds [including the breaching of any stock bank] as may in the opinion of the board be necessary or expedient for:

- (a) *Controlling or regulating the flow of water towards and into water courses;*
- (b) *Controlling or regulating the flow of water in and from water courses;*
- (c) *Preventing or lessening any likelihood of the overflow or breaking of the banks of any water courses;*
- (d) *Preventing or lessening any damage which may be occasioned by any such overflow or breaking of the banks;*
- (e) *Preventing or lessening erosion or the likelihood of erosion; promoting soil conservation; and*
- (f) *Promoting soil conservation.*

8.13 In addition to the general functions and powers, particular powers are conferred by:

- (i) Section 131 which provides that all of the powers and authority conferred on local authorities by the Public Works Act 1981 (PWA) can be utilised in executing any works under the SCRCA;
- (ii) Section 132 which imports the provisions of ss110, 111 and 112 of the PWA relating to the right to enter property and survey for investigation; and
- (iii) Section 133 which confers rights of cleansing, repairing, deepening, widening water courses or making new water courses, diverting, impounding or taking away water from a water course. Section 133(2) provides that except in the case of urgent work to meet an emergency, these powers are required to be exercised on notice to relevant drainage board, river board, local authority or other public bodies.

8.14 There is no specific procedure prescribed for urgent work to meet an emergency, or definition of emergency. Section 133(1)(c) empowers the Council to carry out any work it thinks necessary or desirable for the purpose of controlling or preventing damage by flood waters.

8.15 Section 135 confers incidental powers including the right of entry over any land for the purpose of constructing, reconstructing, altering, repairing and maintaining any works or the laying or depositing of materials and all other such matters and things as are deemed expedient, necessary or proper for making, cleansing, repairing, maintaining and improving any water course.

8.16 The SCRCA is the statutory instrument which imposes general responsibility on the Council to minimise and prevent damage within its District by floods and erosion. The

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responsibility is not absolute. Liability in common law with respect to damage could arise only if it could be established that the Council had been negligent in not taking reasonable preventative or remedial steps or taking inadequate or inappropriate preventative or remedial steps to address a known problem. The seriousness of the likely consequences of non-action, the extent of other, possibly more urgent work requiring action, and the resources available to the Council will be amongst the factors relevant in determining whether it has met its statutory responsibilities.

New Zealand Coastal Policy Statement (NZCPS)

- 8.17 The general thrust of the objectives and policies in the NZCPS 2010 are reflected in the objectives and policies of the Tasman Regional Policy Statement (TRPS) and the Tasman Resource Management Plan (TRMP). However, the TRPS and TRMP have not been comprehensively reviewed for consistency with the NZCPS 2010.
- 8.18 The key objectives and policies in the NZCPS that are relevant to this application are Objectives 1-7 and Policies 2, 6, 11, 13, 21, 22 and 23.
- 8.19 Objectives of the NZCPS and their relevance to the application are summarised in Table 2 below.

Objective	Key targeted issues	Aspect of the application relevant to the objective
1	Coastal water quality	Most stormwater will ultimately be discharged to the sea and can affect coastal water quality
2	Character of the coastal environment	Coastal stormwater outfall structures can affect the character of the coastal environment
3	Role of tangata whenua as kaitiaki	Many aspects of the application have the potential to impact the mauri of water, the maintenance/protection of which is part of the role of kaitiaki
4	Public open space and recreation of coastal environment	Peripherally related by way of rivers that form part of the coastal environment

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RM190786 to RM190881 - Tasman District Council - Pöhara flood mitigation works, Section 42A Report
 Prepared by Leif Pigott, Team Leader Natural Resources, Resource Consents

Objective	Key targeted issues	Aspect of the application relevant to the objective
5	Coastal hazards and effects of climate change	Stormwater discharges may change in character or intensity due to climate changes, and the ability to discharge them to the sea may be affected by sea level rise
6	Protection of coastal resources as they relate to social, economic and cultural wellbeing	Discharges to the sea can affect coastal environments and resources
7	Protects New Zealand's international obligations	Broadly relevant because New Zealand's international obligations include the coastal marine area which may be affected by inputs to the coastal environment

Table 2: Objectives of the NZCPS and their relevance to the application.

- 8.20 Policy 2 relates to the relationships of tangata whenua with the coastal environment, and that they have a voice in the way these areas are managed.
- 8.21 Policy 6 recognises the contribution that the use of the coastal marine area provides to people and communities; the need to maintain and enhance to recreation qualities and values; recognise that there are activities that have/have not a functional need to be in the coastal marine area.
- 8.22 Policy 11 refers to protection of indigenous biodiversity in the coastal environment.
- 8.23 Policy 13 aims to recognise that natural character is not the same as natural features and landscapes or amenity values and may include matters such as experiential attributes, including the sounds and smell of the sea; and their context or setting.
- 8.24 Policy 21 aims to improve water quality where it has deteriorated to a point where it is having a significant adverse effect on ecosystems, natural habitats, or water-based

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recreational activities or where it is restricting existing uses such as shellfish gathering and cultural activities.

- 8.25 Policy 22 addresses sedimentation levels, and calls for the reduction of sediment loadings delivered by stormwater through controls on land use activities.
- 8.26 Policy 23 relates to contaminants including those delivered by stormwater. It provides for appropriate discharges, subject to the sensitivity of the receiving environment, the nature of the contaminants, the capacity of the receiving environment to assimilate the contaminants, the avoidance of significant adverse effects on ecosystems and habitats after reasonable mixing and the use of the smallest mixing zone necessary to achieve the required quality in the receiving environment. The policy makes specific reference to avoiding the adverse effects of the discharge of stormwater by reducing contaminant loading via containment treatment and controlling land use activities and promoting design options that reduce flows at source.
- 8.27 Policy 24 requires the identification of natural hazards including those introduced or exacerbated by climate change.

