

Decision following the hearing of an application for resource consent to construct a revetment wall at the toe of the dune below 4, 6 and 8 Tuahine Crescent, Wainui Beach.

Proposal

To construct a revetment wall at the toe of the dune below 4, 6 and 8 Tuahine Crescent, Wainui Beach to protect private landholdings from coastal erosion. The proposal is to construct the wall within the footprint of the proposed wall and not encroaching on to the Coastal Marine Area.

This resource consent is **GRANTED** subject to conditions. The reasons are set out in this decision report.

Application reference:	LU-2019-108876-00 and LL-2019-109696-00
Site address:	4, 6 and 8 Tuahine Crescent, Wainui Beach, Gisborne.
Legal description:	Lots 5, 6 and 7 DP 3216.
Applicant:	Simon Cave
Hearing commissioners:	Alan Watson Vanessa Hamm
Appearances:	For the Applicant: Andrew Cameron, legal counsel Sam Morgan, coastal scientist/consultant David Mountfort, planner Ross Muir, planning consultant Georgina McPherson, planning consultant Rebecca Cray, consultant landscape architect (not in attendance, tabled evidence) Submitters: Hamish Cave, 4 Tuahine Crescent (supporting) Robin Briant, 60 Murphy Road (opposing) For the Council/consent authority (GDC): Mary Hill, legal counsel Todd Whittaker, planning consultant/reporting officer Willem de Lange, coastal scientist Paul Murphy, Team Leader Environmental Science, GDC Sonia August, Resource Management Systems Advisor, GDC
Hearing date:	11 May 2023
Commissioners' site visit:	10 May 2023

Introduction

1. This decision is made on behalf of the Gisborne District Council (**Council** or **GDC**) by Independent Hearing Commissioners Alan Watson and Vanessa Hamm, appointed and acting under delegated authority in accordance with sections 34 and 34A of the Resource Management Act 1991 (**RMA**).
2. This decision report contains the findings from our deliberations and has been prepared in general accordance with s 113 of the RMA.

Background

3. This application has followed a lengthy path to being heard, the reasons relating to interruptions due to illness of some participants, the Covid situation restricting travel, and also considerations of how the application for resource consent would be handled given there was also an objection under s 357C RMA by the Applicant to a decision by the Council to decline the Applicant's application for an existing use rights certificate relating to the proposed works. A number of memoranda refer. The advice dated 10 May 2023 from the Council to the parties regarding the hearing explicitly states the hearing is for the publicly notified resource consent application. The advice provides the Council's reference numbers for the application and states the proposed activity to be considered is the construction of a timber pile rip-rap hybrid sea wall to replace the existing degraded sea wall. That is to say, and as stated earlier in the Second Direction from the Commissioners dated 25 January 2023, the hearing is for the resource consent application with the matter of the existing use rights objection to be arranged at a later date.
4. The hearing was conducted from the Council's offices on a virtual basis with most of the participants being heard in that manner. The hearing had earlier been arranged on that basis given the travel constraints associated with Covid. That arrangement continued given that many of the participants were located some distance from Gisborne, including in the South Island. The Commissioners were at the Council's offices for the hearing, as was a Submitter, Robin Briant.
5. The expert evidence for the Applicant had been pre-circulated as had evidence from one of the Submitters, Robin Briant. Ms Briant also provided later evidence that she spoke to at the hearing, that late evidence was not opposed by the Applicant.
6. We visited the site and locality the day before the hearing. We were accompanied by the Council's hearings advisor, Sonia August who is not involved with reporting or making the decision on the application.

The site and the proposal

7. The site is located at the southern end of Wainui Beach and below the bluff that extends up to the residential dwellings along Tuahine Crescent. A rock revetment is located just inside the coastal boundary of the properties at 4, 6 and 8 Tuahine Crescent with former railway lines positioned vertically at the base of the wall on the boundary with the Coastal Marine Area. A concrete groyne is located to the south of the wall.
8. The proposal is the replacement of the existing sea wall that is assessed in the application as having been in place for some 50 years and being in a state of disrepair. The new wall would provide better protection from loss and damage from coastal processes with this area at the southern end of the beach having been identified as being at risk from progressive erosion.
9. The proposed wall is described in the application as being a hybrid type solution with a vertical structure comprising timber piles located in front of the wall to restrict the toe and allow for the rip-rap behind the wall to be built up to design heights. The timber piles are to be spaced to avoid loss of rock between individual piles. The larger rock is to be placed along the seaward face and along the top of the rip-rap wall to create a stable platform to construct the remainder of the wall. The proposed sea wall is to be approximately 24m (now 29m) long. See paragraph 24 below.
10. The sea wall will dissipate the energy approaching the base of the cliff to avoid any further erosion. It will act in a similar manner to the existing wall with a significant difference being an increased crest height to allow for future sea level rise. The crest height would be 4m as compared to 2.5m for the height of the existing wall to allow for overtopping and future impacts of sea level rise and climate change¹. Salt tolerant planting is proposed at the top of the wall to assist with land stabilisation and to dampen the effect of any overtopping of the structure.
11. The sea wall is to be constructed of local rock material, including rock from the existing wall, which is recessive in colour being beige, tan, white and grey tones.
12. It is noted in the application details that the proposed wall has been designed to address concerns that were raised in the earlier decision from 2018 that declined consent to a new sea wall in this location.
13. There is a long history of different hazard management approaches and both formal and informal protection works have been constructed at Wainui Beach. GDC has earlier engaged with the community to develop the Wainui Beach Erosion Management Strategy (**WBEMS**).

¹ Figures taken from Tuahine Seawall, Wainui Beach, Resource Consent Application and Assessment of Environmental Effects dated April 2019, paragraph 4.2 and from Drawing 14608-C01, as copied into the s 42A report as Figure 1; Application drawings of the existing and proposed sea wall.

The submissions

14. The application was publicly notified, and 87 submissions were received. Four of these submissions were received after the closing date of 13 March 2020. One of the opposing submissions from Katherine Cave was subsequently amended to be in support following changes that were made to the proposed wall. This is addressed below at paragraphs 26 and 82. The submissions from Torben Hitchfield (support) and Raymond Smith (support) are **accepted**, those being received 2 and 4 days late respectively. The submissions from Arthur Young (support) and Helen Melrose (support) are **not accepted** on the basis of having been received on 20 May 2020, well beyond the closing date for submissions. The Applicant had earlier agreed to not oppose the acceptance of the four late submissions.
15. The reasons for accepting the submissions of Torben Hitchfield and Raymond Smith, pursuant to ss 37 and 37A RMA, are that we have taken into account the interests of any person who may be directly affected by the extension; the interests of the community in achieving an adequate assessment of the effects of the proposal; and our duty under s21 RMA to avoid unreasonable delay and consider it reasonable to accept those submissions.
16. The reason for not accepting the late submissions of Arthur Young and Helen Melrose, pursuant to ss 37 and 37A RMA, are that the submissions are well beyond a reasonable time for receiving them.
17. Of the 85 submissions, 81 are in support of the application and 4 in opposition to it. Mr Whittaker states in his s 42A report that the vast majority of the submissions are supportive of consent being granted with many appearing to be from landowners with property at Wainui Beach, and who may be seeking to benefit from coastal protection works.

