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WESTERN BAY OF PLENTY DISTRICT COUNCIL

COUNCIL OFFICER'S REPORT ON RESOURCE CONSENT APPLICATION NUMBER RC14513(L)

SECTION 42A OF THE RESOURCE MANAGEMENT ACT 1991 REPORT

Application No.:	RC14513(L)
Applicant:	Glen Isla Protection Society Incorporated (GIPS)
Owner:	Western Bay of Plenty District Council and Kathryn and Mark Bason
Application:	The construction of a coastal protection structure and associated activities
Location of activity:	Council recreation reserve at 95 Seaforth Road (Lot 18 DPS 22035), the adjoining Council esplanade reserve at Lot 19 DPS 22035 and 12 Glen Isla Place (Lot 12 DPS 22035), Waihī Beach

1. EXECUTIVE SUMMARY

1. This report provides an assessment of the resource management issues with respect to the construction of a coastal protection structure and associated activities on Council recreation reserve at 95 Seaforth Road (Lot 18 DPS 22035), the adjoining Council esplanade reserve at Lot 19 DPS 22035 and 12 Glen Isla Place (Lot 12 DPS 22035), Waihī Beach. The proposal is for the construction of a coastal protection structure, the structure, and associated activities within Outstanding Landscape Feature S24 (Open Landscape and Landward Edge Protection Yard) and an area subject to the Primary and Rural Coastal Erosion and Coastal Inundation. The proposal is a discretionary activity under the Western Bay of Plenty Operative District Plan 2012.

2. The resource consent application was lodged with the Western Bay of Plenty District Council (WBOPDC) on the 15 October 2024. It has been processed on a publicly notified basis at the request of the Applicant. In total, 29 submissions were received by the WBOPDC within the statutory time-period, with 28 in opposition and one neutral submission.

3. In having regard to the proposal and submissions lodged, the key effects considered relate to coastal processes and hazards, landscape, natural and visual character, ecology, site management and noise and vibration.

4. Having considered the proposal, the submissions and further information requests, subject to any information presented at the hearing which might otherwise change my recommendation, my recommendation is that the land use application be declined.

Recommendation

a. That the Council Officer's report dated 18 July 2025, titled 'Council Officer's Report on Resource Consent Application Number RC14513(L) – Section 42A of the Resource Management Act 1991 Report', be received.

b. That pursuant to sections 34A, 104 and 104B of the Resource Management Act 1991, the Independent Hearings Commissioners, on behalf of the Western Bay of Plenty District Council, declines consent to the application by the Glen Isla Protection Society Incorporated for the construction of a coastal protection structure and associated activities on the Council recreation reserve at 95 Seaforth Road (Lot 18 DPS 22035), the adjoining Council esplanade reserve at Lot 19 DPS 22035 and 12 Glen Isla Place (Lot 12 DPS 22035), Waihī Beach.

OR

c. That pursuant to sections 34A, 104, 104B and 108 of the Resource Management Act 1991, the Independent Hearings Commissioners, on behalf of the Western Bay of Plenty District Council, grant consent to the application by the Glen Isla Protection Society Incorporated for the construction of a coastal protection structure and associated activities on the Council recreation reserve at 95 Seaforth Road (Lot 18 DPS 22035), the adjoining Council esplanade reserve at Lot 19 DPS 22035 and 12 Glen Isla Place (Lot 12 DPS 22035), Waihī Beach, subject to conditions of consent.

   Should the Independent Commissioners decide to the grant consent a full set of draft conditions will be provided prior to the close of the hearing.

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Bevan Hudson

Team Lead Consent Planning

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Anna Price

Principal Planner

Checked and Approved for Release to
the Independent Hearings Commissioners
for Determination

.....

Natasha Ryburn

Environmental Consents Manager

Date: 18 July 2025

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Attachments

Attachment 1	Application
Attachment 2	Further information request, dated 8 November 2024
Attachment 3	Further information response, dated 6 December 2024
Attachment 4	Public Notification Determination
Attachment 5	Further information request, dated 25 March 2025

Attachment 6	Further information response, dated 23 May 2025
Attachment 7	Summary of Submissions
Attachment 8	Submissions (in full)
Attachment 9	Written approvals
Attachment 10	Bay of Plenty Regional Council Resource Consent RM24-0537-AP
Attachment 11	Noise and Vibration Review
Attachment 12	Transportation Technical Memorandum
Attachment 13	Ecology Effects Review
Attachment 14	Landscape and Visual Effects Review
Attachment 15	Coastal Engineering Review
Attachment 16	Reserves and Facilities Memorandum

2. INTRODUCTION

5. We have read the Code of Conduct for Expert Witnesses, contained in the Environment Court of New Zealand Practice Note 2023 and have complied with that practice note in preparation of this report. We agree to comply with it in presenting this report and any evidence at the hearing. The opinions and assessment within this report are within our area of expertise, except where we have stated my reliance on other identified evidence. We have considered all material facts that are known to me that might alter or detract from the opinions that I express in this evidence.

6. This report has been prepared by Bevan Hudson (Team Lead Consent Planning), Anna Price (Principal Planner) and Jade McKean (Consultant Planner). The scope of involvement of the Consultant Planner was to provide analysis of the New Zealand Coastal Policy Statement 2010, Bay of Plenty Regional Policy Statement, Bay of Plenty Regional Coastal Environment Plan and National Policy Statement for Indigenous biodiversity, to inform the lead author.

7. The lead author of this report is Bevan Hudson. I was recently appointed to the role of Team Lead Consent Planning, after being a Senior Consents Planner for the past six years. I have a Bachelor of Technology Degree from Massey University (1996) and a Post-Graduate Certificate in Planning from Massey University (2015). I am an associate member of the New Zealand Planning Institute. I have nineteen years of professional experience in the resource management field, both in Local Government and private consultancies. I agree with and adopt the assessments of the Principal Planner and Consultant Planner as my own.

8. This is a Section 42A report prepared under the Resource Management Act 1991 (the Act) which provides my advice and recommendations on behalf of the Western Bay of Plenty District Council. The report has been prepared based on the application, the Section 92 further information response information, further clarification received by Council on 6 December 2024 and further information received. The report will be considered by the Independent Hearings Commissioners in conjunction with all other technical/ specialist evidence and submissions to the application, to form and make a decision under delegated authority on behalf of the Western Bay of Plenty District Council as the consenting authority.

9. In this report, I will outline the statutory planning framework insofar as it relates to the proposal. I will provide my assessment under Section 104 of the RMA, and in doing so I will identify the issues raised through the notification process and will assess the effects of the proposal (both adverse and positive) and the effectiveness of mitigation measures proposed by the applicants. The report draws on specialist reports concerning coastal engineering, landscape

architecture and urban design, ecology, noise and vibration and transportation. Throughout this report I have relied on these specialist reviews.

Council representatives	Personnel	Technical/ Specialist Expertise	Reference
Styles Group	Jamie Exeter and Jon Styles	Acoustics and Vibration	Attachment 11
WBOPDC Transportation	Pip Browne	Transportation	Attachment 12
Wildland Consultants Limited	Willie Shaw and Nick Goldwater	Ecologist	Attachment 13
Beca	Will Gumbley	Landscape Architect	Attachment 14
Beca	Adam Davidson	Coastal Engineering	Attachment 15
WBOPDC Reserves & Facilities Manager	Peter Watson	Land Owner	Attachment 16

Application Process

10. The resource consent application was received by the Western Bay of Plenty District Council ('Council') on Monday 14 October. The Glen Isla Protection Society Incorporated ('the applicants' and/ or 'GIPS') applied for the construction of a coastal protection structure, hereafter referred to as "the coastal protection structure", and associated activities on Council recreation reserve at 95 Seaforth Road (Lot 18 DPS 22035), the adjoining Council esplanade reserve at Lot 19 DPS 22035 and 12 Glen Isla Place (Lot 12 DPS 22035), Waihī Beach. A copy of the application is included as **Attachment 1**.

11. A site visit, attended by Council staff, the specialists and the applicant's representative was undertaken on the 30 October 2024. An additional site visit was undertaken by Council's consultant planner on 3 May 2025.

12. Further information was requested by the Council, pursuant to Section 92 of the RMA, on the 8 November 2024. This included: planning, Regional Council, transportation, ecology, landscape architect, and noise and vibration matters. A copy of the request is included as **Attachment 2**.

13. The further information response was provided to Council on the 6 December 2024 and is included in **Attachment 3**.

14. The public notification decision/determination was signed off under delegated authority on the 11 December 2024, being twenty working days from lodgement date, and sent to applicant's agent. This is included in **Attachment 4**.

15. Because of holiday deadlines with the Bay of Plenty Times, the Council could only notify the application on January 16, 2025.

16. Because of the timing and local interest, the Council extended the submission period to February 28, 2025. The applicant did not agree to this.

17. Following further review of the Application and a joint meeting between the Council's planners and some of the specialists (ecologist, coastal engineer, visual and landscape architect) an additional request for further information was made on 25 March 2025 (**Attachment 5**). This written request included: ecology, landscape architect, coastal engineering, noise and vibration and planning matters. Processing of the application was suspended under section 91A of the RMA to allow the Applicant time for the necessary reporting and assessment to address this request. A response to this request was provided to the Council on 16 May 2025, with the applicant requesting that it remain on hold until 23 May 2025. The further request and response are included in **Attachment 6**. This additional request and the response were made available on the Council's website.

3. SITE AND LOCALITY

18. The applicant has provided a description of the site location and context in Section 3.1 of the Application. Drawing on their description, relying on technical context from the Council's specialists and having visited the site I note the following most relevant site characteristics:

19. The application site (hereafter "the site") is located to the south of Three Mile Creek, Waihī Beach. The proposed activities will be undertaken mostly on the Council recreation reserve at 95 Seaforth Road (Lot 18 DPS 22035) and the adjoining Council esplanade reserve at Lot 19 DPS 22035. The southern end of the site in which activities will be undertaken includes approximately 20m of privately owned land at 12 Glen Isla Place (Lot 12 DPS 22035) – refer Figure 1.

20. The reserve land(s), that is owned and managed by Council, is classified under the Reserves Act 1977 as Local Purpose Esplanade and Recreation Reserve. Both reserves are managed as a single entity under the Katikati Waihī Beach Ward Reserves Management Plan (Three Mile Creek). The plan's inventory notes the existing geotextile sand groyne and rock revetment/dune and identifies issues such as Three Mile Creek's water quality, coastal erosion, encroachment, and boundary definition.

21. The rock revetment/dune and groyne are managed by Council. The Council also maintains this wider reserve area for coastal access and neighbourhood recreation, with beach access, safety, and coastal protection works recorded as key features. There is a 25m tall Norfolk Pine located at the corner with 13 Glen Isla Place (the boundary between private and public land is unclear here). This tree is not a protected or notable tree under the District Plan or proposed plan, or by any other legal instrument.

Figure 1: Aerial Photo of the site(s) outlined in Yellow (Source: Western Bay of Plenty District Council BOPmap)

22. Both reserves are zoned Rural under the Western Bay of Plenty Operative District Plan 2012. They are subject to the Coastal Erosion Areas – Primary Risk - Rural (being land adjoining the open coastline, zoned Rural and within 100m of MHWS). The Coastal Erosion Area – Primary Risk line is shown Red on Figure 2. With the exception of part of the access up to Seaforth Road, they are identified as being within the District Plan's Outstanding Landscape Features S24 ('OLF-S24') overlay - Open Coastal Landscape Landward Edge Protection Yard. OLF-S24 is the identified land area adjoining the open coastline, zoned Rural and within 100m of Mean High Water Springs ('MHWS').

23. Most of this reserve land is also subject to the District Plan's Coastal Inundation Area (brown hatching) and is subject to flooding (blue hatch) (on edge of Three Mile Creek). There are no other hazards, archaeological sites or other features shown on the District Plan Maps.

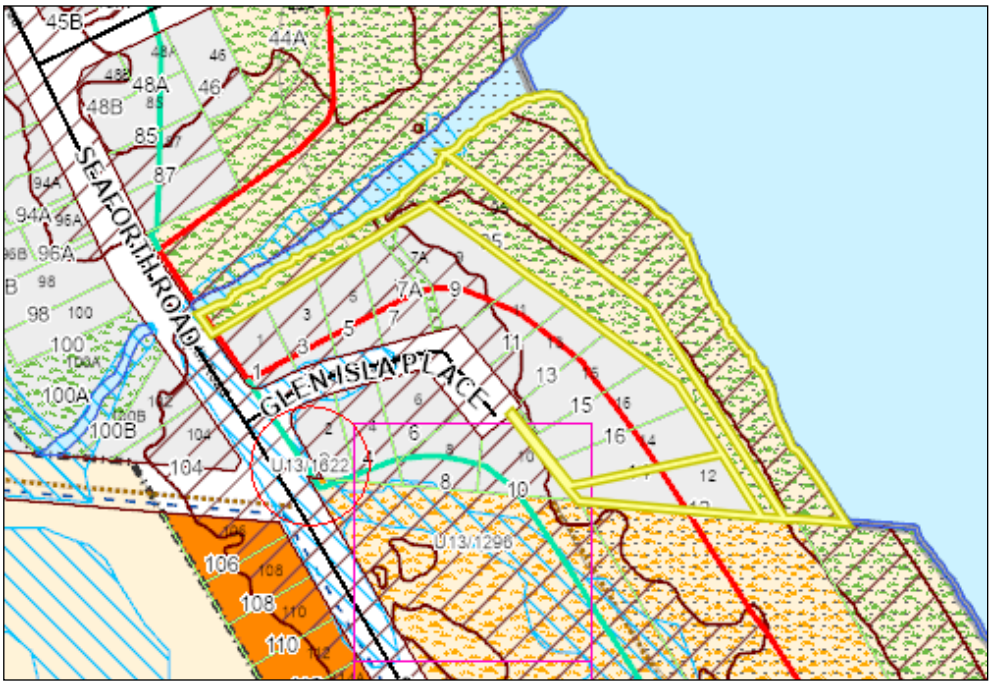

Figure 2: District Plan Map (Source: Western Bay of Plenty Operative District Plan 2012)

24. 2 Glen Isla Place is zoned Residential under Operative District Plan 2012. The eastern (seaward) half is in a Coastal Erosion – Primary Risk area, while the western half is in a Coastal Erosion – Secondary Risk area. The site's access and southern tip are in a Coastal Inundation Area and partly cover an archaeological site. Other hazard layers for this property include possible flood and liquefaction risk. The site contains a two-storey house and a detached garage with extra accommodation above. Past resource consents require a managed retreat if coastal erosion advances to a trigger distance.

25. Land directly south of the site (adjoining No. 12 Glen Isla Place) is Crown Land (Department of Conservation ('DOC')), held for conservation purposes and for the purpose of Recreation Reserve. This land parcel is zoned Rural Reserve (DOC Reserve) under the District Plan, and like the Site (reserve land) is subject to Outstanding Landscape Feature – s24 and IDBA-B (Outstanding Natural Biodiversity Area).

26. This DOC land has a 570m seaward frontage and is accessible from both the beach and Seaforth Road (via Island View Reserve – Council reserve).

27. Land to the north of the site consists of Three Mile Creek and reserve land. Council has an existing resource consent in place for this groyne (RM19-0613) which provides for the continued dredging of Three Mile Creek and deposition of sand spoil from that dredging is located seaward of the dunes in front of 9 Glen Isla

Place. This consent is exercised by WBOPDC every 1 or 2 months - refer dredging map in Figure 3.

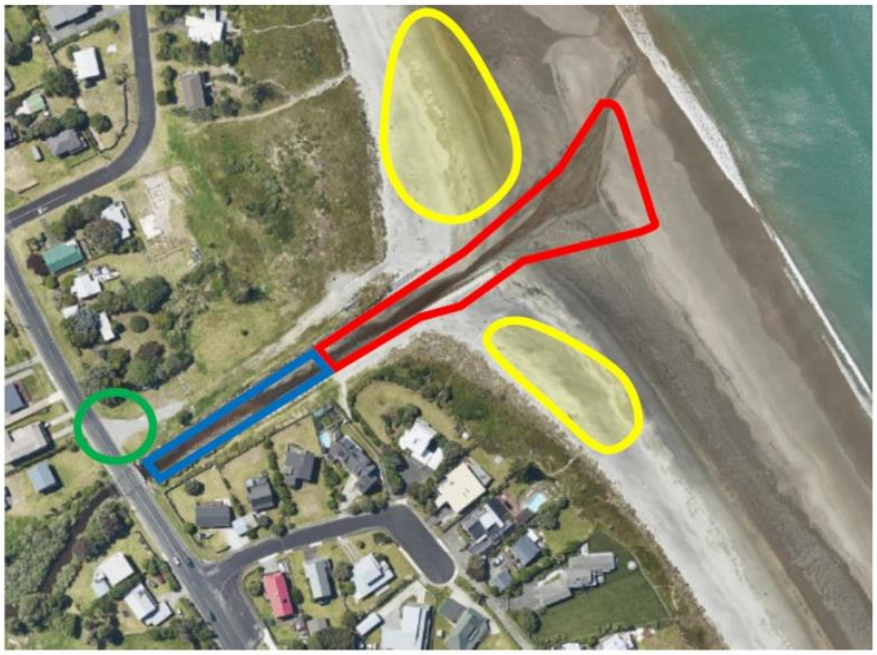

Figure 8. Three Mile Creek proposed excavation (blue: Zone A and red: Zone B) and deposition areas (yellow) and access point (green) (source: Bay of Plenty Maps)

Figure 3 – Three Mile Creek dredging map (Source: BOPRC resource consent RM19-0613)

28. Public access to the reserve land (and then subsequently the coastal environment) is identified at Figure 4 of the Application and includes a pedestrian access point from Glen Isla Place (between No's 7 and 9 Glen Isla Place) and via the creek which features geotextile sandbags on its southern side and access along the northern side, and through the wider reserve. Further north is the exposed rock revetment seawall in front of Shaw Road, consented under BOPRC permits 62912, 62913, 62914 and the WBOPDC land use consent.

Figure 4 – Indicative location of public beach access (Source: Application AEE)

4. BACKGROUND

History of Waihī Beach Protection Works

29. The table below (Figure 5) sourced from the Beca 2019 Waihī Beach Coastal Structures Review Report provides a good high-level summary of works and changes to the immediately surrounding coastline… This lends support to an obvious change in natural character to include various manmade structures.