Tasman Regional Policy Statement

- 8.28 Most of the objectives and policies in the Tasman Regional Policy Statement (TRPS) relevant to this application are reflected in the provisions of the Tasman Resource Management Plan.

Tasman Resource Management Plan

- 8.29 The Tasman Resource Management Plan (TRMP) is a Unitary Plan. The Applicant has provided a detailed assessment of the relevant objectives and policies in section 9.8 of the application. I generally adopt this assessment and will not duplicate it here. Please note that I have included the NZCPS comments previously as these provide guidance for the Nelson and Tasman Plans.

Statutory Acknowledgement Areas

- 8.30 The Te Tau Ihu coastal marine area is recognised as a Statutory Acknowledgement Area for all eight Te Tau Ihu iwi by the Ngāti Apa ki te Rā Tō, Ngāti Kuia and Rangitāne o Wairau Claims Settlement Act 2014, the Ngāti Koata, Ngāti Rārua, Ngāti Tama ki Te Tau

Ihu and Te Ātiawa o Te Waka-a-Māui Claims Settlement Act 2014, and the Ngāti Toa Rangatira Claims Settlement Act 2014.

- 8.31 These statutory acknowledgements recognise the special associations or particular relationships that these eight iwi have with the coastal marine area and various river catchments. The functions of a Statutory Acknowledgement are:
- (a) to require relevant consent authorities to have regard to the Statutory Acknowledgement; and
 - (b) to require relevant consent authorities to provide summaries of resource consent applications, or copies of notices of resource consent applications, to the relevant trustees; and
 - (c) to enable the relevant trustees and members of the relevant iwi to cite the Statutory Acknowledgement as evidence of the iwi's association with the "statutory area."
- 8.32 The consent authority must have regard to the Statutory Acknowledgement relating to the "statutory area" in deciding, under section 95E of the Resource Management Act 1991, whether the relevant trustees are affected persons in relation to an activity within, adjacent to, or directly affecting the "statutory area" and for which an application for a resource consent has been made. In this case, notices of the application was served on all of the eight Te Tau Ihu iwi.
- 8.33 The relevant trustees and any member of the relevant iwi may, as evidence of the iwi's association with the "statutory area", cite the Statutory Acknowledgement that relates to that area in submissions to, and in proceedings before the consent authority concerning activities within, adjacent to, or directly affecting the "statutory area".
- 8.34 Section 2.6 of the Introduction to the Statutory Acknowledgements states that the content of a statement of association or statement of coastal values is not binding as fact on the consent authority; however, the consent authority may take the Statutory Acknowledgement into account.

Summary

- 8.35 The various statutory provisions relating to river systems management and the control of flooding and erosion, overlap in some areas, but do not always provide a single consistent framework to assist in responding to a situation which is required to be addressed under the SCRCA. The RMA is the predominant statute and its provisions prevail in the event of any conflict. It requires the preparation of planning instruments to achieve integrated management of the region's natural and physical resources. The purpose of the RMA is achieved via those planning instruments that form the basis on which resource consent applications are considered and any enforcement steps are taken.
- 8.36 The SCRCA imposes specific obligations and functions on the Council with respect to flooding and erosion. Those duties are relevant for both the planning instruments that Council is required to prepare and administer, and for works which Council undertakes or requires others to undertake. Section 181 of the Local Government Act 2002 confers specific powers in respect of land drainage and rivers clearance. The Freshwater NPS provides a specific direction and the NES provides specific rules.
- 8.37 This somewhat confusing mosaic of different functions and powers are all required to be considered in the context of the RMA and its single purpose.

9 Key Issues

- 9.1 I consider that the key issues for these applications are:
- (a) Key issue 1 – Changes to flood risk
 - (b) Key issue 2 – Ecological effects (short term due to construction activity)
 - (c) Key issue 3 – Ecological effects (long term)
 - (d) Key issue 4 – Cultural effects.

Initial comments

- 9.2 The applicant conducted community consultation prior to submitting this application. This is likely a contributing factor to the low number of submissions received for such a broad and potentially contentious scope of works.

Key issue 1 – Changes to flood risk

- 9.3 The primary motivation for this application is to reduce flood risk to existing buildings in Pōhara.
- 9.4 TDC engaged T&T to undertake hydrologic and hydraulic modelling to inform decisions regarding engineering solutions that provided the best value-for-benefit.
- 9.5 Mitigating flood risk to an area of existing development in a low lying and gently sloping coastal settlement that experiences high-intensity rain events is a considerable challenge even for present-day conditions (i.e., not considering future climate projections related to precipitation patterns, storm surges, and sea level rise).
- 9.6 Accordingly, TDC adopted a practical approach and modelled flood levels reflect tides and 1% AEP storms in present day conditions.
- 9.7 While the model used for this analysis integrates best-possible climate data and high-resolution LiDAR topographic information, there is inherent but undefined uncertainty in hydrologic modelling/ forecasting because models are a simulation of processes that are not always fully understood or represented.
- 9.8 The modelling framework rendering these results is considered a best-possible approach to forecasting extent and probability of flooding due to the proposed works.
- 9.9 The T&T model indicates that the proposed works will decrease the flood levels on 73 properties in Pōhara. This is seen to be a positive effect on those properties.
- 9.10 Modelling indicates that 24 properties will experience an increase in the flood levels at the present day 1% AEP level based and present day tides. These properties are generally located to the west of Abel Tasman Drive.