Procedural matters

Existing use rights

18. When the hearing was opened, Mr Cameron for the Applicant asked that the existing use rights application be produced as part of the resource consent process, and form part of the record. He also urged us to refer to it to understand the status of the activity, saying that if we found that there was an existing use based on the evidence before us then it would not be necessary to determine the resource consent application.
19. Upon questioning, noting that a resource consent application has been made and not withdrawn, Mr Cameron advised that the status of that application was not clear, including both the activity status and/or whether the activity has existing use rights or not.
20. Ms Hill for the Council as consent authority pointed out in relation to the existing use rights application that the application had been declined, and an objection had been lodged against that decision. However, the objection had not been set down for hearing before us on 11 May 2023.

21. We were appointed to consider the resource consent application. Although we have also been appointed to consider the objection against the decision to decline the application for an existing use rights certificate (Application Number EU-2021-110398-00), that matter was not set down for hearing and the requisite notice of hearing was not given. Therefore, we proceed to determine only the resource consent application.
22. The Application for Certificate of Existing Use Rights dated 11 May 2021 was produced, and we have had regard to it as part of the record. In that respect, we were particularly referred to and did have regard to:
- Appendix H (statement of Mr Simon Cave).
 - Appendix J (Environment Court decision).
23. In addition, in terms of the details of the proposal for which resource consent is sought (which we discuss next), the Applicant amended its resource consent proposal to adopt the plans contained in the Application for Certificate of Existing Use Rights. We therefore had regard to that application for the purposes of the 'Landscape and Visual Comment'.

Amendment to resource consent application – scope

24. The plans included in the resource consent application (14608-C01 REV2 dated 19 December 2018) depict a sea wall which is 23.9m in length with a 1.4m angled corner and then a 6.2m return to the cliff face running perpendicular with the shore. The plans included in the Application for Certificate of Existing Use Rights depict a wall which is 29.4m in length with a 7.3m angled return into the cliff. We were advised that the Applicant wishes to amend its resource consent application to a proposal reflecting the existing use rights proposal (plan reference 14608-COV REV3 dated 19 February 2021 which was produced at the hearing).
25. Ms McPherson addressed the issues of scope in her statement of evidence. Ms Hill for the Council advised that she did not have any concerns with respect to scope, particularly given that the amendment was a reduction in effects (specifically 'end effects').
26. We note also that Katherine Cave from 4 Tuahine Crescent filed a statement of evidence at the hearing in support of the resource consent application based on the amended proposal and changing her earlier stance of opposition. That was in response to the amendment to the application/proposal that has the proposed sea wall returning to the cliff face at an angle as opposed to returning perpendicular. The proposed wall now also extends the full width of Ms Cave's site rather than half way along it.
27. The Landscape and Visual Comment dated May 2021 in the Application for Certificate of Existing Use Rights contains visual montages of the 29.4m proposed sea wall. When compared to the visual montages of the original proposal, it is difficult to discern the difference.
28. We are satisfied that the amendment to the proposal is within the scope of the application and proceed to determine the resource consent application accordingly.

Relevant statutory provisions

29. We have had regard to the relevant statutory provisions of the RMA, being ss 104, 104B and 104D and Part 2 of the RMA.

Relevant plan provisions

30. We have had regard to the relevant plan provisions of the Te Papa Tipu Taunaki o Te Tairāwhiti Resource Management Plan 2017 (**the TRMP**) for the Gisborne District. The relevant zones and other notations in the TRMP affecting the site are:

Zoning:	General Residential
Overlays:	Coastal Management: Significant Values Management Area Coastal Management: Outstanding Landscapes Coastal Management: Coastal Environment Natural Hazards: Stability Alert - Site Caution Natural Hazards: Coastal Hazard Overlays - Extreme Risk Historic and Cultural Heritage: Heritage Alert Overlay Land Management: Land Overlays 2 and 3.

31. Mr Whittaker identified the following rules as being relevant to the proposal:

- The construction of a sea wall that is not provided for in residential zones. Pursuant to DD1.6.1 (32) consent is required as a non-complying activity.
- The proposal will involve more than 10m³ soil/land disturbance in the Land Overlay 3. Pursuant to C7.1.6 (3) consent is required as a restricted discretionary activity.
- The proposal involves the construction of a sea wall to mitigate the effects of coastal hazards in the Coastal Hazard 1 Overlay. Pursuant to C8.5.7 (1) consent is required as a discretionary activity.
- The proposal involves earthworks that will alter natural dune landform in the Coastal Hazard 1 Overlay. Pursuant to C8.5.7 (3) consent is required as a discretionary activity.
- The proposal involves removal of the existing sea wall in the Coastal Hazard 1 Overlay. Pursuant to C8.5.7.4 consent is required as a discretionary activity.
- The proposal may involve land disturbance in the Outstanding Landscape Area which will disturb more than 10m³ of soil. Pursuant to C9.1.6 (12) consent is required as a restricted discretionary activity.

32. The overall activity status of the proposal is a non-complying activity.
33. A matter that we find is relevant and reasonably necessary to determine the application (s 104(1)(c) RMA) is the Wainui Beach Erosion Management Strategy. That is because it has been adopted by the Council and is the document which deals in the most detail with coastal erosion at Wainui Beach. We address it below.

Summary of the presentations at the hearing

The Council:

34. The Council's s 42A RMA report (**s 42A report**) dated 30 June 2000, prepared by Todd Whittaker along with supporting reports from Willem de Lange and Paul Murphy, was circulated prior to the hearing and taken as read. The s 42A report included a recommendation for consent and a set of consent conditions. Mr Whittaker had also prepared an Addendum Section 42A Officer's Report dated 27 September 2022 and Mr Murphy an Addendum Report dated 21 September 2022 with recommended conditions.

The Applicant:

35. The Applicant Simon Cave was represented by **Andrew Cameron** who addressed his pre-circulated legal submissions. He submitted that the planning framework provides for the proposed activity as an existing use and if for some reason that was not the position (which he did not concede), the planning framework supported the resource consent application and informs how to approach the formulation of conditions and the term of consent. He acknowledged the hearing was in relation to the consent application but maintained discussion of the existing use rights situation was relevant to a consideration of it. Mr Cameron addressed particularly the reporting officer's recommendation regarding the term of consent and the recommended conditions relating to a review of the consent conditions and the decommissioning of works.
36. **Georgina McPherson** spoke to her pre-circulated planning evidence and provided a Supplementary Assessment of the TRMP rules. In her supplementary statement she pointed out she had now reached a different conclusion to her earlier evidence with respect to the proposed works in relation to the Residential zone provisions. Ms McPherson discussed the provisions in her evidence concluding that if there is insufficient certainty to determine that the Residential zone provisions do not apply to the coastal protection works proposed, then it is her opinion that the works should be considered as a permitted residential accessory structure, rather than as a non-complying activity.
37. Ms McPherson otherwise addressed parts of her pre-circulated evidence.
38. **Sam Morgan** addressed his pre-circulated evidence detailing the current state of the coastal works, the coastal processes at work and the recommended conditions. He

acknowledged there could be some end effects at the northern end of the structure associated with the proposal. He described these as “*some turbulence*” associated with the movement of water but he was of the view that would be satisfactorily absorbed. He also explained how he did not see “softer” options as being available in this case, those options he saw as being more appropriate at beaches rather than in front of escarpments.