Period	Area of Interest	High-Level Coastal Change
1942-1963	- Two-Mile Creek - Three-Mile Creek - Coronation Park	- Training walls established at either embankment of Two-Mile Creek. - Watercourse has been realigned to allow for waterfront housing to be established south of Three-Mile Creek. - Beachline appears to have receded further into Coronation Park, at Oceanview Road access.
1963-1969	- Two-Mile Creek - Three-Mile Creek	- Outfall section beyond training wall has realigned to run in parallel to the wall, as opposed to the previous established angle (1963). - Substantial vegetation south of Three-Mile Creek Mouth is noted.
1969-1974	- Three-Mile Creek	- Property development on area of previous vegetation.
1974-1982	No change of note from aerial photos.	
1982-1986	- Three Mile Creek	- Further housing establishment south of Three-Mile Creek. - Watercourse near highwater mark noticeably tracking north.
1986-1991	No change apparent from aerial photos. Section at 67A Shaw Road is notably close to beachline.	
1991-2005	- 45 Shaw Road - Two-Mile Creek - 10 The Loop - Three-Mile Creek	- Establishment of rock bunding apparent, extending south. Finishes at 95 Shaw Road. - Rock deposited at the southern bank, from 1 Seaforth toward the shoreline (~40m). Appears to have re-established previous watercourse at outfall. - Establishment of rock bunding apparent, extending south. Finishes at 36 The Loop. - Establishment of rock bunding apparent.
2005-2010	- Shaw Road - Rock bunding - Two-Mile Creek	- Evidence of training groynes placed along sections of the beach. - Further rock build-up is noted in areas outlined during 2005. - Watercourse below highwater mark is tracking north to 26 Shaw Rd.
2010-2016	- Dune Enhancement - Seawall - Two-Mile Creek - Three-Mile Creek	- Dune enhancement constructed in June 2011 and was completely washed away from a storm event. - Seawall established October 2011, spanning further south to 3 Edinburgh Street. - Significant clearing and straightening works occurred, over and above routine maintenance (ranging from 40m^3 to 250m^3). - ElcoRock sand bag embankment solution has straightened the outlet alignment. - Significant clearing and straightening works occurred, over and above routine maintenance (ranging from 40m^3 to 200m^3).

Figure 5: High-level summary of works and changes to the immediately surrounding coastline (source: Table 1, Beca Waihī Beach Coastal Structures Review 2019).

Existing Resource Consents

30. The site is subject to the recently granted BOPRC consent (RM24-0537-AP), dated 7 May 2025, which authorises earthworks and vegetation clearance for installation of a buried coastal protection structure and disturbance of the foreshore by the use of vehicles under the Regional Plan.

31. The site is also characterised and influenced by the following resource consents (or 'existing environment'):

Address & RC Reference #	Authorised Activity	Notable Conditions
Residential Activities		
9 Glen Isla Place RC401668L (September 2010)	Residential additions/ alterations outside existing footprint	Managed retreat (full set of conditions). Includes toe of dune monitoring and a requirement for a covenant or suitable legal mechanism on the certificate of title to reflect managed retreat conditions.
11 Glen Isla Place RC402277L (13 February 2003) RC402063L (5 April 2022)	Residential additions/ alterations outside existing footprint	Managed retreat (full set of conditions). Includes monitoring and a requirement for a covenant or suitable legal mechanism on the certificate of title to reflect managed retreat conditions.
13 Glen Isla Place RC40921L (12 March 1998)	Residential additions/ alterations within existing footprint	No specific conditions for managed retreat or relocation. B473152.1 Certificate that a building consent has been issued in respect of a building on the land that is described in Section 36(2) Building Act 1991 - 30.3.1998
15 Glen Isla Place RC13991L (October 2023) RC402480L (September 2003)	Residential additions/ alterations outside existing footprint	Managed retreat. Design and constructed to be readily relocatable and with sufficient access to achieve relocation. No monitoring condition.
16 Glen Isla Place RC1359L RC10989L (22 May 2019)	Residential additions/ alterations outside existing footprint	Managed Retreat. Design and constructed to be readily relocatable and with sufficient access to achieve relocation. Toe of the dune is being monitored.
14 Glen Isla Place RC10989L (22 May 2018) RC13391L (13 April 2022)	Residential additions/ alterations outside existing footprint, includes swimming pool	Managed retreat. Design and constructed to be readily relocatable and with sufficient access to achieve relocation. Reinstatement of ground contour following removal (pool).
12 Glen Isla Place RC3441L (9 March 2010) RC3838L (9 May 2011) RC11035L (11 July 2018)	Residential additions/ alterations outside existing footprint	Managed retreat (full set of conditions). Includes monitoring and imposition of a deed of

		covenant on the certificate to title for managed retreat.
Erosion Protection Measures (Three Regional Council Permits and WBOPDC Commissioner decision considered together)		
Rock revetment (62912) and Environment Court Decision 098/2007 Granted Minister of Conservation 26 April 2008.	1,015m rock revetment wall to replace an existing tipped rock and defunct steel and timber seawall (1,650m in length).	Condition 13 – Investigation of Long-Term Coastal Hazard Response Options. *"Prior to 31 December 2020 the permit holder shall undertake comprehensive investigations to determine the best practicable option for the long-term management of the coastal hazard risk at Waihī Beach".* The permit shall expire 30 November 2032.
Enhanced dune care (62913)	Construction of a dune system for the proposed rock revetment (62912).	This was a one-off activity for the initial establishment of dune restoration works.
Training groynes to control outflow from Three Mile Creek (62914).	Two control structures (4.5 tonne geotextile sandbags) to control the meander of the stormwater outlet.	Relevant conditions are discussed below.
Land use consent issued by the Commissioner for the Western Nay of Plenty District Council (as amended by Environment Decision A098/2007)	Undertake coastal protection measures along Waihī Beach shoreline including dune enhancement works, the construction of a rock revetment wall (seawall) and construction of training groynes at Three Mile Creek	The consent shall lapse on 30 November 2032.
RM19-0613 (2019) as varied by CH22-02525 (April 2024)	Remove material from the bed of Three Mile Creek and deposit sand for the purpose of preventing closure of the stream mouths and potential flooding.	This consent is exercised every 1 or 2 months or following a storm event. Dredged material can be placed seaward of the dunes in front of 9 Glen Isla Place.

Existing Consents for the Proposal		
Regional Council Resource Consent RM24-0537-AP (7 May 2025)	Construction activities associated with the proposed buried seawall. Activities authorised under this consent have a term of 10 years (May 2035).	Various to mitigate and manage adverse effects over the construction phase

Previous Seawall South of Three Mile Creek

32. In 1983 a seawall was constructed south of Three Mile Creek, approximately 20m seaward of the boundary of the Glen Isla Place properties. This seawall included gabion groynes that extended 12m from the wall at 40m centres. The seawall fell into disrepair in 2010.

33. In 2008 WBOPDC was granted regional consents 62912, 62913 and 62914 to for construction of a revetement structure, beach scraping works, large scale earthworks along Waihī Beach between Coronation Park (off Park Avenue) and the Domain (adjacent to Glen Isla Place) and the construction of two training groynes at Three Mile Creek. The subsequent Environment Court decision (098/2007) authorised a slightly shorter wall along Waihī Beach and beach nourishment of the dunes in front of Glen Isla Place.

34. The beach nourishment works on the dunes in front of the southern properties at Glen Isla Place were carried out in 2011, and remnants of the previous seawall were removed at this time. Within weeks, the works were washed away by a severe storm. No further beach replenishment was carried out under this consent.

35. In Section 2.0 of the Application, it states that significant erosion of the remaining dune area occurred during Cyclones Hale and Gabrielle in early 2023 which resulted in the loss of up to 3m in horizontal dune width. A total loss of up to 15m of dune has occurred since 1983. The historic accretion and retreat of the shoreline is understood from Figure 3.5a of the Applicant's Coastal Processes Assessment.

Overall Site Observations

36. The site and nearby coastal area show a mix of natural features and residential development. Refer to figures 6 & 7 for site visit photos. The monitored dune toe is about 34 to 41 meters from the shore at Glen Isla Place, with dune widths varying from 4–5 meters to around 20 meters near Three Mile Creek. The area has experienced erosion from natural processes and storms, leading to the installation of protective structures like groynes, walls, and rock revetments. These structures, which shape the area's altered coastal character, were built before the 2010 Coastal Policy and are scheduled for review in 2032, with options ranging from removal to retention.

37. During periods of high stormwater flow and high tides, the most reliable public access is through the reserve on the northern side of the creek as this route offers a more obvious, safer and consistent access to the coast.

38. The built profile of residential properties in the primary and secondary hazard risk zones are also a part of the sites modified coastal character. Much of these were established before the physical characteristics of the beach environment were understood as they are today.

39. Existing consents in place for six of the GIPS properties include conditions for relocation/managed retreat when the toe of the dune is at 8m from their seaward boundary. Council actively monitors and reports on this requirement to retreat every two years. For Waihī Beach this is done in April on a biannual basis.

Figure 6 – Site Visit Photo (20 October 2024) - Taken from the northern end of the reserve and dunes, adjacent to Three Mile Creek

Figure 7 – Site Visit Photo (20 October 2024) - Taken near the northern end of reserve of the dunes facing north-west

5. THE PROPOSAL

40. The Aplicant, has applied to the WBOPDC for resource consent for the construction of a coastal protection structure and associated activities undertaken mostly on the Council recreation reserve at 95 Seaforth Road (Lot 18 DPS 22035), the adjoining esplanade reserve at Lot 19 DPS 22035 and 12 Glen Isla Place, Waihī Beach.

41. In October 2023, GIPS sought and gained conditional approval in principle to construct a rock revetment on Council owned reserve land. The approval in principle is subject to obtaining all necessary resource consent(s), subject to consents and construction being fully funded by the property owners and subject to agreement with Council on operational costs and responsibilities.

42. The application sets out that the intent of the coastal protection structure is to protect the reserve land and adjacent properties at Glen Isla Place from further erosion and to future proof the properties from the effects of sea-level rise.

43. The proposed activity is described in full at Section 4 of the Application and can be summarised as follows:

44. The proposed coastal protection structure is approximately 200m in length and runs generally parallel to the seaward residential boundaries of 9 and 11-16 Glen Isla Place. At the southern end, a return wall continuing approximately 21m landward is proposed within 12 Glen Isla Place, with no construction works extending into the neighbouring DOC reserve area.

45. The works will be set back from the property boundaries of 12, 14 and 16 Glen Isla Place by approximately 5m. The setback will then increase to approximately 7.6m (intentionally from the Norfolk Pine) between 11 and 13 Glen Isla Place and then decrease towards the northern end to approximately 6.5m. The design is shown in Figures 8 & 9 below and can be summarised as:

a) Type 1 buried rock riprap wall of 104m in length (southern section).

b) Type 2 buried rock riprap wall of 92m in length (northern section)

c) Southern stabilised sediment beam return, located partially within 12 Glen Isla Place.

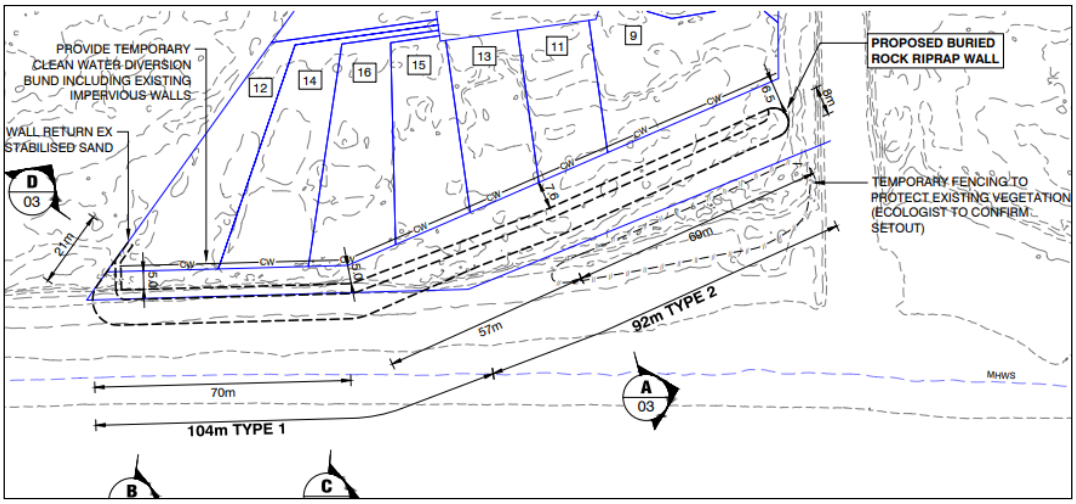

Figure 8: Proposed layout of the coastal protection structure (Source: Davies Coastal Consultants Section 92 response)

46. The estimated area of disturbance associated with construction is approximately 2,500m^2. The proposal seeks to minimise the extent of land disturbance and vegetation removal through a staged approach. The construction will be undertaken within a dedicated 'construction trench'.

47. The crest level is to be approximately RL 3.5m and the base of the structure is proposed to be constructed at approximately RL 0.0m.

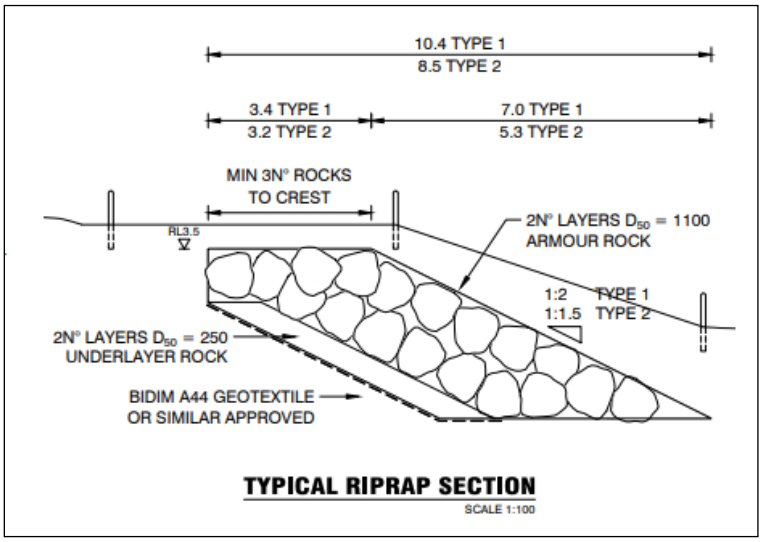

Figure 9: Typical cross section (Source: Davies Coastal Consultants Section 92 response)

48. The structure will be constructed out of Andesite sourced from a local quarry at Waihī Beach. A construction methodology has been provided with the application.

49. Construction access for the delivery of machinery and rock is proposed through the Council reserve at 91 Seaforth Road (refer Figures 1 and 3). Rock delivery will be by rubber tyred trailer through the reserve and along the beach seaward of the groynes. All machinery and equipment will remain on-site for the duration works, along the structure alignment.

50. Noise and vibration monitoring will be undertaken while works are occurring.

51. The works is anticipated to be completed in 4 months; however an allowance of 6 months is proposed by the Applicant to accommodate periods of inclement weather, and other unforeseen issues. Works are proposed to occur between the months of April and November.

52. At the completion of construction, the structure will be buried under at least 0.5m of sand and planted with native dune species in accordance with a proposed planting plan.

53. It is the intention that the structure will be vested to Council's Reserves and Facilities department who will then continue to provide for the management and maintenance of the structure, in accordance with an agreement between Council and GIPS.

6. NOTIFICATIONS AND SUBMISSIONS

Notification

54. At lodgement the Applicant requested that the application be processed under public notification pursuant to Section 95A of the RMA.

55. A copy of the notification decision is included in **Attachment 4**.

56. Notification was served on 16 January 2025 by the Council on identified affected persons, including Bay of Plenty Regional Council, Department of Conservation, Fish & Game New Zealand, Heritage New Zealand, New Zealand Coastal Society, local iwi and hapū groups and Marine and Coastal Area Act (MACAA) applicants adjacent to the proposed works.

57. On 16 January 2025 a public notice was published in the local Bay of Plenty Times newspaper. The application and notice were also available on Council's website and a hardcopy of the application was made available at Waihī Beach Library & Office.

Submissions received

58. The submission period closed at 5pm on 28 February 2025. A total of 29 submissions were received by the Council within the statutory/submission time period. There were no late submissions. In total 28 were in opposition and 1 neutral. Of those, 12 submitters indicated they wish to be heard at the hearing.