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- 9.11 When determining affected parties for the limited notification process a conservative approach was taken because the projected flood levels could be more or less severe than predicted by this modelling process (refer 8.8 above).
- 9.12 Parties deemed to be adversely affected, and thus served the application during the limited notification process, include any property indicated to have an increase in modelled flood waters at the present day 1% AEP level as represented by hot colours in Figure 2 below.



Figure 2. Flood level difference map comparing the present day scenario (baseline) with the modelled flood levels after the proposed mitigation measures as identified in call-out bubbles are complete.

Refer Appendix F of the application.

- 9.13 Of the three submissions received, none expressed concern directly regarding projected flood levels with regard to finished floor areas.



Figure 3: Modelled changes to flood levels in the lower reaches of Ellis Creek which is the location of the submitters' properties.

- 9.14 Cloud Dance Trust (59A Selwyn Street) raised concerns around the volume of flood water from upstream development brought through their property.
- 9.15 Stormwater generated from additional upstream development will be assessed on a case-by-case basis by TDC at the time of building consent or resource consent applications, and this is the Council's mechanism for controlling stormwater volumes to levels that are shown to be appropriate for the Ellis Creek catchment.
- 9.16 Flood levels are not projected to increase in FFLs at 59A Selwyn Street (refer Figure 3).
- 9.17 However, creek confluences are often bottlenecks for flow, as may be the case in extreme events at the joining of Clifton and Ellis Creek on 59A Selwyn Street. Earthworks are proposed in this application to widen the confluence as mitigation to this bottleneck.
- 9.18 Jones/TeTau (59B Selwyn Street) raised concerns around the efficiency of flood water movement through lower Ellis Creek due to overgrown riparian vegetation on Ellis Creek. The model projects that flood levels will increase by 10-25cm to a portion of 59B Selwyn Street as shown in Figure 3. The building footprint is protected from flood waters by the proposed timber wall.
- 9.19 Jones/TeTau ask that Council provide a maintenance agreement with owners of 59A Selwyn Street to manage vegetation clearance.
- 9.20 There is a balance between vegetation clearance, maintaining in-stream habitat, and promoting efficient flow.
- 9.21 A cross-cutting issue related to both flood risk and ecological effects is that raised by submitter Stoffregen. The issue is around holistic basin planning and the bigger picture of development in the catchment.
- 9.22 The construction of the Bartlett Creek bund between Abel Tasman Drive and Kohikiko Place is intended to protect floodwaters from flowing into residential properties on Abel Tasman Drive.
- 9.23 Stoffregen notes that this area is a natural wetland that, although modified for rural use, still serves as the floodplain for Bartlett Creek. The construction of the bund, he says, will prevent this land from serving as a natural retention area of floodwaters as it currently

(and historically) has because waters will be prevented from splaying from the creek to the north across the paddock.

- 9.24 Stoffregen suggests that if this bund goes forward, that it be re-aligned to be further to the north closer to residences on Abel Tasman Drive to retain some of the flood plain characteristics of this site.
- 9.25 This issue also brings to bear considerations of this site as 'wetland' and thus the implications of wetland protection under the National Policy Statement - Freshwater 2020. This is further discussed in Ecological Issues below.
- 9.26 An unintended consequence of the Bartlett Creek bund is that it creates a swath of undeveloped rural land (currently zoned Rural 1, between the creek and residential properties on Abel Tasman Drive) that would benefit from the flood protection.
- 9.27 While Rural 1 zoning affords some protection against further residential development by way of rules of the TRMP, it is conceivable that this area would be proposed to be further subdivided on the basis that s106 hazard issues are managed by way of the Bartlett Creek bund.
- 9.28 Further development of this land would add stormwater loading (whether draining to Bartlett Creek or not) thereby increasing the already-large challenges of stormwater management and flood mitigation for Pōhara.
- 9.29 A new TRMP is expected to be proposed and notified in 2024 so the ability for future development beyond 2024 of this swath of land cannot be fully anticipated. A review condition is recommended in the event of these proposed works being approved, to enable consideration of any future changes to land uses in the Bartlett and Ellis Creek floodplains.

Ecological effects - background

- 9.30 Due to the existing use and management of land surrounding the project area, Ellis, Bartlett and Clifton Creeks have degraded riparian vegetation.
- 9.31 They have also been heavily modified via mechanical excavation which has reduced the available baseline habitat for native fish species.

- 9.32 The following “At Risk – Declining” fish species are recorded in the catchment and are likely to be present given the proximity of the site to the coastal outlet: inanga (whitebait), giant kokopu, redfin bully, longfin eels, kakahi, koura. Their presence warrants careful consideration of the impact on the riparian corridors subject to the proposal.
- 9.33 The riparian areas in the vicinity of the salt marsh/Boyle Street culvert are utilised for recreational inanga fishing.
- 9.34 Key issue 2 – Ecological Effects (Short term due to construction activity)
- 9.35 The works have the potential to impact freshwater habitat and fish species due to earthworks during construction and disturbance of the river bed and banks during culvert replacement and channel widening.
- 9.36 Should a shallow groundwater table be intercepted during earthworks, de-watering may be required which could result in discharge of sediment-laden waters.
- 9.37 To mitigate impacts to habitat, stream works are proposed to be undertaken between October and April during low flow conditions.
- 9.38 Sedimentation from the construction works is proposed to be managed by implementing standard erosion and sediment controls and using best practice principles of working in a dry isolated environment.
- 9.39 The implementation of a Construction Erosion and Sediment Management Plan (CEMP) using standard best practices and required to be approved by Council prior to implementation is considered to appropriately mitigate potential adverse effects in this regard.
- 9.40 A CEMP is a volunteered condition of consent and is included in the Application as Appendix D.
- 9.41 Due to the diversity of fish species present in the Ellis Creek catchment, fish will be migrating up or downstream most times of the year and therefore a short-term effect on fish species is anticipated.
- 9.42 Stream works are proposed to be undertaken between October and April, avoiding the majority of the peak migration period and thereby reducing potential adverse effects. In

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addition, during instream works fish are proposed to be captured and relocated out of the work area.