39. **David Mountfort**, a planner formerly at the Council, now engaged outside of the District and largely as a Hearings Commissioner, addressed his pre-circulated evidence focussing on the manner in which the coastal provisions had been included in the TRMP.
40. **Ross Muir**, also a planner formerly at the Council, now a planning consultant in the District addressed his pre-circulated evidence. That included a detailed account of the planning provisions in the TRMP and the history of coastal works at Wainui Beach.
41. **Rebecca Cray** was not in attendance but had provided a pre-circulated statement addressing landscape and visual effects.

The Submitters:

42. **Hamish Cave** spoke to his submission in support of the proposal, largely based on the need for a replacement wall given the current sea wall being very old and in a poor state of repair. He saw a sea wall being necessary to protect the coastal properties in the application.
43. **Robin Briant** addressed her earlier submission in opposition to the proposal and an additional statement which had been pre-circulated. In the additional statement she provided details of the presence of Little Blue Penguins in the vicinity of the site and was concerned regarding how the presence of penguins could be managed if the sea wall was approved.

The Council:

44. **Willem de Lange** spoke to his report that was appended to the s 42A report. He supported the proposal but had some concern for the height of the structure being more than was needed.
45. **Paul Murphy** spoke to his report that was appended to the s 42A report. He supported the proposal and highlighted that the existing wall was at risk and its value was declining as a protective structure.
46. **Todd Whittaker** spoke to his s 42A report. He did not support the 50 year consent term sought by the Applicant. In relation to the existing use discussion, and in relation to the TRMP provisions, his view was that the proposal represented an alteration rather than a minor upgrade therefore requiring resource consent consideration. He addressed the recommended conditions of consent in which he acknowledged that a

review condition could be removed from his recommended conditions so long as there was a term included in a grant of consent to the proposal.

47. **Mary Hill** addressed her legal submissions and a number of issues that arose in relation to the application. Ms Hill had concerns for the introduction to the hearing by Mr Cameron of the existing use rights debate pointing out that the hearing concerned the consent application with the existing use right objection to be left to later proceedings. Ms Hill submitted in support of a 20 year term of consent to align with that for the neighbouring sea wall and to enable ongoing consideration of these structures as part of Council's review of coastal hazard risk in the district.

Right of reply:

48. **Mr Cameron** spoke in reply in which he covered a range of matters that included:

- If it is found that the proposal can proceed on the basis of an existing use right, then no resource consent is required.
- The term of consent needs to give sufficient security to the Applicant.
- A review condition.
- The height of the structure.
- It not being necessary to align the consent with that relating to the property to the south.

49. The hearing was then adjourned with advice from the Commissioners that an adjournment would provide the opportunity for them to discuss the proceedings and to decide whether any further information was required. The hearing was expected to be closed within 5 working days. Some additional material from Mr Cameron relating to consent conditions was received and provided to all the parties to the application. The hearing was closed at 2pm on Monday 22 May 2023.

50. We record that all the participants at the hearing provided useful information, supplemented by their answers to our questions, to inform the decision on the application.

Principal issues in contention

The principal issues in contention were:

- The activity status of the proposal.
- The effects on the coastal environment associated with the proposed works.
- Whether the works proposed are in accordance with the TRMP.

- Whether the works proposed are in accordance with the NZCPS.
- Whether the works proposed are consistent with the WBEMS.
- If consent is granted, the term of the consent.
- If consent is granted, whether a condition providing for Council to review the consent conditions is required.
- If consent is granted, how decommissioning of the works is to be managed.

51. Our findings on the principal issues are discussed below.

The activity status of the proposal

52. A key matter in contention is the activity status applying to the proposal. Our understanding is that the Applicant's position is as follows:

- With respect to the regional rules, the proposal should be treated as a permitted activity on the basis that it is minor upgrading. In contrast, the reporting officer's position is that the activity status is discretionary as the proposal is not minor upgrading but falls to be considered as an alteration.
- With respect to the district rules, the only rules triggered relate to land disturbance, which is a restricted discretionary activity. The Applicant does not agree that the activity falls to be considered as a non-complying activity on the basis of a "catch all" rule.

53. The Applicant's position with respect to the district rules is set out in a Supplementary Assessment of Tairāwhiti Resource Management Plan Rules dated 10 May 2023 which was produced by Ms McPherson at the hearing.

54. Our understanding of the Applicant's approach is that on its best assessment, the only resource consent that would be required is a restricted discretionary resource consent for land disturbance under the district rules (as it is otherwise a minor upgrading which is a permitted activity).

55. We work through the district and regional rules of the Tairāwhiti Resource Management Plan (**the TRMP**) in turn.

District plan rules

56. The reporting officer has assessed the proposal as a non-complying activity overall, due to the construction of a sea wall not being provided for in residential zones (rule DD1.6.1(32)). Ms McPherson's supplementary assessment is that this is not how the rules are intended to operate in the Residential Zone. Ms McPherson's alternative view is that if there is insufficient certainty to determine that the Residential Zone

provisions do not apply to the coastal protection works currently proposed, it is her opinion that the works should be considered as a permitted residential accessory structure under rule DD1.6.1(4) rather than non-complying under rule DD1.6.1(32).

57. We have considered the TRMP and particularly Part A which explains the following steps for assessing resource consent requirements:

1. Identify what relevant zone, management area and overlays apply to your activity by looking at the relevant planning maps;

2. Identify the rules that apply to your activity within the relevant zone, management area and/or overlay. To do this, you need to work through the relevant tables and follow rule rows across to determine the status of the activity, if there are any standards that must be complied with, and the matters of control or discretion (where applicable); and

3. Identify whether there are any region-wide rules that apply your activity, and then identify the relevant rule table. You then need to work through the relevant tables and follow the specific rule rows across to determine the status of the activity, and if there are any standards that must be complied with and the matters of control or discretion (where applicable).

58. Following these steps, one would under the second step have regard to the Area Based Provisions in Part D of the TRMP first, followed by the region-wide rules under the third step.

59. Working through the TRMP in that way, the activity status is assessed through Part D first. We consider it is clear that a sea wall/coastal protection structures are not provided for in Part D, and that accordingly they fall to be considered as a non-complying activity. However, we have for completeness considered rule DD1.6.1(4). We do not consider that the proposed works are an accessory structure and the standards on the rule which refer to storage, "fences and walls", yards and eaves reinforce that view.