59. Maps showing the submitters in relation to the application site is included in Figure 10 below.

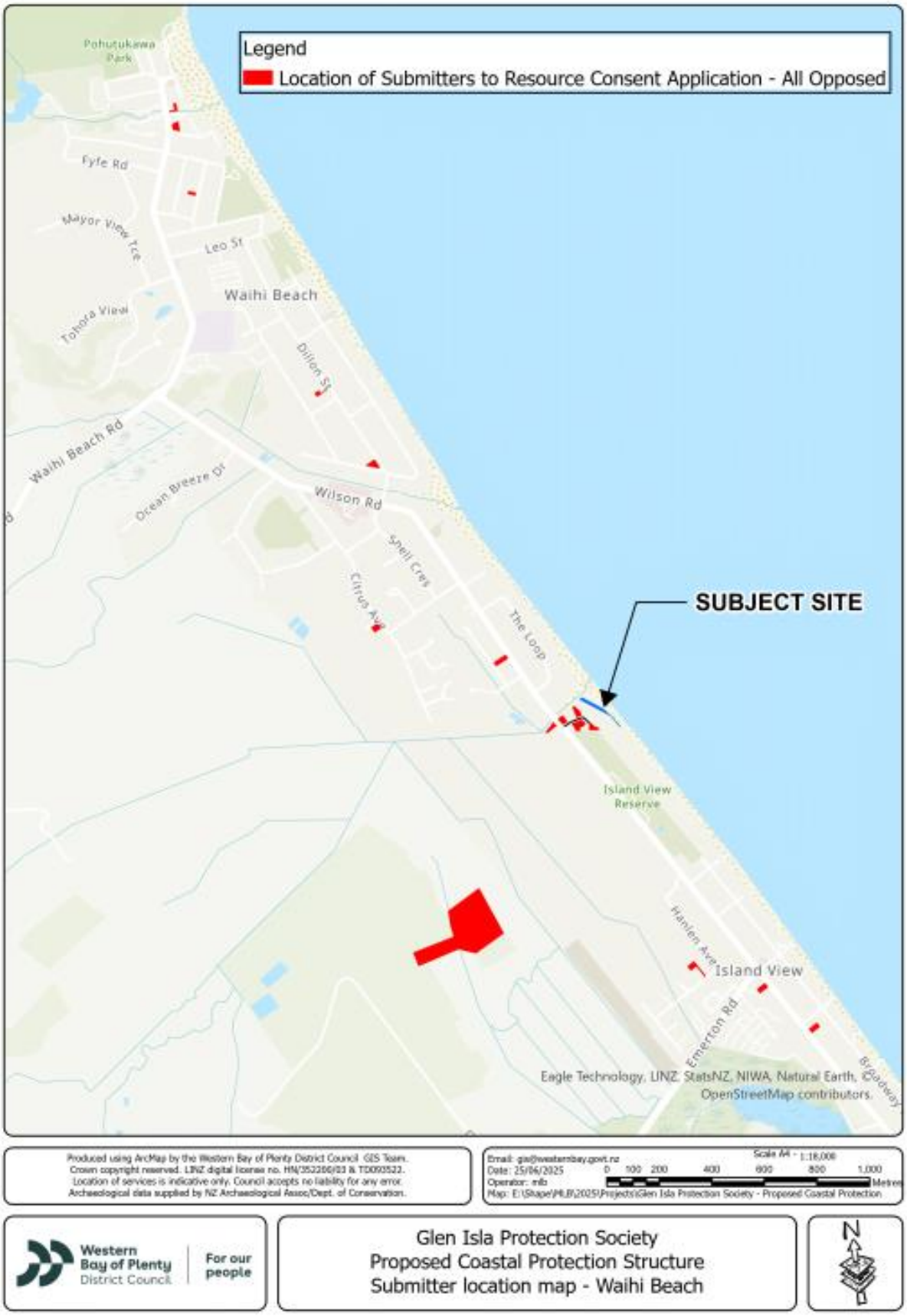

Figure 10: Submitter location map.

Matters raised

60. A summary of all submissions received is included as **Attachment 7** and the submissions in full are provided at **Attachment 8**.

61. Further, summaries of the key issues and themes raised by submissions are outlined below.

Coastal Processes and Hazards

62. One neutral submission took the view that there is a need for coastal protection and to protect private property, with further consideration of a soft engineered solution over hard structures.

63. Of those opposed - 26 submissions raised concerns with coastal process and hazards aspects of the application

64. The common themes included:

- Detrimental changes to the foreshore, including scouring, erosion behind the wall, and loss of beach width and volume.
- Disrupt natural coastal processes, such as erosion, accretion, and sediment transport, leading to destabilization of adjacent shorelines and sediment starvation.
- Increase erosion and flooding risks for neighbouring properties and public land, especially at the ends of the structures ("end effects").
- Often not sustainable long-term and may require ongoing maintenance as rocks settle or shift.
- Prevent the natural movement and recovery of dunes and beaches, interfering with natural cycles of erosion and accretion.
- The removal or alteration of dunes for wall construction poses additional erosion risks.
- Healthy, naturally regenerating dunes and sand build-up already provide effective protection and habitat.
- Irreversible damage to the natural beach and dune systems, including loss of habitat and increased vulnerability to storms.
- Lack of evidence supporting urgent need for hard engineering as a first solution.
- No adequate consideration of soft engineering alternatives, such as dune restoration, sand push-ups, and coastal planting, which are seen as more adaptive and environmentally friendly.
- Effectiveness of soft protection approaches.

- Design and placement of the wall may deflect seawater, increasing flood risk to specific areas (e.g., Three Mile Creek).
- Quality and durability of materials proposed concerns about long-term effectiveness.
- Lack of analysis on 'end effects' or storm surge risks.
- Preference for natural processes and use adaptive, non-intrusive management strategies rather than relying on expensive, hard structures.
- Restoration and rehabilitation of dunes, rather than containment by hard engineering for long-term coastal resilience.

Amenity, Landscape and Visual effects

65. 17 submissions raised concerns with amenity, landscape and visual effects aspects of the application

66. The common themes included:

- Loss of natural character and amenity values for beach users.
- Rock wall becoming exposed, lowering the beach level, reducing amenity, and creating an unsightly, hazardous, and unnatural appearance.
- Sourced boulders and coarse rock are inconsistent with the natural sand dune systems, leading to a loss of natural environment valued by the community.
- Structure will dominate the landscape as sand is stripped away
- Loss of dunes and existing vegetation will prevent the area from returning to its natural state and will not improve the ecological or natural character of the dunes.
- The width of the wall will remove more vegetation than anticipated
- Old and exposed walls are unsightly and hazardous, the proposed wall is not a long-term fix, resulting in a mess to clean up for future residents.
- No alternatives, remedies, or mitigations are offered for amenity concerns, will sand and planting provide lasting cover or benefit.
- Effectiveness of remediation planting and sand cover, especially given past failures in the area.
- Strong disagreement that the proposal will result in net ecological benefit or predominantly positive effects on natural character, landscape, and visual amenity, especially as the wall becomes increasingly exposed over time.

Ecology

67. 17 submissions raised concerns with ecological aspects of the application.

68. The common themes included:

- Destruction or disruption to nesting and feeding habitats for endangered birds, especially the Northern New Zealand Dotterel (Tūturiwhatu), in one of only two viable breeding sites at Waihī Beach.
- Impacts on breeding site not adequately assessed due to surveys being conducted outside the breeding season.
- Hard structures impede natural vegetation growth, reduce ecological connections between dune systems, and alter sediment transport, degrading the beach ecosystem and making it unsuitable for both wildlife and recreation.
- Currently no effort by applicant to support healthy dune systems.
- Dune planting dismissed based on past failures without considering comprehensive management plans that include weed control, adaptive planting, and contingency measures.
- Needs to be effective management of exotic weeds and pest animals.
- Island View Reserve and Waihī Beach Outstanding Natural Feature (s24) could suffer irreversible damage and undermine the natural character of a region recognized for its ecological value.
- Effectiveness of mitigation measures like sand cover and planting, risk that enhancement planting will be damaged or lost to storms and wave surge.
- No alternatives or remedies offered for loss of ecological values.

Cultural Effects

69. While the application was notified directly to local iwi and hapu groups no submissions were received in relation to cultural effects.

Transportation and Site Management

70. Five submissions raised concerns with transportation and site management aspects of the application

71. The common themes included:

- Transportation volume and access during construction period.
- Heavy vehicle use causing damage to roads and property.
- Conflict with pedestrian and cyclists at the access point.

Noise and Vibration Effects

72. Seven submissions raised concerns with noise and vibration aspects of the application

73. The common themes included:

- Noise and vibration during construction
- Damage from vibration to private property

Reserves and Public Access

74. Submissions raised concerns with reserve and public access aspects of the application

- Nine submitters raised concerns with the costs and responsibility to Council and ratepayers of the future maintenance and remedial costs.
- 20 submitters raised concerns with the location of the structure on public reserve land rather than within the applicant's private property.
- 10 submitters raised concerns with the impact on public access along the beach in the future at high tide as the structure becomes exposed due to scour.

General Matters

75. Finally, there were many submissions with points that could not be grouped under the preceding topics.

- 18 submitters considered the application to be contrary to the New Zealand Coastal Policy Statement, the objectives and policies of the District Plan, the Bay of Plenty Regional Policy Statement.
- Other concerns also included setting a precedent for other hard structures and safety for swimmers.

Written approvals obtained

76. The following persons, from GIPS, have provided their written approval to the application, included in **Attachment 9**.

- 9, 11, 12, 13, 14, 15 and 16 Glen Isla Place.

77. Any effects on the other persons are disregarded.

78. In October 2023, GIPS sought and gained conditional approval in principle to construct the proposed coastal protection structure on Council owned reserve land. This approval is subject to the grant of the appropriate resource consent, subject to consents and construction being fully funded by the property owners and subject to agreement with Council on operational costs and responsibilities. This is not a written approval for the purpose of this resource consent application.

7. PLANNING FRAMEWORK AND ACTIVITY STATUS

79. The notification date of the Western Bay of Plenty Operative District Plan was the 16 June 2012, and all appeals have been resolved. Council has notified a number of plan changes since this time, with all now being operative.

80. The resource consent requirements of the activity against the Western Bay of Plenty Operative District Plan 2012 were included in Section 5 of the Application. This has been reviewed and was incomplete. A more comprehensive outline of the reasons for consent is included below.

81. An assessment of the application against the provisions of the Operative District Plan 2012 has identified the following reasons for resource consent.

82. The coastal protection structure is defined in the District Plan as a "Building/Structure" which includes *'Any retaining wall or breastwork exceeding 1.5m in wall height (whether above or below ground level)'*. The coastal protection structure would be considered 'breastwork' for the purposes of the District Plan definition and exceeds 1.5m in height.

83. The Coastal Erosion Area – Rural means land adjoining the open coastline, zoned Rural and within 100m of Mean High-Water Spring (MHWS).

84. The Applicant has identified permitted activities in terms of the Transportation and Signs rules of the District Plan. Construction Noise is to be in accordance with Rule 4C.1.3.1 and shall not exceed the noise limits in accordance with the requirements of NZS 6803:1999 Acoustics – Construction Noise. The applicant has indicated compliance, and Council concurs subject to the standards being met.

Activity Status - Operative District Plan 2012

85. In accordance with Rule 4A.5(b) of the Operative District Plan 2012, The earthworks associated with the coastal protection structure in the Rural Zone are a **Discretionary Activity**.

86. In accordance with Rule 6.4.3.1(b) of the Operative District Plan 2012, Buildings/Structures excluding the Matakana Island Open Coast (S25) within an Identified Natural Features and Landscape, in this case S24 - Open Coastal Landscape Landward Edge Protection Yard, are assessed as a **Restricted Discretionary Activity**.

87. In accordance with Rule 6.4.3.1(d) of the Operative District Plan 2012, native vegetation clearance excluding the Matakana Island Open Coast (S25) within an Identified Natural Features and Landscape, in this case S24 - Open Coastal Landscape Landward Edge Protection Yard, are assessed as a **Restricted Discretionary Activity**.

88. In accordance with Rule 8.3.3(c)(i) of the Operative District Plan 2012, Buildings/Structures not within an Approved Building Site – Natural Hazards in the Coastal Inundation Area are assessed as a **Restricted Discretionary Activity**.

89. In accordance with Rule 8.3.3(c)(ii) of the Operative District Plan 2012, earthworks over $5m^3$ in the Coastal Inundation Area are a **Restricted Discretionary Activity**.

90. In accordance with Rule 8.3.3(c)(iii) of the Operative District Plan 2012, block walls in the Coastal Inundation Area are a **Restricted Discretionary Activity**.

91. In accordance with Rule 8.3.4(a)(i) of the Operative District Plan 2012, Buildings/Structures not within an Approved Building Site – Natural Hazards in the Coastal Erosion Areas – Primary Risk and Rural are a **Discretionary Activity**.

92. In accordance with Rule 8.3.4(a)(iv) of the Operative District Plan 2012, coastal and river protection works including groynes and sea walls in the Coastal Erosion Areas – Primary Risk and Rural are a **Discretionary Activity**.

93. In accordance with Rule 13.4.1(c)(ii) of the Operative District Plan 2012, all Buildings/Structures in the Residential zone shall be located a minimum of no less than 1.5m from a side or rear boundary. The revetment return within 12 Glen Isla Place will be located up to the Council reserve boundary at 95 Seaforth Road and DOC reserve boundary at 127 Seaforth Road. This performance standard non-compliance requires resource consent for a **Restricted Discretionary Activity** pursuant to Rule 13.4.1.

94. In accordance with Rule 18.4.1(c)(ii) of the Operative District Plan 2012, all other Buildings/Structures in the Rural zone must be located a minimum of 5m from a side or rear boundary. The revetment return will be located up to the boundary of 12 Glen Isla Place (written approval provided) and the DOC reserve at 127 Seaforth Road. This performance standard non-compliance requires resource consent for a **Restricted Discretionary Activity** pursuant to Rule 18.3.3(a).

95. RMA case law has established that where a proposal involves a number of activities with varying activity status, the activities should be "bundled", with the most onerous activity status applying to the whole proposal. the application is assessed as a **Discretionary Activity**.

RMA Section 91 Matters

96. The structure is situated above Mean High Water Springs (MHWS) placing it outside the Coastal Marine Area (CMA) (refer Figure 11). Consent was required from the Bay of Plenty Regional Council (BOPRC) for earthworks and vegetation clearance associated with its installation and for foreshore disturbance by the use of vehicles (RM24-0537-AP). The structure itself does not require a regional resource consent from BOPRC, given its location outside of the CMA.

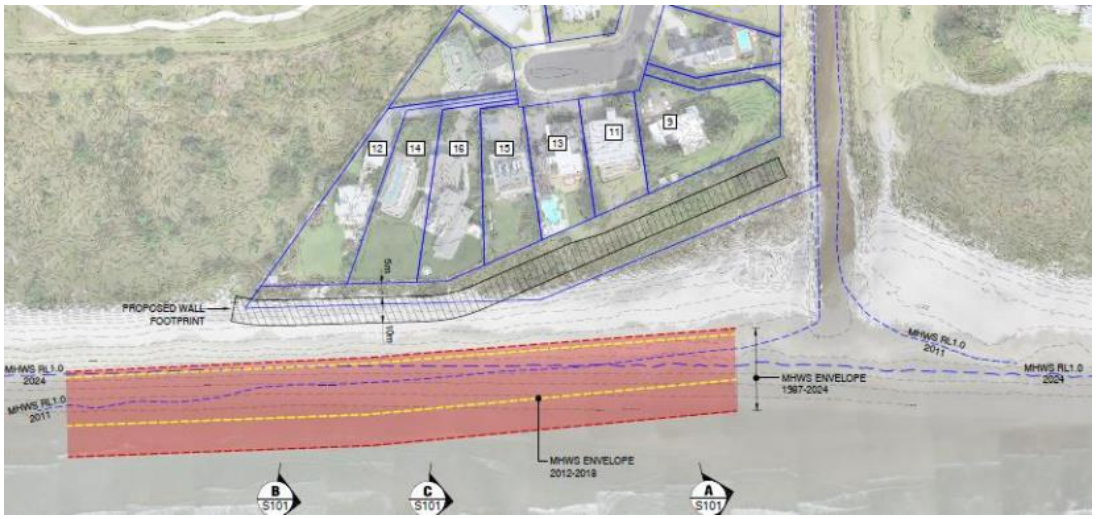

Figure 11: Historic extent of MHWS 1987-2024 (Source: Figure 15 in the Application)

97. BOPRC granted Resource Consent RM24-0537-AP on a non-notified basis on 6 May 2025. The consent was granted with a 10-year timeframe (expiry 31 May 2035). A copy of this decision is included as **Attachment 10**.

8. STATUTORY CONSIDERATIONS

Section 104 of the RMA – Consideration of Applications

98. Section 104(1) of the RMA sets out the requirement for consideration of applications.

99. The requirements of Sections 104(1)(a) to 104(1)(c) of the RMA are considered within this report.

100. RMA s104(3)(a)(ii) requires that decision makers have no regard to effects on persons who have given their written approval to the application. This includes and is limited to the GIPS property owners.

Section 104B of the Resource Management Act 1991 – Determination of applications for discretionary or non-complying activities

101. Section 104B of the RMA states:

> *After considering an application for a resource consent for a discretionary activity or non-complying activity, a consent authority —*
>
> *(a) may grant or refuse the application; and*
>
> *(b) if it grants the application, may impose conditions under section 108.*

102. The requirements of Section 104B of the RMA is considered within this report.

Permitted Baseline

103. Pursuant to Section 104(2) of the RMA, a consent authority may disregard an adverse effect of the activity on the environment if a National Environmental Standard or the Plan permits an activity with that effect. This is the permitted baseline.

104. Having reviewed the District Plan, I have not been able to find a relevant and credible permitted baseline, given the natural hazard overlays. Accordingly, no permitted baseline will be applied in the assessment below.

The Existing and Receiving Environment

105. When considering the effects of the proposal on the environment, it is appropriate and necessary to consider the changing nature of the "receiving environment". The receiving environment consists of the existing environment and the future or reasonably foreseeable environment' (as modified by permitted activities).

106. The existing environment at the time of resource consent incudes:

a. The future state of the environment as it might be modified by the utilisation of rights to carry out permitted activities (i.e. the permitted baseline); and

b. The environment as it might be modified by implementing resource consents that have been granted at the time a particular application is considered, where it appears likely that those resource consents will be implemented.

107. The exercise of any resource consents will form part of the existing environment in which the effects of the activity can be measured (this includes managed retreat). For consents with a finite term, the environment does not automatically include the effects of these consents beyond expiry unless it is likely that they will be renewed on similar terms. The nearby seawall and groyne consents have finite terms.

108. The exercising of the erosion protection consents listed above have altered the natural character of Waihī Beach.

9. ASSESSMENT OF THE EFFECTS ON THE ENVIRONMENT

Matters to be considered

109. In having regard to the application (including further information) and the submissions received, matters considered to be relevant for consideration by Council relate to the following general topics which are further discussed in this report:

- Construction Activities including, noise and vibration, transport and access
- Ecology
- Landscape, Natural and Visual Character
- Coastal Processes and Hazards
- Reserves and Public Access
- Cultural
- Positive effects

Actual and Potential Effects on the Environment – Section 104(1)(a)

110. This section provides an assessment of actual and potential effects of the proposal on the environment. The assessment is based on information provided in the resource consent application (AEE), further information provided by the Applicant in response to section 92 requests and advice from WBOPDC specialists.

111. The resource consent sought is for a Discretionary Activity, therefore Council's discretion is unrestricted. Council shall consider any relevant matter with particular regard to the relevant national and local planning/policy framework.

112. Effects of the activity should be considered under the relevant statutory provisions.

113. Pursuant to Section 42A(1B)(b) of the RMA, the information contained in section 7 – Schedule 4 RMA – Assessment of Environmental Effects, of the application is 'generally' adopted with those matters requiring further comment, discussed below.