- 9.43 A comprehensive stream works methodology will be included in the CEMP and can be used to reduce effects on fish populations and freshwater habitat during construction.

Key issue 3 – Ecological effects (long term)

- 9.44 Fish passage is an important consideration in culvert design due to the migratory nature of a number of New Zealand's native fish.
- 9.45 The replacement culverts at Kohikiko Place and Abel Tasman Drive are proposed to meet current minimum fish passage design standards. That is, they will be low gradient and as close as possible to the streambed slope, embedded below the invert to allow movement of sediment through the culvert, etc.
- 9.46 A 10m long section of rip rap will be permanently placed in Ellis and Clifton Creeks degrading these riparian sections for inanga spawning habitat.
- 9.47 The rip rap is proposed to be planted to somewhat naturalize the channel. Given the limited extent of effected habitat, especially relative to the large area of similar quality riparian habitat available in these creeks, this effect is considered to be no more than minor.
- 9.48 Terrestrial ecology related to the salt marsh, vegetation, avifauna and herpetofauna may also be affected by the works. Overall, this is seen as a minor issue. The affected salt marsh area (8m²) is minimal relative to the overall size of the salt marsh. The loss of 160 linear metres of mixed native/exotic vegetation due to the stop banks is proposed to be conducted in consultation with landowners, and may likely result in an improved native re-planting regime. Clearance of native vegetation is proposed to be minimized.
- 9.49 There is limited habitat for skinks and birds in the area of the proposed works.
- 9.50 Threatened lizard species are not expected in the mixed vegetation found within the site, suggesting low ecological value of herpetofauna potentially affected by the works.
- 9.51 The applicant proposes to minimize effects on bird habitat by conducting works outside the breeding season (Sept-Feb), and via bird nesting checks prior to works to ensure nests are vacant before commencing construction.

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- 9.52 The key consideration regarding ecological effects relates to the holistic function of the watershed, and what the proposed works do to enhance or degrade this function.
- 9.53 Ecologically important areas in the subject site include the paddock in the vicinity of the Bartlett Creek bund and the lower Ellis Creek area including the confluence of Ellis and Clifton creeks to the salt marsh.
- 9.54 The applicant should address the relevant aspects of wetland protection of the NPS-FW 2020 in their evidence for this hearing.

Key issue 4 – Cultural effects

- 9.55 Water is taonga, or 'treasure', to tangata whenua. Water and bodies of water have their own mauri (life force; the binding force between the physical and the spiritual), and it is important to protect the mauri and life sustaining qualities of water so their descendants may use it.
- 9.56 Water bodies are also integral to Māori self-identity and mana. Māori have a special role as kaitiaki (guardian) of local waterways, a role inherited through whakapapa (genealogy). This is recognised specifically in parts of sections 6 and 7 of the RMA.
- 9.57 Discharge of any contaminants to water is considered a more than minor effect on degrading the mauri of wai and thus the ability for iwi to act as guardians for healthy water.
- 9.58 The works are proposed nearby, but not within, a number of sites of cultural and historical significance. A cultural heritage precinct is adjacent to the subject site.
- 9.59 The proposed works area is not located within an area subject to a statutory acknowledgement but it is directly upstream and adjacent to the Te Tau Ihu Coastal Marine Area.
- 9.60 Iwi consultation has been undertaken via the local iwi representation group Manuwhenua ki Mohua (MKM) from the conceptual phase of the project. A draft of the consent application and AEE has been presented to MKM.
- 9.61 The applicant has volunteered a condition of consent that an appropriate iwi monitor will be engaged during excavation of areas of known sensitivity or significance to iwi. Effects on mauri (life-supporting capacity) and wairua (spiritual value) of waterbodies are

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anticipated to be avoided, remedied or mitigated with the successful and required implementation of application-wide mitigation measures discussed above.

- 9.62 The applicant is pursuing an archaeological authority from Heritage NZ and anticipates that any requirements stipulated by the archaeological authority (i.e. accidental discovery procedures) will be incorporated into the final CEMP for approval by council prior to the undertaking of any works.
- 9.63 No submissions from iwi representatives were received.