60. Our assessment is therefore that the proposal is a non-complying activity under Part D of the TRMP.

Regional rule assessment

61. The relevant regional rule in the TRMP which provides for minor upgrading or maintenance of structures as a permitted activity is rule C8.1.6(4) (General Hazard rules) for "the maintenance and minor upgrading of legally established existing structures".

62. "Minor upgrading" is defined in the TRMP as:

Means to expand the capacity of an existing structure, where the effects that result from the process are the same or similar in character, scale and intensity as those that existed at 20 November 1997 or prior to the commencement of the minor upgrading for activities established after 20 November 1997.

63. While Part E of the TRMP also contains a definition of “maintenance” it is specific to certain sections of the TRMP and does not include C8.
64. It is therefore necessary to consider whether the proposed works fall within the meaning of minor upgrading (defined) or maintenance (undefined) in order for them to be treated as a permitted activity (notwithstanding that in any event the proposed works are a non-complying activity under Part D of the TRMP).
65. The Applicant’s argument is that the works involve minor upgrading because the *effects* of the proposed structure will achieve the same or similar effects as the existing structure in terms of protection from coastal hazards and effects on coastal processes.
66. Having considered the matter, we are not persuaded that the works amount to minor upgrading. This is for the following reasons:
- The existing sea wall structure is approximately 100m in length. It extends well to the north of the existing accessway from Tuahine Crescent. The proposal involves the removal of the rail irons for the first 29.4m of that structure, and replacement of them with timber piles. The proposal also involves a timber piled return towards the cliff, with logs and rocks behind the timber wall to a height of RL 4.0m (as compared to RL 2.5m currently).
 - The proposal involves the removal and replacement of the existing structure (railway irons with timber piles).
 - The timber piles, whilst having no significant adverse visual impact in and of themselves, will form a visually distinctive part of the existing structure, which will no longer be one continuous structure.
 - The rock to be placed behind the timber piles will be greater in height than both the original and existing structure (both within the footprint of the proposed works and also when compared to the remainder of the existing structure). The result is a substantially upgraded *section* of the existing structure which is comprised of different materials and will be physically and visually distinctive.
67. For those reasons we do not consider that the proposed works are either minor upgrading or maintenance which falls to be considered as a permitted activity, but rather are in the nature of an alteration, which falls to be considered under rule C8.5.7.(1).

68. Before moving off this topic, we note the reporting officer's assessment that the proposed works also trigger rules C8.5.7.(3) and C8.5.7.(4) in the TRMP which are discretionary activities. The Applicant's planner does not agree with that assessment. We agree with the reporting officer that the works described above involve both land disturbance and removal of an existing structure and we therefore consider them to be triggered. However, we note that this would not alter the assessment under the regional rule framework as under the regional rule framework the activity status would remain discretionary.

The effects on the coastal environment associated with the proposed works

69. The effects were comprehensively addressed in the Assessment of Environmental Effects (**AEE**) with the application, in the evidence from Ms McPherson, Mr Morgan and Ms Cray and in the s 42A report by Mr Whittaker. The latter usefully considered the effects under headers of:

- Design and Scale of Proposed Revetment Wall
- Natural Character and Coastal Landscape
- Coastal Processes
- Wall End Effects
- Public Amenity, Access and Recreational Space
- Ecological Effects
- Cultural and Heritage Effects
- Construction Effects
- Positive Effects
- Funding of Works.

70. In doing so, Mr Whittaker brought together the commentaries included in the application, the submissions, and the s 42A report. We largely accept his analysis and conclusions on the issues. We provide our findings below using the same sub headers as Mr Whittaker has in the s 42A report.

Design and Scale of the Revetment Wall

71. The evidence from Mr Morgan describes how the existing structure has deteriorated to a stage where the railway irons can no longer be relied upon to maintain the stability of the rip-rap wall. Only the lower logs act to retain the remaining rocks in the wall and there are also displaced rocks and deformed railway irons in the wall. The proposed works will be a similar design but with timber posts and larger rocks along the seaward face and along the top of the rip-rap wall to create a stable platform for the wall. The new wall will also be higher than the existing wall to allow for future sea level rise and climate change. The same concept remains whereby the energy from incoming waves is dissipated by the wall that is graded back from the Coastal Marine Area boundary with the application site.

72. As pointed out by Mr Morgan, continued deterioration of the structure can be expected and should it fail, it is anticipated the existing rock in the wall would migrate to the beach and eventually cover the beach at the toe of the cliff. That in turn can result in further erosion of the cliff face and risk to the properties above.
73. We find there is a need for the coastal works proposed in order to avoid or limit future erosion affecting the neighbouring residential properties and that any adverse effects will be minor.

Natural Character and Coastal Landscape effects

74. The application includes a landscape and visual assessment of the proposed revetment wall from Rebecca Cray. That concludes it will have negligible impact on the existing landscape character and will not contribute to any significant diminishment of the view quality. Ms Cray provided a short statement for the hearing in which she confirmed the visual effects associated with the proposal would range from very low to low, noting too the proposed coastal native planting.
75. We note from our site visit and as mentioned in the s 42A report, the existing structure detracts from the character and landscape of the local environment which will be enhanced by the proposal including a more uniform appearance with a defined outer edge of the timber piles and planting atop the wall.
76. We had no issues with the assessment by Ms Cray and find the adverse effects on natural character and coastal landscape will be minor.

Coastal Processes effects

77. The application includes a technical report regarding coastal processes at Wainui Beach which concludes there is not a significant erosional or accretionary trend over the period monitoring data exists. It states that due to the scale and location of the proposed structure it appears unlikely that there will be any discernible change to coastal processes and that reflection from the proposed wall is thought to be similar to the existing situation to which the beach does not appear to be impacted by.
78. Dr de Lange reviewed that report for Council and reported that the effect on coastal processes from the proposed wall is likely to be the same as for the existing wall, that effect being minimal. At the hearing he confirmed the view but also pointed out that he considered the height of the proposed wall could perhaps be reduced, without providing any empirical measure for such a reduction. In the absence of any specific evidence on this matter, we can only ask that the Applicant keeps the crest height of the wall under review and whether it could be a lesser height as part of construction or reduced at a later time, following construction. In evidence, Ms McPherson refers to the earlier assessment of the landscape, natural character and visual amenity

effects of the works in which she discusses the increased crest height of the wall, above that of the existing wall, and does not see that to be a concern.²

79. We note too that there is a nationally significant surf break towards the northern end of the beach but nothing in this proposal suggests there would be any effects on that surf break.

80. We find the adverse effects on coastal processes from the proposal will be minor.

Wall End effects

81. This is the effects associated with the introduction of hard protection structures leading to changes in the wave motion and direction around the new structure and potentially affecting property at either end of a sea wall.

82. This is a greater concern at the northern end of the proposed wall where it returns back to the cliff face below number 4 Tuahine Crescent and half the way along that property boundary. The owner of that property (Katherine Cave) had concerns in her submission but later, following a change made by the Applicant, amended her submission to one of support. The change was to extend the proposed wall completely across the front of her site and have it return on a more gradual angle as opposed to a being at a right angle to the coast. That matter is addressed in Ms Cave's evidence for the hearing.³ As explained in the evidence of Mr Morgan, the change also includes a reduction in the slope of the proposed wall at this point to create a smoother transition which serves to reduce the available area for turbulence and the likely repair and maintenance requirements.