Construction Activities including Noise and Vibration, Transport and Access

114. Construction methodology is set out in section 4.2 and Appendix H of the Application.

115. The Applicant's overall construction approach is to undertake and manage construction works within a specifically designed trench to minimise disturbance to the dunes as far as practicable, maintain public access as much as practically possible, restrict activities below MHWS associated with vehicle movements, fence off the 'northern spinifex foredune' area and adhere to the parameters of the works as detailed at their Appendix H of the Application.

116. Noise and vibration effects across the construction phase are detailed in the 'Noise and vibration trial summary' prepared by Marshall Day Acoustics (Appendix I of the Application) and further information responses from Marshall Day.

Focus of the Assessment

117. At the outset I note that the construction activities were the focus of Regional Council resource consent RM24-0537-AP which forms part of the existing environment. Specifically, the Regional Council consent considered (and was limited to):

a) The land and vegetation disturbance activities associated with establishing the structure within sand dune country within 50m of the Coastal Marine Area.

b) The stabilisation and revegetation of the land disturbed as a result of the earthworks and vegetation clearance until such time as it is stabilised and revegetated suitably to remedy the effects on the IBDA-B from the earthworks and vegetation clearance. This included consideration of ecological, water quality and natural character/ landscape effects associated with the land disturbance.

c) Effects from the use of vehicles on the foreshore. This included consideration of potential for damage to dunes, shellfish and nesting birds, and water quality, noise and vibration effects on the CMA.

118. There are some construction effects to be considered by WBOPDC, notably the potential effects resulting from earthworks and vegetation clearance in the dune. These include noise and vibration, transportation and access.

Construction Noise and Vibration

119. This is assessed in section 6.7 of the Application and accompanied by the noise and vibration trial summary prepared by Marshall Day Acoustics (Appendix I of the Application) and the section 92 responses.

120. The following aspects of the proposal have the potential to generate adverse noise and vibration effects:

- Use of machinery, vehicles and equipment.
- The tipping of large rocks onto the sand as per the Applicant's Construction Management Plan.

121. Construction noise is captured in Rule 4C.1.3.1 of the District Plan, which states that "*Construction noise shall not exceed the noise limits in, and shall be measured and assessed in accordance with the requirements of NZS 6803:1999 Acoustics – Construction Noise*".

122. The District Plan does not contain any vibration performance standards and in the Explanatory Statement of Section 4C.1 - Noise and Vibration, identifies that "*Vibration from activities has not been an issue in the District. In many cases Council can manage vibration effects through the management of noise*

emissions or through the provisions of the Health Act. Specific standards to manage vibration are therefore not proposed".

123. The Applicant has chosen to adopt German Standard DIN 4150- 3:2016, designed to avoid damage to buildings (including cosmetic damage).

124. Opposing submissions were received from 7 submitters who raised concerns with noise and vibration during construction and the potential for damage from vibration to private property.

Peer Review comments on Noise and Vibration

125. The Applicant's noise and vibration trial report has been peer reviewed by independent acoustic specialists, Jamie Exeter and Jon Styles of Styles Group, on behalf of Council (included in **Attachment 11)**.

126. I rely on Mr. Exeter and Mr. Styles assessment of the actual and potential noise and vibration effects in relation to the activity including a review of the Noise and vibration trial summary and the s92 responses.

127. Mr. Exeter and Mr. Styles have summarised that/the following:

- *"The proposal seeks consent for infringements of the permitted construction noise limits at the sites where written approval has been provided. We have disregarded any potential construction noise and vibration effects on these sites. For all other sites the proposal is to comply with the WBPDP permitted construction noise limits.*
- *The acoustic advice provided with the application demonstrates that the noisiest construction activities can comply with the permitted construction noise limits at any potentially affected site provided the work is only undertaken between the hours of 07:30 and 20:00 Monday to Friday and 07:30 and 18:00 on Saturdays. There is no assessment of the proposed activities outside of these hours.*
- *In the absence of any WBPDP standards we agree with MDA that the guidelines vibration values of DIN 4150-3:2016 are appropriate vibration limits for the project to avoid building damage. Vibration will be noticeable at affected properties."*

128. Mr. Exeter and Mr. Styles also reviewed the submissions and identified that:

- *"Submitters have raised general concerns about construction noise and concerns about potential building damage from vibration. We consider that construction noise levels will remain reasonable if the permitted construction noise limits are complied with at all potentially affected sites. Based on the guidance of DIN 4150-3:2016, we do not expect vibration from the proposed work to cause damage in any building. However, we*

recommend that the CNVMP requires vibration monitoring be undertaken to address concerns raised by submitters".

129. Overall Mr. Exeter and Mr. Styles concluded that

- *"We have recommended conditions based on our review of the information provided and our experience with similar construction projects. We consider that noise and vibration generated by the proposed construction work will not cause unreasonable disturbance at any potentially affected site if our recommended conditions are adopted".*

130. The recommended consent conditions, if the consent should be granted, are that a Construction Noise and Vibration Management Plan (CNVMP) be implemented, advising surrounding building of the work, hours of construction noise and vibration, compliance with the vibration construction standards and vibration monitoring. I endorse those recommended conditions.

Planner's Conclusions on Noise and Vibration Effects

131. The District Plan seeks to provide an environment free of unreasonable noise in accordance with the character and amenity of the zone with which the noise is generated and received.

132. In giving regard to the assessment above, and the recommendations from Mr. Exeter and Mr. Styles, I am of the opinion that the construction noise and vibration effects can be adequately managed through appropriate conditions of consent to an acceptable level.

133. I note that submissions raised concerns about noise and vibration during construction and damage to buildings from vibration and it is noted that these are proposed to be controlled by the CNVMP, hours of construction and vibration monitoring.

134. Having regard to the consent conditions proposed by Mr. Exeter and Mr. Styles, I am of the opinion that the noise and vibration construction and maintenance effects can be adequately mitigated through the conditions of consent to ensure the effects will be less than minor.

Construction Transport and Access Effects

135. This is assessed in section 6.5 of the Application however no specific Transportation Assessment has been provided.

136. The following aspects of the proposal have the potential to generate adverse transportation and access effects:

- Transportation of rock material and equipment through the road, reserve and foreshore
- Conflict of truck movements with public access through reserve and foreshore.

137. Traffic movements can be summarised as follows:

- The primary construction access for delivery of machinery and rock material will be through the Council reserve located at 91 Seaforth Road, on the northern side of Three Mile Creek.
- Rock will be sourced from the quarry located at 579 Waihī Beach Road. Trucks will travel east down Waihī Beach Road, south along Wilson Road, through the Waihī Beach town centre and south along Seaforth Road to the reserve access at 91 Seaforth Road. The travel distance is approximately 3.6km.
- Rock material will be delivered by rubber tyred trailer through the reserve and along the beach seaward of the groynes as shown in Figure 12.
- The access from Seaforth Road has a wide and open access with clear sightlines in both directions and provides clear access to the foreshore.
- Access on the foreshore will be required around the seaward side of the groynes located either side of Three Mile Creek and will be tidally limited.
- An excavator will also be delivered to the site at the start of the project through the same access and left on site for the duration of the construction, the location is shown in Figure 12.

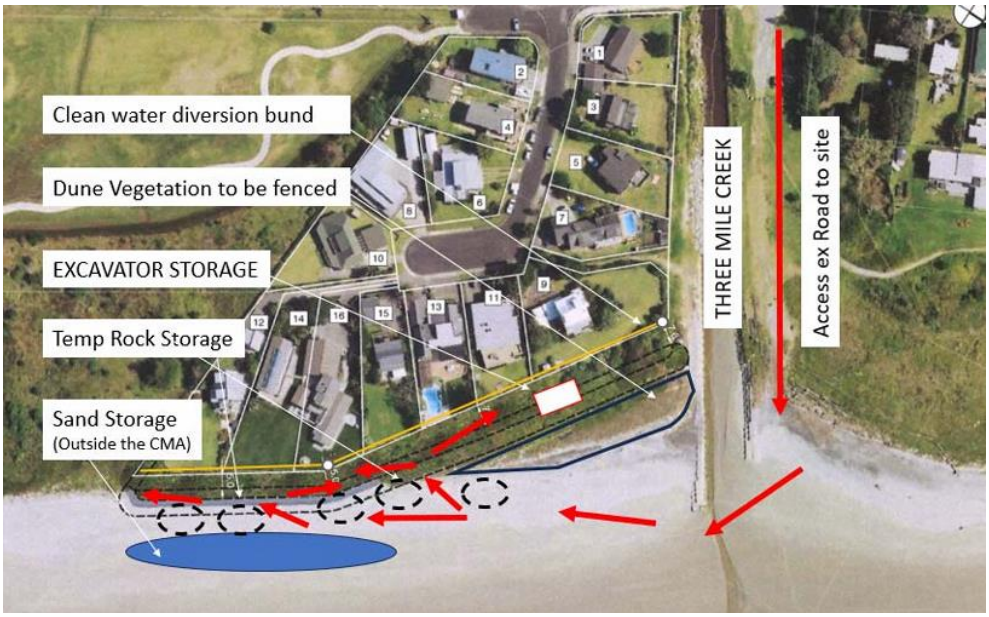

Figure 12 – Indicative access through the Reserve, excavator storage and rock and sand stockpiles (Source: Application AEE)

138. Section 4B of the District Plan pertains to transportation and access. It outlines rules and standards ensuring these matters are managed safely and efficiently.

139. Seaforth Road is a collector road under 4B.4.1. There are no specific rules in relation to the use of the existing access and traffic from the construction activities.

140. The intersection to Glen Isla Place is located 60m to the south of the access and there are clear sightlines in excess of 100m along Seaforth Road from the access point.

141. The application states that the access is sufficiently wide to accommodate turning trucks and sufficient space within the reserve to provide manoeuvring.

142. The access will be used intermittently for the delivery of machinery and construction materials, with the timing of construction being limited to the winter months when general the traffic in Waihī Beach is less busy.

143. Opposing submissions were received from 5 submitters who raised concerns with transportation and site management aspects of the application including compromised public access, use of the public reserve and beach during construction and damage to roads by vehicle use.

Peer Review comments on Transportation and Access effects

144. The Application did not include a Transportation Assessment or Traffic Impact Assessment however Councils' Road Safety Engineer has undertaken a review of the application and has provided a memo, see **Attachment 12**.

145. I rely on Ms. Browne's assessment of the actual and potential transportation and access effects in relation to the proposal.

146. Ms. Browne has summarised that/the following:

> *The key issues for Transportation are limited to*:
>
> - *the effects during the construction activity, and*
> - *the ongoing and future maintenance of the sea wall.*

147. Ms. Browne notes that the rock material will be transported from the quarry along a 2.6km long route to the site utilising Wilson Road and Wahi Beach Road.

148. On transportation Ms Browne notes:

> *Alternative routes include using Citrus Ave, however this is a local residential street and less suitable to heavy vehicle movements. The route via SH2 is 20.6km in one direction, and would add significant travel time and costs to the movement of rocks from the quarry to site. It will also increase the exposure of heavy vehicles traveling that route with other traffic.*
>
> *It is expected that there will be additional heavy vehicle movements, but these will be limited in number and frequency for delivery of other construction materials (such as geotextile materials, additional fill materials and construction items that may be required).*
>
> *It is expected that the construction will take 4 months between April 2025 and November 2025. The work hours will be kept to within 7.00am to 5.00pm Monday to Friday. However, the work is reliant on tides and storms, and the*

work may require extended working hours for up to three days a week every two weeks, including Saturdays. No work will take place before 6am or after 8pm.

149. With regard to site access Ms. Browne notes:

- *The proposal utilises an existing vehicle access to Three Mile Creek Reserve.*
- *The access will be used intermittently for the delivery of machinery and construction materials.*
- *the same access point used by WBOPDC contractors for maintenance and dredging activity within Three Mile Creek.*

150. In review of the submissions the following themes related to transport and access are identified:

- Transportation volume and access during construction period.
- Heavy vehicle use causing damage to roads and property.
- Conflict with pedestrian and cyclists at the access point.

151. In response to submissions Ms. Browne notes:

- Truck volumes will be 8-10 movements per day.
- A construction management plan will consider how movements will be managed to minimise adverse effects on Seaforth Road.
- A condition can be included to monitor and repair any damage to the road or reserve directly attributed to the truck movements.
- The construction management plan proposes a separate walkway space be maintained clear of the truck access. There may be short term temporary restrictions which will be managed by the Construction Management Plan.

152. She recommends four consent conditions, if the consent should be granted, to restrict the time for heavy vehicle movement, the use of a Construction Travel Management Plan (CTMP), repair of damaged roads directly associated to the heavy vehicle movements, and allowance for future maintenance requiring a CTMP.

153. Overall Ms. Browne concludes that through the adoption of controls as discussed above transportation and access effects can be controlled to be reasonable.

<u>Planner's Conclusions on Construction Transportation and Access Effects</u>

154. The District Plan seeks to avoid, remedy or mitigate the adverse effects of land use, development and subdivision on the safety, efficiency, sustainability and capacity of the transportation network. As well as ensuring vehicle access points from property to roads minimises conflict and maintains efficiency within the transportation network.

155. In giving regard to the assessment above, and the recommendations from Ms. Browne, I am of the opinion that the construction transportation and access effects can be adequately managed to an acceptable level through appropriate conditions of consent.

156. I note that submissions raised concerns about heavy vehicle movements and access during construction. These are proposed to be controlled by the CTMP to ensure public access can be maintained with only short-term temporary restrictions where necessary for construction.

157. Having regard to the consent conditions proposed by Ms. Browne to address any impacts on the roading network and public access through the reserve and foreshore, I am of the opinion that the construction transportation and access effects/matters can be adequately mitigated through conditions of consent to ensure effects will be less than minor.

Ecological Effects

158. Ecology effects are assessed in section 6.4 of the Application and accompanied by the Ecological Assessment prepared by BlueGreen Ecology Limited (Appendix D) and section 92 responses.

159. Ecological characteristics of the site (dune system) are described in detail in the Applicant's Ecology Report, with three vegetation assemblages evident on the site (refer Figure 13):

- Northern spinifex foredune (400m^2); and
- Central exotic terrace (2,430m^2); and
- Southern Pohuehue terrace (175m^2).

Figure 13 – Vegetation community map of the site (Source: Figure 4 Applicant's ecological report)

160. The ecological values, significance and New Zealand Coastal Policy Statement (NZCPS) Policy 11 criteria were assessed against the three vegetation assemblages. The northern spinifex foredune and southern Pohuehue are significant and subject to the NZCPS Policy 11. Refer Table 9 below from the BlueGreen Ecological Assessment.

Table 9: Summary of the ecological values, significance and NZCPS Policy 11 assessments for the site.

ASSESSMENT	NORTHERN SPINIFEX FOREDUNE	CENTRAL EXOTIC TERRACE, HOLLOW & RISER	SOUTHERN POHUEHUE
Ecological value	High	Negligible	Low
Significance	Yes	No	Yes
NZCPS Policy 11	Policy 11(a)(i), (iii) Policy 11(b)(i), (iii)	-	Policy 11(b)(i), (iii)

161. The Applicant's RMA s92 response dated 16 May 2025 identifies that previously a single pair of Northern New Zealand dotterel have been recorded breeding at the Three Mile Creek mouth on two occasions (2021/22 and 2022/23 breeding seasons). The assessment also advised the presence of copper and shore skink could not be ruled out.

162. The Applicant is proposing to remove vegetation that comprises four discernible vegetation patterns, those being: loose dune with spinifex, dune hollow (or low points) with grasses and herbaceous cover, terrace and slope taller herbs, grasses and scrambling vines, and shrub / trees.

163. The northern spinifex will be protected by fencing during disturbance works (Figure 14) and a suitability qualified ecologist will be present during pre-commencement vegetation clearance (and woody material removal) and effects will be managed by the Avifauna Management Plan. A Restoration and Planting Plan will be prepared and certified by a suitability qualified ecologist, with the area of Pohuehure to be doubled.

Figure 14 – Area of northern spinifex vegetation to be fenced off

164. The Applicant's Ecological Assessment concludes that, *"That level of adverse effect is allowable under the NZCPS policy 11(b) and is consistent with the requirements of effect management under the NPS IB. Overall, the remediation / mitigation solution recommended, being the revegetation of the covered wall after installation with appropriate native dune plants for at least the areas stipulated in this report, will result in a net ecological benefit at a local scale."*

165. The opposing submissions raised concerns which included; destruction or disruption to breeding, nesting and feeding habitats for shore birds, hard structures impede natural vegetation growth and reduce ecological connections between dune systems, degrading of the beach ecosystem, lack of comprehensive dune management plan and the effectiveness of sand cover and planting mitigation.

Peer Review comments on Ecological Effects

166. The Ecological Assessment has been peer reviewed by Mr. Shaw and Mr. Goldwater of Wildland Consultants Limited, on behalf of Council (included as **Attachment 13**)

167. I rely on Mr. Shaw and Mr. Goldwater assessment of the actual and potential ecological effects in relation to the activity including a review of the Applicant's Ecological Assessment and the section 92 responses.

168. Mr. Shaw and Mr. Goldwater concluded that:

"If a consent was to be granted, a comprehensive set of conditions will be required. This would require a comprehensive Sand and Vegetation Management Plan, for the life of the structure. The project site subject to the plan will need to be mapped, and the area subject to ongoing management should also include, at a minimum, at least 100 metres of the costal margin in adjacent reserve to the south. Comprehensive provisions are also required to avoid adverse effects on avifauna, lizards, and indigenous invertebrates."

169. Mr. Shaw and Mr. Goldwater identified conditions to address the ecological aspects of the project and they were:

- Structural integrity of the foredune, including the provision of sand, if required, management of foot traffic, and the long-term maintenance of vegetation cover.
- Actions to be implemented, within the project area, including the "Landscape Area' and the 'Retirement Area'.
- Effects on avifauna.
- Effects on herpetofauna (lizards).
- Effects on invertebrates.
- Potential effects on the adjacent reserve to the south.
- Management programme to address the above requirements.
- Duration of active dune management.
- Responsibilities and costs for the above requirements
- Monitoring and reporting.

170. Council adopts these and consent condition wording can be provided for the Sand and Vegetation Management Plan, Avifauna, Herpetofauna and Indigenous invertebrates.