10 Volunteered conditions of consent

- 10.1 The applicant has volunteered the following conditions. These conditions are not considered adequate given the scale and nature of the proposal. They have been used as the basis for a set of draft conditions of consent attached at the end of this report.
- 10.2 The volunteered conditions have been split into two blocks, short term construction and ongoing controls.
1. *The Project shall be undertaken in general accordance with the information provided by the Consent Holder in the application dated June 2019;*
 2. *Where there is conflict between the documents listed in (1) above and these conditions, these conditions shall prevail;*
 3. *The consent holder shall ensure that a copy of this consent and all documents and plans referred to in this consent, are kept on site at all times, and presented to a TDC officer on request;*
 4. *All works shall be carried out in general accordance with condition 1 and the management plans referred to in this application;*
 5. *The consent holder shall prepare a Construction and Environmental Management Plan (CEMP) that outlines: a Key staff responsibilities and contact details, including*
 - a *emergency contact details;*
 - b *Construction methodologies and construction timeframes;*
 - c *Traffic management practices;*
 - d *Stream works methodologies;*
 - e *Mitigation measures for those effects arising from construction of the works, including noise, dust, erosion and sediment discharge controls and traffic;*
 - f *Procedures and mitigation measures for effects on flora and fauna;*
 - g *Procedures regarding environmental complaints;*
 - h *Compliance monitoring; and*
 - i *Corrective action.*

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6. *The CEMP shall be submitted to the Manager, Consents at Tasman District Council at least 10 working days prior to the commencement of works to which the management plans relate for certification that the CEMP addresses the matters outlined in condition 5;*
7. *The consent holder may make minor amendments to the management plans at any time. Minor amendments refers to any amendment where the adverse environmental effects arising from that amendment are equivalent or less than those that would arise in the absence of such an amendment;*
8. *Any material changes proposed to the management plans shall meet those requirements established in condition (5) of this consent. A material change refers to any amendment which remains in general accordance with condition (1), but does not qualify as a minor amendment under condition (7);*
9. *The consent holder shall take all reasonable steps to ensure that, during any temporary diversion of water, any fish within the works area are found, captured and relocated into a clear flowing section of the stream, upstream from the affected works area;*
10. *All instream works shall be carried out in the active channel between 1st October and 30th April (inclusive), so as to avoid works during the key recruitment migration period for native fish species;*
11. *Works along Abel Tasman Drive shall not occur during the peak summer period between 16 December – 14 February;*
12. *All earthworks not being worked for a period exceeding three months, and all completed earthworks areas (including the proposed bund) shall be grassed as soon as is practicable. The consent holder shall monitor the areas subject to being grassed to ensure that full ground cover is achieved.*

11 Summary of key issues and conclusions

- 11.1 Overall, it is considered that, subject to appropriate conditions of consent, the activity can be managed in a manner that does not cause significant adverse effects on the receiving environment. It is considered that the proposed works will be generally consistent with Part 2 of the Resource Management Act and the policies and objectives of the New Zealand Coastal Policy Statement, other relevant National Policy Statements, and the Tasman Resource Management Plan.
- 11.2 Subject to the recommended conditions of consent, and taking into account the assessment provided with the application, I am in a position to be able to make the recommendation below.

12 Recommendation

- 12.1 As a planner weighing up all of the relevant considerations in terms of Section 5 of the Act, I consider that a grant of consent would promote the sustainable management of natural and physical resources and, I **RECOMMEND** that the applications could be **GRANTED**, subject to conditions.
- 12.2 Draft conditions as per Attachment 2 are recommended for consideration if the Commissioner is of a mind to grant the applications.

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Attachment 2: Proposed conditions of consent

General conditions that apply to all activities

- 1 All works authorised by these consents shall be undertaken in general accordance with the application document entitled 'XXX dated XXX. If there are any inconsistencies with the application and any conditions of these resource consents, the conditions of consent shall prevail.

Review condition

- 2 Pursuant to section 128 of the Resource Management Act 1991, the consent authority may serve notice on the consent Holder of its intention to review the conditions of these consents six monthly during either the month of October or May for any of the following purposes:
 - (a) to deal with any adverse effect on the environment that may arise from the exercise of these consents, and which is appropriate to deal with at a later stage - for example, if in the future the flood mitigation works are found under normal rainfall and run-off events to exacerbate flooding and ponding on the upstream property; and/or
 - (b) to require the consent holder to adopt the best practicable option to remove or reduce any adverse effect on the environment; and/or
 - (c) to re-assess the appropriateness of imposed compliance standards, monitoring regimes and monitoring frequencies and to alter these accordingly; and/or
 - (d) to change the compliance standards imposed by conditions of these consents to standards that are consistent with any relevant regional plan, district plan, or Act.

Duration and expiry

- 3 The construction consents shall expire three years from the commencement of consents. Any diversion and maintenance shall expire 35 years from the commencement of consents.

Supervision and notification

- 4 The consent holder shall appoint a representative prior to the exercise of these resource consents, who shall be Council's principal contact person in regard to matters relating to these resource consents.

- 5 All works shall be supervised by a suitably qualified and experienced engineer.
- 6 For each stage of the proposed works the consent holder shall notify Council's Team Leader - Monitoring & Enforcement for monitoring purposes at each of the following stages:
 - (a) at least 3 working days prior to commencement of works on-site;
 - (b) upon placement of all sediment control measures;
 - (c) at least 24 hours prior to decommissioning of the sediment control measures.
- 7 As part of the notice required for condition 9(a) the consent holder shall inform the Council's Team Leader - Monitoring & Enforcement the name and contact details, within the works period, of the following persons:
 - (a) the consent holder representative required under condition 7;
 - (b) the overseer required under condition (8) (if not the consent holder representative); and
 - (c) the earthworks contractor (if not the consent holder representative).

Should any person(s) change during the term of these resource consents, the consent holder shall immediately inform the team leader and shall also give written notice to the Team Leader of the new person's name and how they can be contacted as soon as practicable.