83. We accept from all the evidence that this is not a perfect science but that the Applicant has done all that is practicable to reduce end effects to a degree they can be considered to be minor. The adverse effects are accordingly minor.

Public Amenity, Access and Recreational Space effects

84. It is reasonable, from the information provided, that the works will take some 12 weeks to complete. There are some different views on the time required. Measures included in the application details are included as conditions of consent to ensure the least disruption to users of the beach who access it from the steps alongside the application site. These will serve to ensure the adverse effects, which will be temporary in nature, are minor.

Ecological effects

85. As stated in the evidence of Ms McPherson, the proposed structure is not located within an area identified as containing any significant conservation, biodiversity, or

² Evidence of Georgina McPherson, 5 October 2022, paragraphs 8.19 - 8.20.

³ Evidence of Katherine Cave, 5 October 2022.

ecological values. The existing environment is a highly modified by the existing structure and that also to the south of it.

86. Ms Briant provided evidence of the presence of Little Blue Penguin in the vicinity. We agree that measures need to be taken to as much as possible, avoid any effects upon penguins. We have included a condition accordingly that is in line with advice from Mr Murphy in his addendum to the s 42A report⁴. That requires an associated survey and management plan. This condition was accepted as being appropriate by the Applicant's witnesses and by Messrs Murphy and Whittaker for the Council. We consider it will largely meet Ms Briant's concerns in this respect.

87. With that condition included, the adverse effects on Little Blue Penguin will be avoided.

Cultural and Heritage effects

88. The Applicant pointed out that consultation had occurred with Ngati Oneone who had provided advice they supported the application. No heritage features are affected. There would appear to be no effects in these respects.

Construction effects

89. Construction will take place from the sensitive environment of the Coastal Marine Area and involve noise and also a risk from contaminants from machinery. These and other effects can be dealt with by the use of a Construction Management Plan which is included as a condition of consent. It includes Council certifying the details in that Plan and essentially being able to monitor the works with a condition also relating to Recording and Notifications.

90. The construction works will be temporary and with the Construction Management Plan in place, the adverse effects from construction will be minor.

Positive effects

91. These will result from the works providing protection for the properties concerned and in addition, removing the existing works which are in a poor state of repair.

Funding of the Works

92. Mr Whittaker points out in his s 42A report that the works are to be funded by the private landowners making the current application. No public funds are involved in the project.

Conclusion on effects

⁴ Addendum to S Cave-Application for Construction of a Private Sea Wall LU-2019-108876-00 Assessment of Wainui Beach Coastal Works, dated 21 September 2022.

93. From all of the above, we conclude that the adverse effects on the environment associated with the proposed works will be no more than minor and further, that the proposal would also have some positive effects.

Whether the works proposed are in accordance with the TRMP

94. The **TRMP** includes the planning objectives, policies, and rules to guide the management and use of land and works within the region. It combines the regional and district planning provisions.

95. These provisions are wide ranging and detailed and are considered in the application details, the evidence for the Applicant and in the s 42A report.

96. In evidence, Ms McPherson disagreed with some of Mr Whittaker's analysis, particularly when it related to the term of a consent to the proposal. She did not see that a consent term limited to 20 years to be either effects based or determinative of an ability to comply with the policy framework in the TRMP, such as being able to give effect to any future adaptive management programme. We provide discussion on this matter of the term or duration of a consent below, when discussing the NZCPS. However, we can say, that this difference of view on the term of a consent appears to be the main reason that Ms McPherson and Mr Whittaker are in disagreement. Apart from that matter, they are in agreement with how the proposal relates to the TRMP, and indeed, as below, to the NZCPS.

97. That matter aside, we find agreement with Mr Whittaker's conclusions, or overall assessment of the TRMP provisions when he states, in his s 42A report:

- *The provisions of the Tairāwhiti Plan do not broadly support hard protection structures when these are designed to protect private property.*
- *There are a number of provisions that place a heavy emphasis on the protection of landscape, ecological, public access and cultural values. In my opinion, the proposal is consistent with these objectives and policies.*
- *In my opinion, the application is not contrary to the objectives and policies of the Tairāwhiti Plan given that hard protection structures are at least contemplated in specific circumstances. In my opinion, a contrary threshold would only be breached if the objectives and policies were unequivocal in that hard protection structures to protect private property were opposed and not contemplated as part of the resource management response to coastal risk.*

98. We find that the proposal is consistent with the TRMP, particularly when the provisions are considered in an overall context. We note that increasingly, proposals lodged for resource consents do not meet all the varied objectives and policies of a planning

document and an overall assessment needs to be made of these plan provisions, as we have done in this case.

New Zealand Coastal Policy Statement 2010 (NZCPS)

99. The NZCPS is a national level policy document that sets direction for the development of the planning instruments at the regional and district level in relation to the coastal environment. Mr Whittaker advised that the coastal provisions of the TRMP predate the NZCPS 2010 and accordingly the NZCPS should be assessed and taken into account as a higher order planning instrument.
100. Both Ms McPherson for the Applicant and Mr Whittaker for the Council provided detailed consideration of the NZCPS for the hearing. Ms McPherson disagrees with observations by Mr Whittaker in relation to the NZCPS when he discusses Policies 25 and 27 which discourage the use of hard protection structures and promote the consideration of alternatives, placing a limit on the term of a consent and the concept of managed retreat, that being seen to include the relocation or removal of existing structures or their abandonment in extreme circumstances. Ms McPherson described how the Council has initiated investigation into *“a dynamic adaptive planning programme”*⁵ for the management of coastal risk at Wainui Beach, consistent with its obligations. She saw the limiting of the term of the consent, as proposed by Mr Whittaker, as being primarily to address the long term uncertainty associated with that planning programme, or strategic approach.
101. Ms McPherson did not see that a 50 year term of consent foreclosed the Council’s ability to give effect to any future adaptive management programme, noting that the Applicant proposed a review condition to deal with any unexpected occurrences. She acknowledged that while hard protection structures are not a preferred option promoted by the NZCPS, she did not consider the current proposal to be contrary to the NZCPS, or that a limit of 20 years on the duration of consent was required to ensure that was the case.
102. Whilst Ms McPherson expresses concerns for the views of Mr Whittaker, we find they are however not too far apart and both conclude, following their respective analyses, that the proposal is not contrary to the NZCPS. The matter of the term of consent is a clear difference, and we discuss that below.
103. Mr Whittaker provided a helpful account of the NZCPS and its application to the proposal. He made points that include the NZCPS not explicitly stating that the use of hard protection structures for private property is prohibited; they are discouraged but there is no absolute veto on consent; and, that the NZCPS does contemplate that hard protection structures for private property may be necessary in some

⁵ Evidence of Georgina McPherson, 5 October 2023, paragraph 9.8.

circumstances and there are a number of environmental policies around the design and location of such structures to reduce their impacts.