171. In response to the submissions the ecologist identified key ecological matters raised by submitters include:

- Long-term viability of the remedial planting (as discussed above).
- Inadequacy of the applicants' ecological assessment with regard to effects on avifauna and lizards.
- Provision of a dune management plan (if the structure is consented).
- Potential erosion and scouring of neighbouring dune systems.
- No assessment of alternative dune management options.
- The possibility of locating the wall on the adjacent private properties.

172. He considers that ecological matters outlined in the first three bullet points above are addressed in potential consent conditions that have been proposed if consent is granted. The fourth bullet point (i.e. third from the bottom) may also be addressed by the proposed consent conditions but that will depend on whether coastal erosion processes are exacerbated by the new structure, e.g. at the southern end.

Planner's Conclusions on Ecological Effects

173. Whilst not identified in the District Plan it notes that it is important to consider the ecological values and habitat for native species which could be under threat from a range of activities.

174. In giving regard to the assessment above, and the recommendations from Mr Shaw and Mr. Goldwater, I am of the opinion that the ecological effects can be adequately managed to an acceptable level through appropriate consent conditions.

175. Having regard to the concerns of the submitters, the Council accepts the area will be disturbed to facilitate the activity but that this can also adequately managed to an acceptable level through appropriate consent conditions.

176. Having regard to the consent conditions proposed by Mr. Shaw and Mr. Goldwater, I am of the opinion that the ecological effects can be adequately mitigated through the conditions of consent to ensure the effects will be less than minor.

Landscape, Natural and Visual Character Effects

177. The matter of the natural character of the coastal environment and their margins are separately addressed in the District Plan. Issues relating to natural character are addressed in Section 5 (Natural Environment), Section 6 (Landscape) and Section 8 (Natural Hazards).

178. The earthworks, vegetation clearance and the structure within OLF-S24 require consideration under the District Plan.

179. Effects on natural character and natural landscapes and features in the coastal environment are key considerations for this proposal. Structures such as the

coastal protection structures can adversely change and alter the natural character of an area. The significance of this effect is dictated by structure size and location, and the sensitivity of the receiving environment. The highest degree of naturalness occurs where there is the least amount of human induced modification.

180. The Applicant addresses the proposal's effects on natural character and natural features at section 6.3 of the Application and accompanied by the Assessment of Landscape and Visual ('LVA') Effects prepared by Isthmus Group Limited (Appendix C of the Application) and the section 92 responses.

181. The effects rating summary (Table 1) of natural character, landscape, visual amenity and construction effects from the report where (subject to inclusion of the LVA recommendations):

Effect	**Rating**
Natural Character	Moderate-High positive
Landscape	High positive
Visual Amenity	Waihī Beach: Moderate-High positive Three Mile Creek Reserve (north of the site): Neutral
Construction (temporary)	Low adverse

Table 1: Summary of Effects Ratings from the LVA dated 11 October 2024

182. The LVA recommends a condition of consent for a detailed planting plan for the revegetation of the site. The intent of the plan is to ensure a naturalised appearance to new planting. Rock material should also be sourced from the local Waihī Beach quarry to reflect a natural appearance.

183. A number of opposing submissions raised concerns about a loss of natural character and amenity values for beach users, exposure and appearance of the rock wall, dominance, loss of existing dune vegetation, effectiveness of remediation planting and strong disagreement that the proposal will result in predominantly positive effects on natural character, landscape, and visual amenity, especially as the wall becomes increasingly exposed over time.

<u>Peer Review comments on Landscape, Natural and Visual Character Effects</u>

184. The LVA has been peer reviewed by independent Landscape Architecture & Urban Design specialist, Will Gumbley of Beca, on behalf of Council (included at **Attachment 14**). A meeting between Council and applicant specialists was held to discuss the LVA matters within the RMA s92 request.

185. I rely on Mr. Gumbley's assessment of the actual and potential landscape, natural and visual character effects in relation to the activity.

186. Through a re-evaluation process, along with a comparison to the original assessment, he identified the effects rating in the Table 2 below. A 'neutral' effects rating indicates that the proposal is assessed as having neither adverse nor positive effects.

Effect	Rating
Natural Character	Neutral
Landscape Character	Neutral
Visual Amenity	Low positive
Construction (temporary)	Low adverse

Table 2: Summary from the Landscape and Visual Effects – Peer Review summary and specialist Re-Evaluation dated 6 June 2025

187. Mr. Gumbley concluded that:

The original review and re-evaluation raised concerns that the original Assessment and Section 92 responses have portrayed the Proposal too positively in terms of landscape effects. However, on balance, the application is considered acceptable in terms of natural character, landscape character, and visual amenity. This is due to the overall effects-neutral outcome, where-when weighing the potential effects over time-it is evident that the proposal will not result in effects more adverse than if no coastal protection structure were implemented and the site were left to ongoing storm damage.

188. His recommendation relies on the successful establishment and long-term maintenance of native dune restoration planting. To ensure that dune restoration planting achieves the intended mitigation outcomes, it is recommended that a Sand and Vegetation Management Plan be implemented in accordance with the potential consent condition outlined in the Wildlands Ecological Report.

189. Mr. Gumbley has reviewed the submissions that referred to landscape character and visual amenity matters and responses to key points raised in his report.

Planner's Conclusions on Natural, Landscape and Visual Character Effects

190. The District Plan seeks to protect areas identified as being outstanding natural features and landscapes and manage the adverse effects of inappropriate land use and development activities. In this case it is Outstanding Landscape Feature S24 - Open Coastal Landscape Landward Edge Protection Yard and the coastal environment.

191. In giving regard to the assessment above, and the recommendations from Mr. Gumbley, I am of the opinion that the landscape, natural and visual character effects can be adequately managed to an acceptable level through appropriate consent conditions.

192. Having regard to the concerns of the submitters, I am of the opinion given the overall neutral effects outcome, the proposal will maintain the integrity of the area, including Outstanding Landscape Feature S24 and the coastal landscape.

193. Having regard to the consent conditions proposed by Mr. Gumbley, I am of the opinion that the landscape, natural and visual character effects can be adequately mitigated through the conditions of consent to ensure the effects will be less than minor.

Coastal Processes and Hazards

194. Chapter 8 of the District Plan sets out how the Council manages natural hazard risk in accordance with its statutory responsibilities. As a significant issue it is acknowledged that areas now known to be at risk from actual or potential hazards have already been developed for urban purposes.

195. Objective 8.2.1 seeks to minimise the risk of natural hazards to human life and the natural and built environment. For hazard protection works, as a discretionary activity, District Plan policy signals that such works are appropriate where adverse effects have been avoided or are mitigated (District Plan Policy 8.2.2).

196. Within the Coastal Erosion Zone, the District Plan also includes directive provisions for the managed retreat of buildings/ structures at immediate risk (minimum of 8m from the toe of the foredune). The plan also seeks to encourage natural dune systems and includes the 'do nothing' option consistent with overarching objectives of the higher order regional and national policy direction.

197. In the context of Chapter 8 provisions, the District Plan signals that a coastal protection structure to protect existing dwellings is acceptable when:

- All other options are impractical; and
- The coastal protection structure does not cause significant adverse environmental effects; and
- It is not constructed using concrete or blockwork.

198. The above should also be considered alongside the District, national and regional policy direction for managed retreat - which is in place for most of the GIPS properties.

199. Managed retreat involves the planned relocation or removal of these buildings away from the coastal hazard risk, allowing the shoreline to migrate naturally inland (and promote natural processes). This aims to reduce long-term risk and reduce the need for hard protection structures.

200. Managed retreat is a difficult concept for existing urban areas at risk from potential natural hazards. A coastal protection structure is generally at odds with the principles of managed retreat, and the preferred coastal management approach that allows the beach to act in a natural manner, yet the District Plan does not explicitly require avoidance of hard protection structures.

201. Coastal processes are assessed in section 6.7 of the Application and accompanied by an Assessment of Coastal Processes (Appendix B) and Engineering Design Report (Appendix F) prepared by Davis Coastal Consultants and the section 92 responses.

202. The Assessment of Coastal Processes report analyses the coastal process environment of Waihī Beach and the potential effect of the proposed structure on the coastal process environment. The report includes design methodology, assumptions and calculations to support the Applicant's design and dune development proposal.

203. A visual representation of historic coastlines overlaid on 2024 aerial is depicted in Figure 15 below from the Davis Costal Assessment report and as a relevant matter for the consideration of this proposal I highlight the growth in the dune system at the sites northern end being a result of the groyne structure and exercise of that consent.

Figure 15: Historic coastlines overlaid on 2024 aerial (Source: Figure 3.5a Applicant's coastal assessment).

204. The Applicant's report concludes that, *"Based on the assessment undertaken the structure is considered to have less than minor potential effects on the coastal process environment of Waihī Beach, and the proposal will provide positive benefits through dune enhancement."*

205. Submission in opposition relate to; concerns about the rock structure impacts on the beach, no consideration of softer engineering, flood risk, compromised access and use of the beach and the New Zealand Coastal Policy Statement 2010.

Peer Review comments on Coastal Processes

206. The Coastal Processes Assessment has been peer reviewed by Mr. Davidson a coastal engineer from Beca, on behalf of Council (included as **Attachment 15).**

207. I rely on Mr. Davidson assessment of the actual and potential coastal processes effects in relation to the activity.

208. In reviewing the above information Mr. Davidson, has identified the following:

- Does not support the Applicants analysis of the forecasted beach retreat, given the presence and effects of the existing outlet structures.
- The Application identifies end effects associated with southern end of the wall and has been designed for 20m of landward recession at the southern end of the structure into the DOC reserve – refer Figure 16 below. The coastal engineer considers the design is only to protect Glen Isla properties rather than reducing the recession of the shoreline through soft engineering practices.
- With sea level rise and more exposure of the structure the beach will be lowered due to wave energy from the structure. Once exposed the capability or the dune system to recover is greatly reduced. This is stated in the Application, but there is no plan or intention to reinstate the dune.

Figure 16 – Potential scour at southern wall end (Source: Figure 5.3.2c of the Coastal Processes report from Davis Coastal Consultants)

209. In the section 92 request Council's specialist questioned the justification for northern extent of the Type 2 structure as the management of Three Mile Creek has resulted in the beach accreting significantly in front of the properties at 9, 11 and 13 Glen Isla Place. The Applicant's response considers the groynes promote a slightly more landward dune position close to the groyne, but it does not address the major storm cut events and the maintenance of the training groynes. Continuation of the dredging at Three Mile Creek is also not within the control of the Applicant and the remaining consent term is relatively short.

210. Council's specialist considers that the landward extent of the Type 2 structure is unjustified on the basis that the existing groynes and channel training walls remain in place. He notes however that as the northern section of the Type 2 will be near permanently buried, its impact on coastal processes following construction will be negligible.

- Council's specialist also questioned if the Type 1 alignment could be pulled back closer to the property boundary and that this would delay the exposure of the structure and reduce effects on the beach and dune processes. The Applicant's response is, "*In effect locating the wall further landward neglects consideration of the future states of the beach and in particular fails to provide for future access under a sea level rise scenario. It is the better coastal management decision to maintain the 5-6m esplanade and associated future public access and/or natural backshore vegetation link*". However as noted in the Reserve Effect section below it is unlikely Council

would provide access on top or behind the structure due to Coast Care principles.

- Council's specialist acknowledges that a hard structure is justified along the Type 1 section but considers that moving the alignment to the property boundaries of 12, 14 and 16 Glen Isla Place would reduce the impact that the hard structure has on the beach, coastal environment, and end effects on the area to the south.
- Mr. Davidson does not consider that the proposed design adequately addresses Policies 26 and 27 of the NZCPS.
- Mr. Davidson does consider the design of the proposed structure to be sound and inline with best practice for rock structures. Once exposed the wall with require inspections and maintenance.

211. I expect all the above matters will be further discussed at the hearing.

212. Mr. Davidson has reviewed the submissions, and they are either discussed within his report or addressed specifically.

Planner's Conclusion on Coastal Processes and Hazards

213. The District Plan seeks to minimise the risk of natural hazards to human life and the natural and built environment.

214. In giving regard to the assessment above, and the conclusions of Mr. Davidson, at the time of writing the s42A report I am not in a position to conclude if the coastal processes and hazards effects are acceptable or unacceptable.

215. I note that submissions raised concerns about the rock structure impacts on the beach, no consideration of softer engineering, flood risk, compromised access and use of the beach and the New Zealand Coastal Policy Statement 2010. These have all been addressed in the report from Mr. Davidson.

Reserve and Public Access Effects

216. The application proposes the coastal protection structure to be located on public reserve land classified as Local Purpose Esplanade and Recreation Reserve, commonly referred to as Three Mile Creek Reserve.

217. The purpose of esplanade areas is to protect riparian and coastal margins, to help conserve environmental values and provides opportunities for public access and recreational use, as provided for in section 6(d) of the RMA and the Reserves Act 1977.

218. Council also has a Coastal Erosion Response Policy adopted in 2017 which set out a framework for making consistent decision as to how it will respond to erosion and subsidence of Council owned coastal land. A key aspect of the policy is that

it limits future Council funding to only the protection of Council-owned land and strategic assets.

219. The reserve extends from Seaforth Road and provides public access on the northern and southern banks of the creek to the beach and foreshore. From Glen Isla Place there is also a dedicated pedestrian access between numbers 7 & 9 that connects to the accessway along the southern bank of Three Mile Creek.

220. The vegetated dune area in front of the Applicant's properties does not provide for public access or other recreation given the sensitive habitat, however it is noted there are several informal accesses from private properties through the dune to the beach.

221. Island View Reserve is located to the south of the site.

222. In October 2023 the landowners sought approval in principle from Council for a proposal to establish a buried coastal protection structure on the reserve land adjacent to the Applicant properties. Approval in principle was given by Council.

223. Conditions of the approval included obtaining the relevant resource consents and construction is to be fully funded by the Applicant. With a formal agreement to be prepared on the ongoing operation and maintenance costs and responsibilities.

224. The Applicant is currently engaging with Council's Reserves and Facilities Manager on the details of this formal agreement.

225. It is proposed the structure will be vested in Council after a 2 year maintenance period.

226. The following aspects of the proposal have the potential to generate adverse effects on the reserve and public access:

- Reduced amenity and landscape values of the reserve
- Loss of public access along the foreshore in the medium to long term due to sea level rise.

227. The main concerns raised by submitters are:

- Location of the structure on public reserve land rather than within the Applicant's private property.
- Impact on public access along the beach in the future at high tide as the structure becomes exposed due to scour.
- The short-term construction related access restrictions to the beach and along the foreshore.
- Cost to ratepayers for maintenance of the structure due to location in public reserve

Public Access

228. This is assessed in section 6.6 of the Application. In terms of the short-term construction related access this has previously been discussed under Construction Activities above. It is noted here that there may be a short period of 1-2 weeks where access restrictions may be in place when construction is located at the northern extent of the proposed structure.

229. In considering the effects discussed in relation to Construction Activities above it is agreed that public access during construction is either only temporarily lost, or is maintained, with options along the beach (between the tide line and the commencement of the dune system) and through reserve land at either end of the wall.

230. In terms of longer term public access this is considered below – refer Figure 17.

Figure 17: White arrows showing existing public access, grey line shows location of coastal protection structure. Source AEE.

231. As noted in Section 3 of the Application, public access along this extent of Waihī Beach is provided above Mean High Water Springs (MHWS) and connects to the formed public accessway provided on both the northern and southern banks of Three Mile Creek.

232. Predictions are that access is anticipated to become more restricted in front of the structure as the effects of climate change driven sea-level rise occur. By the 30-40 year period, when MHWS is predicted to be at the base of the structure, public access in front of the wall at high tide will be limited. This is similar to that seen front of the rock revetment to the north.

233. If public access become restricted in front of the structure in the future it is unlikely that Council would provide future public access along the top of the wall as this goes against dune care and restoration values. However, there are other alternative public access points located in the adjoining Island View Reserve as shown in Figure 18 below. Additional public access could always be provided within the Island View Reserve if necessary to ensure high-tide connectivity around the proposed structure.

Figure 18: Location of coastal protection structure (in blue) in relation to future alternative beach access (red).

234. It is also noted that at the time the structure is partially or fully within the CMA it will require additional resource consents. Consideration at that time can be given to the ongoing need for the wall and alternative public access should that consent be sought.

Structure within the Reserve

235. The proposed coastal protection structure will be located for the most part with the reserve area, with only a small portion with private property at the southern extent.

236. The Councils' Coastal Erosion Response Policy 2017 set out a framework for making consistent decision as to how it will respond to erosion of Council owned coastal land.

237. Within the Policy 'strategic assets' are defined as including – reserves listed and managed under the Reserves Act (excluding reserves identified for disposal in an adopted Reserve Management Plan). The reserve land is identified as Three Mile Creek Reserve, and as such meets the definition of 'strategic asset' in relation to this policy. Three Mile Creek is also identified within Council's Katikati Waihī Beach Ward Reserve Management Plan, and includes the esplanade reserve, and maintenance of sandbag groyne and rock revetment/dune.

238. It is also noted the Policy defines 'council-owned coastal protection structures' as measures aimed at protecting Council-owned coastal land and strategic assets from effects of coastal erosion.

239. As part of Council's approval in principle for the structure to be located within the reserve Council it is noted Council supported the project despite it being inconsistent with Council's Erosion Responses Policy 2017. This approval in principle was on the requirement that resource consent be obtained, the consent and construction be fully funded by the property owners, and an agreement between Council and the property owners on operational costs and responsibilities.

Peer Review comments on Reserve and Public Access Effects

240. The Application include information is several locations within the AEE in relation to the reserve and public access. Council's Reserves and Facilities Manager (Mr. Peter Watson) is also actively working with the Applicant on the formal agreement for the ongoing maintenance should the consent be granted.

241. Due to his existing involvement Mr. Watson has undertaken a review of the application, further information response and reserve and public access related submission points and has provided a memo, see **Attachment 16**.

242. I rely on Mr. Watson's assessment when considering the actual and potential effects on the reserve and public access in relation to the activity and submission points.

243. Mr. Watson has provided a response to submission points and questions raised during processing of the consent

- The key issues for Reserves and Facilities are limited to.
    - Location within the Council reserve
    - Future maintenance costs as consent holder
    - Council's Coastal Erosion Response Policy 2017
    - Public access in the reserve and foreshore

244. Mr. Watson notes in his memo:

- The structure will be vested in Council in the future.
- WBOPDC - Reserves and Facilities will become the consent holder, responsible for all conditions of the resource consent (if approved).
- Conditions of consent (if approved) will include the requirement for the agreement to be in place prior to the construction commencing, on-going maintenance, repair and monitoring of the surrounding dune system (includes replacement planting, pest/weed control and structural stability) and the coastal protection structure physical structure (structural stability). Conditions will also address the provision of public access across the life of the wall.