Construction management

- 8 All works shall be planned and scheduled to take into account the following:
 - (a) Suitable weather and river flow conditions;
 - (b) Spawning and fish migration seasons and locations of indigenous fish;
 - (c) Nesting season and location of indigenous birds;
 - (d) The need to minimise the duration and frequency of the works;
 - (e) The need to minimise the discharge of sediment into water;
 - (f) Access requirements to the site;
 - (g) Safety; and
 - (h) Impacts of traffic, dust, and noise.
- 9 For each stage of works the consent holder shall, prior to the intended commencement date of activities authorised by this consent, submit a Construction

Management Plan (CMP) to Council's Team Leader - Monitoring & Enforcement for certification (one plan may cover multiple stages). Information provided shall include:

- (a) Details of all principles, procedures and practices that will be implemented for erosion, sediment and dust control to minimise the potential for sediment discharge from the site.
- (b) The design criteria and dimensions of erosion and sediment control structures.
- (c) A detailed site plan showing the location and timing of all erosion and sediment control structures to be implemented, including controls to remain in place until each stage is fully stabilised.
- (d) Construction timetable for the erosion and sediment control works and any bulk earthworks involved.
- (e) Timetable and nature of progressive site rehabilitation and revegetation proposed.
- (f) Maintenance, monitoring and reporting procedures.
- (g) 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.
- (h) A Construction Traffic Management Plan (CTMP) prepared by a suitably qualified and experienced traffic engineer for certification that it meets the following objectives and performance standards:
 - (i) to ensure that traffic generated during earthworks is effectively managed so that increases in traffic volume are safely accommodated within the existing road network;
 - (ii) that roads open to the public are managed in accordance with the Code of Practice for Temporary Traffic Management; and
 - (iii) that the best practicable option is used to manage traffic on roads not open to the public.
- (i) A detailed Construction Noise Management Plan (CNMP). The Construction Noise Management Plan must describe methods by which noise associated with construction will comply in all aspects with the controls set out in NZS 6803:1999 and how all persons undertaking day-to-day activity management will adopt best practice at all times to ensure that emission of noise from the site does not exceed a reasonable level in accordance with section 16 of the Act.

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The Team Leader will certify the plan if, in their opinion, the plan reasonably achieves the following outcomes:

- (i) the discharge of sediment into any watercourse and/or coastal waters, any adjacent property is minimised as far as practicable;
- (ii) the passage of vehicles through any watercourse and/or coastal waters is minimised as far as practicable;
- (iii) the risk and effects of adverse weather have been considered and provided for to minimise the discharge of sediment and contaminants;
- (iv) contingency and reporting protocols are established;
- (v) site stabilisation and decommissioning are appropriately addressed; and
- (vi) the construction site management conditions identified in conditions 20 to 33 below are provided for.

Advice note:

Previous compliance and environmental monitoring for large-scale earthworks in this area revealed that even with well constructed and engineered SRPs the clay content was such that it did not settle out, which resulted in breaches of the water quality conditions. Flocculation is likely to be required on this site.

Advice note:

Rapid stabilisation methodology may also be required and that could impact on how the earthworks progress. There will be an additional cost implication associated with this and that should be highlighted at time of tendering so both the client and contractor understand this and it can be factored in. The consent holder is advised to contact Council's Senior Compliance & Investigations Officer to clarify any CMP requirements.

- 10 Notwithstanding the matters specified in condition 9 for inclusion in the plan within the overall Construction Management Plan, the following outcomes shall be specified in the relevant plans required by condition 9

- (a) Hours of operation for construction shall be between 7.00 am - 6.00 pm Monday to Saturday. No work shall be carried out on Sundays, public holidays or the period from 24 December to 4 January inclusive.

Advice note:

These hours relate to the earth-moving or earthworks activities, including the movement of heavy vehicles and machinery, subject of this consent. They do not

apply to activities such as weed control or planting undertaken as part of standard property maintenance or enhancement.

- (b) Unless not practicable, any relocation of soil or earth from one part of the site to another shall be undertaken within the site and not utilising public roads. Where public roads are to be used the reasons for this shall be stated in the Plan.
 - (c) Dust suppression measures, such as the use of water carts, shall be available and utilised on the site and site access roads at any time that dust may be discharged from the site (hot and/or windy conditions).
 - (d) Key earthworks should be carried out during fine weather periods when there is less potential for sediment run-off to occur.
- 11 Information on the qualifications and experience of the overseer shall be submitted to Council's Team Leader - Monitoring & Enforcement and works authorised by the Construction Management Plan shall not start until the Council determines whether the nominated person(s) has met the qualification and experience requirements.
- 12 If Council's Team Leader - Monitoring & Enforcement does not respond in writing, within 10 working days of receipt of the submitted information regarding the qualifications and experience of the overseer, then they shall be deemed to have the required qualifications and experience.
- 13 The consent holder shall ensure that all works shall be completed in general accordance with the Construction Management Plan.
- Any changes to the Construction Management Plan shall be confirmed in writing by the consent holder and authorised by the Council's Team Leader - Monitoring & Enforcement and shall not be implemented until notified of the authorisation.
- 14 A copy of Council certified versions of all the plans required by these consents shall be kept on-site at all times and the Consent holder shall ensure all personnel are made aware of each plan's contents where the plan relates to activities that those personnel are responsible for.

Construction site management

- 15 All erosion and sediment controls shall be installed for as long as there is a potential for sediment movement away from the works area and all such control structures shall be maintained to ensure they achieve their intended performance standards at all times.

Advice note:

Appropriate sediment control equipment including erosion protection matting and batter covers should be kept on site for use in minimising potential sedimentation problems from areas of exposed soil.