104. We agree that while the revetment walls are not supported by the NZCPS, the current proposal does align with policies to mitigate or avoid effects on the environment. Mr Whittaker was of the view that applying a defined term to the works goes some way to recognising that a managed retreat response to coastal hazards is the longer term and appropriate strategic direction.

105. We find that a consent term is appropriate and necessary. It needs to be set to align with that for the concrete groyne adjacent to the south given the functional relationship of the respective walls. We agree with Mr Whittaker that allowing the proposal with a consent term of 50 years as sought is inconsistent with Policies 25 and 27 of the NZCPS which discourage the use of hard protection structures and promote the consideration of alternatives. This is because a wall authorised for such a long period would in our view preclude the development of risk management options at the beach and which reduce or avoid the need for this and other hard protection structures.

Wainui Beach Erosion Management Strategy (WBEMS)

106. We have considered the WBEMS it being both relevant and reasonably necessary to determine the application (section 104(1)(c) RMA), given that it has been adopted by the Council and is the document which deals in the most detail with coastal erosion at Wainui Beach.

107. We note that in relation to the location of this proposal it states (page 17):

The following options are promoted for Area 2:

...

Replacement of the existing rail and rock wall north of the groyne ending in the vicinity of the Tuahine Crescent beach access way with a more robust structure – though, as far as practicable, with a similar footprint to minimise adverse effects on beach values. The final extent of the wall will be established during consent level design to establish in more detail the backshore composition and localised erosion risk. The term of the consent for this structure should match the expiry date for the recently constructed revetment.

108. Our decision is consistent with this, although we emphasise that our decision on consent term does not rely on what is stated in the quote from the WBEMS but is for the reasons discussed above in this decision report.

If consent is granted, the term of the consent

109. If resource consent is granted, then the term for which consent should be granted is a matter in contention. The reporting officer recommended a term of approximately 20 years to 2042, which is now 19 years, to align with the consented structure to the south. The Applicant seeks a consent term of 50 years on the basis that beyond that time it cannot predict the effects of the sea wall, and that review conditions are sufficient to address any matters that arise during the 50 year term.
110. In support of its position, the Applicant argued that the key consideration for us is the effects of the activity. In contrast, the reporting officer Mr Whittaker bases his recommended term on the policy framework within the NZCPS, and also having regard to the WBEMS. Both parties agree that the WBEMS is relevant to our consideration and is reasonably necessary to consider under s 104(1)(c) of the RMA, although we assess that the Applicant would have us place less weight on the strategy.
111. We acknowledge land use consents are usually granted for an unlimited term. However, s 123 of the RMA clearly allows for land use consents to be granted for limited terms.
112. Counsel for both the Applicant and the Council in its capacity as consent authority refer to case law that a consent term should be determined with reference to the purpose of the RMA. Section 7(i) of the RMA is relevant to achieving that purpose – the effects of climate change. The NZCPS also states policies in order to achieve the purpose of the RMA in relation to the coastal environment of New Zealand.
113. Wainui Beach is clearly exposed to coastal hazard risk as is evident from the sea walls / coastal protection structures at the beach. Objective 5, and Policies 25 and 27 of the NZCPS are directly relevant. They signal the potential for managed retreat in areas susceptible to coastal erosion. For that reason, we are not prepared to grant consent to the proposal for a long or unlimited term which would negate or hinder the ability to manage coastal hazards at Wainui Beach by locking in consent for a coastal protection structure for a long term.
114. We do not consider that the imposition of a review condition or conditions would address our concern. Consent duration is unable to be reviewed under the RMA, and the tests in ss 132(3) or (4) of the RMA must be met in order to cancel resource consents.
115. We agree with the reporting officer that consent should be granted for a term in the order of 20 years, but that it is appropriate to align the consent term with that for the structure to the south. That would ensure that any future management responses to coastal erosion at Wainui Beach can, if appropriate, address at least those two structures in an integrated way.
116. We note in this respect too, Policy C8.2.2.18 of the TRMP that states where existing development is threatened by a coastal hazard, coastal protection works should be allowed only where they are the best practicable option for the future. We

note that options for the future do include adaptive management and/or managed retreat but a consent that provides for a longer term is likely to preclude other options and therefore be unable to demonstrate that it is the best practicable option for the future.

117. We do not find that a s 128 RMA review condition would sufficiently address this matter.

118. We acknowledge all that the Applicant has provided by way of evidence and legal submissions, but we find that in all the circumstances, a term of some 20 years is appropriate for the consent to the proposal.

If consent is granted, whether a condition providing for Council to review the consent conditions is required

119. There was discussion at the hearing regarding the need for review condition. The Applicant through Mr Cameron and Ms McPherson did not see it as being necessary. Mr Whittaker agreed it was not necessary so long as there was a term of any consent granted.

120. We understood why those persons had those views but remain concerned for the area immediately north of the sea wall and any associated end effects. Mr Morgan fairly pointed out during questioning that end effects were a possibility and that the northern end of the proposed sea wall had been redesigned with a view of reducing that possibility but not removing it. We form the view that those effects can be expected and although they can be reduced it is difficult to eliminate them without a wall or physical barrier at either end to prevent the water turbulence that creates the effects.

121. We conclude a review condition is needed but that it be specific to the matter of end effects that may be created by the sea wall, rather than a more generic review of consent conditions. A review condition is included accordingly.

122. In doing so, we have had regard to the review condition recommended by the Applicant as a part of the closing submissions. We have included only a part of that in our final review condition because what we find is needed is to just be able to address the potential “end wall” effects.

If consent is granted, how decommissioning of the works is to be managed

123. A decommissioning of works condition is the norm for similar consents in coastal areas. It is to ensure that if a consent holder does not seek a renewal of consent, then that consent holder would be responsible for decommissioning the works. A condition in this respect is we consider, consistent with the NZCPS that seeks to promote restoration or rehabilitation of the natural character of the coastal environment, including by removing redundant structures and materials.

124. In this case, the removal of the works would need to take into account that the sea wall would be providing mitigation and to completely remove it may well lead to the acceleration of erosion at the bottom of the escarpment.
125. The Applicant did not want a decommissioning condition as part of a consent granted to the application. This was explained by Ms McPherson who pointed out that she did not consider it appropriate or necessary as part of an individual consent. Ms McPherson said that in the future the Council may seek to implement a long-term management strategy and to apply mechanisms other than limited consents to effectively address such an initiative. We consider that may well be the case but any such action by Council is a long way off and in the meantime management of the situation is effectively by way of such a condition. Be that as it may, we accept that the decommissioning condition could be better expressed.
126. That is by only requiring the consent holder to identify what is proposed with respect to any reconsenting or decommissioning process one year before the expiry of the consent term. That would provide the opportunity for the consent holder and Council to engage and review what alternatives are available, including and consent requirements and any future effects on coastal erosion.
127. We have accordingly amended the earlier recommended condition in this respect and otherwise find such a condition to be necessary.