245. In response to submissions Mr. Watson notes:

- Agreement between Council and GIPS includes provisions where Council will cover costs of keeping and maintaining the proposed coastal protection structure to the extent covered by any targeted rate applied to the beachfront properties at Glen Isla Place. Any additional costs will be paid by the landowners (GIPS).
- Target rates will cover annual maintenance.
- Council will limit any maintenance to the life of any approved resource consent term.
- Any repair costs of significant damage due to a severe storm event are covered by the property owners as they are the primary benefactors of the protection structure.
- For the reasons outlined above, there is no clear demand for a public accessway, nor is it best practice to promote an accessway through the dune that damages dune vegetation.
- It is unlikely that a formal accessway would be developed across the top of the wall as most of the wall would be buried and access through dune

vegetation is not best practice under Coast Care principles, which WBOPDC have developed with other partner agencies.

- If the area is known for dotterel nesting, then public entry should not be encouraged.
- If the wall becomes partially located within the CMA it is acknowledged that new resource consent may be required.
- The proposal is not totally inconsistent with Council's Coastal Erosion Response Policy 2017 and the reserve meets the definition of 'strategic asset'. The buried wall will prevent further loss of the rear dune due to any future erosion.

246. Overall Mr. Watson concludes that given the structure will be buried for the most part he doesn't consider there to be any significant effect on the reserve from an aesthetic and functional perspective and that the proposed location is acceptable to the functionality and operation of the reserve. Any future loss of access will not be limited to this section of the beach. Through the adoption of an agreement between Council and the landowners (GIPS) as discussed above and through specific conditions reserve and public access effects can be controlled to be reasonable.

247. He recommends that should consent be granted conditions could include ensuring the landowner/Council agreement is in place prior to construction, either limiting the term of the consent or expiry based on structure integrity or structure becoming within the CMA.

Planner's Conclusions on Reserve and Public Access Effects

248. In giving regard to the assessment above, and the recommendations from Mr. Watson, I am of the opinion that the reserve and public access effects can be adequately managed through appropriate conditions of consent to an acceptable level.

249. I note that submissions raised concerns about ongoing costs and maintenance of the structure, impact on public access along the beach in the future at high tide and short-term construction related access restrictions to the beach and along the foreshore. I consider that the agreement between Council and the landowners will adequately address ongoing costs and maintenance requirements and recommend a condition of consent to ensure this agreement is in place prior to construction commencing.

250. In terms of short-term public access restrictions this has been addressed under construction related activities above and will be managed through a CMP. A condition will be included to ensure public access is managed through the construction period.

251. In terms of medium to long-term public access I consider the structure to be located in a suitable position to ensure public access is maintained in the medium to long term (30-40 years) until such time the high tide reaches the exposed structure. Sufficient time public access to be maintained prior to the structure entering the CMA. There is adequate alternative public access routes should access along the foreshore become restricted in the long term.

252. It is also noted that at the time the structure is partially within the CMA, further consideration will be given to the adequacy of the structure and if new resource consents may be required, this will include assessment of public access restrictions.

253. Overall, I am satisfied that the effects in the reserve and public access during will be less than minor, subject to specific conditions to manage short term public access during construction, cost and maintenance agreement between landowner and Council and a suitable condition of the expiry of the consent.

Cultural Effects

254. This is assessed in section 6.8 and consultation further addressed in section 7.2 of the Application.

255. Regarding consultation, section 7.2 of the application states that the Applicant has extended multiple invitations to engage with iwi and hapu representatives who were identified as having a cultural association with Waihī Beach.

256. The Applicant sent a summary of the proposal and invitation to meet to the following: Ngāti Ranginui Iwi Society Inc, Ngāti Te Wai, Te Runanga o Ngai Te Rangi Iwi Trust, Te Runanga o Ngāti Pukenga Iwi, and Te Whanau a Tauwhao ki Otawhiwhi on 2 July 2024, again on 29 July 2024 and on 27 August 2024.

257. In accordance with Council's *"Engagement with Tangata Whenua on resource consent applications"* protocol, the application was referred to Ngai Te Rangi, Ngāti Te Wai, Te Whanau a Tauwhao ki Otawhiwhi and Te Poho Pā who all have an interest in this area. No responses were received.

258. Notice was served by the Council on both local Iwi and Marine and Coastal Area (Takutai Moana) groups on the 16 January 2025, via email. No submissions were received from any of these groups.

259. The Applicant proposes to implement an Accidental Discovery Protocol to manage the risk of unearthing any kōiwi or other wāhi tapu during earthworks.

260. The Application was reviewed by Heritage New Zealand Pouhere Taonga who supports the use of an Accidental Discovery Protocol for this project. An advice note regarding this can be included in the draft conditions.

261. It is my opinion that the proposal will have a less than minor cultural effect.

Positive Effects

262. Positive effects do not pertain to the specific assessment criteria; however, they are still considered relevant with respect to how the proposal integrates with its location, the reserve and residential development. The Application addresses positive effects at section 6.1 and considers positive effects are identified through various sections of the report, and further address through the assessments above.

Summary of Effects

263. it is my opinion that the proposal is likely to have adverse effects in relation to construction activities, as well as ecological, landscape and natural character, public access, and cultural effects however it is my view these can be suitably mitigated through consent conditions such that effects will be less than minor.

264. At the time of writing this s42A report I am not in a position to conclude if the coastal processes and hazards effects are environmentally acceptable or unacceptable.

10. OBJECTIVES AND POLICIES OF THE OPERATIVE DISTRICT PLAN – SECTION 104(1)(B)(VI)

265. The Applicant has assessed the proposal against the relevant objectives and policies of the Operative District Plan 2012. These are assessed at section 8.7 of the application, and a further assessment as part of a s92 response and includes:

- Section 4C – Amenity
- Section 5 – Natural Environment
- Section 6 - Landscape
- Section 8 – Natural Hazards
- Section 18 – Rural

266. For the most part, the objectives and policies are concerned with effects-related matters discussed within the s104(1)(a) assessment above. Such matters include construction, noise and vibration effects, ecological effects, natural character, landscape and visual effects, effects on coastal hazards processes, effects on the reserve and public access.

Amenity – Objective 4C.1.2.1 (1) and Policies 4C.1.2.2 (1)-(3)

267. With reference to the s104(1)(a) assessment of noise and vibration, I consider that any effects relating to noise and vibration resulting from the proposal (such as use of machinery and tipping of large rocks onto the beach) can be controlled to be reasonable. Further, any noise and vibration will be limited to a short-term construction period and managed through adequate controls.

268. I agree with the Applicant's assessment and conclude that the proposal is consistent with Objective 4C.1.2.1 (1) and Policies 4C.1.2.2 (1)-(3).

Natural Environment Objective 5.2.1(1), (3) & (5) and Policies 5.2.2(1), (2), (5) and (9).

269. Glen Isla dunes are not an identified ecological feature or recommended area for protection under the District Plan. The Ecological Assessment and peer review confirm the site contains areas that are significant from an ecological perspective.

270. The objectives and policies set out preservation of the natural character of the coastal environment and greater public awareness, support and involvement in the protection and restoration of areas. They look to protect significant native plant and animal habitats and encourage the protection and enhancement of ecosystems.

271. This is an environment with an existing effects-neutral natural character associated with land use activities such as existing hard coastal protection structures (rock walls and groynes) and large residential dwellings along the same coastline.

272. The 104(1)(a) assessment above in relation to ecology determines that the proposed design will not result in any permanent habitat loss for avifauna, and the project design avoids areas of foraging roosting and breeding coastal bird habitat. It has also been confirmed that following completion of construction at the northern end, replanting the area behind the existing northern spinifex foredune with native dune vegetation will provide higher quality habitat than the existing exotic vegetation.

273. It is noted that there are some deficiencies in the application and specialist reports around suitable management of lizards and spiders however Council's specialist has proposed consent conditions to ensure the lizard habitats are reinstated as part of any restoration planting plan.

274. Construction activities such as noise, vibration and equipment movement can also result in avifauna displacement, decreased feeding rates and unattended nests. The proposed works will occur outside of breeding season where feasible and if work does need to occur during breeding season suitable management plans will be prepared of implementation.

275. The Bay of Plenty Regional Council acknowledges the provision of an engineered coastal protection structure will be providing ongoing protection to the IDBA-B areas behind the structure which may have otherwise been subject to future coastal erosion.

276. Given the short-term nature of the proposed construction works, along with the proposed measures including restoration planting plans and management plans

I conclude that the proposal is consistent with Objective 5.2.1(1), (3) & (5) and Policies 5.2.2(1), (2) & (5).

Natural Hazards - Objectives 8.2.1 (1) & (2) and Policies 8.2.2 (1)(2)(5)(6)(7)

277. Plan Change 74 was notified in October 2015 and included a review of the extent of the Coastal Protection Areas at Waihī Beach and give effect to the requirements of the New Zealand Coastal Policy Statement (NZCPS) and Regional Policy Statement (RPS).

278. The objectives look to minimise of the risk of natural hazards to human life and the natural and built environment while protecting the existing natural character of the coastal environment. The policies look to ensure that where hazard protection works are necessary their form, location and design are such to avoid or mitigate potential adverse environmental effects. The policies and rule framework do not require avoidance of hard protection structures.

279. The policies also encourage the conservation and enhancement of natural features such as sand dunes while adopting the best practicable options in the management of areas actually or potentially at risk from natural hazards.

280. The intent of the objectives and policies is also to avoid structures that will be susceptible to the risks of erosion (i.e. dwellings) rather than structures whose purpose is to manage or mitigate the effects of coastal processes on inland structures.

281. The purpose of the proposal is to minimise the risk of natural hazards to the existing built environment and Council reserve and it is noted the proposal does not enable any other new activities that would be reliant on further protection works.

282. The developed area has already been established and the dwellings are required (by Deed of Covenant) to relocate or be removed from the site as the dune retreats closer to the dwellings. This ensures that as the coastal erosion occurs over time there are requirements for managed retreat to ensure natural hazards are avoided and mitigated.

283. The Councils Coastal Engineer and the Applicant's Coastal Engineer have differing opinions of the extent of need for the hard protection structure, in particular the extent of the Type 2 wall, where soft options could provide alternative protection

284. I consider the proposal adds an additional layer to this managed retreat in that it will provide protection from storm events in the short to medium term, however as the wall becomes within the CMA other coastal protection options will need to be considered, which may include the requirement for managed retreat.

285. While there is some differing opinions between specialists on the location and extent of the structure both acknowledge the hard protection structure (in

particular "type 1") is justified for coastal protection and that the structure is appropriately designed.

286. The natural features, and landscape and visual amenity have been considered and can be adequately managed to ensure neutral to positive effects.

287. I consider that while further consideration could be given to the location and extent of the structure, the proposed structure for which consent has been sought is justified and consistent with the objectives and policies above.

288. It is noted that while the District Plan does give effect to the New Zealand Coastal Policy Statement (NZCPS), further consideration has been given to the NZCPS below.

Landscape Feature – Objectives 6.2.1 (1) and Policies 6.2.2(1)

289. The site is located within Outstanding Landscape Feature s24 (OLF-24) under the District Plan, which is identified as all land adjoining the open coastline, zoned Rural and within 100m of *MHWS.*

290. The specialists conclude that while the site contributes to the natural character and amenity of Waihī Beach, the existing natural character is already reduced by historic dune modification, exotic planting and clear views of dwellings and associated infrastructure.

291. The successful establishment and long-term maintenance of native dune restoration planting is critical to ensuring the character of the site and area is maintained with an effects-neutral outcome.

292. Overall the visual amenity is considered to be generally positive and the natural character of the area will be protected.

293. Overall I conclude the proposal is consistent with the objectives and policies above.

Rural Zone - Objectives 18.2.1 (3)(5) & (6) and Policies 18.2.2(10)

294. While the site is zoned Rural, it is not considered versatile or productive land in that it contains sand dunes and related vegetation. The specialists agree the site does not exhibit characteristics which would be typical of a rural area or character such as wide, open areas of pasture and or agricultural or horticultural uses.

295. Specialists also agree the proposed dune enhancements will result in a neutral to positive effect on visual amenity and ecological values.

296. As there are no existing productive land uses and it is unlikely that rural activities would establish on the site the proposal is considered to be consistent with the relevant objectives and policies of the rural zone as a whole.

District Plan Objectives and Policies Summary

297. In considering the relevant objectives and policies in full, it is my opinion that, overall, the application will be consistent with the objectives and policies of the Western Bay of Plenty Operative District Plan 2012.

11. STATUTORY ASSESSMENT

298. Section 104(1)(b) of the RMA requires that when processing a resource consent application, the consent authority must, subject to Part 2 of the RMA, have regard to any relevant provisions of:

> **s104 Consideration of applications**
>
> *(1) When considering an application for a resource consent and any submissions received, the consent authority must, subject to Part 2 and section 77M, have regard to–*
>
> *(i) A national environmental standard*
>
> *(ii) other regulations*
>
> *(iii) a national policy statement*
>
> *(iv) a New Zealand coastal policy statement*
>
> *(v) A regional policy statement or proposed regional policy statement*
>
> *(vi) A plan or proposed plan*

299. For the proposal the relevant statutory documents are:

- Bay of Plenty Regional Coastal Environment Plan (RCEP)
- Bay of Plenty Regional Policy Statement (RPS)
- Bay of Plenty Regional Natural Resources Plan (NRP)
- New Zealand Coastal Policy Statement 2010 (NZCPS)
- National Policy Statement for Indigenous Biodiversity 2023 (NPS-IB)
- Western Bay of Plenty Operative District Plan 2012 – refer above

300. The other matters are:

- Landowner/ Council Agreement
- Tauranga Moana Iwi Management Plan
- Western Bay of Plenty Coastal Erosion Response Policy 2017
- Katikati - Waihī Beach Ward Reserve Management Plan 2018
- Marine and Coastal Area (Takutai Moana) Act 2011

National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health Regulations 2011 ('NES-CS')

301. The Resource Management Act National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health Regulations 2011 ('NES-CS') is not relevant to the proposal as the site is not recorded in the Bay of Plenty Regional Council's 'Hazardous Activities and Industries' (HAIL) register, nor is there known to be a history of HAIL activities associated with the land. The site is therefore not considered to be a 'piece of land' for the purposes of the NESCS.

Bay of Plenty Regional Coastal Environment Plan (RCEP)

302. The objectives and policies of the RCEP seek to ensure the coastal environment is managed in a holistic and sustainable manner by balancing environmental protection with sustainable development and cultural values. Objectives and policies focus on ecological effects on the dune flora and fauna and the Indigenous Biological Diversity Area ('IBDA') B values; the dune structure and function and stability, the management of erosion and scour and public access. Objective 1 refers to a whole of catchment approach and for the structure itself, in particular as it becomes exposed, coastal hazard objectives 20-23 are directly relevant.

Integrated Management

303. Objective 1 is a whole of catchment approach. The presence of the Shaw Road rock revetment has given weight to the assessment that the proposal is consistent with the sites modified 'natural character' and can be perceived as an indication that hard protection structures are appropriate in this area. However, it is questionable as to if the proposal is a whole of catchment approach to the management of coastal erosion, particularly as the environment court decision for the existing rock revetment wall along Shaw Road has a fixed expiry date of 2032.

304. A whole of catchment approach requires consideration of the existing consents and their limits / options. As such the proposal is inconsistent with and not supported by Objective 1.

Ecological and Natural Heritage Outcomes – Objective 3 and 4, Policies NH1, NH5, NH7, NH8, NH10,-NH11-NH13-NH14-NH19-NH20-NH21

Appropriate use and development

305. The site sits within a modified coastal environment and the Council's specialist landscape architect finds that the coastal protection structure is physically and visually compatible with the level of human modification that has occurred. In this regard the proposal is partially consistent with Policy NH1. However, subsection

(1)(c) of this policy also refers that activities are appropriate if they *"have a functional need to be located in or near the coastal environment in general, or in or near a specific part of the coastal environment and no reasonably practicable alternative locations exists".*

306. As set out to follow, and drawing on my overall understanding of regional and national policy direction, I find that whilst the adverse effects of the proposal align with the outcomes (and subject to further discussion of coastal processes effects), it is not supported by the policy direction and is an inappropriate coastal hazard response. Based on the policy direction, there is no functional need, significant ecological or wider community benefit / justification, and the Council's specialist coastal engineer has identified a reasonably practicable alternative location.

307. For IBDA-B areas, Policy NH8 directs that significant adverse effects must be avoided, and other adverse effects avoided, remedied or mitigated. I've considered this suite of policy in conjunction with the overarching direction that activities may be appropriate if they contribute to the restoration and rehabilitation of natural heritage and RCEP Objective 3 which seeks to maintain IBDA-B areas.

308. Council's specialist ecologist identifies that the site contains the following values which meet Policy 11(a)(i) and (ii) and Policy 11(b) criteria of the NZCPS 2010.

309. The northern spinifex foredune triggers the following NZCPS 2010 criteria:

- Policy 11(a)(i) due to the presence of pingao (*at risk).*
- Policy 11(a)(iii) due to sand dunes being natural rare ecosystems.
- Policy 11(b)(i) being an area of predominantly indigenous vegetation in the coastal environment;
- Policy 11(b)(iii) being an indigenous ecosystems and habitats that are only found in the coastal environment and are particularly vulnerable to modification.

310. The 'Southern pohuehue assemblage' triggers NZCPS criteria:

- Policy 11(b)(i) being an area of predominantly indigenous vegetation in the coastal environment.

311. The proposal has the potential to accelerate the level of otherwise natural modification to indigenous biodiversity.

312. The Council's specialist ecologist identifies that effects on the IBDA-B (which includes some IBDA-A values) site will depend on whether an appropriate cover of sand and indigenous vegetation is retained on the site / able to establish, following the works and across the life of the consent.