- 16 All erosion and sediment control measures shall be inspected after any major rainfall event and any problems shall be rectified within 24 hours required.
- 17 The consent holder shall stop construction in heavy rain when the activity shows sedimentation that is more than minor in the view of Council’s Compliance Officer.
- 18 If during the works excavated soil needs to be temporarily stockpiled on-site, then the consent holder shall ensure stockpiles are:
 - (a) managed in a manner protective of on-site workers, the public and off-site migration pathways (such as stormwater drains); and
 - (b) kept tidy and with a stable slope.
- 19 The consent holder shall ensure that surface water (ie stormwater) shall be diverted away from excavations and soil stockpiles.
- 20 All practical measures shall be taken to ensure that any dust created by earthworks operations at the site and vehicle manoeuvring (in accessing the site and driving within it) shall not, in the opinion of the Council’s Team Leader - Monitoring & Enforcement, become objectionable or offensive to the public or adjacent property owners or occupiers. The measures employed shall include, but are not limited to, the watering of unsealed traffic movement areas, roadways and stockpiles as may be required.

Construction noise

- 21 Noise generated by the activities, measured at or within the notional boundary of a dwelling, shall not exceed:

	Day	Night
Leq (15 minute)	55 dBA	40 dBA
Lmax		70 dBA

For the purposes of this condition “day” shall be between 7.00 am and 9.00 pm Monday to Friday (inclusive) and between 7.00 am and 6.00 pm hours on Saturdays, but excluding public holidays. “Night” shall mean all other times as well as public holidays.

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- 22 All noise from activities authorised by these consents shall meet the requirements of the long duration noise limits in Table 2 of New Zealand Standard NZS6803:1999 (Acoustics-Construction Noise). The consent holder shall adopt the best practicable option to ensure the emission of noise does not exceed a reasonable level.

Hours of operation

- 23 Works shall not occur outside the hours of 6.00 am to 7.00 pm Monday to Friday, and 7.00 am to 6.00 pm on Saturdays. Works shall not occur on Sundays or Public Holidays or between 24 December and the 4 January (inclusive) each year. Emergency works are exempt from this condition.
- 24 All exposed ground shall be reinstated within three months of completion of the works so that erosion/movement of soil is limited as much as is practical. This shall include supplemental planting of appropriate vegetation that enhances the stability and minimises surface erosion. Planting shall be carried out as soon as seasonally practicable.
- 25 Excavated material disposed of on-site shall be appropriately compacted and planted so as to minimise the discharge of sediment with stormwater run-off.
- 26 All machinery on the work site shall be refuelled, and any maintenance works undertaken, in such a manner as to prevent contamination of land and surface water. Spillage of contaminants into any watercourse or onto land shall be adequately cleaned up so that there is no residual potential for contamination of land and surface water. If a spill of more than 20 litres of fuel or other hazardous substance occurs, the consent holder shall immediately inform the Council's Team Leader - Monitoring & Enforcement.
- 27 There shall be no storage of fuel or lubricants, refuelling, or lubrication of vehicles and machinery in the bed or within 20 metres of the margins of the watercourse.
- 28 The consent holder shall maintain spill kits on site at all times to contain and/or absorb any spilled hazardous substance and/or any other measures necessary to prevent any spills of hazardous substances entering land or water.
- 29 In the event of a spill of hazardous substances on the site, the consent holder or their agents shall record the details, and provide to the Council's Team Leader - Monitoring & Enforcement within 24 hours of the spill:
- (a) the date, time and volume of the spill;
 - (b) the substance spilt;

- (c) measures taken to contain and absorb the spilt substance; and
 - (d) the cause of the spill, and the measures taken since to prevent a repeat of the incident.
- 30 The consent holder shall ensure that after reasonable mixing, any contaminant or water discharged shall not result in any of the following effects in the receiving water:
- (a) the production of any conspicuous oil or grease films, scums or foams, or floatable or suspended materials;
 - (b) any conspicuous change in the colour or visual clarity;
 - (c) any emission of objectionable odour;
 - (d) any significant adverse effects on aquatic life.
- 31 The consent holder shall ensure that:
- (a) Any land clearance is limited to the smallest area practicable to enable the authorised works to be undertaken;
 - (b) The duration of land clearance activities is minimised to the shortest period within which to undertake the authorised works;
 - (c) The natural drainage of the site is maintained to the greatest practicable extent;
 - (d) Where necessary, worked areas shall be contained with bunds to minimise sediment runoff into water;
 - (e) Exposed soil is seeded or re-vegetated, as appropriate, as soon as reasonably practicable following vegetation removal, and maintained/reseeded to achieve at least 60% strike within eight months of work being completed; and
 - (f) Damage to any non-target riparian vegetation is minimised.
- 32 Work shall be planned and undertaken in a manner that minimises works in flowing or coastal water, whenever and wherever practicable. Where this is not practicable, work shall be undertaken within the minimum time required in the flowing channel of the watercourse or coastal water and with the minimum necessary disturbance.
- 33 If vehicles and machinery need to enter and pass across a river or the coastal marine area they shall do so by the shortest practicable route.
- 34 Any existing available access tracks to the river or coastal marine area should be used where practicable.

- 35 Where practicable, water shall be diverted around the work area so that the works are undertaken outside flowing water. Any work that needs to be undertaken within flowing water or the coastal marine area shall, where practicable, be bunded off from flowing water or coastal marine area to minimise sediment discharge into water.

Advice note

It is accepted the works would not be in the flowing water once bunded off. However, the initial works to bund of the area will need to be in the flowing water and there are potential risks with the removal of the bunding.

- 36 To prevent the spread of didymo or any other aquatic pest, the consent holder shall ensure that activities authorised by these consents are undertaken in accordance with the Biosecurity New Zealand's hygiene procedures.