Other matters

Section 104D of the RMA

128. From the above considerations, we find that the effects of the activity on the environment will be minor, and that the proposal will not be contrary to the objectives and policies of the TRMP. The s 104D RMA “tests” for a non-complying activity are therefore met to provide for further consideration and assessment under s 104 RMA.

Submitters

129. As stated above, the majority of the submissions received to the application were in support. Four of the 85 submissions were in opposition, with one of those later being changed to support. The only Submitter that appeared at the hearing was Ms Briant, opposing the application. Ms Briant’s presentation at the hearing included commentary regarding the presence of Little Blue Penguin. Acknowledging the information she provided, we have included a specific condition of consent requiring a survey and a management plan in relation to the Little Blue Penguin, that being with a view to avoiding any effects upon the penguins. That is also consistent with advice from Mr Murphy for the Council.
130. Mr Whittaker provided a useful summary of the submissions in his s 42A report, and we acknowledge the helpful nature of that summary. Whilst we do not provide

details of the submissions, we note the reference in some, to the Wainui Beach strategy and the need for it to be updated to provide clear direction in relation to coastal protection structures.

131. We record our view that the submissions ensured all relevant matters were addressed in our considerations.

Part 2 of the RMA

132. The current consideration of Part 2, being the purpose and principles of the RMA, is to be in the context of recent case law⁶ that states reference back to Part 2 may not be necessary unless there is invalidity, incomplete coverage, or uncertainty within the planning documents. Mr Whittaker pointed out his view that the planning framework in the TRMP for coastal management cannot be held to be complete, as it predates the NZCPS. He accordingly provided some discussion of Part 2 in his s 42A report. We note Ms McPherson agrees and provides similar discussion but also adds that the TRMP establishes a clear planning framework regarding coastal protection structures and has followed a lengthy plan making process under the RMA.
133. We find that the TRMP has had regard to Part 2 in its preparation and from the evidence, we do not find there are any matters that are not already taken into account in the TRMP provisions that we have had regard to in our above discussion. We find the proposal to be consistent with Part 2 RMA.

Decision

That in accordance with sections 104, 104B and 104D of the Resource Management Act 1991, resource consent is **GRANTED**, subject to the below conditions, to construct a revetment wall at the toe of the dune below 4, 6 and 8 Tuahine Crescent at Wainui Beach, Gisborne to protect private landholdings from coastal erosion, with the consent term expiring on 11 April 2042.

Reasons for the decision

The reasons for this decision are included in the above decision report and can be summarised as being:

- a. The adverse effects of the proposal will be no more than minor, largely due to the presence of the existing wall and having regard to the technical assessments and expert evidence presented at the hearing of the application.

⁶ RJ Davidson –NZHC 52.

- b. Whilst hard protection works are not supported, and are indeed discouraged, by the provisions of the Tairāwhiti Resource Management Plan and the NZ Coastal Policy Statement, the planning instruments do not prohibit such structures and where such structures are contemplated, criteria are set out to manage the effects and scale of these structures.
- c. The proposal does not breach the threshold of being contrary to the Tairāwhiti Resource Management Plan. The limited scale of the environmental effects of it support the view that the proposal is in alignment with the respective planning instruments.
- d. The proposal will not have adverse effects that are more than minor and the proposed activity will not be contrary to the objectives and policies of the Tairāwhiti Resource Management Plan.
- e. The proposal is consistent with the NZ Coastal Policy Statement 2010 and with the Wainui Beach Erosion Management Strategy 2014.
- f. The proposal is consistent with the purpose and principles of the Resource Management Act 1991.

Conditions

In accordance with section 108 of the Resource Management Act 1991, this resource consent is subject to the following conditions:

General Conditions

1. The design of the structures and construction works shall be undertaken in general in accordance with the following documents and material:
 - The Resource Consent Application and AEE Report prepared by 4sight Consulting dated April 2019 (Ref LU 2019-108876-00),
 - The further Information response dated 21 June 2019,
 - LDE Drawings 'Sea wall Renewal 4-8 Tuahine Crescent' Drw 14608 CO1 Sheets 1 to 4 Rev 3,
 unless otherwise amended by the following conditions of consent.
2. The consent holder shall pay the Gisborne District Council any administration, inspection or monitoring charges fixed in accordance with S36(1) of the Resource Management Act 1991.
3. Where a conflict arises between any conditions of this consent and the application, the conditions of this consent will prevail.

4. All works and structures relating to this resource consent shall be designed and constructed to conform to the best engineering practices and at all times maintained to a safe and serviceable standard.

Term of Consent

5. This consent shall expire on **11 April 2042**.

Cultural Protocols Archaeological Site Conditions

6. In the event of any archaeological site, waahi tapu, taonga or koiwi being discovered during the works authorised by this consent, the Consent Holder shall immediately cease work in the immediate vicinity (at least 20m from the site of the discovery) and secure the area. The Consent Holder shall contact the Council to obtain contact details of the relevant hapu and /or marae. The consent holder shall then consult with the appropriate tribal entities and Heritage New Zealand Pouhere Taonga, and appropriate protocols (tikanga) must be observed. If the discovery is of human remains, the New Zealand Police shall also be informed. Works in the area of the discovery shall not recommence until the steps set out above have been followed and commencement of works approved by Council.

Final Wall Design and End Effects

7. At least 1 month prior to the works commencing, final design plans for the revetment wall shall be certified in writing by a suitably qualified and experienced coastal engineer, as being able to appropriately avoid or mitigate potential end effects from the revetment wall on adjoining properties and structures including the existing stormwater pipes and discharge and the location and function of the pedestrian access steps. The final design plans shall be in general accordance with the 'Sea wall Renewal 4-8 Tuahine Crescent' Drw 14608 CO1 Sheets 1 to 4 Rev 3. A copy of the certification shall be submitted to the Consents Manager, Gisborne District Council prior to commencement of construction of the revetment wall.

Little Blue Penguin (Kororā) Management Protocols and Plan

8. A survey of the proposed works area shall be undertaken by a suitably experienced and qualified expert to ascertain whether there is any blue penguin habitat within the proposed works area. A survey report shall be submitted to Gisborne District Council at least 2 months prior to construction for certification.
9. In addition to the survey report required by condition 8, the consent holder shall submit a management plan to specifically identify and implement construction protocols for the period of construction works to ensure that any effects on blue penguin habitat within and immediately adjacent to the works area are avoided. These shall include, but not be limited to:
 - Periods of the year when works shall be avoided.

- Protocols for works within and outside any restricted construction periods.
- Access pathways to the foreshore for any areas where penguin habitats have been identified within or adjacent to the works area.
- Provision of additional artificial refuge sites where any existing or potential penguin habitat may be compromised.

The management plan shall be submitted to Gisborne District Council at least 2 months prior to construction for certification and all works shall be thereafter undertaken in accordance with the certified plan.