313. A key issue identified by the Council's specialist is the medium to long term sustainability of habitat as storm events remove sand and expose the rock structure. There is also an identified adverse end effect in the DOC reserve land. Council's specialist ecologist recognises the management of a dune system is an ongoing process and not something that should be walked away from in two years. For these reasons Council's specialist ecologist spent time drafting conditions, particularly for the longer term. This has ongoing maintenance and cost implications which will be the responsibility of the District Council following vesting of the structure. I expect these matters to be further discussion at the hearing.

314. Relying on the review of the proposal by the Council's specialist ecologist, and only subject to the imposition of adequate consent conditions as identified in the s104(1)(a) assessment, the proposal will maintain the values of this IBDA-B area and avoid adverse effects on taxa that meets the criteria listed in Policy 11(a)(i) and (ii) of the NZCPS. I envisage that the final details of the Sand and Vegetation Management Plan will be discussed further at the hearing.

Maori Cultural Values and Traditions – Natural Heritage

315. For Policy NH 14, the Applicant has consulted with iwi and hapū with a local interest in this area; however, no responses were received. I note that no submissions were received from iwi or hapū. I consider it reasonable to conclude that the proposal is consistent with the outcomes sought by Policy NH 14 because:

- There are no significant cultural sites recorded at the site; and
- There are no recorded archaeological sites at the site and the Applicant proposes to implement an Accidental Discovery Protocol to manage the risk of unearthing any kōiwi or other wāhi tapu during earthworks; and
- The works do not prevent access to the CMA for the purposes of gathering kai moana or other cultural practices; and

316. The works will be managed in a manner that is consistent with the outcomes sought by the Tauranga Moana Iwi Management Plan. Fresh and coastal water quality will be protected, vehicle use on the foreshore will not impact kai moana resources, effects of erosion will be managed, and no discharges of hazardous substances are anticipated.

317. I can conclude that subject to appropriate ecological and coastal processes consent conditions there will be no adverse effects in the context of the above noted RCEP outcomes, and the proposal is generally consistent with the RCEP Ecological and Natural Heritage Objectives and associated Policies. However, I find that the proposal does not have a functional need.

Iwi Resource Management – Objectives 13-18, Policy IW1-IW6, IW10-IW11

318. The Applicant has engaged with tangata whenua in order to understand their relationship with the project area, and how their relationship can be recognised and provided for, as well as their role as kaitiaki, however no feedback was received. As with comments against Policy NH 14 above, I consider the proposal has been progressed in a manner consistent with the Iwi Resource Management objectives and policies and rely on that to conclude that the proposal is generally consistent with the RCEP Iwi Resource Management Objectives and Policies.

Coastal Hazards – Objectives 20-23, Policy CH1- CH10

319. The Coastal Hazard Objectives (Objectives 20 to 23 inclusive) seek to create resilient, adaptive coastal communities and ensure that development is sustainable and responsive to natural and climate driven changes; and protect the natural systems that defend the coastal from hazards. This in part requires regional, city and district councils to have regard to:

- RPS policies on natural hazards relevant to the coastal environment, and
- NZCPS Policies 24, 25, 26 and 27.

320. In accordance with Policy CH 2, the design of the coastal hazard protection structure shall avoid increasing the level of risk of social, environmental and economic harm from coastal erosion or inundation over a 100 year period. The design of the structure is based on sea level rise over the next 100 years, however, Council's specialist coastal engineer does not support the Applicant's CEHZ predictions due to the presence of the groynes. This inconsistency is noted. Further, to avoid environmental harm, if consent is granted, conditions of consent are required to manage adverse coastal processes effects and the potential loss of the structure to coastal erosion or inundation.

321. Policy CH 9 requires Council to have regard to the following table of RPS and NZCPS Policies. Priority is to be given to the use of soft protection works such as dune care, beach nourishment and vegetation, before any choice of a hard options is made as part of a proposed solution to a coastal erosion problem.

322. I acknowledge that the Application includes evidence of past coastal protection failings and I invite more discussion at the hearing in relation to natural coastal processes and the vulnerability of this area to erosion and accretion. As identified by Council's specialist coastal engineer there are viable natural dune management options in the north of the site and an alternative alignment for the southern part of the coastal protection structure. Without this further discussion and clarification, I find the proposal is not supported by and is inconsistent with this regional direction.

Relevant Matter	Planner Comment
RPS Policy CE 2B	At the regional level, the site is not located in an area of "outstanding" natural character (Appendix F (Map 6)). As the s104(1)(a) assessment has found, subject to robust conditions of consent for ecological matters significant adverse effects on natural character are avoided. The proposal is consistent with this policy.
RPS Policy CE 4A	Policy CE 4A is aimed at protecting and restoring the natural protective capacities of the coastal margin to provide natural defences against coastal hazards. The supporting explanation highlights that the ability of the natural coastal margin to provide a natural defence is critical. In the short to medium term, before the coastal protection structure becomes exposed, the proposal is consistent with this policy through natural beach renourishment. However, as the coastal protection structure becomes exposed it will disrupt the natural dynamic buffer (of erosion and accretion as sediment is recycled to shore) by altering the movement of sand, sediment and water resulting in a change to coastal processes and habitat. This is inconsistent with Policy CE 4A which seeks to protect natural protective capacities. The exposed coastal protection structure requires a robust suite of conditions for ongoing monitoring, rehabilitation and maintenance and that has been the focus of Council's specialist ecologist. The proposal is only partially consistent with this policy and will be inconsistent as the wall becomes exposed and disrupts natural coastal processes and sediment movement.
RPS Policy CE 8B(c)	This policy seeks to manage the effects of activities that could impact natural character, features and landscape of the coastal environment. This matter has been covered above and the proposal can be viewed within the context of the surrounding modified coastal environment. Subject to conditions of consent requiring monitoring, maintenance, restoration and replanting of damaged dune, that cannot rehabilitate on its own, and then removal of the structure at the end of its functional life (or if the wall falls into disrepair) the proposal is generally consistent with this policy, having no significant adverse effects.

RPS Policy CE 12B	This policy directs avoidance of inappropriate hazard mitigation in the coastal environment. To determine "appropriateness" the policy provides for consideration of: • "The environmental and social costs and benefits, and • Whether hard protection structures are the only practicable means to protect infrastructure of national or regional importance; and • Whether other long term risk reduction measures, including non-structural or soft engineering solutions, are more appropriate; and • The cumulative effects of isolated hard protection structures; and • Whether the hard protection structures would adversely affect or facilitate public access to and along the CMA; and • The reason for protection (being the only practicable means to protect infrastructure of national or importance) and directs regard to other long term risk reduction methods, including non-structural or soft engineering options, as more appropriate options". Policy CE 12B is to be read in conjunction with other RPS provisions and the New Zealand Coastal Policy Statement 2010 – in particular NZCPS Objective 5 and Policies 25, 26 and 27 which are set out below. I have also found NZCPS Objective 6 useful for context. The proposal offers environmental and social benefits limited to the adjacent private properties and public reserve land. However, in the context of regional and national coastal hazard guidance, it provides no broader social, community, regional, or national justification for using hard protection. The social benefit to the further inland area includes delaying managed retreat over a longer timeframe. This potentially allows further redevelopment of these sites whilst the coastal protection structure remains effective and compliant with consent conditions (which measures the toe of the dune 8m trigger seaward of the proposed location of the coastal

	protection structure). In the context of the NZCPS managed retreat involves the planned relocation or removal of these buildings away from the coastal hazard risk, allowing the shoreline to migrate naturally inland (and promote natural processes). This aims to reduce long-term risk and reduce the need for hard protection structures. I find that hard coastal protection structures are generally at odds with the NZCPS principles of managed retreat, yet the policy does not explicitly require avoidance of hard protection structures. As set out to follow I find that the proposal is not supported by Objective 5 and Policies 25, 26 and 27.
NZCPS Policy 27	As set out to follow a hard structure to protect private properties on public land is inconsistent with this policy direction (refer full discussion on NZCPS Policy 27 below).
Bay of Plenty Regional Coastal Environment Plan Policy CH 5	The proposal is consistent with this policy as options considered by the Applicant are based on the most up to date information and have had regard to sea level rise with climate change over the next 100 years. However, Council's specialist coastal engineer does not support the Applicant's CEHZ predictions due to the accretion caused by the groyne and on that basis the applicant's justification is flawed and the full extent of the proposal and its location is challenged by the Council's specialist coastal engineer.

323. Policy CH 10 is directly relevant to any new hard protection structures and as identified below any inconsistencies are not significant at this stage.

(a) Located landward of the coastal marine area, where the primary purpose of the structure is to protect private property	The location of the hard protection structure is located landwards of the CMA. Consistent.
(b) Designed and constructed by a suitably qualified and experienced professionals	The specialist coastal engineers are in agreement with the suitable design, in line with best practice, of the structure. Consistent.
(c) Designed to avoid as far as practicable any adverse effects on beach amenity and natural character, and to ensure public	Relying on Council's specialist landscape architect review the natural character effects are neutral (subject to ecological conditions). In the short to medium term

access to and along the coastal marine area is not restricted, and enhanced where practicable;	the proposal is consistent with this policy. Public access along the beach will be restricted in the long term when the wall is exposed and there is no dry beach. It is further noted that public access along the top / landward of the structure will be discouraged.
(d) Designed to incorporate the use of 'soft' protection options, such as beach re-nourishment and planting, where practical;	Partially consistent as soft protection measures will be used to manage and mitigate adverse effects (replanting and restoration following construction in particular). However, the Council's specialist coastal engineer review identifies that soft protection works could replace the Type 2 wall. Planting and restoration (as a soft option) will only be appropriate subject to robust conditions of consent.
(e) Designed to withstand coastal processes, including the potential effects of sea level rise, in accordance with the projections set out in Policy CH 5;	The wall is designed to these predictions and therefore the proposal is consistent. Monitoring, maintenance and repair consent conditions are needed.
(f) Designed to avoid any significant adverse effects at either end of the structure or on neighbouring land;	Subject to further discussion at the hearing regarding adverse coastal effects (southern end), and subject to a robust set of ecological conditions as per the comments from the Council's specialist ecologist the proposal would be consistent with this policy.
(g) Subject to a management plan which as a minimum outlines long-term responsibility for the structure, including anticipated maintenance methods, timing and funding over the design life of the structure, and the thresholds for any adaptation actions that may be required over 100 years	There would be a private agreement in place for the longer-term maintenance and management of the wall. The proposal is consistent with this policy if the coastal protection structure is maintained for the design life. Further discussion of this is likely at the hearing.

324. Overall, in relation to the above I find that the proposed coastal protection response is inconsistent with the overarching policy direction at the regional and national level and the outcomes are not supported. This is not outweighed by the limited benefits to the private properties and public land behind the coastal protection structure, despite the inclusion of this public land in Council's Reserve Management Plan. As noted by the Council's specialist coastal engineer "*the existing training walls, groynes and channel clearing are already providing a level of protection to this frontage in the vicinity of the outlet (See Type 2 section in Figure 1), meaning the justification for the full extent of the proposed wall is not supported as long as the existing structures are maintained".*

Planner conclusion on alignment with the RCEP

325. As a new hard coastal protection structure on public land to protect private property, the proposal does not align with the regional policy direction for coastal hazard response and is inconsistent in this regard. The inconsistencies with many of the directly relevant provisions are noted and I will draw an overall conclusion in regional and national provisions below.

Bay of Plenty Regional Policy Statement (RPS)

326. The RPS sets out regionally significant issues and the outcomes of the objectives and policies generally align with the RCEP which are assessed above. Assessment within this report identifies the proposal's general consistencies with themed objectives and policies for the protection of indigenous biodiversity of the coastal environment, protection of appropriate natural character; iwi resource management and these are not repeated here. Instead, the assessment to follow will focus on the coastal environment and natural hazard matters, with which I have identified inconsistencies.

327. Natural hazards risk reduction objectives again include promoting the use of natural defences against coastal hazards and discouraging hard protection structures. I consider the most relevant to be:

- Policy CE 4A: Protecting and restoring natural coastal margins.
- Policy CE 12B: Avoiding inappropriate hazard mitigation in the coastal environment.
- Objective 31 – Avoidance or mitigation of natural hazards by managing risk for people's safety and the protection of property and lifeline utilities.

328. My assessment of the proposal's alignment with the objectives and policies of the RPS differs to that of the Applicant's assessment, the main reasons being:

- The regional policy framework of the RPS sets a risk based long term planning approach. The Applicant's preferred option is not the only practical means of coastal hazard protection (Council's coastal engineer specialist)

and managed retreat (as an option) is in place for most of the GIPS properties. In this regard the proposal is inconsistent with Policy CE 4A and Policy CE 12B.

- Hard protection structures reduce and compromise the continued natural functioning of physical processes, including changes as a result of climate change. This reduces the buffering ability of natural features. In this regard the proposal is inconsistent with Policy CE 4A.
- The structure will adversely affect access to and along the CMA as sea level reaches and exposes the structure. In this regard the proposal is inconsistent with Policy CE 12B.

329. At Policy CE 12B the RPS notes that "*for parts of the region's developed coastlines, there may be public demand for coastal protection measures to 'hold the line' and protect regionally or nationally significant infrastructure or utilities. Hard protection measures are often sought but are not always the most effective or sustainable option in the long term and can lead to a false sense of future security and encourage further development behind the structures". Further "Policy CE 12B must be read in conjunction with other RPS provisions and the New Zealand Coastal Policy Statement 2010 – in particular NZCPS Objective 5 and Policies 25, 26 and 27"*

330. Assessment of the proposal's alignment with these NZCPS provisions is included to follow and inconsistencies are identified. I will draw an overall conclusion for regional and national provisions below.

New Zealand Coastal Policy Statement (2010)

331. The New Zealand Coastal Policy Statement ('NZCPS') is a National Policy Statement under the RMA which includes policies to achieve purpose of the RMA in relation to the coastal environment (RMA s56). The NZCPS is a high-level planning instrument that sits above the Regional Policy Statement, Regional Coastal Environment Plan, Regional Plan and the District Plan. These lower order documents give effect to the NZCPS and this is not contested by the Court.

332. In preparing the assessment I have referred to the Department of Conservation's Guidance Notes on NZCPS provisions, whilst non-statutory in nature they have informed my understanding of these provisions and the NZCPS 2010 as a whole. For the protection of residential properties, I found that these non-statutory provisions indicate a strong preference for the enhancement of natural dune processes and managed retreat, with the use of hard protection structures discouraged by the promotion of these other alternatives. Whilst these themes are evident the policy document wording does not mandate avoidance of hard protection structures for the protection of existing residential activities.

333. When considering the guidance notes and the NZCPS as a total package I find that there is a clearer path for hard protection structures that protect / preserve significant national / regional infrastructure, public space of significant importance and / or community benefit, areas of cultural significance / value, areas of significantly notable natural ecosystems, habitat and/ or biodiversity at threat, public access.

Comments received from the Bay of Plenty Regional Council

334. As part of the RMA s88 review a copy of the application was referred to the Regional Council for comment. Whilst the Regional Council did not provide an assessment of the proposal against NZCPS matters, their comments note that *"the proposal appears to be inconsistent with a number of objectives and policies; however, the application does not provide an assessment of these policies and/or all relevant clauses of these policies to enable a complete assessment"*. BOPRC note that "*The NZCPS discourages hard protection structures in the coastal environment, particularly on public land, if there is no significant public or environmental benefit in doing so*".

335. The RMA s92 response included the BOPRC consent application and refers to a fulsome assessment against the relevant provisions and by reason that their assessment considers the worst case scenario associated with sea level rise, storm surges and associated retreat, to the point where there is complete erosion of the Glen Isla sand dune, seaward of the Glen Isla Place properties. The Applicant refers that an assessment of any lesser effect is considered favourable and more consistent with the relevant provision. Moreover, the intent of the request was to obtain a more balanced assessment of the provisions.

336. The NZCPS 2010 is the highest order statutory document and that accordingly, its provisions should be afforded the most weight.

337. The most relevant provisions of the NZCPS are considered below.

NZCPS Objective 1 and Policy 11 (biodiversity)

338. Objective 1 seeks to safeguard the integrity, form, functioning and resilience of the coastal environment and sustain its ecosystems. Relying on the assessment of the RCEP above and provided that appropriate and robust consent conditions are included to address the concerns of the Council's specialist ecologist and rehabilitate, monitor and restore the recognised biodiverse values of the dune and the function of the structure across the life of the consent, I find the proposal to be generally consistent with Objective 1.

NZCPS Objective 2 and Policies 13, 14 and 15

339. NZCPS Objective 2 is concerned with the preservation of natural character. The NZCPS does not define 'natural environment' directly, however, Policy 13 provides a detailed framework for understanding 'natural character' and this is understood

to include biophysical, ecological, geological and geomorphological aspects as well as natural landforms (such as dunes) and can vary as a result of human modification and by broader sensory/ perception and associative attributes (e.g. scenic qualities, shared/ recognised values).

340. The Applicant's assessment concludes that the proposal is consistent with Objective 2 and associated policies 14 (restoration of natural character) and 15 (natural features and natural landscapes) as:

    1) The LVA confirms the proposal is not in or adjacent to any area of Outstanding, Very High, or High Natural Character. For this reason, Policy 15(b) applies and requires significant adverse effects on other natural features and landscapes (including seascapes) be avoided, and all other effects on those features and landscapes be avoided, remedied or mitigated.; and

    2) Adopting the reasons in the LVA the proposal has predominantly positive effects on natural character, landscape and visual amenity. Construction effects are temporary and upon completion the wall will avoid adverse effects on the characteristics contributing to values of the OLF.

341. Council's specialist (landscape architect) originally questioned the applicant's assessment and this was resolved as part of the RMA s92 response. Relying the s104(1)(a) landscape and visual assessment, in the absence of significant adverse effects, I find the proposal generally consistent with the outcomes of Objective 2.

NZCPS Objective 3

342. I accept and adopt comments made by the Applicant at page 42 of the Application to conclude that the proposal is generally consistent with the outcomes of Objective 3, Policy 2 and Policy 17.

NZCPS Objective 4 and Policy 19 and 20

343. With reference to the s104(1)(a) assessment of public access, I consider that any public access restrictions resulting from the proposal (such as the structure and associated restoration works) are not significant. Alternative access options are available on either side of the structure. Overall, the proposal is consistent with Policy 19.