Advice note

The most current version of these procedures is available from the Biosecurity New Zealand website <http://www.biosecurity.govt.nz>

- 37 At the completion of any works authorised by these consents, all excess construction materials shall be removed from the site.
- 38 The consent holder shall take all practicable steps to avoid the transportation and potential introduction of any pest species.
- 39 All machinery shall be cleaned of weed and silts before leaving the works site to minimise the risk of spreading any pest plant species.
- 40 The consent holder shall ensure that excavated or disturbed soil does not slump into or get eroded into the bed of any river or the coastal marine area.
- 41 Fish passage shall be at least maintained in rivers at all flows during works within the flowing channel. Works and structures authorised by these consents shall not cause the stranding of fish.
- 42 The consent holder shall ensure that once works are completed:
- (a) the area of beach disturbed shall be contoured to a natural bed form, consistent with the adjacent beach areas.
 - (b) all plant, equipment, chemicals, fencing, signage, debris, rubbish and any other material brought on site is removed from the site. The site shall be tidied to a degree at least equivalent to that prior to the works commencing; and

- (c) the works do not cause any additional flooding, erosion, scouring, land instability or property damage. If any of these do occur, the Consent Holder shall take all actions that are reasonably necessary to remedy any damage.
- 43 The consent holder shall ensure that any contractors undertaking works authorised by these consents are provided with a copy of the resource consents and conditions, and shall ensure compliance with all conditions.
- 44 In the event of accidental discovery of archaeological items or koiwi (human remains), all work within 50 metres of the discovery shall immediately cease, and the relevant iwi and Heritage New Zealand shall be contacted. Work shall not recommence in the area of the discovery until Heritage New Zealand has confirmed that the Heritage New Zealand Pouhere Taonga Act 2014 does not apply, an archaeological authority has been granted, and in the case of Māori archaeological sites evidence of consultation and agreement with relevant iwi have been provided to Council.
- 45 No less than one week prior to any land disturbance taking place under this consent, iwi representatives shall be contacted with details of the works and given the opportunity to request an iwi monitor.

National Environmental Standards for Freshwater 2020

- 46 There shall be no earthworks within 10m of a natural wetland. No earthworks that result in the complete or partial drainage or part or all of a natural wetland
- 47 No reduction in fish passage
- 48 There shall be no changes to damming or diversion of water within 100m of a natural wetland where it may effect the hydrology of the wetland.

Advice note

The consent holder is referred to the National Environmental Standards for Freshwater 2020. There are several permitted activities that exist with these rules, for example r51 that allows works for removing natural hazards subject to conditions

Visual impacts

- 49 In areas which are highly visible to the public, including from roads, reserves, river and coastal access points and from private dwellings, all materials used on site shall be chosen and constructed so that they integrate with surrounding landscape and shall be to a high standard of finish and be able to withstand public usage.

- 50 The works shall wherever practicable retain a natural diversity of substrate (boulders, cobbles, woody debris and gravels), a natural channel cross section, fish cover, a natural meander pattern and bed level variation.
- 51 The meander pattern shall have a variety of river bend radii, in keeping with stream styles of natural creeks in the area.
- 52 The natural thalweg profile (longitudinal transect showing depth diversity) and width character shall be recreated as close as practicable to the original condition in order to retain diversity of bed levels (deeper pools as well as riffles).
- 53 Disturbance of residual pools (pools that permanently contain water once river flows have ceased) should be avoided. There shall be no removal of water from residual pools in the river by infilling, draining or other means.

Advice note

Residual pools are an important refuge for fish and invertebrates when other parts of the river dry up.

Restricted activities

- 54 No lawful take of water shall be unreasonably affected as a result of any work authorised by these consents.

Complaint register

- 55 The consent holder shall maintain a complaints register detailing the content of all complaints received and of actions taken where necessary to remedy any issue. Copies or details of the Complaint Register shall be made available to Council on request. All complaints shall be forwarded to Council within one working day and details of the remedial action undertaken within 20 working days.
- 56 Concrete rubble or similar demolition material shall not be used in the construction
- 57 Where practicable a vegetative filter strip shall be maintained between the works area and the river or coastal marine area.
- 58 The extent of the works shall be the minimum necessary to create a suitable access.

Temporary crossings (including temporary culverts)

- 59 Temporary crossings and culverts shall be designed by suitably qualified or experienced engineers and shall be removed as soon as practicable on completion of the works.

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- 60 All temporary crossings shall be designed so that water is able to flow over them during higher flows without eroding the structure.

Advice notes

- 1 For the avoidance of doubt, any final ground levels, and channel and pipe sizes are subject to approval of detailed design plans by Council.
- 2 Officers of Council may also carry out site visits to monitor compliance with resource consent conditions.
- 3 The consent holder should meet the requirements of Council with regard to all building and health bylaws, regulations and Acts.
- 4 Access by Council or its officers or agents to the property is reserved pursuant to section 332 of the Resource Management Act.
- 5 All reporting required by this consent should be made in the first instance to Council's Team Leader - Monitoring & Enforcement.
- 6 This resource consent only authorises the activity described above. Any matters or activities not referred to in this consent or covered by the conditions must:
 - (a) comply with all the criteria of a relevant permitted activity rule in the Tasman Resource Management Plan (TRMP);
 - (b) be allowed by the Resource Management Act; or
 - (c) be authorised by a separate resource consent.
- 7 Any plans attached to this consent are (reduced) copies and therefore will not be to scale and may be difficult to read. Originals of the plans referred to are available for viewing at the Richmond office of Council. Copies of Council Standards and documents referred to in this consent are available for viewing at the Richmond office of Council.