Construction Management Plan (CMP)

10. At least 1 month prior to the works commencing, the Consent Holder shall submit to the Consents Manager, Gisborne District Council, for certification, a Construction Management Plan (**CMP**) prepared by a suitably qualified and experienced person(s). The purpose of the CMP shall be to outline the environmental management and monitoring measures to be installed prior to and maintained during construction works to maintain compliance with the conditions of this consent and to ensure that any potential adverse environmental effects are minimised over the period of works. The finalised CMP shall include, but not be limited to the following:

- Compliance with all consent conditions, and specifically conditions 9, and 11 – 21.
- Sediment and erosion control measures and water quality management.
- Management and stabilisation of works in relation to tide and weather conditions.
- Machinery and truck refuelling and maintenance.
- Contingency plans.
- Stockpile management.
- Waste management and disposal.
- Vehicle and machinery access management within the Coastal Marine Area.
- Public notice information and signage.
- Public health and safety measures.
- Measures to minimise the disruption to public access and use of the foreshore and public access steps while ensuring health and safety standards are maintained.
- Vigilant attention to weather forecasting to prevent commencing work close to the arrival of coastal storms or extreme weather events and undertaking construction in discrete stages.
- Measures to rehabilitate any areas within the Coastal Marine Area which have been affected by the construction works including all access routes to and along the Coastal Marine Area.

11. Prior to commencing any works, a copy of this consent and the CMP shall be given to all person(s) undertaking activities authorised by this consent.

12. The Consent Holder may amend the CMP provided under condition 10, by submitting the amended plan to the Consents Manager, Gisborne District Council, for certification. Construction activities subject to the amendment shall not commence until the amendment has been certified by the Manager, Gisborne District Council.

Construction Methodology

13. The consent holder shall notify the Gisborne District Council Monitoring and Compliance Team of the intention to begin works at least 3 working days prior to the exercise of this consent. Where works are to be undertaken again having been discontinued for more than seven consecutive working days Council shall be re-notified.

Note: Reporting, notification and submission of records required by conditions of this consent should be directed to Compliance.Admin@gdc.govt.nz or (in writing) to the Monitoring, Compliance and Enforcement Manager, Gisborne District Council, PO Box 747, Gisborne 4040, this notification shall include the consent number LU-2019-108876-00.

14. All noise from construction shall comply with the following criteria for long term construction activities at the boundary of any residential site:

<i>Time period</i>	<i>Average Maximum Noise Level (dBA)</i>		
	<i>L₉₅</i>	<i>L₁₀</i>	<i>L_{MAX}</i>
<i>Monday – Saturday 0600 – 1800 hours</i>	60	75	90
<i>Monday - Saturday at all other times</i>	60	75	90

Sound levels shall be measured in accordance with New Zealand Standard NZS6801:1999 “Acoustics: Measurements of Environmental Sound” and assessed in accordance with NZS6802:1991 “Assessment of Environmental Sound”.

15. All vibration from construction shall comply with the following vibration criteria:
The maximum weighted vibration level (Wb or Wd) arising from construction, when measured at or within the boundary of any site, or the notional boundary of any adjacent dwelling shall not exceed the following limits:

General vibration	Time	Maximum Weighted Vibration Level (Wb or Wd)
	0600- 1800 hours Monday to Saturday	45mm/s ²
Construction Vibration	Time	Maximum Weighted Vibration Level (Wb or Wd)

	0600-1800 hrs Monday – Saturday	60mm/s ²
	At all other times	15mm/s ²

16. All vehicles involved in the exercise of this consent shall be inspected daily prior to entering the coastal marine area for leaks or other sources of contaminants. Evidence of this inspection shall be recorded in a log book and shall be made available to the consenting authority on request.
17. Works shall only occur during low tidal conditions, three hours either side of low tide. This time restriction does not apply to planting works landward of the upper extent of the revetment wall.
18. Works shall not cause erosion of the dune face.
19. Sediment may be discharged only in conditions and to a degree that does not visibly alter the turbidity of the sea after reasonable mixing.
20. All waste material shall be removed from the coastal marine area as well as the works area above MHWS and disposed of appropriately.
21. The consent holder shall arrange a site visit during operations to demonstrate compliance with all consent conditions. The site visit shall be attended by representatives of the Gisborne District Council Monitoring and Compliance Team, the contractor(s), and consent holder.
22. All maintenance and refuelling activities shall be undertaken outside of the coastal marine area. Refuelling and maintenance to extraction and transport machinery must be carried out off to site to ensure that any contaminants (such as oil, diesel and petrol) used during the exercise of this consent cannot enter any watercourse.

Finished Site Works and Planting Plan

23. No more than 1 month following completion of the works, the Consent Holder shall submit to the Consents Manager, Gisborne District Council, for certification, a Finished Site Works and Planting Plan which shall:
 - (i) Be in general accordance with the 4Sight Visual and Landscape Assessment dated April 2019,
 - (ii) Provide details of landscape and stabilisation planting/works to be completed along the top of the rock armour and the proposed work areas and the timeframe for when the works shall be completed,
 - (iii) Provide details of ongoing maintenance of any landscape and stabilisation planting/works which shall be undertaken during the term of the consent.
24. The Consent Holder shall be responsible for undertaking the approved planting and rehabilitation works within the timeframes set out in the finalised Finished Site Works and Planting Plan and thereafter shall maintain the site and works for the term of the consent.

Recording and Notifications

25. A daily photographic record of the proposed work sites shall be taken prior to, during the works and at completion showing work progress and control measures. These photos shall be provided regularly to the consent authority throughout the works.

Review

26. The Gisborne District Council may serve notice on the consent holder pursuant to S.128 of the Resource Management Act 1991 of its intention to review the conditions of the consent at the following times:

- Within three months of documented evidence that the sea wall has caused, exacerbated, or affected the stability, slope face, or integrity of the embankment immediately north of the proposed sea wall. Such documented evidence will need to be from a suitably qualified and experienced coastal specialist and demonstrate in particular that any “end effects” are directly attributable to the sea wall structure.

Any such review of the conditions of the consent shall be for the following purposes:

- To review the design of the sea wall and any evidence of “end effects” to ensure that the embankment immediately north of the sea wall is not impacted by “end effects”. The review may modify or impose new conditions on the consent to amend the design and construction of the sea wall and to require the rehabilitation of any damage to the embankment which has been directly caused by the design and construction of the sea wall.

Expiry of Consent/Decommissioning of Works

27. At least 1 year prior to the expiry of the consent, the consent holder shall provide details to the Consents Manager, Gisborne District Council that set out the consent holder’s intention with regards to:

- Whether a reconsenting process will be commenced to provide for the retention of the revetment wall,
- If a reconsenting process is not proposed, the consenting process and proposed works which will be undertaken to decommission the works approved under this consent,
- If a reconsenting process is not proposed, what structures or final escarpment profile is proposed with an assessment of how this will respond to on-going coastal erosion processes.



Alan Watson

RMA Hearing Commissioners

31 May 2023



Vanessa Hamm

Reviewer and Approval:



Jocelyne Allen
Consents Manager

07 June 2023