344. Policy 20 relates to the control of vehicles on beaches and adjacent public land in certain circumstances. As any associated vehicles are limited to the construction phase (or for repair works) and as set out above, I am satisfied that any adverse effects from these vehicles are managed by the construction methodologies (which include restrictions for vehicles) and conditions of consent that control vehicle movements during any repair and restoration works. I conclude that the proposal is consistent with the outcomes of Policy 20 as subject to adherence with

conditions damage to the dune ecological systems and danger to beach users by associated vehicles is avoided.

Policy 6

345. In my view Policy 6 'Activities in the coastal environment' provides context to determination of the application. Policy 6 recognises the importance of activities which have a functional need to be located in the coastal environment such as infrastructure for community wellbeing and public open space. This can include for example roads so that they are not lost/ unusable by coastal hazards.

346. Before avoiding hard protection structures on public land there should be evidence that alternatives such as managed retreat or soft engineering are not practical, and that the structure is the most appropriate method for addressing the hazard. In this case (and as further discussed to follow), the proposal will benefit only a few (seven) private residential properties, there is no significant cultural, public or environmental benefit, managed retreat is in place for all but one of these properties and the Council's specialist highlights alternatives. In this context the proposal is not supported by Policy 6.

NZCPS Objective 5 and Policies 24, 25, 26 and 27

347. NZCPS Objective 5 is directly relevant given that the proposal being considered is a response for existing residential development facing coastal erosion risk. Objective 5 specifically references and promotes (but does not mandate) managed retreat for existing developments and includes protecting or restoring natural defences to coastal hazards. Objective 5 is given effect to by associated Policies 24-27. With broad interpretation social effects at Policy 25(a) are understood to include potential harm to biodiversity, natural character, public space, public access and amenity values, as well as to settlements and infrastructure (Policy 3, 24, 25 and 27).

348. The Applicant's assessment of NZCPS objective 5 and related policy 24-27 finds that:

(i) Given its intent, the proposal will not increase the risk of adverse effects from coastal hazards and it contributes to the enhancement of natural defences which hold significant biodiversity value.

(ii) The structure, as the preferred option, is the most effective whilst minimising environmental and social costs.

(iii) A hard protection structure is the only practical means of protecting the properties behind.

(iv) The proposal provides significant Environmental benefit though removal of exotic vegetation, proposed dune enhancement and protects significant biodiversity.

(v) The proposal is appropriately located on reserves land (which has been supported by WBOPDC Reserves team through a separate process).

349. The Applicant's assessment focuses on the immediate landward property protection and short to medium term environmental gains, identifying hard engineering as the solution for the identified risk of coastal erosion.

350. My assessment finds that the overarching policy direction and preference of the NZCPS is long-term coastal resilience, including the importance of managed retreat, the protection and restoration of natural coastal processes and the need to consider alternatives before hard protection structures. Hard protection structures are not to be avoided, but they are discouraged and certainly have a clearer path for the protection of significant national and regional infrastructure (which I determine to be those activities generally recognised by policy 6), significant existing and potentially contributing aquacultural activities, cultural wellbeing activities for the community, areas of significant biodiversity, outstanding natural character and/ or where the protection of public access is necessary (to name a few examples).

351. The degree of coastal erosion and accretion at the site requires further discussion at the hearing to determine an appropriate hazard response, particularly the use of a hard protection structure and its location. Whilst the Application has demonstrated that soft protection alternatives have failed, my recommendation is that the proposal submitted is inconsistent with Objective 5 and associated policies 24-27, and it is appropriate to discourage the use of hard protection structures in this location and this instance as:

- The Council's specialist coastal engineer has identified other viable options including natural defences (Policy 25(e)), Policy 26)); and
- The proposal increases the risk of adverse effects, in particular end of wall effects, scouring, loss of dry beach (Policy 27(1)(d)). These adverse effects and their mitigation are to be discussed further at the hearing and include adverse social costs (Policy 27(1)(d); and
- The seven residential properties that would benefit from the hard protection structure are not extensive or permanent, they can be removed / relocated via the manged retreat that is in place for all but one of these properties (Policy 25(b), Policy 27(a)). Managed retreat is a transitional mechanism and timeframe for moving to more sustainable approaches which aligns with Policy 27(1(e)); and
- A public reserve does not automatically qualify for hard structure protection, unless it is significant (context dependent) based on public use, infrastructure, coastal values and status and at significant risk from erosion/ inundation.

The public reserve land behind the structure, although a Council strategic asset, is not so 'significant' under this policy that it warrants protection as public use is very low and is discouraged to protect the dunes, despite this being part of a Council managed reserve (Policy 27(1)(c)). This public land does not contain infrastructure nor does it serve as a community gathering place or public thoroughfare to the DOC land, and natural environment considerations aside, the benefits of its preservation is limited to seven residential properties; and

- Whist NZCPS policy 11(a) and 11(b) items are identified and offered mitigation as part of the suite of conditions from the Council's specialist (ecology), the proposal is not for the protection of notable taxa or existing infrastructure of national or regional importance. The residential properties are relocatable (policy 27(c)); and
- A structure on public land to protect private property is inconsistent with Objective 5, which promotes managed retreat for existing developments (and this is in place for all but one of the GIPS properties). (Policy 27(1)(b)), Policy 25(e)); and
- While the coastal protection structure may offer short-term dune enhancement, it is likely to undermine natural coastal defences and resilience over time (Policy 27(a)), Policy 26); and
- As a hard protection structure to protect the land behind the proposal is limited in its benefit, in the context of the NZCPS 2010, and in this regard is not a strategic option relative to the option of 'do noting' as managed retreat is in place for all but one of the GIPS properties (Policy 27(b)).

NZCPS Conclusion

352. The residential vulnerability of this area is due to past planning decisions, now addressed by managed retreat provisions in the NZCPS 2010 and District Plan. The Applicant claims that if left unprotected, it is feasible that the entire dune could be eroded back to and including the adjacent properties which would see rocks, boundary walls, potentially a swimming pool and private residential properties exposed and eroded into the sea without any protection. I do not follow this argument as whilst a difficult concept, managed retreat is in place for these properties and the rate of erosion from the Three Mile Creek is disputed by the Council's specialist coastal engineer whilst the groynes are in place.

353. In the context of regional and national policy direction, justification for the full extent of the proposal is not supported by the Councils' specialist coastal engineer. Additionally, and separately, public land that would benefit from the proposal is not significant or to be relied on for public access.

354. The proposal does not give effect to / align with the intent of an integrated and strategic precautionary planning approach allowing for natural adjustments for coastal processes.

Planner's Overall Conclusion on alignment with Regional and National Coastal Environment/ Management Policies

355. My assessment finds that the proposal has a mixed alignment with the regional and national direction / outcomes for the management of coastal hazard inundation with sea level rise as:

- I have not been able to identify any cultural or iwi matters that add weight to decision making.
- In accordance with Policy direction of the RCEP[1], priority is to be given to the use of soft protection works such as dune care, beach nourishment and vegetation, before any choice of a hard options is made as part of a proposed solution to a coastal erosion problem. The proposal has considered and ruled out alternatives. However, the Council's specialist coastal engineer has identified alternative coastal hazard protection measures, that encourage natural processes.
- The proposal demonstrates that past attempts to protect this area from coastal erosion have failed. However, notable storm events are not localised to this particular stretch of beach and have impacted other areas of the NZ coastline.
- The policy direction is long sighted and discourages but does not direct avoidance of seawalls in this instance. However, a hard structure on public land to protect private property is inconsistent with the regional and district approach to coastal hazard management.
- The primary driver of this proposal is to protect residential properties behind from coastal erosion and there is secondary protection of the public reserve in front of these residential properties. However, the public reserve in front of the residential properties is not an area of high public use, outstanding regional and/or national natural character, significant or notable social/ community/ recreational.
- The proposal will prolong coastal erosion, offering protection to the GIPS residents and notable dune species behind, up to an uncertain predicated time. This is a limited site specific social and ecological benefit, for only a few. This is not a community, regional or national benefit.

[1] Policy CH9

- The activity and the residential outcomes for managed retreat are not supported by the policy direction for this situation. Managed retreat is in place for most of the GIPS properties.
- In time, the proposal will disrupt and not protect or facilitate the natural systems that defend the coastal from hazards.
- The structure will reduce the useable dry beach as the CMA approaches and is not a whole of catchment approach.
- With respect to coastal hazard protection, alternative protection measures would provide less prevention of progressive erosion.

356. Overall, I find when read as both individually and as a whole the provisions of the NZCPS, RPS and RCEP provided clear guidance that the resource consents sought to construct an 196 metre hard protection structure on public land to protect private properties should not be supported.

National Policy Statement for Indigenous Biodiversity 2023 (NPS-IB)

357. The NPS-IB came into force on 4 August 2023. It applies to the terrestrial coastal environment (not the CMA which is instead managed under the NZCPS 2010). The objective and relevant policies require the maintenance and promotion of indigenous biodiversity restoration.

358. In this case, the site is not identified as a SNA (referred to as Significant Ecological Feature in Appendix 1 of the District Plan and are areas where adverse effects must be avoided, remedied or mitigated to a greater degree than non-SNA areas).

359. Areas outside SNA's are less restricted compared to SNA's and to align with the NES-IB the proposal must demonstrate that adverse effects on indigenous biodiversity are avoided, remedied, mitigated or as a last resort off-set/ compensated. There must be at least no overall loss in indigenous biodiversity after the commencement date.

360. The Application includes an assessment at section 8.5 of the AEE and includes consideration of the objective of this NPS and policy 2, policy 3, policy 7, policy 10 and policy 13.

361. Subject to the robustness of consent conditions for monitoring, restoration and replanting, the proposal can align with NPS-IB so that there is at least no overall loss in indigenous biodiversity after the commencement date.

362. The indigenous biodiversity of the IBDA-B has been assessed, and the proposal will avoid impacts on northern spinifex (which has high ecological value) and will restore indigenous vegetation in the disturbed dune according to a planting plan. Therefore, this proposal aligns with the objective and policies.

Bay of Plenty Natural Resources Plan (RNRP)

363. The applicant has provided an assessment against the relevant objectives and policies of the RNRP and concluded the proposal is consistent with the direction of these. I agree with and adopt this assessment pursuant to s42A(1B)(b) of the RMA.

364. Objective KT O4 and Policies KT P13, P15, P16, and P19 aim to ensure tangata whenua interests are considered, acknowledging the diverse perspectives of iwi and hapū. The applicant invited relevant iwi and hapū to engage and provide feedback on potential effects. While no responses were received, this approach aligns with the intent of the objective and policies.

365. Objective IM O2 and Policy IM P1 promote sustainable land management to protect natural resources, ecosystems, and landscape values, including erosion control through dune preservation. The proposal supports these goals by restoring the IBDA-B and surrounding dunes with a planting plan prepared by a landscape architect, guided by ecological advice.

12. SUMMARY OF OBJECTIVES AND POLICIES

366. My conclusion of the proposal's alignment with the NZCPS, RCEP and RPS where that a number of inconsistencies are noted for matters that are directly relevant to the proposal. In this regard the proposal is not supported.

13. OTHER RELEVANT MATTERS

367. Section 104(1)(c) of the RMA provides for the consent authority to consider any other matter relevant and reasonably necessary to determine the application.

Landowner/ Council Agreement

368. As previously discussed, there is an agreement being prepared between the applicant and Council should consent be granted. This document is currently legally privileged and as such cannot be provided as part of the hearing process. The Reserves and Facilities Manager has provided context to the Agreement in a general way in the Reserves Memo (**Attachment 16**). The Reserves and Facilities Manager has also requested input into draft conditions should the consent be issued as they will become the future consent holder.

Tauranga Moana Iwi Management Plan (TMIMP)

369. TMIMP is the collective voice of Ngāti Ranginui, Ngāi Te Rangi and Ngāti Pūkenga as it relates to Tauranga Moana and the surrounding lands and waters, including the CMA from Ngā Kurī-a-Wharei in the north-west to Wairakei Stream in the south. Section 8.8 of the Application talks to the vision of this plan and the proposal's alignment. Key points from the Applicant include:

- The vision is that Tauranga Moana Iwi and hapū work together and are actively involved in restoring and enhancing the mauri of Tauranga Moana.
- The provisions of section 6 relate to Tūhauora Tinana: Healthy Waters and emphasise:
    - Restoration and protection of the mauri of Te Awanui and coastal areas;
    - Avoidance of the degradation of water quality; and
    - Reduction of the impacts of sedimentation on Te Awanui.
- The proposal is located outside the CMA. The proposed methodology will ensure that the earthworks do not result in sediment or other contaminants entering the CMA, such that mauri of these coastal waters will be protected. The proposed works will ensure the health of the sand dune habitat is enhanced by undertaking planting of native dune plants species following the completion of works
- The proposal has been developed taking into account the mātauranga-based policy framework articulated in the Tauranga Iwi Management Plan 2016-2026. The Applicant has extended the offer of engagement to iwi, hapū and marae with an interest in Waihī Beach to recognise the importance of active involvement and participation in resource management processes. Acknowledging that none of these offers have been taken up by any party, the intent of this engagement is to understand the connection of iwi, hapū and marae to the project area, and to ensure their relationship is and role as kaitiaki is recognised and provided for.
- The Applicant acknowledges that effects on cultural values will continue to be considered when engagement with mana whenua occurs.

370. Construction Management Plan will ensure sediment and erosion controls are in place, ensuring coastal water quality will be protected, clean stormwater diversion from active works site, refuelling outside of the CMA, vehicle movements on the dry foreshore.

371. It has also been considered that vehicle use on the foreshore will not impact kai moana resources.

372. The site is not identified as an Area of Significant Cultural Value, is not listed in the Historic Heritage Inventory, has no identified archaeological sites, and is not mentioned in the Tauranga Moana Iwi Management Plan or consultation feedback.

373. I consider the proposal to be in accordance with TMIMP.

Western Bay of Plenty Coastal Erosion Response Policy 2017

374. This Council's Policy was developed to give a framework for future decisions on the response to erosion or subsidence of Council-owned coastal land (Policy Objective 2.1). The Policy gives effect to the NZCPS, RPS and takes into account the RCEP and requires that responses are affordable for the affected community both now and in the future (Policy Objective 2.2).

375. The response policy criteria consider end effects, public access (or alternative links), and impacts on amenity values. It acknowledges that the NZCPS generally discourages hard protection measures, though they may be necessary for protecting key nationally or regionally important infrastructure. For hard structures, the policy evaluates the public or environmental benefit of locating them on public land. It also encourages enhancing dune systems and notes that hard coastal defences have a limited lifespan and require eventual maintenance, upgrading, or replacement.

376. I note the following key points from the policy document:

- Council is not under any obligation to protect its own land or private land from erosion.
- The Waihī Beach rock revetment is subject to resource consent conditions that require Council to undertake comprehensive investigations by 31 December 2020 to determine the best practical option for the long-term management of the coastal hazard risk at Waihī Beach.
- Council will continue to apply the rules in the District Plan that cover subdivision and development in the Coastal Erosion Areas and Coastal Inundation Areas of the residential zones of Waihī Beach and Pukehina and the Coastal Erosion Areas along the rural open coast, so as to avoid the need for future inner harbour and coastal hazard hard engineering protection works.

377. Comments from the Council Committee and the Reserves and Facilities Manager does not find the proposal totally inconsistent with the Policy. I also do not find the proposal totally inconsistent with the Policy.

Katikati - Waihī Beach Ward Reserve Management Plan 2018

378. As noted in the Application, this Reserve Management Plan covers the 3.9ha of Local Purpose Esplanade and Recreation Reserve around the Three Mile Creek river mouth (Figure 24, page 67). It is important to note that the entire reserve is not impacted by the proposal, it is only the reserve land in front of the GIPS properties. Council's Reserves and Facilities Manager confirms that this area is of low recreational use, and I add that its use by the public is discouraged in favour of the health and resilience of the dune system.

379. The AEE notes that, *"While WBOPDC have previously acknowledge that a hard protection structure is not entirely consistent with this policy, the proposal is consistent with the objectives and policies"*

380. Council's Reserves and Facilities Manager has confirmed that the reserve is considered a strategic asset, however it is unlikely public access along the top or rear of the wall will be provided in the future. The proposed location of the structure is acceptable to the functionality and operation of the reserve.

Marine and Coastal Area (Takutai Moana) Act 2011

381. BOPRC provided the WBOPDC with a list of the Marine and Coastal Area Act (MACAA) applicants adjacent to the proposed works. The Public Notice was served by the Council to the Marine and Coastal Area (Takutai Moana) groups on the 16 January 2025, via email. No submissions were received from any of these groups.

14. PART 2 OF THE RESOURCE MANAGEMENT ACT 1991

382. Part II of the RMA provides the Purpose and Principles of the Act, principally under Section 5, which provides the overarching framework under which resource management decisions are made. The purpose is defined as:

> *(1) The purpose of this Act is to promote the sustainable management of natural and physical resources.*
>
> *(2) In this Act, sustainable management means managing the use, development, and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic, and cultural wellbeing and for their health and safety while:*
>
> - *Sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations; and*
> - *Safeguarding the life-supporting capacity of air, water, soil, and ecosystems; and*
> - *Avoiding, remedying, or mitigating any adverse effects of activities on the environment.*

383. Following the Court of Appeal's decision in *RJ Davidson Trust* I have fully considered the application against the relevant provisions of the planning documents. As such, I do not consider it necessary to revisit Part 2, but I will leave that for the Commissioners to decide. For the avoidance of doubt, I have considered the proposal against the relevant Part 2 matters and it does not change my assessment under s104 in relation to the planning documents.

15. CONCLUSION

384. In considering the above assessment, it is my opinion that the proposal will or is likely to have adverse effects on the environment from Construction activities (including, noise and vibration, transport and access), Ecology, Landscape, natural and visual character, reserves and public access and cultural and these can be suitably mitigated subject to the finalising of appropriate conditions of consent to be environmentally acceptable and less than minor.

385. In considering coastal processes and hazards at the time of writing the s42A report I am not in a position to conclude if the adverse effects are environmentally acceptable or unacceptable.

386. The proposal is found to be inconsistent with many of the directly relevant provisions of the NZCPS, RCEP and RPS, as there is strong policy direction that type of activity should not be supported within this coastal environment.

387. Having considered all of the relevant matters under Sections 104 and 104B of the RMA, it is my recommendation, to the Independent Hearings Commissioners, subject to any further information which may be presented at the hearing, that this resource consent be **declined.**